

ORDINANCE NO. 2000-07-091

AN ORDINANCE
APPROVING AN ANNEXATION AGREEMENT WITH WALTER B. GERHARDT

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 Walter B. Gerhardt, 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.

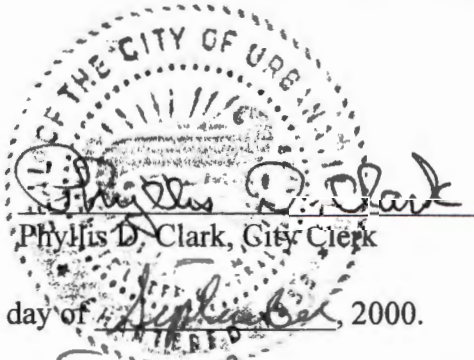
PASSED by the City Council this 5th day of September, 2000.

AYES: Hayes, Huth, Kearns, Patt, Taylor, Whelan, Wyman, Mayor Satterthwaite

NAYS:

ABSTAINED:

APPROVED by the Mayor this 11th day of September, 2000.



Phyllis D. Clark
Phyllis D. Clark, City Clerk

Tod Satterthwaite
Tod Satterthwaite, Mayor

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 Walter B. Gerhardt (hereinafter referred to as the "Owner"). The effective date of this Agreement shall be as provided in Article III, Section 6.

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, Walter B. Gerhardt is the Owner of record of a certain approximately 0.85 acre parcel of real estate located at 1804 N. Cunningham Avenue, and having permanent index number 30-21-04-352-012, the legal description of which real estate is set forth Exhibit A attached hereto and referenced herein as "the tract. "

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

WHEREAS, said Owner finds that in order to best utilize the Owner's property, it is desirous to annex the tract to the City of Urbana pursuant to, and as provided for in this Annexation Agreement; and

WHEREAS, the tract is currently zoned B-4, General Business in Champaign County and would directly convert to City B-3 upon annexation under the terms and provisions of the Urbana Zoning Ordinance; and

WHEREAS, the parties agree that the tract shall be best utilized if rezoned to City B-3, General Business; and

WHEREAS, the Urbana City Council finds annexing said tract as described herein as City B-3, General Business reflect the goals, objectives and policies set forth in the 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

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 PROMISES 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. Annexation: The Owner represents that it is the sole record Owner of the tract described in Exhibit A and that the Owner shall, within thirty (30) days of the City Council's approval of this Agreement, cause the tract 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 tract occurs, 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 agreement with the City Clerk within thirty (30) days of the signing of such. (The City shall furnish to Owner the appropriate form to satisfy this obligation.)

Owner further agrees that the substance of this Section of the Annexation Agreement shall be included in any sales contract for the sale of any portion of the subject tract. If the subject tract is to be platted for subdivision, the Owner agrees that the substance of these provisions regarding annexation shall be included in the subdivision covenants and such will constitute a covenant running with the land. The Owner agrees for itself, successor and assigns, and all other persons intended herein to be obligated to consent to annexation, to cooperate in signing or joining in any petition for annexation for the subject tract and that mandamus would be an appropriate remedy in the event of refusal so to do, and, if the City has to resort to Court proceedings to enforce this obligation, the City shall be entitled to recover reasonable attorney's fees. The Parties agree that nothing in this section shall preclude the voluntary annexation of the subject tract or any portion thereof earlier than would otherwise be required.

Section 2. Zoning: The Owner agrees and acknowledges that upon annexation, the tract will be converted from County B-4 General Business to City B-3 General Business. 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, except as otherwise provided herein.

Section 3. Amendments Required: 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. Said action includes petitioning for a county rezoning of said tract without a written amendment to this Agreement.

Section 4. Disconnection: The Owner agrees and hereby stipulates that the Owner shall not take any action to disconnect the tract from the City once it is annexed.

ARTICLE II. 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 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.

Section 2. Zoning: The Corporate Authorities agree that the tract will be zoned City B-3 General Business as defined in the City of Urbana Ordinance as such exists at the time of annexation of tract. The Corporate Authorities agree that all applicable development regulations will apply to said tract, except as otherwise provided 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 Owner requesting said change.

Section 3. Maintenance of Public Right-of-Way: The Corporate Authorities agree that the City shall make its best efforts to maintain the adjacent public-right-of-way to the City's minimum standards, and shall make its best efforts to cause the State of Illinois to maintain the adjacent public-right-of-way to the State's minimum standards.

Section 4. Impact and Recapture Fees, Donations and Contributions: City represents and warrants to Owner, its successors or assigns that there are not and will not be any impact fees, recapture fees, tap-on fees, donations or contributions which are or will be due as a result of the Tract being annexed to the City. Further, the Corporate Authorities agree that the City shall take no action, nor assist in any effort, to include said Tract in a special assessment during the term of this agreement.

Section 5. - Liquor License: The City of Urbana agrees to make available a Class A, BB, or C liquor license for sales within said Tract to a qualified applicant. If the Liquor License Ordinance is amended prior to issuance of such license, the City shall make available a license that is the substantial equivalent of the existing Class A, BB, or C liquor license.

Section 6. Enterprise Zone: Upon documentation and letter of intent to redevelop the Tract for a commercial business the City agrees to process an application to include the Tract in the Urbana Enterprise Zone and if approved by the State of Illinois, agrees to assist the Owner in obtaining all benefits to which the Owner and/or the tract are entitled and eligible to receive under the Urbana Enterprise Zone Program and the State of Illinois Enterprise Zone Act.

Section 7. Real estate tax reimbursement: Upon annexation of said Tract, the City of Urbana shall reimburse to the Owner an amount equal to increase in real estate taxes as a result of annexation for a period of five (5) years from the date of annexation based on the assessed value and tax rates in existence at the time this agreement is executed. The annual reimbursement amount shall be paid to the Owner on or before October 1 of each respective year the real estate tax is paid in full. It is further understood that this refund amount is offered by the Corporate Authorities in careful consideration of the following findings:

- a. Annexation of said Tract is necessary to annex other Tracts of unincorporated territory in order to promote the orderly, planned, and controlled growth of the City, and further to promote the safety, health and general welfare of the public.
- b. Annexation of said Tract will have a significantly positive impact on the tax base of the City of Urbana.
- c. But for the reimbursement of property taxes, annexation of said Tract would not otherwise occur in a timely manner.

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 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 twenty-year term.

If this Agreement imposes any obligation, restraint, or burden (hereinafter called collectively "obligation") on the Owners, their 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 Owner agree that neither party will take no action or 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. 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 5. 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 even without the invalid provision.

Section 6. 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; or if not recorded for any reason, the effective date shall be the date the Mayor signs the agreement on behalf of the City.

Section 7. Notices: Notices under the terms of this Agreement shall be considered given when deposited in the U.S. Mail, postage prepaid, first class certified, or delivered personally to:

Owner:
Walter B. Gerhardt
14762 S. Mission
Oak Forest, Illinois 60452

City:
Bruce K. Walden
Chief Administrative Officer
City of Urbana
400 S. Vine Street
Urbana, Illinois 61801

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.

Corporate Authorities
City of Urbana:

Owner:

Tod Satterthwaite, Mayor

Walter B. Gerhardt

Date

Date

ATTEST:

ATTEST:

Phyllis D. Clark
City Clerk

Notary Public

Date

Date

Exhibits attached and made a part of this Agreement:

Exhibit A: Legal Descriptions

Exhibit B: Location Map

Exhibit A
Legal Description

A portion of the South 4 acres of the North 4.063 acres of Lot 2 of a Subdivision of Lot 1 of a Subdivision of Southwest Quarter of the Southwest Quarter of Section 4, Township 19 North, Range 9 East of the Third Principal Meridian, situated in Champaign County, Illinois, and more particularly described as follows:

Beginning at the Northwest corner of the above described tract; thence East along the north line of the above described tract 65.72 feet to a tubco pipe monument # 1723, said point being on the East Right-of-Way line of U.S. Route 45; thence East along said north line 200.00 feet to an iron rod monument; thence Southwesterly parallel with said right-of-way 200.00 feet to an iron rod monument; thence West parallel with said north line 200.00 feet to an iron rod monument said point being on the East Right-of-Way line of U.S. Route 45; thence West parallel with said north line 66.67 feet to the West line of the above described tract; thence Northeasterly along said west line 200.38 feet to the point of beginning.

All situated in Champaign County, Illinois.

Containing 0.85 Acre, more or less, all situated in Champaign County, Illinois