



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

### **m e m o r a n d u m**

**TO:** The Urbana Zoning Board of Appeals

**FROM:** Robert Myers, AICP, Planning Manager

**DATE:** May 16, 2008

**SUBJECT:** ZBA-2008-MIN-01: A request by Maruti Gagan Management, LLC for a minor variance to erect a freestanding sign of 81 square feet in area rather than the maximum 75 square feet allowed by Table IX-1 of the Urbana Zoning Ordinance at 1708 South Philo Road

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### **Introduction**

Maruti Gagan Management, LLC has submitted a request for a minor variance to allow an 81 square foot freestanding sign at 1708 S. Philo Road in the B-3, General Business zoning district. Table IX-1 of the Urbana Zoning Ordinance allows freestanding monument signs to be erected with a maximum area of 75 square feet.

Pursuant to the Urbana Zoning Ordinance, the Zoning Board of Appeals may approve or disapprove a minor variance by a majority vote of its members.

### **Background**

1708 S. Philo Road is the former Centure Bank location. Burger King is considering franchising a restaurant for this location, and according to the applicant, the existing building would be remodeled and re-used. A freestanding, monument Burger King sign is proposed to be located at the northwest corner of the property.

According to the petitioner, the ability to erect this size sign is critical to gaining corporate approval for the franchise. Burger King tightly controls the signage used by their franchisees and does not allow scaling of their logo signs. For the proposed sign, the Burger King logo circle has a diameter of eight feet and an area of 50.3 square feet. The next size smaller available has a logo circle diameter of five feet and an area of 19.6 square feet. The reader board is the same size for both signs.

According to the applicant, the smallest logo sign corporate Burger King will even consider is the 8-foot diameter logo sign; they would not approve a restaurant franchise if they would only be permitted to erect the 5-foot diameter logo sign.

The 8-foot round logo sign with the proposed electronic reader board -- including the gap

between the two – would equal 81 square feet in area. This is 8% larger than the 75 square feet permitted for such signs in the B-3, General Business zoning district. City staff worked with the applicant to reduce the size of the reader board element to the smallest practicable size. The applicant believes that given the City’s three-minute minimum message change requirement, a 3 feet by 8 feet reader board is the smallest reasonable size able to communicate a basic message using text. According to the applicant, the message board for the Burger King on N. Prospect Ave. in Champaign, which is smaller than proposed here, is “practically useless” because it is only large enough for an average of three words.

Given the corporation’s need for a 8-foot logo sign, plus a 3’ x 8’ reader board, the two elements if taken separately would equal 74.3 square feet in area. However, the City of Urbana’s Comprehensive Sign Regulations do not measure these are separate elements, as discussed below.

**Development Regulations**

According to Table IX-1 of the Zoning Ordinance, Standards for Freestanding Signs, freestanding monument signs are limited to a maximum of 75 square feet in display area. The proposed sign has two elements: the round Burger King logo which is 50.3 square feet in area, and an electronic reader board which is 24 square feet in area. Considered as separate elements, the two areas would total 74.3 square feet in area. However, The proposed sign is 81 square feet in area using the method defined by Section IX-3.A(1) of the Urbana Zoning Ordinance, Measurement Standards for Flat Signs:

“The area of a sign shall be computed as: 1. Flat Sign: The area of the smallest convex geometric figure encompassing the sign; or...”

The gap (or “air space”) between the round logo and the rectangular reader board elements makes up the remaining 6.7 square feet calculated as part of the sign area under Section IX-3.A(1) of the Zoning Ordinance.

**Existing Land Use**

The following chart summarizes pertinent zoning, land use, and future land use policies.

Direction	Zoning	Existing Land Use	2005 Comprehensive Plan Future Land Use
site	B-3, General Business	Commercial (vacant building)	Community Business
north	B-3, General Business	Commercial (Caring Hands Animal Hospital)	Community Business
west	B-3, General Business	Commercial (McDonalds and Sunny China Buffet restaurants)	Community Business
south	B-3, General Business	Commercial (retail center under construction)	Community Business
east	B-3, General Business	Multi-Family Residential (The Pointe at U of I)	Community Business

## **2005 Comprehensive Plan**

Future Land Use Map 13 of the 2005 Urbana Comprehensive Plan shows the future land use of this and all adjoining parcels as “Community Business.” The Plan defines Community Business as follows:

“Community Business centers are designed to serve the overall community as well as the immediate neighborhood but are less intense than regional commercial centers. Located along principal arterial routes or at major intersections, Community Business centers contain a variety of business and service uses at scales and intensities that make them generally compatible with surrounding neighborhoods. Encourage planned-unit developments to create a variety of uses, and to transition intensities to adjoining neighborhoods. Design facilities to permit pedestrian, bicycle, and transit access as well as automobile traffic.”

Comprehensive Plan Map 13 also provides the following annotations for the immediate area of 1708 S. Philo Road.

“Study potential for alternative land uses for redevelopment.” [Former K-mart site to the east]

“Redevelop and market the area as outlined in the Philo Road Business District Revitalization Action Plan” [Sunnycrest Mall site to the west]

## **Other Relevant Plans and Studies**

In 2005, the Urbana City Council adopted the Philo Road Business District Revitalization Action Plan. The plan notes that following the loss of designation as Illinois Route 130, the volume and types of traffic have changed such that Philo Road has become:

“...a neighborhood business district that provides necessities and convenience goods, professional and personal services, office space and dining and entertainment to Urbana. The District is tailored specifically to the southeast neighborhoods, but also serves many residents of the nearby community.”

The Philo Road Action Plan adopts policies which include those for image improvement, beautification, road improvements, building reuse, marketing of available buildings, and zoning and/or signage improvements. Action Element 9, zoning/signage improvements, includes an action to, “Assess business signage needs along Philo Road and encourage businesses to improve visibility through sign construction with redevelopment assistance.”

## **Transportation information**

Urbana Public Works classifies Philo Road as a “Minor Arterial” in terms of how the roadway functions. The roadway configuration is four traffic lanes in front of the site, and the speed limit on this segment of Philo Road is 35 miles per hour.

## **Discussion**

The particular characteristics of this location have bearing on the application. The minimum size of signage necessary for clear communication is largely a function of the amount of time the viewer can safely devote to detecting and understanding a message before safely executing an automobile movement. The speed of passing motorists, and the complexity of the driver and sign environments, are determining factors in the effectiveness for sign communication. As a four-lane, minor arterial roadway, and a speed of 35 miles per hour, the driver and sign environments are of a relatively

moderate complexity when compared to either neighborhood business districts with 25-mile per hour speed limits (such as E. Main Street) or regional business districts with 45-mile per hour speed limits (such as Walmart on Route 130).

### **Requirements for a Variance**

Section XI-3.C.2 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the criteria (*in italics*), followed by staff analysis for this case:

1. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special conditions and circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district;*

According to the applicant, the 8-foot diameter logo sign is necessary to communicate at this location, given that the next smaller size corporate sign, with a 5-foot diameter, would not communicate adequately at this location. Although City staff has worked with the applicant to reduce the size of the reader board element of the sign, the applicant states that as proposed the sign is the smallest able to adequately convey a meaningful message to motorists, given the City's three-minute minimum message change for electronic reader boards.

City staff finds that this variance will not serve as a special privilege given the various facts taken as a whole: available sign size, minimum sizing for reader boards to effectively communicate, relative complexity of driver and sign environments, and significantly, that the gap (or "air space") between the sign elements, although factored by the Zoning Ordinance as signage, is not necessarily read that way by those viewing the sign.

2. *The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner;*

The petitioner, Maruti Gagan Management, LLC, is attempting to meet the needs and requirements of both corporate Burger King and the City of Urbana. He does not have the authority from the corporation to choose a smaller logo sign. According to the applicant, the sign applied for is the smallest the corporation will allow in granting a franchise at this particular location, given the market conditions, roadway characteristics, and business competition.

3. *The variance will not alter the essential character of the neighborhood;*

The Philo Road corridor consists of commercial uses, and most properties have a free-standing sign directed toward Philo Road. The proposed sign, not counting the gap between the two elements, is 74 square feet in area which just meets the maximum 75-square foot size requirement. Including the gap as part of the sign area increase the sign to 81-square feet which is 8% larger than allowed by right.

City staff recommends a finding that the variance will not alter the essential character of the neighborhood, given the existing commercial character and standard free-standing signage, and given that the proposed sign would be 8% larger than allowed by right.

4. *The variance will not cause a nuisance to adjacent property;*

The sign will not cause a nuisance to adjacent properties given an 8% increase in what is allowed by right.

5. *The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

The petitioner is requesting the smallest sign that they believe is adequate. City staff has worked with the petitioner to reduce the sign size overall to what they believe is the minimum deviation necessary.

6. *The variance requested is the result of practical difficulties or particular hardship in the way of carrying out the strict letter of the Zoning Ordinance relating to the use, construction, or alteration of buildings or structures or the use of land.*

The practical difficulty is that the corporation has standard logo sign sizes. If an 8-foot diameter (50.3 sq. ft.) logo sign would not be permitted, a 5-foot diameter (19.6 sq. ft.) sign is the next smaller size available. This, taken in combination with how the City of Urbana's Zoning Ordinance includes the gap between sign elements as part of signage, is a practical difficulty. According to the applicant, this is a serious impediment for securing project approval.

## **Findings**

1. Maruti Gagan Management, LLC has applied for a variance to erect an 81-square foot, freestanding monument sign at 1708 S. Philo Road in the B-3, General Business zoning district.
2. The Urbana Zoning Ordinance limits freestanding monument signs in B-3 zoning districts to 75 square feet in area.
3. Section IX-3.A(1) of the Urbana Zoning Ordinance defines the area of flat signs as "the area of the smallest convex geometric figure encompassing the sign."
4. The proposed sign includes two sign elements which if measured separately total 74 square feet in area.
5. When measured with the smallest convex geometric figure encompassing the two elements, including the gap between the two elements, the sign area is computed as 81 square feet.
6. The application asserts that the two sign elements cannot be further reduced in area given franchise and readability constraints.
7. The variance will not serve as a special privilege given the specific facts taken as a whole, including sign sizes available for this franchise, effective communication, relative complexity of driver and sign environments, and sign geometry.
8. The variance will not alter the essential character of the neighborhood as this sign would be 8% larger in area than what is allowed by right for other businesses in the B-3 zoning district.

9. The variance will not cause a nuisance. The proposed sign will be 8% larger in area than freestanding, monument signs allowed by right in this zoning district, and difference in area being equal to the gap between the two sign elements.
10. The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request. The applicant has reduced the size of the sign to the smallest available for this franchise and still communicate effectively.
11. The variance requested is the result of practical difficulties or particular hardship. The company's available standard logo sizes, combined with how Urbana's Zoning Ordinance measures the size of flat signs, presents an impediment for corporate approval.

## Options

The Zoning Board of Appeals has the following options in case no. ZBA2008-MIN-01:

- a. Approve the variance based on the findings outlined in this memo; or
- b. Approve the variance along with certain terms and conditions. If the Board of Appeals elects to impose conditions for approval of the variances on findings other than those articulated herein, they should articulate findings accordingly; or
- c. Deny the variance request. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting its denial.

## Recommendation

Based on the findings outlined herein, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Urbana Zoning Board of Appeals recommend **APPROVAL** of the proposed Major Variance in case ZBA 07-MAJ-05 to the Urbana City Council subject to the following conditions:

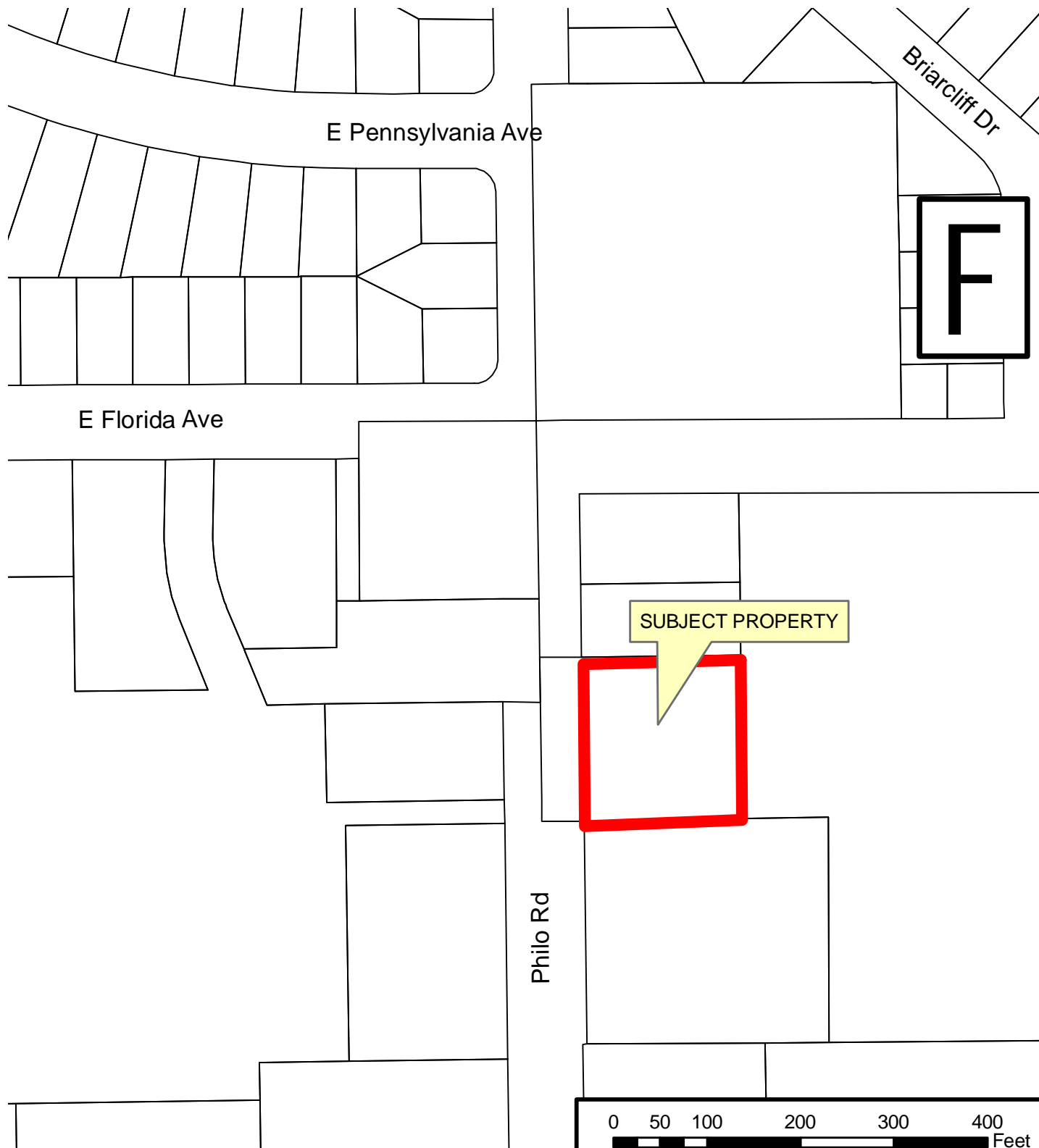
1. That the sign shall substantially conform in geometry to the drawing submitted with the application.
2. That the sign shall not exceed 81 square feet in area as measured by the Urbana Zoning Ordinance.

Prepared by:

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Robert Myers, AICP, Planning Manager

# Exhibit A: Location Map



**ZBA Case:** ZBA-2008-MIN-01

**Description:** Minor Variance to Allow a 5 Square Foot Increase in the Area of a Freestanding Sign

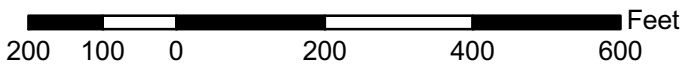
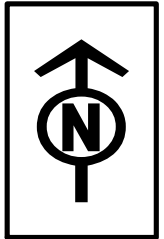
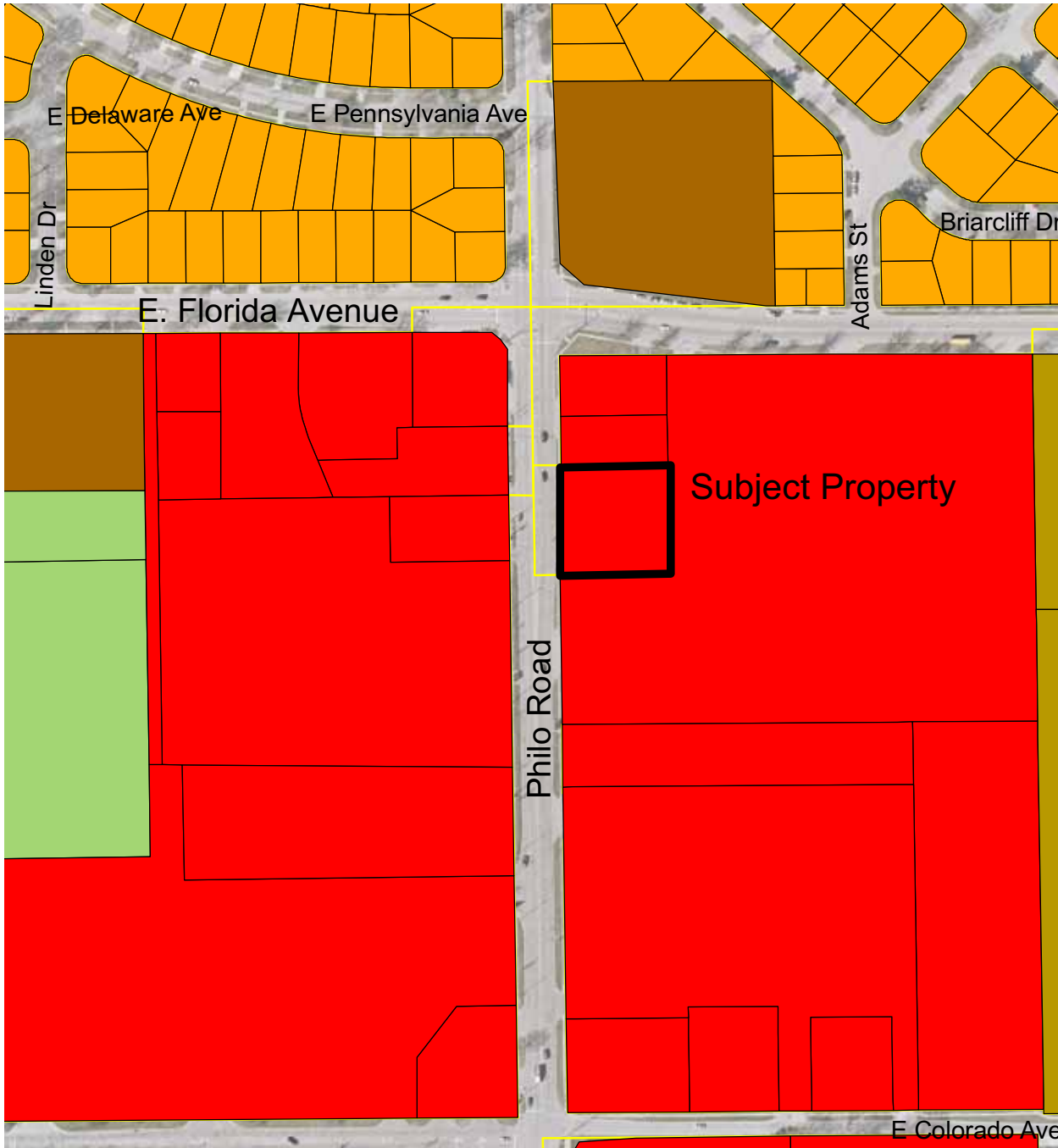
**Petitioner:** Maruti Gagan Management, LLC

**Location:** 1708 South Philo Road

**Zoning:** R-2: B-3, General Business District

*Prepared 5/09 by Community Development Services - jme*


# Exhibit B: Existing Zoning Map



**ZBA Case:** ZBA-2008-MIN-01  
**Subject:** Minor Variance to Allow a 5 Square Foot Increase  
in the Area of a Freestanding Sign  
**Petitioner:** Maruti Gagan Management, LLC  
**Location:** 1708 S. Philo Road  
**Zoning District:** B-3, General Business

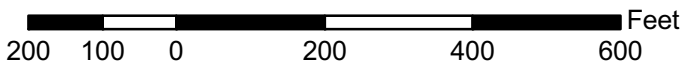
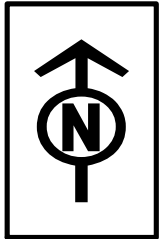
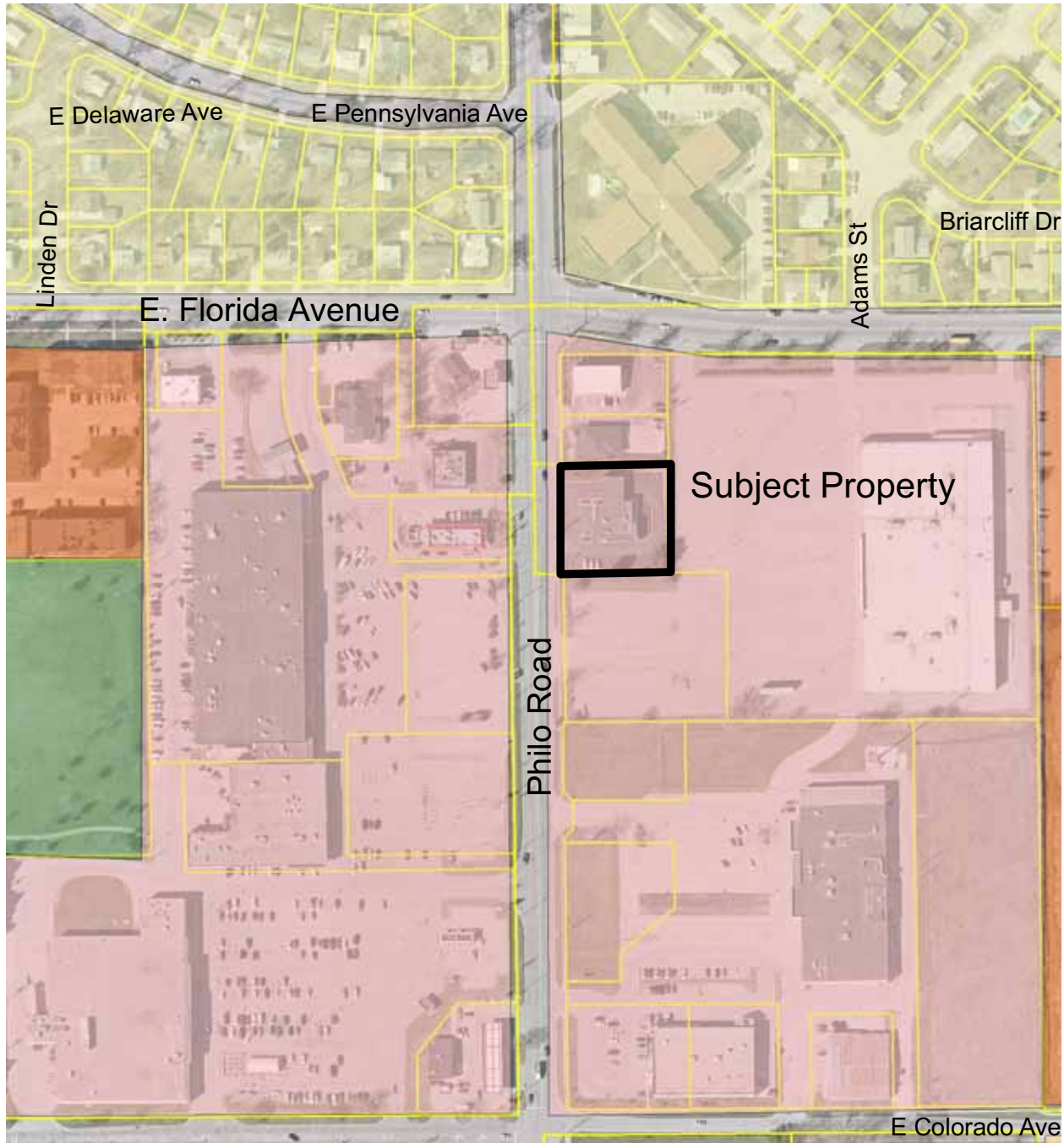
*Prepared 5/20/2008 by Community Development Services - rlb*

## Legend

-  B3
-  CRE
-  R3
-  R4
-  R5



# Exhibit C: Future Land Use Map



**ZBA Case:** ZBA-2008-MIN-01  
**Subject:** Minor Variance to Allow a 5 Square Foot Increase in the Area of a Freestanding Sign  
**Petitioner:** Maruti Gagan Management, LLC  
**Location:** 1708 S. Philo Road  
**Zoning District:** B-3, General Business

## Legend

- Residential
- Community Business
- Multi-Family Residential
- Park

Prepared 5/20/2008 by Community Development Services - rlb

**Exhibit D: Site Photos**



**Subject Property: looking east across Philo Road**



**Property to the North: Caring Hands Animal Hospital**



**Across from Subject Property: West side of Philo Road**