



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

m e m o r a n d u m

**TO:** Urbana Zoning Board of Appeals  
**FROM:** Kat Trotter, Planner II  
**DATE:** September 16, 2022  
**SUBJECT:** **ZBA-2022-MAJ-06:** A request by Matthew Usher, on behalf of Crispin Auto, for a major variance to allow a 10-foot tall, 4-foot by 8-foot freestanding sign, four feet from the front property line at 1010 Cunningham Avenue in the B-3, General Business Zoning District.

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### Introduction

Matthew Usher, on behalf of Crispin Auto, requests a variance to allow a 10-foot tall, 4-foot by 8-foot freestanding sign, four feet from the front property line at 1010 Cunningham Avenue in the B-3, General Business zoning district. In the B-3 zoning district, Table IX-1 of the Zoning Ordinance requires freestanding signs to be at least 15 feet from public rights-of-way if the sign is taller than eight feet. The proposed sign would be four feet from the public right-of-way on the east side of Cunningham Avenue (a 73 percent reduction), so a major variance is required to allow the request.

The Zoning Board of Appeals must review the variance application and hold a public hearing. The Board may recommend approval, approval with conditions, or denial to City Council. Staff finds that the variance request meets three of the six variance criteria. However, there is insufficient evidence to determine whether or not the requested variance is necessary to increase the visibility of the site. Therefore staff recommends the Zoning Board of Appeals deny the variance request.

### Background

The property owner purchased the property in 2014; however, the building has been on the property since the 1970s. It was formerly used as a gas station and is now the Crispin Auto Sales and Exports shop. The business does not have a freestanding sign; there is a small wall sign (approximately 18 square feet) on the existing building, which is 90 feet from the front property line.

### Description of Site and Area

1010 Cunningham Avenue is 0.43 acres (approximately 18,000 square feet) and is located on the east side of Cunningham Avenue, north of Kerr Avenue. Nearby are other auto sales and service shops, a motel to the north, and an HVAC service business to the east. The adjacent properties to the north, south and east are zoned B-3, General Business, and the adjacent properties to the west across Cunningham Avenue are zoned B-3, General Business and R-3, Single and Two-Family Residential.

The following table identifies the current zoning and the existing land uses of the subject property and surrounding properties (see Exhibits A and B).

Table 1. Zoning and Land Use

Location	Zoning	Existing Land Use
Site	B-3, General Business	Auto Sales
North	B-3, General Business	Motel
South	B-3, General Business	Auto Repair
East	B-3, General Business	HVAC Service
West	B-3, General Business & R-3, Single and Two-Family Residential	Auto Sales & Residential

## Discussion

The applicant requests the variance to allow a 10-foot tall, 32 square-foot freestanding sign, four feet from the front property line on Cunningham Avenue. Crispin Auto does not have a freestanding sign on the property now; there is a wall sign (18 square feet) on the front of the office building. The proposed sign would be permitted if it were 15 feet from the right-of-way, while a shorter sign, up to eight feet tall, would be permitted if it were eight feet from the right-of-way.

The applicants request a variance to reduce the required setback of the sign, as there are obstructions on the adjacent properties that block the visibility of Crispin Auto. The neighboring property to the north has a four-foot tall fence and a sign that encroach into the required front yard, and the property to the south has a building and sign that encroach into the required front yard. When traveling north on Cunningham Avenue, the existing encroachments block the visibility of the Crispin Auto site and building. Staff feel that a permitted sign would be visible to people traveling south on Cunningham Avenue, as the road extends southwest at a 45-degree angle and allows for greater visibility. The applicant states that there is currently a safety issue because customers trying to enter the site are frequently unable to see the lot until they have already passed it. The applicants therefore request a reduction in the required sign setback from 15 feet to four feet, to increase the visibility of their sign and site for people travelling along Cunningham Avenue.

### Existing Encroachments on Adjacent Properties

#### 1010 Cunningham Avenue, Crispin Auto (Subject Property)<sup>1</sup>:

Proposed Freestanding Sign – 10 feet tall, 32 square feet, 4 feet from property line

Existing Wall Sign – 18 square feet, 90 feet from property line

#### 1102 Cunningham Avenue, Manor Motel:

Fence – 4 feet tall, 3 feet from front property line

Sign on top of shed – 16 feet tall, 68 square feet, 2 feet 6 inches from property line

#### 1102 Cunningham:

Billboard – 35 feet tall, 340 square feet, 31 feet from property line

#### 1008 Cunningham Avenue, PDR Automotive:

Freestanding Sign – 15 feet tall, 40 square feet, 4 feet from property line

Building – 7 feet from property line

<sup>1</sup> Approximate measurements taken from EagleView

The proposed sign would be smaller and shorter than the maximum allowed area and height for a sign in the B-3 district<sup>2</sup>.

## Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The Zoning Board of Appeals must first determine, based on the evidence presented, whether there are special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance. This criterion is intended to serve as a minimum threshold that must be met before a variance request may be evaluated.

The following is a review of the criteria outlined in the ordinance, followed by staff analysis for this case:

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

The existing building has been on the property for over 50 years. The neighboring property to the north has a sign and a fence, and the property to the south has a building face and sign that encroach into the required front yard. When traveling north on Cunningham Avenue, the existing encroachments block the visibility of the Crispin Auto site and building. However, staff feel it is unclear whether or not a permitted sign would be visible from Cunningham Avenue, so this criteria does not weigh in favor of or in opposition to granting the variance.

2. *The proposed variances 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.*

The neighboring properties to the north and south have signs, fences and building faces that encroach into the required front yard and block the visibility of the subject property. Much of Cunningham Avenue was developed before the current sign regulations were adopted and enforced, so there are several legally nonconforming signs along the corridor. As a result, the subject property is blocked by encroachments into the required front yards to the north and south. However, the Zoning Ordinance would allow for a freestanding up to eight feet tall, when located at least eight feet from the property line; it is indiscernible whether or not a permitted sign could be seen from Cunningham Avenue. Staff feel that this criteria does not weigh in favor of or in opposition to granting the variance.

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

The property has been without a freestanding sign for over 50 years, since before the owner purchased it. According to the applicant and to historical aerial photos<sup>3</sup>, the adjacent properties have signs, fences and buildings that have encroached into the required front yards for over 40 years. The encroachments are legally nonconforming and block the visibility of the subject property. Staff feel that this criteria weighs in favor of granting the variance.

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

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<sup>2</sup> Table IX-1. Standards for Freestanding Signs – 50 square-foot maximum area, 16-foot maximum height

<sup>3</sup> CCGISC 1988 Aerial shows existing building faces, fences and signs in required front yards north and south

The freestanding sign would not alter the essential character of the neighborhood, as other neighboring properties have signs, fences or building faces that encroach into the required front yard. This area of Cunningham Avenue is characterized by auto sales and repair businesses, many of which have legally nonconforming signs close to property lines or public rights-of-way. The proposed sign would be smaller than the signs on adjacent properties, located four feet from the front property line, and would not block any of the surrounding properties. Staff feel that the requested variance would not alter the essential character of the neighborhood, and weighs in favor of granting the variance.

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

The variance would allow a 10-foot tall, 32 square-foot freestanding sign to be installed four feet from the front property line on Cunningham Avenue. The proposed sign would be entirely on the applicant's property and would not block the existing signs on the adjacent properties. Staff feel that the requested variance would not cause a nuisance to the adjacent properties and weighs in favor of granting the variance.

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

The proposed freestanding sign would be smaller (32 square feet) and shorter (10 feet) than the maximum area (50 square feet) and height (16 feet) permitted by the Zoning Ordinance. However, there is no evidence to support that the reduced setback would increase the visibility of the proposed sign. Staff feel that this criteria weighs in opposition to granting the variance.

## **Summary of Findings**

1. Matthew Usher, on behalf of Crispin Auto, requests a major variance to allow a 4-foot by 8-foot sign, four feet from the front property line at 1010 Cunningham Avenue in the B-3, General Business Zoning District.
2. The variance could serve as a special privilege to the property owner, as it is unclear whether or not a permitted sign would be visible from Cunningham Avenue, regardless of the existing encroachments on the adjacent properties.
3. The variance was not the result of a situation knowingly created by the applicants, as the encroachments on the adjacent properties have been there for over 40 years.
4. The variance will not alter the essential character of the neighborhood as the neighboring properties to the north and south, and other properties along Cunningham Avenue, have signs that encroach into the required front yard setback for the B-3, General Business zoning district.
5. The variance will not cause a nuisance to adjacent property owners, as the neighboring properties to the north and south have freestanding signs that are closer to the property line than the proposed sign, and the sign would not obstruct the signs of the neighboring properties.
6. The variance does not represent the minimum deviation necessary from the requirements of the Zoning Ordinance, as there is no evidence to support that the reduced setback would increase the visibility of the proposed sign.

## Options

The Zoning Board of Appeals has the following options in Case No. ZBA-2022-MAJ-06:

1. Forward the case to City Council with a recommendation to **approve** the variance as requested based on the findings outlined in this memo; or
2. Forward the case to City Council with a recommendation to **approve the variance with certain terms and conditions**. If the Zoning Board of Appeals elects to recommend conditions or recommend approval of the variance on findings other than those articulated herein, they should articulate findings accordingly; or
3. **Deny** the variance request. If the Zoning Board of Appeals elects to do so, it should articulate findings supporting the denial.

## Recommendation

1. Staff finds that the variance request meets three of the six variance criteria. However, there is insufficient evidence to determine whether or not the requested variance is necessary to increase the visibility of the site. Based on the evidence 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 **DENY** the proposed Major Variance in case ZBA-2022-MAJ-06 to the Urbana City Council. Further evidence from the applicants should be provided to substantiate the variance request.

Attachments: Exhibit A: Location Map  
Exhibit B: Zoning Map  
Exhibit C: Freestanding Sign Site Plan  
Exhibit D: Site Photos  
Exhibit E: Variance Application

cc: Matthew Usher, Applicant  
Julio Crispin, Property Owner

# Exhibit A - Location Map



Case No. ZBA-2022-MAJ-06  
Subject Crispin Auto Sign Variance  
Address 1010 Cunningham Avenue  
Petitioner Matthew Usher, Crispin Auto

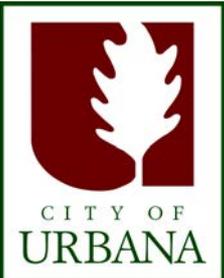
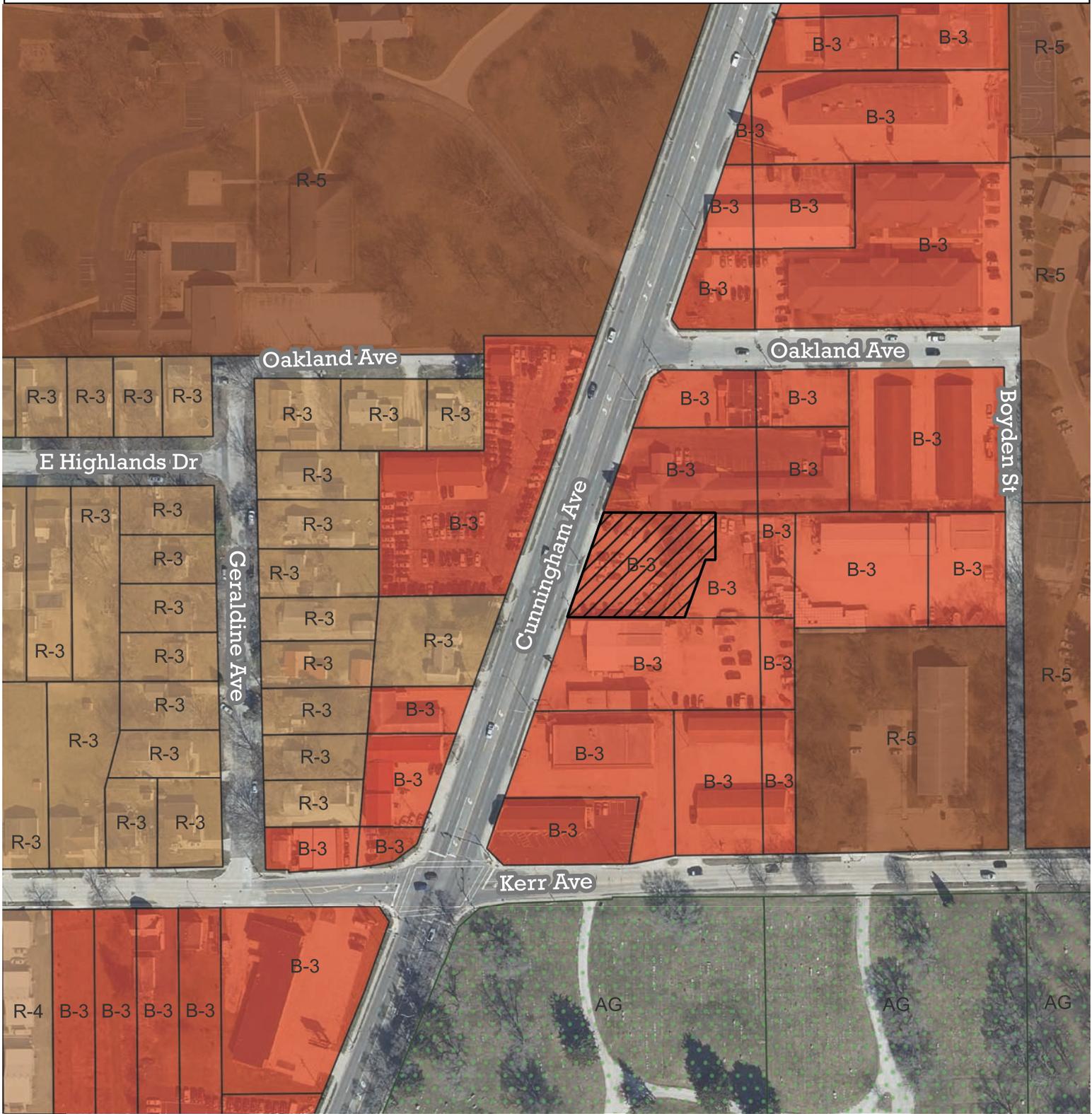
### Legend

 Subject Property  
Urbana\_2020

0 250 500 ft



# Exhibit B - Zoning Map



Case No. ZBA-2022-MAJ-06  
 Subject Crispin Auto Sign Variance  
 Address 1010 Cunningham Avenue  
 Petitioner Matthew Usher, Crispin Auto

### Legend

-  Subject Property
- Zoning**
-  AG
-  B-3
-  R-3
-  R-4
-  R-5



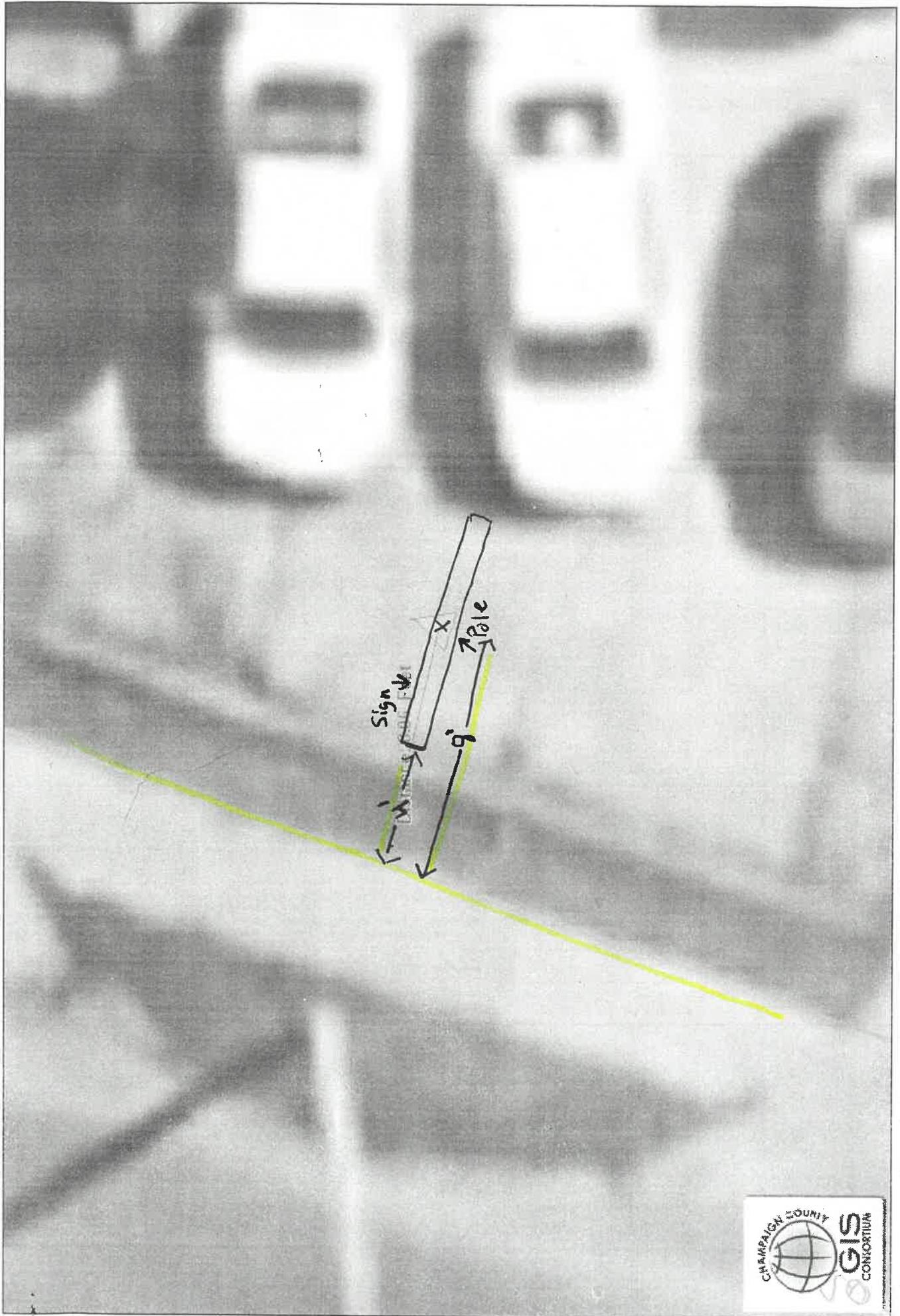
Urbana\_2020

# GIS Webmap Public Interface Champaign County, Illinois



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# GIS Webmap Public Interface Champaign County, Illinois



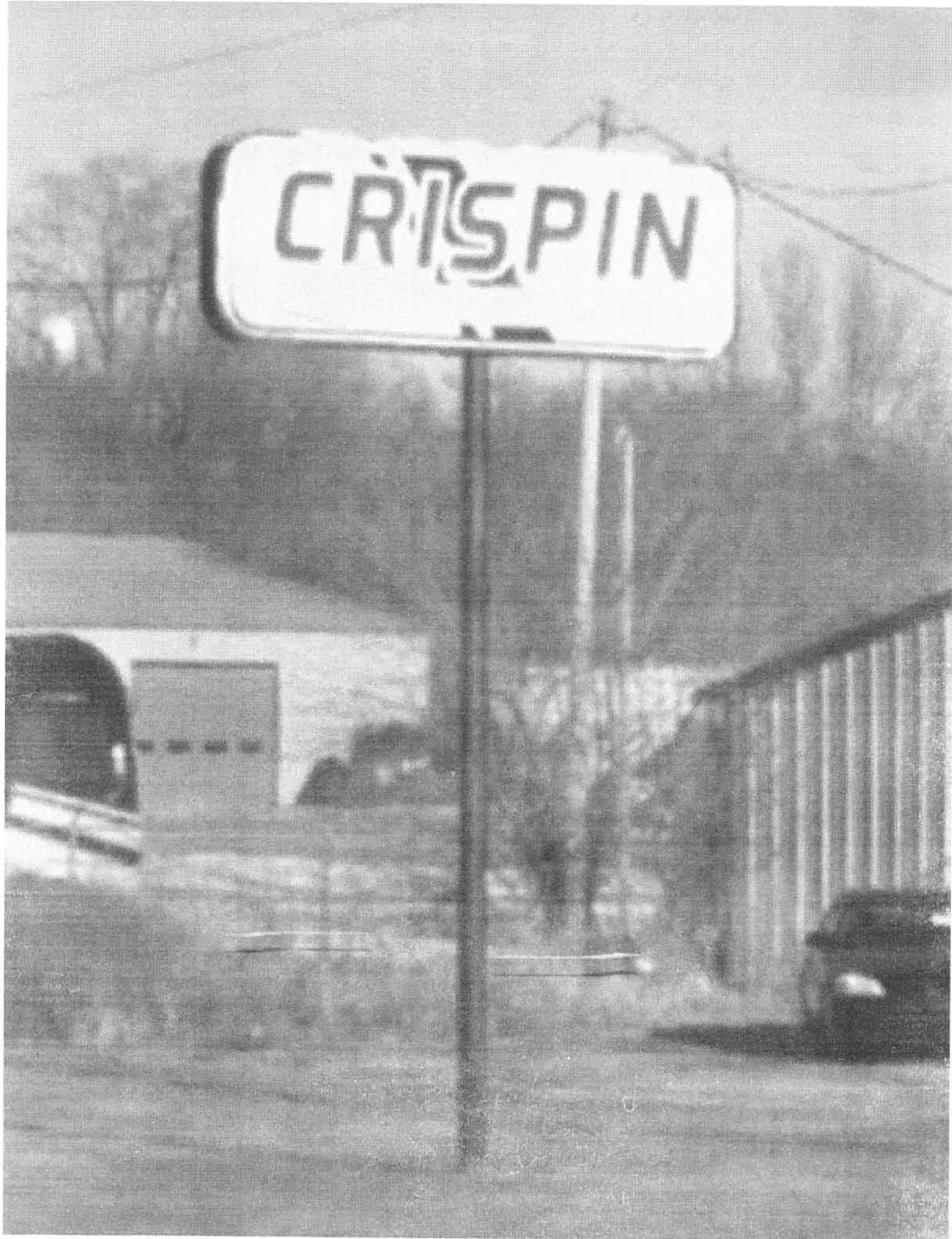
2.5

Feet

This map was prepared with geographic information system (GIS) data created by the Champaign County GIS Consortium (CCGIS) or other CCGIS member agency. These agencies do not warrant the accuracy or suitability of GIS data for any purpose. The GIS data within this map is intended to be used as a general reference to spatial information and is not intended for detailed, site-specific analysis or evaluation of right-of-way or other matters. The use of this map and information contained herein, in whole or in part, constitutes acknowledgment of this disclaimer.



**CRISPIN**



# EXHIBIT D – SITE PHOTOS







# Application for Variance

# ZONING BOARD OF APPEALS

The application fee must accompany the application when submitted for processing. Please refer to the City's website at <http://www.urbanaininois.us/fees> for the current fee associated with this application. The Applicant is also responsible for paying the cost of legal publication fees. Estimated costs for these fees usually run between \$75.00 and \$225.00. The applicant will be 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*)

\_\_\_\_\_ on the property described below, and in conformity with the plans described on this variance request.

#### 1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): *Crispin Auto LLC* Phone: *217-721-9626*

Address (street/city/state/zip code): *1010 N. Cunningham Ave, Urbana, IL 61802*

Email Address: *m.usher.co@gmail.com*

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

#### 2. OWNER INFORMATION

Name of Owner(s): *Julio Crispin* Phone: *217-721-9626*

Address (street/city/state/zip code): *207 E. Church St, Champaign, IL 61821*

Email Address: *crispinauto@gmail.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: *1010 N Cunningham Ave, Urbana, IL 61802*

PIN # of Location: *91-21-08-279-012*

Lot Size: *18,710.71 sq.ft. / .43 acre*

Current Zoning Designation: **3000- Commercial**

Current Land Use (vacant, residence, grocery, factory, etc): **Auto Dealership**

Proposed Land Use: **no change**

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

**Sec 08, Twp 19 N, Rng 9E**

#### 4. CONSULTANT INFORMATION

**Name of Architect(s):**

Phone:

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

Email Address:

**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 properties both to the north (Manor Motel) and south (PDR Automotive) have structures and signs that extend nearly all the way to the western property line, obstructing the view of our property and any sign we could erect that complies with the zoning restrictions. Specifically, a safety issue exists when customers are trying to find us, but don't see our lot until it is too late.**

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.

It is necessary due to visibility issues caused by the existing signs and structures bordering our property.

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

The businesses to our north and south were in existence with their current signage and structures long before we purchased this property in 2014. PDR has been in that location since 1973 and The Manor Motel has had the current sign structure for "at least 40 years" according to the owner.

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

All of the businesses on this block have signs that are larger than what we are requesting and of similar or greater height.

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

The proposed sign will be smaller than the adjacent signs, and set in further from the property line, and will cause no visual obstructions to the adjacent signs.

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

We believe that it does. Our proposed sign is smaller (32 sq ft) shorter (10 ft) and further from the property line (4 ft) than the neighboring signs, but will afford the visibility needed for customers to identify our location in sufficient time to not create a safety hazard while at the same time not obstructing the view when turning out of our 2 access drives.

**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

8/2/22

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

## Site Plan for 1010 N Cunningham Avenue

We are requesting a sign with the dimensions of 8'x4', on a single pole mounted 8' from the western property line centered on our lot. The top of the sign will be 10' from the ground, with the bottom at 6' to limit sightline obstructions for vehicles entering and leaving the property. The front edge of the sign will be 4' offset from the western property line, which is still further back from the signs immediately adjacent to our property. The sign will be similar in appearance to the attached photo of the sign at our property in Rantoul.