



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning Division*

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

**TO:** Laurel Lunt Prussing, Mayor

**FROM:** Elizabeth H. Tyler, FAICP, Director of Community Development Services

**DATE:** May 29, 2008

**SUBJECT:** Plan Case 2070-M-08: A request to rezone 2200 S. Philo Road from R-3, Single and Two-Family Residential to R-4, Medium Density Multiple-Family Residential.

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**Introduction and Background**

St. Matthew Lutheran Church of Urbana has submitted a petition to rezone a 6.4 acre parcel located at 2200 S. Philo Road from R-3, Single and Two-Family Residential to R-4, Medium Density Multiple-Family Residential. St. Matthew Lutheran Church built the existing church on the subject parcel in 1962. The Church is preparing to undertake a building expansion in July. The expansion will add approximately 4,800 square feet to the existing building and will include such improvements as a nursery, multi-purpose room, youth activity room and restrooms accessible for persons with disabilities. St. Matthew Lutheran Church also owns a 4.6 acre parcel to the east of the church site that is zoned R-4, Medium Density Multiple-Family Residential. The property is currently farmed as part of the churches program to feed the hungry. There are no future development plans for the property at this time.

When the subject property was originally developed, churches were permitted by right in the R-1, R-2 and R-3 Zoning Districts. Under the 1979 Comprehensive Amendment to the 1950 Zoning Ordinance (Ord. 7980-68), the Zoning Ordinance was changed so that churches were only permitted in the R-1, R-2 or R-3 Zoning District as a special use. As it stands, St. Matthew Lutheran Church would need to apply for a special use permit to expand the existing church. In addition, the Church would also have to apply for a special use permit for any future expansion. To provide zoning consistency with their adjoining property and allow for future church expansion, St. Matthew Lutheran Church is requesting that the property at 2200 S. Philo Road be rezoned to the R-4 Zoning District, which permits churches by right.

The Plan Commission held a public hearing on this case at their May 22, 2008 meeting. The Plan Commission voted 4 ayes, 0 nays, and 1 abstention to forward the case to City Council with a recommendation for approval.

**Adjacent Land Uses and Zoning Designations**

There is a range of zoning and land uses in the surrounding area. The property immediately north of the subject property along the east side of S. Philo Road is zoned B-3 General Business and is currently

farmed. Further north along the east side of S. Philo Road is also zoned B-3, General Business and includes such businesses and Dollar General and Pro-Nails (Southgate Shopping Plaza), a storage facility, church and funeral home. To the immediate east of St. Matthew Lutheran Church is a vacant parcel owned by the Church. The property is zoned R-4 and is currently farmed. Property further east of the vacant Church property is also zoned R-4 and includes a mix of residential uses such as Amber Glen Alzheimer’s Special Care Center, Canterbury Ridge Retirement and Assisted Living Community and Amber Pointe Apartments. The Meijer Development is to the south of St. Matthew Lutheran Church and is zoned B-3. There are both single-family homes and duplexes along the west side of S. Philo Road. The property along the west side of S. Philo Road and across from the Church is zoned R-3.

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

<b>Location</b>	<b>Zoning</b>	<b>Existing Land Use</b>	<b>Comprehensive Plan Future Land Use</b>
Site	R-3, Single and Two-Family Residential	St. Matthew Lutheran Church	Institutional
North	B-3, General Business	Vacant – currently farmed	Community Business
South	B-3, General Business	Meijer Development	Regional Business
East	R-4, Medium Density Multiple-Family Residential	Vacant land owned by St. Matthew Lutheran Church  Amber Glen, Canterbury Ridge and Amber Pointe Apartments	Mixed-Residential (Suburban Pattern)
West	R-3, Single and Two-Family Residential	Single-family homes and duplexes	Residential (Suburban Pattern)

**Comprehensive Plan**

The 2005 Urbana Comprehensive Plan identifies the future land use for the area containing the site as “Institutional”. The Plan defines “Institutional” as follows:

*Institutional uses generally include public, quasi-public, and private uses, such as governmental, educational, medical, religious, or university facilities as well as cemeteries. Institutional uses may range from single buildings to campuses.*

Churches are considered institutional uses as defined by the Comprehensive Plan. The proposed rezoning would rezone the subject property to a zoning district which allows churches by right. The proposed rezoning would therefore be consistent with the 2005 Urbana Comprehensive Plan.

**Issues and Discussion**

The two properties owned by St. Matthew Lutheran Church have two different zoning designations. The property which has been developed with the church facility is zoned R-3, Single and Two-Family

Residential. The other parcel that the Church owns, which is currently vacant, is zoned R-4, Medium Density Multiple Family Residential. The R-3 Zoning District is intended to provide areas for low-density residential development, including single-family attached and detached dwellings and two-family dwellings. The R-4 Zoning District is intended to provide areas for multiple-family dwellings at low and medium densities. The R-3 Zoning District allows churches as a special use, whereas churches are allowed by right in the R-4 Zoning District. The subject property is the only parcel along the east side of S. Philo Road that is zoned R-3. The subject property is surrounded by B-3 zoning and commercial uses to the north and south, and higher density residential uses to the east. Rezoning the subject property to R-4 would provide an appropriate transition from the higher intensity B-3 zones to the north and south, and the higher density residential areas to the east. In addition, rezoning the subject property to R-4 would be consistent with the other property owned by St. Matthew Lutheran Church, and allow for future expansion of the church without the need to obtain a special use permit.

Aside from the applicant, two area residents spoke at the Plan Commission public hearing. Both were supportive of the use of the subject property by St. Matthew Lutheran Church; however, they expressed concern because the proposed rezoning to R-4, Medium Density Multiple-Family Residential would allow for apartments to be built on the subject property should the church move from the current location.

### **The La Salle Criteria**

In the case of *La Salle National Bank v. County of Cook* (the “La Salle” case), the Illinois Supreme Court developed a list of factors that are paramount in evaluating the legal validity of a zoning classification for a particular property. Each of these factors will be discussed as they pertain to a comparison of the existing zoning with that proposed by the Petitioner.

1. *The existing land uses and zoning of the nearby property.*

*This factor relates to the degree to which the existing and proposed zoning districts are compatible with existing land uses and land use regulations in the immediate area.*

The subject parcel has contained a church since it was first developed in 1962. The proposed zoning is consistent with the existing use of the property as a church and is intended to facilitate future expansion of the church if necessary. The proposed zoning is also consistent with the undeveloped church property and higher intensity residential uses to the east, all of which are zoned R-4. The remaining surrounding area is developed as a mixture of residential and business uses. The property to the north and south is zoned B-3, General Business, and the property to the west is zoned R-3, Single and Two-Family Residential.

2. *The extent to which property values are diminished by the restrictions of the ordinance.*

*This is the difference in the value of the property as R-3, Single and Two-Family Residential and the value it would have if it were rezoned to R-4, Medium Density Multiple Family Residential.*

Under the current zoning, a church is only permitted as a special use. Any future expansion of the church would require the approval of a special use permit. Should a special use permit not be granted for a proposed expansion, the value of the land to St. Matthew Lutheran Church would likely diminish.

In addition, having property that has two different zoning designations (split zoning) is not favorable from a value standpoint.

It should be noted that City Planning Division staff are not qualified as professional appraisers and that a professional appraiser has not been consulted regarding the impact of zoning on the value of the property. Therefore, any discussion pertaining to specific property values should be considered speculative.

3. *The extent to which the ordinance promotes the health, safety, morals or general welfare of the public. (see No. 4 below)*
4. *The relative gain to the public as compared to the hardship imposed on the individual property owner.*

*Questions 3 and 4 apply to the current zoning restrictions: do the restrictions promote the public welfare in some significant way so as to offset any hardship imposed on the property owner by the restrictions?*

The rezoning of the property should not jeopardize the health, safety, morals or general welfare of the public. The subject property has been used as a church since it was first developed in 1962. The proposed rezoning would allow for the church to continue as a permitted use and allow for possible expansion in the future.

5. *The suitability of the subject property for the zoned purposes.*

*The issue here is whether there are certain features of the property which favor the type and intensity of uses permitted in either the current or the proposed zoning district.*

The current use of the site as a church is consistent with the Comprehensive Plan as the area is designated as "Institutional". The R-4 Zoning District permits a church by right. In addition, since the subject property was developed as St. Matthew Lutheran Church, the adjacent properties to the south and east have developed with higher intensity land uses. Although the property to the immediate north is currently undeveloped, it has the potential to be developed at a higher intensity since it is zoned B-3, General Business.

6. *The length of time the property has been vacant as zoned, considered in the context of land development, in the area, in the vicinity of the subject property.*

*Another test of the validity of the current zoning district is whether it can be shown that the property has remained vacant for a significant period of time because of restrictions in that zoning district.*

The property is not currently vacant due to its zoning. The property was originally developed in 1962 when a church was a permitted use in the R-1, R-2 and R-3 Zoning Districts. Since then, the Zoning Ordinance has been amended so that a church is only permitted as a special use in the R-1, R-2 and R-3 Zoning Districts. If the property is not rezoned, a special use permit for any future development could potentially be denied, thereby not allowing expansion of the St. Matthew Lutheran Church.

## Summary of Staff Findings

1. The property is currently zoned R-3, Single and Two-Family Residential, and contains St. Matthew Lutheran Church. Churches are not permitted by right in the R-3 Zoning District.
2. The petitioner is requesting a rezoning from R-3, Single and Two-Family Residential to R-4, Medium Density Multiple-Family Residential. Churches are permitted by right in the R-4 Zoning District.
3. The proposed rezoning to R-4, Medium Density Multiple-Family Residential would be consistent with the current land use of the church, the multi-family residential uses to the east and the commercial development to the north and south.
4. The 2005 Urbana Comprehensive Plan future land use map designates this property as Institutional. The proposed rezoning would be consistent with the Comprehensive Plan.
5. Split zoning of property under one ownership and use, is not considered favorable from a valuation standpoint.
6. The proposed rezoning appears to generally meet the LaSalle Case criteria.
7. At their May 22, 2008 meeting the Urbana Plan Commission in a vote of 4 ayes, 0 nays and 1 abstention, recommended that City Council approve the proposed rezoning in Plan Case 2070-M-08.

## Options

The Urbana City Council has the following options regarding Plan Case 2070-M-08:

1. Approve the rezoning request as presented herein; or
2. Deny the rezoning request.

## Recommendation

Based on the analysis and findings presented herein, the Urbana Plan Commission and staff recommend that City Council **APPROVE** Plan Case No. 2070-M-08.

Prepared by:

Lisa Karcher, Planner II

Attachments: Draft Ordinance Amending the Zoning Map of the City of Urbana, IL

Exhibit A: Location Map and Existing Land Use Map

Exhibit B: Existing Zoning Map

Exhibit C: Future Land Use Map

Exhibit D: Petition for Zoning Map Amendment

Exhibit E: Summary of the Plan Commission Hearing

cc: Pastor Robert Rasmus  
St. Matthew Lutheran Church  
2200 S. Philo Road  
Urbana, IL 61802

Al Klein  
1611 Beckman Court  
Urbana, IL 61802

Paul Lucas  
1607 Beckman Court  
Urbana, IL 61802

ORDINANCE NO. 2008-06-047

**AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF URBANA, ILLINOIS**

(Rezoning of 2200 South Philo Road from R-3, Single and Two-Family Residential to R-4, Medium Density Multiple-Family District - Plan Case 2070-M-08)

WHEREAS, St. Matthew Lutheran Church has petitioned the City for a Zoning Map Amendment to rezone 2200 South Philo Road from R-3, Single and Two-Family Residential to R-4, Medium Density Multiple-Family; and

WHEREAS, after due publication, a public hearing was held by the Urbana Plan Commission on May 22, 2008 concerning the petition filed in Plan Case No. 2070-M-08; and

WHEREAS, the requested rezoning is consistent with the goals, objectives, and generalized land use designations of the City of Urbana 2005 Comprehensive Plan; and

WHEREAS, the requested rezoning is consistent with the La Salle case criteria; and

WHEREAS, the Urbana Plan Commission voted 4 ayes, 0 nays and 1 abstention to forward the case to the Urbana City Council with a recommendation to approve the rezoning request of the property herein described below from R-3, Single and Two-Family Residential to R-4, Medium Density Multiple-Family; and

WHEREAS, the findings of the Plan Commission indicate that approval of the rezoning request would promote the general health, safety, morals, and general welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. The Official Zoning Map of Urbana, Illinois, is herewith and hereby amended to change the zoning classification of the following described

area from R-3, Single and Two-Family Residential to R-4, Medium Density Multiple-Family.

LEGAL DESCRIPTION:

Beginning at a point 1,335.45 feet North of the Southwest corner of the SE ¼ of Section 21, Township 19 North, Range 9 East of the 3<sup>rd</sup> Principal Meridian, said point being on the West line of the SE ¼ of said Section 21, thence East 430.00 feet, thence North and parallel with said West Quarter Section line, 655.80 feet, thence West 430.00 feet to the West line of said Southeast Quarter Section, thence South on the West line of the SE ¼ of Section 21, 655.80 feet to the place of beginning, being part of the SE ¼ of Section 21, Township 19 North, Range 9 East of the 3<sup>rd</sup> Principal Meridian, in Champaign County, Illinois. Permanent Parcel No. 93-21-21-400-002.

Section 2. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

AYES:

NAYS:

ABSTAINS:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor



**CERTIFICATE OF PUBLICATION IN PAMPHLET FORM**

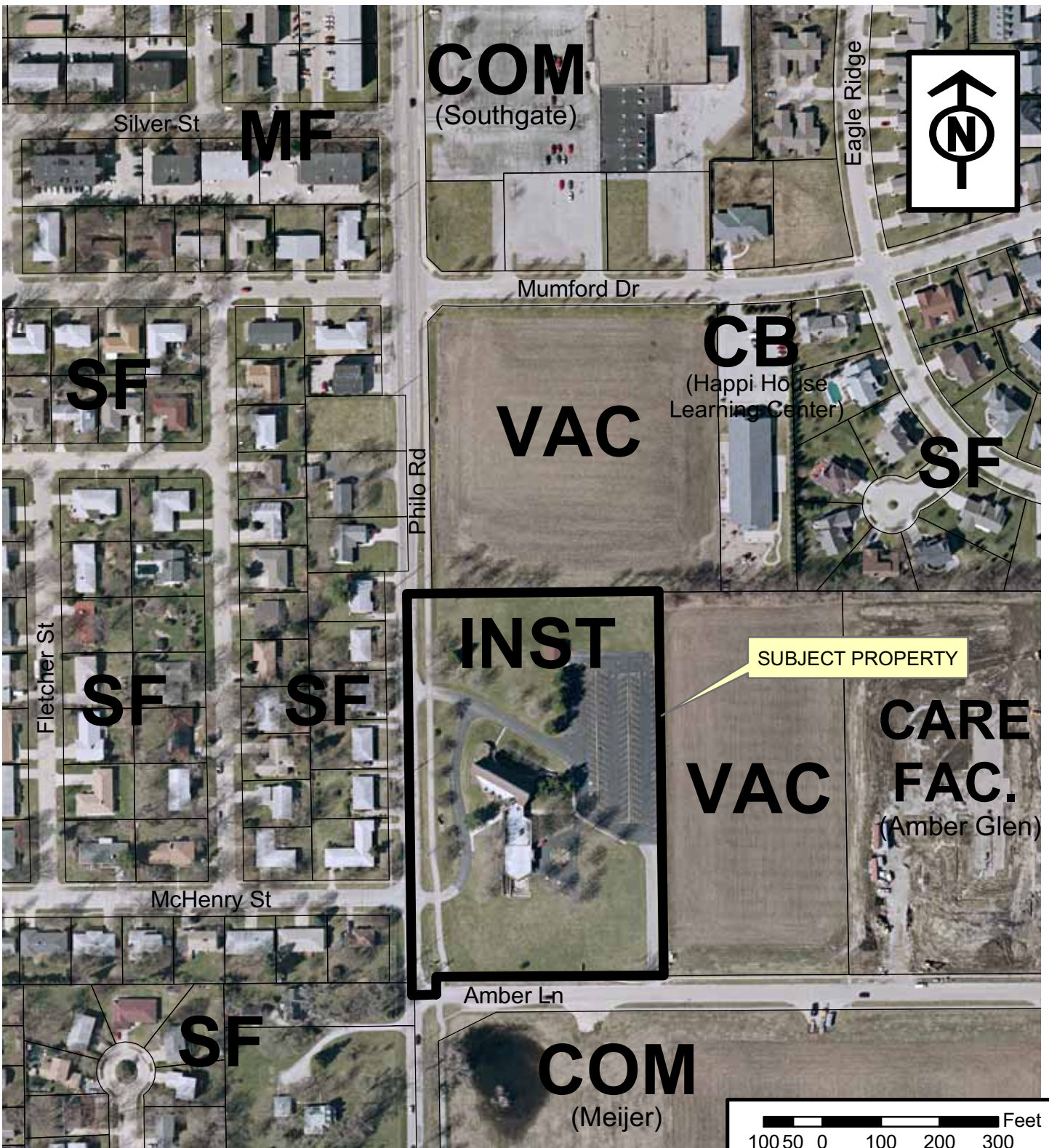
I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the \_\_\_ day of June, 2008, the corporate authorities of the City of Urbana passed and approved Ordinance No. \_\_\_\_\_, entitled: **"AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF URBANA, ILLINOIS** (Rezoning 2200 South Philo Road from R-3, Single and Two-Family Residential to R-4, Medium Density Multiple-Family District - Plan Case 2070-M-08), which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. \_\_\_\_\_ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

(SEAL)

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

# EXHIBIT A: Location and Existing Land Use Map



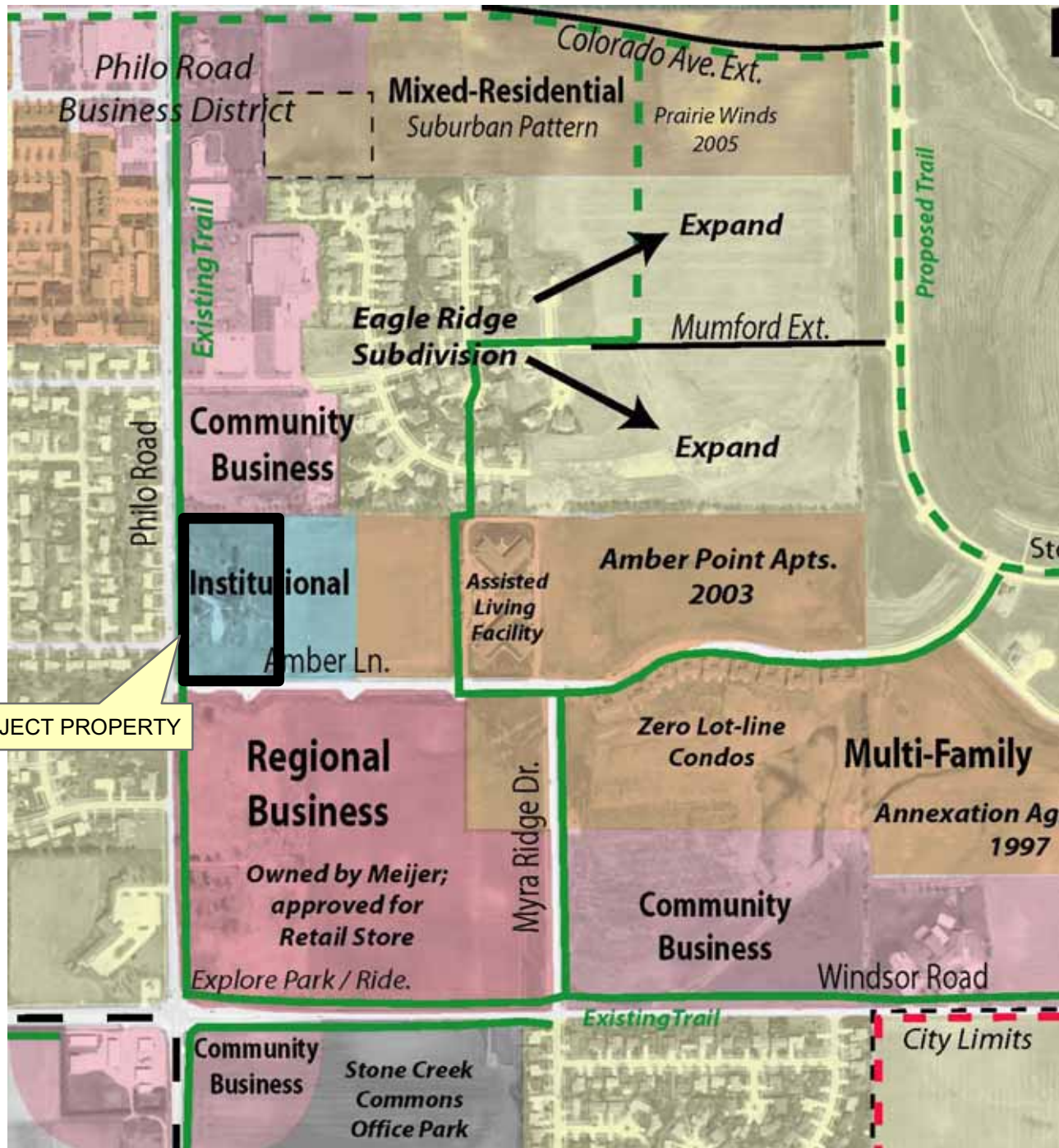
**Plan Case:** 2070-M-08  
**Petitioner:** St. Matthew Lutheran Church of Urbana  
**Location:** 2200 S. Philo Road  
**Description:** Request to rezone the subject property from R-3, Single and Two-Family Residential to R-4, Medium Density Multiple Family Residential

Prepared 5/08 by Community Development Services - Ikk

CB - Community Business  
 COM - Commercial  
 INST - Institutional  
 MF - Multi-Family  
 SF - Single-Family  
 VAC - Vacant



# EXHIBIT C: Future Land Use Map



**Plan Case:** 2070-M-08

**Petitioner:** St. Matthew Lutheran Church of Urbana

**Location:** 2200 S. Philo Road

**Description:** Request to rezone the subject property from R-3, Single and Two-Family Residential to R-4, Medium Density Multiple Family Residential

## SUMMARY OF PLAN COMMISSION PUBLIC HEARING

A public hearing was held for Plan Case No. 2070-M-08 on May 22, 2008. Minutes are not complete. A summary of the discussion follows.

### **Plan Case No. 2070-M-08: A request by the St. Matthews Lutheran Church to rezone 2200 South Philo Road from R-3, Single and Two-Family Residential to R-4, Medium Density Multiple-Family Residential.**

Lisa Karcher, Planner II, presented this case to the Plan Commission. She described the proposed site noting its land use and zoning as well as that of the surrounding properties. The existing Church was built in 1962 and at that time churches were allowed by right in the R-1, R-2, and R-3 Zoning Districts. The Zoning Ordinance has subsequently been amended and churches are now allowed in the R-1, R-2 and R-3 Zoning Districts only as a special use. She explained that the church is proposing to expand. St. Matthew Lutheran Church would need to apply for a special use permit for the proposed expansion as well as any future expansions.

Ms. Karcher indicated that the R-4 Zoning District provides an appropriate transition from the higher intensity uses to the north, south and east. She reviewed the LaSalle criteria. She summarized staff findings, read the options of the Plan Commission and presented staff's recommendation, which was as follows:

*Based on the analysis and findings presented in the written staff report, and without the benefit of considering additional evidence that may be represented during the public hearing, staff recommended that the Plan Commission recommend approval of the proposed rezoning in Plan Case 2070-M-08 to City Council.*

Chair Pollock then opened the hearing for public comment.

Rob Kowalski and Pastor Bob, spoke at the public hearing on behalf of St. Matthew Lutheran Church. Mr. Kowalski explained that the Church is requesting the rezoning because at the time it was built in 1962, churches were permitted uses in the R-3 Zoning District. As with other churches in the City, St. Matthew's is only allowed as a special use due to an amendment to the Zoning Ordinance. The church is well established and intends to stay at their present location for the long haul. Secondly, Mr. Kowalski indicated that the rezoning is proposed because the property the church owns is split zoned. He outlined how this occurred. Finally, he noted that the rezoning would allow for expansion of the church by right. Mr. Kowalski stated that this is more appropriate than requiring a special use permit for the church expansion because of the specific circumstances. This case is different than other cases where a special use permit might be appropriate because of a churches close proximity to residential uses that could be negatively impacted by an expansion. St. Matthews on the other hand is located in the middle of a 6.0 acre parcel. Mr. Kowalski summarized that the rezoning is justified since it is consistent with surrounding zoning patterns, the 2005 Comprehensive Plan and the LaSalle Criteria.

Pastor Bob noted that the proposed expansion will be to the east of the existing church building. The church will be expanded by 4,800 square feet.

Alvin Klein of 1611 Beckman Court indicated that he does not object to the proposed use or development, but does object to the rezoning. He stated he was concerned when he saw the rezoning that the church was going to move and apartments would be constructed on the property. He pointed out that the Eagle Ridge Subdivision to the northeast of the subject site is zoned R-1 and that buffers around the subdivision have been rezoned to B-3. He cited the example of Happi House to the east. Community Business is the only buffer between Eagle Ridge and commercial development. Happi House could close their doors and another use move in. He indicated that he hadn't realized how powerful zoning is, once it is lost you can't get it back. The vacant lot is very important. He would like to preserve the boundary between the R-1 zoning and what could develop to the south. There is a tree line along the south property line of Eagle Ridge Subdivision. This has provided a buffer between R-1 and R-4. The tree line is thinning. A main issue is that no one knows what will happen in 50 years as to development of surrounding properties or the buffers that currently exist.

Chair Pollock noted that the property of Mr. Klein's concern is already zoned R-4 and that we can talk about it and be made aware of the concerns, but it is not the property that is currently under review.

Mr. Klein indicated that he would prefer the subject property remain zoned R-3 for the practical difficulty in developing the site. He also noted that he would like the City Arborist to look at the tree line and see what should be done and Public Works to look at how drainage will be handled on the undeveloped lot.

The required setbacks for the R-4 Zoning District were discussed. Ms. Karcher indicated that there is a 10 foot rear yard setback, a 5 foot side yard setback and a 15 foot front yard setback. A landscape buffer of five feet is also required between properties zoned R-4 and R-1.

Sara McDougal addressed the Plan Commission. She indicated that she lives on Schovill across Philo Road to the west of the church property. She noted that she concurred with what Mr. Kline had stated. She was concerned that the church site would be developed with apartments. She likes the church and would like to see them stay. She does not want to make life more difficult for the Church, but also does not want to make it easier for them to move and high rise apartments be constructed on the property.

Chair Pollock closed the public input portion of the hearing.

Mr. Grosser moved that the Plan Commission forward the case to the City Council with a recommendation for approval. The motion was seconded by Mr. Stake. The motion passed with a vote of 4 ayes and 1 abstention.