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271 ORDINANCE NO. 9495-8

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**AN ORDINANCE APPROVING AND AUTHORIZING
THE EXECUTION OF THE FLESSNER ANNEXATION AGREEMENT**

(2401 East Airport Road)

WHEREAS, an Annexation Agreement between the City of Urbana, Illinois and Flessner Development Company has been submitted for the Urbana City Council's consideration, a copy of which is attached; and

WHEREAS, said agreement governs tract totalling approximately 13.025 acres located at 2401 East Airport Road and said tract is legally described as follows:

A tract of ground being a part of the East Half of the Northwest Quarter of Section 3, Township 19 North, Range 9 East of the Third Principal Meridian, the boundary of which is described as follows:

Beginning at the Northwest corner of the Northwest Quarter of said Section 3; proceed North 90°00'00" East 1,844.65 feet along the North line of the said Northwest Quarter to the True Point of Beginning; continue North 90°00'00" East 380.19 feet to the Northeast corner of Lot 19 of a Subdivision of the North Half of said Section 3 on the Assessor's Plat as recorded in the Assessor's Book in the Champaign County Recorder's Office; thence South 00°15'29" West 40.00 feet along the East Line of said Lot 19; thence North 90°00'00" East 18.92 feet to the Northwest corner of Lot 25 of Brownfield Subdivision 1st Plat as recorded in the Book of Plats in the Champaign County Recorder's Office; thence South 00°48'28" West 1,371.33 feet along the West Line of Brownfield Subdivision 1st Plat and Brownfield Subdivision 2nd Plat as recorded in the Book of Plats in the Champaign County Recorder's Office; thence North 90°00'00" West 405.53 feet; thence North 01°03'10" East 1,411.70 feet to the True Point of Beginning encompassing 13.025 acres more or less in Champaign County, Illinois.

WHEREAS, the proposed Annexation Agreement is in conformance with the goals and objectives of the City of Urbana's Official Comprehensive Plan; and

WHEREAS, after due and proper publication, the Urbana City Council held a public hearing on July 18, 1994 to consider said Annexation Agreement.

WHEREAS, the Urbana City Council, having duly considered all matters pertaining thereto, finds and determines that the proposed Annexation Agreement will not negatively impact the City of Urbana and would be in the best interests of the City of Urbana and its

citizens if it is approved subject to the condition outlined by the Urbana Plan Commission.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That the Annexation Agreement between the City of Urbana, Illinois and Flessner Development Company, a copy of which is attached and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver, and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to said execution of said Annexation Agreement, for and on behalf of the City of Urbana, Illinois.

Section 3. The City Clerk is directed to record a certified copy of this Ordinance and the Annexation Agreement herein approved, as amended, with the Recorder of Deeds of Champaign County, Illinois.

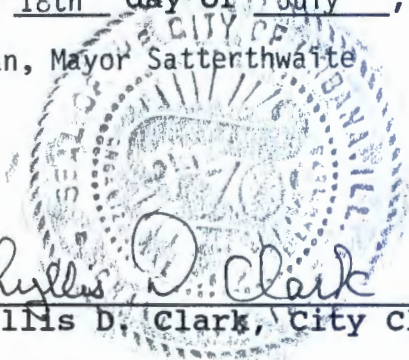
This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of two-thirds of the members of the Corporate Authorities of the City of Urbana, Illinois, then holding office, at a regular meeting of said Council.

PASSED by the City Council on this 18th day of July, 1994.

AYES: Hayes, Patt, Ryan, Taylor, Whelan, Mayor Satterthwaite

NAYS:

ABSTAINED:


Phyllis D. Clark
Phyllis D. Clark, City Clerk

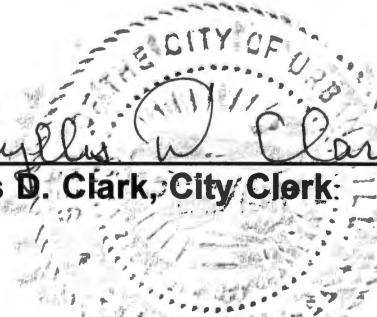
APPROVED by the Mayor this 20th day of July, 1994.

Tod Satterthwaite
Tod Satterthwaite, Mayor

RETURN TO: City Clerk
400 S. Vine
Urbana, IL 61801

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THIS IS THE ATTACHMENT WHICH IS REFERRED TO IN ORDINANCE
NO. 9495-8 AND IS INCORPORATED THEREIN BY REFERENCE.



Phyllis D. Clark

Phyllis D. Clark, City Clerk

July 20, 1994

Date

ANNEXATION AGREEMENT

Flessner Agreement

THIS AGREEMENT is made and entered into by and between the City of Urbana, Illinois (hereinafter sometimes referred to collectively as the "Corporate Authorities" or the "City") and Flessner Development Company (hereinafter referred to as the "Owner"). The effective date of this Agreement shall be the date the Agreement is recorded in the Office of the Champaign County Recorder, as set forth below in Article III, Section 5.

WITNESSETH:

WHEREAS, this Agreement is made pursuant to and in accordance with the provisions of Section 11-15.1-1 et seq., of the Illinois Municipal Code (65 ILCS 5/11-15.1-1); and

WHEREAS, pursuant to notice, as required by statute, the Corporate Authorities have held a proper public hearing on this Annexation Agreement on July 18, 1994;

WHEREAS, Flessner Development Company is the Owner of Record of a certain 13.0-acre parcel of real estate located at 2401 East Airport Road and having tax parcel number 30-21-03-126-001, the legal description of which real estate is set forth below and in Exhibit A attached hereto.

WHEREAS, the attached map, labeled Exhibit B, is a true and accurate representation of the Tract to be annexed to the City of Urbana under the provisions of this Agreement;

WHEREAS, although the Tract are not yet contiguous to the City of Urbana, said Owner, in order to best utilize his property, finds it desirable to annex the Tract to the City of Urbana when said Tract becomes contiguous to the City, pursuant to, and as provided for in this Annexation Agreement; and

WHEREAS, the City and the Owner find it necessary and desirable that the Tract be annexed to the City with a zoning classification of R-1 Single Family Residential, under the terms and provisions of the Urbana City Code of Ordinances, as amended, and subject to the terms and conditions set forth in this Agreement; and

WHEREAS, the Corporate Authorities find annexation of the Tract as described herein reflects the goals, objectives and policies set forth in the City's 1982 Urbana Comprehensive Plan, as amended from time to time; and

WHEREAS, such annexation will ensure that the City of Urbana will receive real estate taxes and other revenues and will enable the City to continue to enhance its tax base; and

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WHEREAS, the Owner desires to have the aforementioned real estate annexed to the City of Urbana upon certain terms and conditions hereinafter set forth in this Agreement.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS SET FORTH HEREIN, THE PARTIES AGREE AS FOLLOWS:

ARTICLE I. REPRESENTATIONS AND OBLIGATIONS OF THE OWNER

The Owner agrees to the following provisions:

Section 1: Owner represents that it is the sole record owner of the Tract described in Exhibit A and that he shall, within thirty (30) days of the property becoming contiguous to the Urbana City limits cause the Tract to be annexed to the City of Urbana by filing a legally sufficient annexation petition all in accordance with the Illinois Statutes and shall, until annexation of the Tract described above occurs, require that any persons intending to reside on the Tract described above, prior to residing thereon, to agree to join in and consent to any petition for annexation of such tract.

Section 2. The Owner shall take no action or omit to take action during the term of this Agreement which action or omission, as applied to the Tract, would be a breach of this Agreement, without first procuring a written amendment to this Agreement duly executed by both the Owner and the City.

Section 3. The Owner agrees and hereby stipulates that the City, by its approval, execution or delivery of this Agreement does not in any way relinquish or waive any authority it may have to annex the Tract in the absence of this Agreement.

Section 4. The Owner agrees to submit a subdivision plat in a form suitable to the City and record an approved final subdivision plat for the Tract in accordance with Chapter 21 of the City's Code of Ordinances prior to any further development of the Tract.

Section 5. The Owner agrees to cause all development and construction on said tract to be in conformance with the City of Urbana Building codes except that no City of Urbana building permit shall be required unless such units are constructed within the City limits. The Owner agrees, however, to submit courtesy copies of residential model building plans to the City of Urbana Building Safety Division for review. The Owner further agrees to allow the City of Urbana Building Code inspectors to conduct random selective inspections of development while under construction. The Owner will not, however, be required to have such inspections and the

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City will not charge plan review or building permit fees to the Owner. The City will notify the Owner and the building contractors of any discrepancies identified between the model home plans, random selective inspections and the City of Urbana ordinances and any deficiencies noted in the random selective inspections provided for herein.

ARTICLE II. REPRESENTATIONS AND OBLIGATIONS OF THE CORPORATE AUTHORITIES

The Corporate Authorities agree to the following provisions:

Section 1. The Corporate Authorities agree to expeditiously annex said Tract, subject to the terms and conditions outlined in this Agreement, when properly and effectively requested to do so, by submission of a legally sufficient petition from the Owner, by enacting such ordinances as may be necessary and sufficient to legally and validly annex said Tract to the City. The Corporate Authorities further agree that this section governing annexation shall be included in any sales contract for land within the Tract and will constitute an obligation upon subsequent owners to annex into the City of Urbana. This provision governing annexation and future obligations shall be included in covenants and shall run with the land. The Corporate Authorities agree that nothing in this Agreement shall preclude the voluntary annexation of property by subsequent property owners.

Section 2. The Corporate Authorities agree that the City will take any action necessary to zone the Tract to R-1, Single Family Residential in accordance with the provision contained with the City of Urbana Zoning Ordinance, subject to the terms and conditions set forth in this agreement.

Section 3. The Corporate Authorities agree that the City shall take no action or omit to take action during the term of this Agreement which act or omission as applied to the Tract would be a breach of this Agreement without first procuring a written amendment to this Agreement duly executed by both the Owner and the City.

Section 4. The Corporate Authorities agree to expeditiously approve any final subdivision plats of said Tract that may be submitted by the Owner in the future and which conform to the requirements of the City's Subdivision Code.

Section 5. The Corporate Authorities find and determine that all existing improvements and land uses on the Tract when they are annexed under the terms of this Agreement, and lawfully existing under the provisions of the Champaign County Zoning Ordinance

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applicable thereto prior to the annexation of the Tract, shall be considered lawful during the term of this Agreement pursuant to the provisions of Article X, Section X-1 of the Urbana Zoning Ordinance. In addition, any such improvements and land uses may continue and shall be permitted to be reconstructed at the same location and size if damaged by fire, explosion, Act of God, or other sudden damage or destruction, the provisions of Article X, Section X-8 of the Urbana Zoning Ordinance notwithstanding.

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ARTICLE III: GENERAL PROVISIONS

Section 1. Term of this Agreement -- This Agreement shall be binding upon the parties hereto, and their respective successors and assigns, for a full term of twenty (20) years commencing as of the effective date hereof as provided by the Illinois State Statutes. To the extent permitted thereby, it is agreed that, in the event the annexation of subject Tract under the terms and conditions of this Agreement is challenged in any court proceeding, the period of time during which such litigation is pending shall not be included in calculating said twenty-year term.

Section 2. Covenant running with land -- The terms of this Agreement constitute a covenant running with the land and are hereby expressly made binding upon all heirs, grantees, lessees, executors, assigns and successors in interest of the Owner as to all or any part of the Tract, and are further expressly made binding upon said City and the duly elected or appointed successors in office of its Corporate Authorities.

Section 3. Enforcement -- The Owner and Corporate Authorities agree and hereby stipulate that any party to this Agreement may, by civil action, mandamus, action for writ of injunction or other proceeding, enforce and compel performance of this Agreement or declare this Agreement null and void in addition to other remedies available. Upon breach by the Owner, the City may refuse the issuance of any permits or other approvals or authorizations relating to development of the Tract.

Section 4. Severability -- If any provision of this Agreement is rendered invalid for any reason, such invalidation shall not render invalid other provisions of this Agreement which can be given effect without the invalid provision.

Section 5. Effective Date -- The Corporate Authorities and Owner intend that this Agreement shall be recorded in the Office of the Champaign County Recorder with any expenses for said recording to be paid by the Corporate Authorities. The effective date of this Agreement shall be the date it is recorded.

IN WITNESS WHEREOF, the Corporate Authorities and Owner have hereunto set their hands and seals, and have caused this instrument to be signed by their duly authorized officials and the corporate seal affixed hereto, all on the day and year written below.

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**CORPORATE AUTHORITIES
CITY OF URBANA**

Tod Satterthwaite
Tod Satterthwaite, Mayor

7/20/94
Date

OWNER:

Donald Flessner
Flessner Development Co.

6-24-94
Date

Troy Flessner
Flessner Development Co.

6-24-94
Date

ATTEST:

Bridget K. Peters
Notary Public

6-24-94
Date



ATTEST:
Phyllis D. Clark
Phyllis D. Clark
CITY CLERK

July 22, 1994
Date

(annex\flessner.694)

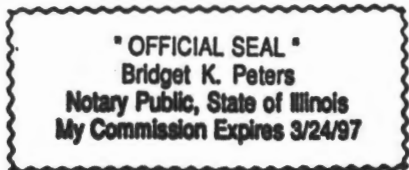


Exhibit A**Flessner Annexation Agreement
Legal Description**

The legal description of the property is as follows:

A tract of ground being a part of the East Half of the Northwest Quarter of Section 3, Township 19 North, Range 9 East of the Third Principal Meridian, the boundary of which is described as follows:

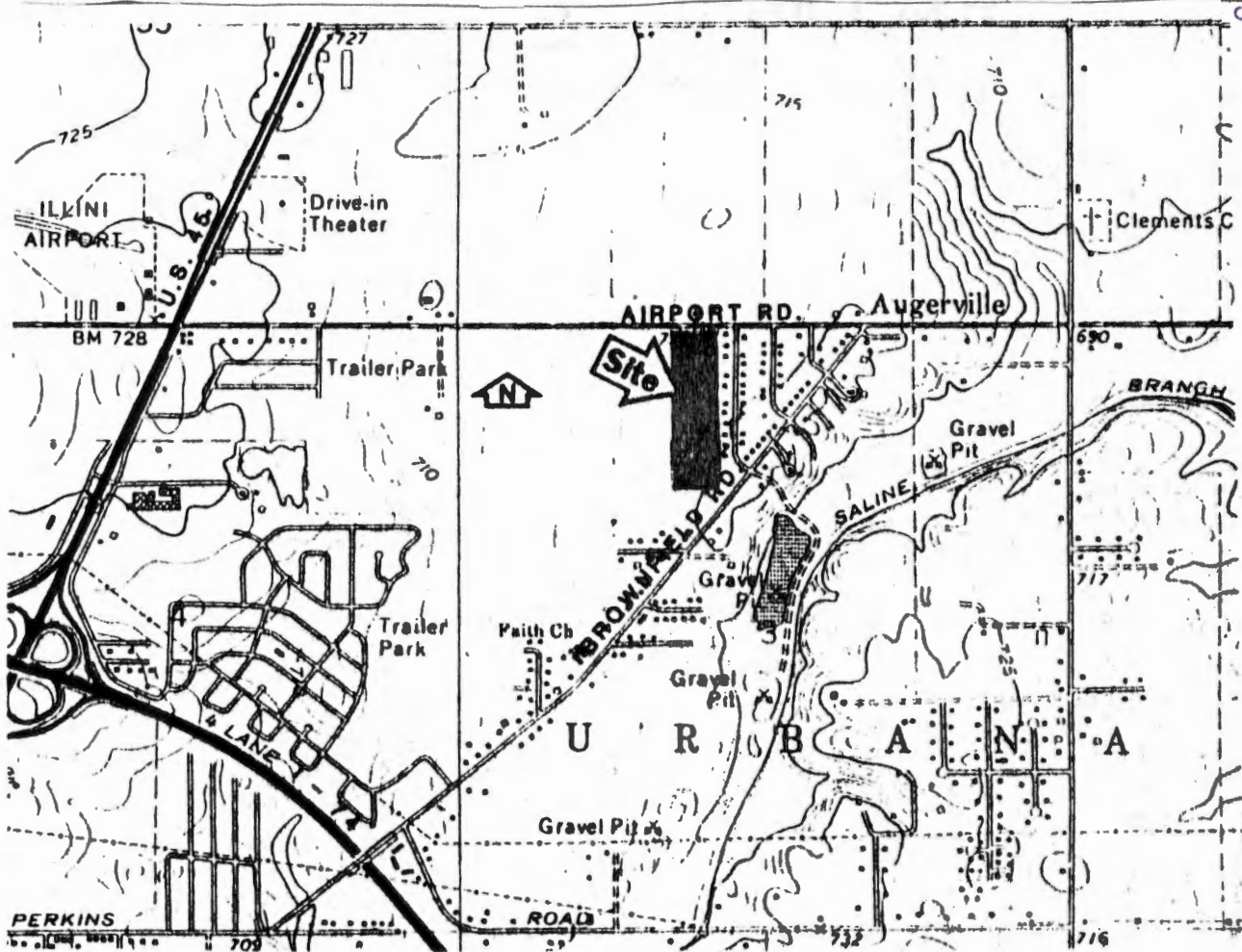
Beginning at the Northwest corner of the Northwest Quarter of said Section 3; proceed North 90°00'00" East 1,844.65 feet along the North line of the said Northwest Quarter to the True Point of Beginning; continue North 90°00'00" East 380.19 feet to the Northeast corner of Lot 19 of a Subdivision of the North Half of said Section 3 on the Assessor's Plat as recorded in the Assessor's Book in the Champaign County Recorder's Office; thence South 00°15'29" West 40.00 feet along the East Line of said Lot 19; thence North 90°00'00" East 18.92 feet to the Northwest corner of Lot 25 of Brownfield Subdivision 1st Plat as recorded in the Book of Plats in the Champaign County Recorder's Office; thence South 00°48'28" West 1,371.33 feet along the West Line of Brownfield Subdivision 1st Plat and Brownfield Subdivision 2nd Plat as recorded in the Book of Plats in the Champaign County Recorder's Office; thence North 90°00'00" West 405.53 feet; thence North 01°03'10" East 1,411.70 feet to the True Point of Beginning encompassing 13.025 acres more or less in Champaign County, Illinois.

Permanent Index Number: 30-21-03-126-009

GENERAL LOCATION MAP

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Exhibit B



CITY OF URBANA
COMMUNITY DEVELOPMENT SERVICES
Planning Division

Title: Flessner Annexation Agreement

Plan case no.: NA

Date: JULY 18, 1994



94R20408

DOC # 94R20408
CHAMPAIGN COUNTY, ILL

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Naomi D. Jablonski

RECORDER

INDEXED

CITY OF URBANA
RECEIVED

AUG 09 1994

CITY CLERKS OFFICE