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## PLANNING AND ZONING COMMISSION CONSIDERATION ITEM

### CITY OF FAIR OAKS RANCH, TEXAS

November 10, 2022

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AGENDA TOPIC: Consideration and possible action of a rezoning request from the applicant Bright Lakes Real Estate, on behalf of the property owner Esther Hicks to change the zoning classification of approximately 17 acres from Existing Residential Three (R3) to Mixed Use Village (MU). Generally located north-east of the intersection of Old Fredericksburg Road and I-10 Frontage Road

DATE: November 10, 2022

DEPARTMENT: Public Works and Engineering Services

PRESENTED BY: Katherine Schweitzer, P.E., Manager of Engineering Services  
Lata Krishnarao, AICP, LEED ND, Consultant, Ardurra

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#### **SUMMARY:**

The applicant is proposing to change the zoning classification of approximately 17 acres from Existing Residential Three (R3) to Mixed Use Village (MU). The purpose of this rezoning request is to allow for an appropriate zoning classification to be placed on the subject property located at 28800 and 28550 Old Fredericksburg Road for a mixed-use development consisting of retail, hotel, and multi-family uses. The proposed 50,000 square feet (approximately) development will consist of two four-story multi-family structures containing 306 residential units, a hotel (height not specified), and four structures (height not specified) for retail use.

The Unified Development Code (UDC) describes the current and proposed zoning categories as follows:

Current Zoning - "The Existing Residential 3 (R3) category governs the existing rural residential lots with lot sizes generally between 1.3 acres and 5 acres. Exclusive of city permits and ordinances all lot, building, landscaping, and other standards will be controlled by the applicable deed restrictions in these neighborhoods, in compliance with City ordinance requirements."

Proposed Zoning - "The Mixed Use Village District (MU) indicates areas within the City of Fair Oaks Ranch where the City allows and encourages a mixture of uses that create pedestrian scaled development at major nodes in the City that generally conform to a Hill Country Design aesthetic. Sites in the MU district are appropriate primarily for direct access to Arterial, Collector streets and Local Connector Streets."

The subject parcel of approximately 17 acres is contained in two addresses - 28800 and 28550 Old Fredericksburg Road, Fair Oaks Ranch, Texas. The property is also identified as 28800 and 28550 Old Fredericksburg Road, Boerne, Texas in the Bexar County records. As per Bexar County online property records and site observation, the current site conditions are as follows:

- 28800 Old Fredericksburg Road- contains a residential structure built in 1963.
- 28550 Old Fredericksburg Road - contains a residential structure built in 1953. As per the county online records, the property use is categorized as light manufacturing.

Both properties mentioned above are not platted.

**LOCATION AND SURROUNDINGS:**

The site is generally located north-east of the intersection of Old Fredericksburg Road and I-10 Frontage Road. A summary of the surrounding land uses and zoning designations can be found in the following table:

<b>Zoning</b>		<b>Land Use</b>
NORTH	Civic and Community Facilities & Existing Residential 3	Single Family Residential, Spring Creek United Methodist Church and School
SOUTH	Mixed Use Village	CVS, Anytime Fitness, Capparelli Bros Restaurant, Papa John's Pizza
WEST	Old Fredericksburg Road/San Antonio ETJ	Various Commercial Uses - Veterinary Clinic, Animal Feed Store, Gymnasium, Foot Center. etc.
EAST	Existing Residential 1	Single Family Residential (Front Gate Development)

**CONFORMANCE WITH COMPREHENSIVE PLAN:**

**Background:**

The City adopted the current Comprehensive Plan in 2018 as part of a mission to strengthen and preserve the City's character.

**Purpose:**

The purpose of the Comprehensive Plan is to determine community vision, goals, and aspiration in regard to community development. This living document is intended to guide City's land use, policies, and spending priorities for years to come. It addresses how "thoughtful design can maintain and improve quality of life for the people who live in Fair Oaks Ranch, and how to balance personal freedom with rules for common protection of property values, safety, and the preservation (and enhancement) of the community character."

As per the Comprehensive Plan – "The Comprehensive Plan will help guide where and how the development happens, and to shape the future growth in ways that will complement and protect the values of the existing community, and serve as a foundational rulebook for the landowners, developers, surveyors, engineers, and architects and for the City employees who will shepherd them."

The Comprehensive Plan serves as a guide to frame zoning regulations that regulate all development and land uses.

### Process of Adoption of Comprehensive Plan:

The current Comprehensive Plan was created by the citizens of Fair Oaks Ranch and the process spanned over two years (2017-2018). It was led by a steering committee appointed by the City Council who worked with staff and the professional planning team. The citizens and other stakeholders were heard through workshops and City-wide “Town Hall” meetings, as well as numerous smaller meetings, planning exercises, and community surveys. The plan reflected the vision of the community.

### Components:

**Text** - The Comprehensive Plan contains a Future Land Use chapter that includes the descriptions of the various land use classifications, and recommendations on the appropriate land uses, development regulations, design standards, and zoning categories for each of these land use classifications.

**Map** - The Future Land Use Map (FLUM) included in the Comprehensive Plan shows suitable locations in the City for the various land use classifications. The FLUM classifications should be used in conjunction with associated text descriptions to assess the types of land uses and development desired for in a particular area.

### Comprehensive Plan Recommendations for this Property:

The FLUM (Exhibit C: Future Land Use Map (FLUM)) adopted in June 2018 designates this property as Mixed Use Village. The Comprehensive Plan recommends the following:

Mixed-Use Village	
<b>Permitted Uses</b>	<ul style="list-style-type: none"><li>• Commercial (office, retail, restaurant)</li><li>• Residential (Small Lot Single Family, Cottage, Townhouse, Multifamily, Aging Adult)</li><li>• Auto-oriented site elements are restricted</li></ul>
<b>Lot and Block Standards</b>	<ul style="list-style-type: none"><li>• Walkable rectilinear and/or connected blocks</li></ul>
<b>Building Form and Development Standards</b>	<ul style="list-style-type: none"><li>• 3 stories (max.) 4 stories (max.) allowed within 500’ of Old Fredericksburg Road.</li><li>• Buildings generally placed with pedestrian friendly frontage at the front of lot facing the primary street or open space</li><li>• Location of parking regulated (behind or to the side of the primary building)</li></ul>
<b>Building Design Standards</b>	<ul style="list-style-type: none"><li>• Buildings to be oriented towards the primary street with at least one pedestrian entrance on primary street</li><li>• Compatible with “Hill Country” aesthetic. Generally, masonry or comparable for ground floor facades</li></ul>
<b>Transportation (Street Types)</b>	<ul style="list-style-type: none"><li>• State Highway Major Thoroughfare</li><li>• Local Multimodal Street</li><li>• Neighborhood Street</li><li>• Alley</li></ul>

### Relevant Excerpts from the Comprehensive Plan:

The MU designation is described as – “... areas within the City of Fair Oaks Ranch where the City encourages a mixture of uses that create pedestrian scaled development at major transportation nodes. The City encourages development in this area to generally conform to a Hill Country design aesthetic, similar to the materials and massing that can be found in downtown commercial

districts in communities such as Boerne, Fredericksburg, and Comfort. Sites in the MU district are appropriate for direct access to primarily Arterial, Collector Streets, and Local Connector Streets.”

The Comprehensive Plan identifies undeveloped or underdeveloped tracts in locations that would be appropriate for MU zones to create unique opportunities for higher quality mixed-use developments that would support a stronger tax base over the next few decades. In addition to the subject tract, some of the areas designated as Mixed-Use in the City include the following intersections:

- Ralph Fair Road and Dietz Elkhorn Road
- I-10 frontage and Fair Oaks Parkway
- Dietz Elkhorn Road and Elkhorn Ridge Road

The Comprehensive Plan also envisions that Mixed-Use developments in the MU district will:

- Relieve fiscal pressures by encouraging developments with a stronger tax base
- Create stronger, more resilient development in the core focus areas
- Protect adjacent residential areas and other environmentally sensitive areas
- Incorporate a mix of housing types, including aging adult options allowing older residents the option to downsize their home but remain in the community
- Promote walkability, with a mix of retail, restaurants, offices, civic uses, and housing options
- Serve as connections to the trail system and serve as “gateways” that create gravity for higher-quality development throughout the City
- Promote a sense of “community” and “place”

The Comprehensive Plan recommends - “Typical development that does not consider adjacent neighborhoods, adjacent parcels or align with the broader goals of the City should be discouraged, in favor of higher-quality developments. Projects that are master planned and developed in a cohesive manner often achieve higher returns and hold stronger values than typical centers.”

**Finding:**

- The proposed zone change is consistent with the recommendations of the Comprehensive Plan and the FLUM.

**CONFORMANCE WITH THE UNIFIED DEVELOPMENT CODE:**

Current zoning: As per the UDC, Existing Residential Three (R3) zoning “... governs the existing rural residential lots with lot sizes generally between 1.3 acres and 5 acres.” As per UDC, in R3 districts, all lot, building, landscaping and other standards will be controlled by the applicable Restriction Committees in compliance with City ordinance requirements.

The applicant has not provided any such agreements that would restrict development, and the City is unaware of any agreements. The title report does not indicate any such agreements.

Proposed zoning: As per the UDC, Mixed Use zoning encourages a mixture of uses that create pedestrian scaled development at major nodes in the City that generally conform to a Hill Country Design aesthetic. The areas zoned as MU currently include:

- Ralph Fair Road and Dietz Elkhorn Road
- I-10 frontage and Fair Oaks Parkway
- Dietz Elkhorn Road and Elkhorn Ridge Road

The preliminary site plan provided by the applicant proposes a mixture of uses that include hotel, multi-family units, and retail. However, as per the state statutes, conditional zoning is not permitted. A zone change cannot be tied to a site plan or development shown on a site plan. Once the property is zoned, it can be developed for any use that is permitted in that zone, as long as all other development standards contained in the UDC are met. In other words, a zoning classification runs with the land and the land can be developed for any use permitted in that zone.

As currently written, the MU district does not contain any restriction on the distribution of uses or ratios. The property can be used for any single use or multiple uses permitted in that zone. Land uses permitted in MU district include hospital, brewpub, and drive through restaurant. (See Attachment #4 Use Table)

**Findings:**

- Uses permitted- The proposed zone change will permit all the uses proposed by the applicant.
- Mix of uses - If the zone change is approved, the property can be developed for any of the uses permitted in the Use Table (see Attachment #4), as a single use or a combination of multiple uses. For example, this property can be developed for a single use - as a hotel, a drive through restaurant, a hospital, a multi-family residential, or a brewpub.
- Adherence to proposed site plan - The zone change cannot be conditioned on the site plan provided and will not guarantee that the site will be developed as shown in the site plan.

**CONFORMANCE WITH THE CHARACTER OF THE AREA:**

The proposed development consists of hotel, multi-family residential, and retail uses. Without adequate thought to placement, buffers, and other considerations, all uses permitted in this zone may not be compatible with adjacent uses.

**Findings:**

- The proposed zoning may not result in a development that will be compatible with the existing residential developments in the area and future uses permitted by the current zone of the abutting properties. Permitted and proposed uses may adversely affect existing single-family neighborhoods on the north and the east due to their character and density, without appropriate site design standards and safeguards.
- With appropriate enhanced design and site standards the proposed zone change can serve as a transition between commercial and single family and may be compatible with the following uses on the south and west sides.
  - South – Shopping center that contains CVS, Anytime Fitness, Capparelli Bros Restaurant, Papa John's Pizza (Mixed Use Village)
  - West – Old Fredericksburg Road/City of San Antonio ETJ with various commercial uses -veterinary clinic, animal feed store, gymnasium, foot center. etc. along I-10.
- Other uses permitted by the proposed zone, such as hospital, brewpub, drive through restaurants may have an adverse impact in terms of traffic and safety on surroundings due

to inadequate circulation.

**CONFORMANCE WITH THE AVAILABILITY OF UTILITIES:**

The development is proposed to be serviced by San Antonio Water Systems (SAWS). The City's infrastructure, including roadway adequacy and storm drainage facilities will need to be reevaluated to establish improvements that may be needed for all permitted uses in the MU district.

**Findings:**

- There may not be adequate utilities for all permitted uses in the MU district.
- Detailed study will be required to establish the improvements needed for this density and use.

**CONFORMANCE WITH THE TRANSPORTATION MAP:**

The traffic generated by the proposed development will heavily impact nearby roads. The site is accessed by Old Fredericksburg Road. Fair Oaks Parkway and Dietz Elkhorn Road provide connections from I-10 to Old Fredericksburg Road.

- Old Fredericksburg Road is a (proposed) Arterial Road as per the Transportation Map. Currently it is a two-lane road with no bike lane or sidewalks. Improvements will be needed to adequately support a mixed-use development. A Traffic Impact Analysis (TIA) will be required to determine the extent of improvements.
- Fair Oaks Parkway is a Collector Road. Currently it is a two-lane road. The typical right of way width required is 79'. No significant expansion is contemplated for this road. Improvements may be needed to adequately support a mixed-use development. A Traffic Impact Analysis (TIA) will be required to determine the extent of improvements.
- Dietz Elkhorn Road is a Collector Road. Currently it is a two-lane road. The typical right of way width is 79'. No expansion is recommended for this road; however, improvements may be needed to adequately support a mixed use development. A Traffic Impact Analysis (TIA) will be required to determine the extent of improvements.

**Findings:**

- City's roadway infrastructure may not be suitable and adequate for all permitted uses in the MU district.
- A Traffic Impact Analysis will be required to establish what improvements will be needed for this density and use.

**PUBLIC COMMENTS:**

All real property owners within 200 feet were notified and notice of the public hearing has been published. Staff has received zero (0) public comments in favor of the request and twenty-four (24) in opposition.

UDC Ch 3.7 (4)(vii)(2) states "If a proposed rezoning of a tract of land has been protested in writing by the owners of at least 20 percent of the area within 200 feet of the tract (who are also resident inside the City Limits), the rezoning may not become effective except by three-fourths vote of the City Council." Staff has reviewed the public comments and has determined 21% of the area is in opposition of the proposed rezoning. Therefore, the rezoning may not become effective

unless 6 or more members of City Council approve the proposed rezoning.

**STAFF ANALYSIS:**

Based on the review of the application and supporting documents, UDC, Comprehensive Plan, and other applicable City standards, the staff's observations are as follows:

1. The rezoning will be consistent with the Comprehensive Plan.
2. The proposed zoning of Mixed-Use Village will permit the uses proposed. However, staff believes that the rezoning, without any safeguards or design standards, may have a detrimental effect on the health, safety, or general welfare of the City. Developing the property for commercial uses such as a hotel and dense multi-family residential may be detrimental to the adjacent residential neighborhoods without appropriate buffers and transitions, and may be a deterrent to maintain the rural character of the City.
3. The proposed site plan is not enforceable as conditional zoning is not permitted. Once rezoned, the property can be developed for any other uses permitted in the MU district, and in a manner permitted by the UDC.
4. Without additional considerations and in the inability to require adherence to the proposed site plan (not permitted by straight zoning), the rezoning may not be compatible with the single family uses on the north and east of the subject property and the residential character of the neighborhood.
5. The permitted uses in the MU district are intense uses that may have a significant impact on public infrastructure such as roads, parking facilities and water and sewer systems.
6. The permitted uses in the MU district may have a significant impact on public services such as police and fire protection and solid waste collection.

Staff recommends pursuing the option of Planned Unit Development (PUD) as it is suitable for areas that the Comprehensive Plan recommends mixed uses. Unlike straight rezoning, the PUD process requires approval of a Concept Plan by the City Council that will define the proposed development. By detailing the specific uses, location, density, building and site designs in the PUD Concept Plan, the developer can address the concerns and needs of the community. The PUD process will allow the developer to engage in a dialogue with the citizens, Planning and Zoning Commission, and City Council. Standards exceeding the UDC requirements can be placed on the PUD as conditions and restrictions to ensure a high-quality development.

The PUD approval process is similar to the rezoning process with an additional Concept Plan approval process. The PUD approval will apply to all future development approvals or permits for land within the PUD, in addition to other requirements of the UDC.

**CRITERIA FOR REVIEW:**

According to the UDC, zoning changes may be approved if the following criteria are met:

1. The zoning change is consistent with the Comprehensive Plan;
2. The zoning change promotes the health, safety, or general welfare of the City and the safe, orderly, and healthful development of the City;
3. The zoning change is compatible with and conforms with uses of nearby property and the character of the neighborhood;

4. The property affected by the zoning change is suitable for uses permitted by the proposed amendment to the zoning map;
5. Infrastructure, including roadway adequacy, sewer, water and storm water facilities, is or is committed to be available that is generally suitable and adequate for the proposed use; and
6. Zoning Variance requests will not be considered. Zoning changes must be made by Zoning Map Amendment. All amendments must be in accordance with the Comprehensive Plan, which may be amended according to the procedure in this Section. Newly annexed areas will be zoned during the annexation process.”

In conclusion, it is staff’s opinion that this rezoning request does not meet the criteria listed above. A rezoning process does not provide an opportunity to conduct additional review and detailed analysis to confirm that there will not be any detrimental effects to the City from all the uses permitted in MU district. It does not allow the ability to impose restrictions and conditions to mitigate the adverse impacts. Additional information is required to determine how the proposed development would sustain high quality growth through design and carefully planned uses that are integrated into the city and regional context as envisioned in the Comprehensive Plan, and this can be achieved through a PUD.

**RECOMMENDED MOTION:**

Staff recommends denial of the proposed rezoning request and that the applicant move forward with a PUD Application. The language for the motion must be an affirmative position. The votes may be in favor or in opposition. If the P&Z needs additional information to make a decision, then they may table action on the item.

Motion: I move to recommend approval of a rezoning request from the applicant Bright Lakes Real Estate, on behalf of the property owner Esther Hicks to change the zoning classification of approximately 17 acres from Existing Residential Three (R3) to Mixed Use Village (MU).



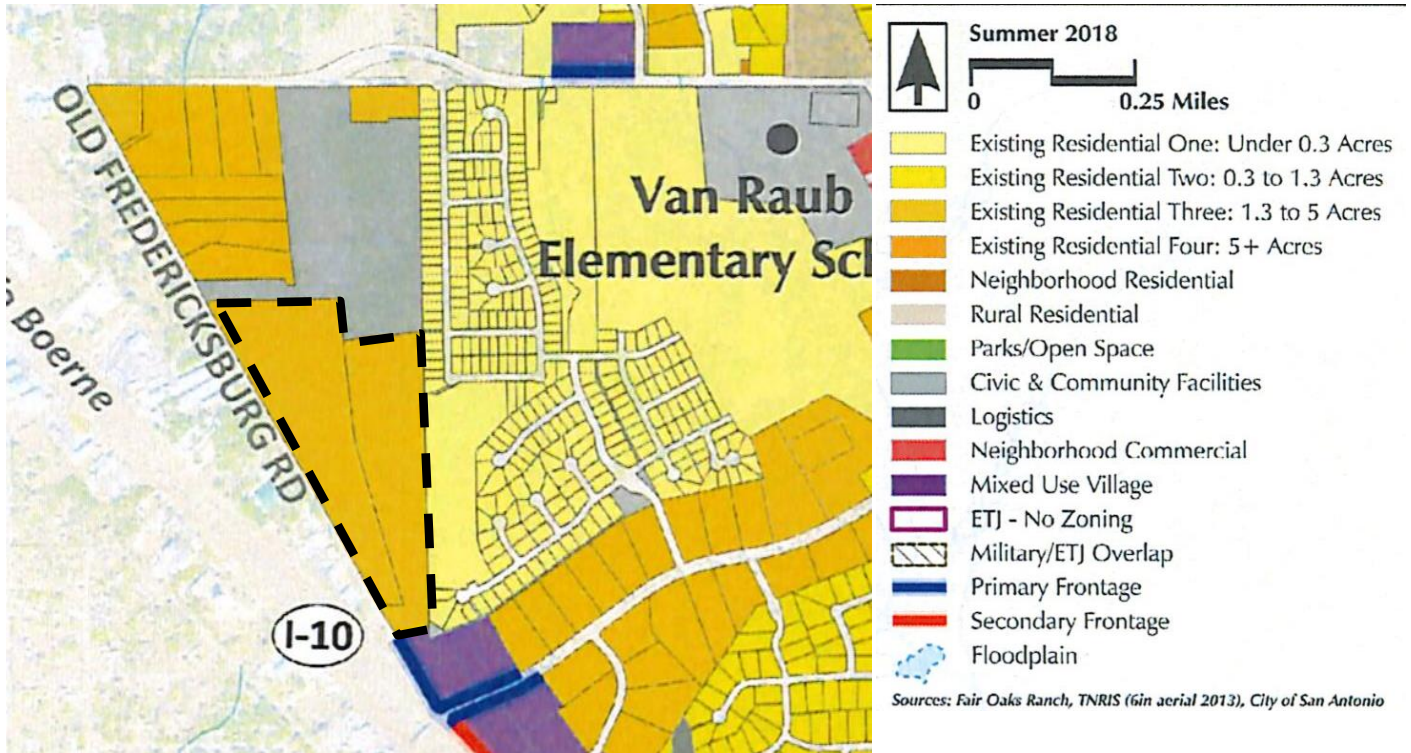
## Exhibit A: Aerial Map and Existing Site Conditions



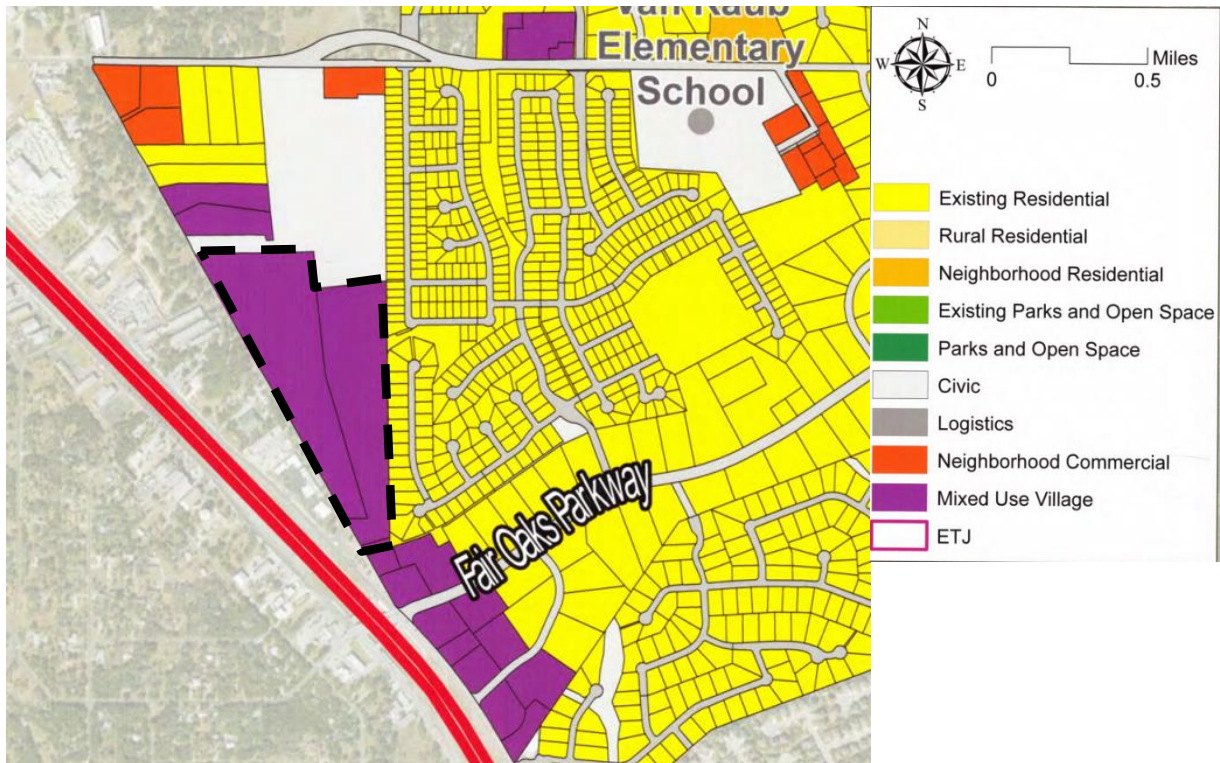
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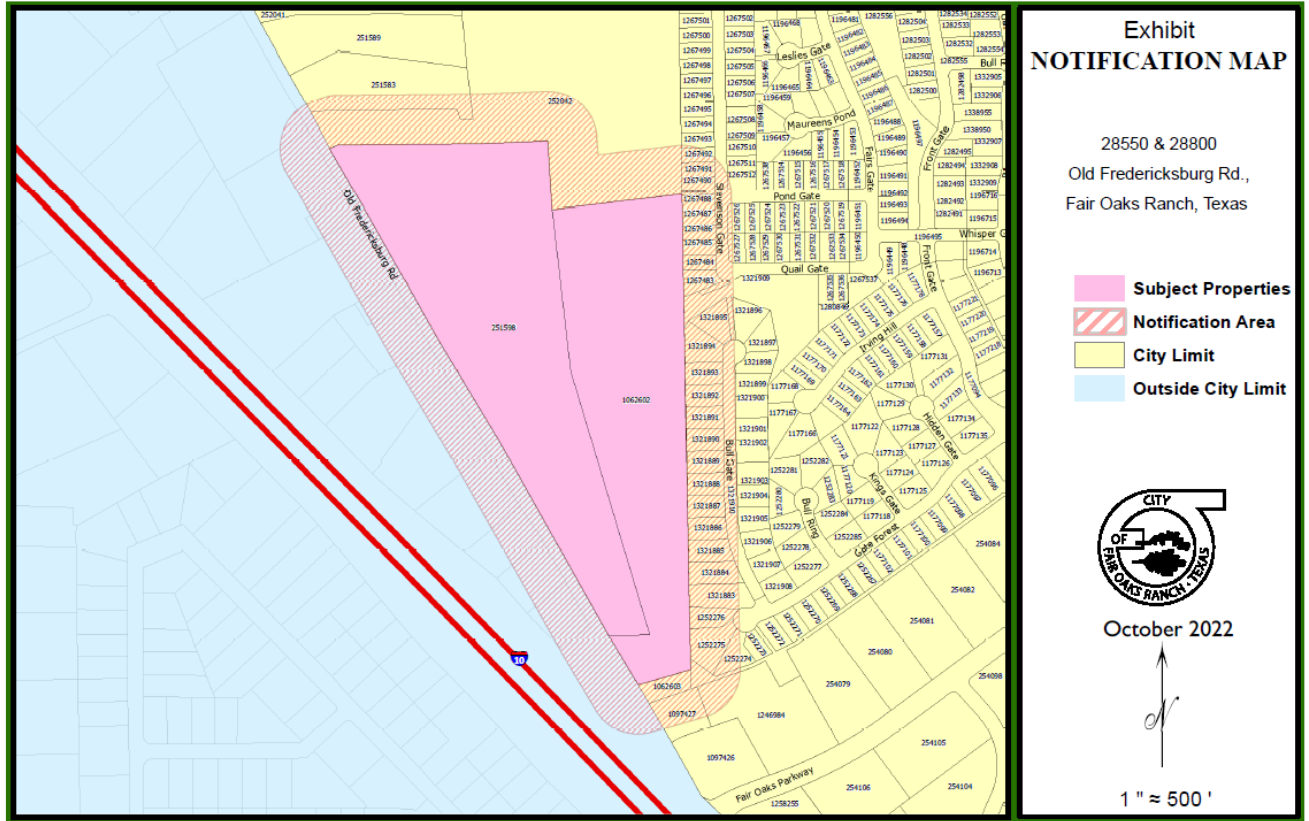
## Exhibit B: Current Zoning Map



## Exhibit C: Future Land Use Map (FLUM)



## Exhibit D: Notification Map



Disclaimer – The City of Fair Oaks Ranch (COFOR) does not guarantee the accuracy, adequacy, completeness, or usefulness of any information. COFOR does not warrant the completeness, timeliness, or positional, thematic, and attribute accuracy of the GIS Data. The GIS data, cartographic products, and associated applications are not legal representations of the depicted data. GIS data is derived from public records that are constantly undergoing revision. Under no circumstances should GIS products be used for final design purposes. COFOR provides this information on an "as is" basis without warranty of any kind, express or implied, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no responsibility for anyone's use of the information.

### Attachments:

1. Universal Application
2. S2 Rezoning Application Form
3. Supporting Documents Provided by the Applicant
4. Use Table
5. Property Owner Response Map
6. Property Owner Comment Forms