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## ZONING BOARD OF ADJUSTMENT CONSIDERATION ITEM

### CITY OF FAIR OAKS RANCH, TEXAS

September 14, 2022

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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 2022-09-14 from Ms. Carmen Groth, applicant, on behalf of the property owner, G Leon Family Partnership LTD to grant variances for the property located at 28313 Leslie Pfeiffer Drive, Boerne, TX.

DATE: September 14, 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

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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 28313 Leslie Pfeiffer Drive, north-east of the intersection of I-10 Frontage Road and Leslie Pfeiffer Drive (see attached **Exhibit A: Location Map**). Street access to the property will be provided from Leslie Pfeiffer Drive. The property is platted, and the site is currently vacant.

The applicant is proposing a new restaurant of approximately 9,200 square feet and associated parking which is a permitted use in this zone.

**CURRENT ZONING:** Mixed Use Village

**PROPOSED USE:** New Restaurant

**PROPERTY SIZE:** 1.729 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 Mixed Use Village (**Exhibit B: Zoning Map**) and the use is permitted by right in this zone.

### **Purpose of Mixed Use Village:** Section 6.8 (1) of the UDC states:

The Mixed Use Village District (MU) indicates areas within the City of Fair Oaks Ranch where the City encourages a mixture of uses that create pedestrian scaled commercial and residential development at major nodes in the City that generally conform to a Hill Country Design aesthetic. Sites in the MU district are appropriate for direct access to primarily Arterial, Collector streets and Local Connector Streets. Development standards in this district will require new buildings to create pedestrian friendly building frontages and generally conform to a Hill Country Design aesthetic. Uses within this Zoning District include commercial (office, retail, and restaurant) with a variety of residential uses also permitted.

### **REQUESTED VARIANCES AND STAFF FINDINGS:**

Preliminary 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** below. Staff's review of each Variance is listed below:

1. Variance from Section 6.8 (1) b (i) – vary the 20' maximum setback requirement along Secondary Frontage (I-10 Frontage Road) to 55'.

The proposed front setback will be 55' to locate parking along I-10 Frontage Road. This will exceed the maximum setback limit along Secondary Frontage (I-10 Frontage Road) for Mixed Use Zone.

**Finding:** Per the **Illustration 2: Schematic Diagram Showing Compliance (prepared by staff)**, it is staff's opinion that the site can be redesigned to meet this requirement. The applicant has not identified any constraints on the property that would prevent the applicant from meeting this UDC requirement. The criteria in UDC Sec. 3.9 (9), 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 6.7 (5) (a)– Eliminate the required 3' high landscaping screening strip between parking and street.

There is room for landscape screening, however, the existing site plan does not propose any screening.

**Finding:** It is staff's opinion that the 3' high street screen can be provided by redesigning the site to meet this requirement as shown in **Illustration 2: Schematic Diagram Showing Compliance (prepared by staff)**. The criteria in UDC Section 3.9 (9), do not apply and a deviation is not warranted. Adherence to this requirement will not prohibit or unreasonably restrict the utilization of the property. Removal of this landscaping screen will result in no landscaping at all between the building and I-10 Frontage Road, which will adversely affect the character of the area.

3. Variance from the requirements of UDC Section 6.8 (1) (d) (i) - allow parking in front of the building, between the building and I-10 Frontage Road as well as between the building and Leslie Pfeiffer Drive.

The applicant is proposing double the parking spaces required. Current site plan proposes 93 parking spaces whereas the UDC requirement is only 47 spaces.

**Finding:** It is staff's opinion that site can be redesigned to meet this requirement as shown in **Illustration 2: Schematic Diagram Showing Compliance (prepared by staff)**. The criteria in UDC Sec. 3.9 (9), do not apply and a deviation is not warranted. Adherence to this requirement will not prohibit or unreasonably restrict the utilization of the property. Granting this Variance will be not in conformance with the purpose of the Mixed Use Village district, as stated in the UDC and Hill Country Design aesthetic.

#### **Staff Recommendation:**

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 site can be redesigned 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. Staff recommends that if the ZBOA approves the variances, the following conditions be considered:

1. A 25 foot wide landscaped strip along the street frontages, with trees and shrubs as required by **Figure 7-16 (UDC Sec. 7.7)** below.
2. Street trees: Spacing shall be an average of 30 feet on center. The minimum caliper size for each tree shall be 2 inches and shall be a minimum of 8 feet in height at planting. Each tree shall be planted in a planting area no less than 36 sq. feet. Species shall be native or adapted species selected from the Approved Plant List, found in Appendix B of the UDC.
3. Shrubs: 3-foot landscaped vegetative screen composed of shrubs planted to be opaque at maturity (see **Figure 7-16**).
4. All other landscaping requirements shall be met.

#### **PUBLIC TESTIMONY**

All real property owners within 200ft were notified and notice of the public hearing has been published. Staff has received zero (0) public comment in favor of the request and zero (0) in opposition.

## UDC Sec. 7.7 (Figure 7-16)

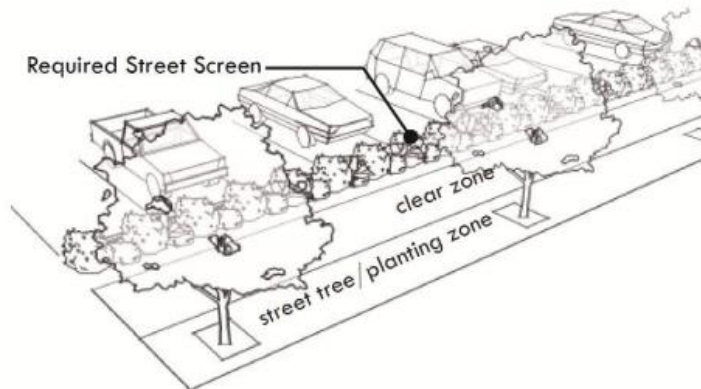
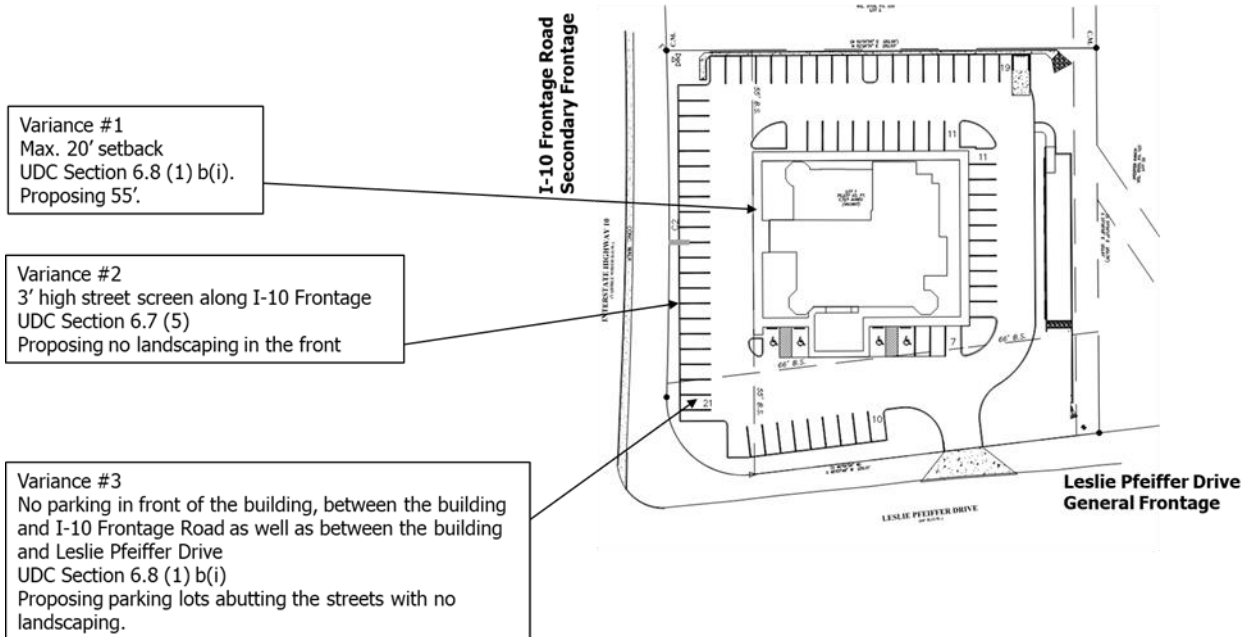
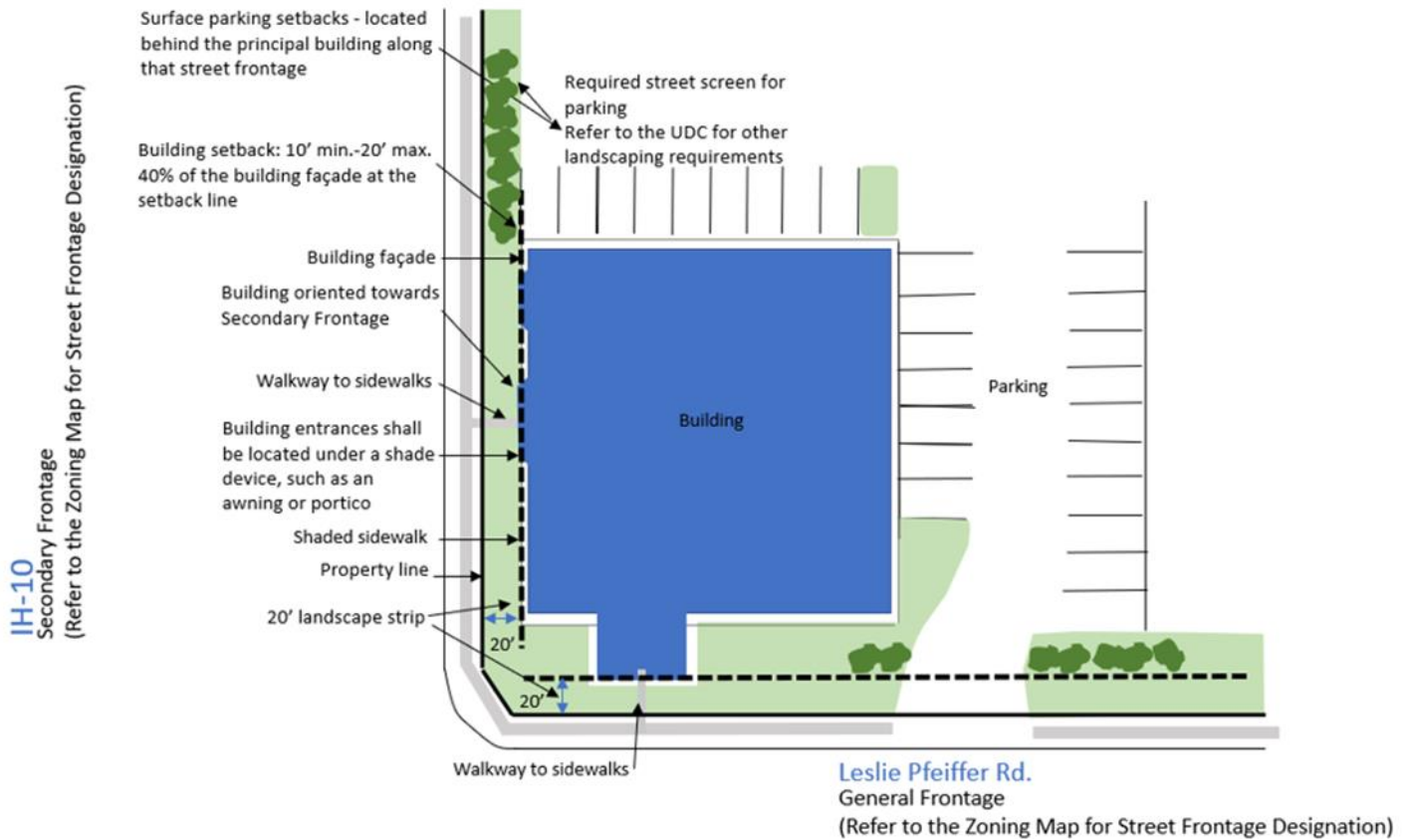


Figure 7-16 Illustration showing required Street Screen along all frontages with surface parking in the setback zone.

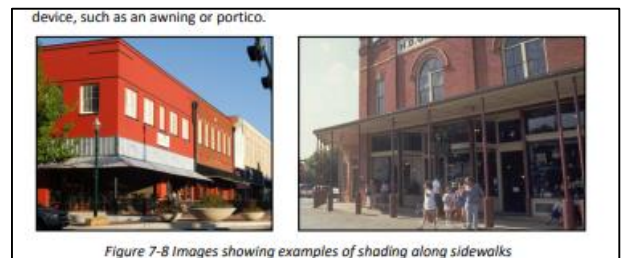
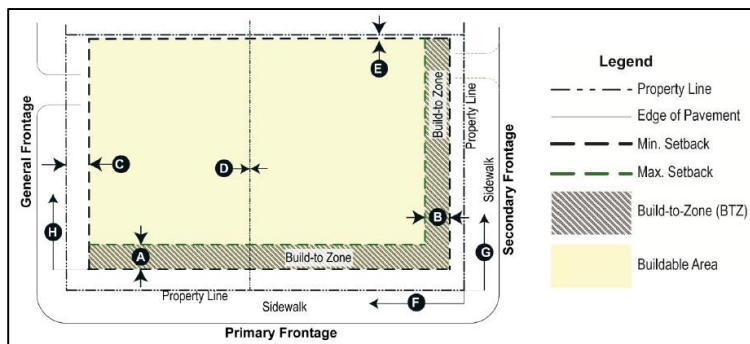
## Illustration 1: Applicant's Proposal (Requested Variances Highlighted)



**Illustration 2: Schematic Diagram Showing Compliance (Shared with the applicant in February 2022)**

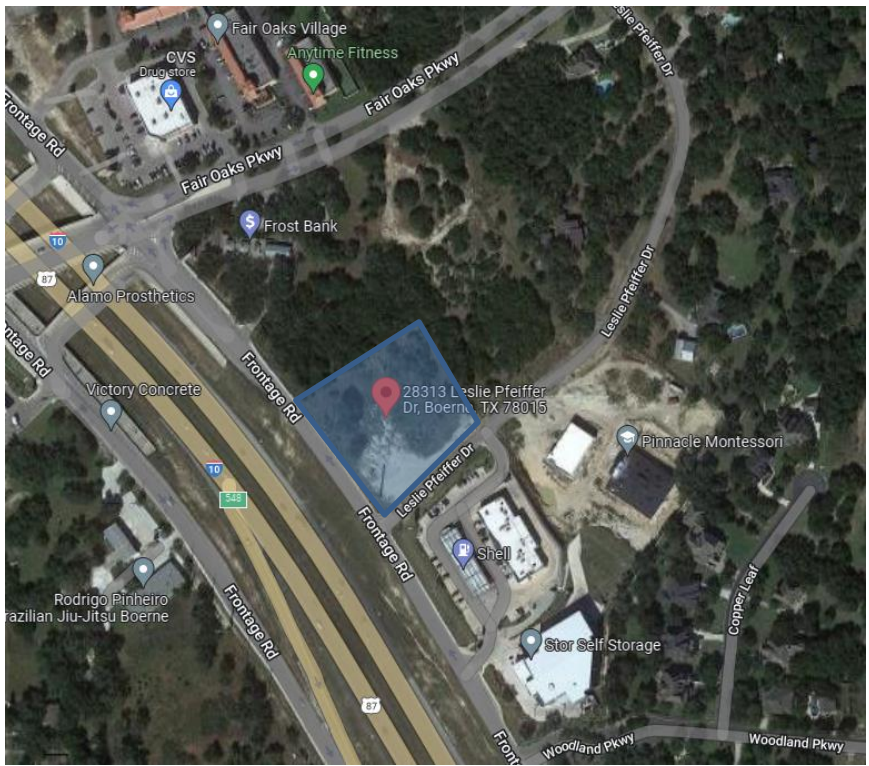


### **Illustration 3: Building Placement (UDC Sec. 6.8 (1) b) and Examples (UDC Sec. 7.8 (4))**



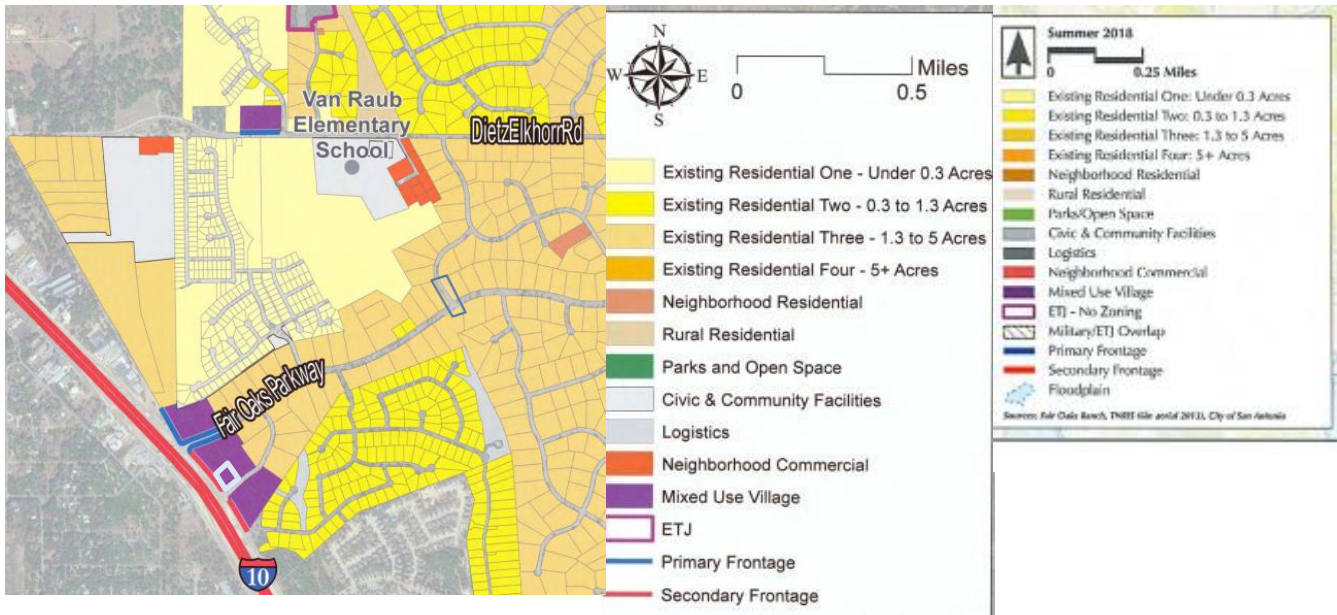


**Exhibit A: Location Map**



Source: Google

**Exhibit B: Zoning Map**



Source: City of Fair Oaks Ranch

**Attachments:**

1. Universal Application
2. S20 Specific Application
3. Letter of Intent (Applicant's confirmation of variances)
4. Site Plan
5. Notification Map