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2006R26009

Recording Cover Sheet

ORDINANCE NO. 2006-07-085

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN ANNEXATION AGREEMENT (APPROXIMATELY 111 ACRES OF PROPERTY GENERALLY SOUTH OF AIRPORT ROAD, EAST OF GOODFIELD ROAD, AND WEST OF FIELDCREST DRIVE / DONALD FLESSNER)

RECORDED ON
09/15/2006 02:38:54PM
CHAMPAIGN COUNTY
RECORDER
BARBARA A. FRASCA
REC FEE: 34.00
RHSPS Fee:
REV FEE:
PAGES 13
PIAT ACT: 0
PIAT PAGE:

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**

(Approximately 111 Acres of Property Generally South of Airport Road, East of Goodfield Road, and West of Fieldcrest Drive / Donald Flessner)

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

WHEREAS, said agreement governs a tract totaling approximately 111 acres located generally south of Airport Road, east of Goodfield Road, and west of Fieldcrest Drive and said tract is legally described as follows:

Tract 1:

The West 1 acre of the South 2 acres of Lot 19, and all of Lots 20, 23, 24, 25, 26 and 27, in Assessor's Subdivision of the North Half of Section 3, Township 19 North, Range 3 East of the Third Principal Meridian, and the Southwest Quarter of the Northwest Quarter of Section 3, Township 19 North, Range 9 East of the Third Principal Meridian, in Champaign County, Illinois

Tract 2:

The North 13 acres of Lot 5 of the Subdivision of the East Hal of the Northwest Quarter of Section 3, Township 19 North, Range 9 East of the Third Principal Meridian, being Lot 5 of a Subdivision of the Estate of John Brownfield Sr. deceased and known on the Assessor's Book as Lot 19 of a Subdivision of the North Half of said Section 3 as aforesaid, in Champaign County, Illinois.

Tract 3:

The Southwest Quarter of the Northwest Quarter of Section 3, Township 19 North, Range 9 East of the Third Principal Meridian, in Champaign County, Illinois.

Tract 4:

A portion of the East 4 acres of Lot 7 of a ReSubdivision of Lots 23, 24, 25 and 26 of a

Subdivision of the West Half of the Southwest Quarter of Section 3, Township 19 North, Range 9 East of the Third Principal Meridian, as shown by plat recorded in Plat Book "A" at Pages 181 and 182, said portion being described as follows:

Beginning at the Northeast corner of said Lot 7; thence West along the North line of Lot 7, a distance of 83.50 feet; thence Southeasterly along a line forming an angle of 45°42'50" with the last described line, to the North right-of-way line of the Public Highway that runs Northeasterly along said North right-of-way line to the East line of said Lot 7; thence North along the said East line to the place of beginning, in Champaign County, Illinois.

Tract 5:

All of the following described real estate lying West of the road commonly referred to as Brownfield Road:

Beginning at the Northwest corner of the East half of the Southwest quarter of Section 3, Township 19 North, Range 9 East of the Third Principal Meridian; running thence East 12.39 chains; thence South 4.03 chains; thence West 12.398 chains; thence North 4.03 chains to the place of beginning: Also commencing 4 chains and 3 links South of the Northwest corner of the Northeast Quarter of Southwest Quarter of Section 3, Township 19, Range 9 East of the Third Principal Meridian; and running thence East 66 rods and 3 $\frac{3}{4}$ links; thence South 48 rods 10 $\frac{1}{2}$ links; thence West 66 rods and 3 $\frac{3}{4}$ links; and thence North 48 rods and 10 $\frac{1}{2}$ links to the place of beginning, in Champaign County Illinois

EXCEPT those parts of Tracts 1, 2, 3, 4, and 5 contained in the following subdivisions: Somerset Subdivision #1, as per plat recorded as Document 94R22638, Somerset Subdivision #2, as per plat recorded as Document 96R3310, Somerset Subdivision #3, as per plat recorded as Document 98R33828, Somerset Subdivision #4, as per plat recorded as Document 2003R48237.

WHEREAS, The City Clerk of Urbana, Illinois, duly published notice on the 23rd day of June, 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 the proposed rezoning of the tract; 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 10th day of July, 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 Donald Flessner, 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 17th day of July,
2006.

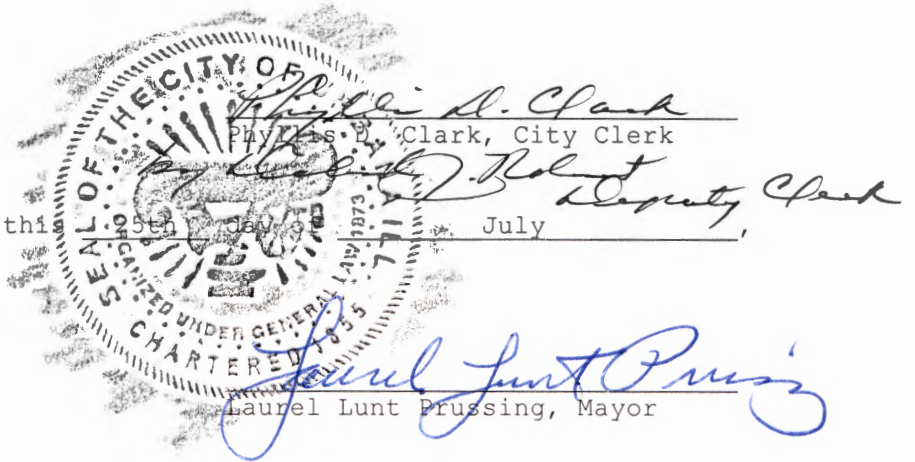
AYES: Bowersox, Chynoweth, Lewis, Roberts, Smyth, Stevenson, and
Mayor Prussing

NAYS:

ABSTAINS:

APPROVED by the Mayor this 17th day of July,

2006.



Annexation Agreement

(Somerset Subdivision / Donald Flessner)

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 **Donald Flessner** (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, Donald Flessner is the Owner of record of a certain parcel of real estate located south of Airport Road, east of Goodfield Drive and west of Fieldcrest Drive, the legal description of which real estate is set forth in Exhibit A attached hereto and referenced herein as "the tract"; and

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; and

WHEREAS, the City Council approved a preliminary plat for a portion of the tract called Somerset Subdivision Phase 5, per Ordinance No. 2006-02-018, which will be annexed to the City of Urbana prior to approval of a final plat; and

WHEREAS, although the tract is contiguous to the City of Urbana, the Owner and the City have determined that immediate annexation, with the exception of Somerset Subdivision No. 5, is not in the best interests of either party; 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-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 reflects the goals, objectives and policies set forth in the City's 2005 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 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. Ownership and Annexation. The Owner represents that the Owner is the sole record Owner of the property described in Exhibit A and that the Owner shall, within seven hundred and sixty (760) days of the recording date of the Final Subdivision Plat of Somerset Subdivision Phase 5 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.

The 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 property. If the subject tract is to be platted for subdivision, the Owner agrees that the substance of this provision regarding annexation shall be included in the subdivision covenant 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. Authority to Annex. 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 3. Zoning. The Owner acknowledges that upon annexation, the tract will be directly converted from Champaign County R-2, Single-Family Zoning District to City R-2, Single-Family Residential Zoning District. The Owner agrees that, unless changed upon the initiative of the Owner, the said City zoning classifications for said tract 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 tract. The Owner agrees to use the tract only in compliance with the Urbana Zoning Ordinance and this agreement as such may be amended from time to time.

Section 4. Subdivision Plat. The Owner agrees to prepare a Final Subdivision Plat for Somerset Subdivision Phase 5 in compliance with the City of Urbana Subdivision and Land Development Code, except as waived by Ordinance No. 2006-02-018, and the Somerset General Area Plan approved by the Urbana Plan Commission as part of Plan Case No. 1975-S-06 (see Exhibit C).

Section 4. Building Code Compliance. The Owner agrees to cause all new development, construction, remodeling or building additions on said tracts to be in conformance with all applicable City of Urbana codes and regulations including building, zoning and subdivision codes.

Section 5. 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 the Owner and the City. Said action includes petitioning for a county rezoning of said tracts without written amendment to this Agreement.

Section 6. Inducement. The Undertakings and covenants herein contained to be performed on the part of the City are the inducements for the Owner to agree to petition for annexation of the tract to the City and for the City to accept such annexation in accordance with this agreement.

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 to annex the tract with a zoning classification of R-2, Single-Family Residential.

Section 3. Amendments. The City shall take no action nor omit to take action during the term of this Agreement which act or omission, as applied to the tract, would be a breach hereof, without first procuring a written amendment to this Agreement duly executed by the Owner, or the Owner's successors or assigns, of the portion of the tract which is directly the subject of the amendment.

Section 4. Subdivision Plat. The Corporate Authorities agree to review and approve a Final Subdivision Plat to be submitted by the Owner for Somerset Subdivision Phase 5, subject to the regulations of the Urbana Subdivision and Land Development Code and in general conformance with the Somerset General Area Plan (see Exhibit C).

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 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. By mutual agreement, the term of this Agreement may be extended.

If this Agreement imposes any obligation, restraint, or burden (hereinafter called collectively "obligation") on the Owner or the Owner's 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 no party will take 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 the Owner and the City.

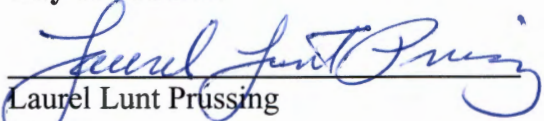
Section 4. Enforcement. The Owner and Corporate Authorities agree and hereby stipulate that any party to this Agreement may, by civil action, mandamus, action for writ of injunction or other proceeding, enforce and compel performance of this Agreement or the party not in default may declare this Agreement 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.

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.

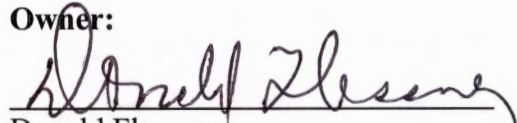
Corporate Authorities
City of Urbana:



Laurel Lunt Prussing
Mayor

7/28/06

Date

Owner:


Donald Flessner

7-28-06

Date

ATTEST:

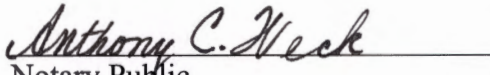


Phyllis D. Clark
City Clerk

7/28/06

Date

ATTEST:



Anthony C. Weck
Notary Public

7/28/06

Date

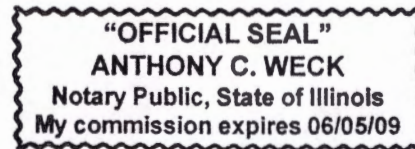


Exhibit A

Legal Description

Tract 1:

The West 1 acre of the South 2 acres of Lot 19, and all of Lots 20, 23, 24, 25, 26 and 27, in Assessor's Subdivision of the North Half of Section 3, Township 19 North, Range 3 East of the Third Principal Meridian, and the Southwest Quarter of the Northwest Quarter of Section 3, Township 19 North, Range 9 East of the Third Principal Meridian, in Champaign County, Illinois

Tract 2:

The North 13 acres of Lot 5 of the Subdivision of the East Hal of the Northwest Quarter of Section 3, Township 19 North, Range 9 East of the Third Principal Meridian, being Lot 5 of a Subdivision of the Estate of John Brownfield Sr. deceased and known on the Assessor's Book as Lot 19 of a Subdivision of the North Half of said Section 3 as aforesaid, in Champaign County, Illinois.

Tract 3:

The Southwest Quarter of the Northwest Quarter of Section 3, Township 19 North, Range 9 East of the Third Principal Meridian, in Champaign County, Illinois.

Tract 4:

A portion of the East 4 acres of Lot 7 of a ReSubdivision of Lots 23, 24, 25 and 26 of a Subdivision of the West Half of the Southwest Quarter of Section 3, Township 19 North, Range 9 East of the Third Principal Meridian, as shown by plat recorded in Plat Book "A" at Pages 181 and 182, said portion being described as follows:

Beginning at the Northeast corner of said Lot 7; thence West along the North line of Lot 7, a distance of 83.50 feet; thence Southeasterly along a line forming an angle of 45°42'50" with the last described line, to the North right-of-way line of the Public Highway that runs Northeasterly along said North right-of-way line to the East line of said Lot 7; thence North along the said East line to the place of beginning, in Champaign County, Illinois.

Tract 5:

All of the following described real estate lying West of the road commonly referred to as Brownfield Road:

Beginning at the Northwest corner of the East half of the Southwest quarter of Section 3, Township 19 North, Range 9 East of the Third Principal Meridian; running thence East 12.39 chains; thence South 4.03 chains; thence West 12.398 chains; thence North 4.03 chains to the place of beginning: Also commencing 4 chains and 3 links South of the Northwest corner of the Northeast Quarter of Southwest Quarter of Section 3, Township 19, Range 9 East of the Third Principal Meridian; and running thence East 66 rods and 3 ¼ links; thence South 48 rods 10 ½ links; thence West 66 rods and 3 ¼ links; and thence North 48 rods and 10 ½ links to the place of beginning, in Champaign County Illinois

EXCEPT those parts of Tracts 1, 2, 3, 4, and 5 contained in the following subdivisions: Somerset Subdivision #1, as per plat recorded as Document 94R22638, Somerset Subdivision #2, as per plat recorded as Document 96R3310, Somerset Subdivision #3, as per plat recorded as Document 98R33828, Somerset Subdivision #4, as per plat recorded as Document 2003R48237.

Exhibit B

Map of Tract

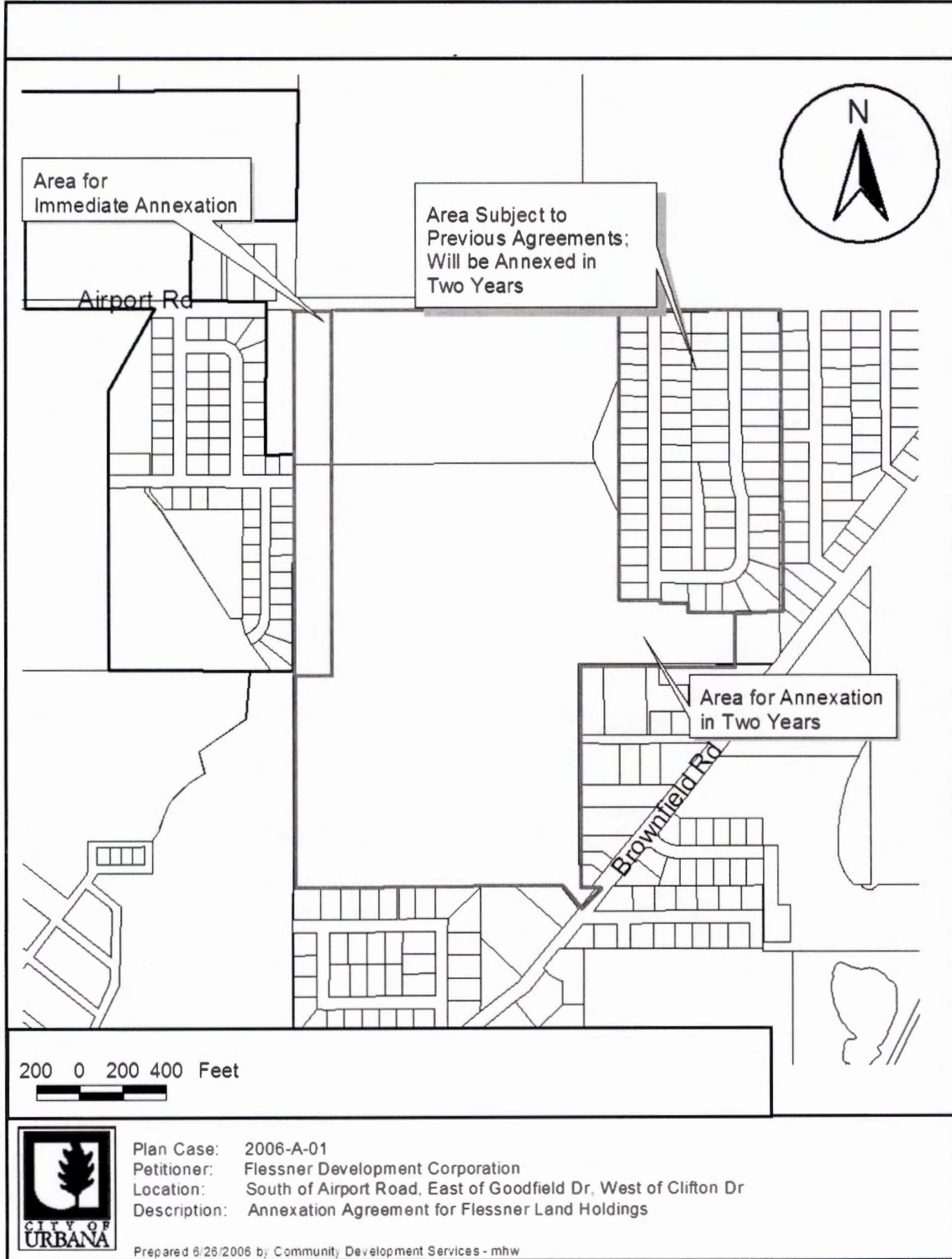


Exhibit C

Somerset General Area Plan

Somerset Subdivision General Area
Approved by the Urbana Plan Commission - February 9, 2006

Drafted February 2, 2006 by Community Development Services - mhw



34



8 0 3 9 3 3 1
Tx:4017408

STATE OF ILLINOIS
COUNTY OF CHAMPAIGN
CITY OF URBANA

2012R26541
REC ON: 10/19/2012 09:34:00 AM
CHAMPAIGN COUNTY
BARBARA A. FRASCA, RECORDER
REC FEE: 25.00
PAGES 3
PLAT ACT: 0 PLAT PAGE:

DEDICATION OF RIGHT OF WAY FOR PUBLIC ROAD PURPOSES

THIS INDENTURE WITNESSETH, that the Grantor(s), Donald Flessner Trust, for and in consideration of the benefits resulting from the construction and maintenance of the public roadway herein referred to, and other good and valuable consideration, does by these presents, hereby grant, convey and dedicate to The City of Urbana, Illinois, a municipal corporation, for the purpose of a public right of way for Public road purposes, a tract of land situated in the City of Urbana, County of Champaign and State of Illinois, and described as follows:

A part of the Northwest Quarter of Section 3, Township 19 North, Range 9 East of the Third Principal Meridian, Champaign County, Illinois, being more particularly described as follows;

Commencing at the northwest corner of the Northwest Quarter of Section 3, Township 19 North, Range 9 East of the Third Principal Meridian, Champaign County, Illinois; thence, North 90°-00'-00" East, along the north line of said Northwest Quarter, 270.00 feet, to the northeast corner of Somerset Subdivision No. 5, as shown on a plat prepared by William E. Sheridan, Illinois Professional Land Surveyor Number 2031, and recorded on December 4, 2006 as Document Number 2006R33111 in the Office of the Recorder of Deeds, Champaign County, Illinois, said point being the Point of Beginning; thence, continuing North 90°-00'-00" East, along said north line of the Northwest Quarter, 1234.60 feet, to the northwest corner of Somerset Subdivision No. 4, as shown on a plat prepared by William E. Sheridan, Illinois Professional Land Surveyor Number 2031, and recorded on October 23, 2003, as Document Number 2003R48237 in the Office of the Recorder of Deeds, Champaign County, Illinois; thence, South 1°-03'-10" West, along the westerly line of said Somerset Subdivision No. 4, 40.01 feet, to the northwest corner of Lot 416 of said Somerset Subdivision No. 4; thence, North 90°-00'-00" West, along a line parallel with and 40.00 feet southerly of said north line of the Northwest Quarter of Section 3, 1234.06 feet, to the northeast corner of Lot 501 of said Somerset Subdivision No. 5, also being on the easterly line of said Somerset Subdivision No. 5; thence, North 0°-16'-29" East, along said easterly line, 40.00 feet, to the Point of Beginning.

Said dedication containing 49,373.135 S.F. (1.133 acres), more or less, all situated in the City of Urbana, Champaign County, Illinois, and being as shown by a plat hereto attached and considered a part hereof

And the Grantor(s) and Grantee further, as a part of this dedication, agree that any City officials having authority as to public roadways, and its representatives, engineers, agents, contractors and employees are hereby authorized to enter into and take full and complete possession of the said tract;

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and seal this 16 day of October, 2012.

Donald Flessner Trust
Donald Flessner, Trustee

STATE OF ILLINOIS)
) SS.
COUNTY OF CHAMPAIGN)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Donald Flessner, as Trustee of the Donald Flessner Trust personally known to me to be Donald Flessner of the Donald Flessner Trust, the GRANTOR, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as Donald Flessner, as Trustee of the Donald Flessner Trust, he signed and delivered the said instrument as his free and voluntary act, and as the free and voluntary act and deed of said Trust, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 16 day of October, 2012

Theresa L. Hoffman
Notary Public



Deed Prepared By & Return To:

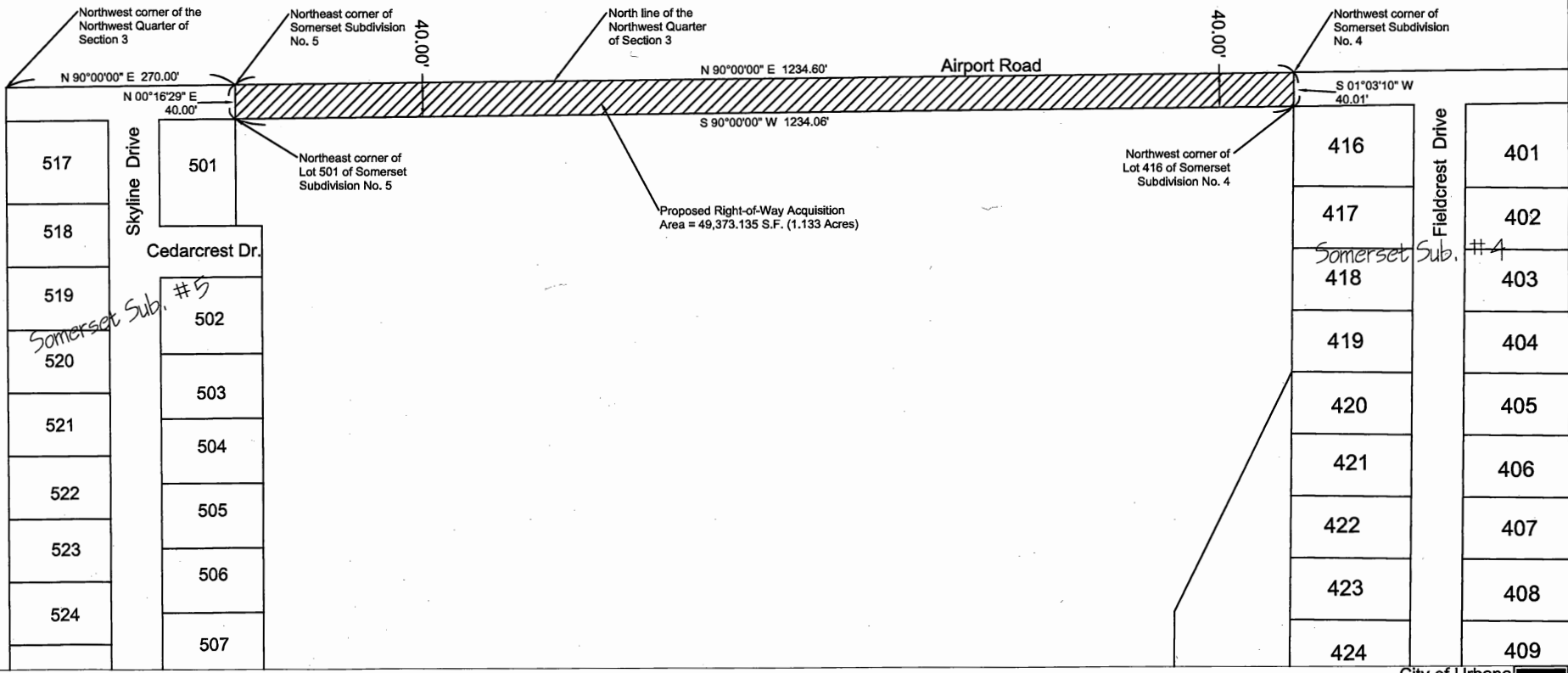
Ben Fisher
Urbana Public Works Department
706 S. Glover Avenue
Urbana, IL 61802

Accepted on behalf of the City of Urbana

BY: William R. Gray
William R. Gray
Public Works Director/City Engineer

DATE: 10/16/12

Scale: 1"=120'



Proposed Airport Road ROW Acquisition
Flessner Tract