



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: Kevin Garcia, Planner II

DATE: August 12, 2016

SUBJECT: **ZBA Case ZBA-2016-MAJ-09:** A request by Glenn Rahn for a Major Variance to install air conditioning units that will encroach 5.7 feet into the required front yard at 1901 S. Philo Road in the B-3, General Business District.

Introduction & Background

Glenn Rahn is requesting a Major Variance to allow the installation of air conditioning units that would encroach into the required front yard of the property at 1901 South Philo Road. The property is zoned B-3, General Business, and is a corner lot that fronts S. Philo Road and E. Colorado Avenue. Being a corner lot, the property has two front yards.¹ The air conditioning units would be placed in the front yard next to E. Colorado Avenue. They would be used by Marco's Pizza, a restaurant that plans to move into the northern portion of the Family Video building that is on the property. Mr. Rahn is an architect representing Marco's Pizza.

Table VI-3 of the Urbana Zoning Ordinance requires 15-foot front yards for properties zoned B-3. The front yard along E. Colorado Avenue is 15.3 feet. The proposed air conditioning units, concrete pad, and fence would extend 6 feet from the north wall of the building and encroach 5.7 feet into the required yard. This would reduce the required front yard from 15 feet to 9.3 feet.

The applicant and City staff discussed placing the air conditioning units on the west side (back) of the building in the vacated alley, but that location was ultimately seen as less desirable than the northern location by Public Works and Fire Department staff.

Pursuant to Section XI-3.C.2(d)(1) of the Urbana Zoning Ordinance, in order for a Major Variance to be approved, the Zoning Board of Appeals must recommend approval by a two-thirds majority and forward to City Council for final review and approval.

Description of the Site

The lot is at the southwest corner of S. Philo Road and E. Colorado Avenue. It contains a building on the west side that is built close to the required setbacks on the north and west sides.

¹ *Urbana Zoning Ordinance, Section VI-5.D.1*

The building contains a Family Video store, along with a vacant commercial space available for lease. The eastern two-thirds of the site is a parking lot.

Across Colorado Avenue to the north is a BP gas station and Circle K convenience store, and the former County Market grocery store. To the east, across Philo Road, is the Renner Wikoff Chapel. To the south is a car wash, and to the west, across a vacated alley, is a fitness center.

Zoning and Land Use Table

The following is a summary of surrounding zoning and land uses for the subject site:

Location	Zoning	Existing Land Use	Comprehensive Plan Future Land Use
Subject Property	B-3, General Business	Video Rental Store, Vacant Commercial Space	Community Business
North	B-3, General Business	Gas Station	Community Business
South	B-3, General Business	Car Wash	Community Business
East	B-3, General Business	Office Building	Community Business
West	B-3, General Business	Gym	Community Business

Discussion

The applicant would like to place air conditioning units for a proposed pizza restaurant on the north side of the existing building at 1901 S. Philo Road. The units would be placed in the required front yard along E. Colorado Avenue. According to Section VI-5.B of the Urbana Zoning Ordinance, “No building, structure, or portion thereof, mechanical equipment, or swimming pool shall be erected in, occupy, or obstruct a required yard”. Air conditioning units are “mechanical equipment” and are therefore prohibited from being constructed within the required front yard. The applicant requests a variance to reduce the required front yard to allow the air conditioning units to be placed on the north side of the building.

Marco’s Pizza will occupy the north part of the existing building on the site. Since the air conditioning units must be placed outside and adjacent to the restaurant, the possible locations for the units are the west, north, or east sides of the building. The east (front) side of the building contains large windows and a sidewalk running along the building face (see Exhibit D). Placing the units there would obscure the front of the building and block the sidewalk. The west side of the building contains a vacated alley, and there is a utility easement directly behind, and running parallel to, the building. Placing the units there would place them over the easement, would make emergency access through the vacated alley more difficult, and would require a Major Variance to reduce the rear yard setback from 10 feet to 6 feet.² To the north side of the building is a grass

² The building is 12’ from the rear property line, and the required rear yard is 10’. The air conditioning units would extend 6’ from the building, or 4’ into the required yard.

area next to the building and a landscaped area next to the sidewalk (see Exhibit D). The applicant has proposed that a fenced-in concrete pad would be placed next to the building, and the units would be placed within the enclosure to screen them from view (see Exhibit D). Placing the units in the proposed location on the north side of the building is the most feasible of the three options.

Variance Criteria

Section XI-3 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 as they pertain to this case and the criteria outlined in the ordinance:

1. *Are there special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance?*

Air conditioning units must be placed outside. Since the building is built almost right up to the west and north setback lines, the only location for the units which would not require a variance would be in front of the building. That location is not feasible, as it would obscure part of the building's front and occupy existing sidewalk space. Placing the units behind the building would also require a variance, and would place the units over a utility easement that runs parallel to the building just beyond the rear wall. Placing the units to the rear would also take up space in the vacated alley, which is still used to access this property and adjacent properties. Obstructing the vacated alley would also make emergency access more difficult. The north side of the building is the most feasible and desirable location for the air conditioning units.

2. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special 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.*

As stated in the discussion of criterion "1" above, the existing building is built almost to the setback lines. Most buildings in B-3 Districts, especially commercial buildings, are not built up to setback lines. They are usually cited to accommodate the building plus any mechanical equipment that needs to be placed outside of it. This building is unusually cited and creates a special circumstance on this site.

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

The building was constructed years before the petitioner or his clients were associated with the property. The request was not the result of a situation created by either.

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

The air conditioning units will be properly screened and will not alter the character of the neighborhood.

5. *The variance will not cause a nuisance to the adjacent property.*

The variance would not cause a nuisance to the adjacent property owners. The units will be screened appropriately, and their location on the north side of the building (rather than being in the alley to the west) may be beneficial to the adjacent property owner, as the alley will remain unobstructed.

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

The applicant has selected an air conditioning system that will have the smallest footprint possible and will keep the encroachment into the front yard to a minimum.

Summary of Staff Findings

1. Glenn Rahn has requested a Major Variance to allow the installation of air conditioning units that would encroach 5.7 feet into the required 15-foot front yard at 1910 S. Philo Road. This would reduce the required front yard from 15 feet to 9.3 feet.
2. The site is located in Southeast Urbana, is zoned B-3, General Business, and is designated as “Community Business” in the Urbana Comprehensive Plan.
3. The proposed variance is requested due to special circumstances of the site, including the location of the building near the north and west setback lines and the presence of an existing utility easement to the rear of the building.
4. The proposed variance will not serve as a special privilege to the petitioner, and the request was not the result of a situation knowingly created by the petitioner.
5. The proposed variance will not cause a nuisance to adjacent property owners and will not alter the essential character of the neighborhood.
6. The proposed variance represents the minimal deviation possible from the Zoning Ordinance requirements to accommodate the request.

Options

The Zoning Board of Appeals has the following options in this case:

- a. The Urbana Zoning Board of Appeals may forward the case to City Council with a recommendation to approve the variance as requested based on the findings outlined in this memo; or
- b. The Urbana Zoning Board of Appeals may forward the case to City Council with a recommendation to approve the variance along with certain terms and conditions. If the Urbana Zoning Board of Appeals elects to recommend conditions or recommend

approval of the variances on findings other than those articulated herein, they should articulate findings accordingly; or

- c. The Zoning Board of Appeals may deny the variance request. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting its denial.

Staff Recommendation

Based on the analysis and findings presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals **APPROVE** the variance to allow a reduction in the front yard setback requirement from 15 feet to 9.3 feet:

Attachments:	Exhibit A:	Location Map
	Exhibit B:	Zoning Map
	Exhibit C:	Future Land Use Map
	Exhibit D:	Site Plan, Photos, & Renderings
	Exhibit E:	Application for Variance

cc: Glenn Rahn

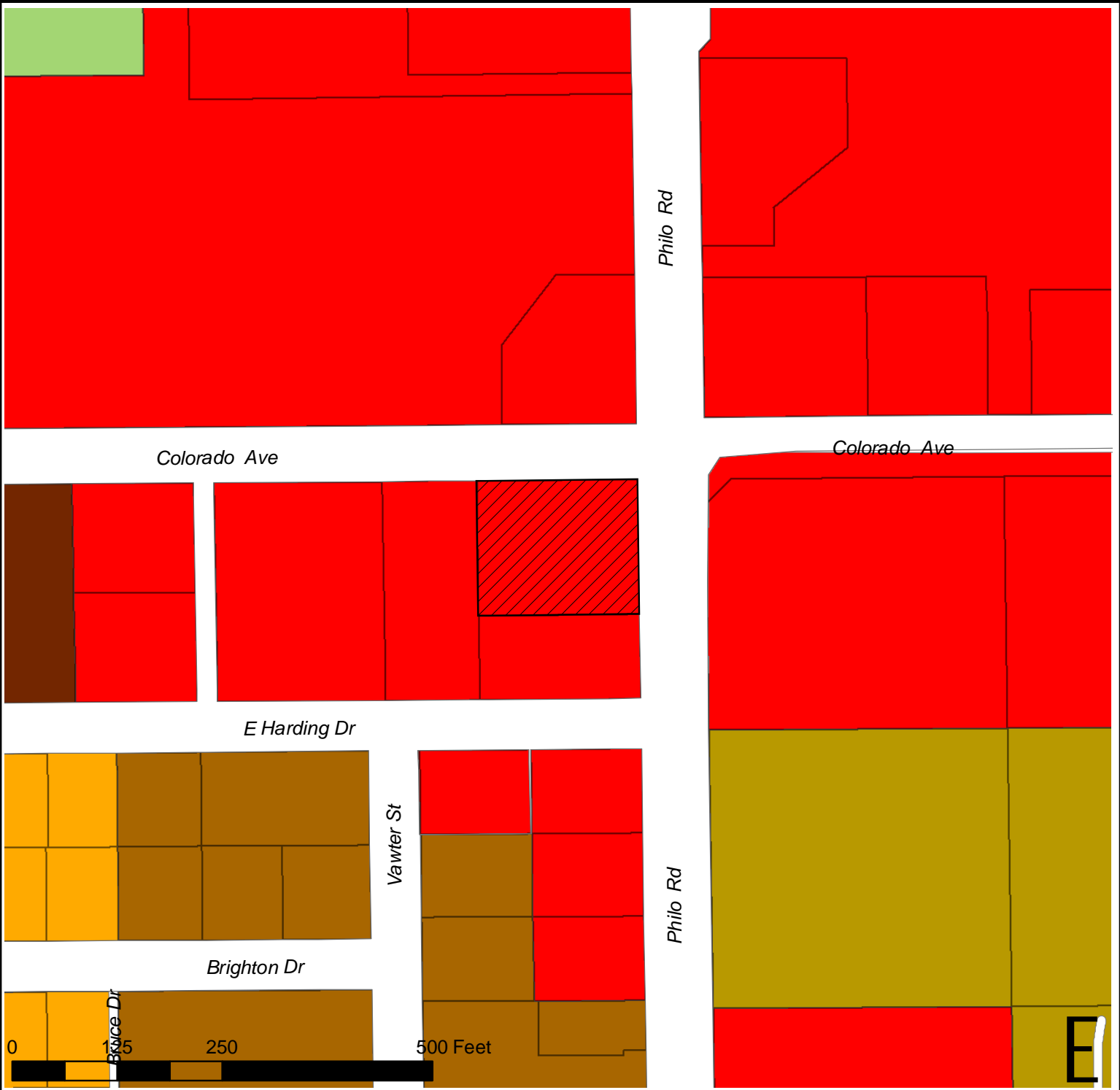
Exhibit A: Location & Existing Land Use Map



Case: ZBA-2016-MAJ-09
 Subject: Front Yard Variance
 Location: 1901 S Philo Road
 Petitioner: Glenn Rahn

 Subject Property

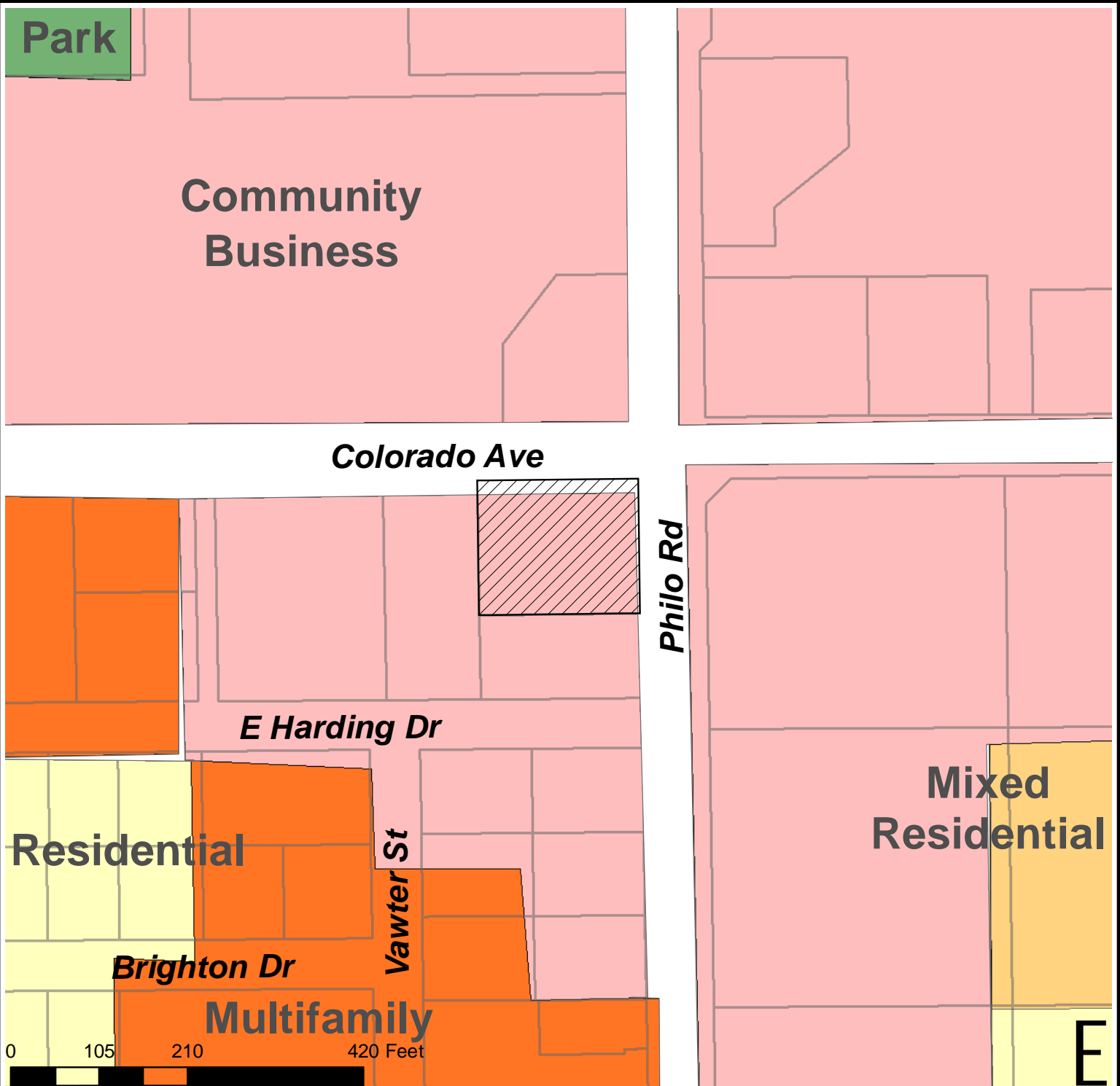
Exhibit B: Zoning Map



Case: ZBA-2016-MAJ-09
 Subject: Front Yard Variance
 Location: 1901 S Philo Road
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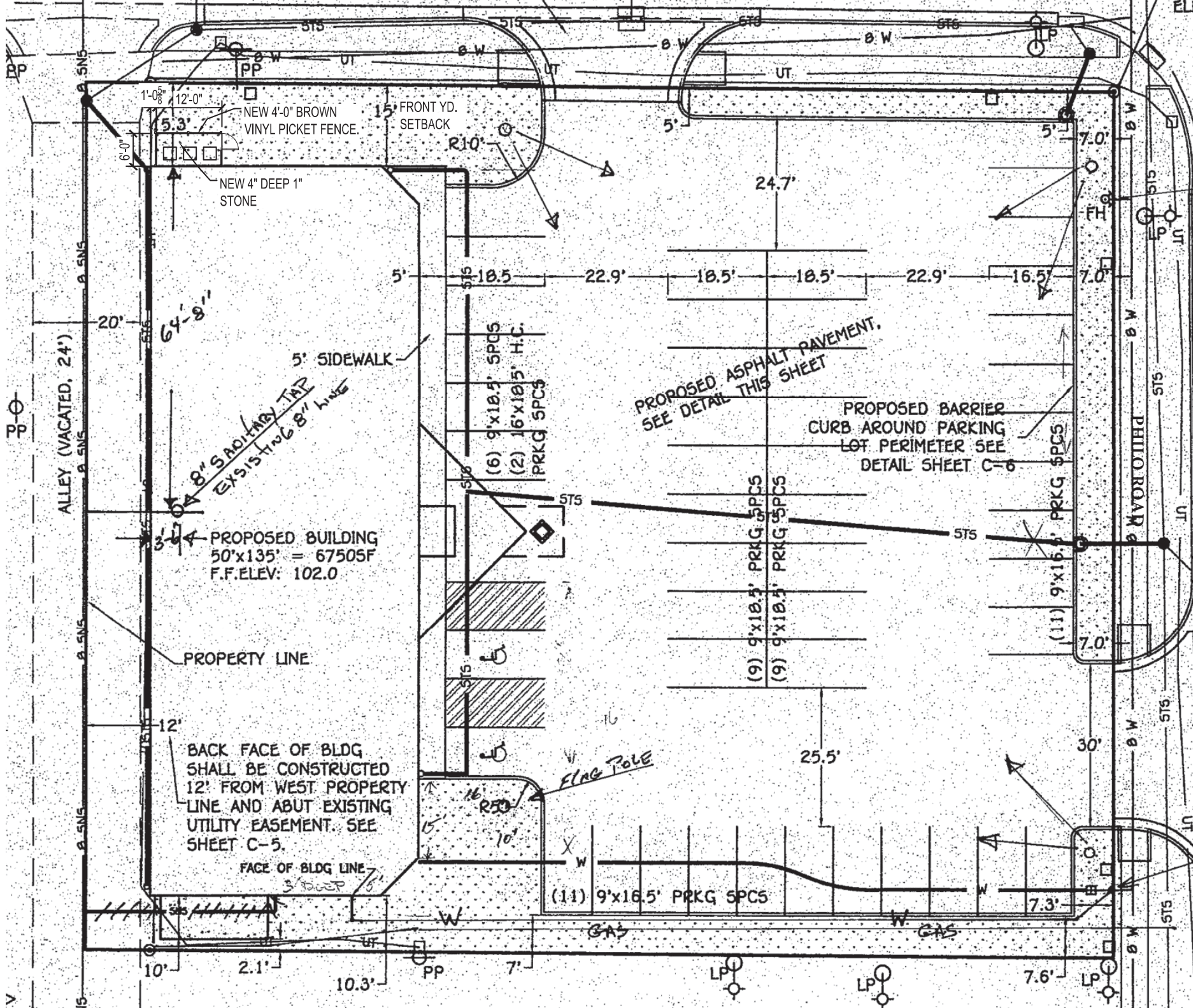
- B3
- CRE
- R3
- R4
- R5
- R6
- Subject Property

Exhibit C: Future Land Use Map



Case: ZBA-2016-MAJ-09
 Subject: Front Yard Variance
 Location: 1901 S Philo Road
 Petitioner: Glenn Rahn

- Residential
- Mixed Residential
- Multi-Family Residential
- Community Business
- Park
- Subject Property





Potential A/C Location
(South)

Utility Easement

08/12/2016 12:05



Video

Potential A/C Location
(East)

08/12/2016 12:05



Potential A/C Location
(North)

Utility Easement

08/12/2016 12:05









Application for Variance

ZONING BOARD OF APPEALS

APPLICATION FEE – \$175.00 (Major) and \$150.00 (Minor)

The Applicants are responsible for paying the cost of legal publication fees as well. Estimated costs for these fees usually run between \$75.00 to \$225.00. The applicant is billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed _____ ZBA Case No. _____
 Fee Paid - Check No. _____ Amount _____ Date _____

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

A VARIATION is requested in conformity with the powers vested in the Zoning Board of Appeals to permit the following variation (*Describe the extent of the Variation Requested*)

Allow an encroachment of 5.7 ft (38%) into a required 15 ft front yard for HVAC equipment in the B-3 Zoning District on the property described below, and in conformity with the plans described on this variance request.

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): **Glenn R. Rahn** Phone: **616-634-2253**

Address (*street/city/state/zip code*): **7580 48th St SE, Grand Rapids, MI 49512**

Email Address: **glenn@rdc-llc.com**

Property interest of Applicant(s) (*Owner, Contract Buyer, etc.*): **Architect**

2. OWNER INFORMATION

Name of Owner(s): **Family Video Movie Club, Inc** Phone: **847-904-9000**

Address (*street/city/state/zip code*): **2500 Lehigh Ave, Glenview, IL 60026**

Email Address: **dave.nall@hooglandfoodsllc.com**

Is this property owned by a Land Trust? Yes No

If yes, please attach a list of all individuals holding an interest in said Trust.

3. PROPERTY INFORMATION

Location of Subject Site: **Southwest Corner of Philo Road and Colorado Avenue**

PIN # of Location: **93-21-21-176-013**

Lot Size: **160 x 180 (28,800 sq.ft.)**

Current Zoning Designation: **B-3 General Business**

Current Land Use (*vacant, residence, grocery, factory, etc.*): **Video Rental Store**

Proposed Land Use: **Carry Out Pizza Store (in addition to Video Rental Store)**

Legal Description (*If additional space is needed, please submit on separate sheet of paper*):

Tract 1: Lot 500 in Ennis Ridge Sixth Subdivision, as per plat recorded in Plat Book "O" at page 12, situated in the City of Urbana, in Champaign County, Illinois.

Tract 2: The East half of the vacated alley lying West of the adjoining Lot 500 in Ennis Ridge Sixth Subdivision, as per plat recorded in Plat Book "O" at page 12, situated in the City of Urbana, in Champaign County, Illinois.

4. CONSULTANT INFORMATION

Name of Architect(s): Glenn R. Rahn Phone: 616-634-2253

Address (*street/city/state/zip code*): 7580 48th St SE, Grand Rapids, MI 49512

Email Address: glenn@rdc-llc.com

Name of Engineers(s): Phone:

Address (*street/city/state/zip code*):

Email Address:

Name of Surveyor(s): Phone:

Address (*street/city/state/zip code*):

Email Address:

Name of Professional Site Planner(s): Phone:

Address (*street/city/state/zip code*):

Email Address:

Name of Attorney(s): Phone:

Address (*street/city/state/zip code*):

Email Address:

5. REASONS FOR VARIATION

Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

The variance is for allowing condensing units in the front yard setback which requires ZBA approval. This property is unique in that the rear yard is occupied by a vacated alley which is currently paved. The rear yard also has a utility easement as well making encroachment infeasible. Currently all of the mechanical equipment is located on the South end of the building. The Marco's Pizza is to occupy the north end of the building and running the refrigerant lines to the south end of the building would be too far for the equipment to work properly.

Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.

The mechanical equipment (air conditioning condensers in this case) need to be next to the building. The South end of the building is too far away and already has mechanical for the rest of the building. The West side is occupied by a vacated alley with utility easement. The East Side is occupied by the parking lot with sidewalks along the front of the building. This leaves only the North end of the building which has a green space adequate in size for the condensers.

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

Building uses change over time and in an effort to keep the building fully occupied, this new use is being introduced. It is the physical location of the building on the lot and the lot constraints that are causing the issue.

Explain why the variance will not alter the essential character of the neighborhood.

The owner would like the building to maintain an attractive appeal and is proposing a decorative fencing just tall enough to shield the equipment from view. See the attached renderings of the intended look. The fence will be vinyl so no maintenance will be required to keep its look.

Explain why the variance will not cause a nuisance to adjacent property.

Area in question faces the back of building with a vacated alley in between and Colorado Ave with commercial property on all 4 corners. The equipment will be shielded from view and is a small area in size.

Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.

Yes, when choosing the type of air conditioning system, I took into consideration keeping the foot print as small as possible and the way to do that was to use a split air conditioning system as opposed to a much larger ground mount packaged air conditioning system. This way there are furnaces inside and only the condensing units outside which are about 34" square as opposed to 2 units that are approx. 5'x8' in area and about a foot taller than condensers.

NOTE: If additional space is needed to accurately answer any question, please attach extra pages to the application.

By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.

CERTIFICATION BY THE APPLICANT

I certify all the information contained in this application form or any attachment(s), document(s) or plan(s) submitted herewith are true to the best of my knowledge and belief, and that I am either the property owner or authorized to make this application on the owner's behalf.



Applicant's Signature

7-25-16

Date

PLEASE RETURN THIS FORM ONCE COMPLETED TO:

City of Urbana
Community Development Department Services
Planning Division
400 South Vine Street, Urbana, IL 61801
Phone: (217) 384-2440
Fax: (217) 384-2367