

# **Zoning Board of Adjustments**



## **March 15, 2021**

Regular Meeting

# Wylie Zoning Board of Adjustment Regular Meeting

March 15, 2021 - 6:30 PM

Council Chambers - 300 Country Club Road, Building #100, Wylie, Texas 75098



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## CALL TO ORDER

### COMMENTS ON NON-AGENDA ITEMS

*Any member of the public may address the Board regarding an item that is not listed on the Agenda. Members of the public must fill out a form prior to the meeting in order to speak. The Board requests that comments be limited to three minutes for an individual, six minutes for a group. In addition, the Board is not allowed to converse, deliberate or take action on any matter presented during citizen participation.*

### CONSENT AGENDA

*All matters listed under the Consent Agenda are considered to be routine by the Zoning Board of Adjustment and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

- A. Consider and act upon approval of the Minutes for the January 18, 2021 Meeting.

## REGULAR AGENDA

1. Hold a Public Hearing to consider and act upon a request by Fidelmar Miralrio for a variance to Section 2.5.C.2.C(4) of the Zoning Ordinance to allow for a reduction in the required side setbacks for an accessory structure from 15' to 3' at 600 Gateway Bend. **ZBA 2021-03**
2. Hold a Public Hearing to consider and act upon a request by Cary Albert for a variance to Sections 4.3.E.1(a), 4.3.E.4(a) and Figure 5-3 of the Zoning Ordinance to allow for a reduction in the required landscaping and parking for a new development located at 2588 W FM 544. **ZBA 2021-04**

## WORK SESSION

## RECONVENE INTO REGULAR SESSION

## EXECUTIVE SESSION

## RECONVENE INTO OPEN SESSION

*Take any action as a result from Executive Session.*

## ADJOURNMENT

## CERTIFICATION

I certify that this Notice of Meeting was posted on March 12, 2021 at 5:00 p.m. on the outside bulletin board at Wylie City Hall, 300 Country Club Road, Building 100, Wylie, Texas, a place convenient and readily accessible to the public at all times.

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Stephanie Storm, City Secretary

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Date Notice Removed

The Wylie Municipal Complex is wheelchair accessible. Sign interpretation or other special assistance for disabled attendees must be requested 48 hours in advance by contacting the City Secretary's Office at 972-516-6020. Hearing impaired devices are available from the City Secretary prior to each meeting.

If during the course of the meeting covered by this notice, the Zoning Board of Adjustment should determine that a closed or executive meeting or session of the Board or a consultation with the attorney for the City should be held or is required, then such closed or executive meeting or session or consultation with attorney as authorized by the Texas Open Meetings Act, Texas Government Code § 551.001 et. seq., will be held by the Zoning Board of Adjustment at the date, hour and place given in this notice as the Zoning Board of Adjustment may conveniently meet in such closed or executive meeting or session or consult with the attorney for the City concerning any and all subjects and for any and all purposes permitted by the Act, including, but not limited to, the following sanctions and purposes:

Texas Government Code Section:

§ 551.071 – Private consultation with an attorney for the City.

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# Zoning Board of Adjustment

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## **Minutes**

### **Regular Meeting**

**January 18, 2021 – 6:30 p.m.**

**Wylie Municipal Complex – Council Chambers**

**300 Country Club Road, Bldg. 100**

**Wylie, TX 75098**

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### **CALL TO ORDER**

*Announce the presence of a Quorum.*

Jasen Haskins, Planning Manager called the meeting to order at 6:30PM. and announced a quorum was present. Due to lack of Chair a motion was required for Interim Chair. A motion was made by Board Member Andrew Wight, seconded by Board Member Richard Covington to nominate Board Member Shaun Chronister as Interim Chair. A vote was taken and carried unanimously.

Board Members in attendance; Chair Shaun Chronister, Board Member Lance Kiser, Board Member Richard Covington, and Board Member Andrew Wight. Board Members absent: Board Member Byron Betler, and Board Member Robert Blair.

Staff present were Mr. Jasen Haskins, Planning Manager, Mr. Kevin Molina, Senior Planner and Ms. Mary Bradley, Administrative Assistant II.

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### **CITIZENS COMMENTS ON NON-AGENDA ITEMS**

No one approached the Board Members.

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### **CONSENT AGENDA**

*All matters listed under the Consent Agenda are considered to be routine by the Board and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

#### **A. Consider and act upon approval of the Minutes for the November 16, 2020 Meeting.**

### **Board Action**

A motion was made by Board Member Wight, and seconded by Board Member Covington, to approve the minutes as submitted. A vote was taken and carried 4 – 0.

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### **REGULAR AGENDA**

## **Public Hearing**

- 1. Hold a Public Hearing to consider and act upon a request by Tulsi Grocers for a variance to Section 5.F.14 of the Zoning Ordinance to allow for a reduction in the required parking for a Grocery Store located at 2811 W. FM 544. ZBA 2021-01.**

## **Staff Comments**

Mr. Molina addressed the Board Members stating that the property is located at 2811 W FM 544 and is currently zoned Commercial Corridor. The applicant is requesting a variance to the parking requirements.

In 2017 the Planning and Zoning approved a site plan for the property, as the intention was to develop Office and General Merchandise, with 16 parking spaces. The applicant is desiring to open a ethnic grocery store, and requesting a reduction in required parking spaces of 20 to 16 parking spaces. The parking requirements for a grocery store is one parking space per 300 square feet.

The applicant has submitted a revised floor plan that shows a total occupancy area of 5,462 square feet with 4,064 square feet of sales space and 1,398 square feet of area for office, storage and preparation of food items.

Public comment forms were mailed to 12 property owners. Four comment forms were received, three were in opposition and one in favor of the request.

## **Public Comments**

Chair Chronister opened the public hearing asking anyone present wishing to address Board Members to come forward.

Board Member Wight questioned the applicant regarding a comment form returned from the adjacent property owner expressing concern of joint access. Mr. Kevin Patel, 1503 Astoria Drive, Allen, approached the Board Members, representing the applicant for the request, stating that the property owners on both sides were approached and assured of no joint access due to landscaping blocking the access. The grocery store will have four employees, with two working in the morning and two working in the evening.

Chair Chronister closed the public hearing.

## **Board Discussion**

Board Member Wight stated that the proposed grocery store is small and is similar to the Aldi Grocery Market down the street, and the requested parking spaces seems adequate.

## **Board Action**

A motion was made by Board Member Wight, and seconded by Board Member Covington, to grant the variance to Section 5.F.14 of the Zoning Ordinance to allow for a reduction in the required parking for a Grocery Store and approve the revised Site Plan and Floor Plan. Property located at 2811 W. FM 544. **ZBA 2021-01**. A vote was taken and carried 4 - 0.

- 2. Hold a Public Hearing to consider and act upon a request by the City of Wylie for a variance to Section 7.9.B.3.b of the Zoning Ordinance to allow for an exemption to the noise sound level standards for the use of an emergency generator. Property located 3200 McMillan Road. ZBA 2021-02.**

### **Staff Comments**

Mr. Molina approached the Board Members stating that the property is located at 3200 McMillan Road and is currently zoned Planned Development Ordinance 1999-32. The applicant is City of Wylie, and the use is a Fire Station.

The City of Wylie is requesting a variance to the maximum permissible sound pressure levels allowed when adjacent to a residential area. An emergency generator is proposed to be installed and only to be used during testing or power outage scenarios.

A hardship may exist as the generator will be seldomly used and can be of great benefit to the life and safety of the citizens of Wylie.

Public Comment forms were mailed to 14 property owners. No comment forms were received in favor or in opposition of the request.

### **Public Comments**

Chair Chronister opened the public hearing asking anyone present wishing to address Board Members to come forward.

Fire Chief Brandon Blythe approached the Board Members, stating that the Zoning Ordinance does not mention public safety equipment or structures, just exempts public safety vehicles during times of emergency. The emergency generator will be tested on Monday morning at 10:00AM and the duration of the test is approximately one hour, in addition to any emergency power outage scenarios.

Chair Chronister closed the Public Hearing.

### **Board Action**

A motion was made by Board Member Covington, and seconded by Board Member Wight to grant the variance to Section 7.9.B.3.b of the Zoning Ordinance to allow for an exemption to the noise sound level standards for the use of an emergency generator. A vote was taken and carried 4 – 0.

## **ADJOURNMENT**

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A motion was made by Board Member Covington and seconded by Board Member Kiser, to adjourn the meeting at 6:54PM. A vote was taken and carried 4 – 0.

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**Shaun Chronister, Chair**

**ATTEST:**

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**Mary Bradley**





# Wylie Zoning Board of Adjustment

## AGENDA REPORT

Meeting Date:	March 15, 2021	Item Number:	1
Department:	Planning	Case Number:	2021-03
Prepared By:	Kevin Molina	Project Location:	600 Gateway Bend
Date Prepared:	February 09, 2021	Subdivision Name:	Westgate Phase 1
		Exhibits:	Locator Map, Site Plans, Notification Map, Comments

### Subject

Hold a Public Hearing to consider and act upon a request by Fidelmar Miralrio for a variance to Section 2.5.C.2.C(4) of the Zoning Ordinance to allow for a reduction in the required side setbacks for an accessory structure from 15' to 3' at 600 Gateway Bend. **ZBA 2021-03**

### Discussion

**Applicant: Fidelmar Miralrio**

**Owner: Fidelmar Miralrio**

The subject property is located at 600 Gateway Bend and is currently zoned SF 10/24.

The property owner is requesting for a side setback reduction in lieu of the required 15' requirement in order to be allowed to finish a build on a new accessory structure that measures 16' X 22'.

Work on the new structure was started without a city permit. A permit cannot be granted without the proper variances and or compliance with the Zoning Ordinance.

In review of the variance case, staff discovered that a 5' utility easement is located on the property. Should the side setback variance request be granted, staff's recommendation is for it to be limited to a max 5'. The 5' distance would keep the structure outside of the utility easement. The applicant is aware of staff's recommendation and has built the structure at a distance of 5'.

A unique circumstance may be apparent as the property is located on a corner lot. The intent of the 15' side setback requirement, for accessory structures on the side of the main structure, is to avoid having structures adjacent to, and directly between, neighboring homes. The proposed accessory structure will not be located adjacent to a neighboring home and is placed outside of the visibility triangle for vehicular visibility.

The accessory structure meets all other requirements of the zoning ordinance, including height and overall size.

Public comment forms were mailed to eight-teen (18) property owners within 200 feet of this request, as required by State Law. At the time of posting two comments were returned in favor and none in opposition of the request.

**The Board shall not grant a variance to the development code which:**

- (1) Permits a land use not allowed in the zoning district in which the property is located; or
- (2) Is in the public right-of-way or on public property; or
- (3) Alters any definition of the development code; or

- (4) Is other than the minimum variance that will afford relief with the least modification possible to the requirements of the development code; or
- (5) Is based on physical conditions or circumstances of the property so general or recurring in nature as to reasonably make practicable the formulation of a general regulation to be adopted as an amendment to the development code; or
- (6) Is based exclusively on findings of personal or financial hardship.

**In order to grant a variance to the development code the Board shall find that all the following have been satisfied:**

- (1) That there are unique physical circumstances or conditions of the lot, or other exceptional physical condition particular to the affected property;
- (2) That because of these unique physical circumstances or conditions, the property cannot be reasonably developed or used in compliance with the provisions of the development code;
- (3) That due to such unique physical circumstances or conditions, the strict application of the development code would create a demonstrated hardship;
- (4) That the demonstrable hardship is not self-imposed;
- (5) That the variance if granted will not adversely affect the proposed development or use of adjacent property or neighborhood;
- (6) That the variance, if granted will not change the character of the zoning district in which the property is located;
- (7) That the variance, if granted is in keeping with the intent of the development code; and
- (8) That the variance, if granted, will not adversely affect the health, safety or welfare of the citizens of Wylie.

**Approved By**

**Department Director**

*Initial*

JH

*Date*

March 10, 2021



# Locator Map

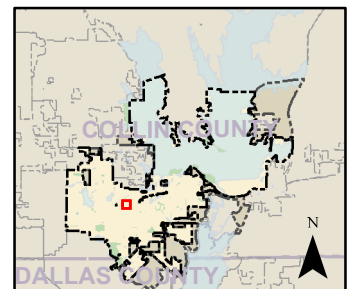


WESTGATE PHASE I (CWY), BLK 18, LOT 3R



Subject Property

0 112.5 225 450 675 900 Feet





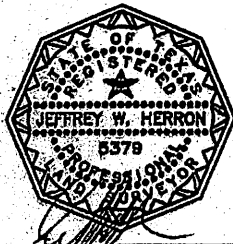
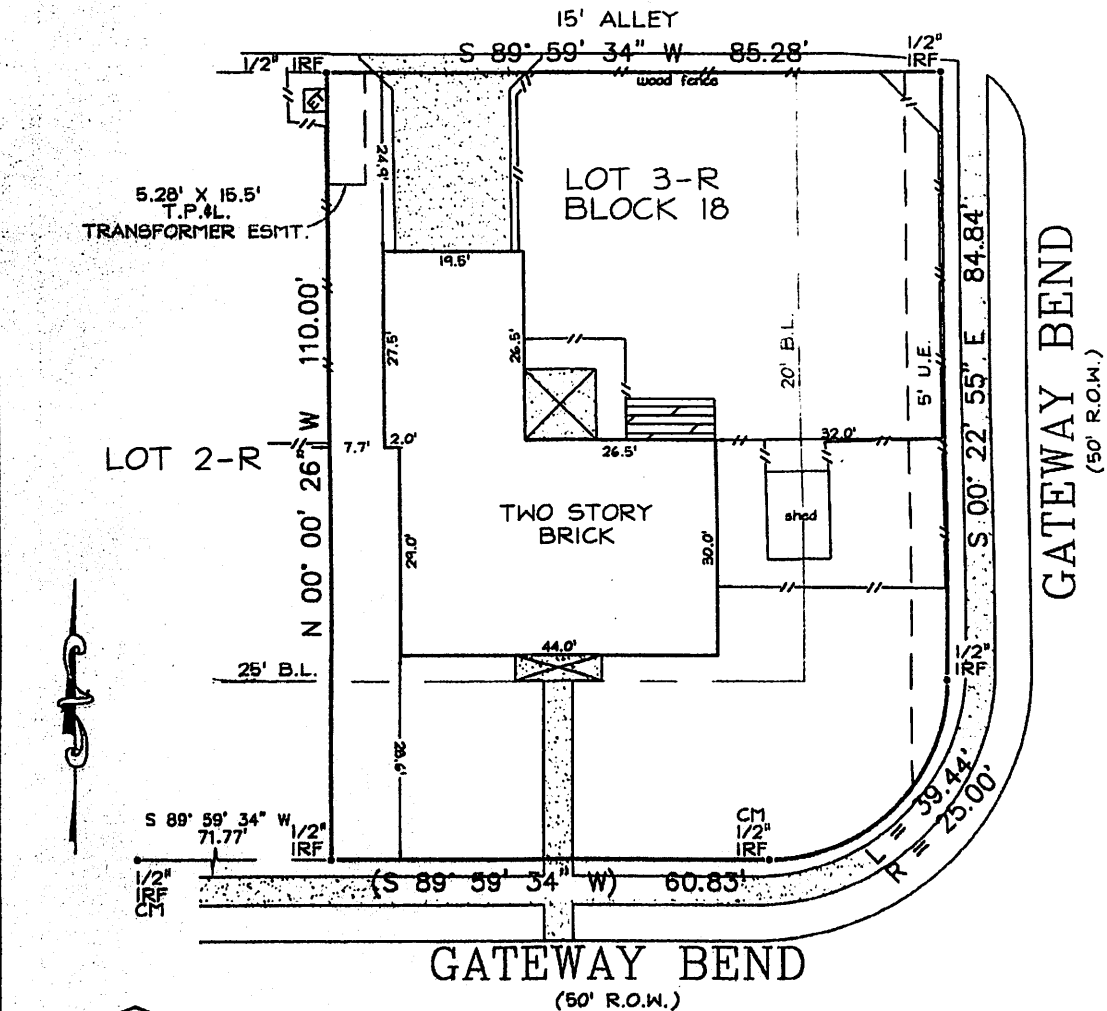






# LEGEND OF ABBREVIATIONS AND SYMBOLS

B.L.	- Building Line	I.P.F.	- Iron Pipe Found	P.A.E.	- Public Access Easement	S.E.	- Sewer Easement
C.M.	- Control Monument	I.R.F.	- Iron Rod Found	P.O.S.E.	- Public Open Space Easement	U.E.	- Utility Easement
D.E.	- Drainage Easement	I.R.S.	- Iron Rod Set	R.O.W.	- Right of Way	X.T.R.W.	- Railroad Tie Retaining Wall
D.U.E.	- Drainage & Utility Easement	M.E.	- Maintenance Easement	R.W.	- Retaining Wall	O.H.E.	- Overhead Electric
ET	- Electric Transformer	( )	- Record Data				
F.P.	- Fence Post						



Address: 600 GATEWAY BEND

G.F. No.: 1157125-F702

Date: 02/28/08

This survey is valid only with signature in black ink.

I, Jeffrey W. Herron, Registered Professional Land Surveyor do hereby declare that the map shown hereon accurately represents the property as determined by an on-the-ground survey made under my direct supervision, and correctly shows the boundary lines and dimensions of the property indicated hereon. There are no visible conflicts, or protrusions, except as shown and said property has access to a public roadway. All easements and right-of-ways that the surveyor has knowledge of or has been advised of and those shown on the referenced plat of record are shown or noted hereon. This survey is for the exclusive use of title company, the mortgage company and the hereon named purchaser.

ACCEPTED BY:

DATE: Fidelis Alvarado

Purchaser

Purchaser

Any reproduction of this plat without surveyor's written consent is a violation of Federal copyright law.

Easements recorded in Volume 195, Page 46, Volume 397, Page 21, DRCT, has no effect on this lot.

This Lot is shown as being located in Zone "X" by Flood Insurance Rate Map No. 48065C0470 G, dated January 19, 1996. It is not shown as being located in a Special Flood Hazard Area inundated by 100-Year Flood.

## LEGAL DESCRIPTION

LOT 3R, IN BLOCK 18 OF WESTGATE, PHASE 1, REVISED, AN ADDITION TO THE CITY OF WYLIE, COLLIN COUNTY, TEXAS ACCORDING TO THE REVISED MAP THEREOF RECORDED IN VOLUME G, PAGE 157 OF THE MAP RECORDS OF COLLIN COUNTY, TEXAS.

Scale: 1" = 20'

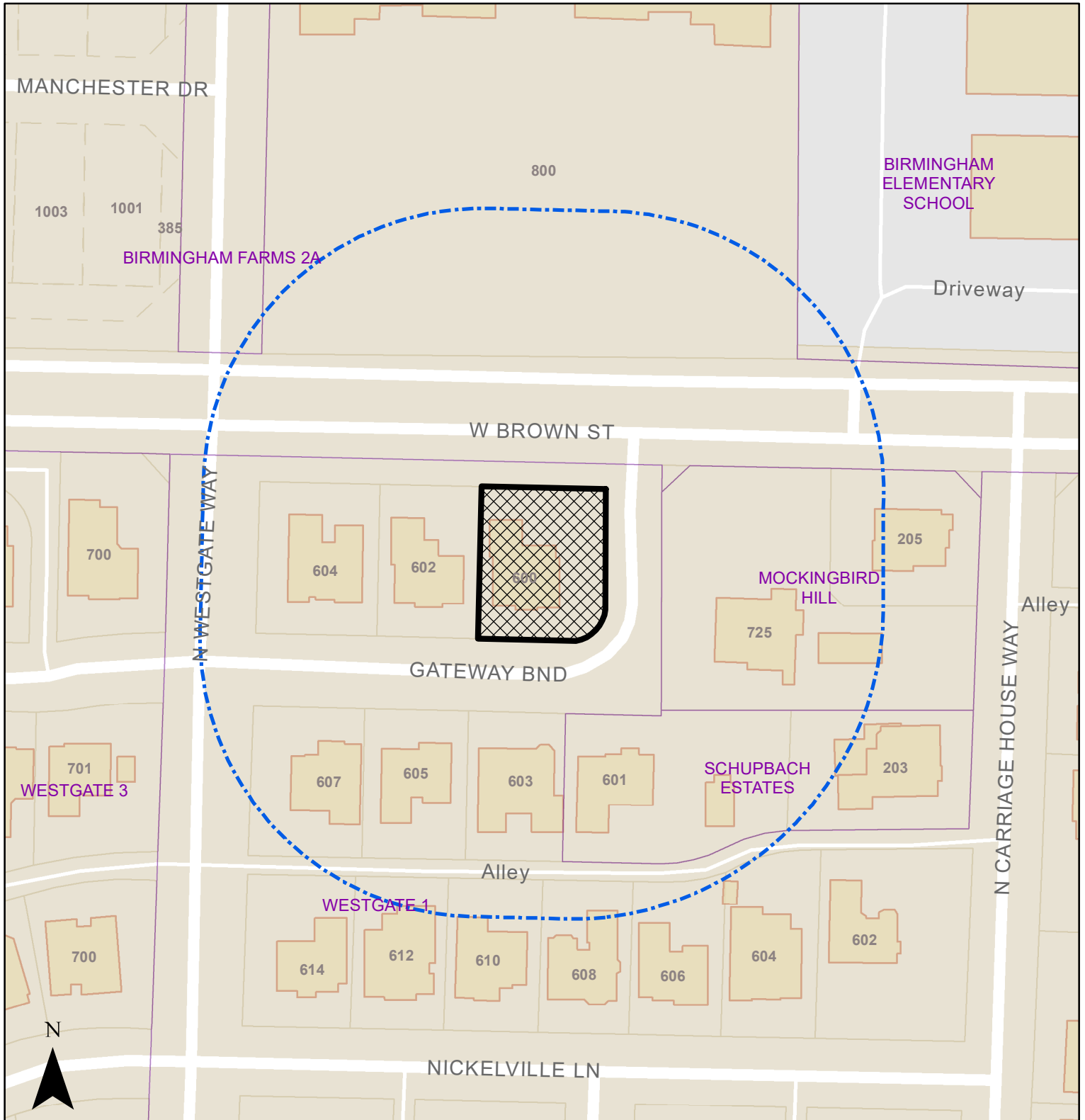
Tech: LDS

Field: JS

Job No: 502FP01

A.L.S. LAND SURVEYING  
Professional Land Surveying Services

# Notification Map



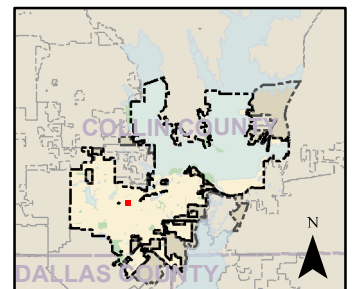
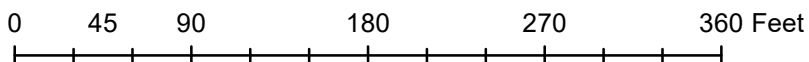
WESTGATE PHASE I (CWY), BLK 18, LOT 3R



200 Foot Notification Buffer



Subject Property



## PUBLIC COMMENT FORM

(Please type or use black ink)

Planning Department  
300 Country Club Road  
Building 100  
Wylie, Texas 75098

☒ I am **FOR** the requested variance as explained on the attached public notice for ZBA Case #2021-03.

☐ I am **AGAINST** the requested variance as explained on the attached public notice for ZBA Case #2021-03.

Date, Location & Time of  
Planning & Zoning  
Commission meeting:

Monday, February 15, 2021 at 6:30 pm  
Municipal Complex, 300 Country Club Road, Building 100, Wylie, Texas

Name: Kathryn: Steven Robertson  
(please print)

Address: 205 N Carriage House Way  
Wylie, TX 75098

Signature:

Date:

2/3/21

### COMMENTS:

We can see from our bed room window,  
looks like a nice structure. ~~It is a nice structure.~~  
Hope he can finish it soon.



## PUBLIC COMMENT FORM

(Please type or use black ink)

Planning Department  
300 Country Club Road  
Building 100  
Wylie, Texas 75098

☒

I am **FOR** the requested variance as explained on the attached public notice for ZBA Case #2021-03.

☐

I am **AGAINST** the requested variance as explained on the attached public notice for ZBA Case #2021-03.

Date, Location & Time of  
Planning & Zoning  
Commission meeting:

Monday, February 15, 2021 at 6:30 pm  
Municipal Complex, 300 Country Club Road, Building 100, Wylie, Texas

Name: CHARLES SHUECRAFT SR.  
(please print)

Address: 604 GATEWAY BND.  
WYLIE, TX 75098

Signature: Charles F Shuecraft SR.

Date: FEB 5, 2021

### COMMENTS:

I AGREE to allow only a 3' Accessory  
Structure Set Back (Case # ZBA  
No. 2021-03.)

This Will Allow the home owner at  
600 GATEWAY BND to Build a desired  
Building.

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# Wylie Zoning Board of Adjustment

## AGENDA REPORT

Meeting Date:	March 15, 2021	Item Number:	2
Department:	Planning	Case Number:	2021-04
Prepared By:	Kevin Molina	Project Location:	2588 W FM 544
Date Prepared:	February 09, 2021	Subdivision Name:	Woodbridge Centre
		Exhibits:	Locator Map, Site Plans, Notification Map, Comments

### Subject

Hold a Public Hearing to consider and act upon a request by Cary Albert for a variance to Sections 4.3.E.1(a), 4.3.E.4(a) and Figure 5-3 of the Zoning Ordinance to allow for a reduction in the required landscaping and parking for a new development located at 2588 W FM 544. **ZBA 2021-04**

### Discussion

**Applicant: Cary Albert**

**Owner: CSD Woodbridge LLC**

The subject property is located at 2588 W FM 544 and is currently zoned Planned Development 2003-01.

The applicant is requesting three variances to allow for the development of a 10,000 sq.ft retail/restaurant structure on 0.974 acres of land.

The applicant has applied for the variances due to TXDOT acquiring an approximate 13' width of the street frontage for the future widening of FM 544.

The variance to section 4.3.E.1(a) is requesting a reduction of the required 10' landscaped street buffer to allow for a minimum width of 1.5' with a maximum width of 11.09'.

The variance to section 4.3.E.1(a) is requesting a reduction to the 20% landscaped area requirement to 15%.

The last variance to Figure 5-3 of the zoning ordinance is requesting a reduction in the parking requirements from 37 parking spaces to 35 parking spaces. The Woodbridge Centre shopping center has a reciprocal easement agreement that allows for the entire site to provide shared parking. A similar parking variance was approved in 2016 for the existing IHOP development located west from the subject property.

Public comment forms were mailed to nine (9) property owners within 200 feet of this request, as required by State Law. At the time of posting one comment was returned in favor and one comment form was returned in opposition of the request.

**The Board shall not grant a variance to the development code which:**

- (1) Permits a land use not allowed in the zoning district in which the property is located; or
- (2) Is in the public right-of-way or on public property; or
- (3) Alters any definition of the development code; or

- (4) Is other than the minimum variance that will afford relief with the least modification possible to the requirements of the development code; or
- (5) Is based on physical conditions or circumstances of the property so general or recurring in nature as to reasonably make practicable the formulation of a general regulation to be adopted as an amendment to the development code; or
- (6) Is based exclusively on findings of personal or financial hardship.

**In order to grant a variance to the development code the Board shall find that all the following have been satisfied:**

- (1) That there are unique physical circumstances or conditions of the lot, or other exceptional physical condition particular to the affected property;
- (2) That because of these unique physical circumstances or conditions, the property cannot be reasonably developed or used in compliance with the provisions of the development code;
- (3) That due to such unique physical circumstances or conditions, the strict application of the development code would create a demonstrated hardship;
- (4) That the demonstrable hardship is not self-imposed;
- (5) That the variance if granted will not adversely affect the proposed development or use of adjacent property or neighborhood;
- (6) That the variance, if granted will not change the character of the zoning district in which the property is located;
- (7) That the variance, if granted is in keeping with the intent of the development code; and
- (8) That the variance, if granted, will not adversely affect the health, safety or welfare of the citizens of Wylie.

**Approved By**

**Department Director**

*Initial*

JH

*Date*

March 10, 2021



# Locator Map

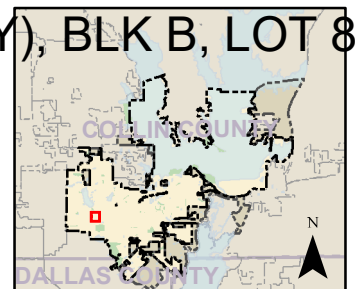


WOODBIDGE CENTRE PHASE I ADDITION (CWY), BLK B, LOT 8R;



Subject Property

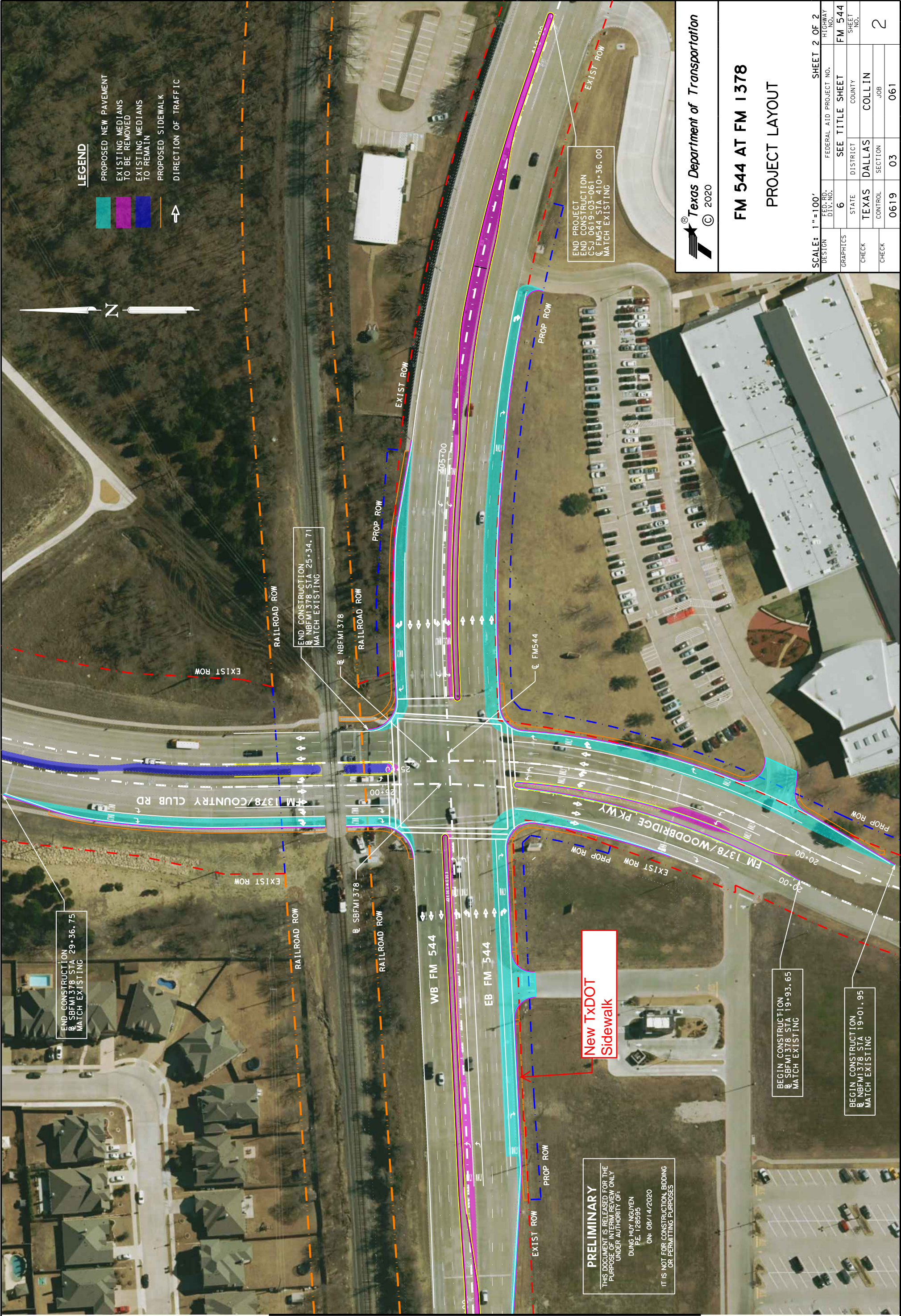
0 120 240 480 720 960 Feet











LEGEND

- PROPOSED NEW PAVEMENT
- EXISTING MEDIANS TO BE REMOVED
- EXISTING MEDIANS TO REMAIN
- PROPOSED SIDEWALK
- DIRECTION OF TRAFFIC



**PRELIMINARY**  
THIS DOCUMENT IS RELEASED FOR THE  
PURPOSE OF INTERIM REVIEW ONLY  
UNDER AUTHORITY OF:  
DUNG HUY NGUYEN  
P.E. 128895  
ON: 08/14/2020  
IT IS NOT FOR CONSTRUCTION, BIDDING  
OR PERMITTING PURPOSES

New TxDOT  
Sidewalk

END PROJECT  
END CONSTRUCTION  
CSJ 0619-03-061  
C. FM544 STA 410+36.00  
MATCH EXISTING

END CONSTRUCTION  
@ NBFM1378 STA 25+34.71  
MATCH EXISTING

END CONSTRUCTION  
@ SBFM1378 STA 29+36.75  
MATCH EXISTING

BEGIN CONSTRUCTION  
@ SBFM1378 STA 19+93.65  
MATCH EXISTING

BEGIN CONSTRUCTION  
@ NBFM1378 STA 19+01.95  
MATCH EXISTING

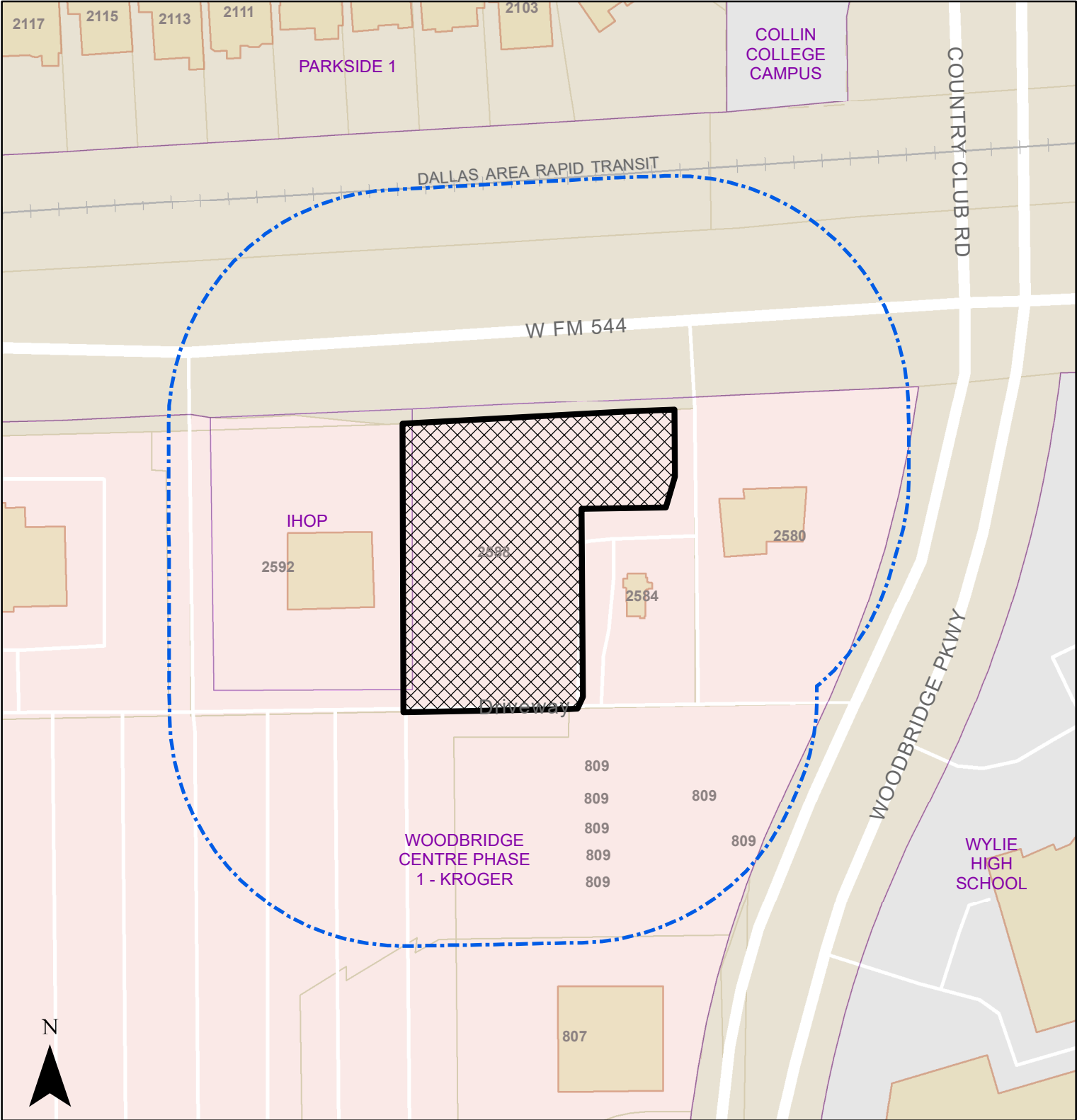


FM 544 AT FM 1378  
PROJECT LAYOUT



SCALE: 1"=100'		SHEET 2 OF 2	
DESIGN	FED. RD. DIV. NO.	FEDERAL AID PROJECT NO.	HIGHWAY NO.
GRAPHICS	6	SEE TITLE SHEET	FM 544
CHECK	STATE	DISTRICT	COUNTY
CHECK	TEXAS	DALLAS	COLLIN
CHECK	CONTROL	SECTION	JOB
	0619	03	061



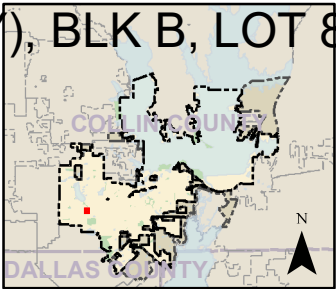
# Notification Map



WOODBIDGE CENTRE PHASE I ADDITION (CWY), BLK B, LOT 8R;

 200 Foot Notifcation Buffer  Subject Property

0 55 110 220 330 440 Feet





## PUBLIC COMMENT FORM

(Please type or use black ink)

Planning Department  
300 Country Club Road  
Building 100  
Wylie, Texas 75098

1

I am **FOR** the requested variance as explained on the attached public notice for ZBA Case #2021-04.

\_\_\_\_\_

I am **AGAINST** the requested variance as explained on the attached public notice for ZBA Case #2021-04.

Date, Location & Time of  
Planning & Zoning  
Commission meeting:

Monday, February 15, 2021 at 6:30 pm  
Municipal Complex, 300 Country Club Road, Building 100, Wylie, Texas

Name:

The Hooks Group LP to Scott McKeever  
(please print)

Address:

2584 W FM 544  
Wylie TX

1675 Tuskegee Rd  
C05, C08, C09, C15

Signature:



Date:

08 Feb 2021

### COMMENTS:

As the <sup>owner</sup> ~~business~~ immediately adjacent,  
we have no issue with these variances  
and wish the developer good luck!

## PUBLIC COMMENT FORM

(Please type or use black ink)

Planning Department  
300 Country Club Road  
Building 100  
Wylie, Texas 75098

I am **FOR** the requested variance as explained on the attached public notice for ZBA Case #2021-04.

**X**

I am **AGAINST** the requested variance as explained on the attached public notice for ZBA Case #2021-04.

Date, Location & Time of  
Planning & Zoning  
Commission meeting:

Monday, March 15, 2021 at 6:30 pm  
Municipal Complex, 300 Country Club Road, Building 100, Wylie, Texas

Name: Greencor Investment, Ltd  
(please print)

Address: 1350 Dominion Plaza  
Tyler, TX 75703

Signature: William R. Brown III

Date: 2-26-21

### COMMENTS:

The landscaping buffer is of the utmost importance for maintaining the long-term quality of the development. The parking is already cramped due to high schoolers illegally using these parking spots.