

ORDINANCE NO. 2019-13

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS GRANTING A WAIVER AND VARIANCE TO CERTAIN LANDSCAPING AND TRANSPARENCY REQUIREMENTS FOR THE PROPOSED DRUG STORE TO BE LOCATED AT 2810 MERIDIANA PARKWAY (CR 56); FINDING FACTS; AND PROVIDING AN EXCEPTION, SAVINGS CLAUSE, SEVERANCE CLAUSE, AND EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IOWA COLONY, TEXAS:

1. Legal Requirements

- a. Section 3.1.2.6(a) of the Iowa Colony Unified Development Code provides, in part:

“Street trees shall be planted within the public street rights-of-way, or on private property within ten feet (10’) parallel and adjacent to a local street right-of-way, or on private nonresidential property within 25 feet (25’) parallel and adjacent to a major thoroughfare, or in the esplanade pursuant to the requirements of section 3.1.2.8 (b). When the building site abuts a designated state or federal highway or road or any designated county road and street trees are not otherwise required by law, street trees shall be planted on private property in accordance with this section...”

- b. Section 3.5.3.12(b) of the Iowa Colony Unified Development Code provides:

“(b) Transparency – Each exterior wall of a commercial/retail/office building facing a public street must contain at least sixty-five (65) percent transparent material to allow visual penetration of at least three (3) feet into the building. Transparency includes stationary glass, windows, and the glass area of doors.”

2. Background

288 Project, LTD (“Applicant”) has applied for a waiver or variance from the above legal requirements for the drug store to be located at 2810 Meridiana Parkway. The background is more fully stated in the Letter of Recommendation attached hereto and incorporated herein in full.

3. Findings of Fact

The City Council has determined that a waiver or variance should be granted, because the criteria in Section 1.3.4.3 of the Unified Development Code have been satisfied.

4. Grant of Waiver and Variance

Accordingly, the City Council hereby grants a waiver and variance to the requirements of Section 3.1.2.6(a) of the Uniform Development Code, concerning street trees at 2810 Meridiana Parkway, and to the requirements of Section 3.5.3.12(b) of the Unified Development Code, concerning transparency for the proposed building at 2810 Meridiana Parkway; provided, however, that these variances are granted:

- a. only to the extent stated in the Letter of Recommendation attached hereto and incorporated herein in full;
- b. in reliance upon the statements of fact in that Letter of Recommendation; and
- c. subject to the conditions stated in that Letter of Recommendation.

5. Exception

However, these waivers and variances do not apply to any future expansion or remodeling of the building described herein, after the initial construction of that building.

6. Savings Clause

The Unified Development Code and all other ordinances of the City shall remain in full force and effect except as specifically provided herein.

7. Severance Clause

If any part of this ordinance, of whatever size, is ever declared invalid or unenforceable for any reason, the remainder of this ordinance shall remain in full force and effect.

8. Effective Date

This ordinance shall be effective immediately upon its passage and approval.

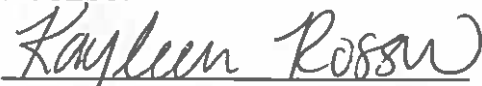
PASSED AND APPROVED this date: April 30, 2019

CITY OF IOWA COLONY

By: _____


Michael B. Holton, Mayor

ATTEST:


Kayleen Rosser, City Secretary
Iowa Colony/Ordinances/CVS Variance to UDC



LETTER OF RECOMMENDATION
ATTACHMENT TO ORDINANCE GRANTING
VARIANCE TO UNIFIED DEVELOPMENT CODE FOR
2810 MERIDIANA PARKWAY

LETTER OF RECOMMENDATION FROM J. KENT MARSH, AICP CUD, STAFF PLANNER

REQUEST FOR VARIANCE TO THE UNIFORM DEVELOPMENT CODE ORDINANCE

The City of Iowa Colony received an application for a variance to the Uniform Development Code ordinance to allow (1) street trees to be placed more than 25 feet from the street right-of-way line and (2) less than the minimum percentage of transparency on the building facade facing a public street. The site is located at 2810 Meridiana Parkway on the south side between SH 288 and Karsten Boulevard within Restricted Reserve C of Karsten Boulevard Phase 1 Street Dedication and Reserve recorded subdivision plat.

BACKGROUND:

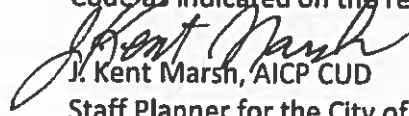
- (1) Section 3.1.2.6. Street Trees Required, subsection (a) requires street trees be planted within the public street right-of-way, or on private non-residential property within twenty-five (25) feet parallel and adjacent to a major thoroughfare. The proposed use of the site is a CVS pharmacy, a private non-residential use. The site has frontage on Meridiana Parkway, a designated major arterial on the City of Iowa Colony Major Thoroughfare Plan. A thirty (30) feet wide pipeline easement is located directly adjacent and parallel to the road right-of-way. The applicant has indicated that the pipeline company will not allow tree planting within its easement area. The resulting tree location will be approximately thirty-five feet from the street right-of-way line.
- (2) Section 3.5.3.12. Storefronts, subsection (b) – Transparency requires each exterior wall of a commercial/retail/office building facing a public street must contain at least sixty-five (65) percent transparent material to allow visual penetration of at least three (3) feet into the building. The proposed CVS pharmacy north side of the building faces Meridiana Parkway, a public street.

RECOMMENDATION:

- (1) The applicant is not able to comply with the UDC street tree location requirement and has placed the trees as close to the street right-of-way as possible. The hardship is not self-imposed and the resulting location still provides a visual buffer between the street and the building.
- (2) The original submission indicated approximately thirty (30) percent of the building facade area to be transparent. Upon review by staff, the applicant revised the building facade to indicate an additional three hundred and twenty-five (325) square feet of transparent area by relocating some interior uses to other locations within the store. That modification increased the transparent area to forty-four (44) percent of the building facade area. However, the length of the transparent area is now seventy-two (72) percent of the total front building length. Additionally, the applicant has provided for additional transparent areas on two (2) other building facades not facing public streets and including a four (4) feet deep canopy over all transparent areas for pedestrian protection.

REQUESTED ACTION:

Staff recommends that City Council approve the variances requested to the Uniform Development Code as indicated on the revised drawings submitted by the applicant.



J. Kent Marsh, AICP CUD

Staff Planner for the City of Iowa Colony