

ORDINANCE NO. 9697-86

AN ORDINANCE  
APPROVING AN AMENDMENT TO AN ANNEXATION AGREEMENT WITH MORT  
TABIN AND SHAWN TABIN

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

Section 1. That an Agreement by and between the City of Urbana and Mort and Shawn Tabin, in the form of the copy of said Agreement attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

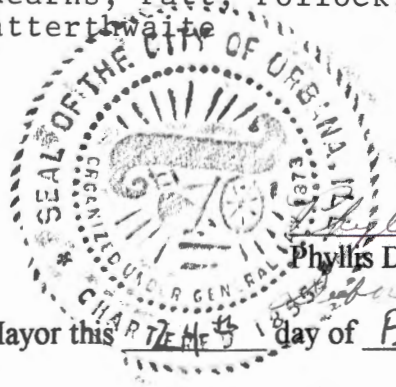
Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is authorized to attest to said execution of said Agreement as so authorized and approved for and on behalf of the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

PASSED by the City Council this 17th day of February, 1997.

AYES: Hayes, Kearns, Patt, Pollock, Ryan, Taylor, Whelan, and  
Mayor Satterthwaite

NAYS:

ABSTAINED:



Phyllis D. Clark by  
Phyllis D. Clark, City Clerk

Robert J. Roberts, Deputy Clerk

APPROVED by the Mayor this 17th day of February, 1997.

Tod Satterthwaite

Tod Satterthwaite, Mayor

THIS ORDINANCE CONSISTS OF 1 PAGES.

Initials SR

**AN ANNEXATION AND DEVELOPMENT AGREEMENT BETWEEN THE ATKINS  
GROUP AND THE CITY OF URBANA, AND AMENDMENT  
TO THE TABIN ANNEXATION AGREEMENT**

This Agreement, made and entered into by and between the City of Urbana, Illinois, (herein after sometimes referred to collectively as the "Corporate Authorities" or the "City") and the Clinton C. Atkins d/b/a The Atkins Group (hereinafter referred to as the "Owner"). The effective date of this Agreement shall be as provided in Article III, Section 6.

**W I T N E S S E T H:**

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, Owner is the owner of record of approximately 558 acres of real estate located in southeast Urbana, the legal description of which real estate and the permanent index numbers therefor are set forth in Exhibit A attached hereto and incorporated herein by reference. Said real estate shall hereinafter be referred to "the tracts"; and

WHEREAS, the property described in Exhibit B is currently within the Urbana City limits and is commonly referred to as the Tabin Property and is subject to an Annexation Agreement approved by the City of Urbana in Ordinance No. 9293-95 on April 5, 1993; and

WHEREAS, the property described in Exhibit C is currently within the Urbana City limits and is commonly referred to as the Douglas Farm and is subject to an annexation agreement approved by the City of Urbana in Ordinance No. 9495-65, on January 4, 1995; and

WHEREAS, the attached map, labeled Exhibit D, is a true and accurate representation of the tracts to be annexed to the City of Urbana under the provisions of this agreement; and

WHEREAS, the Owner has prepared a preliminary development schematic, which is attached hereto and made a part hereof as Exhibit E, which depicts anticipated single-family lots, multifamily sites and an eighteen-hole golf course with a clubhouse and maintenance facility; and

WHEREAS, the Urbana Plan Commission conducted public hearings on this Annexation and Development Agreement and on the Amendment of the Tabin Annexation Agreement on the \_\_\_ day of December 1996; and

WHEREAS, the Urbana Plan Commission recommended by a vote of 6 in favor and 2 opposed that this Agreement be approved; and

WHEREAS, the Owner finds that in order to best utilize the Owner's property, it is desirous to annex those tracts outside the City limits to the City of Urbana and to develop all of the tracts as described herein as provided for in this Agreement; and

WHEREAS, the tracts are currently zoned AG Agriculture, R4 multifamily residential and B3 General Business with respect to the tracts located within the Urbana City Limits and convert to AG Agriculture with respect to those properties not currently in the City of Urbana;

WHEREAS, the parties agree that the tracts shall be best utilized if rezoned to City as depicted on Exhibit D; and

WHEREAS, the Urbana City Council finds annexing and zoning said tracts as described herein reflects the goals, objectives and policies set forth in the 1982 Urbana Comprehensive Plan, as amended from time to time; and

WHEREAS, such annexation and development 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 expand recreational opportunities for the citizens of Urbana; and

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

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

#### **ARTICLE I: DEFINITIONS**

**Section 1.1. Definitions.** For purposes of this Agreement, unless the context clearly requires otherwise, words and terms used in this Agreement shall have the meaning provided from place to place herein, including as follows:

**First Class Golf Course** means a golf course designed and constructed by a nationally known architect and nationally known contractor with amenities similar to those customarily found in resort golfing operations.

**Golf course completion** means the completion of the grading, seeding, irrigation system, greens, and tees of the golf course itself, but does not include completion of the club house or maintenance facilities, but shall include all utilities constructed to the club house and maintenance facility sites.

#### **ARTICLE II: REPRESENTATIONS AND OBLIGATIONS OF THE OWNER**

The Owner agrees to the following provisions:

**Section 1. Annexation.** The Owner represents that the Owner is the sole record owner of the tracts described in Exhibits A, B, and C (except for the Noel tract and that Owner shall be acquiring record title to said Noel tract on or before January 31, 1997), and that the Owner shall within 30 days of the effective date of this Agreement cause the tracts outside the City

limits to be annexed to the City of Urbana by filing a legally sufficient annexation petition with all required signatures thereon, all in accordance with Illinois Statutes. Until annexation of the subject tracts occur, Owner shall require that any persons intending to reside thereon, whether as tenants or owners, shall, prior to residing thereon, irrevocably agree in writing to sign, join in, and consent to any petition for annexation of the subject tract. The Owner shall file such written agreements in the form furnished Owner by the City with the City Clerk within 30 days of the effective date of this Agreement. The Parties agree that nothing in section shall preclude the voluntary annexation of the subject tract or any portion thereof earlier than would otherwise be required.

**Section 1.1. Tabin Annexation.** The Owner agrees and acknowledges that the Tabin Annexation Agreement must be amended and modified concurrently with this Agreement in order to accommodate the development contemplated herein. The previously agreed site plan for the residential portion of the Tabin property is hereby deemed null and void and said property shall be developed in substantial conformance with Exhibit E.

**Section 2. Zoning.** The Owner agrees and acknowledges that upon annexation, such tracts will be converted from County zoning to City zoning as described on Exhibit D.

The Owner further agrees that said zoning will remain in effect for the term of this Agreement, as it may be amended from time to time. Furthermore, the Owner agrees to abide by all applicable development regulations existing at the time of annexation except as specifically modified herein.

**Section 3. Action.** 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 tracts, 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. Said action includes petitioning for a county rezoning of said tracts without a written amendment to this Agreement.

**Section 4. Compliance with City Codes and Ordinances.** The Owner agrees to cause all new development, construction, or additions on said tracts to be in conformance with all City of Urbana building, electrical, fire, and plumbing codes, orders or regulations.

**Section 5. Development.** The Owner agrees to develop and subdivide said tracts in substantial conformance with Exhibit E and specifically agrees to the following provisions:

**Section 5.1. Golf Course.** The following terms shall apply to the Developer's obligation as they relate to the golf course development.

**Section 5.1.1. Construction.** The Owner agrees to construct a first class eighteen-hole golf course as illustrated in the attached Exhibit E.

**Section 5.1.2. Club House.** The Owner agrees and acknowledges that the golf course development will include the construction of a club house that will include retail space for pro shop development, snack bar space, rest rooms and golf cart storage.

**Section 5.1.3. Maintenance Facility.** The Owner agrees to construct a maintenance facility substantially in accordance with Exhibit E.

**Section 5.1.4. Site Grading and Storm Water Drainage.** The Owner agrees and acknowledges that the golf course will include storm water detention basins as described herein and illustrated on the attached Exhibit F entitled "Storm Water Management Plan" for the associated residential and commercial development illustrated on the attached Exhibit E.

All grading and filling of the tracts shall be done in such a manner as to provide for a reasonable transition of surface grades between the golf course and the remaining portion of the tracts in order to eliminate any need for grading or filling or storm water detention on adjoining properties caused by or related to the design and construction of the golf course and related improvements.

The design and the grading, filling and construction of the golf course shall take into account, accommodate and satisfy all storm drainage and runoff from and across those portions of the tracts described in Exhibits A, B, C and D not developed as part of the golf course as and when such adjoining properties are fully developed.

The Owner agrees to grant necessary easements across said golf course to accommodate off-site pass-through drainage from dominant lands to the tracts.

**Section 5.1.5. Golf Course Construction Period.** The Owner agrees that it shall commence construction on or before May 1, 1997 unless prevented by unforeseen weather and site conditions, and shall complete construction of the golf course no later than October 31, 1998, unless prevented by unforeseen weather or site conditions. Commencement of construction shall be deemed to occur upon commencement of grading of the golf course and completion shall be as defined in Section 1.1. Beginning with commencement of construction and continuously thereafter until completion, the Owner shall exercise its best efforts to cause construction to proceed with due diligence and in a reasonable and prompt manner in order that construction may be completed at the earliest possible time.

**Section 5.1.6. Utility Easements on Golf Course.** The Owner agrees that Owner will not grant utility easements for any utilities including water, sewer, storm sewer, gas, telephone, electricity or cable television that will traverse the golf course or which would be disruptive of the golf course operation. Owner and City acknowledge that certain easements already exist for sanitary and storm sewers across the golf course property. It is not anticipated that those easements would be rerouted. In the event rerouting is required for the development of the residential or commercial areas, Owner shall use its best efforts to reroute such easements to areas that would least affect the operation of the golf course.

**Section 5.2. Infrastructure Construction and Development.** The following terms shall apply to Owner's obligations as they relate to the construction and development of infrastructure for the tracts.

**Section 5.2.1. Storm Water Detention.** The Owner shall construct all necessary storm water detention facilities for the tracts on the golf course in accordance with Section 5.1.4, subject to Owner's right to receive reimbursement from the City as provided in Article III Section 4. The Owner or subsequent owners of the golf course will be entirely responsible for the perpetual maintenance of said detention basins.

**Section 5.2.2. Collector Street.** The Owner agrees to construct an oversized collector street the design of which shall be mutually acceptable to Owner and the City Engineer in the location generally shown on the Exhibit E subject to Owner's right to receive reimbursement as provided in Article III, Section 4.

**Section 5.2.3. Dedication of Median.** The Owner shall dedicate additional right-of-way to accommodate a multipurpose path to be installed in the middle of the collector street right-of-way, the location and design of which shall be mutually acceptable to the Owner and the City Engineer. The Owner shall construct a 28-foot wide median the entire length of the collector loop road and an 8-foot wide concrete multipurpose path within said median from Windsor Road to Lot 172 with the first phase of the development. Such construction shall be in accordance with standards approved by the City Engineer. The City shall be responsible for the construction of the remaining multipurpose path through the median to its terminus within the development at Route 130. The Owner shall construct connecting ramps, crossovers and medians pursuant to a design mutually acceptable to the Owner and the City Engineer. The general layout and the median crossovers shall be generally as depicted on Exhibit E.

**Section 5.2.4. Bonding.** The Owner agrees to post all bonding for improvements as required in Chapter 21 of the Urbana Code of Ordinances, provided however that no security or surety shall be required on any such bonds. In as much as the Owner is an individual, the City acknowledges that his signature on any required bonds is equivalent to his personal guaranty of the obligations imposed by the bonds.

**Section 5.3. Residential Development.** The following terms shall apply to the Owner's obligation as they relate to residential development.

**Section 5.3.1. Preliminary Platting.** The Owner agrees to submit a preliminary subdivision plat for the development, which said subdivision shall be known as Rosewood or some other name mutually agreeable to the parties hereto, which plat shall be in substantial compliance with Exhibit E and with the City codes and ordinances as they exist on the date of this Agreement. The original preliminary plat shall be effective for 20 years from the date of this Agreement.

**Section 5.3.2. Final Platting.** The Owner agrees to submit final subdivision plats for each phase of the preliminary plat in substantial compliance with the approved preliminary plat and

the City's codes and ordinances effective on the date of the filing of each final plat. The first final plat shall be submitted within one hundred-eighty (180) days of the effective date of this agreement and will include a minimum of 200 single family residential lots and the golf course.

**Section 5.4. Application for Valuation.** The Owner agrees to file an application for valuation of real property used for open space purposes, in a timely manner, pursuant to Section 20g-1 of the State of Illinois Revenue Act of 1939, as amended, to secure said assessment for the golf course.

**Section 5.5. Rose Farm Buffer.** The Owner agrees to provide a 25-foot building setback between any multiple family residential development on the Rose tract and the existing adjacent single family development with an appropriate landscape buffer. The Owner further agrees to provide a 35-foot building setback between commercial development on the Rose tract and the existing adjacent single family development with an appropriate landscape buffer.

### ARTICLE III. REPRESENTATIONS AND OBLIGATIONS OF THE CORPORATE AUTHORITIES

The Corporate Authorities agree to the following provisions:

**Section 1. Annexation.** The Corporate Authorities agree to annex said tracts 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 tracts to the City.

**Section 2. Zoning and Zoning Approvals.** The Corporate Authorities agree that the tracts will be zoned City R-2, R-4, R-5 and B3 (as defined in the City of Urbana Ordinance as such exists at the time of annexation of tracts) as shown on Exhibit D. The Corporate Authorities agree that all applicable development regulations existing at the time of annexation will apply to said tracts except as expressly modified herein. Furthermore, the Corporate Authorities agree not to rezone the property during the term of this Agreement without a rezoning petition executed by the property the Owner is requesting said change.

In as much as the Rosewood and associated developments are to be developed in the manner of a planned unit development pursuant to the authority of Section XI-14, the application of Section V-3 governing multiple buildings on a single lot of the Urbana Zoning Ordinance is hereby modified and the Corporate Authorities grant approvals for multiple buildings on a single lot in the areas to be zoned R-4 Medium Density Multiple Family Residential, R-5 Medium High Density Multiple Family Residential and B-3 General Business. In addition, the Corporate Authorities grant approval for what would otherwise be classified as special or conditional uses for the following uses:

- (a) In the area to be zoned R-4 Medium Density Multiple Family Residential, the following uses are hereby approved: Residential Planned Unit Development, Professional and Business Office, and Private Kindergarten or Day Care Facility.

(b) In the area to be zoned R-5 Medium High Density Multiple Family Residential, the following uses are hereby approved: Private Kindergarten or Day Care Facility.

(c) In the area to be zoned B-3 General Business, the following uses are hereby approved: Convenience Shopping Center/Commercial PUD, General Shopping Center/Commercial PUD, and Private Kindergarten or Day Care Facility.

**Section 3. Relocation of Transmission Lines.** The City agrees that it will cause the Illinois Power Company transmission lines to be relocated and rerouted on or before August 1, 1997, at the expense of the City from where they currently exist to rights of way adjacent to Route 130 and Florida Avenue extended.

**Section 4. Payment for Improvements.** The City agrees that it shall pay the total sum of Two Million Five Hundred Fifty Thousand Dollars (\$2,550,000.00) to reimburse the Owner for infrastructure improvements as follows:

**Section 4.1. Payment for Storm Water Detention Improvements.** The City agrees to pay sum of One Million Five Hundred Fifty Thousand Dollars (\$1,550,000.00) to reimburse the Owner for infrastructure improvements relating to the construction of the storm water detention facilities for the development. Within 30 days of the acceptance by the City Engineer of the Owner's engineer's certification that the storm water detention and related facilities are 50 percent complete, the City shall pay the Owner the sum of Seven Hundred Fifty Thousand Dollars (\$750,000.00). Within 30 days of the acceptance and approval by the City Engineer of the Owner's engineer's certificate of substantial completion of all storm water detention and related facilities, City shall pay the further sum of Seven Hundred Fifty Thousand Dollars (750,000.00). A final payment of Fifty Thousand Dollars (\$50,000.00) shall be paid to the Owner within 30 days of the City Engineer's final acceptance and approval of the storm water detention and related facilities. The acceptances and approvals required pursuant to this Section shall not be unreasonably withheld, delayed or denied by the City Engineer.

**Section 4.2. Payment for Oversizing Collector Loop Road.** The City agrees to pay One Million Dollars (\$1,000,000.00) for the oversizing of the collector loop road. It is contemplated that the collector loop road shall be constructed in up to four (4) separate segments. For each such segment, the City shall pay the amount determined by multiplying the sum of One Million Dollars (\$1,000,000.00) by a fraction, the numerator of which shall be the lineal feet in the segment of the collector loop road just completed and the denominator of which shall be the number of lineal feet in the total length of the collector loop road. Ninety-five (95) percent of the amount so determined shall be paid by the City at such time as the Owner's engineer certifies that the improvements are substantially complete, with the remaining 5 percent of the payment for each such completed segment being made upon the acceptance of that segment of the collector loop road by the City Engineer. In the event the entire length of the collector loop road has not been completed within ten (10) years of the date of this Agreement, City shall have no further obligation to participate in the payment of costs pursuant to this paragraph. None of the approvals or acceptances required of the City Engineer pursuant to this paragraph shall be unreasonably withheld, delayed or denied.



**Section 5. Construction and Maintenance of Median.** The City agrees to make its best effort to secure State of Illinois and/or federal grants for the construction of an 8- to 10-foot wide multipurpose path from Lot 172 to the terminus of the collector loop road in the development at Route 130 and for lighting of the path. Upon the City's receipt of said funding grants, the City will construct multipurpose paths as illustrated on Exhibit E, together with appropriate plantings, benches and other amenities. In the event such grants are not secured by January 1, 2005, the City shall nevertheless commence construction of such multipurpose paths and appropriate plantings, benches and other amenities and complete such construction as soon as weather and site conditions permit. The City shall have no obligation to provide lighting for the path other than to make grant funds received by it for lighting available to Owner or third parties for the purpose of installing lighting as indicated in any grant application. If as a condition of receiving the grant for lighting, the City is obligated to install such lighting, Owner shall reimburse or cause a third party or parties to reimburse the City for one-half of the cost of installing the lighting. In the event the Owner elects to install lighting within the median in the portion of the collector loop road from Windsor Road to Lot 172, the City agrees to accept, maintain and pay all energy costs associated with said lighting. The City shall maintain the concrete multipurpose path throughout its entire length. The Owner shall have no responsibility for such maintenance. The City shall have no responsibility for mowing or trimming the grass and landscaping in the median.

**Section 6. Granting of Waivers.** The Corporate Authorities agree to grant the following waivers upon the development and/or subdivision of said Tracts as represented in Exhibit E.

- (a) Waiver of Section 21-37 to the extent that this section requires the construction of sidewalks on both sides of residential streets and to the extent that Exhibit E does not conform with these requirements.
- (b) Waiver of Section 21-36 to the extent that this section requires a 250-foot minimum centerline radius at 14 local street locations within the development so that the minimum centerline radius for these local and cul de sac streets will be no less than 60 feet.
- (c) Waiver of Section 21-36 to the extent that it requires a 100-foot minimum vertical curve length for vertical curves with a change of grade less than 2 percent so that the minimum vertical curve length allowed will be 50 feet.

**Section 7. Waiver of Sureties.** The City agrees that no security or sureties shall be required on any construction or maintenance bonds required in connection with the development of the tracts. In as much as the Owner is an individual, the City acknowledges that his signature on any required bonds is equivalent to his personal guaranty of the obligations imposed by the bonds.

**Section 8. Driveway Approaches.** Upon the issuance of the first building permit for substantial commercial development on the Rose Tract, the City shall cause up to four (4) driveway approaches to be constructed from the City right-of-way line to the existing street

pavement on Windsor and Philo Roads, subject to the City Engineer's approval of the plans and design for the approaches. The driveway approaches shall include but be not limited to curbs, gutters and pavement. Construction of such approaches shall commence as soon as conditions permit following the issuance of the building permit and shall, in any event be completed by the date a certificate of occupancy is issued for the commercial building on the Rose tract.

Upon issuance of any building permit for any lot in either Eastgate Subdivision No. 1 or Eastgate Subdivision No. 2, City shall install and thereafter maintain temporary pavement from the existing street pavement to the City right-of-way line at the intersection of Myra Ridge and Windsor Road and at the intersection of Amber Lane and Philo Road. The maintenance of the temporary pavement shall continue until permanent improvements to Windsor Road and Philo Road are completed.

**Section 9. Rose Property Storm Water Detention.** The City agrees to permit storm water detention for the portions of the Rose tract watershed tributary to the Douglas tract watershed to be located on the Douglas tract and the Rosewood site. The City agrees that when there is commercial development sufficient to require the installation of any structures required to transport storm waters from the Rose tract to the Douglas tract, said structures shall be constructed at the City's sole expense.

**Section 10. Exemption from Special Assessments.** The City agrees that for the term of this Agreement, the tracts and the overall development will not be subject to any special assessments under the Local Improvements Act arising from the construction or improvement of any collector or arterial streets abutting the development including but not limited to Philo Road, Windsor Road, Florida Avenue, Route 130, and Colorado Avenue or arising from installation of sidewalks, street lights or other similar improvements. Nothing in this section shall prohibit the City from considering special assessment petitions initiated by property owners for the installation of bikepaths, sidewalks, lighting or other neighborhood improvements.

**Section 11. Liquor License.** The City agrees to issue a Class A Liquor License as defined in Section 3-41 of the Urbana City Code to the Owner or an eligible licensee for the clubhouse on the golf course development. The City further agrees to reserve and to issue upon request to an eligible licensee, one Class A Liquor License for a business operation on the Rose tract.

**Section 12. Cart Path Tunnel.** The City of Urbana will reimburse the Owner upon completion of the golf course, for the cost of construction of one cart path tunnel under the collector street, the design for which is to be mutually agreed upon between the Owner and the City Engineer (provided the same shall be aesthetically coordinated with entry monuments to be erected throughout the development at the cost of the Owner). The cost for the construction of such cart path tunnel shall include but not be limited to excavation, concrete box culvert, lighting, sump pump and drainage facilities. The Owner or the operator of the golf course shall maintain the surface of the cart path.

**Section 13. Golf Course Assessment.** The City shall take such steps as may be necessary to insure that the golf course property as shown on Exhibit E shall be assessed on the basis of

its use as a recreational area for so long as the golf course is in operation. Should the golf course property be reassessed and the real estate taxes calculated on any other basis, City shall pay to the Owner any increased real estate taxes resulting from such different assessment. Such payment shall be made on or before the due date for payment of general real estate taxes in each year.

**Section 14. Building Construction Inspections.** The City agrees to the following regarding conformance of structures on the tracts with building safety standards:

- (a) The City shall conduct inspections to establish compliance with the City Code Ordinances, Orders or Regulations. When inspections are requested by the Owner, the City agrees to conduct such inspections following the performance criteria set forth in Subsection (b) hereof.
- (b) The City agrees to the following performance criteria:
  - (i) The City will complete a building plan review within 10 working days of plan submission by the Owner or by any subsequent lot owner or contractor for such lot owner.
  - (ii) The City will provide same working day service on inspections if requested before noon on a City workday and will provide next working day service if requested after noon on any City workday. Requests shall be made in person, in writing or by phone to the City Building Safety Division during the City's normal work hours.
- (c) Interpretation review panel. In addition to other rights to appeal provided by the Code in those cases where a question of interpretation or application of building, life and safety codes arises, the City shall provide the Owner, the subsequent lot owner or lot owner's contractor with a review of a building inspector's interpretation of the City's Building Safety Codes through an interpretation review panel to be made up of the fire chief, the building safety director, and the planning director. Such reviews shall be completed within five working days of the request for the same.

**Section 15. Residential Development and Development Generally.** The City agrees to the following terms and conditions as they relate to the general development of the tracts.

**Section 15.1. Preliminary Platting.** The City agrees to approve a preliminary subdivision plat for the development, which said subdivision to be known as Rosewood or some other name mutually agreeable to the parties hereto, contingent on the submission of a preliminary subdivision plat that is in substantial compliance with the City of Urbana codes and ordinances as they exist on the date of this Agreement. The original preliminary plan shall be effective for 20 years from the date of this Agreement.

**Section 15.2. Final Platting.** The City agrees to approve final subdivision plats for each phase of the preliminary plat in substantial compliance with the approved preliminary plan and

the City's Codes and Ordinance on the date of the filing of each final plat. The first final plat shall be submitted within one hundred-eighty (180) days of the effective date of this agreement and will include a minimum of 200 single family residential lots.

In the event both City and Owner agree after the construction of the first phase of the development that there are legitimate safety concerns arising from the design, construction and operation of the multi-purpose path as currently shown on Exhibit E, City and Owner shall use their best efforts to agree to a redesign of the collector loop road with sidewalks on both sides of the road. City shall construct the sidewalks at its expense in lieu of constructing the multi-purpose path.

**Section 16. Findings Regarding Waivers.** The Corporate Authorities find that the waivers and deferrals of the City of Urbana's Subdivision and Land Development Code to be granted in Article III, Section 6 herein are supported by the following findings:

- (a) Due to existing conditions, there are site specific difficulties in complying with these regulations, such as the linear park and multipurpose path, which are being constructed in place of traditional sidewalk configuration; and
- (b) The granting of the following waivers will not cause significant adverse effects on the public health, safety and welfare because the multipurpose path will provide pedestrian and bicycle traffic circulation on a low traffic volume street; and
- (c) Sufficient evidence is shown to both the Plan Commission and the City Council that the waivers will benefit the public health, safety and welfare and the alternatives described herein better-serve the public's interest because the multipurpose path serves the purpose of a standard sidewalk system and that waivers of the minimum street design standards are sufficient to meet traffic movement needs; and
- (d) The proposed waivers support and foster implementation of the goals, objectives and policies represented in the Urbana Official Comprehensive Plan, 1982, as amended because the Comprehensive Plan illustrates a bike path through this property; and
- (e) The proposed waivers are the minimum deviation from the requirements that will alleviate the difficulties; and
- (f) Although the waiver is due to peculiar circumstances of the applicant's own making, the waivers are still appropriate because the Owner is proposing an innovative path system in place of a standard sidewalk system.

**Section 19. Plat of Development.** The Corporate Authorities agree to grant an extended approval of the preliminary plat of said development. The preliminary plat of said development shall be valid for a period of 20 years from the date of its approval. The Administrative Review Committee may approve minor amendments to said preliminary plat that otherwise substantially conform to the design and intent of the original preliminary plat.

## ARTICLE IV: 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 20 years, commencing as of the effective date of this Agreement as provided by the Illinois State Statutes, unless other provisions of this Agreement specifically apply a different term. To the extent permitted thereby, it is agreed that, in the event the annexation of subject tracts 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 20-year term.

If this Agreement imposes any obligation, restraint, or burden (hereinafter called collectively "obligation") on the Owner, his successors or assigns, which obligation extends beyond the termination date of this Agreement, such obligation may be released by the Urbana City Council enacting an Ordinance releasing such obligation by a majority vote of all Alderpersons then holding office and the recording of such Ordinance in the Champaign County Recorder's Office, Champaign County, Illinois.

**Section 2. Covenant Running with the Land.** The terms of this Agreement constitute a covenant running with the land for the life of this Agreement unless specific terms are expressly made binding beyond the life of this Agreement. Furthermore, the terms herein 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 tracts, and are further expressly made binding upon said City and the duly elected or appointed successors in office of its Corporate Authorities.

**Section 3. Binding Agreement Upon Parties.** The Corporate Authorities and the Owner agree that neither party will take any action nor omit to take action during the term of this Agreement, which act or omission as applied to the tracts 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. Modification of Tabin Agreement.** To the extent the terms and provisions of this Agreement are inconsistent with the terms and provisions of the Tabin Agreement, the terms and provisions of this Agreement shall supersede the provisions of the Tabin Agreement.

**Section 5. 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 tracts. Notwithstanding the foregoing, any dispute concerning the Owner's entitlement to payment from the City pursuant to Sections 4.1 and 4.2 of Article III shall be submitted for and settled by arbitration proceedings conducted in accordance with the rules of the American Arbitration Association. Any judgment upon the decision rendered by the arbitrator may be entered in the Circuit Court of the Sixth Judicial Circuit, Champaign County, Illinois. No

legal action with the respect to the payment or failure to pay such costs may be filed prior to compliance with this provision for arbitration.

**Section 6. Severability.** If any provision of this Agreement is rendered invalid for any reason, such invalidation shall not render invalid other provisions of this Agreement that can be given effect even without the invalid provision.

**Section 7. Effective Date.** The Corporate Authorities and the Owner intend that this Agreement shall be recorded in the Office of the Champaign County Recorder as soon after the effective date as practicable, with any expenses for said recording to be paid by the Corporate Authorities. The effective date of this Agreement shall be that date prior to April 1, 1997 on which the Owner notifies City that either 100 residential lots have been presold or that the Owner is waiving the requirement that 100 residential lots be presold. If the presale requirement has not been met or waived by April 1, 1997, this Agreement shall be null and void and of no force or effect whatever.

IN WITNESS WHEREOF, the Corporate Authorities and the 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.

**CORPORATE AUTHORITIES**

**OWNER**

City of Urbana

  
\_\_\_\_\_  
Tod Satterthwaite, Mayor

  
\_\_\_\_\_  
Clinton C. Atkins

Date: 4/4/97

**ATTEST:**

  
\_\_\_\_\_  
Phyllis D. Clark, City Clerk

Exhibits attached and made a part of this Agreement:

- Exhibit A: Legal Descriptions
- Exhibit B: Tabin Legal Description
- Exhibit C: Douglas Farm Description
- Exhibit D: Map of all areas
- Exhibit E: Preliminary Development Schematic
- Exhibit F: Storm Water Management Plan

EXHIBIT A  
LEGAL DESCRIPTION  
TABIN FARM

COMMENCING ON AN IRON PIPE SURVEY MONUMENT FOUND AT THE SOUTH WEST CORNER OF THE SOUTH WEST 1/4 OF SECTION 22, TOWNSHIP 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, URBANA, CHAMPAIGN COUNTY, ILLINOIS; THENCE NORTH 00 DEGREES, 56 MINUTES, 22 SECONDS WEST ON A BEARING AS REFERENCED FROM THE ILLINOIS STATE PLANE COORDINATE SYSTEM EAST ZONE AS SET FORTH BY ILLINOIS DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT BY MARK STIMAC ILLINOIS PROFESSIONAL LAND SURVEYOR NUMBER 2587, DATED SEPTEMBER 14, 1984, ALONG THE WEST LINE OF THE SOUTH WEST 1/4 OF SAID SECTION 22, A DISTANCE OF 494.04 FEET TO AN IRON PIPE SURVEY MONUMENT SET FOR THE POINT OF BEGINNING; THENCE NORTH 00 DEGREES, 56 MINUTES, 22 SECONDS WEST ALONG THE WEST LINE OF THE SOUTH WEST 1/4 OF SAID SECTION 22, A DISTANCE OF 2158.71 FEET TO AN IRON PIPE SURVEY MONUMENT FOUND AT THE NORTH WEST CORNER OF THE SOUTH WEST 1/4 OF SAID SECTION 22; THENCE NORTH 89 DEGREES, 16 MINUTES, 00 SECONDS EAST, ALONG THE NORTH LINE OF THE WEST 1/2 OF THE SOUTH WEST 1/4 OF SAID SECTION 22, A DISTANCE OF 1322.28 FEET TO AN IRON PIPE SURVEY MONUMENT SET AT THE NORTH EAST CORNER OF THE WEST 1/2 OF THE SOUTH WEST 1/4 OF SAID SECTION 22; THENCE SOUTH 00 DEGREES, 56 MINUTES, 51 SECONDS EAST, ALONG THE EAST LINE OF THE WEST 1/2 OF THE SOUTH WEST 1/4 OF SAID SECTION 22, A DISTANCE OF 2133.26 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE SOUTH 89 DEGREES, 18 MINUTES, 37 SECONDS WEST PARALLEL WITH THE SOUTH LINE OF THE SOUTH WEST 1/4 OF SAID SECTION 22, A DISTANCE OF 881.10 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE SOUTH 00 DEGREES, 56 MINUTES, 22 SECONDS EAST PARALLEL WITH THE WEST LINE OF THE SOUTH WEST 1/4 OF SAID SECTION 22, A DISTANCE OF 26.46 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE SOUTH 89 DEGREES, 18 MINUTES, 37 SECONDS WEST PARALLEL WITH THE SOUTH LINE OF THE SOUTH WEST 1/4 OF SAID SECTION 22, A DISTANCE OF 440.86 FEET TO THE POINT OF BEGINNING, SITUATED IN CHAMPAIGN COUNTY, ILLINOIS.

PDN Number: 93-21-22-300-001

## EXHIBIT B

## LEGAL DESCRIPTION

## TABIN FARM

COMMENCING ON AN IRON PIPE SURVEY MONUMENT FOUND AT THE SOUTH WEST CORNER OF THE SOUTH WEST 1/4 OF SECTION 22, TOWNSHIP 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, URBANA, CHAMPAIGN COUNTY, ILLINOIS; THENCE NORTH 00 DEGREES, 56 MINUTES, 22 SECONDS WEST ON A BEARING AS REFERENCED FROM THE ILLINOIS STATE PLANE COORDINATE SYSTEM EAST ZONE AS SET FORTH BY ILLINOIS DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT BY MARK STIMAC ILLINOIS PROFESSIONAL LAND SURVEYOR NUMBER 2587, DATED SEPTEMBER 14, 1984, ALONG THE WEST LINE OF THE SOUTH WEST 1/4 OF SAID SECTION 22, A DISTANCE OF 494.04 FEET TO AN IRON PIPE SURVEY MONUMENT SET FOR THE POINT OF BEGINNING; THENCE NORTH 00 DEGREES, 56 MINUTES, 22 SECONDS WEST ALONG THE WEST LINE OF THE SOUTH WEST 1/4 OF SAID SECTION 22, A DISTANCE OF 2158.71 FEET TO AN IRON PIPE SURVEY MONUMENT FOUND AT THE NORTH WEST CORNER OF THE SOUTH WEST 1/4 OF SAID SECTION 22; THENCE NORTH 89 DEGREES, 16 MINUTES, 00 SECONDS EAST, ALONG THE NORTH LINE OF THE WEST 1/2 OF THE SOUTH WEST 1/4 OF SAID SECTION 22, A DISTANCE OF 1322.28 FEET TO AN IRON PIPE SURVEY MONUMENT SET AT THE NORTH EAST CORNER OF THE WEST 1/2 OF THE SOUTH WEST 1/4 OF SAID SECTION 22; THENCE SOUTH 00 DEGREES, 55 MINUTES, 51 SECONDS EAST, ALONG THE EAST LINE OF THE WEST 1/2 OF THE SOUTH WEST 1/4 OF SAID SECTION 22, A DISTANCE OF 2133.26 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE SOUTH 89 DEGREES, 18 MINUTES, 37 SECONDS WEST PARALLEL WITH THE SOUTH LINE OF THE SOUTH WEST 1/4 OF SAID SECTION 22, A DISTANCE OF 881.10 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE SOUTH 00 DEGREES, 56 MINUTES, 22 SECONDS EAST PARALLEL WITH THE WEST LINE OF THE SOUTH WEST 1/4 OF SAID SECTION 22, A DISTANCE OF 26.46 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE SOUTH 89 DEGREES, 18 MINUTES, 37 SECONDS WEST PARALLEL WITH THE SOUTH LINE OF THE SOUTH WEST 1/4 OF SAID SECTION 22, A DISTANCE OF 440.86 FEET TO THE POINT OF BEGINNING, SITUATED IN CHAMPAIGN COUNTY, ILLINOIS.

PIN Number: 93-21-22-300-001



EXHIBIT A

LEGAL DESCRIPTION

NOEL FARM

The East Half ( $\frac{1}{2}$ ) of the Southeast Quarter ( $\frac{1}{4}$ ) of Section 22, Township Nineteen (19) North, Range Nine (9) East of the Third (3rd) Principal Meridian, situated in Champaign County, Illinois, except that part of the land conveyed to the State of Illinois by Documents 86R857 and 86R858, and except that part of the Southeast Quarter ( $\frac{1}{4}$ ) of the Southeast Quarter ( $\frac{1}{4}$ ) of Section 22 lying South of the abandoned Norfolk and Western Railroad.

PIN Number: 30-21-22-400-004

## EXHIBIT A

## LEGAL DESCRIPTION

## MILLER FARM

## TRACT 1:

The Northwest Quarter and the Southwest Quarter of the Northeast Quarter of Section Twenty-two (22) also, that portion of the Northeast Quarter of the Northeast Quarter of Section Twenty-one (21) lying North of the N & WRR; all in Township Nineteen (19) North, Range Nine (9) East, Urbana Township, Champaign County, Illinois.

## TRACT 2:

A tract of land being part of the Southwest Quarter of Section 15 and the Southeast Quarter of Section 16, all in Township 19 North, Range 9 East of the Third Principal Meridian, Champaign County, Illinois, the boundary of which is described as follows:

Beginning at the Southeast corner of said Southeast Quarter of Section 16, proceed South 89° 45' 13" West along the South line of said Southwest Quarter, 715.04 feet to the Northerly Right-of-Way line of the Norfolk and Southern Railroad; thence North 47° 35' 45" West along said Northerly Right-of-Way line, 11.62 feet to the Southwest corner of Lot 14 in Weller's Lincolnwood Third Section, a Subdivision in Champaign County, Illinois; thence North 88° 52' 10" East along the South line of said Weller's Lincolnwood Third Section of a Subdivision in Champaign County, Illinois and along the South line of Urbana-Scott's Subdivision, Champaign County, Illinois, 723.44 feet to the Southeast corner of Lot 2 in said Urbana-Scott's Subdivision, said point being on the East line of said Southeast Quarter of Section 16 and being 19.04 feet North of said Southeast corner of the Southeast Quarter of Section 16; thence North 89° 08' 28" East along the South line of a tract of land described in a warranty deed recorded in Book 768 at Page 371 in the Champaign County Recorder's Office, 1322.74 feet to the East line of the West One-Half of said Southwest Quarter of Section 15; thence South 00° 43' 26" East along said East line of the West One-Half of the Southwest Quarter, 19.04 feet to the Southeast corner of said West One-Half of the Southwest Quarter; thence South 89° 08' 28" West along the south line of said West One-Half of the Southwest Quarter, 1322.67 feet to the Point of Beginning.

PIN Number: 30-21-22-100-002  
30-21-22-100-001  
30-21-21-200-012

## EXHIBIT C

## LEGAL DESCRIPTION

## DOUGLAS FARM

PART OF THE SOUTH 1/2 OF THE SOUTH EAST 1/4 OF SECTION 21 AND PART OF THE NORTH 1/2 OF THE SOUTH EAST 1/4 OF SECTION 21, TOWNSHIP 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH EAST CORNER OF THE SOUTH EAST 1/4 OF SECTION 21, TOWNSHIP 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS; THENCE NORTH 89 DEGREES, 49 MINUTES, 51 SECONDS WEST ALONG THE SOUTH LINE OF THE SOUTH EAST 1/4 OF SAID SECTION 21 AND APPROXIMATE CENTERLINE OF WINDSOR ROAD, 2,149.83 FEET; THENCE NORTH 00 DEGREES, 10 MINUTES, 09 SECONDS EAST, ALONG THE EXISTING NORTH RIGHT OF WAY LINE OF WINDSOR ROAD, RECORDED IN BOOK 1822 AT PAGE 472 IN THE OFFICE OF RECORDER OF CHAMPAIGN COUNTY, ILLINOIS, 60.00 FEET; THENCE NORTH 89 DEGREES, 49 MINUTES, 51 SECONDS WEST, ALONG SAID EXISTING NORTH RIGHT OF WAY LINE, 405.47 FEET; THENCE NORTH 44 DEGREES, 49 MINUTES, 50 SECONDS WEST ALONG SAID EXISTING NORTH RIGHT OF WAY LINE, 71.27 FEET TO THE EXISTING EAST RIGHT OF WAY LINE OF PHILO ROAD; THENCE NORTH 00 DEGREES, 16 MINUTES, 32 SECONDS WEST, ALONG SAID EXISTING EAST RIGHT OF WAY LINE, 504.92 FEET; THENCE SOUTH 89 DEGREES, 43 MINUTES, 28 SECONDS WEST, ALONG SAID EXISTING EAST RIGHT OF WAY LINE, 40.00 FEET TO THE WEST LINE OF THE SOUTH EAST 1/4 OF SAID SECTION 21; THENCE NORTH 00 DEGREES, 16 MINUTES, 32 SECONDS WEST, ALONG SAID WEST LINE, 720.77 FEET TO THE SOUTH WEST CORNER OF A TRACT OF LAND RECORDED IN BOOK 716 AT PAGE 258 IN THE OFFICE OF THE RECORDER OF CHMCP; THENCE SOUTH 89 DEGREES, 47 MINUTES, 10 SECONDS EAST, ALONG THE SOUTH LINE OF SAID TRACT, 430.30 FEET; THENCE NORTH 00 DEGREES, 16 MINUTES, 32 SECONDS WEST, ALONG THE EAST LINE OF SAID TRACT, 655.80 FEET TO THE SOUTH LINE OF EAGLE RIDGE OF URBANA, CHAMPAIGN COUNTY, ILLINOIS; RECORDED IN BOOK "AA" OF PLATS AT PAGE 140 AS DOCUMENT 87 R 19183 IN THE OFFICE OF THE RECORDER OF CHAMPAIGN COUNTY, ILLINOIS, MONUMENTED AS THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTH 1/2 OF THE SOUTH EAST 1/4 OF SAID SECTION 21; THENCE SOUTH 89 DEGREES, 47 MINUTES, 10 SECONDS EAST, ALONG SAID SOUTH LINE OF EAGLE RIDGE OF URBANA, 2,209.86 FEET TO THE SOUTH EAST CORNER OF SAID EAGLE RIDGE OF URBANA; THENCE SOUTH 00 DEGREES, 24 MINUTES, 39 SECONDS EAST, ALONG THE EAST LINE OF THE SOUTH EAST 1/4 OF SAID SECTION 21, 1,989.56 FEET TO THE POINT OF BEGINNING, ALL SITUATED IN CHAMPAIGN COUNTY, ILLINOIS, EXCEPT THE FOLLOWING DESCRIBED TRACT:

COMMENCING FOR REFERENCE AT AN ALUMINUM CAP STAMPED "ILS 1470" REPORTEDLY OVER A STONE, AT THE SOUTH WEST CORNER OF SAID SOUTH EAST 1/4, AND BEING IN THE RIGHT OF WAY OF PHILO ROAD AND WINDSOR ROAD;

THENCE ALONG THE WEST LINE OF SAID SOUTH EAST 1/4 AND IN THE RIGHT OF WAY OF SAID PHILO ROAD, NORTH NO DEGREES; SIXTEEN MINUTES THIRTY-TWO SECONDS WEST FOR SIX HUNDRED FIFTEEN FEET AND NO/00 FEET (615.00) TO A RAILROAD SPIKE (SET) AT THE NORTHWEST CORNER OF A TRACT OF LAND DEDICATED TO THE CITY OF URBANA FOR PUBLIC ROADWAY AS RECORDED IN BOOK 1822, PAGE 472 AND BEING THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT OF LAND;



Exhibit D



- PROPOSED R-2 012121
- PROPOSED R-1 0072
- PROPOSED R-1 012121
- PROPOSED R-1 012121
- PROPOSED R-2 012121

ROSEWOOD GOLF DEVELOPMENT  
AND ROSE TRACT  
ZONING MAP  
EXHIBIT D

JANUARY 9, 1997

