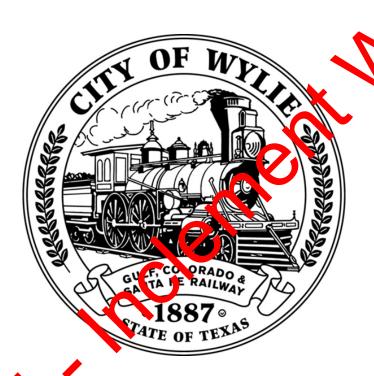
# **Zoning Board of** Adjustments



**February 15, 2021** 

## Wylie Zoning Board of Adjustment Regular Meeting

February 15, 2021 - 6:30 PM Council Chambers - 300 Country Club Road, Building #100, Wylie, Texas 75098



#### 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. Member's of the public must fill out a form prior to the meeting in order to speak. The Board requests that comments be live ted to three minutes for an individual, six minutes for a group. In addition, the Board is not allowed to converse, a lib rate 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 Zoring Brara 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 8, 102 Meeting.

#### **REGULAR AGENDA**

- 1. Hold a Public Hearing to consider and act upon a recuest v 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 2' at 600 Gateway Bend. **ZBA 2021-03**
- 2. Hold a Public Hearing to consider and act polar 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 lew development located at 2588 W FM 544.

  ZBA 2021-04

### WORK SESSION

RECONVENE INTO PAGULAR SESSION

EXECUTIVE SESSION

## RECONVENE N'I OPEN SESSION

Take any action is a sult from Executive Session.

## **ADJOURNMENT**

## ERT FICATION

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

Stephanie Storm, City Secretary	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 at 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

## **Minutes**

Regular Meeting January 18, 2021 – 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.

Jasen Haskins, Planning Manager called the meeting to order at \$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 Loard Member Richard Covington to nominate Board Member Shaun Chronister as Interior Chair. A vote was taken and carried unanimously.

Board Members in attendance; Chair Shain Chotister, 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 Halkins, Planning Manager, Mr. Kevin Molina, Senior Planner and Ms. Mary Bradley, Administrative Assistant II.

## CITIZENS COMMENTS ON MON-AGENDA ITEMS

No one approached the Board Members.

## CONSENT ACENTA

All matters lightly with the Consent Agenda are considered to be routine by the Board and will be enacted by one motion. The exhibit 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.

## **b** ard 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.

## **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 FW 544 and is currently zoned Commercial Corridor. The applicant is requesting a variance the parking requirements.

In 2017 the Planning and Zoning approved a site plan for the property, at the intention was to develop Office and General Merchandise, with 16 parking spaces. The applicance 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 stal occupancy area of 5,462 square feet with 4,064 square feet of sales space and 1,398 quare 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 eque t.

## **Public Comments**

Chair Chronister opened the public bearing 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 of both sides were approached and assured of no joint access due to landscaping block has the access. The grocery store will have four employees, with two working in the morrang and two working in the evening.

Chair Chronister closed the public hearing.

## Bard Discussion

Foard 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. Properly located 3200 McMillan Road. ZBA 2021-02.

## **Staff Comments**

Mr. Molina approached the Board Members stating that the property is located at 200 McMillan Road and is currently zoned Planned Development Ordinance 1999-32. The opticant is City of Wylie, and the use is a Fire Station.

The City of Wylie is requesting a variance to the maximum primis ible sound pressure levels allowed when adjacent to a residential area. An emergency corra or 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 seldenly 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 Nyth capproached the Board Members, stating that the Zoning Ordinance does not mention public safety equipment or structures, just exempts public safety vehicles during times of exargency. 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 at a exempts.

Chan Chronister closed the Public Hearing.

## **<u>heard Action</u>**

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.

ncientelli 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. **ATTEST: Mary Bradley** 



# Wylie Zoning Board of Adjustment

**Owner: Fidelmar Miralrio** 

## **AGENDA REPORT**

Meeting Date:	February 15, 2021	Item Number:	1
Department:	Planning	Case Number:	2021-03
Prepared By:	Kevin Molina	Project Location:	600 Gate vas Berra
Date Prepared:	February 09, 2021	Subdivision Name:	Westgate Phase 1
			Lecate Map, Site Plans,
		Exhibits:	Not fication Map, Comments

### **Subject**

Hold a Public Hearing to consider and act upon a request by Fidelmar Mirairio 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**

The subject property is located at 600 Gateway Benk and as dirrently 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 Zonin. 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 grue are outside of the utility easement. The applicant is aware of staff's recommendation and has built be structure at a distance of 5'.

A unique circumstance have 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 liverly between, neighboring homes. The proposed accessory structure will not be located adjacent to a feighboring 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.

## 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 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:

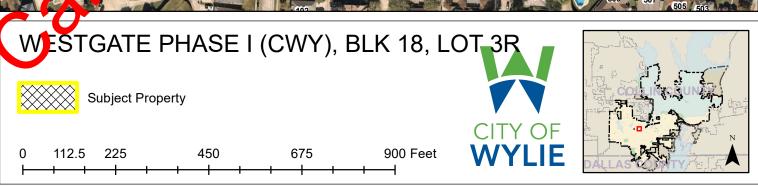
- (1) That there are unique physical circumstances or conditions of the lot, or other exceptional physical condition particular to the affected property;
- (2) That because of these unique physical circumstances or conditions, the preper v cannot be reasonably developed or used in compliance with the 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 ident 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		*		
	<u> </u>	Initial	Date	
Department Director	<b>\</b> \ \ \ -	ЛН	February 11, 2021	

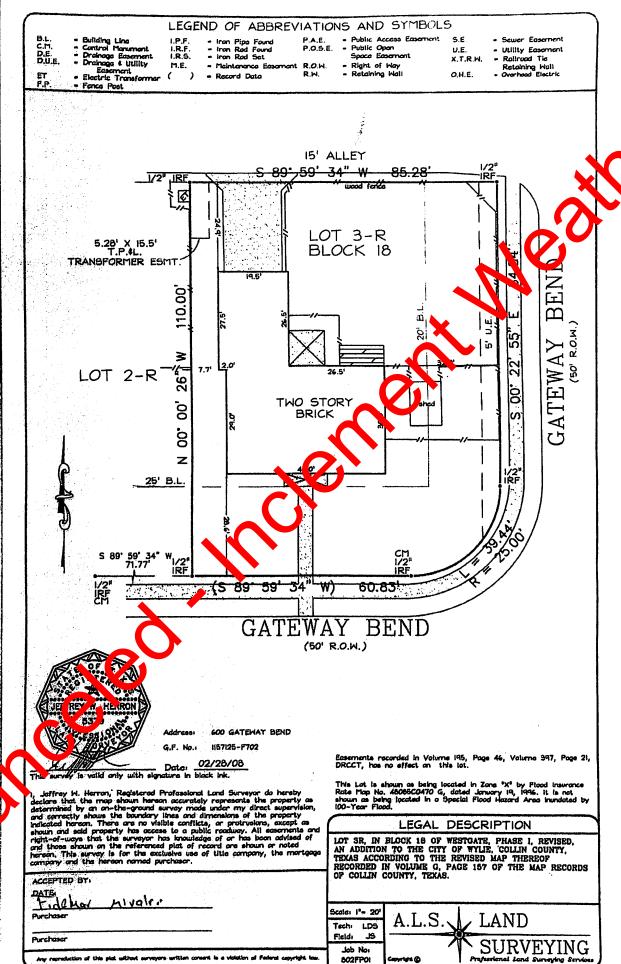
# **Locator Map**





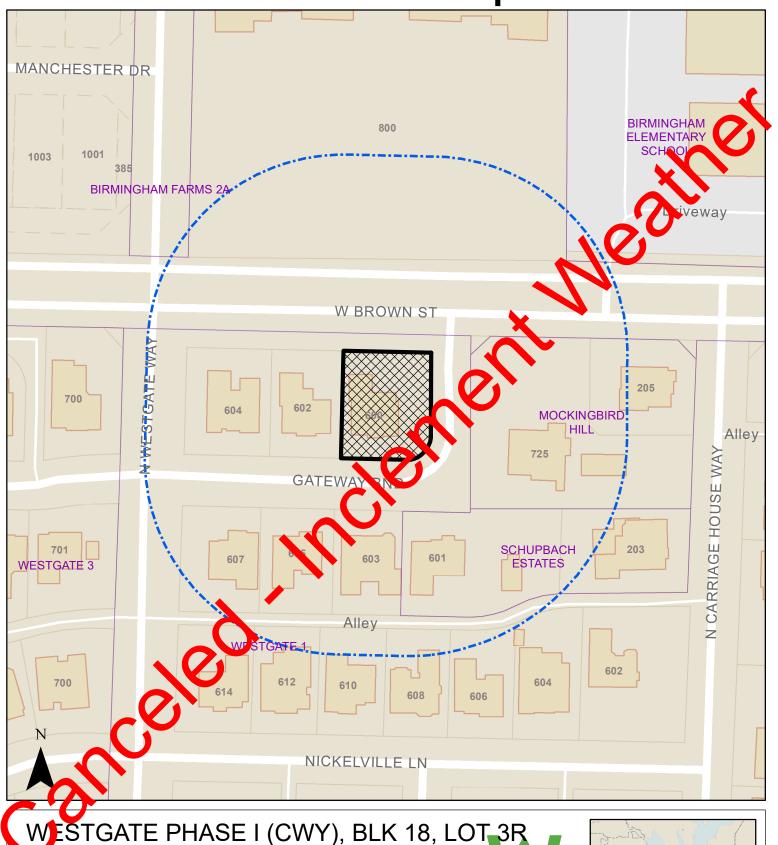


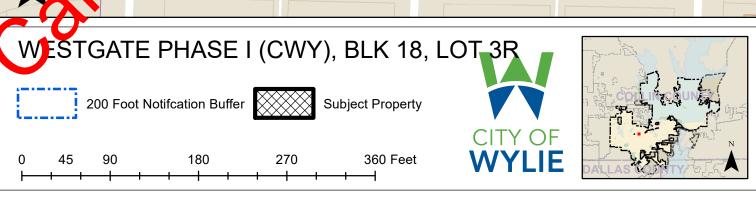




3-16-20

**Notification Map** 





## PUBLIC COMMENT FORM

(Please type or use black ink)

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

	I am <b>FOR</b> the requested variance as explained on the attached public notice for ZBA Case #2021-03.
	I am <b>AGAINST</b> the requested variance as explained on the attached public notice for ZBA Case #2021 63.
	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: Mathryn: 5teven Robertson (please print)  Address: 205 H Carriage House Way  Wylic, TX 75298  Signature: Jathyn Olehats Att
	We can see from our bed room window,
	looks like a nice structure.
	Hope he centinish 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 varian	ce 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 #2071-0.
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:	MARJES SHUELRAFT SRY
• •	04 GATEWAY BND.
	1/21E, TX 75098
وروح المساهدة	EB SCHOOL
COMMENTS:	1100 ON 14 A 3' ABOUSEDRY
•	HBAGE (CASE # ZBA
No. 2021-01	
This This Held	of the home owners at
1000 CENTEWAY	Bens to Build A desires
Bu Wing.	
· (3)	

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# Wylie Zoning Board of Adjustment

Owner: CSD Woodbridge LLC

## **AGENDA REPORT**

Meeting Date:	February 15, 2021	Item Number:	2
Department:	Planning	Case Number:	2021-04
Prepared By:	Kevin Molina	Project Location:	2588 W MV 44
Date Prepared:	February 09, 2021	Subdivision Name:	Woodering Centre
			Lecater Map, Site Plans,
		Exhibits:	Vol fication 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 2(2)** 

#### Discussion

## **Applicant: Cary Albert**

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

The applicant is requesting three variances to flow or 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 (a) in requesting a reduction to the 20% landscaped area requirement to 15%.

The last variance to Figur 53 of the zoning ordinance is requesting a reduction in the parking requirements from 37 parking spaces. 35 parking spaces. The Woodbridge Centre shopping center has a reciprocal easement agreement nat 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 1 comment was returned in favor and no comments were 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 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:

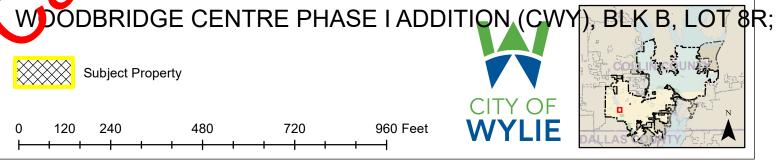
- (1) That there are unique physical circumstances or conditions of the lot, or other exceptional physical condition particular to the affected property;
- (2) That because of these unique physical circumstances or conditions, the properly cannot be reasonably developed or used in compliance with the 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;

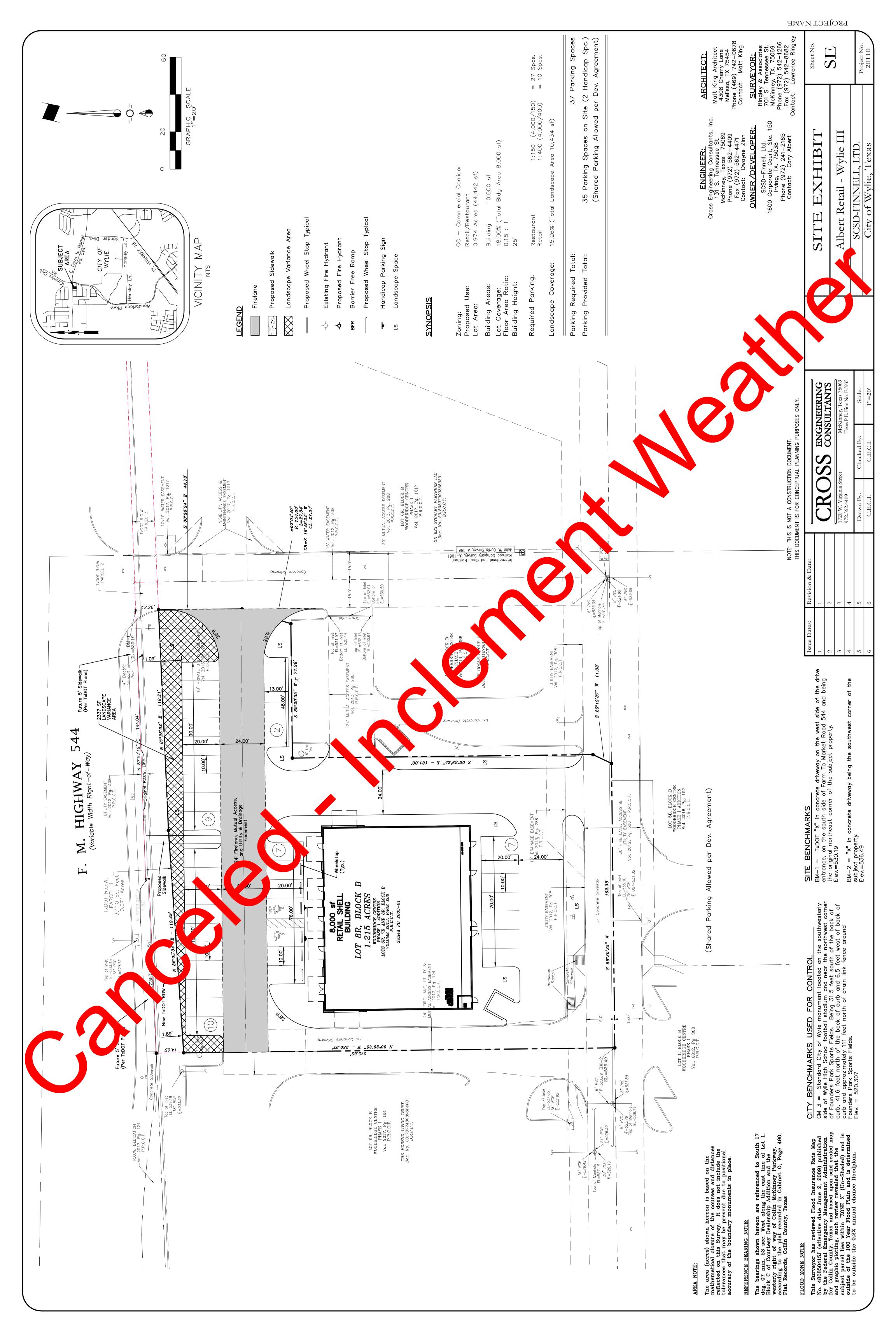
- (5) That the variance if granted will not adversely affect the proposed development or use of adjacent property or neighborhood;
- (6) That the variance, if granted will not change the character of the zoning district in which the property is located;
- (7) That the variance, if granted is in keeping with the ident 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.

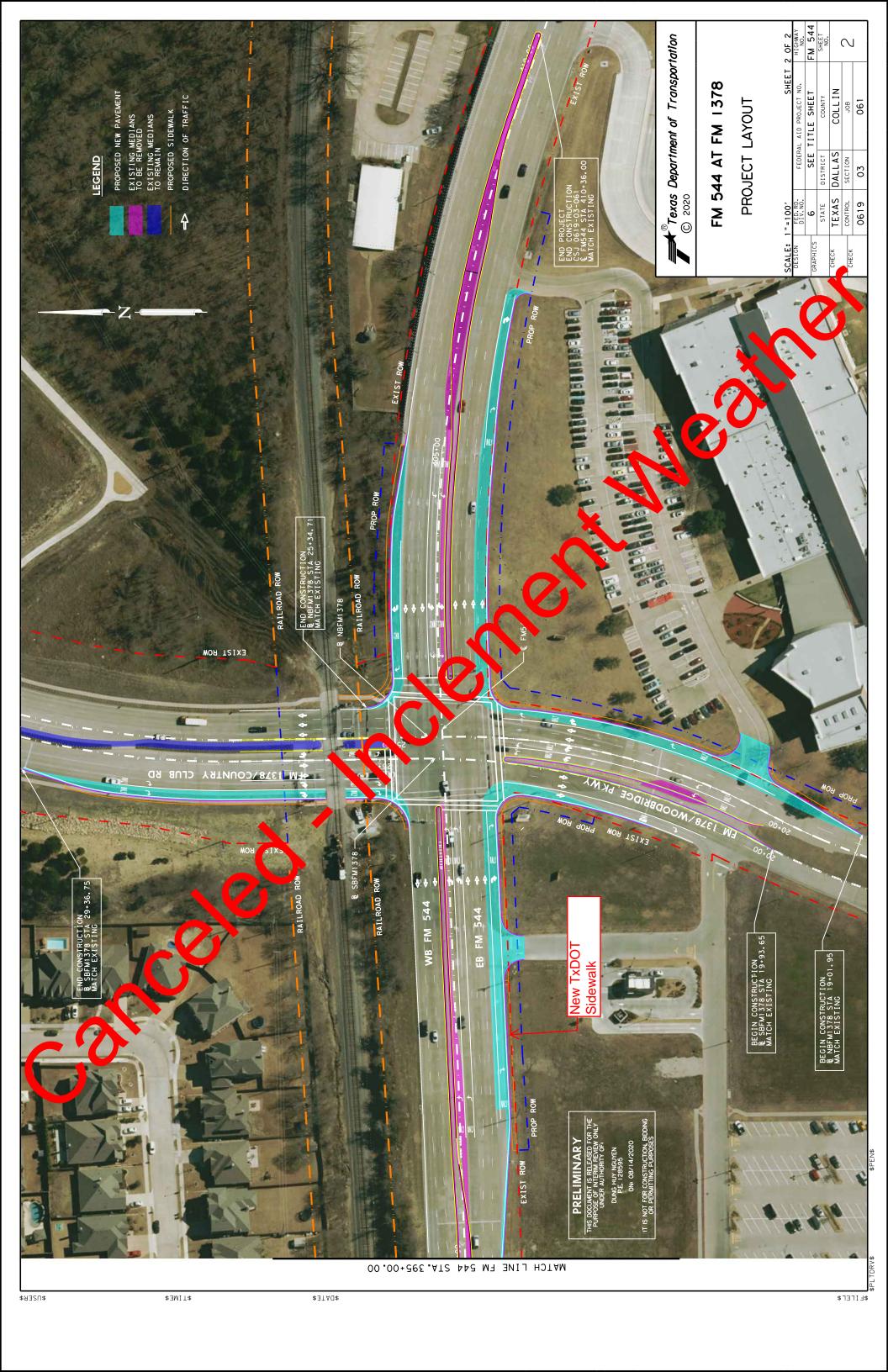
Approved By		*		
	<u> </u>	Initial	Date	
Department Director	<b>\</b> \ \ \ -	ЛН	February 11, 2021	

## **Locator Map**

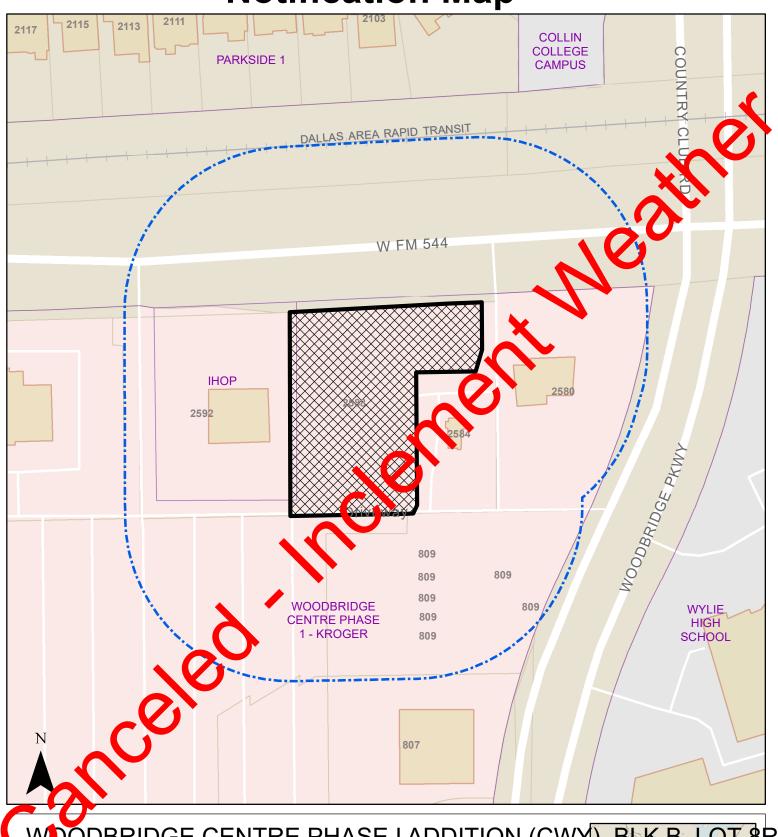


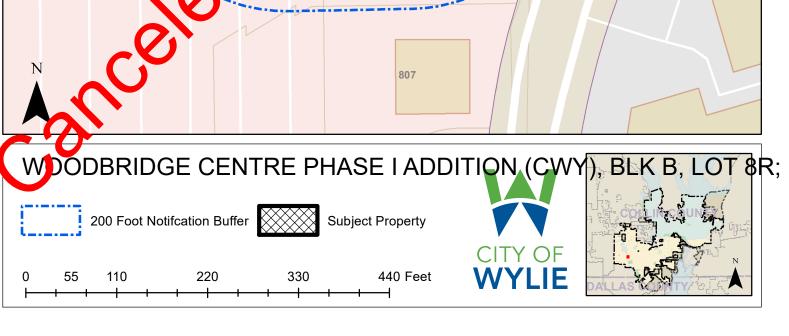






**Notification Map** 





## PUBLIC COMMENT FORM

(Please type or use black ink)

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

I am <b>FOR</b> 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 #2022-09
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 Goup Lt 70 Swith McKewer (please print)  Address: 2584 W FM 544  Signature: Date: DIPERSOR!
As the bustiness immediately adjacent, we have no issue with these variances and wish the developer good buck!