

BOARD OF ADJUSTMENT AGENDA

**BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY, NOVEMBER 19, 2009
9:00 AM**

**COUNCIL CHAMBERS
201 S. CORTEZ STREET
PRESCOTT, ARIZONA
(928) 777-1207**

The following Agenda will be considered by the **BOARD OF ADJUSTMENT** at its **PUBLIC HEARING** to be held on **NOVEMBER 19, 2009**, in **COUNCIL CHAMBERS**, in **CITY HALL**, located at **201 S. CORTEZ STREET**. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

I. CALL TO ORDER

II. ATTENDANCE

Members

Mike Kline, Chairman

Duane Famas, Vice Chairman

Johnnie Forquer

Calvin Fuchs

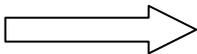
Tom Kayn

Ken Mabarak

William Warren

III. REGULAR AGENDA

- 1. Approve the minutes of the September 17, 2009 public hearing.**
- 2. CUP09-005, 600 Miller Valley Road.** APN: 113-07-028B totaling ±0.63 acre. LDC Section 2.3 and Table 2.3. Zoning is Business Regional (BR). Request Conditional Use Permit for a tattoo parlor (Penetration Tattoo is the current business name). Owner is Miller Valley, LLC. Applicant is Christine Elaina. Community Planner is Mike Bacon (928) 777-1360.
- 3. V09-005, 147 Grove Avenue.** APN: 113-12-037. LDC Sections 6.2.4.C; 6.2.5.K; 6.2.5.J; 6.2.3 and Table 6.2.3, Zoning is Business Regional (BR). Request Variance **WITHDRAWN** spaces and striping of stalls for restaurant, and a ~~array in paving~~ parking lot for 5 years. Owner/applicant is Melanie Gurvits, 212 W. Gurley, Prescott, AZ 86301. Community Planner is Mike Bacon (928) 777-1360.



THE CITY OF PRESCOTT ENDEAVORS TO MAKE ALL PUBLIC MEETINGS ACCESSIBLE TO PERSONS WITH DISABILITIES. WITH 48 HOURS ADVANCE NOTICE, SPECIAL ASSISTANCE CAN BE PROVIDED FOR SIGHT AND/OR HEARING IMPAIRED PERSONS AT PUBLIC MEETINGS. PLEASE CALL 777-1272 OR 777-1100 (TDD) TO REQUEST AN ACCOMMODATION TO PARTICIPATE IN THIS MEETING.

IV. REVIEW ITEMS

V. SUMMARY OF CURRENT OR RECENT EVENTS

VI. ADJOURNMENT

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall and on the City's website on **November 12, 2009 at 2:00 PM** in accordance with the statement filed with the City Clerk's Office.

Kelly Sammeli, Administrative Specialist
Community Development Department

**BOARD OF ADJUSTMENT
PUBLIC HEARING
SEPTEMBER 17, 2009
PRESCOTT, ARIZONA**

MINUTES OF THE PUBLIC HEARING OF THE BOARD OF ADJUSTMENT held on **SEPTEMBER 17, 2009** in **COUNCIL CHAMBERS, CITY HALL** located at **201 S. CORTEZ STREET**, Prescott, Arizona.

I. CALL TO ORDER

Chairman Klein called the public hearing to order at 9:00 AM.

II. ATTENDANCE

MEMBERS PRESENT	OTHERS PRESENT
Michael Klein, Chairman	George Worley, Asst. Community Development Director
Duane Famas, Vice Chairman	Richard Mastin, Development Services Director
E. Calvin Fuchs	Mike Bacon, Community Planner
Johnnie Forquer	Kelly Sammeli, Recording Secretary
Ken Mabarak	
Bill Warren	
COUNCIL ABSENT	COUNCIL PRESENT
Tom Kayn	Councilman Bell
	Councilman Luzius

III. REGULAR AGENDA

1. Approve the minutes of the August 20, 2009 public hearing.

Mr. Mabarak, **MOTION:** to approve the minutes of the August 20, 2009 public hearing.

Ms. Forquer, 2nd. **VOTE: 6-0.**

2. V09-003, 319 S. Mt. Vernon Street. APN: 110-03-034 and totaling ± 0.17 acre. LDC Section 3.6.3.D; Section 3.6.3.F.2; & LDC Section 2.7.3.D.5a Zoning is Single-Family 9 (SF-9). Request variance to increase lot coverage to 46% where 40% is allowed; reduce the side yard setback from 7-feet to 5-feet; and, reduce the rear yard setback from 4-feet to 1-foot for a free-standing garage with a recreational roof deck. Owner is Warren C. Kuhles. Applicant/agent is Robert Burford, Robert Burford Architects. Community Planner is Mike Bacon (928) 777-1360.

Mr. Bacon indicated that each of the board members had received copies of letters submitted from the adjoining property owners stating their approval of the request that was being presented. Mr. Bacon placed a copy of the site plan on the overhead projector and reported the variance request consisted of three requests. 1) to increase the lot coverage from 40% to 46% to accommodate a 480 square foot detached garage with a recreational roof-top deck that is being relocated from another location to the site; and, 2) to reduce the side yard setback from 7-feet to 5-feet, which would be compatible and in line with the existing 5-foot side yard setback of the home. And, 3) to reduce the rear yard setback from 4-feet to 1-foot in order to give additional usable rear yard space to the owner and to save three trees. Mr. Bacon indicated that the request had been before the Board several times prior, starting in May, 2009. Mr. Bacon reported in May, 2009, the Board denied the request for a corner yard setback and maximum lot coverage, which would have placed the garage on the exterior side of the property. The Board reconsidered their May decision in June, 2009, and brought the item back for maximum lot coverage (only) and set the item for the August hearing date. In August, the applicant asked for a continuance to make a new request for the side yard (interior) and rear yard setbacks to be combined with the lot coverage request. Mr. Bacon added that a new public hearing notification had been completed for the current request.

Mr. Bacon reviewed the variance criteria and noted that the item had also been reviewed by the Prescott Preservation Commission, who voted to support the request with two conditions, which were: 1) substantial conformance with the site plan dated March 18, 2009 (reduced exterior side setback); and, 2) that a Building Permit may be granted if a Variance is granted by the Board of Adjustment, and if the garage architecture is not changed and the observation deck will be noted on the notices sent out for the BOA hearing. Mr. Bacon closed the report by noting that the architect has submitted an analysis of other historic homes in the area and other historic districts that have similar or greater lot coverage's as their request. Mr. Bacon added that staff recommends approval of the three part variance request with five conditions that were noted in the staff report. Mr. Bacon further added that the applicant was present to answer any questions.

Chairman Kline called for questions from the Board for staff.

Mr. Fuchs noted that the Prescott Preservation Commission had supported the request for the lot coverage at their March 8, 2009 meeting and inquired if the current request needed to go before the Prescott Preservation Commission again for the other two items being requested.

Mr. Bacon reported no because the Preservation Commission has approved other similar variances in the area. (Mr. Bacon then gave the example of the garage in the side yard setback as noted in the staff report).

Chairman Kline invited the applicant to the podium to speak.

Mr. Warren Kuhles, 319 S. Mount Vernon indicated that they had talked to all the immediate neighbors who are adjacent to the alley and they have all approved the three requests of the variance and have submitted letters of approval. Mr. Kuhles added that it is their intention to preserve two apple trees and one elm tree that are located in the back yard.

Chairman Kline called on the Board for questions to the applicant. Hearing none, Chairman Kline opened the item up to the public. Hearing no public comment, Chairman Kline closed the public hearing and called for a motion.

Mr. Fuchs, **MOTION: to approve Variance 09-003** subject to the following conditions: 1) the site development shall be in substantial conformance with Exhibit "A" dated 9/17/09; 2) the garage architecture shall not to be changed; 3) the accessory building along the north property line in the rear yard is to be removed prior to the issuance of a Building Permit; 4) the two apple trees are to be saved and the large elm tree is to be saved; and, 5) the two apple trees are to be replaced should they die as a result of construction.

Mr. Warren, 2nd.

Chairman Klein inquired if there was documentation of the garage architecture for the record.

Mr. Bacon indicated that because the garage was being relocated from another property that there were photographs of it. Mr. Bacon added that the garage was made of lap siding, with an observation deck and railing on the top of it.

Chairman Kline noted there was documentation of the garage design to base if the architecture had been changed or not.

Mr. Warren inquired if item number one of the motion (site development shall be in substantial conformance with Exhibit "A" dated 9/17/09) is where the 46% of the lot coverage would be addressed or if it should be made clearer.

Mr. Bacon noted that was correct.

Chairman Kline called for any other questions. Hearing none, called for the vote.

Vote: **6-0.**

IV. REVIEW ITEMS

None.

V. SUMMARY OF CURRENT OR RECENT EVENTS

None.

V. ADJOURNMENT

Chairman Klein adjourned the meeting at 9:12 A.M.

Michael Klein, Chairman

Kelly Sammeli
Recording Secretary

COMMUNITY DEVELOPMENT - PLANNING & ZONING DIVISION
BOARD OF ADJUSTMENT
STAFF REPORT

Meeting Date: 11/19/09

TO: Board of Adjustment Members
FROM: Tom Guice, Community Development Director *TG*
George Worley, Assistant Director *GW*
Mike Bacon, Community Planner *MB*
DATE: 11/2/09

Location: 600 Miller Valley Road Zoning: BR Assessor Parcel No.: 113-07-028
Applicant: Christine Elaina, 702 White Spar, Prescott, AZ 86303
Owner: Miller Valley, LLC 400 Prescott Lakes Parkway, Prescott, AZ 86301

REQUEST/ Project Description: The applicant is requesting a Conditional Use Permit for a tattoo parlor within an existing 608 sq. ft. tenant space in a two-tenant 2015 sq. ft. (total) building with a 480 sq. ft detached storage building. The other building tenant (a T-shirt shop) space occupies the remaining 1407 sq. ft. This is an older neighborhood where parking has occurred for many years partially in the Osburn Street City R.O.W.

Parking Calculations

The number of parking spaces required for the building businesses is 9 and the parking available is 11. Staff foresees no issues with parking based upon the following parking calculations:

<u>Tattoo:</u> 608 sq ft.	<u>Required Parking</u>	
LDC 1 / 100 sq. ft. (400 sq. ft usable)	4	
<u>T-Shirt Shop:</u> 1407 sq. ft		
1 / 200 sq. ft. retail	2	
1 / 300 sq. ft. storage / work area	2	
1 / 300 sq. ft. office	<u>1</u>	
	9	Parking Provided: 11

The detached storage space is minimal to require any additional parking.

Neighborhood Comments. No neighborhood comments have been received.

STAFF ANALYSIS

Compliance with Zoning Code and ARS 9-462.06: Yes
Past Board of Adjustment Actions: None
Area CUP's: CUP08-002 approved on 5/15/08 at 635 Walnut for Prescott Tattoo.

Land Development Code Requirements

A Pre-Application Conference was held and the applicant has submitted this site plan in accordance with the PAC comments. The site plan will be required to meet all City codes at the time of Building Permit Issuance

Zoning & Uses: The site is located within a Business General Zoning District (BG) district which allows this use by CUP only.

Direction	Land Use	Zoning
North:	Retail	BG
South	Creek and Car Sales	IL
East	Retail	BG
West	Creek and Industrial	BG and IL

Conditional Use Review Criteria (Section 3.5 Land Development Code)

The Board of Adjustment may approve an application for a conditional use where it reasonably determines that there will be no significant negative impact upon residents or other owners of surrounding property or upon the public. The Board of Adjustment shall consider the following criteria in its review and approval shall be contingent upon compliance with the site plan and any conditions of approval:

(Note: Staff comments are *italicized*).

A. Effect on Environment

The location, size, design, and operation characteristics of the proposed use shall not be detrimental to the health, welfare, and safety of the surrounding neighborhood or its occupants, nor be substantially or permanently injurious to neighboring property. *There will be no detriment because this is a commercial zone.*

B. Compatible with Surrounding Area

The proposed site plan, circulation plan, and schematic architectural designs shall be harmonious with the character of the surrounding area with relationship to landscaping, scale, lot coverage, and the like. *This project is compatible as this is an existing older building with a prior lengthy history of commercial use.*

C. External Impacts Minimized

The proposed use shall not have negative impacts on existing uses in the area and in the City through the creation of noise, glare, fumes, dust, smoke, vibration, fire hazard, or other injurious or noxious impact. The applicant shall provide adequate mitigation responses to these impacts. *The proposal is compatible and there will be none of the above impacts.*

D. Infrastructure Impacts Minimized

The proposed use shall not have negative impacts on existing uses in the area and in the City through impacts on public infrastructure such as roads, parking facilities and water and sewer systems, and on public services such as police and fire protection and solid waste collection, and the ability of existing infrastructure and services to provide services adequately. *The proposal will generate less additional traffic than other business uses which would be allowed by right in this zoning district.*

Photo 1: View West from Miller Valley Road



Photo 2: View Northwest from Miller Valley Road illustrating businesses on the north side of Osborn Street also have parking stalls which back-up onto the street..



Photo 3: View to Southeast illustrating parking stalls and detached accessory building.



E. Consistent with General Plan and Code

The proposed use will be consistent with the purposes of this Code, the General Plan, Area Plans, and any other statutes, ordinances or policies that may be applicable, and will support rather than interfere with the uses permitted outright in the zone in which it is located. If the use is permitted outright in another zone, there must be substantial reason for locating the use in an area where it is only conditionally allowed. *This zone permits this use by Conditional Use Permit so that surrounding residents may voice their opinions on the type, intensity, and other impacts the proposed project may have on their individual properties. The Board of Adjustment may establish additional reasonable conditions of approval to mitigate project impacts.*

F. Parcel Size

The proposed use may be required to have additional land area, in excess of the minimum lot area otherwise required by the underlying zoning district, as necessary to ensure adequate mitigation of impacts on surrounding land uses and the zoning district. *No additional land area is required by the Land Development Code.*

G. Site Plan

The proposed use shall comply with the procedures and requirements of [Sec. 9.8](#), Site Plan Review. *This is done at the time of Building Permit application.*

Additional Conditions. The Board of Adjustment may impose additional reasonable conditions to carry out the spirit and intent of this Code and to mitigate adverse effects of the proposed use. These requirements may include, but are not limited to, increased open space, loading and parking requirements, additional landscaping or buffering, and additional improvements such as curbing and sidewalks.

STAFF RECOMMENDATION

Staff recommends approval with one condition.

SUGGESTED MOTION

Move to Approve CUP08-002 in accordance with the Exhibit A dated November 19, 2009 with the following condition of approval:

1. The maximum number of work stations allowed are four (4).

(Staff Note: This is one more work station than what is currently existing. Existing parking will allow potential future expansion of the tattoo business if the property owner allows this expansion. The property owner is responsible for providing the parking for the T-shirt business as well).

July 16, 2009

To The Planning and Zoning Committee members;

I Christine Elaina own Penetration Dermagraphics located at 600 Miller Valley road in Prescott Arizona. The business consists of two tattoo stations and one piercing station. Penetration Dermagraphics was formerly known as Prescott Tattoo located at 1239 Iron Springs Road. I purchased the company on September 1, 2008.

Prescott Tattoo was in business in Prescott for over eight years. The name and location were changed for greater traffic visibility and better economic viability not associated with Prescott Tattoo Company.

We utilize hospital sterilization procedures for all our equipment. All needles are new and prepackaged from the manufacturer and disposed of properly. We do not tattoo or pierce minors. Every client is required to fill out a release form and provide valid photo identification.

We will not perform any procedures on anyone who appears to be intoxicated or under the influence of any illegal substance.

Respectively,

Christine Elaina

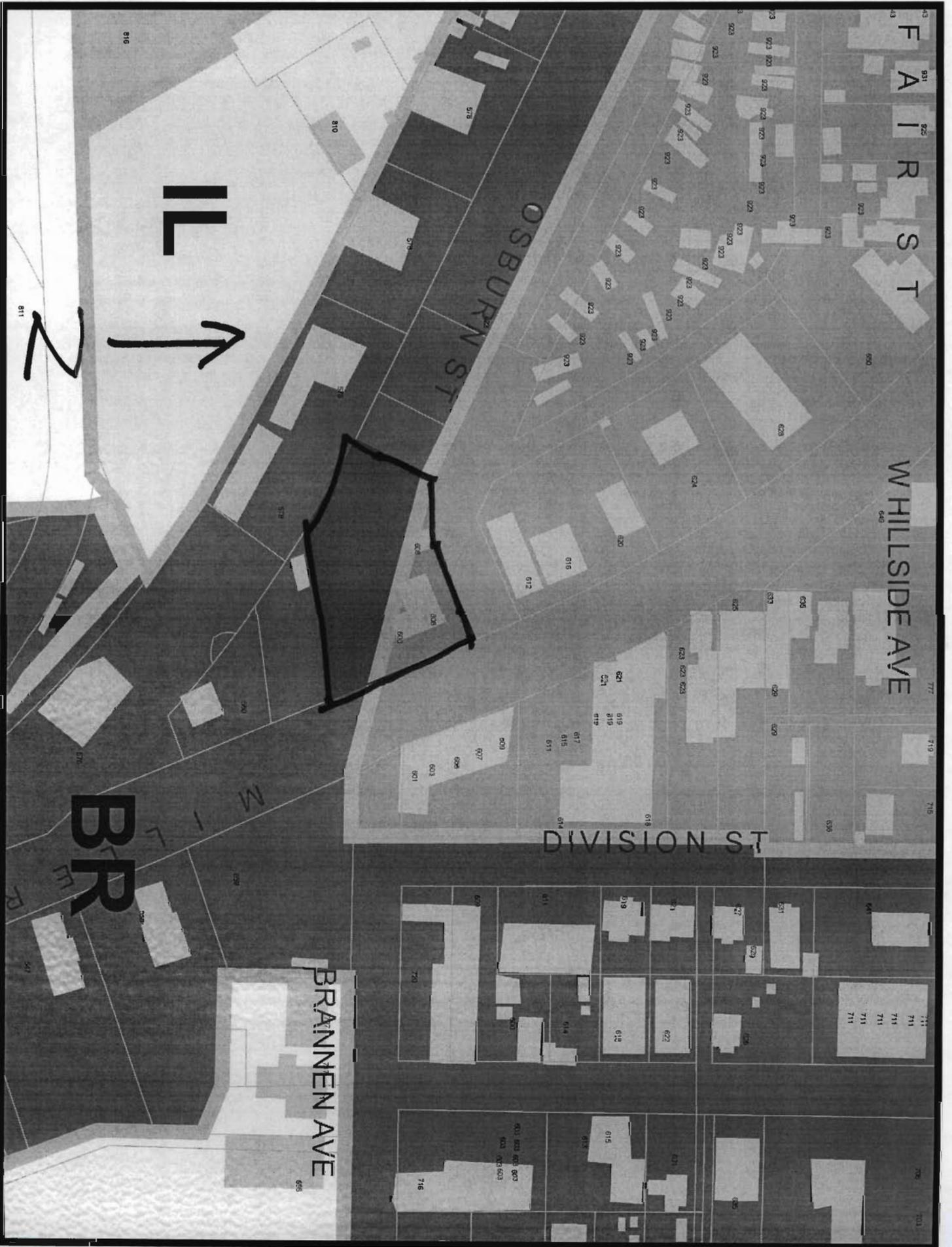
600 Miller Valley Road

Prescott, AZ. 86301

928-777-8807

I

RECEIVED
SEP 28 2009
CITY OF PRESCOTT
COMMUNITY DEVELOPMENT





Lot 128

50

50

80.2

81.6

97.7

PARKING 2 SPACES

60 1/2

Lot 29

PARKING 9 SPACES

OSBORNS ST

OSBORNS ST

Lot 1

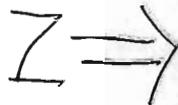
PAGE 1 OF 3

60/61/11 VJBAHXZ EXHIBIT

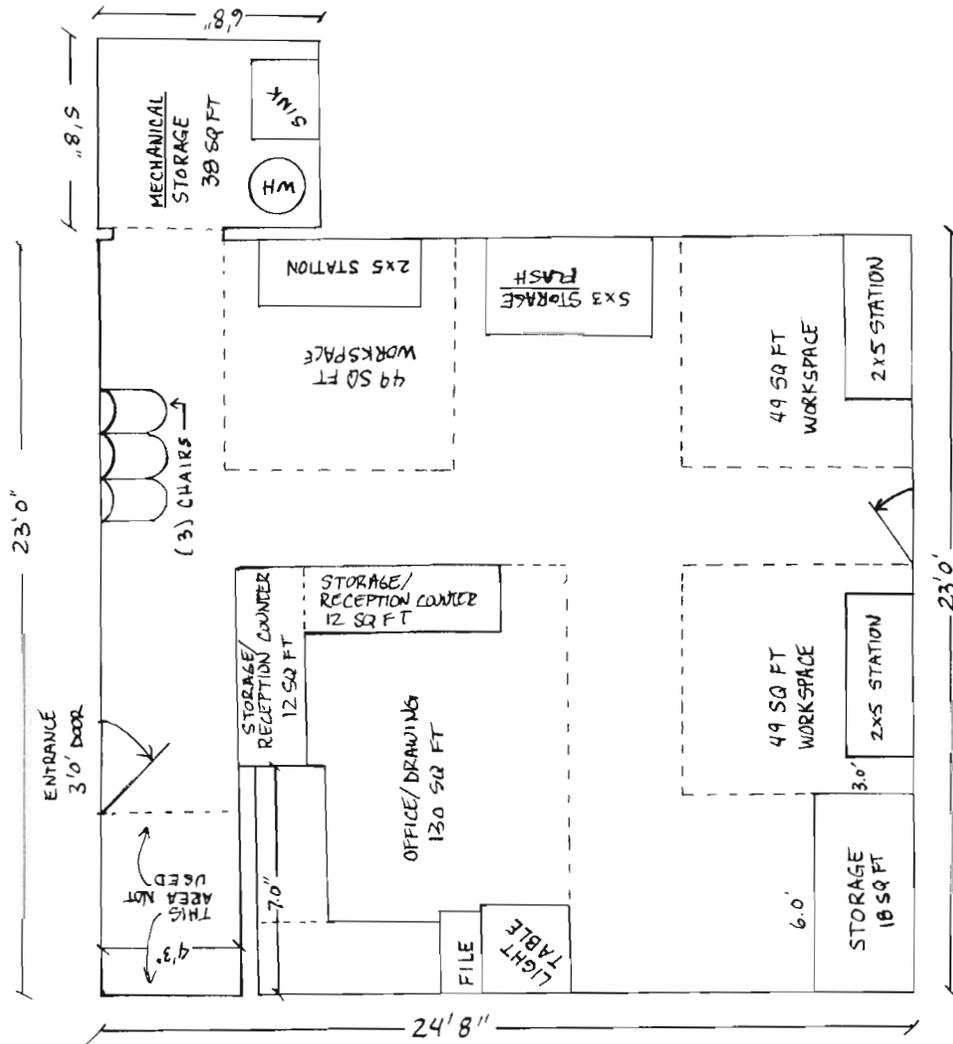
142

174

MILLER VALLEY ROAD
160 FT



60

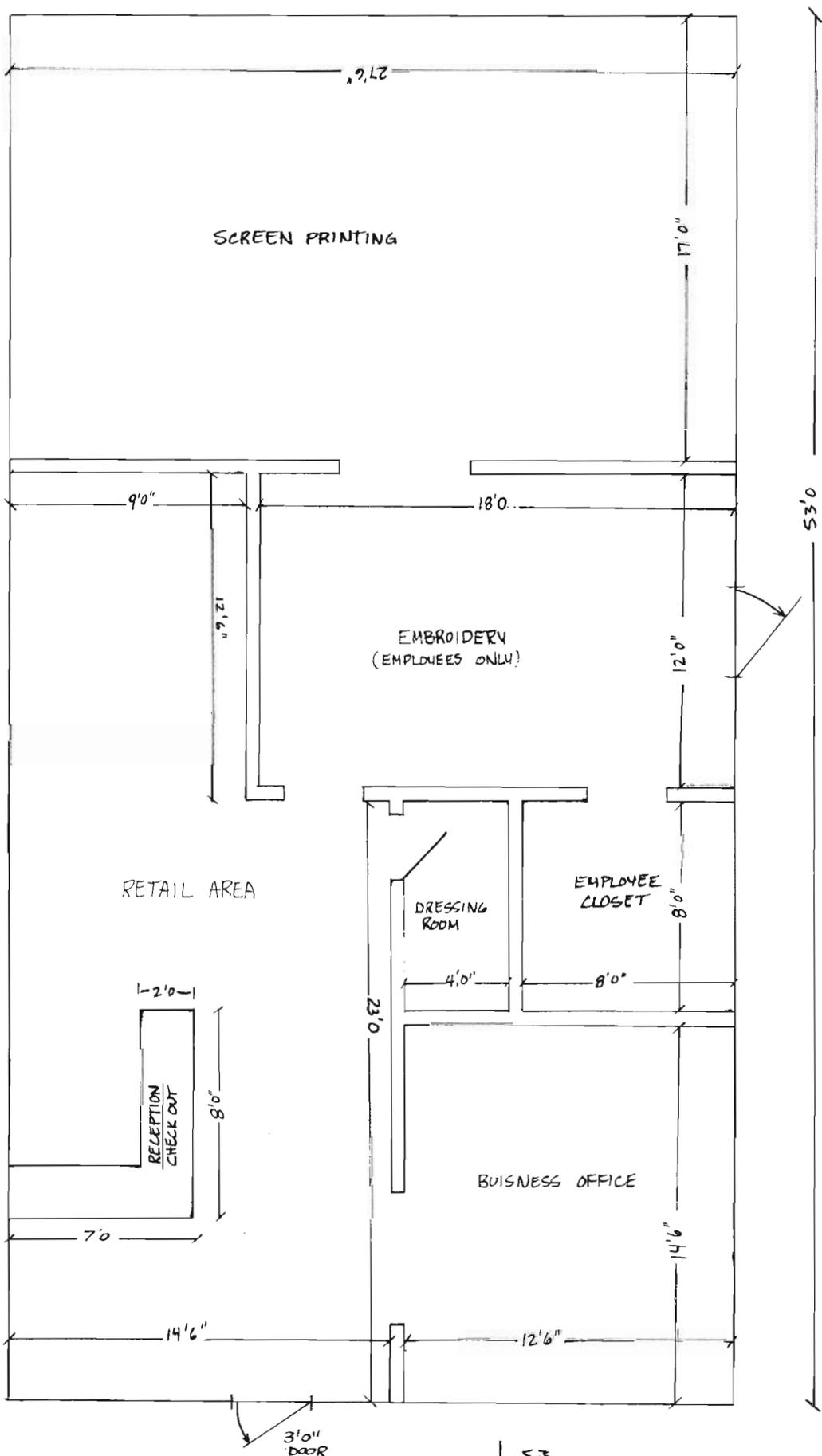


PENETRATION TATTOO
 600 MILLER VALLEY
 PRESOTT, AZ 86301
 SCALE: 3/8" = 1 FOOT

TOTAL SQUARE FOOTAGE	608 SQ FT
TATTOO WORKSPACES	147 SQ FT
OFFICE/DRAWING	130 SQ FT
MECHANICAL	38 SQ FT
STORAGE	57 SQ FT
RETAIL	0
FREE FLOOR SPACE	236 SQ FT

PAGE 3 of 3
 EXHIBIT A - 11/19/09

TOTAL SQUARE FOOT	1407 SQ FT
RETAIL AREA	446 SQ FT
BUSINESS OFFICE	184 SQ FT
DRESSING ROOM	32 SQ FT
STORAGE/CLOSET	67 SQ FT
EMBROIDERY	216 SQ FT
SCREEN PRINTING	467 SQ FT



T-SHIRTS & MORE
 608 MILLER VALLEY
 PRESCOTT, AZ 86301
 SCALE: 3/8" = 1 FOOT

Parcel Report for APN: 113-07-028B

Site Address: 600 MILLER VALLEY RD
608 1/2 MILLER VALLEY RD
608 MILLER VALLEY RD

Owner:
MILLER VALLEY REALTY LLC
400 PRESCOTT LAKES PKWY
PRESCOTT AZ 86301

Subdivision Name: OSBURN SUBDIVISION

Max. Lot Coverage: 60%
Max. Bldg Height: 50 ft
Setbacks

Front: 15 ft
Side: 5-12 ft
Rear: 10 ft
Corner: 8 ft

Acres: 0.63 acres
Square Ft: sq.ft.
TRS: T14-R2-S33

DOR Usage Code: Comm
Description: STORE FRONT COMMERCIAL
BLDG

Zoning Information

Zoning: BR

Flood Zone: A, X, X500, FW
FIRM Panel: 04025C2090F

Overlay District Information

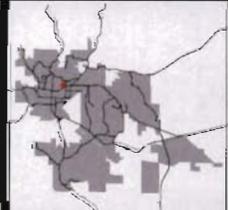
HPD District: Outside
NIR District: Outside
Willow Creek District: Outside
Wipple-Zuma District: Outside
Hwy 69 District: Outside
Prescott East Area Plan: Outside
Prescott Enterprise: Outside
Airport Noise District: Outside
Wildlife Urban Interface: Inside

Planner's Actions:



Legend

- Current Features
- Zoning Label
- Street Name Labels
- Address
- Citylimits Poly
- Parcels



600 MILLER VALLEY RD

This map is a product
of
The City of Prescott

