

Zoning Board of Adjustments



January 18, 2021

Regular Meeting



Zoning Board of Adjustment

NOTICE OF MEETING

Regular Meeting Agenda

January 18, 2021 – 6:30 pm

Wylie Municipal Complex - Council Chambers

300 Country Club Road, Building #100

Wylie, TX 75098

Byron Betler.....Chair
Robert Blair..... Vice Chair
Andrew Wight..... Board Member
Shaun Chronister..... Board Member
Richard Covington.....Board Member
Lance Kiser..... Alternate Board Member
Daniel CooperAlternate Board Member
Jasen Haskins..... Planning Manager
Kevin Molina..... Sr Planner
Mary Bradley.....Administrative Assistant

In accordance with Section 551.042 of the Texas Government Code, this agenda has been posted at the Wylie Municipal Complex, distributed to the appropriate news media, and posted on the City website: www.wylietexas.gov within the required time frame. As a courtesy, the entire Agenda Packet has also been posted on the City of Wylie website: www.wylietexas.gov.

The Board request that all cell phones and pagers be turned off or set to vibrate. Members of the audience are requested to step outside the Council Chambers to respond to a page or to conduct a phone conversation.

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.

CALL TO ORDER

Announce the presence of a Quorum

CITIZENS COMMENTS ON NON-AGENDA ITEMS

Residents may address the Board regarding an item that is not listed on the Agenda. Residents must fill out a non-agenda form prior to the meeting in order to speak. The Board requests that comments be limited to three (3) minutes. In addition, the Board is not allowed to converse, deliberate or take action on any matter presented during citizen participation.

CONSENT AGENDA

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

EXECUTIVE SESSION

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 Zoning Board of Adjustment 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 sections and purposes:

Texas Government Code Section:

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

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.**
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. **ZBA 2021-02**

ADJOURNMENT

CERTIFICATION

I certify that this Notice of Meeting was posted on January 15, 2021 at 5:00 p.m. as required by law in accordance with Section 551.042 of the Texas Government Code and that the appropriate news media was contacted. As a courtesy, this agenda is also posted on the City of Wylie website: www.wylietexas.gov.

Stephanie Storm, City Secretary

Date Notice Removed

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Zoning Board of Adjustment

Minutes

Regular Meeting

November 16, 2020 – 6:30 p.m.

Wylie Municipal Complex – Council Chambers

300 Country Club Road, Bldg. 100

Wylie, TX 75098

CALL TO ORDER

Announce the presence of a Quorum.

Chair Byron Betler called the meeting to order at 6:30pm and announced the presence of a quorum. Board Members in attendance; Chair Byron Betler, Board Member Lance Kiser, Board Member Richard Covington, Board Member Shaun Chronister, and Board Member Andrew Wight. Board Members absent: Vice Chair Robert Blair.

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

CITIZENS COMMENTS ON NON-AGENDA ITEMS

Residents may address the Board regarding an item that is not listed on the Agenda. Residents must fill out a non-agenda form prior to the meeting in order to speak. The Board requests that comments be limited to three (3) minutes. In addition, the Board is not allowed to converse, deliberate, or take action on any matter presented during citizen participation.

No one approached the Board Members.

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 October 19, 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 5 – 0.

REGULAR AGENDA

Public Hearing

- 1. Hold a Public Hearing to consider and act upon a request by Jerry & Sue Williams for a variance to Section 3.2.B of the Zoning Ordinance to allow for a rear setback of 10' in lieu of a 25' rear setback for the placement of an attached carport. Property located 400 Graham Lane. ZBA 2020-18**

Staff Comments

Mr. Haskins stated that the subject property is located at 400 Graham Lane and is currently zoned Single Family 10/24.

The applicant is seeking a variance to allow for a 10 feet rear setback in lieu of a 25 feet rear setback for the placement of an attached carport that measures 20 feet x 24 feet.

The Board has approved several similar cases over the last few years. Staff is submitting to the City Council on December 12, 2020 an amendment to the Zoning Ordinance that would allow this request "by-right." The Planning and Zoning Commission considered the amendment on November 10, 2020 and recommended approval. The applicant is asking for this variance due to the additional time it would take awaiting City Council consideration.

Public comment forms were mailed to 26 property owners. Four comment forms were received in favor and no comment forms were received in opposition of the request.

Public Comments

Chair Betler opened the Public Hearing.

Mr. and Mrs Jerry Williams, applicants, stated that the carport would cover a recently purchased GMC pickup.

Chair Betler closed the Public Hearing.

Board Action

A motion was made by Board Member Wight, and seconded by Board Member Chronister to grant the variance to Section 3.2.B of the Zoning Ordinance to allow for a rear setback of 10' in lieu of a 25' rear setback for the placement of an attached carport. The property is located 400 Graham Lane. A vote was taken and carried 5 – 0.

ADJOURNMENT

A motion was made by Board Member Chronister and seconded by Board Member Kiser, to adjourn the meeting at 6:38PM. A vote was taken and carried 5 – 0.

Byron Betler, Chair

ATTEST:

Mary Bradley

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Wylie Zoning Board of Adjustment

AGENDA REPORT

Meeting Date:	January 18, 2021	Item Number:	1
Department:	Planning	Case Number:	2021-01
Prepared By:	Kevin Molina	Project Location:	2811 W FM 544
Date Prepared:	January 08, 2021	Subdivision Name:	Poorkiyani Addition
		Exhibits:	Locator Map, Site Plans, Notification Map, Comments

Subject

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**

Discussion

Applicant: Tulsi Grocers

Owner: Shri Ganesh LLC

The subject property is located at 2811 W FM 544 and is currently zoned Commercial Corridor.

The Planning and Zoning Commission approved the site plan in 2017. The approved site plan lists Office and General Merchandise as the proposed uses. The staff report for the approved site plan included a discussion regarding the limitation of uses because of the relatively few number of parking spaces.

A grocery store has a parking ratio of 1 per 300 sq.ft. This varies from the parking ratio of 1 per 400 sq.ft. that is required for an Office or General Merchandise store. The applicant is seeking a variance to allow for a reduction of 4 parking spaces for the allowance of a grocery store. Based on the square footage of the building, the Zoning Ordinance requires the grocery store to have 20 parking spaces and the existing site contains only 16 parking spaces.

The applicant's approved building plans show a total occupied area 5,169 sq.ft. which varies from the overall square footage of 5,933 sq.ft. This breaks down to a sales area of 4,769 sq.ft requiring 16 parking spaces and leaving 400 sq.ft. of remaining space to be used for storage and for the preparation of food items typically requiring 1 extra space.

The applicant has submitted a revised floor plan that shows a total occupancy area of 5,462 sq.ft. with 4,064 sq.ft. of sales space requiring 14 parking spaces and 1,398 sq.ft. of area for office, storage and preparation of food items requiring 2 extra spaces.

The applicant has requested to take into consideration the actual grocery store occupied space of the building for the parking calculation. However, the Zoning Ordinance parking requirements factor in areas such as storage, office space, restrooms, etc., to determine overall parking requirements.

If this variance were to be approved the applicant will be required to submit the new floor plan revisions to the building department prior to being granted a Certificate of Occupancy.

Staff's concerns with approval of this variance is that there is no traffic relief if the parking were ever to be at max capacity. The existing site lacks cross access and the adjacent property owner to the west has submitted a comment form stating that they are unwilling to offer shared parking for the grocery store. In addition, as any hardship seems to be largely self imposed by the initial site design and the current choice of use.

Public comment forms were mailed to twelve (12) property owners within 200 feet of this request, as required by State Law. At the time of posting two comment forms were returned in opposition and one was returned in favor of the variance proposal.

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

January 14, 2021

Locator Map

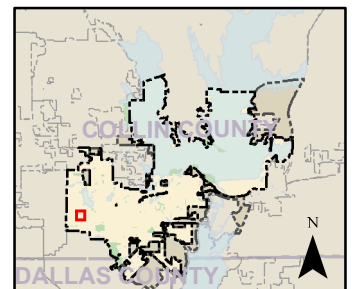


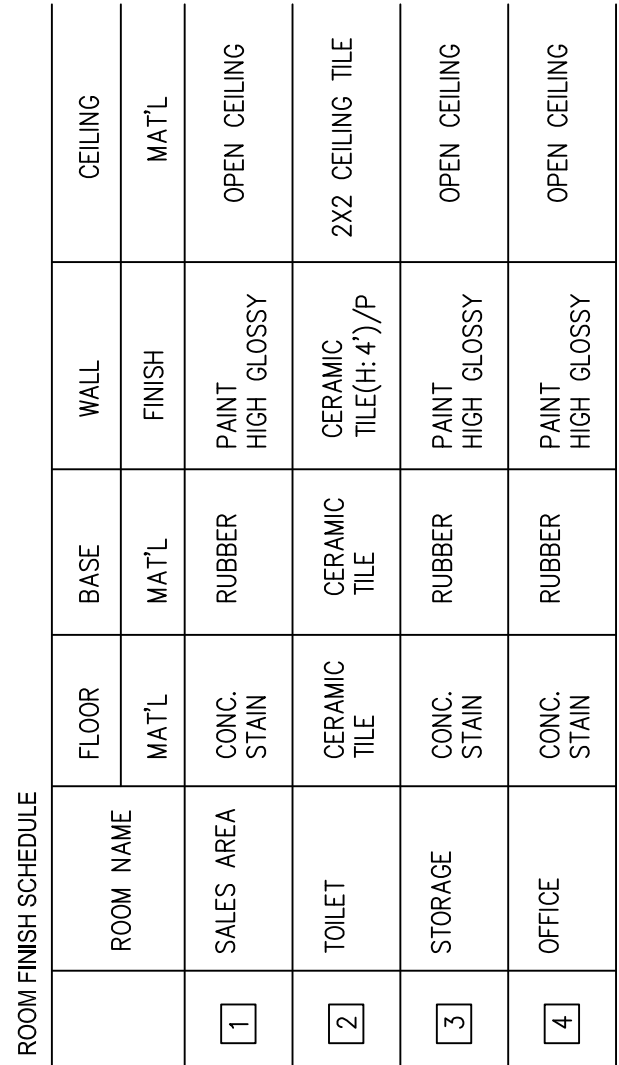
ZBA 2021-01



Subject Property

0 115 230 460 690 920 Feet





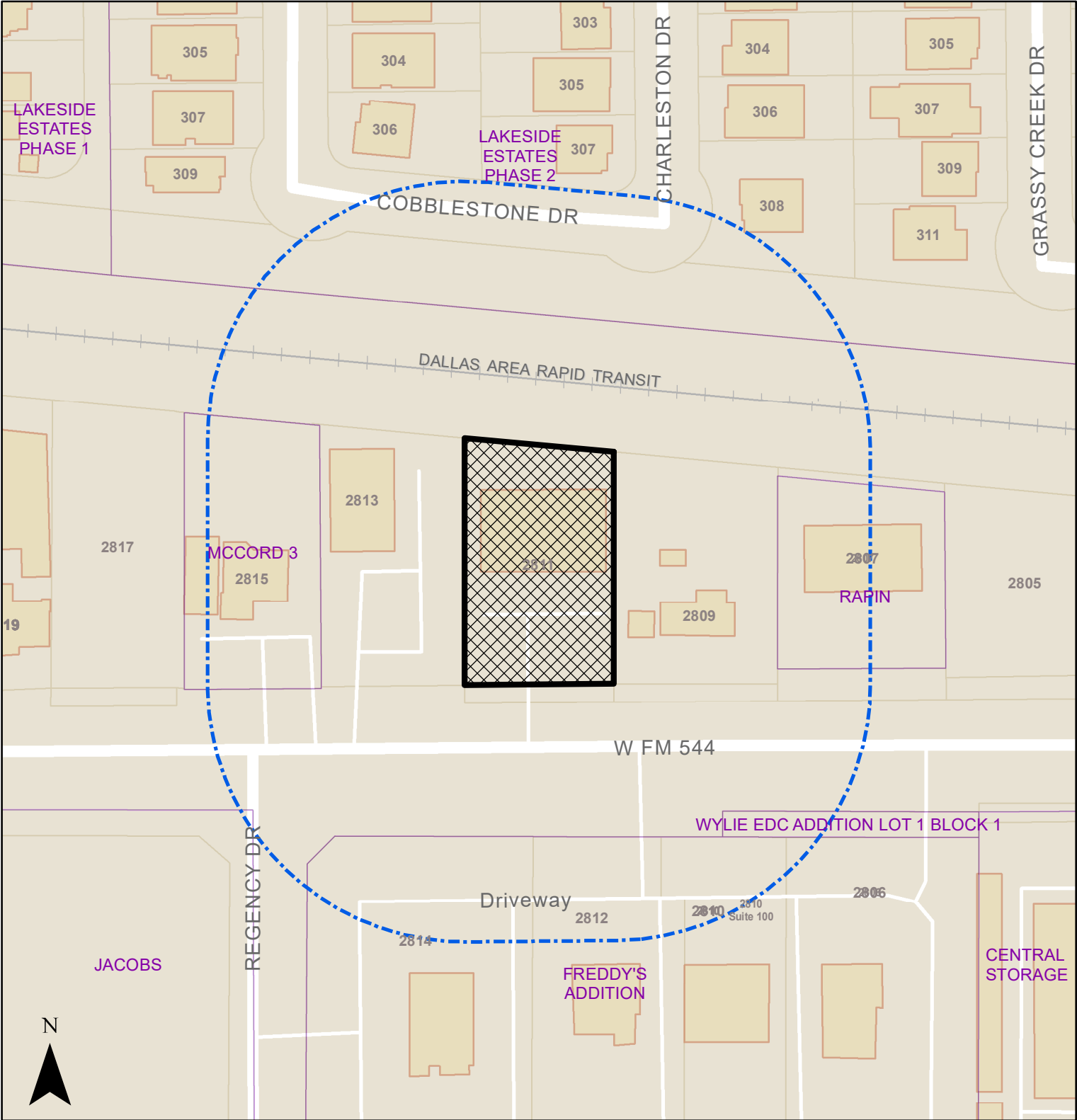


Occupant load table			
Occupancy			
SALE'S AREA	244.5 ² (MEAT MARKET)+1,820.5 ² (GROCERY)		60 (60)
	4,064.5 ²		300 (2)
STORAGE	480.5 ²		300 (2)
OFFICE	99.5 ²		10 (1)
PREP. AREA	480.5 ²		200 (4)
RESTROOM/HALLWAY	189.5 ²		0 (0)
WALLS	471.5 ²		0 (0)



Total occupant load = 75
 $75 \times 0.2 = 15$ egress width required
 (per 1005.1 - egress width per occupant served)
 252' egress width provided.

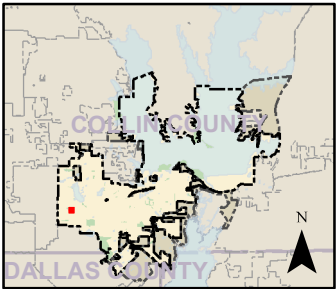
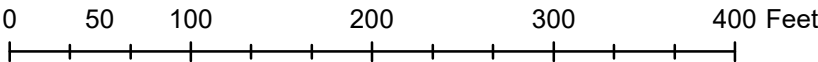
TOTAL S.F.
5,933 S.F.

Notification Map



ZBA 2021-01

 200 Foot Notifcation 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 #2021-01.

I am **AGAINST** the requested variance as explained on the attached public notice for ZBA Case #2021-01.

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

Monday, January 18, 2021 at 6:30 pm
Municipal Complex, 300 Country Club Road, Building 100, Wylie, Texas

Name: Sonal Patel
(please print)

Address: 2811 W. FM 544
Wylie Tx 75098

Signature: [Handwritten Signature]

Date: 1/4/2021

COMMENTS:

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 #2021-01.

X I am **AGAINST** the requested variance as explained on the attached public notice for ZBA Case #2021-01.

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

Monday, January 18, 2021 at 6:30 pm
Municipal Complex, 300 Country Club Road, Building 100, Wylie, Texas

Barbee Development Company

Name: Susan Barbee McClure
(please print)

Address: P.O. Box 2935

Wylie, TX 75098

Signature: Susan McClure

Date: 1-4-2021

COMMENTS:

Barbee Development Company owns property
@ 2810 FM 544 Wylie, TX 75098. Tax
Account # R1096000 B02 R21

Absolutely opposed. No way the site
can handle grocery parking.

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 #2021-01.



I am **AGAINST** the requested variance as explained on the attached public notice for ZBA Case #2021-01.

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

Monday, January 18, 2021 at 6:30 pm
Municipal Complex, 300 Country Club Road, Building 100, Wylie, Texas

Name: AZIZ Selim and Yusuf Mustafa
(please print)

Address: 2813 W Fm 544 Wylie TX 75098
2815 W Fm 544 Wylie TX 75098

Signature:

Date:

[Signature]
1-12-21

COMMENTS:

Tulsi Grocers do not have enough parking space. Also Showmen and Kabab ^{Togo} don't have drive through. This is going to be a big problem for AAA Discount Tire and Auto Care because they don't have enough parking space, their customer will overflow to our parking space. They will start parking on our property we don't want that. I know all the city also know there are not enough parking space. if I have any problem with Tulsi Grocers and Showmen and Kabab Togo. I will blame it on the city of ~~the~~ Wylie. The city of Wylie =

will be responsible for any parking
issue. ~~so~~ That is a very big place
with very limited parking space.
If the city grant Tusli Grocers with
permit you are creating a big
problem for both of us.

I don't see any way that anybody
can assure me that ~~the~~ Tusli Grocer
customer will not park on my parking
space. I will hold city of Wylie
responsible for this ^{big} problem, if
they get the permit.

Thank you

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Wylie Zoning Board of Adjustment

AGENDA REPORT

Meeting Date:	January 18, 2021	Item Number:	2
Department:	Planning	Case Number:	2021-02
Prepared By:	Kevin Molina	Project Location:	3200 McMillen Road
Date Prepared:	January 11, 2021	Subdivision Name:	Fire Station No. 4 Addition
		Exhibits:	Locator Map, Site Plan, Notification Map

Subject

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. **ZBA 2021-02**

Discussion

Applicant: City of Wylie

Owner: City of Wylie

The subject property is located at 3200 McMillen Road and is currently zoned in Planned Development 1999-32.

The Planning and Zoning Commission approved a site plan for Fire Station No. 4 in November of 2020.

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. Additionally, the Zoning Ordinance does allow for public safety vehicles to exceed the noise requirements during times of emergency, but makes no mention of other public safety equipment or structures.

Public comment forms were mailed to fourteen (14) property owners within 200 feet of this request, as required by State Law. At the time of posting no comment forms were returned in opposition or in favor of the variance proposal.

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
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- (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;
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- (4) That the demonstrable hardship is not self-imposed;
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- (7) That the variance, if granted is in keeping with the intent of the development code; and
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Approved By

Department Director

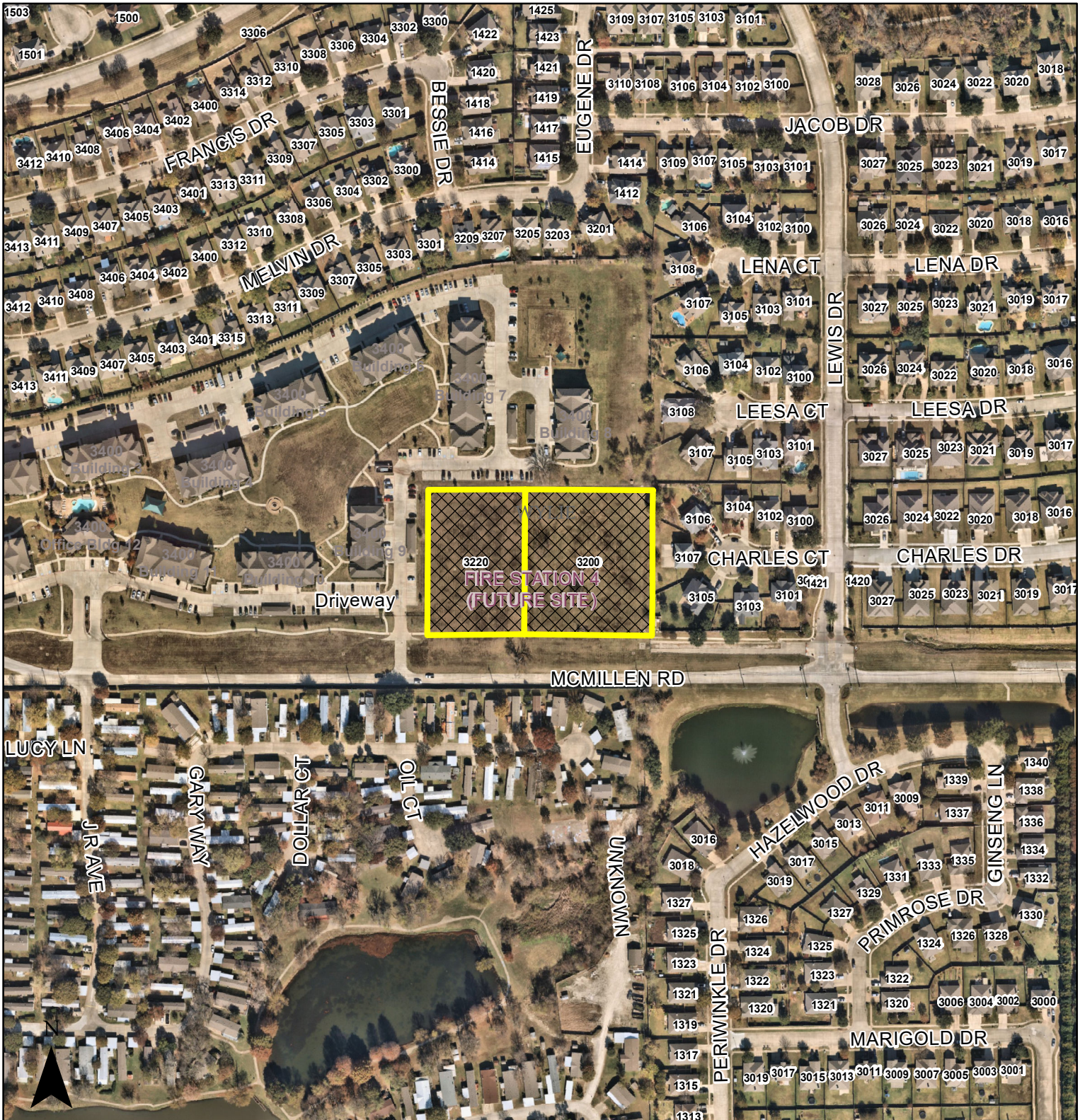
Initial

JH

Date

January 14, 2021

Locator Map

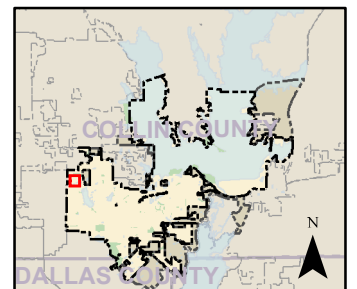


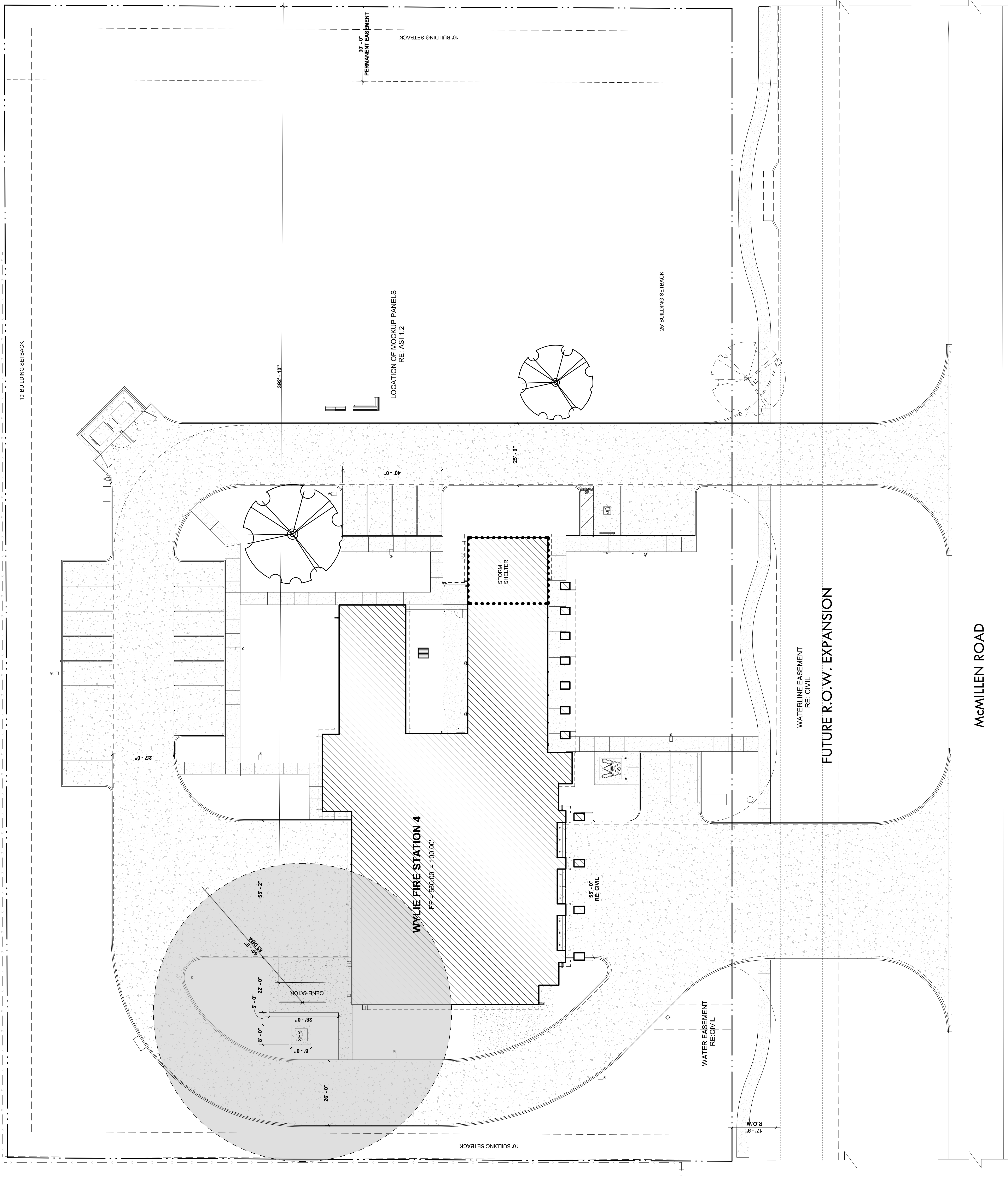
ZBA 2021-02



Subject Property

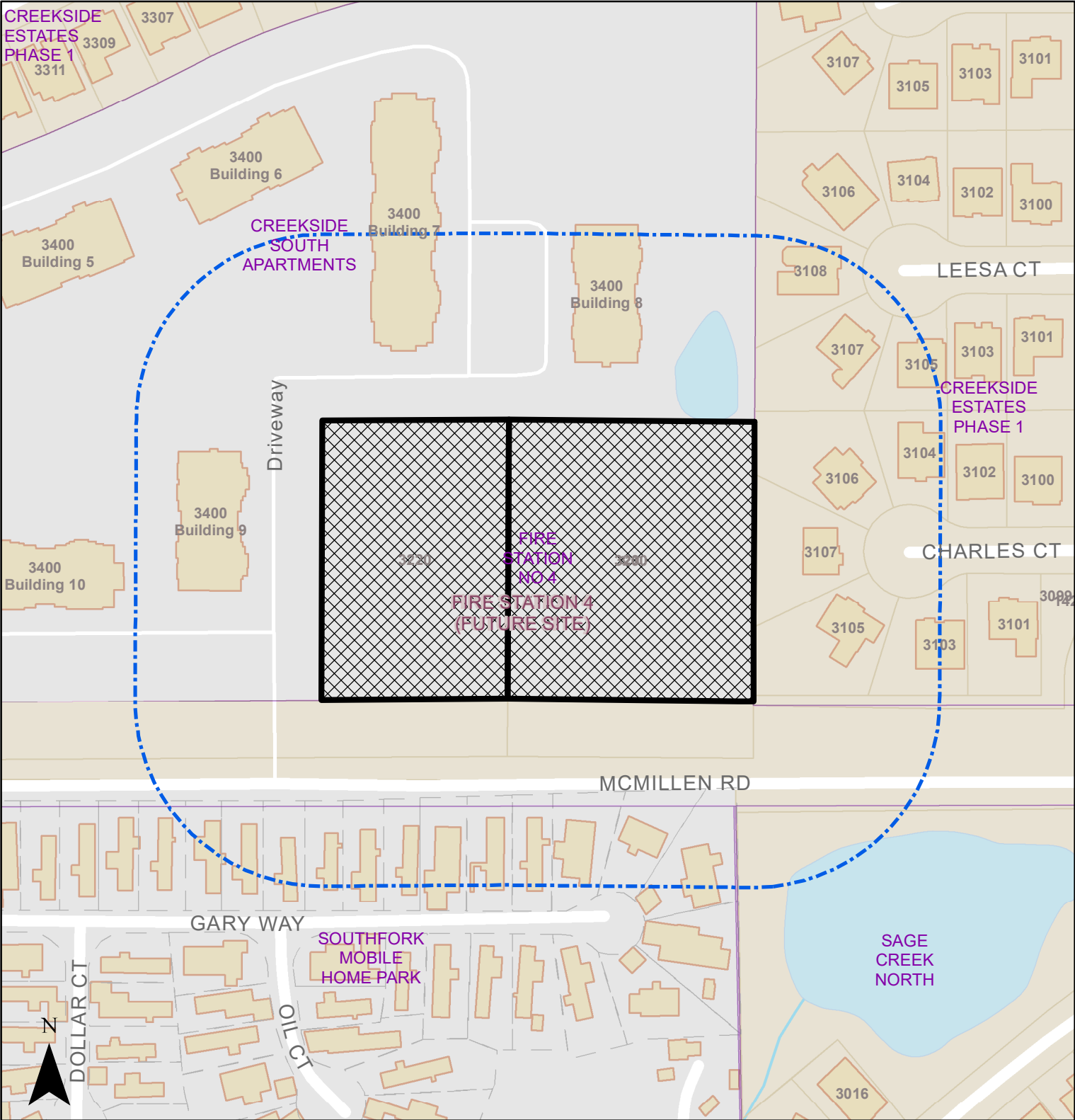
0 135 270 540 810 1,080 Feet







1 GENERATOR SOUND ATTENUATION DIAGRAM

Notification Map



ZBA 2021-02

 200 Foot Notifcation Buffer  Subject Property

