

PRESCOTT CITY COUNCIL JOINT STUDY SESSION / SPECIAL MEETING AGENDA ***A M E N D E D**

**PRESCOTT CITY COUNCIL
JOINT STUDY SESSION/SPECIAL MEETING
TUESDAY, SEPTEMBER 15, 2009
3:00 P.M.**

**Council Chambers
201 South Cortez Street
Prescott, Arizona 86303
(928) 777-1100**

The following Agenda will be considered by the Prescott City Council at its Joint Study Session/Special Meeting pursuant to the Prescott City Charter, Article II, Section 13. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

- ◆ **CALL TO ORDER**
- ◆ **INTRODUCTIONS**
- ◆ **INVOCATION:** Father Darrell Olds, Sacred Heart
- ◆ **PLEDGE OF ALLEGIANCE:** Councilman Roecker
- ◆ **ROLL CALL:**

MAYOR AND CITY COUNCIL:

Mayor Wilson	
Councilman Bell	Councilman Luzius
Councilman Lamerson	Councilman Roecker
Councilwoman Lopas	Councilwoman Suttles

- ◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

STUDY SESSION

I. DISCUSSION ITEMS

- A. [Approval of a three-year Final Plat extension for the Great Escape Condominiums, a Commercial Planned Area Development, comprising 45 warehouse units on approximately two acres located at 2211 and 2213 Cirrus Drive, Prescott Regional Airpark and Commerce Center. \(PP08-003, Applicant: KCRL, Inc., Keith Diehl\)](#)

- B. Adoption of Resolution No. 3990-1020 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the application and acceptance of a grant for Local Transportation Assistance Funds (LTAF II) to assist in the continued funding of the transit voucher system program. (Total \$75,077.08 – City’s share \$15,015.42)
- C. Notice of Public Hearing (September 22) and adoption of Ordinance No. 4717-1014 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, amending the Zoning Map pertaining to that certain property located at the southwest corner of Whipple Street and Merritt Street from “Multi-family Medium (MF-M)” zoning to “Neighborhood Oriented Business (NOB)” zoning. (RZ09-002; Owner: Bill Resnick, Resnick Family Partnership; Agent: Tom Terry, Architect)
- D. Approval to purchase five Panasonic Toughbook Mobile Data computers, along with a three-year protection plan for each device, for a total amount of \$22,083.43 from Insight Public Sector.
- E. Approval of a five-year Agreement with CableONE for public service announcements in the amount of \$1 per year.
- F. Approval of payment to Prescott Chamber of Commerce in the amount of \$23,000.00 to be used for the Annual Courthouse Lighting event on December 5, 2009.
- G. Adoption of Ordinance No. 4718-1015 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, approving loan funds from the Water Infrastructure Finance Authority of Arizona (WIFA) for the Wastewater Treatment Plants Plan and Design Project, through the Clean Water Program #710073-10, authorizing the Mayor and staff to sign any and all WIFA funding documents pertinent to said project and declaring an emergency.
- H. Notice of Public Hearing (September 22) and consideration of liquor license application submitted by applicant Jennifer Sarmiento for a Series 6, All Spirituous Liquor Bar, license for The Drunken Lass Irish Pub located at 218 West Gurley Street.
- I. Notice of Public Hearing (September 22) and consideration of liquor license application submitted by applicant Kim Kwiatkowski for a Series 9, Liquor Store, license for Circle K Store 1995 located at 3101 Willow Creek Road.

- J. Notice of Public Hearing (September 22) and consideration of liquor license application submitted by applicant Kim Kwiatkowski for a Series 10, Beer & Wine Store, license for Circle K Store 1576 located at 1245 East Gurley Street.
- K. Notice of Public Hearing (September 22) and consideration of liquor license application submitted by applicant Elizabeth Ann Wilson for a new Series 10, Beer & Wine Store, license for Gas Plus located at 421 East Sheldon Street.
- L. Approval of minutes of the Prescott City Council Public Workshop of September 8, 2009; the Regular Voting Meeting of September 8, 2009; and the Study Session of September 15, 2009.
- M. Selection of items to be placed on the Regular Voting Meeting Agenda of September 22, 2009.

II. ADJOURNMENT

SPECIAL MEETING*

- 1.* Call to Order.
- 2.* Acceptance of a Federal Aviation Administration (FAA) Grant in the amount of \$85,000.00 (\$80,750.00 Federal Share and \$4,250.00 City Share) for conducting an FAA-required Wildlife Hazard Assessment at Ernest A. Love Field and authorizing the Mayor and staff to take any and all actions necessary to accomplish the above.
- 3.* Adjournment.

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing AMENDED notice was duly posted at Prescott City Hall on _____ at _____m. in accordance with the statement filed by the Prescott City Council with the City Clerk.

Elizabeth A. Burke, City Clerk

COUNCIL AGENDA MEMO – 09/15/09 & 09/22/09
DEPARTMENT: Community Development
AGENDA ITEM: Request for a three year final plat extension for the Great Escape Condominiums, A Commercial Planned Area Development comprising 45 warehouse units on approximately 2 acres located in Prescott Regional Airpark and Commerce Center, PP08-003, Applicant: KCRL, Inc., Keith Diehl.

Approved By:	Date:
Department Head: Tom Guice	
Finance Director:	
City Manager: Steve Norwood 	09/14/09

REQUEST

This is a request by Keith Diehl for a three-year extension for the submittal of a Final plat for the Great Escape Warehouse Condominiums. The Preliminary plat for this development was approved on August 26, 2008. This development will have a total of 45 warehouse units on 2.01 acres. The property is located in the Airpark and Commerce Center at 2211 and 2213 Cirrus Drive. The property is zoned IL, Industrial Light.

The infrastructure and building plans have been completed and are ready for submittal subject to securing financing for the project.

OTHER PLAT EXTENSION REQUESTS AND APPROVALS

For reference, the following requests for other projects have been previously approved by City Council:

- Bienvenue, 5 year extension in December, 2007
- Victory Hills, 5 year extension in February, 2008
- Granite Creek Village, 3 year extension in May, 2009

Recommended Action: MOVE to approve a three year extension, to September 30, 2012, for the submittal of a final plat for the Great Escape Warehouse Condominiums.
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KCRL INC.
302 N. Virginia St.
Prescott, Az. 86301

August 24, 2009

Thomas A. Guice
Comunity Development Department

I would like to file for a 3 year extension on Preliminary Plat Approval, PP08-003
The Great Escape Condominium project (APN:102-03-030 and 102-03-031) due to economic
reasons. We have plans for final approval ready but we are waiting for financing. We anticipate
this to go thru in the near future. Then we can proceed with the formalities. Thank you for your
time.

Sincerely



Keith Diehl
CEO OF KCRL INC.

PHONE 928-237-6276

COUNCIL AGENDA MEMO – 09/15/09 & 09/22/09
DEPARTMENT: Community Development
AGENDA ITEM: Authorization to submit application for the Local Transportation Assistance Fund Grant (LTAFII) for Fiscal Year 2010 in the amount of \$75,077.08 for continuation of the voucher transit program.

Approved By:	Date:
Department Head: Tom Guice	
Finance Director:	
City Manager: Steve Norwood <i>S. Hadley</i>	

Summary

The City of Prescott has the opportunity to apply for Local Transportation Assistance Fund Grant (LTAF II) program again this year.

The FY10 grant allotment available is \$60,061.66, with the City’s matching 25% in the amount of \$15,015.42, for a total of \$75,077.08. Given current economic conditions and the State’s budget issues, it is possible that although grant applications are being accepted, grant funds may not be awarded. When grant funds are disbursed, a Memorandum of Understanding with the Northern Arizona Council of Governments will be agendized for Council’s consideration. Staff will discuss with NACOG the possibility of reducing the 15% administration cost.

Background

The LTAF II program is a State of Arizona Transit program administered locally by the Central Yavapai Metropolitan Planning Organization (CYMPO) that provides transit assistance for the elderly, “low income” persons, disabled and general public. Funding is provided through Power Ball lottery revenues.

The history of the program began in 1998 with the State Legislature’s adoption of HB 2565 and required local governments desiring to participate in the program to provide a 25% cash match of the amount allocated by the State.

The City of Prescott has taken advantage of utilizing LTAF II funds since 1999. During the early years, these funds were used to assist local non-profit organizations involved in transit activities in the purchase of new vehicles. In 2001, when the grant program eligibility criteria changed, the City sought to create a voucher transit program for qualifying low income, disabled and elderly citizens. Working closely with the Northern Arizona Council of Governments and representatives of the Town of Prescott Valley, the Voucher Transit Program was created. Since that time the program has grown to include western Yavapai County jurisdictions including the City of Prescott, Town of

Agenda Item: Authorization to submit application for the Local Transportation Assistance Fund Grant (LTAFII) for FY2010 in the amount of \$75,077.08 for continuation of the voucher transit program

Prescott Valley, Town of Chino Valley and Town of Dewey-Humboldt. Each jurisdiction has contracted with NACOG for the day-to-day program administration.

LTAF II funds may be used for a variety of transit-related purposes, including planning, capital expenses and operating expenses. In the past, the City of Prescott has submitted applications for the Voucher Transit Program, and Capital Expenses in assisting non-profit organizations with the purchase of handicap vehicles. The use of LTAF II funds by the City of Prescott is summarized below:

- FY 1999 - the City of Prescott received \$49,697, which was used for sidewalk improvements and in assisting the Red Cross in the purchase of a handicapped van
- FY 2000 - the City of Prescott submitted an application for \$130,768 for the Lincoln St. pedestrian bridge, and a special needs handicap accessible van for the Parks and Recreation Department
- FY 2001 – an application for \$111,911 was approved for Capital Equipment to assist the Red Cross in another van purchase and for a partial year of the voucher transit program (\$49,000) administered via a memorandum of understanding with the Northern Arizona Council of Governments (NACOG).
- In FY 2002 - the State dramatically reduced funding, however, the City of Prescott was able to continue the voucher program with funds carried forward from the previous year.
- Grant funds were initially withheld by the State in FY 2009. Funding in the amount of \$78,000 was eventually distributed and the program continued through June 30, 2009.

The total number of rides requested by City of Prescott's residents each month has continually risen from approximately 800 rides per month in FY01 to approximately 4600 rides per month in 2009. Attached for Council's information is a summary of rides requested during FY09.

The City's 25% cash match (\$15,015.42) for this grant opportunity has been budgeted in this fiscal year.

Recommended Action: MOVE to adopt Resolution No. 3990-1020.

RESOLUTION NO. 3990-1020

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE APPLICATION AND ACCEPTANCE OF A GRANT FOR LOCAL TRANSPORTATION ASSISTANCE FUNDS (LTAF II) TO ASSIST IN THE CONTINUED FUNDING OF THE TRANSIT VOUCHER SYSTEM PROGRAM

RECITALS:

WHEREAS, there are Local Transportation Assistance Funds available for transit-related activities; and

WHEREAS, the City Council of the City of Prescott has determined that the transit voucher system program is a benefit to the residents of the City of Prescott; and

WHEREAS, the City Council of the City of Prescott wishes to apply for and accept LTAF II funds to assist in the continued funding of the transit voucher system program.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. That the City Council hereby approves the filing of an application and an acceptance of LTAF II funds to assist in the continued funding of the transit voucher system in the amount of \$60,061.66.

SECTION 2. That it is hereby certified that the City of Prescott will comply with all appropriate state and federal regulations, policies, guidelines, and requirements as they relate to the application and acceptance.

SECTION 3. That the City of Prescott agrees to comply with all appropriate procedures, guidelines and requirements established by the Arizona Department of Transportation (ADOT) as a part of the application process.

SECTION 4. That in the event that this grant application is approved, the City of Prescott will contribute \$15,015.42 in matching funds from the City's General Fund for the purposes as set forth in Section 1 above.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott on this 22nd day of September, 2009.

JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

PRESCOTT TRANSPORTATION PROGRAM
Year-To-Date Voucher Report
07/01/08 to 06/30/09

	Jul-08	Aug-08	Sep-08	Oct-08	Nov-08	Dec-08	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09	TOTAL TO DATE
Medical	850	890	782	840	823	767	801	791	812	792	813	797	9758
Basic Needs	1428	1469	1307	1381	1385	1346	1298	1339	1368	1346	1314	1336	16317
Job Search	1085	1032	881	897	840	761	796	875	885	868	776	757	10453
Work	727	753	661	672	630	458	538	481	486	443	430	440	6719
Social Service	201	252	190	194	174	157	190	188	195	205	205	204	2355
Counseling	421	435	391	417	395	313	373	391	361	383	383	379	4642
Education	250	255	135	182	177	149	174	167	200	203	203	152	2247
Rides Requested													
Monthly Totals	4962	5086	4347	4583	4424	3951	4170	4232	4307	4240	4124	4065	52491
# People Requesting													
Rides	291	304	290	311	312	301	314	318	337	334	337	343	3792

COUNCIL AGENDA MEMO – 09/15/09 & 09/22/09
DEPARTMENT: Community Development
AGENDA ITEM: Public Hearing: September 22, Rezoning from Multi-Family Medium Density (MF-M) to Neighborhood Oriented Business (NOB), for approximately .96 acres generally located at the northwest corner of Merritt and Whipple Sts., RZ09-002. Owner: Bill Resnick, Resnick Family Ltd. Partnership Agent: Tom Terry, Distinctive Homes.

Approved By:	Date:
Department Head: Tom Guice	
Finance Director:	
City Manager: Steve Norwood <i>J. Hasley</i>	

REQUEST:

The property is located generally at the northwest corner of Whipple and Merritt Streets within the Commercial Corridor District. The applicant is proposing to develop three single-story buildings totaling approximately 12,000 square feet on .96 acres. Residential protection standards will apply to this project. At a future date, the applicant must go through the City of Prescott commercial subdivision plat and site plan review process which will address infrastructure, parking, lighting, landscaping and other issues before Building Permits may be issued.

BACKGROUND:

The area was annexed in February of 1956. The Prescott City Council adopted the Dexter Neighborhood Plan in September of 2000, excerpts attached. The current Commercial Corridor Overlay was adopted as part of Land Development Code in July of 2003. Existing zoning is Multi-family-Medium allowing for up to 21 dwelling units per acre.

EXISTING SITE and AREA CONDITIONS:

The project site is mostly vacant with one older manufactured home, proposed to be removed, located at the southern edge of the project. The north fork of Granite Creek runs generally southwest of the property. As a result, the southern portion of the project is designated as FEMA flood zone A. In recent years, a traffic light has been installed at the intersection of Whipple St. and Merritt St.

SURROUNDING ZONING AND LAND USE:

<u>Direction</u>	<u>Zoning</u>	<u>Land Use</u>
North	Industrial Transitional, IT	Dentist Office
South	Industrial Transitional, IT	Merritt St. & Airport Shuttle
East	Multi-family High Density, MF-H	Whipple St. & Medical Offices

Agenda Item: RZ09-002, 102 West Merritt St. Rezoning

West Multi-family Medium Density, MF-M(MH) Single & Multi-family Residences
(allows for Manufactured Homes)

COMPATIBILITY WITH NEIGHBORHOOD CHARACTERISTICS, ZONING & LAND USE:

The proposed offices are compatible with the surrounding area. The properties to the north and south to the project proposal are zoned industrial transition with a dentist office to the north and Shuttle "U" to the south. The properties to the east and west of the project proposal are zoned multi-family. However, medical offices are located to the east, which were allowed by Conditional Use Permit under a previous zoning code. The area to the west allows for manufactured homes.

CONSISTENCY WITH THE GENERAL PLAN AND OTHER LONG RANGE PLANS:

The proposed project is consistent with and conforms to the City's adopted 2003 General Plan. This area is designated as Mixed Use which is defined as a mix of commercial, employment, public and residential uses.

The project and traffic movements are consistent with the Dexter Neighborhood Plan which identifies this area as a potential area of transition to commercial uses. The Dexter Plan suggests that redevelopment be targeted in this area before removing housing units in other areas of the neighborhood. The Plan further identifies lot consolidation as possibly being necessary to allow for adequate access and that access be from Merritt Street or the alley.

The project is also located in a Commercial Corridor Overlay district as outlined in Article 5 of the Land Development Code.

TRAFFIC, ROADS AND UTILITIES:

The original conceptual site plan provided for access to the development at two locations: primary access located from the alley connecting to Merritt St. and secondary access from a driveway off Whipple St., restricted to right-in/right-out movement only. Due to conditions imposed by the Planning and Zoning Commission, the applicant resubmitted his site plan with a single access from the alley.

Public Works and Engineering Services have reviewed this application. Due to the nature of the property location, multi-family or commercial development of any type will result in similar traffic issues. The applicant is not required to perform a Traffic Impact Analysis but will be required to provide 24 feet of alley access width. Sufficient right-of-way exists in the alley at 25 feet. Specific design for access will occur when a plat is submitted for approval.

ALTERNATE DEVELOPMENT UNDER CURRENT ZONING:

Under the current zoning, development of multi-family uses is permitted outright. Under this scenario, the alley would be the primary access with same required improvements as the proposed offices. The combined project area of .96 acres would allow for 19 dwelling units up to 35 feet in height. Residential protection standards would not be required to the adjoining residential lots since the zoning is similar within the project area and surrounding neighborhood.

PUBLIC COMMENTS:

Notices were mailed to the surrounding property owners of record. Two separate mailings, one for the P&Z Commission and one for Council, included project details, a hearing schedule, contact information and a vicinity map. Each notification consisted of 47 notices mailed. Also, the application has been advertised and posted according to State requirements.

Two letters of opposition and a petition have been received as of this writing (attached). Neighbors express concern regarding visual impacts and traffic with particular concern for the alley access. Residential protection standards/screening will be required to the single family residence directly adjacent to the project belonging to Mr. and Mrs. Unger.

Per Arizona Revised Statutes ARS 9-462.04, opposition exists from sufficient area (20% of the rear or any side) to require a super majority vote (6 of 7) by Council for approval of this rezoning request.

PLANNING AND ZONING COMMISSION:

This item was heard on June 25, 2009 at the Commission's regularly scheduled meeting. During the discussion, the Commission indicated a preference to visit the site which took place on July 20. The Commission also requested additional detail on the site plan, possibly addressing impacts to the surrounding properties regarding alley improvements.

The applicant agreed to stake the project boundary adjacent to the alley right-of-way to assist the Commission in the assessment of resident impacts regarding the City's ROW. Development of the property, whether single family, multi-family or commercial will impact the alley. An existing single accessory structure built on the City ROW will need to be relocated by the owner. Also, utilities such as water and gas meters within the ROW may need to be relocated by the developer.

At their July 30, 2009, after the first motion failed by a vote of 2-4 (site plan with direct Whipple St. access) the Commission voted 4-2 to forward a positive recommendation to Council with two conditions of approval: no direct access to Montezuma/Whipple St. and substantial conformance with site plan date 7-8-09. Attached for Council's

Agenda Item: RZ09-002, 102 West Merritt St. Rezoning

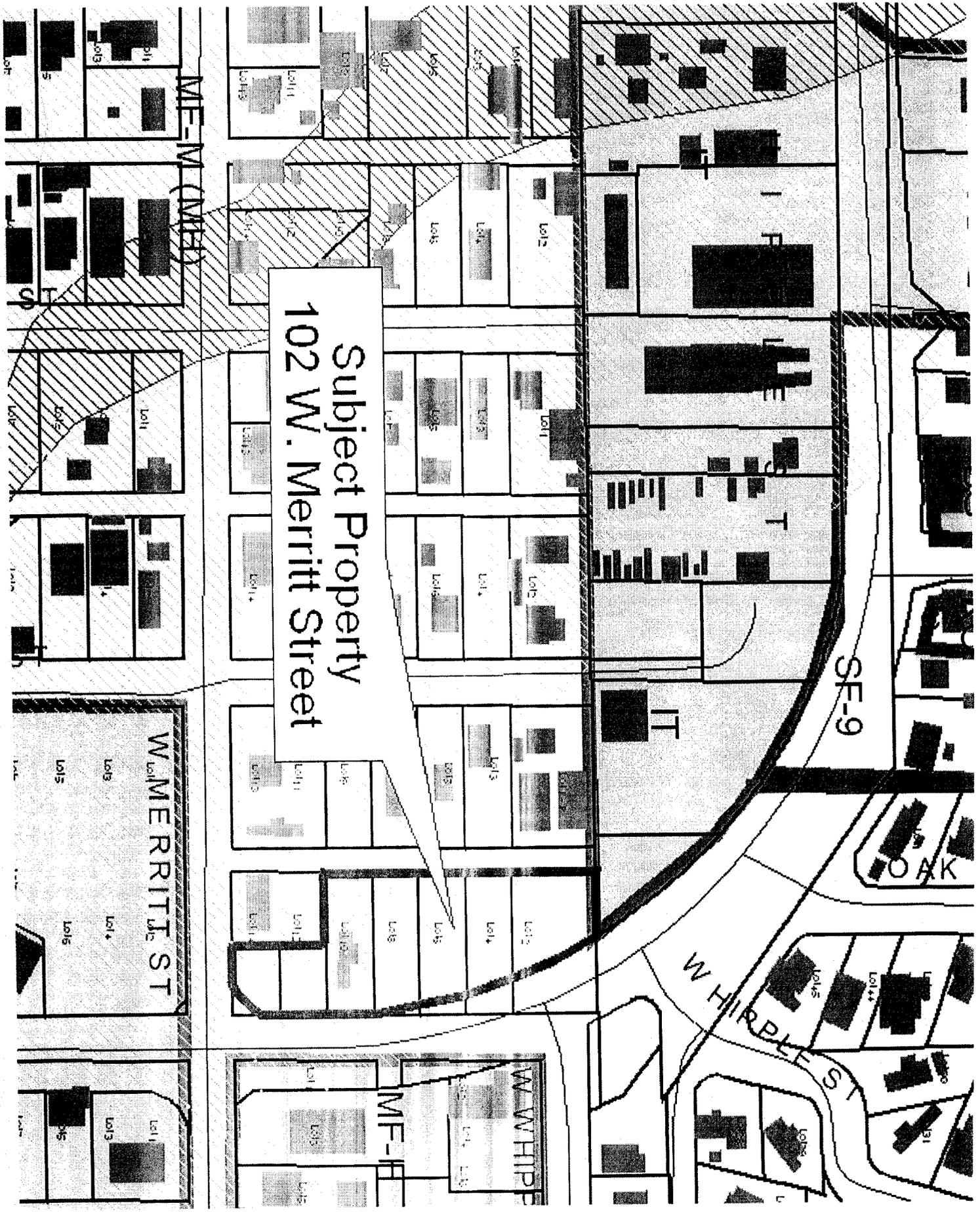
information are the P&Z Commission minutes. The minority vote was primarily based on a preference for requiring the right in – right out access off Whipple Street.

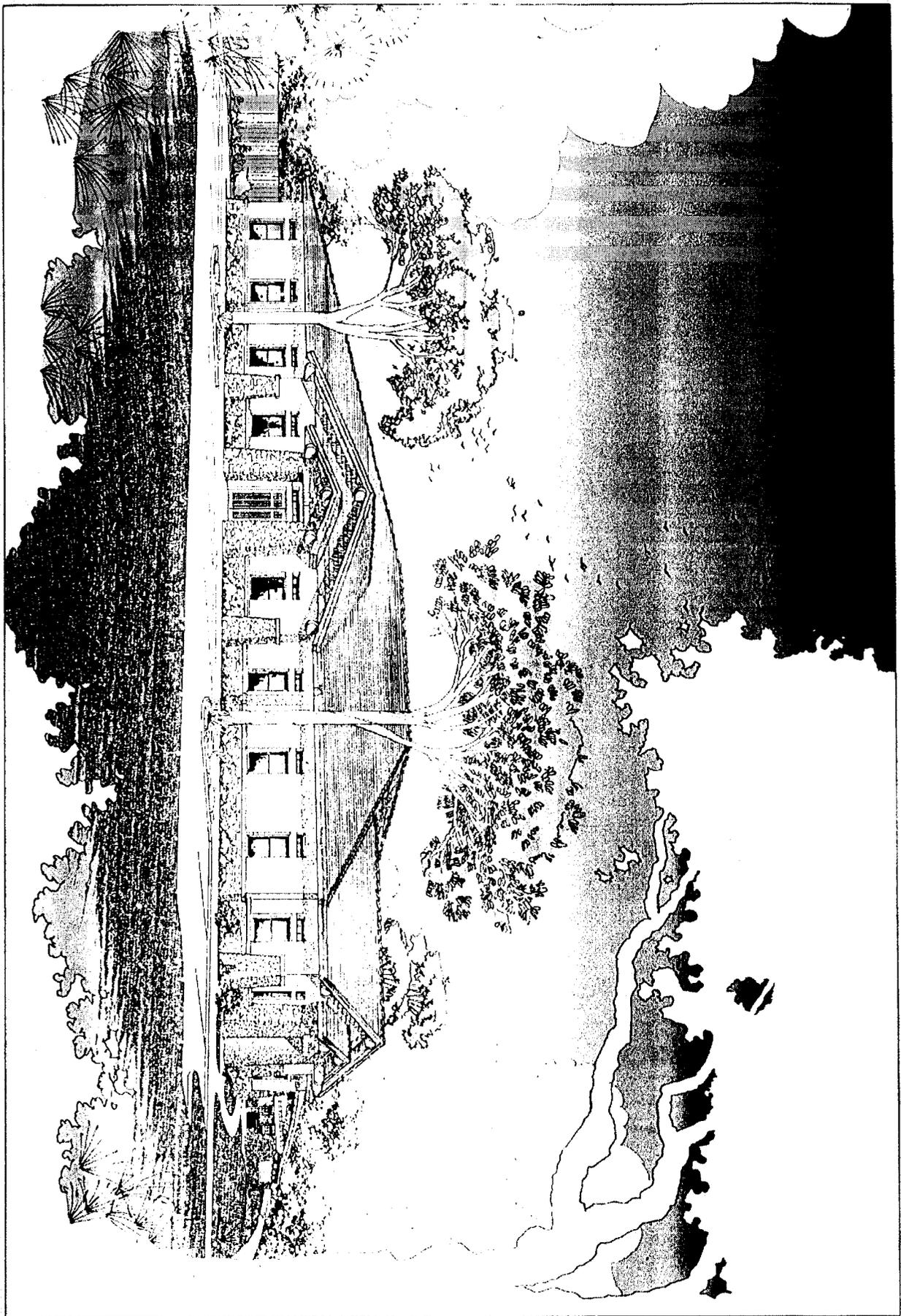
Attachments:

- Vicinity and Zoning Map; Conceptual Site Plan revised 7-8-09; Elevations
- Correspondence from Area Residents

Recommended Action: **MOVE** to adopt Ordinance No. 4717-1014 with the conditions that the development be in general conformance with the site plan dated 7-8-09 and there be no access off of Montezuma/Whipple St.

Subject Property
102 W. Merritt Street





The Merritt Office Park

PLAN	NO.	DATE



SCALE	1" = 10'
DATE	
BY	
CHECKED	
APPROVED	
DATE	

12,186 SQ. FT.
RETAIL & OFFICE PARK
 WITH 44 PARKING SPACES WHICH WOULD ALLOW 14,500 SQ. FT.

DENTIST OFFICE

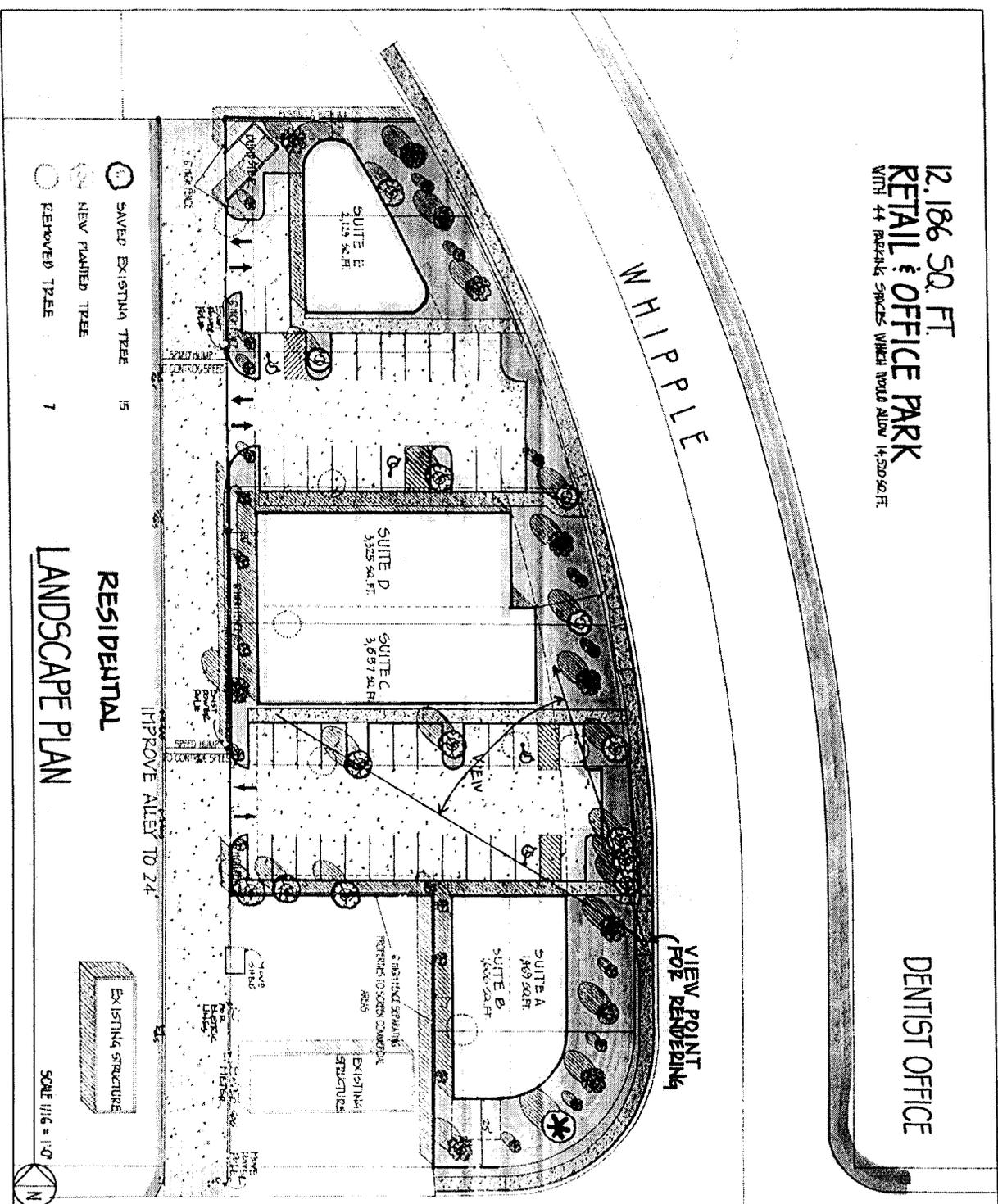
COMMERCIAL

MONTEZUMA
 EXTENSION

SHUTTLE
 U OFFICES

WHIPPLE

MERRITT AVENUE



- SAVED EXISTING TREE 15
- NEW PLANTED TREE 7
- REMOVED TREE

**RESIDENTIAL
 LANDSCAPE PLAN**



SCALE 1/16" = 1'-0"
 N

important to the City of Prescott because of its central location and provision of job opportunities for nearby residents. The majority of commercial uses are centered along the connector road with small encroachments along Navajo and Hillside. The following is a breakdown of commercial zoning within the neighborhood.

- The **Industrial A** district allows commercial storage and light manufacturing. This zoning district makes up 28% of the total land area within the neighborhood.
- The **Commercial A** district allows large scale commercial and service uses in addition to light manufacturing. This zoning district makes up 5% of the total land area.
- The **Business B** district allows regional commercial and entertainment uses. This zoning district makes up 7% of the neighborhood concentrated along Miller Valley Road.
- The **Business A** district allows citywide commercial uses including grocery stores, restaurants and bars. This zoning district makes up 5% of the total land area
- The **Neighborhood Oriented Business** district allows smaller scale retail and professional services. This zoning district makes up .5% of the total land area and is the location of a new internet university headquarters.
- The **Residential Office** district allows primarily medical and professional offices. This zoning district makes up .5% of the total land area and occupied with the offices of West Yavapai Guidance Clinic, a long-term non-profit organization in the neighborhood.

In addition to the residential and commercial zoning districts found within the Dexter Neighborhood is the Flood Plain Conservation District (FPC), which affects approximately 7% of the total land area. The properties with this zoning designation are located in close proximity to the confluence of Granite and Miller Creek and has historically been an area of seasonal flooding. While this zoning district limits the types of development that can occur, residential uses have been allowed by conditional use permit. Many homes were built prior to the enactment of the zoning code and exist as legally non-conforming uses.

Potential Areas of Transition

See Area #5

Identified on the corresponding map are several small pockets of land within the neighborhood that are potential areas of transition from their existing uses to multi-family or commercial uses. There are several vacant parcels with commercial and industrial zoning as well as parcels occupied with residential uses. It is suggested that redevelopment for commercial uses be targeted in these areas before removing housing units from the neighborhood. The areas identified on the map are identified by a number, which corresponds with the following text.

Area #1 East Merritt

There are six properties that front on East Merritt occupied with residential uses that have potential for transitioning to low intensity commercial (professional offices) or multi-family uses. These properties will be more desirable as commercial after the signal is installed at the intersection of Whipple and Merritt. There will be access issues for the redevelopment and it is suggested that access and parking be sought from the alley running along the rear of these properties, which would need to be improved.

Area #2 East Navajo Drive

There are seven parcels that have residential zoning between the Connector road and the larger area of industrial zoning on the eastern portion of the neighborhood. This area has potential for redeveloping into commercial or industrial uses due to low improvement value, however multi-family is not a suggested use because of the close proximity to intensive industrial uses. Constraints to development in this area are primarily topographic as the property closest to the connector has a significant elevation change from the street to the property line.

Area #3 Bagby Drive

This area consists of three large vacant parcels directly across from two fourplex structures and behind commercial properties fronting on Navajo. These parcels have access only onto Bagby Drive even though they have frontage on the Connector Road. Topographic and infrastructure constraints may limit development. Multi-family uses are probably best suited to this isolated area.

Area #4 West Navajo Drive

There are three parcels located directly across from the commercial uses that front on Navajo west of the Connector road. This area has the potential of redeveloping into commercial uses due to the visual exposure of this property to the Connector road. It is also an area of low improved property value.

Area #5 North West Corner of Whipple and Merritt

There are approximately eight parcels at this intersection that have the potential to redevelop after the installation of the signal at the intersection of Whipple and Merritt. Adequate access may require lot consolidation for commercial uses in this area. It is suggested that access to the fronting properties be taken from Merritt Street or the alley, which would need to be improved. The parcels across the alley and fronting on Second Street would best be developed into multi-family uses to increase buffering for single family residences in the area.

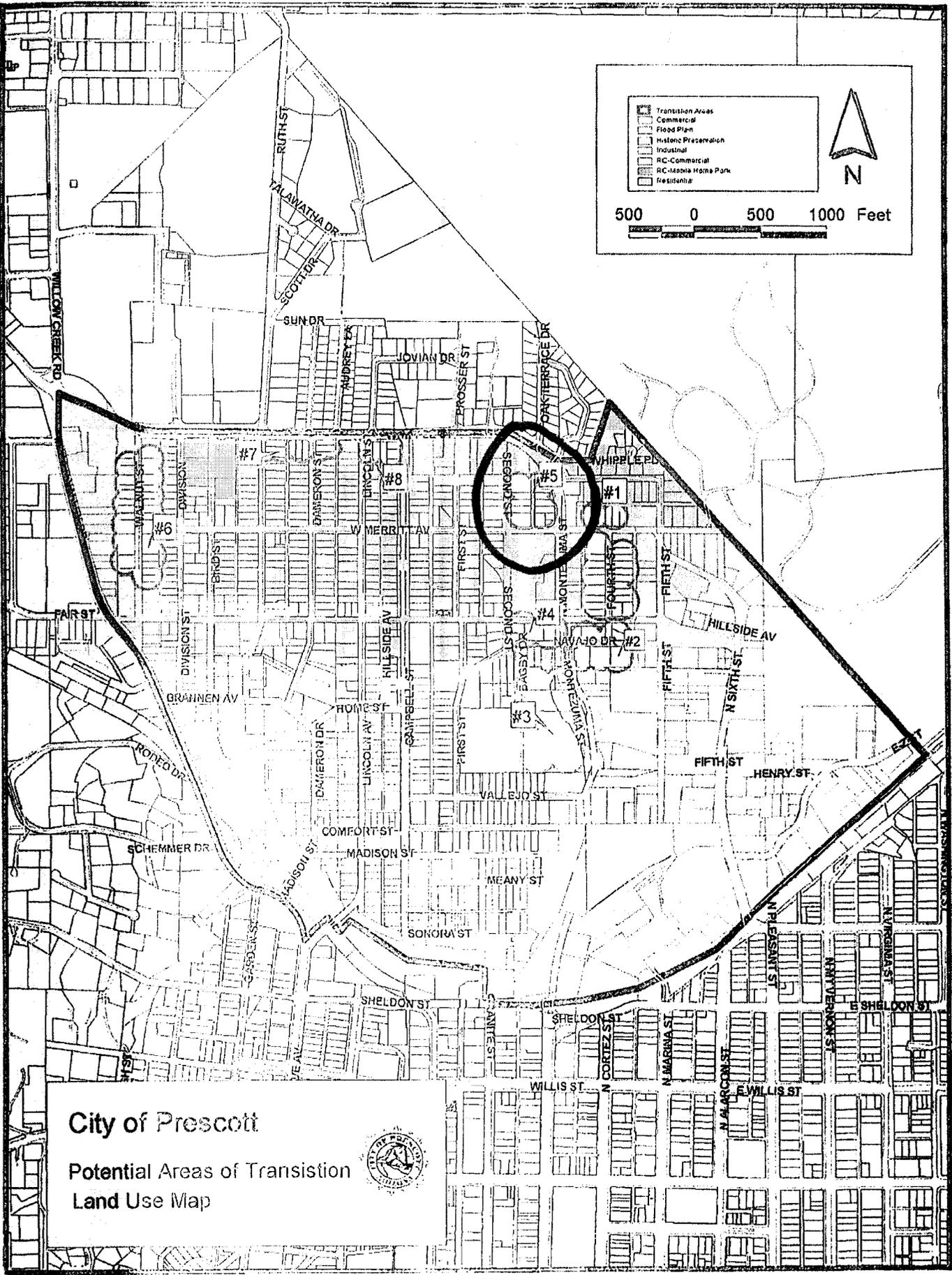
Area #6 Walnut Street

This area is included in the Ponderosa Redevelopment Plan because of the potential for transition in this residential area. The properties remaining with residential zoning are most likely best used as multi-family or low intensity commercial (professional office) uses. Properties on Walnut fronting Whipple and Hillside are already zoned for commercial uses or high intensity multi-family.

Area #7 Whipple between Ruth and Dameron

Area #8 Whipple between Lincoln and Campbell

These are the parcels closest to Whipple and the signalized intersection with Ruth Street. One small parcel is vacant for which a rezoning was recently sought. The significant number of cars that travel the Connector road as well as Ruth Street impacts this area. These lots individually may be too small for profitable redevelopment to occur without lots being combined for future uses. Access is also a major consideration for the redevelopment of these parcels, which would optimally be combined in order to reduce curb cuts on either Whipple or Ruth.



City of Prescott
 Potential Areas of Transition
 Land Use Map



P E T I T I O N

We, the undersigned neighbors, demand to be made aware of the specific engineering plan(s) proposed for the alley adjacent to the property at Whipple and Merritt, such as lighting, drainage, noise, curb and guttering, pedestrian access, etc., prior to the City Planning's approval and/or vote on the applied-for neighborhood-oriented zoning change. The unique and precarious access problems that will of necessity be created by this particular development at this prejudicial location make it imperative that the rezoning request be considered contemporaneously and in conjunction with the modification/alteration of the alley, and conditional upon the availability of details of the design plan (THE ALLEY BEING AN ESSENTIAL ELEMENT OF THE PROJECT), in order for us to be able to fully evaluate its impact.

7-30-09: Ms. Moore is now in full support of this appl.
Sett # 113-032-033 Ora B. Moore
101 # 113-02-027 Retha Branner Monfelle
113-02-029 Barbara A. Vincent
PAR. # 113-02-035A - Karl Unger (See letter)

June 12, 2009

Dear Mr. Smith:

I recently received a letter concerning the Rezoning of property on Whipple and Merritt in Prescott. Included was a map of the site plan.

I have concerns regarding the entrance and exit to this proposed development and the traffic it will produce. I own a home at 813 2nd Street and my backyard faces this proposed plan. I do not have a privacy fence so all the activity created by this development will be open to view. I also have concerns about the alley way being used to enter and exit this proposed plan. The alley is very narrow and I don't believe supports the 50' roadway that we were required to allow for our project "Victory Hill" off of Nail Gardner/Wagon Trail/Pike Pl. by the city.

The meeting on June 25th will be attended by me:

Sincerely,
Barbara Vincent
813 Second St.
Prescott, Az 86301
928.445.3005

RECEIVED

APR 3 2009

CITY OF PRESCOTT
COMMUNITY DEVELOPMENT

114 W. Merritt St.
Prescott AZ 86301

31 March 2009

TO: City Planning Commissioners

AND: Members of the City Council

Our family has recently become aware of the proposed development and request for rezoning to Neighborhood Oriented Business of the site at the Whipple and Merritt Streets corner that adjoins our residence at 114 West Merritt Street. If approved as submitted -- and we realize we cannot stop "progress" should it be determined to be progressive by the City -- we nearby residents express our grave concerns as to the safety and protection that access to such a complex at this specific location would pose with its ensuing density, noise, lighting and traffic pollution. It would clearly create a negative impact and a severe disturbance to the use and enjoyment of our homes and a challenge to the viability of this established residential neighborhood.

Our chief grievance, however, relates to the conversion of the narrow alley into a public roadway no less. Not only would it become the principal as well as the most likely entrance/exit to the projected units for the many patrons and customers without an alternative route at their disposal, but for the majority of the planned parking spaces this alley truly is indeed the one and only ingress and egress to the businesses according to the drawing. Keep in mind that this is a "dead end" lane and is the same alley provided to accommodate the pedestrian as well as the vehicular approach to the rears of their already existing residences. Presently it is barely wide enough for one vehicle to travel in either direction at any one time.

We believe that significant safety and security issues are at stake here due to the excessive traffic congestion -- in fact it would be downright dangerous and precarious, particularly for walk-in clientele. This alley was never designed to handle such a large influx of traffic, to include needed servicing and solid-waste disposal trucks; it does not provide adequate views for safe driving and it may impede the ability of emergency vehicles to access the adjacent properties unless a major reconstruction were to take place to control the much increased volume and movement of vehicles.

Let us point out also that the Merritt Street buildings immediately bordering the alley on the east and the west side as they were permitted are extremely and perilously close to the alley way and represent a real risk of security by the vehicles entering/departing the alley, not to mention the accompanying noise and headlights that would certainly drive us "out of bed" (our master bedroom happens to be right next to the alley) and would make it unliveable.

In our opinion -- and many of our neighbors agree and do intend to attend a hearing upon notification -- the intensity and problematic accessibility of the project is not compatible with the neighborhood as it exists and our community would suffer and be imperiled as a consequence.

We urge the City of Prescott to seriously weigh the possible eventualities of the design as presented and to mitigate its many inherent hazards prior to approval.

Thank you for your consideration.

Sincerely,

Karl Unger

Mavis I. Unger

Karl/Mavis I. Unger

8. **RZ09-002, 102 West Merritt Street.** APNs: 113-02-025B, 113-02-026A, 113-02-030A, 113-02-032A, 113-02-034A and, 113-02-035B and totaling ± 0.96 acres. Zoning is Multi-Family Medium (MF-M). Request rezone from Multi-Family Medium (MF-M) to Neighborhood Orientated Business (NOB) for office/retail suites. Owner is Bill Resnick, Resnick Family Limited Partnership. Agent is Tom Terry, Architect. Ryan Smith, Community Planner.

Ryan Smith, Community Planner placed a detailed site plan of the location on the overhead projector and reported that at the last Planning and Zoning meeting the Commission had asked to conduct a site visit to the property, which occurred on August 20th. Mr. Smith noted that three Commissioners were present and among the items that were discussed was the access to the property from the alley vs. Whipple St. Mr. Smith reported that the applicant has provided an elevation of the proposed building which is a single story, approximately 15 feet high, and faces Whipple Street. Mr. Smith added that under the current zoning of Multi-Family Medium Density, 27 apartments could be built at the site without any public hearings and the maximum height could be as high as 35 feet. Mr. Smith continued to report that the applicant had also provided a detailed site plan showing the 25 foot setback from Whipple St and a reduced building size of just over 12, 000 square feet. Mr. Smith added that if the Commission wishes to condition the rezoning to not allow access off of Whipple Street, the applicant has provided a secondary plan to indicate that he is not married to the access off of Whipple Street and would use the alley entrance. Mr. Smith concluded the staff report by indicating that staff is recommending a positive recommendation on the project and if is approved, staff will present the item to City Council on the on September 1st with the voting to occur on September 8th.

Chairman Wiant called for questions and comments from the Commissioners.

Mr. Michelman inquired how the parking requirements would differ between a medical offices use and a CPA office use.

Mr. Smith reported that a medical office is required to have one parking space for every 150 sq feet vs. parking for the CPA office which is one space per every 300 sq feet of area.

Mr. Michelman inquired how parking was enforced.

Mr. Smith noted that staff asks for a parking matrix on the parking spaces and it is calculated during the permitting review process.

Mr. Rosa noted that if the access for the location was not off of Whipple Street but the alley off of Merritt could the applicant place signage indicating such.

Mr. Smith noted that the applicant would be allowed free standing signage to identify the site however, it would have to be on the site and not anywhere else.

Mr. Petrovsky noted that he would like clarification on how the refuse truck would be able to empty the trash container without a turn around.

Mr. Smith indicated that is an item that is normally brought out at the platting process however the truck would have to enter off the alley as well.

Mr. Menser noted that all the Commission is considering is a rezone on the property and they are not looking at the site plan review.

Mr. Scamardo concurred with Mr. Menser and indicated that the site plan was only conceptual. Mr. Scamardo added that he preferred the second rendering of the site plan with no access off of Whipple Street because there is a curve, a traffic light, and the flow of the traffic is fast.

Chairman Wiant noted that what was confusing was that the applicant had furnished more information than the Commission can recommend on the rezoning.

Ian Mattingly, City Traffic Engineer indicated that the original site plan does show a right in, right out access and although it is not ideal, it does meet the criteria for a safe stopping distance.

Mr. Menser noted that he would be more in favor of the access off of Whipple because it would make the project more successful.

Mr. Michelman indicated that he likes the concept of the plan however he is not in favor of the pork chop (right in, right out access) because of the noted driving habits in the area.

Chairman Wiant called for other comments or concerns from the Commissioners and hearing none opened the item to the public.

Mr. Carl Unger, 114 W. Merritt asked the Commissioners if they were familiar with the Dexter neighborhood plan, and noted that the neighborhood plan indicates that all eight lots in the area should be combined into one parcel and the applicant only owns seven. Mr. Unger indicated that the Dexter plan notes that access should be off of Merritt or the alley and he felt that there was an access problem with the alley because it is too narrow. Mr. Unger added that the Dexter plan also notes that the alley should also be brought up to satisfactory width. Mr. Unger closed by stating that unless Mr. Resnick acquires more land he should not be able to get the rezoning.

Ms. Ara Moore, 1512 Vyne Street indicated that she was the owner of the two lots facing Merritt Street. Ms. Moore noted that she originally thought that the widening of the alley was going to cost her money but has since found out that it will not. Ms. Moore suggested naming the alley Hallington Way or Annie's Alley after her parents and concluded by stating she supports the project and thinks it will be wonderful.

Councilman Bob Luzius, 237 S Arizona Avenue indicated that he did not see anything in the packet that states the Fire Department has reviewed the project and he has concerns with the egress and turning areas of the project. Mr. Luzius also noted that he is concerned with how it will impact the residential

neighborhood and asked the Commission to delay their vote until the Dexter Neighborhood Plan can be further reviewed.

Mr. Smith reported that the Dexter Plan does recommends that the eight lots be combined but does not require it and it also recommends that the access be taken from Merritt Street or the alley. Mr. Smith added that the Fire Department did review the plan and made no comment and also public works has reviewed the alley improvements and found the traffic safety to be satisfactory. Mr. Smith offered to review the Dexter Plan with Councilman Luzius.

Bill Resnick, 1360 Windfield Circle reported that he was the applicant and that they have tried to address the neighbors concerns regarding the aesthetics, the alley, the speed hump, and most importantly the right in, right out access to the site.

Mr. Menser inquired if the Commission would be reviewing a site plan.

Mr. Smith reported that if the Commission provides a recommendation for the rezoning a site plan review is not required however, the Commission could condition the approval or specifically ask for a site plan review on the project.

Ms. Barbara Vicent, 213 Second Street indicated that this is a whole lot of project without a lot of egress and she is concerned about the impact on her property. Ms. Vicent added that she would like the Commission to know that.

Chairman Wiant called for other public comment.

Ms. Mavis Unger, 114 W. Merritt Street indicated that she also had major concerns with the project and the access in the alley. Ms. Unger noted that she did some research on the definition of an alley way and it defined as a secondary access. Ms. Unger questioned why a traffic impact analyst was not conducted for the site referencing City of Prescott Code, Section 6.1.4. and the sensitivity to the adjacent neighborhoods or other areas or changes in land use or rezoning. Ms. Unger indicated that she thought this is a case that it should be required to be done. Ms. Unger added that the alley access to the site will affect all of the neighbors.

Mr. Smith noted that City Council does not really like to approve rezoning a property without a project in mind so it would be appropriate for the Commission to look at the site plan and condition it.

Mr. Scamardo inquired if the General Plan indicates that the area should transition into a higher density use for this type of project. Mr. Scamardo added that with the growing smarter legislation, the General Plan and update of the zoning codes to conform with the General Plan is what the Commission looks at.

Mr. Carl Unger noted that what the problem is that there is an alley that is too narrow to drive through.

Mr. Scamardo indicated that the Commission relies on the expertise of the City Staff and that the City staff will make sure the alley is improved to the proper width of 24 feet. The project conforms to the General Plan.

Mr. Unger asked the Commissioners if they would like a road seven feet from their bedroom.

Mr. Scamardo noted that it was a pre existing condition and the site might be developed with the entrance on Whipple Street.

Mr. Unger indicated that it did not matter that all the delivery trucks and traffic would go right down the road by his bedroom.

Chairman Wiant noted that the Commission looks to see if the site conforms to the overlay, the General Plan, and that is all that is being looked at today.

Mr. Rosa informed the Unger's that when it comes before the City Council they would have the opportunity again to discuss it and the City Council has the ability to look at the issues that the Unger's were describing.

Mr. Unger stated that it did not matter if they got killed in the alley.

Chairman Wiant reiterated to Mr. Unger that the Commission looks at if the project meets the criteria and if they do not go by the criteria and the regulation then the Commission is at fault.

Ms. Unger indicated that the access is part of rezoning of the property and the access has to be adequate.

Mr. Menser indicated that he agreed with the Unger's and that the access should be off of Whipple and the alley should not be used as a major access however the zoning is the question. Mr. Menser inquired how many apartments could be built on the site.

Mr. Smith noted 27 units.

Mr. Menser inquired if the Unger's would rather see apartments on the site.

Mr. Unger stated that was not correct because this site was not even an acre and that only 24 units could go on an acre.

Mr. Menser indicated that even 20 units on the site would generate a lot of traffic and noise. Mr. Menser added that the site is not appropriate for apartments or single family homes and the code has NOB (neighborhood orientated business) written into it for areas such as this.

Chairman Wiant called for any other comments regarding the rezoning of the property, hearing none closed the public hearing and called upon the Commissioners.

Ms. Unger asked to speak again and Chairman Wiant allowed her comments.

Ms. Unger indicated that they had gone to APS and APS had informed them that they would require two feet for the location of the power poles.

Mr. Scamardo noted that would be considered an easement.

Ms. Unger added that is was access and people could not walk or drive through the poles. Ms. Unger asked what people who were walking going to do.

Chairman Wiant thanked the Unger's for their comments and called upon the Commissioners for a motion.

Mr. Menser, MOTION: to recommend approval of RZ09-002 for the development of an Office/Retail center located at the southwest corner of Whipple and Merritt Avenue with the following condition: 1) The development shall be in general conformance with the site plan dated 7-8-09 with the pork chop (access off of Whipple).

Mr. Michelman noted that there were two site plans.

Mr. Scamardo asked Mr. Menser if his motion included the pork chop (right in, right out) only.

Mr. Worley informed the Commission that it was usual to condition a rezoning of a piece of property to substantial conformance of a site plan. Mr. Worley added that is was not specific to right of way widths or parking count but the general lay out of the site and the access in and out of the site.

Chairman Wiant inquired if the pork chop (right in, right out) was not involved then.

Mr. Worley noted that it was involved as part of the recommendation to the City Council.

Mr. Petrovsky, 2nd.

Chairman Wiant indicated that there was a second to the motion with the pork chop (right in, right out access).

Mr. Scamardo inquired if the intention of the motion was in substantial conformance with the site plan with the pork chop (right in, right out access) in it.

Mr. Worley confirmed and noted that it would be up to the Commission on which site plan they would like to see forwarded to council.

Mr. Michelman indicated that if this is the site plan that Mr. Menser was going to recommend he could not support it because he felt the pork chop would be a future impairment for traffic.

Chairman Wiant and Mr. Scamardo concurred with Mr. Michelman.

Chairman Wiant called for the vote.

Vote: 2-4. Motion failed.

Mr. Michelman, MOTION: to approve RZ09-002 proposed site plan with the following conditions: 1) The development shall be in general conformance with the site plan dated 7-8-09 2) the proposed plan without the pork chop (right in, right out, access off of Whipple) and no entrance off of Montezuma/Whipple.

Mr. Scamardo, 2nd.

Chairman Wiant called for a vote on the second motion.

VOTE: 4-2. Motion Passed.

ORDINANCE NO. 4717-1017

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AMENDING THE ZONING MAP PERTAINING TO THAT CERTAIN PROPERTY LOCATED AT THE SOUTHWEST CORNER OF WHIPPLE STREET AND MERRITT STREET FROM "MULTI-FAMILY MEDIUM (MF-M)" ZONING TO "NEIGHBORHOOD ORIENTED BUSINESS (NOB)" ZONING

RECITALS:

WHEREAS, the owner of certain properties within the corporate limits of the City of Prescott has requested an amendment to the Zoning Map pertaining to its property; and

WHEREAS, the Planning and Zoning Commission of the City of Prescott has held public hearings regarding said Zoning Map Amendment, subject to certain conditions; and

WHEREAS, the City Council of the City of Prescott has determined that it would be in the best interest of public necessity, interest, convenience or general welfare to amend the Zoning Map pertaining to said properties;

WHEREAS, the requirements of the City of Prescott *Land Development Code* have been complied with.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT, the Zoning Map pertaining to the following described parcels of land, generally located on the southwest corner of Whipple Street and Merritt Street, Prescott, Yavapai County, Arizona, is hereby approved for amendment from "Multi-Family Medium (MF-M)" zoning to "Neighborhood Oriented Business (NOB)" zoning, attached hereto as Exhibit "A".

SECTION 2. THAT the Mayor and staff are hereby authorized to take all such steps as may be necessary to effectuate said Zoning Map Amendment.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott on this 22nd day of September, 2009.

JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney



M • HAYWOOD • ASSOCIATES • INC
LAND SURVEYORS & CIVIL ENGINEERS

LEGAL DESCRIPTION

A parcel of land, including portions of Lots 2, 4, 6, 8, 10, 12 and 14 of BLOCK 3, DAMERON PARK ADDITION, originally recorded in Book 3 of Maps and Plats, Page 29, located in a portion of the Northeast Quarter of Section 33, Township 14 North, Range 2 West, of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as follows:

Commencing at the Southwest corner of said Lot 10 in BLOCK 3 OF DAMERON PARK ADDITION, said point also being the **POINT OF BEGINNING**:

Thence, North $00^{\circ}21'50''$ East, a distance of 285.08 feet;

Thence, South $89^{\circ}45'43''$ East, a distance of 70.54 feet, to a point on the Westerly right-of-way line of Montezuma Street, said point being the beginning of a non-tangent curve, concave to the Southwest, the radius of which is 564.00 feet and the radius point of which bears South $59^{\circ}37'08''$ West;

Thence, continuing Southeasterly along said right-of-way curve, an arc length of 303.53 feet, through a central angle of $30^{\circ}50'06''$, the chord bearing of which is South $14^{\circ}57'48''$ East with a chord distance of 299.88 feet;

Thence, South $00^{\circ}21'35''$ West, a distance of 46.04 feet, continuing along said right-of-way line, to the beginning of a tangent curve, concave to the Northwest, the radius of which is 50.00 feet and the radius point of which bears North $89^{\circ}32'41''$ West;

Thence, continuing Southwesterly along said right-of-way curve, an arc length of 78.57 feet, through a central angle of $90^{\circ}02'10''$, the chord bearing of which is South $45^{\circ}28'24''$ West with a chord distance of 70.73 feet, to a point on the North right-of-way line of Merritt Street;

Thence, South $89^{\circ}59'32''$ West, a distance of 24.85 feet, continuing along said right-of-way line;

November 18, 2008

Job #08099

Resnick Merritt St 7 lot legal description

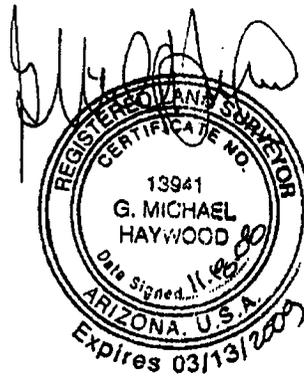
Page 1 of 2

Thence, North 00°32'11" East, a distance of 50.08 feet;

Thence, North 00°21'50" East, a distance of 50.00 feet;

Thence, North 89°37'20" West, a distance of 75.00 feet, to the **POINT OF BEGINNING** and **END** of this description:

Containing 0.9706 acres, more or less.



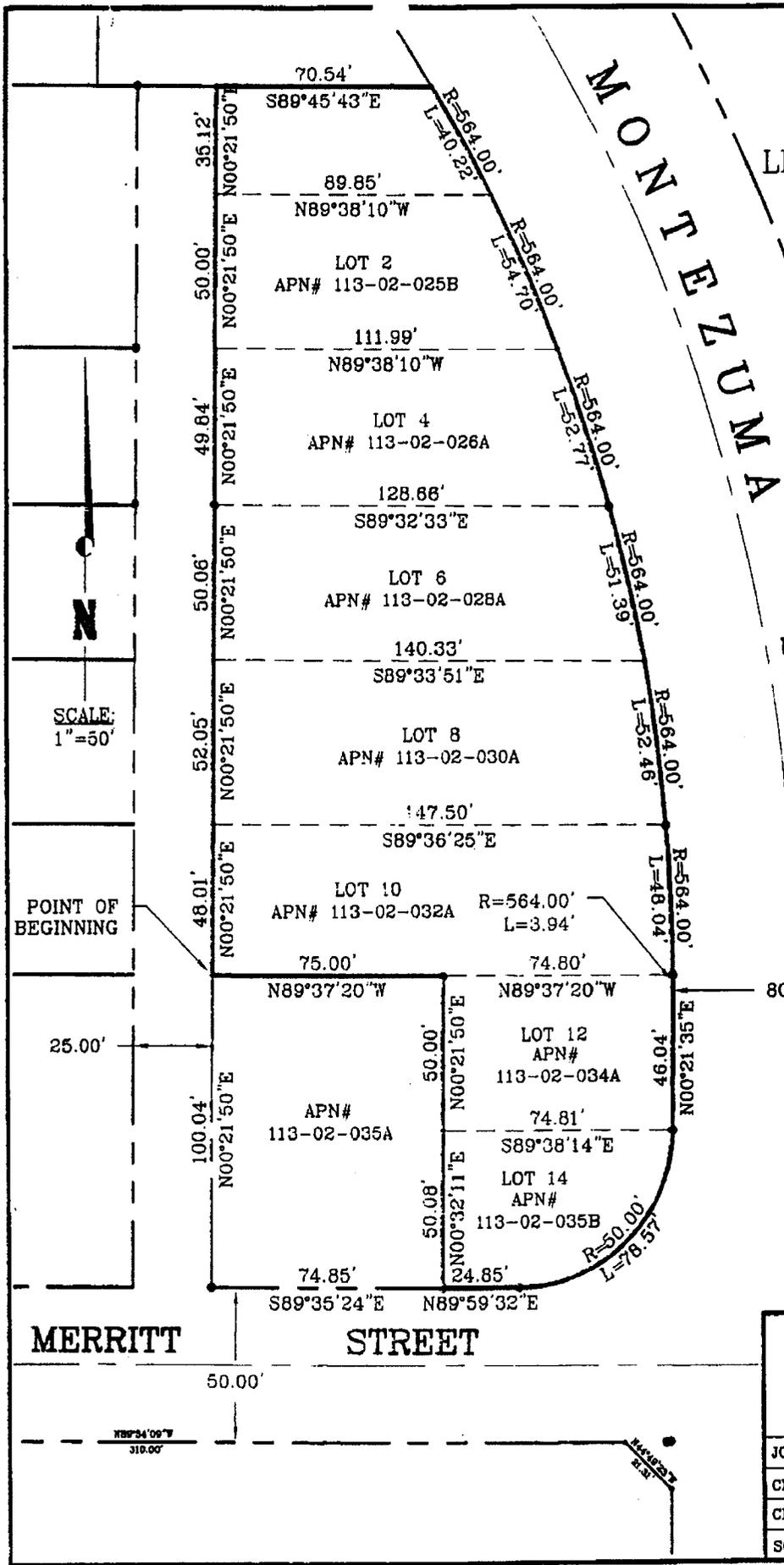
November 18, 2008

Job #08099

Resnick Merritt St 7 for legal description

Page 2 of 2

EXHIBIT
TO ACCOMPANY
LEGAL DESCRIPTION



SCALE:
1"=50'



POINT OF
BEGINNING



M · HAYWOOD · ASSOCIATES · INC
SURVEYING · ENGINEERING · PLANNING

115 E. GOODWIN STREET
PRESCOTT, AZ. 86303
(520) 778-5101

JOB NO: 08099	DRAWN: BC
CREW: -	DATE: 11-18-2008
CLIENT: RESNICK	CHECKED: GMH
SCALE: 1"=50'	DATE: 11-18-2008

COUNCIL AGENDA MEMO – September 15 & 22, 2009
DEPARTMENT: POLICE
AGENDA ITEM: Recommendation for Council to approve expenditure of funds allowing purchase of five Panasonic Toughbook Mobile Data computers, along with a 3-year protection plan for each device. Computers will be purchased from Insight Public Sector, Tempe, Arizona, for a total price of \$22,083.43

Approved By:	Date:
Department Head: Randy Oaks	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>R. Hadley</i>	

Summary:

Council previously adopted Resolution No. 3949-0955 authorizing acceptance of a grant award from the U.S. Department of Justice, Recovery Act Edward Byrne Memorial Justice Assistance Grant. Identified within this award was the purchase of five mobile data computers for use in front-line patrol vehicles.

Background:

On April 14, 2009, Council approved the purchase of five mobile data computers through the Recovery Act Edward Byrne Memorial Justice Assistance Grant. The Prescott Police Department will use the computers in front-line patrol vehicles to enhance patrol officer productivity and effectiveness, as well as lessening the workload of the Regional Communications Center.

By using the U.S. Communities Contract for Technology Products and Equipment (RQ09-997736-42B), offered by Insight Public Sector, the City is assured of the best available price for the computers. As such, we are seeking authorization to complete the purchase, allowing vehicle installation as soon as practicable.

Financial Impact:

There will be no financial impact to the City, as per grant agreement any funds encumbered will be reimbursed within 2-4 business days from the Department of Justice, Office of Justice Programs.

Recommended Action: MOVE to approve expenditure of \$22,083.43 to Insight Public Sector, Tempe, Arizona, for purchase of five Panasonic Toughbook mobile data computers, along with a 3-year protection plan for each device.
--

COUNCIL AGENDA MEMO – 09/15/09 & 09/22/09
DEPARTMENT: Administrative Services
AGENDA ITEM: Council consideration of a PSA agreement with Cable One which provides the City with up to 80 PSA's per month of City provided content on 20 Cable ONE networks.

Approved By:	Date:
Department Head: Mic Fenech	
Finance Director:	
City Manager: Steve Norwood 	

Background:

The City of Prescott wishes to inform its' citizens of City activities through the City's licensed cable operator. Cable ONE wishes to provide the City of Prescott with access to its' broadcast medium so that Public Service Announcements, City-sponsored events, and City services will be better known by the public it serves. Cable ONE will provide up to four (4), thirty (30) second PSA's each month on every core network that Cable ONE runs advertising on (currently 20 networks) for a total of 80 PSA's per month.

The City shall pay Cable ONE \$1 (one dollar) for each 12 month year.

This agreement is for five years with automatic five-year renewals. This agreement can be terminated by either party prior to the expiration of the term with 30 (thirty) days notice.

This agreement for services is separate from the recently approved license agreement between the City and Cable One.

Recommended Action: MOVE to approve a 5 (five) year PSA agreement with Cable ONE.
--



AGREEMENT FOR PUBLIC SERVICE ANNOUNCEMENTS

Cable One in Prescott, Arizona agrees to provide the City of Prescott with the following Public Service Announcements to be used to advertise City events, sponsorships or other such activities that promote the City of Prescott.

1. Cable One shall, run four (4), thirty (30) second public service announcements ("PSAs") for the City each month on every core network that Cable One runs advertising on (currently 20 networks) for a total of eighty (80) PSAs per month. The City shall be responsible for producing the PSAs and providing them to Cable One in the proper format (Beta, 3/4 inch, mini-DVD or DVD) by the first week of the month before the PSA should air.
2. The City shall pay Cable One, \$1 (one dollar) for each 12 month year (September 1 to August 31) that such announcements are run, which shall be due and payable on September 30, 2009, 2010, 2011, 2012, 2013.

This agreement shall commence on or about September 1, 2009 and shall remain in effect for a period of five (5) years. At the end of the original term, or any successive term, this agreement will automatically renew for successive terms of five (5) years each unless either party gives notice of its intent not to renew to the other party at least thirty (30) days prior to the expiration of the previous term. Any notices to be given by either party to the other shall be in writing, and personally delivered or mailed by prepaid postage and certified mail, at the following addresses:

City of Prescott:
City Clerk's Office
PO Box 2059
Prescott, AZ 86302

Cable One:
Dennis R. Edwards
3201 Tower Rd.
Prescott, AZ 86304

Date: _____

Date: _____

Cable One

City of Prescott

Dennis R. Edwards, General Manager

By: _____
Jack D. Wilson, Mayor

ATTEST:

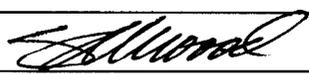
APPROVED AS TO FORM:

Elizabeth A. Burke, City Clerk

Gary D. Kidd, City Attorney

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COUNCIL AGENDA MEMO – September 15, 2009	
DEPARTMENT: CITY MANAGER/Economic Development	
AGENDA ITEM: Approval of Payment to Prescott Chamber of Commerce for Annual Courthouse Lighting	

Approved By:	Date:
Department Head: Jane Bristol 	9/19/09
Finance Director:	
City Manager: Steve Norwood 	09/09/09

BACKGROUND

For several years, the City Council has directed contributions to the Prescott Chamber of Commerce to support and enhance the annual Courthouse Lighting Event using Transient Lodging (Bed Tax) funds. In FY2008, the bed tax rate was increased to its current level of 3% and Council decided to contribute up to 5% of bed tax receipts specifically for this event.

CURRENT STATUS

As Council is aware, Bed Tax revenues are spent down each year as funds become available. Currently, fund revenue is about 25% less through August, 2009, compared to fiscal year-to-date August, 2008.

Although 5% of budgeted bed tax receipts would equal \$31,536, the suggested contribution amount has decreased to \$23,000, which is about 4%.

Recommended Action: MOVE to approve payment of \$23,000 to the Prescott Chamber of Commerce to be used for the Annual Courthouse Lighting event on December 5, 2009.

I-G

COUNCIL AGENDA MEMO – September 15 & 22, 2009
DEPARTMENT: FINANCE
AGENDA ITEM: Council Action for Debt Issuance through WIFA

Approved By:	Date:
Department Head:	
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>[Signature]</i>	

BACKGROUND

The City has several water and wastewater projects which we have applied to the Arizona Water Infrastructure Financing Authority (WIFA) to finance. In reviewing the financing options available for these projects, we decided that WIFA was best because the subsidized issuance cost and interest rate made it less expensive than issuing debt on our own. In July the City closed three WIFA loans for projects budgeted at \$19,163,482 through the American Recovery and Reinvestment Act of 2009 and \$6,155,128 of the principal of these loans will be forgiven.

ITEM

The master plan for our Wastewater Treatment Plants (WWTPs) is the last project we currently have at WIFA for funding and is for \$1,386,334. The term of the loan is for interest only for three years at a rate of 2.4%. The principal amount will be rolled into the construction financing for the necessary improvements to the WWTPs.

The loan documents are available for review from the Finance Department.

This item is the ordinance to authorize the loan and identify the Mayor as the authorized representative of the City to execute the loan. We anticipate closing this loan on September 25, 2009.

Recommended Action: MOVE to adopt Ordinance No. 4718-1015.

ORDINANCE NO. 4718-1015

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, APPROVING LOAN FUNDS FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA (WIFA) FOR THE WASTEWATER TREATMENT PLANTS PLAN AND DESIGN PROJECT, THROUGH THE CLEAN WATER PROGRAM #710073-10, AUTHORIZING THE MAYOR AND STAFF TO SIGN ANY AND ALL WIFA FUNDING DOCUMENTS PERTINENT TO SAID PROJECT AND DECLARING AN EMERGENCY

RECITALS:

WHEREAS, the Clean Water and Drinking Water Programs are sponsored by the Water Infrastructure Finance Authority of Arizona (WIFA) to provide financial assistance to enhance and improve water and wastewater infrastructure throughout Arizona communities; and

WHEREAS, the Wastewater Treatment Plants Plan and Design project has been approved by WIFA for loan funding; and

WHEREAS, said adopted procedures established by the WIFA Board require the applicant to certify by resolution signature authorization of such funding documents, the availability of local funds for loan repayment and a population of less than 50,000; and

WHEREAS, the City of Prescott is requesting \$1,386,334 from WIFA for design costs and commits to repayment of WIFA loan funds for project assistance.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

Section 1. THAT the Mayor and Council of the City of Prescott, Arizona hereby approve accepting \$1,386,334 in loan funds from the Water Infrastructure Finance Authority of Arizona (WIFA) to cover design costs for the Wastewater Treatment Plants Plan and Design project.

Section 2. THAT the Mayor and Council of the City of Prescott hereby certify that the population of the City of Prescott is less than 50,000.

Section 3. THAT the Mayor and staff are hereby authorized to execute the loan documents, and to take any and all steps deemed necessary to accomplish the above.

Section 4. THAT, an EMERGENCY is hereby declared to exist and THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE, ADOPTION AND APPROVAL BY THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 22th day of September, 2009.

JACK D. WILSON, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A. BURKE, City Clerk

GARY D. KIDD, City Attorney

I-H

COUNCIL AGENDA MEMO – (09/15/09 & 09/22/09)	
DEPARTMENT: City Clerk	
AGENDA ITEM: Public Hearing and consideration of a liquor license application from Jennifer Sarmiento, applicant for The Drunken Lass Irish Pub, for a Series 06, All Spirituous Liquor Bar, license for The Drunken Lass Irish Pub located at 218 West Gurley Street.	

Approved By:	Date:
Department Head: Elizabeth A. Burke	9/25/2009
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>[Signature]</i>	

A Liquor License Application, City No. 09-148, State No. 06130024, has been received from Jennifer Sarmiento, Applicant for The Drunken Lass Irish Pub, for a Series 06, All spirituous Liquor Bar, License for **The Drunken Lass Irish Pub** located at 218 West Gurley Street.

The public hearing will be held at the Regular Council Meeting of Tuesday, September 22, 2009. The applicant has been requested to attend the Regular Meeting to answer any questions Council may have. This license application is due to a person to person transfer.

A copy of the application is available for Council's review in the City Clerk's Office.

Recommended Action: (1) MOVE to close the Public Hearing, and (2) MOVE to approve/deny State Liquor License Application No. 06130024, for a new Series 06, All Spirituous Liquor Bar for Jennifer Sarmiento, applicant for The Drunken Lass Irish Pub located at 218 West Gurley Street.

R19-1-102. Granting a License for a Certain Location

Local governing authorities and the Department may consider the following criteria in determining whether public convenience requires and that the best interest of the community will be substantially served by the issuance or transfer of a liquor license at a particular unlicensed location:

1. Petitions and testimony from persons in favor of or opposed to the issuance of a license who reside in, own or lease property in close proximity.
2. The number and series of licenses in close proximity.
3. Evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies.
4. The residential and commercial population of the community and its likelihood of increasing, decreasing or remaining static.
5. Residential and commercial population density in close proximity.
6. Evidence concerning the nature of the proposed business, its potential market, and its likely customers.
7. Effect on vehicular traffic in close proximity.
8. The compatibility of the proposed business with other activity in close proximity.
9. The effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license.
10. The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report(s) of such activity at least 20 days before the hearing by the Board.
11. Comparison of the hours of operation of the proposed premises to the existing businesses in close proximity.
12. Proximity to licensed childcare facilities as defined by A.R.S. § 36-881.

Historical Note

Former Rule 2; Former Section R4-15-02 renumbered as Section R4-15-102 without change effective October 8, 1982 (Supp. 82-5). Repealed effective July 11, 1983 (Supp. 83-4). New Section adopted effective March 3, 1993 (Supp. 93-1). R19-1-102 recodified from R4-15-102 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 5119, effective January 9, 2006 (Supp. 05-4).

Editor's Note: The following Section was amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1996, Ch. 307 § 18. Although exempt from certain provisions of the rulemaking process, the Department was required to provide for reasonable notice and hearing. This Section was not reviewed by the Governor's Regulatory Review Council; and the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register (Supp

**ARIZONA STATE LIQUOR LICENSES
TYPES / PURPOSES
AS OF 04/07**

License Types: Series 01 In-State Producer's License

Allows an in-state producer to produce or manufacture spirituous liquor and sell the product to a licensed wholesaler.

License Types: Series 02 Out-of-State Producer's License

Allows an out-of-state producer, exporter, importer or rectifier to ship spirituous liquor into the state to a licensed Arizona wholesaler.

License Types: Series 03 Domestic Microbrewery License

Allows the licensee of a microbrewery to manufacture or produce not less than 5,000 gallons of beer in each calendar year following the first year of operation and not more than 620,000 gallons of beer in a calendar year.

License Types: Series 04 Wholesaler's License

Allows a wholesaler to warehouse and distribute for sale, spirituous liquor to a licensed retailer.

License Types: Series 05 Government License

Allows the holder of a government license to sell and serve spirituous liquor solely for consumption on the premises for which the license is issued. The license is issued in the name of a county, city, town or state university whose governing body has authorized its use.

License Types: Series 06 Bar License – Transferable

Allows a bar retailer to sell and serve spirituous liquors, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

License Types: Series 07 Beer and Wine Bar License - Transferable

Allows a beer and wine bar retailer to sell and serve beer and wine, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

License Types: Series 08 Conveyance License (Airplanes, Trains, and Boats)

Allows the owner or lessee of an operating airline, railroad or boat to sell all spirituous liquors in individual portions or in original containers for consumption *only* on the plane, train or boat.

License Types: Series 09 Liquor Store License (All spirituous liquors) - Transferable

Allows a spirituous liquor store retailer to sell all spirituous liquors, only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

License Types: Series 10 Beer and Wine Store License (Beer and wine only)

Allows a retail store to sell beer and wine (no other spirituous liquors), only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises.

License Types: Series 11 Hotel/Motel License (with Restaurant)

Allows the holder of a hotel/motel license to sell and serve spirituous liquor solely for consumption on the premises of a hotel or motel that has a restaurant where food is served on the premises.

License Types: Series 12 Restaurant License

Allows the holder of a restaurant license to sell and serve spirituous liquor solely for consumption on the premises of an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.

License Types: Series 13 Domestic Farm Winery License

Allows a domestic farm winery licensee to manufacture or produce more than two hundred (200) gallons, but less than seventy-five thousand (75,000) gallons of wine annually, from grapes or other agricultural products, of which at least seventy-five percent (75%) are grown in this state.

License Types: Series 14 Club License

Allows the holder of a club license to sell and serve spirituous liquor for consumption only on the premises owned, leased or occupied by the club, and only to bona fide members of the club and their guests.

License Types: Series 15 Special Event License

Allows a charitable, civic, fraternal, political or religious organization to sell and serve spirituous liquor for consumption only on the premises where the spirituous liquor is sold, and only for the period authorized on the license. This is a temporary license.

Non-transferable License Types: Series 16 Wine Festival/Wine Fair License (Temporary)

1. Wine festival license: Allows a licensed domestic farm winery to serve samples of its products on the wine festival premises and the sale of such products in original containers for consumption off the wine festival premises.
2. Wine fair license: Allows a licensed domestic farm winery to serve samples of its products at a sanctioned county or state fair, and the sale of such products in original containers for consumption off the fair premises.

License Types: Series 17 Direct Shipment License

Allows an out-of-state producer, exporter, importer, or rectifier to take orders from retail customers by telephone, mail, catalog or the Internet. The orders must be shipped into the state to a licensed Arizona wholesaler. The wholesaler must sell the product to a licensed retailer. The retailer will deliver the spirituous liquor to the customer.

COUNCIL AGENDA MEMO – (09/15/09 & 09/22/09)

DEPARTMENT: City Clerk

AGENDA ITEM: Public Hearing and consideration of a liquor license application from Kim Kwiatkowski, applicant for Circle K Stores, Inc. for a Series 09, Liquor Store, license for Circle K Store 1995 located at 3101 Willow Creek Road.

Approved By:

Date:

Department Head: Elizabeth A. Burke	08/27/2009
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>R Hadley</i>	

A Liquor License Application, City No. 09-149, State No. 09134000, has been received from Kim Kwiatkowski, Applicant for Circle K Stores, Inc. for a Series 09, Liquor Store, License for **Circle K Store 1995** located at 3101 Willow Creek Road.

The public hearing will be held at the Regular Council Meeting of Tuesday, September 22, 2009. The applicant has been requested to attend the Regular Meeting to answer any questions Council may have. This license application is due to a location transfer.

A copy of the application is available for Council's review in the City Clerk's Office.

Recommended Action: (1) **MOVE** to close the Public Hearing, and (2) **MOVE** to approve/deny State Liquor License Application No. 09134000, for a new Series 09, Liquor Store License for Kim Kwiatkowski, applicant for Circle K Stores, Inc. for Circle K Store 1995 located at 3101 Willow Creek Road.

I-J

COUNCIL AGENDA MEMO – (09/15/09 & 09/22/09)
DEPARTMENT: City Clerk
AGENDA ITEM: Public Hearing and consideration of a liquor license application from Kim Kwiatkowski, applicant for Circle K Stores, Inc. for a Series 10, Beer & Wine Store, license for Circle K Store 1576 located at 1245 East Gurley Street.

Approved By:	Date:
Department Head: Elizabeth A. Burke	8/27/2009
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>R. Hadley</i>	

A Liquor License Application, City No. 09-150, State No. 10133207, has been received from Kim Kwiatkowski, Applicant for Circle K Stores, Inc. for a new Series 10, Beer & Wine Store License for **Circle K Store 1576** located at 1245 East Gurley Street.

The public hearing will be held at the Regular Council Meeting of Tuesday, September 22, 2009. The applicant has been requested to attend the Regular Meeting to answer any questions Council may have.

A copy of the application is available for Council's review in the City Clerk's Office.

Recommended Action: (1) MOVE to close the Public Hearing, and (2) MOVE to approve/deny State Liquor License Application No. 10133207, for a new Series 10, Liquor Store License for Kim Kwiatkowski, applicant for Circle K Stores, Inc. for Circle K Store 1576 located at 1245 East Gurley Street.

I-K

COUNCIL AGENDA MEMO – (09/15/09 & 09/22/09)
DEPARTMENT: City Clerk
AGENDA ITEM: Public Hearing and consideration of a liquor license application from Elizabeth Ann Wilson, applicant for Gas Plus, for a Series 10, Beer & Wine Store, license for Gas Plus located at 421 East Sheldon Street.

Approved By:	Date:
Department Head: Elizabeth A. Burke	8/27/2009
Finance Director: Mark Woodfill	
City Manager: Steve Norwood <i>R Hadley</i>	

A Liquor License Application, City No. 09-151, State No. 10133206, has been received from Elizabeth Ann Wilson, Applicant for Gas Plus for a new Series 10, Beer & Wine Store License for **Gas Plus** located at 421 East Sheldon Street.

The public hearing will be held at the Regular Council Meeting of Tuesday, September 22, 2009. The applicant has been requested to attend the Regular Meeting to answer any questions Council may have.

A copy of the application is available for Council's review in the City Clerk's Office.

<p>Recommended Action: (1) MOVE to close the Public Hearing, and (2) MOVE to approve/deny State Liquor License Application No. 10133206, for a new Series 10, Liquor Store License for Elizabeth Ann Wilson, applicant for Gas Plus located at 421 East Sheldon Street.</p>
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COUNCIL AGENDA MEMO – 09/15/09

DEPARTMENT: Airport

AGENDA ITEM: Acceptance of a Federal Aviation Administration (FAA) Grant project in the amount of \$85,000 (\$80,750.00 Federal Share and \$4,250.00 City Share) for conducting an FAA required Wildlife Hazard Assessment at Ernest A. Love Field and further authorizing the mayor and staff to take any and all actions necessary to accomplish the above.

Approved By:	Date:
Department Head: Benjamin Vardiman, ACE, Airport Manager	09/14/2009
Finance Director: Mark Woodfill	
City Manager: Steve Norwood 	09/14/09 

Summary

This item is a request to accept a Federal Aviation Administration (FAA) Grant project in the amount of \$85,000 (\$80,750.00 Federal Share and \$4,250.00 City Share) for conducting an FAA required Wildlife Hazard Assessment (WHA) at the Airport.

Background

The FAA certifies airports through Title 14 Code of Federal Regulations Part 139. Prescott Airport has been an FAA certified commercial service airport since 1978. Part 139 requires certificated airports to conduct a WHA if they experience a triggering event. The FAA Office of Safety and Standards (AAS) has conducted a search of the National Wildlife Strike Database and found approximately 96 airports nationwide (including Prescott) that have experienced triggering events but have no record of the WHA required by Part 139. Airport operators identified in that list must immediately initiate action to start a WHA upon notification from their Airport Certification Safety Inspector. The City of Prescott experienced a triggering event early this past spring and was notified by our Airport Certification Safety Inspector in June of this year.

Federal FY 2009 Airport Improvement Funds (AIP) have been offered to Prescott to assist with the completion of the WHA. The WHA must be conducted by a qualified wildlife biologist who meets FAA requirements. The WHA will take 12 to 18 months to ensure adequate study of all of the seasonal wildlife activity and to gain a complete picture of the potential wildlife hazards affecting the airport.

While not required to be a bid process, the City has issued a request for Statements of Qualifications to solicit a qualified firm and/or person for this project. The WHA, which must be developed in accordance with FAA guidelines, will evaluate the potential risk(s) at the Prescott Airport and will make recommendations for reducing risk(s) which may have been identified.

Agenda Item: FAA Grant application for Wildlife Hazard Assessment.

The City received notice late last week that it had been awarded these funds, but we are required to accept the grant by September 18, 2009; therefore, a Special Meeting has been scheduled in conjunction with the September 15, 2009 Study Session to allow Council to take action on this item.

Financial Impact

This project will be 95% grant funded by the FAA (\$80,750) with a 5% City (\$4,250) match requirement. Funds will be reallocated from other budgeted grants that will not be received this fiscal year.

Recommended Action: **MOVE** to approve acceptance of a Federal Aviation Administration (FAA) Grant project in the amount of \$85,000.00 (\$80,750.00 Federal Share and \$4,250.00 City Share) for conducting an FAA required Wildlife Hazard Assessment at Ernest A. Love Field and further authorizing the Mayor and staff to take any and all actions necessary to accomplish the above..

**U.S. DEPARTMENT
OF TRANSPORTATION**

**FEDERAL AVIATION
ADMINISTRATION**

GRANT AGREEMENT

Part I - Offer

Date of Offer: **September XX, 2009**

Ernest A. Love Field Airport/Planning Area

Project No: **3-04-0030-030-2009**

TO: City of Prescott, Arizona
(herein called the "Sponsor")

FROM: The United States of America (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Applications dated **8/26/09**, for a grant of Federal funds for a project at or associated with the **Ernest A. Love Field Airport/Planning Area** which Project Application, as approved by the FAA, is hereby incorporated herein and made a part hereof; and

WHEREAS, the FAA has approved a project for the Airport or Planning Area (herein called the "Project") consisting of the following:

Conduct a Wildlife Hazard Assessment (WHA) at Ernest A. Love Field Airport to identify the wildlife species observed and assess their numbers, locations, local movements, and daily/seasonal activities.

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all as more particularly described in the Project Application.

NOW THEREFORE, pursuant to and for the purpose of carrying out the provisions of Title 49, United States Code, as amended, herein called "the Act", and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Project Application and its acceptance of this Offer as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the assurances and conditions as herein provided, **THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES** to pay, as the United States share of the allowable costs incurred in accomplishing the Project, **95.00** per centum thereof.

The Offer is made on and subject to the following terms and conditions:

Conditions

1. The maximum obligation of the United States payable under this offer shall be **\$80,750.00**. For the purposes of any future grant amendments which may increase the foregoing maximum obligation of the United States under the provisions of Section 47108(b) of the Act, the following amounts are being specified for this purpose:

\$80,750.00	for planning
\$0.00	for airport development or noise program implementation.
2. The allowable costs of the project shall not include any costs determined by the FAA to be ineligible for consideration as to allowability under the Act.
3. Payment of the United States share of the allowable project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the Secretary shall prescribe. Final determination of the United States share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
4. The sponsor shall carry out and complete the Project without undue delays and in accordance with the terms hereof, and such regulations and procedures as the Secretary shall prescribe, and agrees to comply with the assurances which were made part of the project application.
5. The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the sponsor.
6. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the project unless this offer has been accepted by the sponsor on or before **09/xx/09** or such subsequent date as may be prescribed in writing by the FAA.
7. The sponsor shall take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or disbursed by the sponsor that were originally paid pursuant to this or any other Federal grant agreement. It shall obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. It shall return the recovered Federal share, including funds recovered by settlement, order or judgment, to the Secretary. It shall furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the sponsor, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by the Secretary.
8. The United States shall not be responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.

9. **ASSURANCES AIRPORT SPONSORS:** The attached Assurances Airport Sponsors dated 03/2005, incorporated hereto with the Grant Offer, are hereby substituted in lieu of those in the Sponsor's Project Application and made a part hereof.
10. **COORDINATION:** The Sponsor agrees to coordinate this master planning study with the metropolitan planning organizations, other local planning agencies, and with the State Airport System Plan prepared by the State's Department of Transportation and consider any pertinent information, data, projections, and forecasts which are currently available or as will become available. The Sponsor agrees to consider all Clearinghouse comments and to furnish a copy of the final report to the State's Department of Transportation.
11. **GRANT OFFER BASED ON PRELIMINARY WORK PROGRAM:** It is understood and agreed by and between the parties hereto that this Grant Offer is made and accepted upon the basis of the preliminary Work Program; and the parties hereto covenant and agree that the Sponsor shall furnish a revised Work Program to the FAA and that a notice to proceed will not be issued until the revised Work Program has been approved by the FAA.
12. **EXCESS COST:** It is understood and agreed that notwithstanding that the Application includes therein planning work that the Sponsor has estimated at a total cost of \$85,000, the total allowable cost for purposes of determining federal participation shall not exceed \$80,750. Any project costs in excess of the federal allowable costs shall be the sole responsibility of the Sponsor.
13. **INFORMAL LETTER AMENDMENT OF AIP PROJECTS:** It is mutually understood and agreed that if, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000.00 or five percent (5%), whichever is greater, the maximum obligation of the United States can be unilaterally reduced by letter from the FAA advising of the budget change. It is further understood and agreed that if, during the life of the project, the FAA determines that a change in the grant description is advantageous and in the best interests of the United States, the change in grant description will be unilaterally amended by letter from the FAA. Upon issuance of the aforementioned letter, either the grant obligation of the United States is adjusted to the amount specified or the grant description is amended to the description specified.
14. **MANUAL PAYMENTS:** The sponsor agrees to request cash drawdowns using appropriate FAA forms, only when actually needed for its disbursements and to timely report of such disbursements as required. It is understood that failure to adhere to this provision may cause a delay in payment.
15. **MAXIMUM OBLIGATION:** In accordance with Section 47108(b) of the Act, as amended, the maximum obligation of the United States, as stated in Condition 1 above of this Grant Offer may not be increased for a planning project.
16. **TRAFFICKING IN PERSONS:**
 - a. **Provisions applicable to a recipient that is a private entity.**
 1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not--
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.
 2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity--
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either--
 - A. Associated with performance under this award; or
 - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB

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Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 49 CFR Part 29.

- b. Provision applicable to a recipient other than a private entity.** We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity--
1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either--
 - i. Associated with performance under this award; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 49 CFR Part 29.
- c. Provisions applicable to any recipient.**
1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
 2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section.
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
 3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
- d. Definitions.** For purposes of this award term:
1. "Employee" means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
 2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
 3. "Private entity":
 - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
 - ii. Includes:
 - A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - B. A for-profit organization.
 4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

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The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**

Brian Q. Armstrong
Manager, Los Angeles Airports District Office

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

Executed this _____ day of September, 2009

City of Prescott, Arizona

(SEAL)
(Sponsor's Designated Official Representative)

By _____

Attest: _____

Title _____

Title: _____

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CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of **Arizona**. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at _____ this _____ day of _____, 2009

Signature of Sponsor's Attorney