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2006R17562

Recording Cover Sheet

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CHAMPAIGN COUNTY  
RECORDER

BARBARA A. FRASCA

REC FEE: 31.00

RHSPS Fee:

REV FEE:

PAGES 10

PIAT ACT: 0

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ORDINANCE NO. 2006-06-073

AN ORDINANCE APPROVING AND AUTHORIZING THE  
EXECUTION OF AN ANNEXATION AGREEMENT (1711 AND  
1715 E. AIRPORT ROAD / JAMES AND PRISCILLA  
FITZGERALD)

Prepared for recording by:

Deborah J. Roberts, Deputy City Clerk

400 S. Vine Street, Urbana, IL 61801

Return to:

Phyllis D. Clark, City Clerk  
City of Urbana  
400 S. Vine Street  
Urbana, IL 61801

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

**(1711 and 1715 E. Airport Road / James and Priscilla Fitzgerald)**

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

WHEREAS, said agreement governs tracts totaling approximately 0.82-acres located at 1711 and 1715 E. Airport Road and said tracts are legally described as follows:

The West 105 feet of the East 171 feet of the North 208 feet of the Northwest  $\frac{1}{4}$  of the Northeast Quarter of Section 4, Township 19 North, Range 9 East o the Third Principal Meridian, in Champaign County, Illinois; and

The East 66 feet of the North 208 feet of the Northwest  $\frac{1}{4}$  of the Northeast Quarter of Section 4, Township 19 North, Range 9 East o the Third Principal Meridian, in Champaign County, Illinois.

WHEREAS, The City Clerk of Urbana, Illinois, duly published notice on the 24th day of May, 2006 in the News-Gazette, a newspaper of general circulation in the City of Urbana, that a public hearing would be held with the City Council of Urbana on the matter of the proposed Annexation Agreement; and

WHEREAS, the City of Urbana, Illinois also mailed notice of the public hearing to each of the Trustees of the Carroll Fire Protection District on the matter; and

WHEREAS, on the 12th day of June, 2006, the Urbana City Council held a public hearing on the proposed Annexation Agreement; and

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

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.

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 James and Priscilla Fitzgerald, 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 this 19th day of June, 2006.

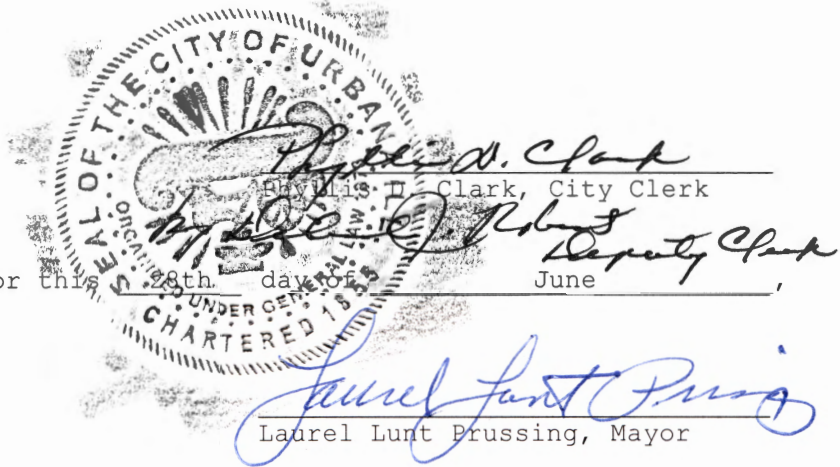
AYES: Barnes, Bowersox, Lewis, Roberts, Smyth, Stevenson, and Mayor Prussing

NAYS:

ABSTAINS:

APPROVED by the Mayor this 28th day of June,

2006.



## Annexation Agreement

(1711 and 1713 East Airport Road / James and Priscilla Fitzgerald)

THIS Agreement is made and entered into by and between the **City of Urbana**, Illinois, (hereinafter sometimes referred to as the "Corporate Authorities" or the "City") and **James and Priscilla Fitzgerald** (hereinafter referred to as the "Owners"). 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, James and Priscilla Fitzgerald are the Owners of record of certain parcels of real estate located at 1711 and 1713 East Airport Road, the legal descriptions of which real estate are set forth in Exhibit "A" attached hereto and referenced herein as "the tracts".

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, although the tracts are not yet contiguous to the City of Urbana, said Owners find that in order to best utilize the Owners' property, it is desirable to annex the tracts to the City of Urbana when said tracts become contiguous to the City, pursuant to, and as provided for in this Annexation Agreement; and

WHEREAS, the tracts are currently zoned R-2, Single Family in Champaign County and the City and the Owners find it necessary and desirable that the tract be annexed to the City with a zoning classification of R-2, Single-Family Residential, under the terms and provisions of the Urbana Zoning Ordinance in effect upon the date of annexation, 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 as R-2, Single-Family Residential reflects the goals, objectives and policies set forth in the City's 2005 Urbana Comprehensive Plan, as amended from time to time; and

WHEREAS, the Owners desire to have the aforementioned real estate annexed to the City of Urbana upon certain terms and conditions hereinafter set forth in this Agreement at such time as the property is contiguous to the corporate limits.



**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 OWNERS**

The Owners agree to the following provisions:

**Section 1:**

- (a) The Owners represent that the Owners are the sole record Owners of the tracts described in Exhibit A and that the Owners shall, within thirty (30) days of the property becoming contiguous to the Urbana City limits cause the tracts 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, the Owners 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 tracts. The Owners shall file such written agreement with the City Clerk within thirty (30) days of the signing of such.
- (b) The Owners further agree 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 tracts are to be platted for subdivision, the Owners agree that the substance of this provision regarding annexation shall be included in the subdivision covenants and such will constitute a covenant running with the land.
- (c) The Owners agrees that if owners fail to include the substance of Section 1(a) of this Agreement in sales contracts or subdivision covenants, as provided herein, and if said annexation is delayed or contested by subsequent owner(s) as a result, the Owners shall be liable to the City for all real estate taxes and other taxes that would have been due to the City had annexation been able to proceed as outlined herein. The Owners agree for themselves, 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:** The Owners accept the City of Urbana zoning classification of R-2, Single-Family Residential, as provided for in Article IV of the Urbana Zoning Ordinance. The Owners agree that, unless changed upon the initiative of the Owners the said City zoning classifications for said tracts shall remain in effect for the term of this Agreement, subject to the right of the Corporate Authorities to amend the Zoning Ordinance text even if such amendment affects the tracts. The Owners agree to use the tracts only in compliance with the Urbana Zoning Ordinance and this agreement as such may be amended from time to time.

**Section 3:** The Owners agree to cause any new development, construction, or additions on said tract to be in conformance with all City of Urbana building, electrical, fire, and plumbing codes, orders or regulations in effect at the time of such construction. The Owners agree to submit all building construction plans to the City of Urbana for review and further agree to pay the building permit fee. The Owners further agree to correct any deficiencies identified in said plan review. In addition, the Owners agree that all construction will be subject to the same building and construction inspection requirements as construction projects within the City limits.

**Section 5:** The Owners 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.

## **ARTICLE II. REPRESENTATIONS AND OBLIGATIONS OF THE CORPORATE AUTHORITIES**

The Corporate Authorities agree to the following provisions:

**Section 1:** 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:** The Corporate Authorities agree that the tract will be zoned R-2, Single-Family Residential, in accordance with Section IV-5 of the Urbana Zoning Ordinance upon annexation and as defined in the City of Urbana Zoning Ordinance as such exists at the time of annexation of tract. The Corporate Authorities agree that all applicable development regulations existing at the time of construction will apply to said tract.

## **ARTICLE III: GENERAL PROVISIONS**

**Section 1:** 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 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.

If this Agreement imposes any obligation, restraint, or burden (hereinafter called collectively "obligation") on the Owners, his/her (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.** The terms of this Agreement constitute a covenant running with the land for the term of this Agreement unless specific terms are expressly made binding beyond the term 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 Owners 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.** The Corporate Authorities and Owners agree that neither party will take any 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 Owners and the City.

**Section 4.** The Owners and Corporate Authorities agree and hereby stipulate that either 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 Owners, the City may refuse the issuance of any permits or other approvals or authorizations relating to development of the tract.

**Section 5.** 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.** The Corporate Authorities and Owners 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.** In consideration of the City of Urbana granting approval allowing an Urbana-Champaign sanitary sewer connection pursuant to Resolution No. 9394-R13, this offer of annexation agreement is not revocable for a period of ninety (90) days from the date of execution.

IN WITNESS WHEREOF, the Corporate Authorities and Owners 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:**

*Laurel Lunt Prussing*  
Laurel Lunt Prussing, Mayor

6/21/06  
Date

ATTEST:

*Phyllis D. Clark*  
Phyllis D. Clark  
City Clerk



**Owners:**

*James Fitzgerald*  
James Fitzgerald

6/21/06  
Date

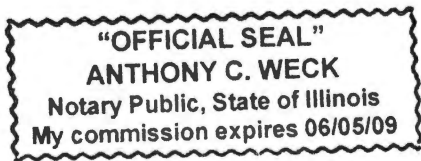
*Priscilla Fitzgerald*  
Priscilla Fitzgerald

6/21/06  
Date

ATTEST:

*Anthony C. Weck*  
Notary Public

June 21, 2006  
Date



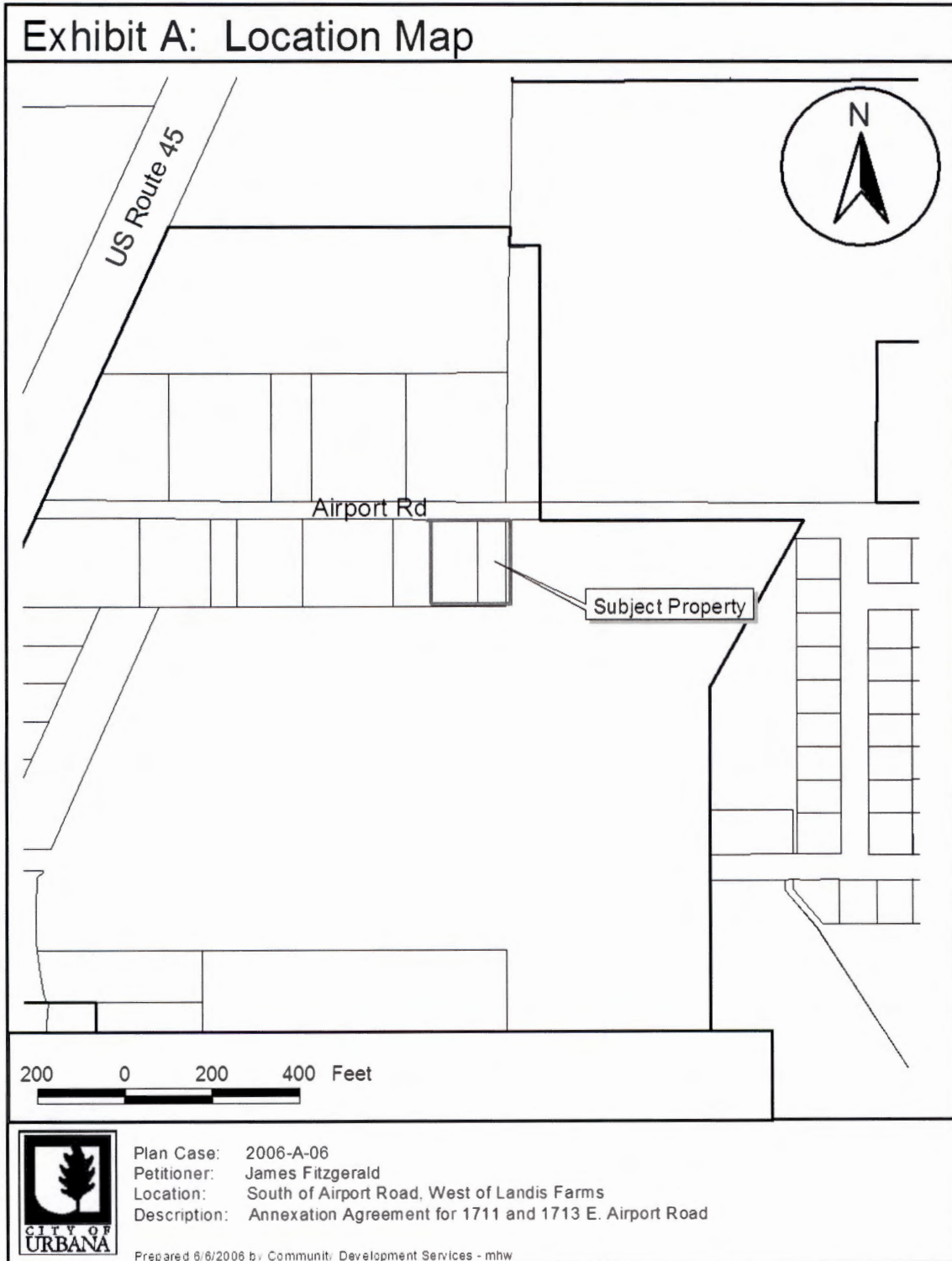


**Exhibit "A"**  
**Legal Description**

The West 105 feet of the East 171 feet of the North 208 feet of the Northwest  $\frac{1}{4}$  of the Northeast Quarter of Section 4, Township 19 North, Range 9 East of the Third Principal Meridian, in Champaign County, Illinois; and

The East 66 feet of the North 208 feet of the Northwest  $\frac{1}{4}$  of the Northeast Quarter of Section 4, Township 19 North, Range 9 East of the Third Principal Meridian, in Champaign County, Illinois.

**Exhibit "B"**  
**Location Map**



Plan Case: 2006-A-06  
Petitioner: James Fitzgerald  
Location: South of Airport Road, West of Landis Farms  
Description: Annexation Agreement for 1711 and 1713 E. Airport Road

Prepared 6/6/2006 by Community Development Services - mhw