



May 18, 2023

Zoning Board of Adjustment

Notice is hereby given of a Regular Meeting of the Zoning Board of Adjustments to be held on May 18, 2023, at 4:00 p.m., via videoconference, with the opportunity to appear in person in the **Council Chambers, Room 119 of City Hall, 202 E. Pilar Street, Nacogdoches, Texas**, for the purpose of considering the following agenda items. All agenda items are subject to action.

The City of Nacogdoches Zoning Board of Adjustment meeting will be deemed as being conducted via teleconference or videoconference. However, some board members may attend virtually, while others may be present in the above-stated physical location. Regardless, the meeting will be streamed live at www.nactx.us. There will be an opportunity for the public to comment on agenda items either by teleconference or in person in Council Chambers.

Members of the public who wish to submit comments by telephone on a listed agenda item must contact the Planning and Zoning office by email at pz@nactx.us or by calling 936-559-2574 and providing their name, telephone number, and relevant agenda item upon which they wish to speak. All requests to make comments via telephone must be received by 12:00 p.m. on May 18, 2023. For all timely requests received, staff will call the submitted phone numbers directly during the meeting when the corresponding item comes up for comment. NOTE: The incoming phone call from City staff will be an unfamiliar number.

**PLEASE LIMIT PRESENTATIONS TO THREE MINUTES
(UNLESS PRIOR APPROVAL IS OBTAINED)**

1. CALL TO ORDER.

2. PLEDGE OF ALLEGIANCE.

3. **CONSENT AGENDA**

A. Approval of Minutes: Consider approval of minutes from the April 20, 2023 Zoning Board of Adjustment meeting.

4. **REGULAR AGENDA**

A. **Public Hearing:** Consider a variance to the Zoning Ordinance *Section 118-428. – Commercial and industrial screening from view.(b)(1) Screening wall standards*, and *Section 118-429. – Commercial sites with residential adjacency. (d)(2) Screening wall standards*, to provide alternative screening wall materials for Lot 39, City Block 95, located at 4110 Old Tyler Road. This request has been submitted by Rudisill Properties. Case File ZBA2023-04.

5. ADJOURN.

City of Nacogdoches Planning Department
202 E. Pilar – PO Box 635030 – Nacogdoches, TX 75963
936-559-2574 □ Fax 936-559-2912 □ www.nactx.us
Home of Stephen F. Austin State University □ www.sfasu.edu



Aimee Cloutier, Office Assistant III

The City Council Chambers is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Planning Department at (936) 559-2574 or FAX (936) 559-2910 for further information.

CERTIFICATION

I certify the notice of the meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas on May 15, 2023, at 3 p.m. and remained posted until the meeting convened.

Aimee Cloutier, Office Assistant III



**MINUTES TO THE
ZONING BOARD OF ADJUSTMENT
April 20, 2023, 4:00 p.m. Hybrid Meeting**

All Present: Clay Jones; Ed Pool; Rhonda Ward; Ed Pool; Olivia Kiritsy; Mary Ann Bentley;

Members Absent: Sarah Bartlett and George Middlebrook

Staff Present: City Planner, Alaina Helton; Planning Technician, Juan Pollette; Office Assistant, Aimee Cloutier; City Attorney, Steve Kirkland;

Guests: Applicant, Pat Castella; Applicant, Phillip Blackburn; Chris Hancock; Tom Belanger; Troy Cuniff; Cindy Hancock; Mary McCleary; Mitzi Blackburn; Varlor McLemore; J. David Cooper; G. Leonard; J. Leonard; Kay Bauch; Nicole Pool; R.J. Bohac; Diana Walker; Beth Blackburn; Barbara Gandy; Sammie Smith; Christy Turner; Collyn Ortiz; Jake Crawford; Dao Meisenheimer; Eva Bowers; John Calahan; Randy Johnson; Charlie Wheeler; Larry King; Zeke Martinez; Nancy Martinez; Jorge Cuarenta; Ferris Fain; Lynn Watson; Lynn Watson; Mary Roan; Crystal Y'Barbo Stapley;

1. Call to Order: Chairwoman Olivia Kiritsy called the meeting to order at 4:00 p.m.

2. Pledge of Allegiance: Chairwoman Kiritsy led the pledge of allegiance.

3. Consent Agenda: Approval of the Minutes: March 16, 2023, Regular Session

Chairwoman Kiritsy called for a motion to approve the minutes as written. Board Member Rhonda Ward made a motion to approve which was seconded by Board Member Bentley. The minutes were approved as written unanimously (5-0).

4. Public Hearing:

A. Presentation, discussion, and possible action regarding conflict of interest provisions and process for recusal of Board Members.

City Attorney (CA), Steve Kirkland explained to the Board the general requirements for recusal and the legal recusal process.

Chairwoman Kiritsy asked the applicants, Phillip Blackburn and Pat Castella, if there were any recusal requests for the sitting Board members.

The applicants stated they were satisfied with the members hearing the appeal case.

B. Public Hearing: Consider a request for an Appeal of the decision of the City Planner in interpreting the Zoning Ordinance, Section 118-202. – Continuing nonconforming use, and Section 118-466. – Off-street parking requirements, as it applies to a building permit submitted for the construction of duplexes at 1102 Logansport Street. This request has been submitted by Phillip Blackburn. Case File ZBA2023-02.

Chairwoman Kiritsy stated items 4.B and 4.C of the agenda would be combined for discussion purposes but voted on separately after the presentations.

Applicant, Phillip Blackburn gave a presentation to the Board citing his reasoning for the appeal request.

Applicant, Pat Castella gave a presentation to the Board citing her reasoning for the appeal request.

City Planner (CP) Alaina Helton gave a presentation to the Board citing the rationale for the decision of the City Planner that the building permit for three duplex buildings at 1102 Logansport Street complies with the Zoning Ordinance.

Chairwoman Kiritsy opened the public hearing for comments.

Dianna Walker, who resides at 2807 Raguet, stated her main concern is the integrity of Logansport Street and if the duplexes are allowed to be built she is worried the value of the homes will be decreased. Ms. Walker stated she was in favor of the applicant's appeals.

Zeke Martinez, who resides at 906 Logansport Street, stated his main concern is the increase in traffic flow the duplexes will generate. Mr. Martinez stated if the building permit is issued, there will be a safety concern with emergency services that may not be able to get down Logansport Street.

Vernon McLemore stated he and his father were the developers of Austin Hills Subdivision. Mr. McLemore said he would like to increase the city's tax base so the tax rate will not increase. Mr. McLemore stated the property owner has done everything by the book, and is concerned granting the appeal will send the message that Nacogdoches is closed for business. Mr. McLemore stated he is against the granting of the appeal.

David Meyer, who resides at 817 Martinsville Street, stated he has owned a duplex in the area for the last 30 years. Mr. Meyer said he is in favor of granting the appeal due to all the single-family homes in the area.

Crystal Y'Barbos Stapley, who resides at 1102 Garner Street, stated her property is within the 200-foot notification area. Ms. Stapley stated it is important to listen to the citizens and asked the Board to grant the appeal.

Ron Collins, who resides at 1827 York Drive, stated he spoke in favor of the zone change before and is in favor of the City Planner's decision. Mr. Collins stated the city is going to grow substantially and the community needs to accommodate and welcome this type of development which in return will help the tax base. Mr. Collins stated he is opposed to the appeal request.

John Callahan, who resides at 2019 Essex Street, stated the building of multi-family units and duplexes in single-family residential neighborhoods devalues property values.

Mary McCleary, who resides at 4000 Raguet Street, stated Nacogdoches can grow but if it does not stay beautiful it will attract the wrong kind of people and crime in the neighborhood.

Elizabeth Gaudette, who resides at 200 Nottingham, stated she is in support of the City Planner's decision. Ms. Gaudette stated the duplexes are fine for the area as there are already two-family dwellings in the immediate area.

Judy Coogle, who lives at 3610 West Meadow, stated it is already hard enough to drive down Logansport Street. Mrs. Coogle stated code is not being met and needs a variance.

Chairwoman Kiritsy closed public hearing after there were no more comments.

Chairwoman Kiritsy asked the applicants if they had any rebuttal to any comments made during the public hearing.

Applicant, Phillip Blackburn, addressed the Board stating duplexes and two-family housing are not interchangeable words and Logansport Street is not appropriate for multi-family. Mr. Blackburn stated that single-family housing is needed, not multi-family housing. Mr. Blackburn stated variances need to be applied for and asked the Board to grant both appeals being requested.

Applicant, Pat Castella, addressed the Board and stated there will be more emergency personnel, road maintenance, and home values will decrease. Ms. Castella stated the public comments regarding the tax base are not pertinent.

Chairwoman Kiritsy opened the floor for comments and questions from the Board.

Board member Ward asked why a variance wasn't requested for 1102 Logansport Street and why there is a grandfathered clause because for lots created before 1970.

CP Helton stated the lot is not being modified and is legal-non-conforming because it is grandfathered in according to the way the ordinance reads. She stated all lots created before 1970 are grandfathered but are required to have street access.

There was a discussion between the Board and Staff regarding the applicability of non-conforming lots according to the ordinance language.

Board Member Pool asked if there was enforcement that the buildings would only be used for duplexes and not multi-family.

CP Helton explained the differences between multi-family, land use, and the definition of 'family' as it relates to the number related people living in a dwelling unit. CP Helton explained the city is enforcing the ordinance if there are any zoning violations found.

There was discussion amongst the Board regarding when the zone change occurred and when the building permits were applied for.

Board Member Jones asked if the lot is conforming according to the city.

CP Helton stated yes, the lot is conforming according to Article VI of the development code.

CA Kirkland explained the parts of the ordinance that speak to deeming conformance to development standards to preexisting lots.

Chairwoman Kiritsy called for a motion on agenda item 4. B.

Board Member Ward made a motion to grant the appeal of Mr. Blackburn, Board Member Bentley seconded the motion. Board Member Ward withdrew her motion.

Board Member Ward made a motion to grant the appeal of Mr. Blackburn for the interpretation of sections 118.202 and 118.466. Board member Bentley seconded the appeal. The motion failed.

Board Member Ward stated she does not interpret the ordinance as the City Planner does because the word applicability and action refers to the future not the past.

Board Member Bentley stated we know what the past and present are, but we don't know what the future holds and this is why she is against the interpretation of the City Planner.

Board Member Pool stated we live in an old city and considers the lot to be grandfathered according to the ordinance.

Chairwoman Kiritsy stated she does not agree with the applicants' appeals of the parking standards as it is not the applicant's right to determine how the property is going to be used.

Board Member Pool stated he has seen the building plans and does not agree with the parking requirements as multiple tenants can occupy a duplex which will cause an alarm with parking as it is allowed in R-4 zoning.

There was more discussion regarding parking requirements according to the ordinance amongst the Board Members.

Board Member Bentley made the motion to grant the appeal for off-street parking (118.466) and grant the appeal for non-conforming lots (118.202). Board Member Bentley withdrew her motion.

Board Member Bentley made the motion to grant the appeal for non-conforming lots for Section 118.202 and deny the appeal for off-street parking, Section 118.466 of the Zoning Ordinance. Chairwoman Kiritsy seconded the motion. The motion failed.

Board Member Pool made a motion to deny the appeal for Section 118.202, and grant the appeal for Section 118.466. Board Member Jones seconded the motion. Motion failed.

Board Member Ward made the motion to grant the appeal of Section 118.466 and grant the appeal of Section 118.202. Board Member Bentley seconded the motion. The motion was carried and passed (4-0) with Chairwoman Kiritsy dissenting.

- C. Public Hearing:** Consider a request for an Appeal of the decision of the City Planner in interpreting the Zoning Ordinance, Section 118-202. – Continuing nonconforming use, and Section 118-466. – Off-street parking requirements, as it applies to a building permit submitted for the construction of duplexes at 1102 Logansport Street. This request has been submitted by Pat Castella. Case File ZBA2023-03.

Board Member Ward made the motion to grant the appeal of Section 118.466 and grant the appeal of Section 118.202. Board Member Bentley seconded the motion. The motion was carried and passed (4-0) with Chairwoman Kiritsy dissenting.

- D. Adjourn:** Chairwoman Kiritsy adjourned the meeting at 6:57 p.m.

Chairwoman, Olivia Kiritsy

Aimee Cloutier, Planning Department

Attest:

PRESENTER: Alaina Helton, City Planner

ITEM/SUBJECT: Public Hearing: Consider a variance to the Zoning Ordinance *Section 118-428. – Commercial and industrial screening from view.(b)(1) Screening wall standards*, and *Section 118-429. – Commercial sites with residential adjacency. (d)(2) Screening wall standards*, to provide alternative screening wall materials for Lot 39, City Block 95, located at 4110 Old Tyler Road. This request has been submitted by Rudisill Properties. Case File ZBA2023-04.

TYPE OF REQUEST: Variance from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of the property.

The ZBA rules and procedures state this type of variance may be requested “whenever, owing, to exceptional and extraordinary conditions, the literal enforcement of the provisions of the zoning regulations will result in unnecessary hardship in the development of the property.”

The applicant is requesting a variance to the Zoning Ordinance **Sec. 118-428. - Commercial and industrial district screening from view**. This section of the Ordinance requires that commercial service and outside storage areas to be screened from view from all adjacent property with a 6-foot tall screening wall (regardless of the adjacent property’s zoning designation). This screening wall must be constructed of a solid masonry material, or a solid wood fence.

The applicant is also requesting a variance to the Zoning Ordinance **Sec. 118-429. – Commercial sites with residential adjacency**. This section of the ordinance states that where nonresidential (commercial) sites are immediately adjacent to residentially zoned properties, a solid screening wall shall be constructed on the nonresidential property in close proximity to the residential property line in order to screen views and windblown trash and debris. This screening wall must be constructed of a solid masonry material, or a solid wood fence. In addition to the screening wall, a 10-foot wide landscaped buffer with trees is required.

While **Sec. 118-429. – Commercial sites with residential adjacency** is intended to screen all commercial activity from adjacent residential zoning districts, **Sec. 118-428. - Commercial and industrial district screening from view** is intended to screen commercial service areas and outside storage activities from all adjacent properties (regardless of the adjacent property’s zoning designation).

BACKGROUND INFORMATION:

Sec. 118-428. - Commercial and industrial district screening from view

The applicant has been using the property as an equipment outdoor storage yard since 2013. The applicant recently leased the front portion of the property to a petroleum company to use as a *Contractors yard*, and intends to subdivide the property and create a new lot along the boundaries of the lease area (see site plan exhibit).

A *Contractors yard* is defined as “an open storage yard for supplies and operational equipment, including buildings, but not constituting a junkyard, wrecking yard or salvage yard”. A *Contractors yard* is permitted in the B-2 zoning district; however, the zoning ordinance requires open storage areas in the B-2 district to be enclosed by a fence or wall, or surrounded by a building so as to create an effective visual screen of the storage from adjacent properties (including public right-of-way or streets). This screening is required along the east, south and western boundaries of the lease area proposed for the *Contractors yard*.

Along the eastern boundary of the lease area, the applicant is requesting to utilize an existing vegetative area as a natural buffer, in lieu of the screening wall requirement. Along the south and western boundaries of the lease area, the applicant is also is requesting to use a 6-foot metal chain link fence with a heavy polyethylene knitted mesh material (minimum 85% opacity), in lieu of the masonry or wood material as outlined in the ordinance.

Sec. 118-429. - Commercial sites with residential adjacency

The Zoning Ordinance requires a screening wall and a 10-foot landscape buffer along the shared property line where nonresidential sites are immediately adjacent to residentially zoned properties. The following are considered residential zoning districts: A, Agriculture; R-1, Single Family; R-2, Single Family; and, R-3, Two Family).

The applicant is in the process of having the lease area (portion of the property to be used as a *Contractors yard*) subdivided from the remainder of the tract. In the new configuration, the *Contractors yard* will be a separate lot and will be surrounded on all sides by B-2, General Business, except for the property to the north that is zoned A, Agriculture.

Based on the proposed subdivision, a screening wall and landscape buffer is required along the northern boundary of the property. The applicant is requesting to use an existing 6-foot metal chain link fence and adding a heavy polyethylene knitted mesh material (minimum 85% opacity) along the northern boundary of the *Contractors yard*, in lieu of the required masonry or wood material.

Adjacent Land Use & Zoning

The subject property is zoned B-2, General Business and is currently developed as a *Contractor yard*. The surrounding zoning and land uses are as follows:

Direction	Zoning	Existing Land Use
North	A, Agriculture	Single Family
South	A, Agriculture	Single Family
East	A, Agriculture	Undeveloped
West (across Old Tyler Rd.)	B-2 General Business	Commercial

The property to the north is zoned A, Agriculture and developed with a single family home. The property to the west, across Old Tyler Road, is zoned B-2, General Business and developed as a fuel truck yard and a petroleum storage warehouse. Property to the east and south of the lease area (and proposed subdivision boundary) is also zoned B-2.

Physical Characteristics

1. Frontage: The subject property has approximately 345 feet of frontage on Old Tyler

Road.

2. Access: The subject property takes primary access from Old Tyler Road.
3. Topography and vegetation: The property currently slopes down to the east, with a 3% slope from Old Tyler Road to the eastern boundary of the lease area proposed for the *Contractors yard*. The majority of the property is cleared with the exception of an unmapped creek tributary and thick vegetated area along the eastern boundary of the lease area and *Contractors yard*.
4. Floodplain: The subject property is not located within the FEMA-regulated floodplain.

REVIEW CRITERIA & REQUIRED FINDINGS (STAFF COMMENTS UNDERLINED):

Per Section 118.99 of the Nacogdoches Zoning Ordinance, the applicant must demonstrate to the satisfaction of the board that the decisions of the board will be in the best interest of the community and would carry out the spirit and intent of the zoning regulations. The board of adjustment may grant variances and exceptions upon finding that the following conditions have been met:

1. Such variance is in harmony with the intent and purpose of the comprehensive plan and zoning ordinance. The general purpose of the comprehensive plan and zoning ordinance is to promote the health, safety, and welfare of Nacogdoches through orderly and efficient development. More specifically, the stated purpose of Zoning Ordinance: Article 6 – Development Standards is to:

1. Enhance the view and image of the community;
2. Contribute to the overall quality and visual appearance of individual developments;
3. Reduce glare from paved surfaces and break up large expanses of paving;
4. Replenish oxygen supply and provide natural air purification;
5. Provide visual relief and open space within urbanized developments;
6. Ensure that the local stock of native trees and vegetation is replenished;
7. Safeguard and enhance property values and to protect public and private investment; and to
8. Preserve and protect the unique identity and environment of the City of Nacogdoches and preserve the economic base attracted to the City of Nacogdoches by such factors.

The screening standards found in Zoning Ordinance help minimize the adverse effects of commercial and outdoor activities on surrounding property owners and the general public, and ensure that high quality development is maintained throughout the community. Staff finds that the existing vegetative area (natural buffer) located along the eastern boundary, and alternative screening wall material provide, a visual screen that effectively blocks the view of the commercial activity and outdoor storage area from adjacent properties.

2. Such variance will not substantially or permanently injure the appropriate use of adjacent property in the same district.

The applicant is in the process of having the lease area (portion of the property to be used as a *Contractors Yard*) subdivided from the remainder of the tract. Based on the proposed subdivision, granting of the variances would not affect the appropriate use of the adjacent property, or the ability of the adjacent property to develop in the future.

3. Such variance will not adversely affect the health, safety or general welfare of the public. Granting the variances should not adversely affect the health, safety, or general welfare of the public.

4. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance sought is located. The variances will not authorize a use other than those permitted under the current B-2, General Business zoning district.

5. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, including but not limited to the area, shape or slope; and that the unique circumstances were not created by the owner of the property, and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.

There is an unmapped creek tributary and thick vegetated area along the eastern boundary of the Contractors yard. The applicant is requesting to preserve this natural buffer in lieu of providing a screening wall. Staff finds that this tributary and natural buffer area is a unique physical characteristic that does not generally apply to other commercial properties in the area.

6. The variance itself is not a self-created hardship.

A self-created hardship is one that is created by the owner or his or her predecessor in interest, rather than the nature of the property itself, and thus implies an intent to create a hardship.

STAFF RECOMMENDATION:

Due to the unique conditions of the property as outlined above, Staff recommends approval of the request to preserve the existing vegetated area along the eastern boundary of the *Contractors yard* as a natural buffer in lieu of providing a screening wall, with the condition that a subdivision plat be approved based on the proposed lot configuration.

Staff identified no hardships or unique circumstances existing on the remainder of the property, and therefore does not recommend approval of the variances to the screening wall materials along the north, south and western boundaries of the *Contractors yard*.

NOTICES:

Staff mailed five (5) notices to property owners within the 200-foot notification area. At the time of this report Staff has received zero (0) contacts in regards to the request.

ATTACHMENTS:

1. Variance Application & Supporting Material
2. ZBA Site Plan
3. Alternate Fence Material
4. Location Map
5. Aerial Map
6. Zoning Map
7. Notification Map
8. Site Photos

APPLICATION FOR VARIANCE OR SPECIAL EXCEPTION

PROPERTY INFORMATION:

Address: 4110 Old Tyler Rd.
 Legal Description: Lot(s) 39 in Block _____ of the _____ Subdivision in City Block 95

OWNER INFORMATION:

Rudisill Properties LLC 936-715-8311 [Signature]
 Owner Name Daytime Phone Signature
P.O. Box 631624 Nacogdoches TX 75963
 Mailing Address City State Zip Code

APPLICANT INFORMATION:

Rudisill Properties 936-715-8311 Dick@Dennydc.com [Signature]
 Applicant Name Daytime Phone Email Address Signature
P.O. Box 631624 Nacogdoches TX 75963
 Mailing Address City State Zip Code

PLEASE SELECT ONE TYPE OF APPEAL (Per Texas Local Government Code § 211):

- ☐ 1. Interpretation of the meaning or intent of the zoning ordinance
☐ 2. Special exception for use or development of property
☒ 3. Variance from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of property

REQUIRED ATTACHMENTS (Per ZBA Rules & Procedures 602, 702 & 802)

1. For an appeal requesting **interpretation** of the meaning or intent of the zoning ordinance, attach:

- ☐ A statement by the applicant describing the way it is alleged the regulation should be interpreted,
☐ Diagrams and charts illustrating the erroneous and the proper application of the map or text provisions.

2. For an appeal requesting a **special exception** for use or development of property, attach:

- ☐ A site plan, drawn to scale, showing all lot dimensions, and the location and dimensions of all existing and proposed lot improvements
☐ A statement by the applicant describing the way in which all conditions prescribed by zoning regulations will be or have been met.

3. For an appeal requesting a **variance** from the literal enforcement of the zoning ordinance in order to achieve a reasonable development of property, attach:

- ☒ A site plan, drawn to scale, showing the location and dimension of the lot and all existing and proposed improvements;
☒ Statement of facts and reasons why the zoning regulations should not be applied to the property in question and how standards governing the board's actions would be satisfied

City of Nacogdoches – Planning Department
 202 East Pilar St. Room 218 -- P.O. Box 635030 Nacogdoches, TX 75963
 Office: 936-559-2571 Fax: 936-559-2910

Form Ver. 01-05-10

Jennie
 will bring
 fee on Tuesday.

\$350

NECESSARY FINDINGS (per City of Nacogdoches Code of Ordinances § 118-99):

The board of adjustment, pursuant to the powers conferred upon it by state law, the city ordinances, and this article, may grant variances and exceptions to the sections of this chapter upon the findings listed below. Please **explain** in your own words, how the request meets each of the findings listed below:

1. Such variance is in harmony with the intent and purpose of the comprehensive plan and this chapter

NO

2. Such variance will not substantially or permanently injure the appropriate use of adjacent property in the same district;

NO

3. Such variance will not adversely affect the health, safety or general welfare of the public

NO

4. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located;

NO

5. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, including but not limited to the area, shape or slope; and that the unique circumstances were not created by the owner of the property, and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located

see attached letter

6. The variance is not a self-created hardship.

NO

NOTE: This application **will not** be processed **unless** it is filled out in its entirety and accompanied by required attachments and filing fee of \$350.00.

☒ Completed Application Form

☒ Required Attachments

☒ Application Fee

☒ Copy of current deed

FOR OFFICE USE ONLY

Date Filed: _____ Case Number: _____ Accepted By: _____ Tentative ZBA Date: _____

Attachment A

Historical use of the property

This property was pasture and woods with a small stream and pond until 2013 when Rudisill Properties purchased the property. We cleared the West part of the property as far East as the stream/pond area would allow and enclosed it with a 6' tall chain link fence with barb wire on top. This area was then used for the storage of trucks, trailers, construction equipment, and occasionally used fuel tanks and fuel pumps.

The future intended use of the property is basically the same. We have a proposed tenant, Arguindegui Oil Company, needing a space to park fuel delivery trucks, fuel tanks, work trucks, and a dispatch office. Arguindegui Oil was founded in 1952 and is based in Laredo Texas.

ATTACHMENT B

Purpose of this Variance Request

Sec: 118-429 – Commercial sites with residential adjacency

1. Screening wall standards. The screening wall shall be constructed of solid masonry material on a concrete foundation, or solid wood fence with metal structural supports to a minimum height of 6 feet tall.

Architectural privacy fencing consists of metal panel, metal tubing, colored chain link with and without slats, fiberglass composite, vinyl, brick, stone, pipe, concrete or other materials have a lot of advantages over wood picket and cinder block fencing types and therefore we are requesting a fence other than wood picket or masonry.

Metal panel fencing as well as chain link fencing with screening is permanent, will not rot, fade, crack or split, is fireproof, termite proof, corrosion-resistant and easy to clean, all valid reasons for its choice as a fence material.

Therefore, We request a variance to the mandated material of solid wood or solid masonry as screening (privacy) fence material along those portions of our property that adjoin and are in close proximity to residential structures. I.E. the North side perimeter, the West side and the South side. We request to use the existing 6' tall chain link fencing that has been in place since 2013 on the West and North property lines and to add a 6' chain link fence along the South subdivided property line. – All to be covered with fence privacy screening material.

Sec.118-429. – Commercial Sites with residential adjacency. (b)(1)

An exception to the screening fence requirement may be granted where: vegetation exists which is at least 6' high and non-transparent year round, and visibly separates one use from another and shields or blocks noise, glares, or other nuisances.

We also request that no screening be required on the East perimeter, due to the trees, vegetation and pond/ stream area. This adjoining property is also zoned B-2

Attachment C

Fence Variance Request Proposal and Facts

Sec. 118-429. – Commercial sites with residency adjacency. (d)(1)

The intent and purpose of the fence standard is to provide a solid screening wall constructed on the nonresidential property in close proximity to the residential property line in order to screen views and wind blown trash and debris.

Sec.118-429. – Commercial Sites with residential adjacency. (b)(1)

An exception to the screening fence requirement may be granted where: vegetation exists which is at least 6' high and non-transparent year round, and visibly separates one use from another and shields or blocks noise, glares, or other nuisances.

We propose to provide a screening overlay covering the existing 6' tall chain link fence that has been in place since 2013 along the subdivided North property line, the West subdivided property line and the South subdivided property line.

This screening will be greater than 85% opacity.

The adjoining property along the North is an approximate 35' wide X 350' deep strip of land ,Zoned Ag and used as a driveway for a home situated very near the West property line of the City Landfill. - approximately 1035 feet East of Old Tyler Road.

This home is surrounded by trees and various other dense vegetation.

Immediately to the North of this driveway parcel is Big Tex Agriplex Tractor dealership. (Zoned B-2)

The property adjoining the East property line is zoned B-2 and also has substantial vegetation, and a small pond/stream. This area is not mow-able, or usable except for an approximate 35' wide strip on the South boundary line, used as a drive to access the approximate 6 acres behind the pond/stream area.

The West property line adjoins Old Tyler Road (FM 1638) and directly across from the SUNOCO fuel distribution office, truck yard, and warehouse.

The property adjoining the South property line is also a narrow driveway zoned B-2. To the South of this driveway is zoned Ag. This Ag area is pasture land and partially wooded with a rent house approximately 400 feet South of the property line surrounded by trees and dense vegetation.

Our Variance Request is in harmony with the intent and purpose of the comprehensive plan and this ordinance.

Our variance will not substantially or permanently injure the appropriate use of adjacent property in the same district.

Our variance will not adversely affect the health, safety or general welfare of the public.

The variance is not a self- created hardship

Case File: ZBA2023-04

ARGUINDEGUI OIL
II, LTD Nacogdoches

4110 Old Tyler Road Nacogdoches, Texas
75963

PROPERTY ID.: 26797 GEOGRAPHIC
ID: 17-095-0038-0000
TYPE: REAL

PROPERTY USE DESCRIPTION: Commercial

LEGAL DESCRIPTION:
LT 39 BK95

ZONED: B3

ADDRESS:
4110 Old Tyler Road.
Nacogdoches, Texas 75963-1626

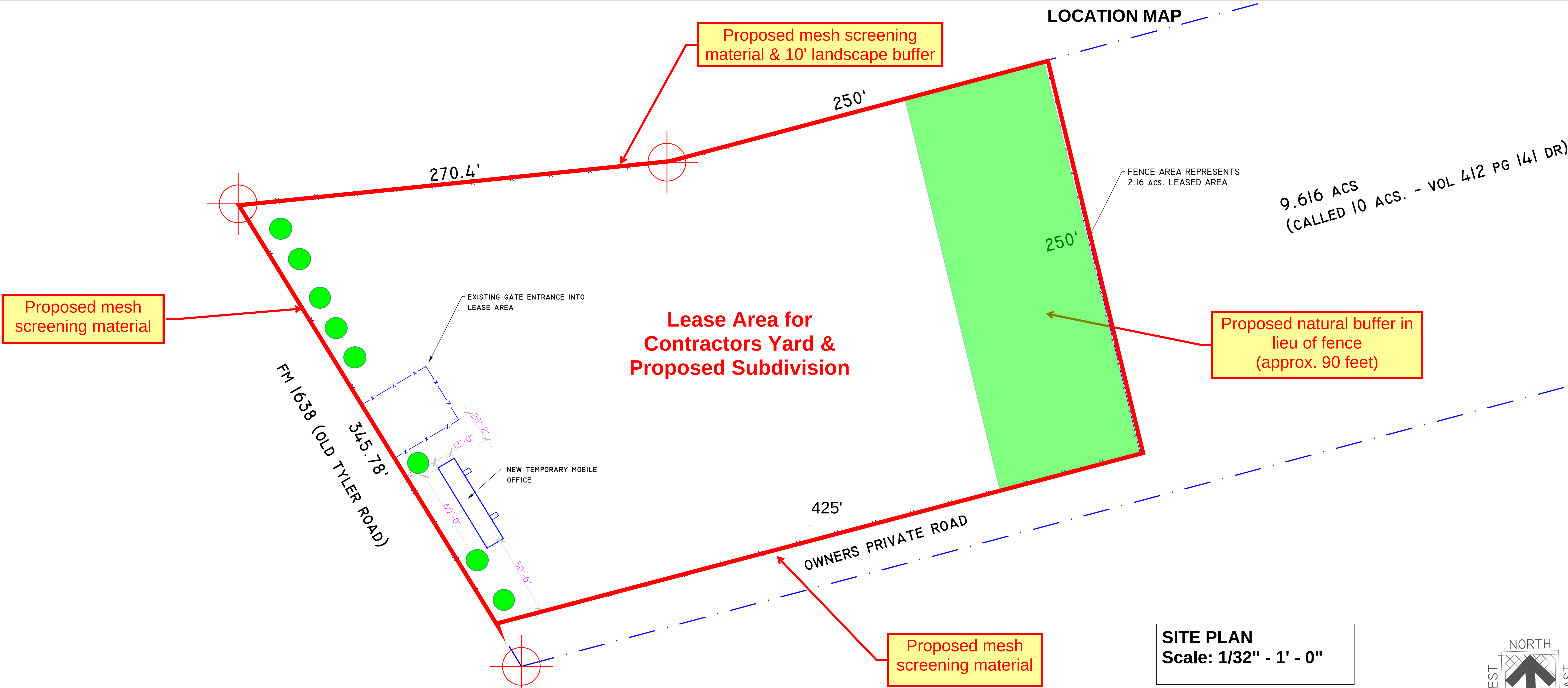
OWNER:
Rudisill Properties LLC
P.O Box 631626
Nacogdoches, Texas 75963-1626



1

LEGAL

1



AOC TERMINAL

4110 Old Tyler Road

Nacogdoches, Texas 75963-1626

**ARGUINDEGUI
REAL ESTATE, LTD**

655 STAR COURT, LAREDO, TEXAS 78043
PH. 956-722-5251



SITE PLAN

DRWN BY MEA

CHKD BY

DATE 3/15/2023

REVISIONS

JOB NO.

SHEET NO.

SBD-1029-20

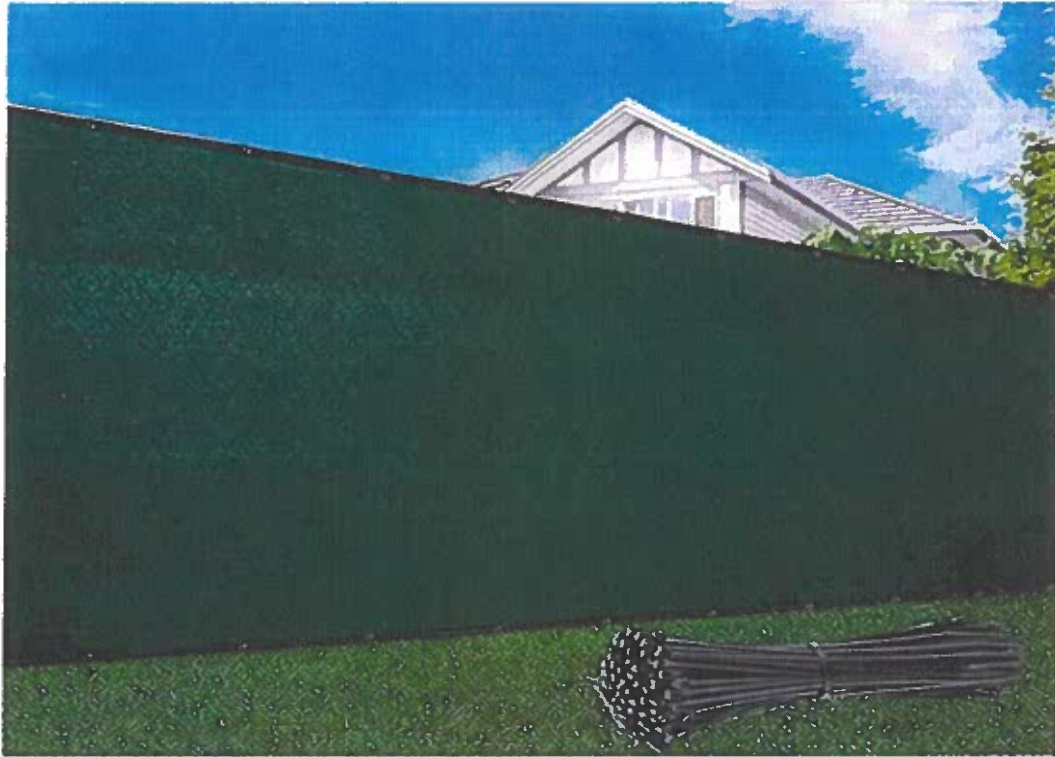
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8

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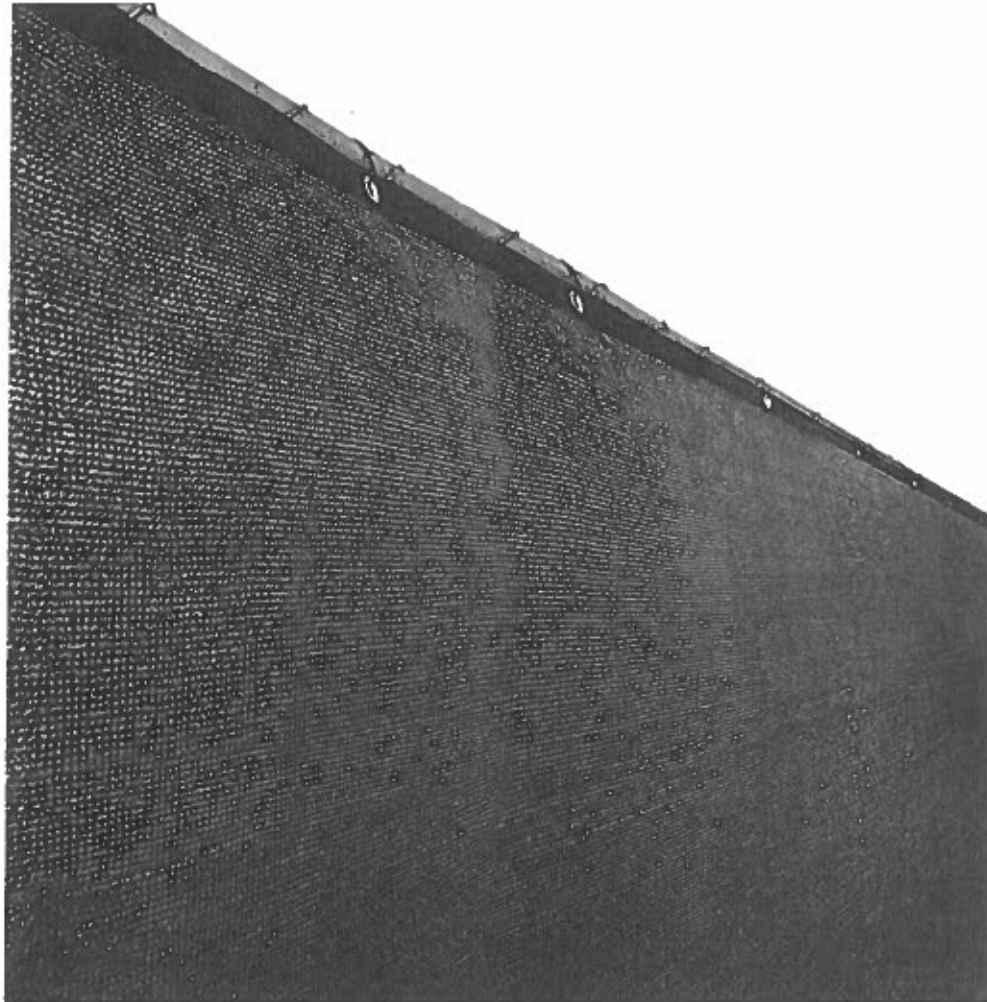
Attachment D

Examples of Privacy Screen Material



6' x 50' Green Fence Privacy Screen Windscreen Cover Fabric Shade Tarp Netting Mesh Cloth - Commercial Grade 170 GSM

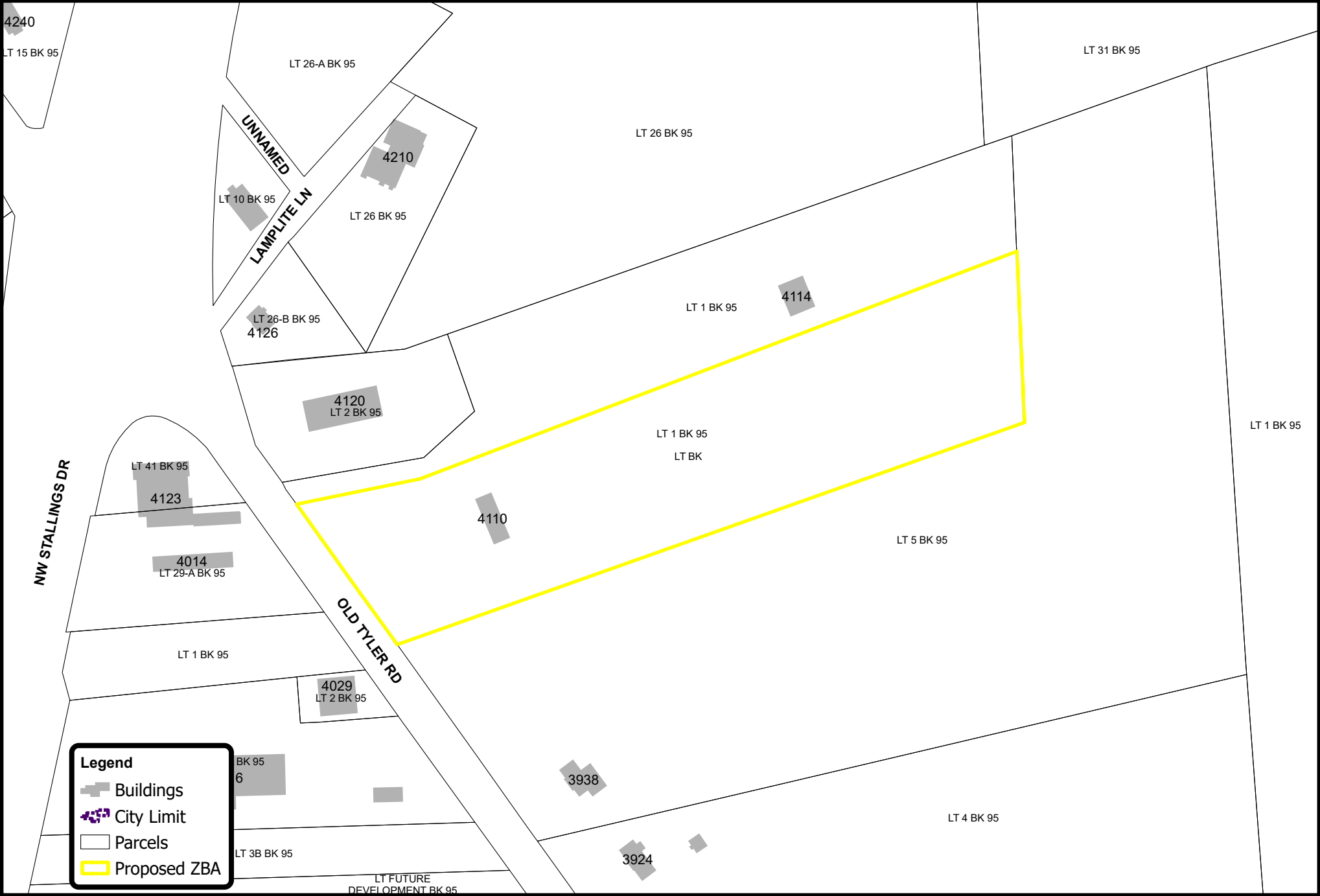
- Fabric material is made of 170 GSM (Gram Per Sq Meter) Polyethylene,
- 90% blockage, this material has long lifespan under outdoor UV
- Grommets are made of heavy duty stainless copper, rust free from water and other extreme weather
- Fabric allows air flow and water to go through, catches less wind and rain, help to stay on a fence more securely
- UV resistant compound has been added to the material, preventing from fading and tearing under sun exposure, went through 20000 hours of laboratory UV testing.



72 in. Polyethylene Garden Fence

- ALEKO's privacy screen fabric attaches to a fence to boost privacy while not impeding air flow
- Perfect for your front or back yard, pool, garden or construction site
- High quality polyethylene mesh lowers visibility through the fence by 88% to 90%
- UV and water resistant material, with rust free aluminum grommets, double grommets placed evenly on all 4-sides and attached to your fence with included zip ties
- Product dimensions: 6 ft. x 25 ft., 130 g/sq. m
- Color: dark green

ZBA Location Map 2023-04

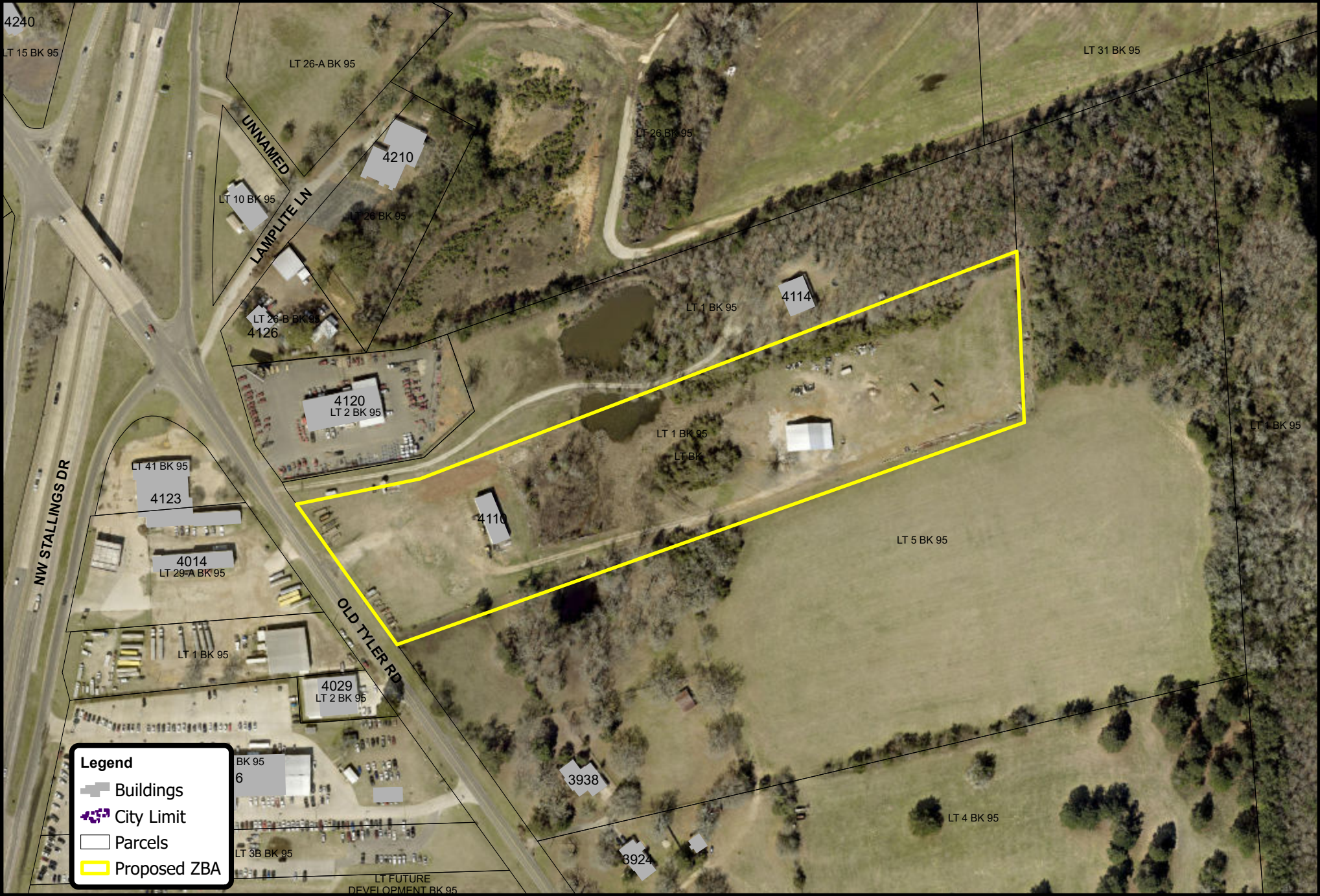


0 100 200 300 400 Feet

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Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Aerial Map ZBA 2023-04

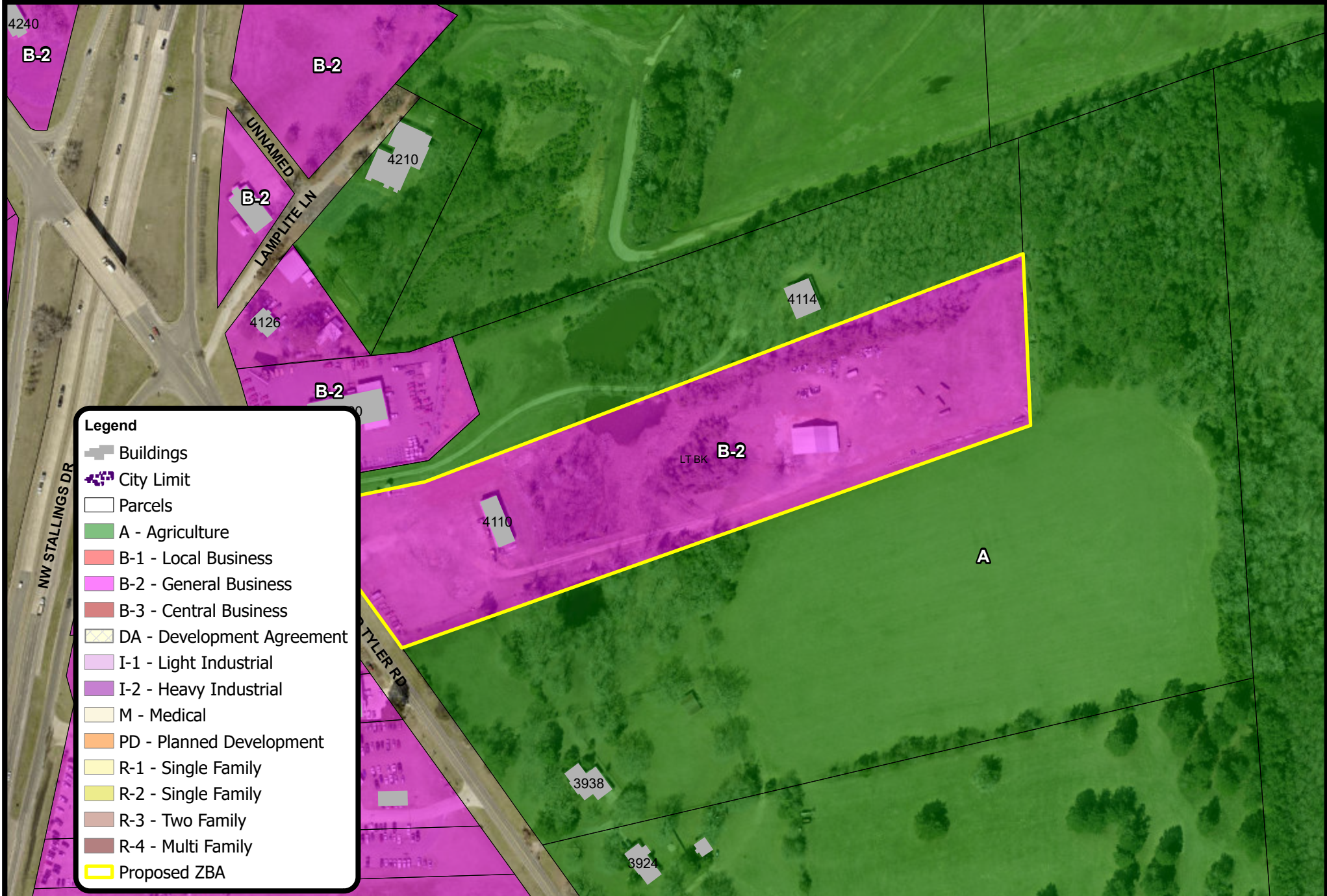


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Zoning Map ZBA 2023-04



0 100 200 300 400 Feet

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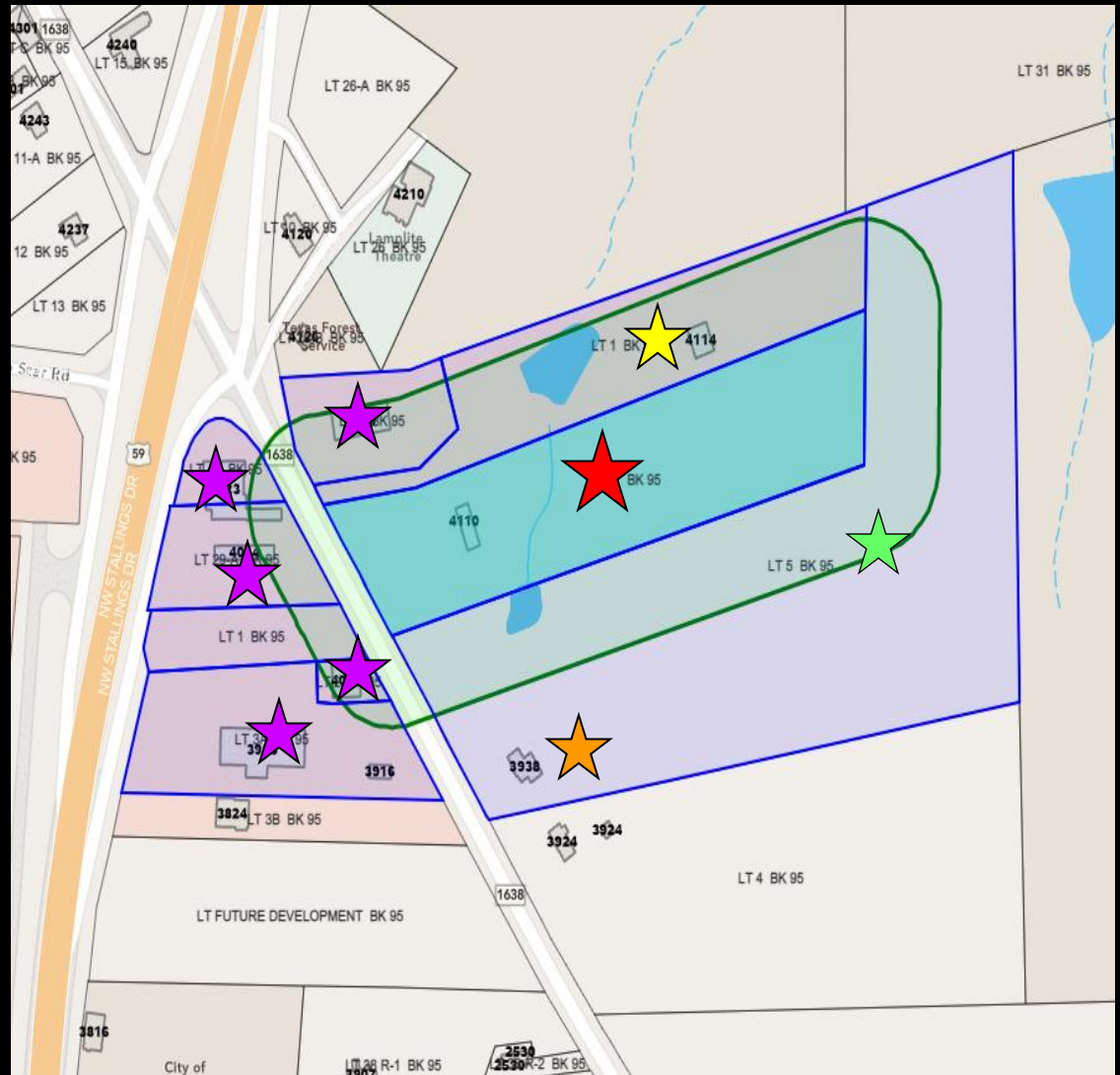
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200 Foot Notification Map

Legend

- 200 Foot Buffer
- ★ Proposed Variance
- ★ Single Family-Owner Occupied
- ★ Single Family-Rental
- ★ Agriculture
- ★ Commercial

ZBA2023-04: 4110 Old Tyler Road



Site Photos: ZBA2023-04



Street view &
existing chain
link fence

Residential driveway
along north property
boundary



Existing chain link fence – southern property boundary





View from
eastern
property
boundary





Natural buffer –
eastern boundary



Natural buffer – eastern boundary





Commercial
property to the
north

Residential
property to the
south

