

ZONING BOARD OF ADJUSTMENTS PUBLIC HEARING

CITY OF FAIR OAKS RANCH, TEXAS

June 22, 2022

AGENDA TOPIC: The Zoning Board of Adjustment of the City of Fair Oaks Ranch, Texas, will conduct a public hearing to receive public testimony on the Variance Application No. ZBOA 2022-06-22 from Damon Gray of D & A Gray Enterprises LLC, applicant and property owner, to grant variances for the property located at 29105 Noll Road, Fair Oaks Ranch, TX, also listed as 29105 Noll Road, Boerne, TX in the Bexar County Property Records.

DATE: June 22, 2022

DEPARTMENT: Public Works and Engineering Services

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

Prior to taking action on a variance request, the Zoning Board of Adjustment (ZBOA) is required to conduct a public hearing. The sequence for conducting the public hearing and taking action on the requested variances is as follows:

- A. Chairman opens the public hearing
- B. Staff presentation of the variance request
- C. Applicant presentation of the variance request
- D. ZBOA receives public testimony for/against the variance request with the Chairman serving as the presiding officer
- E. Chairman closes the public hearing
- F. ZBOA discuss the request, inclusive of asking questions of the applicant and staff.
- G. ZBOA will consider and take possible action on the Variances under the Consideration/Discussion Items portion of the agenda.

STAFF PRESENTATION

Introduction/Background

Location: The subject parcel is located at 29105 Noll Road, south-east of the intersection of Noll Road and Dietz Elkhorn Road (see attached **Exhibit A: Location Map and Vicinity Map**). Street access to the property is provided from Noll Road. The site has an existing facility that is being used as a cabinet and custom woodwork shop.

The applicant is proposing an expansion of the existing facility from 2,900 square feet to 11,510 square feet, by constructing a new detached building of 8,500 square feet. The expansion requires additional parking to be provided. The current use of the property existed prior to adoption of the Unified Development Code (UDC) in 2019 and is a permitted use in this zone.

Current Zoning: Neighborhood Commercial

Current Use: Cabinet and custom woodwork shop

Property Size: 0.753 acres

Unified Development Code and Zoning Designation:

The purpose of adopting the Unified Development Code (UDC) is to promote the public health, safety, and welfare of present and future citizens of the City of Fair Oaks Ranch. The UDC uses zoning to regulate the development of land within the city to achieve balanced growth and quality of life as defined by the citizens. The zoning designation of the property determines the regulations that will be applicable to the development of the property. The subject property is zoned Neighborhood Commercial (**Exhibit B: Zoning Map**) and the use is permitted by right in this zone.

Platting: Any unplatted property must be platted prior to development. At the time of platting, any additional Right-of-Way (ROW) required as per the City's adopted Throughfare Plan needs to be dedicated. The property fronts on to Noll Road, a Local Street as per the Transportation Map (**Exhibit D**), which requires a total ROW width of 47'. The applicant is in the process of platting this property. Because the current width of Noll Road is inadequate, additional ROW dedication will be required from this parcel during platting.

Nonconforming status: The subject property was developed prior to the adoption of the Unified Development Code (UDC), when City of Fair Oaks Ranch had no development standards. With the adoption of the UDC, standards for site development were introduced, including permitted uses, landscaping, screening, parking, paving, buffers, setbacks, etc. The property does not meet the current standards for access to parking lots, screening of parking lots, and parking setback from the street.

Properties, such as the subject parcel, that were developed prior to the adoption of the UDC (May 2, 2019) and do not meet the requirements of the UDC, are classified as nonconforming uses. The UDC defines nonconforming uses as:

Nonconforming uses are lawful uses within a zoning district that do not conform to the requirements of this UDC when it is adopted, or when any amendments thereto, take effect.

The intent of the UDC is to bring such uses into conformance as they redevelop. The existing use may continue in its current configuration, but any new enlargements or changes to the use must conform with the requirements of the UDC.

In this case, the applicant proposes to expand the existing facility without correcting the existing nonconformities or meeting the following requirements for the proposed alterations:

1. Access to the parking spaces: The applicant proposes to have all parking spaces perpendicular and immediately adjacent to the street. This direct access from the street is not permitted and can cause accidents from vehicles reversing onto the street. The UDC requires parking spaces be accessed by an aisle or driveway from a road.
2. Number of parking spaces: The parking spaces on site will be less than the required number of spaces.
3. Screening of parking areas from the street: Parking spaces will not be screened from the street, as required.
4. The residential transition setback will be reduced from the 20' minimum requirement to

10'. Considering the commercial nature of the proposed use that will involve onsite fabrication and millwork, the use will have adverse impact on the neighboring residential uses.

5. The front setback will be reduced to 10' from the required 20' setback. Considering that the applicant is requesting variances from screening, landscaping, and parking variances, the reduction of the front setback will be detrimental.
6. Parking setback from the street: Parking spaces will not have a 3' wide setback from the street, as required.

The applicant is therefore seeking Variances to deviate from these requirements to develop the property as shown on the Site Plan (**Attachment 4**).

Requested Variances and Findings:

Staff's review of each Variance is listed below:

1. Variance from Section 6.7 (4) c – Allow access to parking directly from the street instead of from an aisle or a driveway.

The proposed site development does not provide driveway or aisle access to parking. All parking spaces will have access directly from the street and will use the public street to reverse a vehicle.

Finding: Per the Schematic Diagram below, it is staff's opinion that the site plan and parking layout can be designed to meet this requirement. The applicant has not identified any constraints on the property that would prevent the applicant from meeting UDC requirements for parking access. The criteria in UDC Sec. 3.9 (9), listed earlier in this report, do not apply and a deviation is not warranted. Adherence to this requirement will not prohibit or unreasonably restrict the utilization of the property.

2. Variance from Section 6.7, Table 6.2 – Reduce the number of parking spaces from 24 spaces to 10 spaces. The current required ratio is one space per 500 square feet of usable building area for the existing use. The facility expansion requires 24 parking spaces for the 11,510 square foot proposal while the applicant is proposing only 10 spaces. The applicant has not identified any constraints on the property that would prevent the applicant from meeting UDC requirements for parking.

Finding: It is staff's opinion that the site can be designed to meet this requirement by reducing the size of the new building which would require less parking spaces per the **Illustration 2: Schematic Diagram Showing Compliance** below. The criteria in UDC Section 3.9 (9), listed earlier in this report, do not apply and a deviation is not warranted. Adherence to this requirement will not prohibit or unreasonably restrict the utilization of the property.

3. Variance from the requirements of Section 6.8 (2) d – Eliminate the required 3' parking setback from the street.

Finding: It is staff's opinion that the site can be redesigned to accommodate the required parking setback per the **Illustration 2: Schematic Diagram Showing Compliance** below and therefore this Variance is not warranted. The criteria in UDC Sec. 3.9 (9), listed earlier in this report, do not apply and a deviation is not warranted. Adherence to this requirement will not prohibit or unreasonably restrict the utilization of the property.

4. Variance from the requirements of UDC Section 6.8 (2) b (i) - Allow reduction in the required

minimum front setback of 20 feet to 10 feet.

Finding: It is staff's opinion that the site can be redesigned to accommodate the required front setback as shown in **Illustration 2: Schematic Diagram Showing Compliance** below (prepared by staff) and therefore this Variance is not warranted. The criteria in UDC Sec. 3.9 (9), listed earlier in this report, do not apply. Adherence to this requirement will not prohibit or unreasonably restrict the utilization of the property.

5. Variance from UDC Section 6.8 (2) (e) (iii) – Allow reduction in the required minimum residential transition setback of 20 feet to 10 feet.

Finding: It is staff's opinion that the site can be redesigned to accommodate the required residential transition setback as shown in **Illustration 2: Schematic Diagram Showing Compliance** below (prepared by staff) and therefore this Variance is not warranted. The criteria in UDC Sec. 3.9 (9), listed earlier in this report, do not apply and a deviation is not warranted. Adherence to this requirement will not prohibit or unreasonably restrict the utilization of the property.

6. Variance from Section 7.7 (1) – Eliminate the required 3' high landscaping screening strip between parking and street. If Variance No. 1 is approved to allow direct street access to the parking area, no landscaping strip can be installed. There is room for landscape screening, however, the existing site plan does not propose any screening.

Finding: It is staff's opinion that the site can be designed to meet this requirement as shown in **Illustration 2: Schematic Diagram Showing Compliance** below (prepared by staff). The criteria in UDC Section 3.9 (9), listed earlier in this report, do not apply and a deviation is not warranted. Adherence to this requirement will not prohibit or unreasonably restrict the utilization of the property.

Staff Recommendation

Review of the site indicates that the requirements of the UDC in terms of access, landscape screening, parking setback from the street, and number of parking spaces can be met by re-designing the layout per the **Illustration 2: Schematic Diagram Showing Compliance** below. In conclusion, it is staff's opinion that the requested Variances do not meet the criteria listed for findings of a hardship as per UDC Sec. 3.9 (9). The facility expansion can be redesigned with an appropriately-sized building to meet all the requirements of the UDC. The hardship appears to be self-created, is based solely on economic gain or loss, and will allow development of this parcel in a manner not permitted by the City's zoning regulations.

PUBLIC TESTIMONY

All real property owners within 200ft were notified and notice of the public hearing has been published. Staff has received one (1) public comment in favor of the request and two (2) in opposition.

Illustration 1: Applicant's Proposal

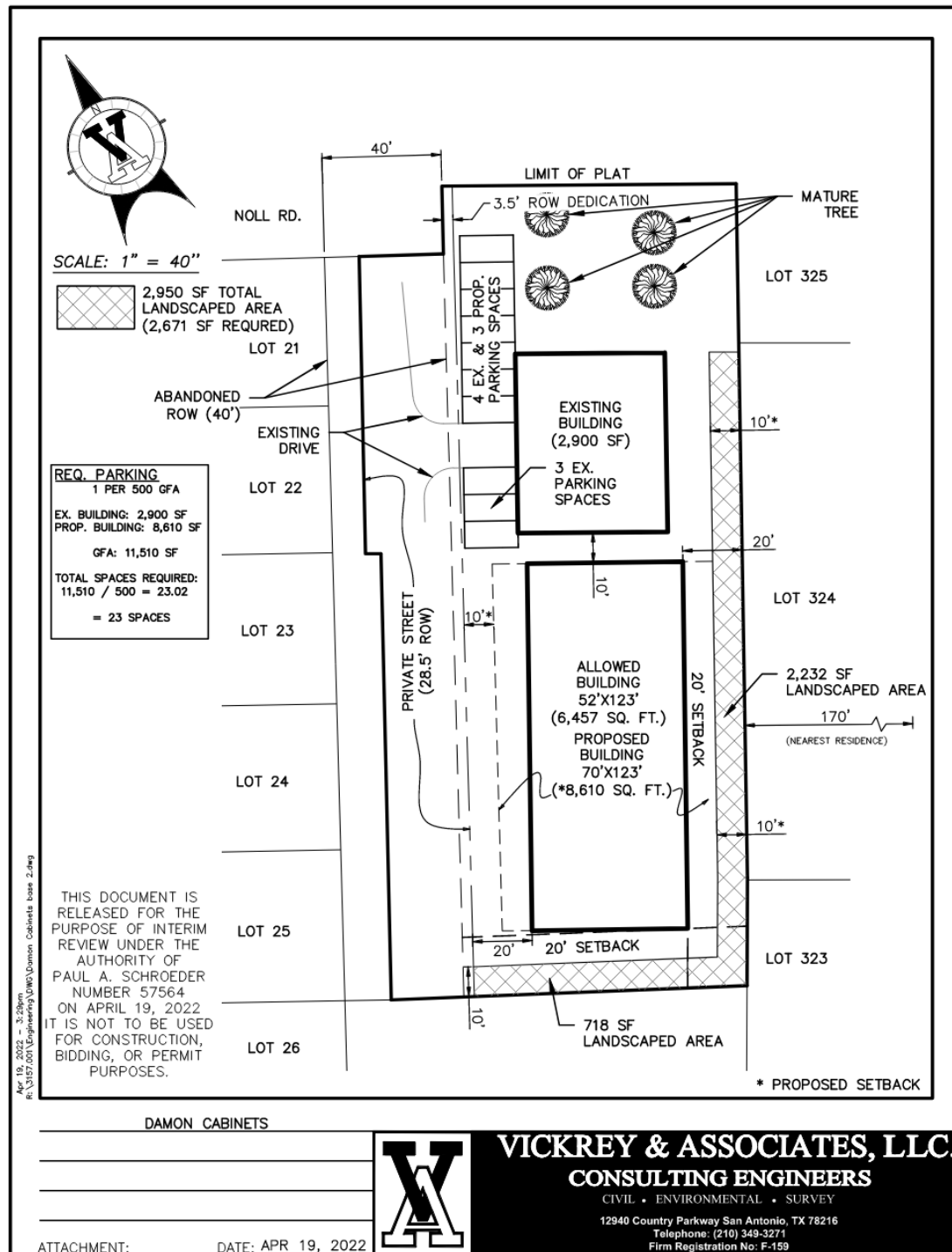


Illustration 2: Schematic Diagram Showing Compliance

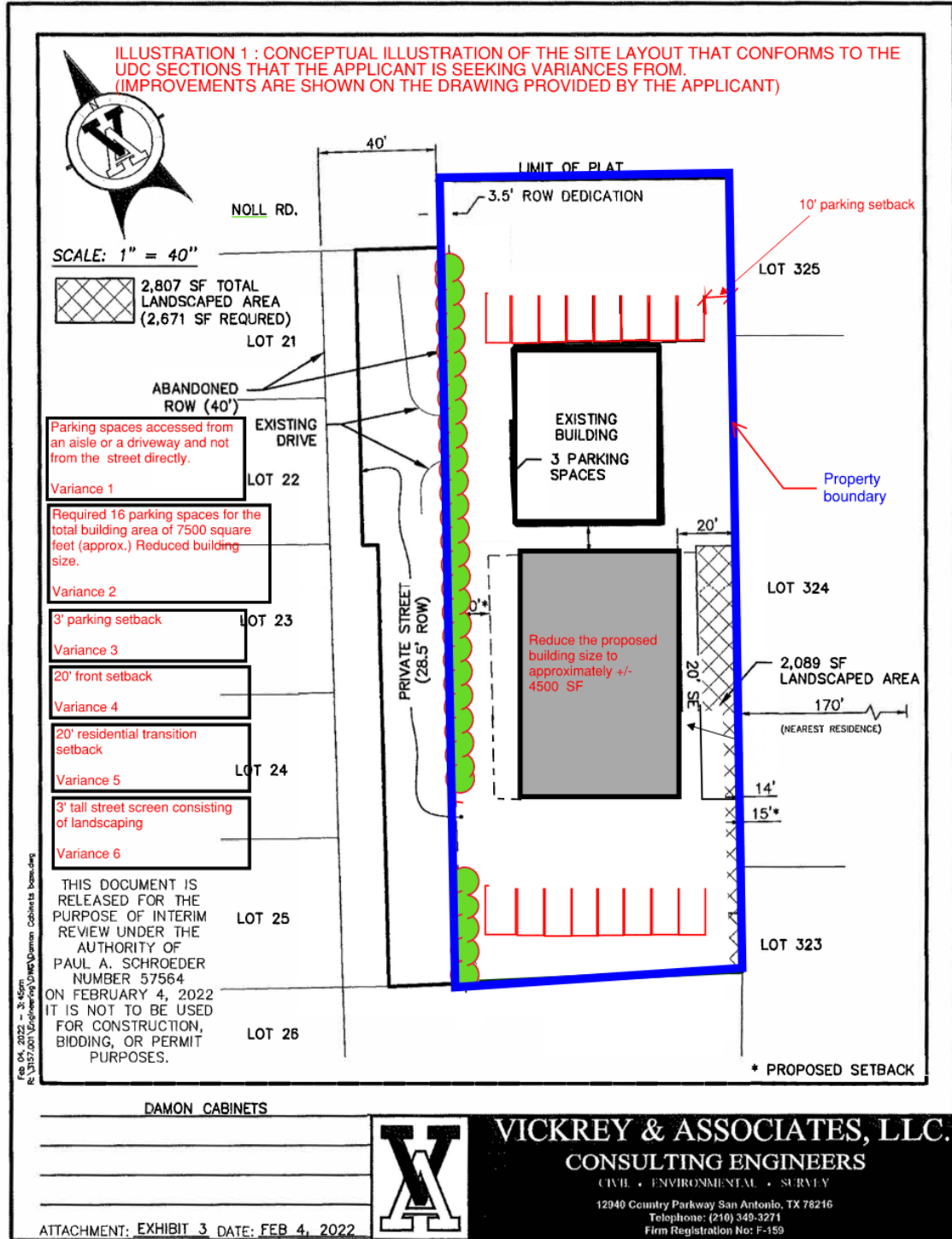
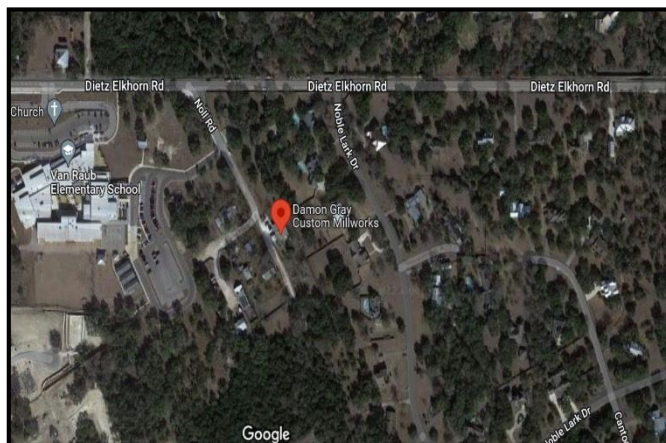
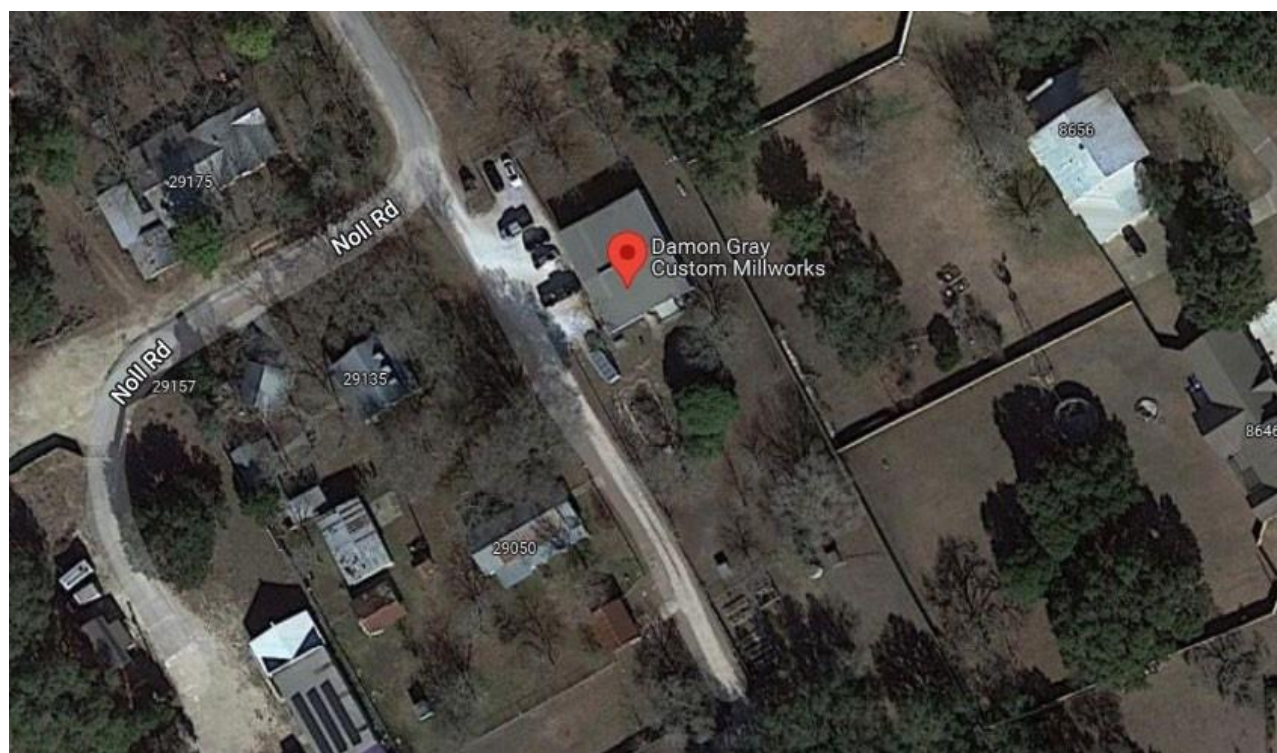


Exhibit A: Location Map and Vicinity Map

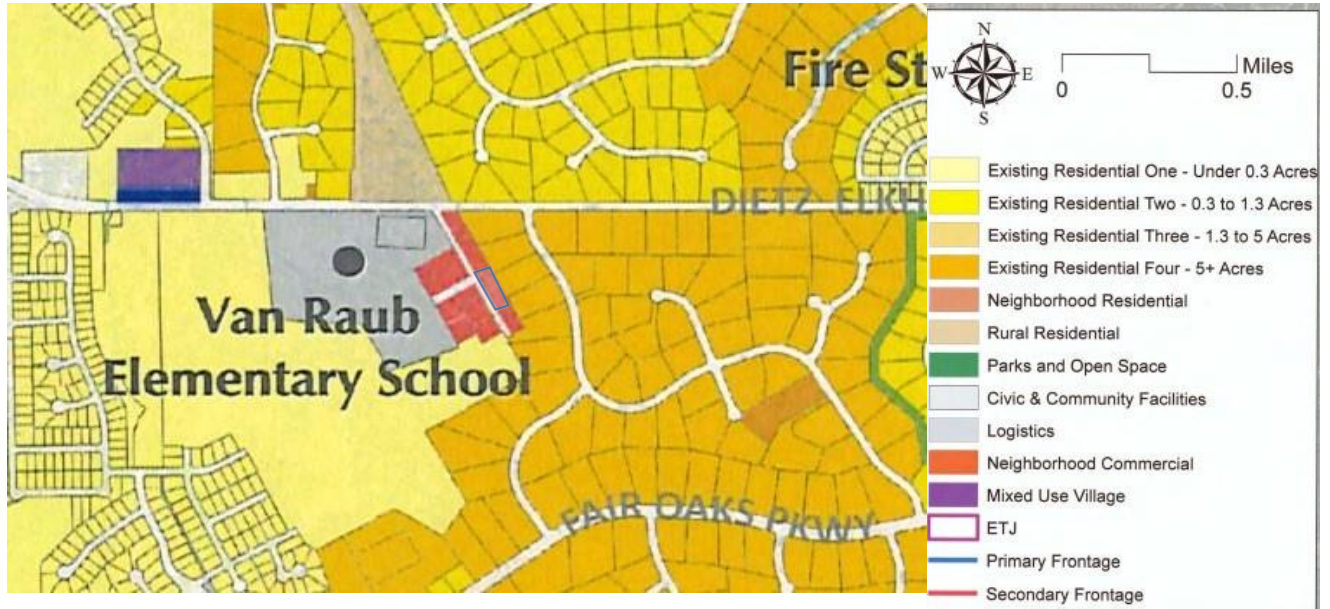


Source: Google



Source: Google

Exhibit B: Zoning Map



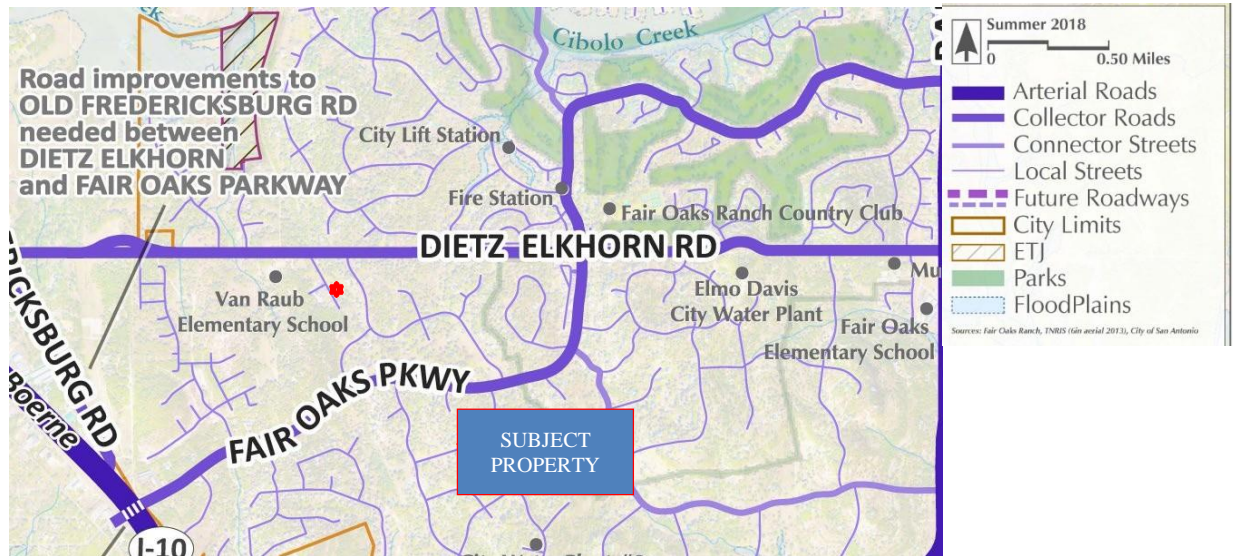
Source: City of Fair Oaks Ranch

Exhibit C: Existing Condition



Source: Google

Exhibit D: Transportation Map



Source: City of Fair Oaks Ranch

Attachments:

1. Universal Application
2. S20 Variance Specific Application Form
3. Letter of Intent
4. Site Plan
5. Resubmittal Response Letter
6. Property Owner Response Map
7. Property Owner Comment Forms