

ORDINANCE NO. 17

AN ORDINANCE APPROVING AN AMENDMENT TO ORDINANCE NO. 07-09-11-A TO AUTHORIZE OUTDOOR SEATING AND OUTDOOR LIGHTING IN CONJUNCTION WITH A RESTAURANT USE GRANTED AS A CONDITIONAL USE PERMIT IN ORDINANCE NO. 07-09-11-A FOR PROPERTY IN VILLAGE OAKS CENTER AT 11905, SUITE 100, BEE CAVES ROAD, BEE CAVE, TEXAS; WHICH PROPERTY IS ZONED PLANNED DEVELOPMENT DISTRICT WITH A BASE RETAIL DISTRICT ZONING; PROVIDING FOR AN EFFECTIVE DATE AND PROVIDING FOR CERTAIN CONDITIONS;

WHEREAS, the zoning of the property subject to this Ordinance is governed by Ordinance No. 01-03-13 dated March 13, 2001 and pursuant to that ordinance has previously been zoned as a Planned Development District with a base zoning of Retail District;

WHEREAS, a Conditional Use Permit to authorize a restaurant use for the property located at Suite 100 in the Village Oaks Center at 11905 Bee Cave Road, Bee Cave, Texas, was approved by the City of Bee Cave in Ordinance No. 07-09-11-A;

WHEREAS, the property owner is requesting an amendment to Ordinance No. 07-09-11-A and the underlying Conditional Use Permit to authorize out door seating for the restaurant and decorative lighting;

WHEREAS, the property owner has submitted an amended site plan depicting the outdoor seating and has proposed landscaping and other measures intended to mitigate the potential impact of the use of the property for outdoor restaurant seating and decorative lighting from adjoining neighborhoods and has otherwise complied with the requirements of the City of Bee Cave Ordinances and Ordinance No. 01-03-13 for an amendment to the Conditional Use Permit;

WHEREAS, the notice as required by the City's Zoning Ordinance has been published in the official newspaper and given to adjacent property owners;

WHEREAS, the City Council has conducted two Public Hearings on the Application for the amendment to the Conditional Use Permit wherein public comment was received and considered on the Application;

WHEREAS, the City Council finds that the use of property for outdoor restaurant seating and the use of the outdoor decorative lighting in conjunction with the mitigation measures proposed by the property owner, with the conditions listed below, are appropriate uses for the property.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:

Section 1. The City Council finds that the information submitted in the Application for an amendment to the Conditional Use Permit governed by Ordinance No. 07-09-11-A and submitted by Applicant meets the requirements of the City of Bee Cave Zoning Ordinance and underlying zoning Ordinance No. 01-03-13, for the Property located at Suite 100, in the Village Oaks Center at 11905 Bee Cave Road, Bee Cave, Texas,

Section 2. Uses. The Conditional Use Permit granted in Ordinance No. 07-09-11-A is hereby amended, subject to the conditions listed in Section 4, to authorize outdoor restaurant seating and outdoor decorative lighting in conjunction with the restaurant use authorized in the Conditional Use Permit granted in Ordinance No. 07-09-11A;

Section 3. Site Plan. The amended site plan depicting the outdoor seating, mitigation measures and the outdoor decorative lighting and referenced as Exhibit "A", attached hereto, is hereby approved contingent upon the property owner meeting the conditions contained within Section 4;

Section 4. Amended Conditional Use Permit. The City Council hereby approves the amended Conditional Use Permit to the property owner (hereinafter "Permittee") upon the following terms and conditions:

1. Permittee shall not commence development until it has secured all building permits, has received City staff approval of screening and landscape plans (Exhibit "B") and has received any other approvals as required by the City of Bee Cave ordinances;
2. This amendment to the Conditional Use Permit authorizes additional development of the subject property only as represented in the Permittee's application and only to the extent such development is depicted in the site plan or other plans contained in Exhibits "A" and "B", attached hereto and only to the extent authorized herein. If portions of the development of the subject property requested in the application are not approved herein by the Council, or are not depicted in Exhibit "A" or "B", then that portion of Permittee's application is specifically denied;
4. Permittee shall construct the landscaping and sound attenuation screening and other mitigation measures described herein and as depicted in Exhibit "A" and Exhibit "B", attached hereto, prior to issuance of a Certificate of Occupancy ("CO") for operation of the outdoor restaurant seating. A seven (7) foot split faced block wall along the back walkway which continues around the building to the outdoor dumpster area shall be constructed. A seven (7) foot sound attenuation wall shall be constructed at the back end of the outdoor seating area and a barrier fence with landscaping as depicted in Exhibits "A" and "B" shall be constructed around the outdoor seating area. Landscaping shall include live oak trees and shrubbery along the screening walls. Thereafter, all landscaping and

other mitigation screening shall be maintained, repaired and replaced by Permittee from time to time as needed to maintain the screening and landscape as required by this Ordinance. Dead plants shall be replaced within 90 days. The operational hours for the outdoor restaurant seating shall be from 10 am to 9 pm seven days a week. The operational hours of the indoor seating of the restaurant shall be 10 am to 10 pm seven days a week. Provided however, that in the event that the restaurant operated as Bella Sera ceases to operate, Permittee's hours of operation for both the indoor seating and the outdoor seating shall revert to 6am to 9pm as authorized in Ordinance No. 07-09-11A.

5. Additional Conditions:

- a) Permittee is authorized to add space in the interior kitchen area of the restaurant from the adjoining suite for the purpose of locating a larger refrigerator/freezer;
- b) Decorative white lights may be located and wrapped on tree trunks up to 10 feet in height;
- c) Outdoor music shall not be authorized.
- d) Restaurant patrons shall not be seated in the outdoor patio area after 9pm. Outdoor seating shall be limited to 20 patrons and the waiting area shall be located at the main entrance door and seating for waiting patrons shall be limited to 6.
- e) Permittee shall establish a policy which prohibits employees from using the landscape/buffer areas adjoining the residential neighborhood as a break/smoking area.
- f) Permittee shall replace the chain length fence atop the detention pond with a metal wire fence similar to the Grace House fence painted a dark, flat color (olive green, black,) to be approved by the city staff.

Section 5. Severability. Should any sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the City's Zoning Ordinance or Map as a whole.

Section 6. This Ordinance shall take effect immediately from and after its passage and publication as required by law.

PASSED AND APPROVED this 10th day of February, 2009.

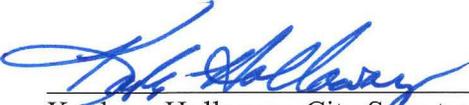
APPROVED:



Caroline Murphy, Mayor

City of Bee Cave

ATTEST:



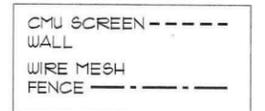
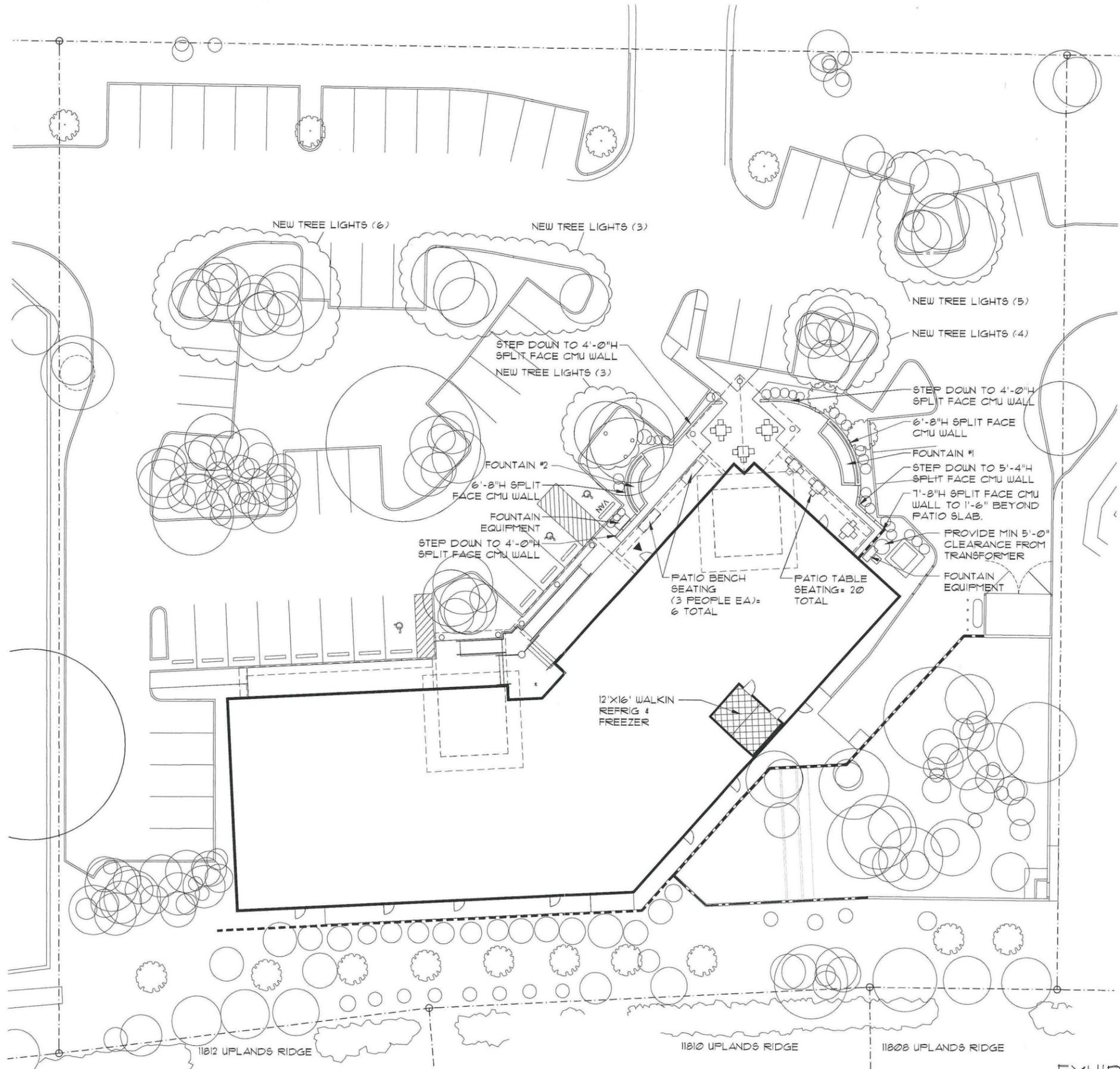
Kaylynn Holloway, City Secretary
City of Bee Cave, Texas

[SEAL]

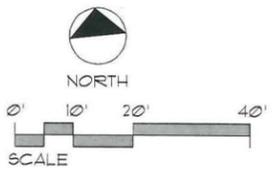
APPROVED AS TO FORM:



Patty L. Akers, City Attorney



WALL, FENCE & TREE PLAN
 ① SCALE: 1" = 20'-0"

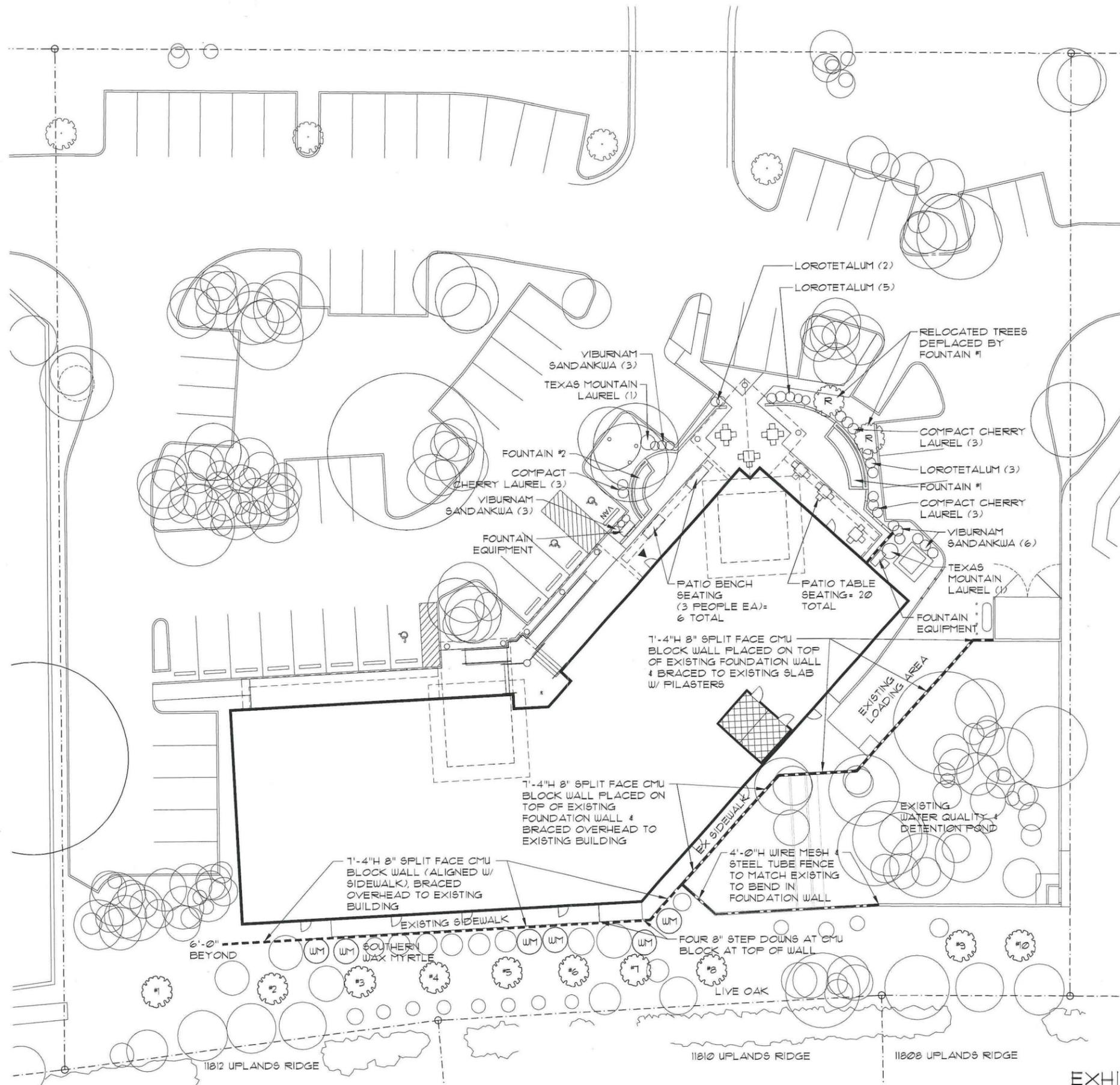


VILLAGE OAKS RETAIL CENTER
 11905 BEE CAVE RD
 BEE CAVE, TEXAS 78738


 architecture
 interiors
 105 West 8th Street
 Austin, Texas 78701
 512 . 474 . 6262

MAR 13, 2009

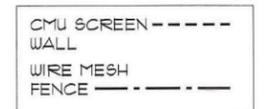
EXHIBIT "A"



LANDSCAPE NOTES:
 1.) EVERGREEN LIVE OAK TREES TO BE OF A SIZE RANGING FROM 11'-14" IN WIDTH TO 11'-14" IN HEIGHT. BASED UPON AN AVERAGE OF 12.5' IN EITHER DIRECTION, THE 12' TREE CANOPY ALONG THE 114' REAR WALL OF BUILDING WILL NEED SEVEN TREES IN ORDER TO SIMULTANEOUSLY MEET THE 65% BUILDING COVERAGE REQUIREMENT. TWO TO THREE ADDITIONAL TREES WILL BE PROVIDED TO BE POSITIONED TO BLOCK ADDITIONAL REAR VIEWS OF THE BUILDING.
 2.) THE SEVEN LARGEST OF THE TEN OAK TREES PROVIDED WILL BE SELECTED TO BE PLACED ALONG THE 114' LONG REAR WALL OF THE BUILDING. FINAL LOCATIONS OF ALL TREES WILL BE DETERMINED BY CITY OF BEE CAVE STAFF, THE ADJACENT THREE RESIDENTIAL NEIGHBORS TO THE PROPERTY'S SOUTHERN LINE & THE AVAILABLE SPACE BETWEEN THE EXISTING UNDERGROUND UTILITIES.
 3.) THE EXISTING LANDSCAPE TREES AND SHRUBS IN CONFLICT WITH THE NEW TREES WILL BE REMOVED OR RELOCATED.

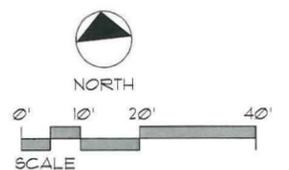
LANDSCAPE INVENTORY:

COMPACT CHERRY LAUREL	8
VIBURNAM SANDANKWA	12
LOROTETALUM	10
TEXAS MOUNTAIN LAUREL	2
TOTAL	32 PLANTS



LANDSCAPE SCREENING PLAN

1 SCALE: 1" = 20'-0"



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 11905 BEE CAVE RD
 BEE CAVE, TEXAS 78738

NIX GROUP ARCHITECTS architecture interiors
 105 West 8th Street
 Austin, Texas 78701
 512 . 474 . 6262

EXHIBIT "B"

