BOARD OF ADJUSTMENT AGENDA

BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY, JANUARY 21, 2010
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 at **9:00 AM** on **JANUARY 21, 2010,** in **COUNCIL CHAMBERS, CITY HALL, 201 S. CORTEZ STREET, PRESCOTT, ARIZONA**. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

I. CALL TO ORDER

II. ATTENDANCE

Members

Mike Klein, Chairman
Duane Famas, Vice Chairman
Johnnie Forquer
Calvin Fuchs
Tom Kayn
Ken Mabarak
William Warren

III. REGULAR AGENDA

1. **Approve the minutes of the November 19, 2009 public hearing.**

2. **Election of Chairman for the 2010 calendar year.**

3. **Election of Vice-chairman for the 2010 calendar year.**

4. **CUP09-006, 202 S. Montezuma Street.** APN: 109-02-046A and totaling ± 0.25 acre. Land Development Code, Section 2.5.13. Zoning is Downtown Business (DTB). Request conditional use permit to operate a mobile food cart on various occasions throughout the year. Owner is Brad Christensen. Applicant is Diane Rosito. Community Planner is Wendell Hardin (928) 777-1259.

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.

5. **V09-006, 1373 Dalke Point**. APN: 113-10-312 and totaling ± 0.73 acre. *Land Development Code, Section 3.3.3.F.* Zoning is Single Family 35 (SF-35 District). Request is for a variance to reduce side yard setbacks from the 12' requirement

to 3' to the east, 7' to the south and 7' to the west. Owner/applicant is Hehlen Family Trust--Rob & Susie Hehlen. Community Planner is Steve Gaber (928) 777-1206.

6. **CUP09-007, 650 Miller Valley Road.** APN: 113-07-031A totaling ± 0.47 acre. Request conditional use permit to allow a Pawn Shop. *Land Development Code,* Use Table 2.3. Currently zoned Business General (BG). The property owner is Canant Family Trust. Applicant/agent G&S Pawn LLC/Terry Garside. Community Planner is Steve Gaber (928) 777-1206.

7. **CUP09-008, 1455 Willow Creek Road.** APN: 116-17-270B totaling ± 6.37 acre. Request conditional use permit to allow a school (K-8) on property with a Single Family 9 (SF-9) zoning. *Land Development Code,* Use Table 2.3. Property owner is First Assembly of God Prescott Arizona, Inc. Applicant/ agent is Mountain Oak School-Cindy Roe/Dave Conners. Community Planner is Steve Gaber (928) 777-1206.

IV. SUMMARY OF CURRENT OR RECENT EVENTS

V. ADJOURMENT

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 January 15, 2010 @ 9: 00 AM in accordance with the statement filed with the City Clerk's Office.

_____
Kelly Sammeli, Administrative Specialist
Community Development Department

BOARD OF ADJUSTMENT
PUBLIC HEARING
NOVEMBER 19, 2009
PRESCOTT, ARIZONA

MINUTES OF THE **PUBLIC HEARING** OF THE **BOARD OF ADJUSTMENT** held on **NOVEMBER 19, 2009** in **COUNCIL CHAMBERS, CITY HALL, 201 S. CORTEZ STREET**, Prescott, Arizona.

I. CALL TO ORDER

Chairman *pro tempore* Famas called the public hearing to order at 9:00 AM.

II. ATTENDANCE

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

III. REGULAR AGENDA

1. Approve the minutes of the September 17, 2009 public hearing.

Mr. Fuchs**, MOTION: to approve the minutes** of the September 17, 2009 public hearing.

Mr. Warren, 2nd. **VOTE: 5-0-1. (Mr. Kayn abstained due to absence)**

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 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.

Mike Bacon, Community Planner placed a map of the site location on the overhead projector and reported that the request was for a conditional use permit to allow for the operation of a tattoo parlor located at 600 Miller Valley Road. Mr. Bacon noted the zoning districts on the overhead map and indicated to the north of the site the zoning is Business General (BG), and to the south is Business Regional (BR), with

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a portion of Industrial Light (IL) zoning. Mr. Bacon indicated that the requested use would be compatible with the surrounding uses in the area. Mr. Bacon recalled that the Board approved a similar request last year, for a tattoo parlor located on Walnut Street which is across the street from the current site requested. Continuing, Mr. Bacon reported that this is an existing tattoo parlor currently operating within an established commercial location that has utilized parking located partially within the Osborn Street right of way for many years. Mr. Bacon placed a photograph of the parking areas for the two commercial buildings on the overhead and noted that Osborn Street dead-ends shortly after the location of the commercial buildings. The photograph reflected eleven parking sites for both buildings. Mr. Bacon noted that nine parking spaces would be required for the use. At this time Mr. Bacon placed a site layout of the building on the overhead and noted the location of the tattoo parlor as well as the T-shirt shop. Mr. Bacon concluded the presentation by noting that a conditional use is required for the tattoo parlor to operate within the zoning district, staff supports the request and recommends approval with the condition that the maximum number of work stations allowed is four (4). Currently, there are three stations and this would allow for growth of the business without any impact on the other business (T-shirt shop) within the building.

Chairman *pro tempore* Famas called upon the Board for questions or comments.

Mr. Mabarak inquired why the applicant was coming before the Board for a conditional use permit if they were already in operation.

Mr. Bacon indicated that they were not aware of the need for a conditional use permit, and they would need the approved conditional use permit to continue operating in the zoning district that the business is located in.

Mr. Mabarak inquired how long the business has been in operation.

Mr. Bacon indicated that he was not sure and that the applicant would have to address the question.

Mr. Mabarak asked Mr. Bacon to place the parking layout back on the overhead projector again and indicated that he did not see the eleven parking spaces.

Mr. Bacon placed the parking layout on the overhead and pointed out the eleven parking spaces.

Mr. Kayn inquired if there was a requirement that the separate parking area that held two spaces be identified as part of the parking area.

Mr. Bacon reported that those spaces could be utilized for employee parking and that there was not a designation requirement for the parking stalls.

Mr. Kayn inquired if the tattoo parlor and the T-shirt shop would be considered in the same type of use classification for the parking calculation requirements.

Mr. Bacon indicated that the T-shirt shop would be classified a retail location with the parking requirement of one space per 200 square feet, and the tattoo parlor would be classified as personal service which calls for one parking space per 100 square feet of useable floor area.

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Mr. Kayn noted that the drawing in the packet indicated that the total square footage of the tattoo parlor was 608 square feet. Mr. Kayn then asked Mr. Bacon to explain how he had calculated the parking on 400 square feet of useable space.

Mr. Bacon explained that the mechanical and storage spaces are subtracted from the total square footage.

Mr. Kayn offered that even after the removal of the mechanical and storage square footage he had calculated a total of 503 square feet. Mr. Kayn further indicated that it did not make a difference to him; however, for future reference he would like to understand how the calculation occurred.

Mr. Bacon reported that the all of the free floor space was not included in the calculation and it was reviewed with a broader perspective.

Mr. Kayn inquired about the hours of operation and if it should be addressed.

Mr. Bacon noted that staff did not feel the hours of operation were a concern however, the applicant was available to address the question.

The applicant, Ms. Christine Elaina, 702 White Spar Road, reported that their operating hours are 10:00 A.M. until 8:00 P.M., Monday through Saturday. Ms. Elaina further noted that Sunday was reserved for appointments, where they do their custom tattoo work.

Mr. Kayn inquired if the sidewalk signage would factor into the request.

Mr. Bacon reported that the A-frame type sidewalk signage is address by the City code and that any signage would have to meet code. Mr. Bacon further added that they were allowed 50 square feet of signage.

Mr. Kayn inquired if that included the A-frame sign.

Mr. Bacon remarked that the A-frame sign is considered separate, and that the 50 square feet of signage would be allowed on the building.

Mr. Fuchs inquired if the detached storage area required parking.

Mr. Bacon reported that storage area was not being utilized at this time, but if it was it would require one parking space per five hundred square feet.

Mr. Fuchs inquired if the board should consideration if the detached storage area would remain vacant or if it would be utilized in the future.

Mr. Bacon indicated that the Board should consider the present use of the property and if the parking requirements are being met.

Mr. Mabarak inquired if the Board approved the conditional use permit; was the approval given to the applicant or to the property owner.

Mr. Bacon emphasized that the conditional use would run with the property.

Mr. Mabarak inquired if the conditional use would be permanent.

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Mr. Bacon reported that the conditional use would be permanent unless the use stopped for a period of a year and then it would be voided.

Mr. Mabarak offered if the Board approved the conditional use for 600 Miller Valley Road it could be utilized at 608 Miller Valley Road, the other portion of the building.

Mr. Bacon remarked that was correct.

Mr. Mabarak further inquired if the applicant happened to sell to another tattoo business; if that business be allowed to stay in the location.

Mr. Bacon reported if the transaction occurred before the twelve month time period it would be allowed but if it was after that, the use would expire and they would have to request another conditional use permit.

Mr. Mabarak inquired if there was a prevision in the code to give the conditional use permit to the applicant and not to the property.

Mr. Bacon indicated there was not, that the conditional use always goes with the property.

Mr. Mabarak asked the applicant how long the business had been in operation at 600 Miller Valley Road.

Ms. Elaina indicated that they have been there about a year.

Mr. Mabarak inquired how she came to know that they needed a conditional use permit to operate.

Ms. Elaina responded that she owned Prescott Tattoo, which was slated to go into a location on Walnut Street however, there were lease issues and she sold the business. Ms. Elaina indicated that the current business went into 600 Miller Valley Road, upon speaking to Mr. Lambs' agent, who believed the whole area was zoned light industrial. Ms. Elaina added that the owner, Mr. Lamb was also present at the meeting in support of her request for the conditional use permit. Ms. Elaina added that there is no access to the T shirt shop from her business and it is completely separate from her business.

Mr. Warren inquired what type of signage would be utilized at the location.

Ms. Elaina indicated that the sign panel from the previous business was still in place and they had just put a sign face over it. In addition, they use a small A frame sign on occasion.

Mr. Warren inquired if there were plans to use an internal or external illuminated sign for the location.

Ms. Elaina indicated no.

Chairman *pro tempore* Famas called for other comments or questions from the Board.

At this time Mr. Kayn and Mr. Bacon discussed the calculations of the square footage and the parking requirements as defined in the *Land Development Code*.

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Mr. Mabarak indicated that he thought the Boards duty to compare the code with the square footage of the building for the parking requirements and perhaps the operating area as explained by Mr. Bacon is what was concerning Mr. Kayn. Mr. Mabarak further offered that the one parking space per one hundred square feet is a stringent requirement and it is being met.

Mr. Bacon offered that in the presenting of future staff reports he would clearly detail the calculation process regarding parking.

Mr. Fuchs indicated that during the years that he has been on the Board, they have taken the total square footage of the building to calculate the parking. Mr. Fuchs added that in his view the use would require six parking spaces and it is not an issue.

Mr. Bacon acknowledged the Board members concerns and explained in detail how he had come to the square footage to calculate the parking.

Chairman *pro tempore* Famas inquired if the applicant would be allowed to utilize off site parking.

Mr. Bacon indicated that would be a possibility if it was within 300 lineal feet of the site and the Community Development Director approved it.

Chairman *pro tempore* Famas offered that he had noticed that there was parking across the street.

Chairman *pro tempore* Famas inquired if the applicant would like to add any more information.

Ms. Elaina indicated that she did not understand that the conditional use permit was only valid for a year and inquired if they would have to apply every year.

Mr. Bacon reassured Ms. Elaina that if the conditional use was approved it would remain in effect as long as the tattoo business was operating. Mr. Bacon added that the conditional use would only cease if the tattoo use would not be utilized for a period of a year.

Chairman *pro tempore* Famas opened the item up for public comment. Hearing none the item was closed and Chairman *pro tempore* Famas called for a motion.

Mr. Kayn, MOTION: to approve CUP09-005, for the operation of a tattoo parlor at 600 Miller Valley Road, with the condition that the maximum number of work stations be limited to four (4).

Mr. Warren, 2nd.

Mr. Kayn inquired if any of the Board members wished to address the hours of operation.

Chairman *pro tempore* Famas noted that because it is in a commercial location he felt that would not be necessary. Hearing no other comment, Chairman *pro tempore* Famas called for the vote.

VOTE: 6-0.

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IV. REVIEW ITEMS

None.

V. SUMMARY OF CURRENT OR RECENT EVENTS

Board members Kayn, Warren and Mabarak thanked Councilman Luzius for his years of dedicated service to the City.

V. ADJOURNMENT

Chairman *pro tempore* Famas adjourned the meeting at 9:42 A.M.

_____
Duane Famas, Chairman *pro tempore*

_____
Kelly Sammeli
Recording Secretary

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CUP09-006 CONDITIONAL USE PERMIT Agenda# 4 ___
202 Montezuma St. (Eco 3 Oil)

COMMUNITY DEVELOPMENT – PLANNING AND ZONING DIVISION
BOARD OF ADJUSTMENT MEETING FOR January 21, 2010

STAFF REPORT

TO: City of Prescott Board of Adjustment

FROM: Tom Guice, Community Development Director TG
George Worley, Assistant Community Development Director GW
Wendell Hardin, Community Planner WH

DATE: January 21, 2010

REQUEST: CUP09-006 **ZONING:** DTB (Downtown Business)

PARCEL NUIMBER: 109-02-046A **AREA:** 0.25 acres

Owner: Brad Christiansen
3599 Lee Circle
Prescott, AZ 86301

Applicant: Diane Rosito
202 S. Montezuma St.
Prescott, AZ 86303

REQUEST:
This is a request for a Conditional Use Permit to allow a Mobile Food Vendor (proposed Hot Dog Cart). The Cart is proposed to be in operation on various days throughout the year. The Hot Dog Cart is proposed to be sited along the northeast corner of the property fronting W. Goodwin to the north and S. Montezuma to the east. This request complies with the Land Development Code as well as ARS 9-462.06 regarding applications heard by the Board of Adjustment.

PAST BOARD OF ADJUSTMENT ACTIONS: No recent actions proposed to the Board of Adjustment..

CONDITIONAL USE REVIEW CRITERIA:
Conditional uses require special consideration regarding the effect on surrounding properties and the use in relation to the objectives of the ordinance. A conditional use permit may be granted only when the Board of Adjustment finds the proposal meets the certain general criteria as described in Section 9.3.5 of the LDC:

A. **Effect on the environment:** The area is zoned Downtown Business (DTB) which requires the intended use, a Mobile Food Vendor, to come before the Board of Adjustment to seek a Conditional Use Permit. The impact of the proposed Mobile Food Vendor (Hot Dog Cart) is minimal due to patrons being primarily foot traffic in nature. Article 2 / Use Regulations, Section 2.5.13 / Mobile Food Vendors call out a maximum

area of operation which includes not lighting, minimal signage, and that trash containers be provided by the vendor.

B. Surrounding Zoning and Land Uses:

Direction	Land use	Zoning
North:	Whiskey Row (various shops and Restaurants)	DTB
South:	Adjacent to the property is a strip-like building with multiple types of Retail/Restaurants shops.	DTB
East:	Vacant corner adjacent to the Chamber of Commerce	DTB
West:	Eco-3 Oil Change and High School Athletic Field	DTB/MF-M

C. External impacts minimized: The placement of the Hot Dog Cart will have little to no impact from a hazardous or noxious point of view to the surrounding area. The Cart will be located outside of the Visual Triangle as described in Article 6/ General Standards, Section 6.3 Access Management.

D. Infrastructure impacts minimized: There will be no requirement of new infrastructure for the proposed CUP request. The Hot Dog Cart is self-contained. The Cart is to be no greater than 40 Square feet in size and must be self-sufficient in its operational context. Currently, fire hydrants are available adjacent to the parcel.

E. Consistent with General Plan and Code: The General Plan shows this area as commercial, while zoning of the property is DTB. The subject parcel as a whole is consistent with the 2003 General Plan policies. The LDC allows for Mobile Food Vendor with an approved CUP. The conditional use permit process allows neighbors an opportunity to voice their opinions about the proposal. At this time only the Downtown Partnership has asked for a technical review with staff.

F. Parcel size: The subject property is adequately sized for this use. No excess area exists that may allow for any future lot splits or additional Mobile Food Vendors.

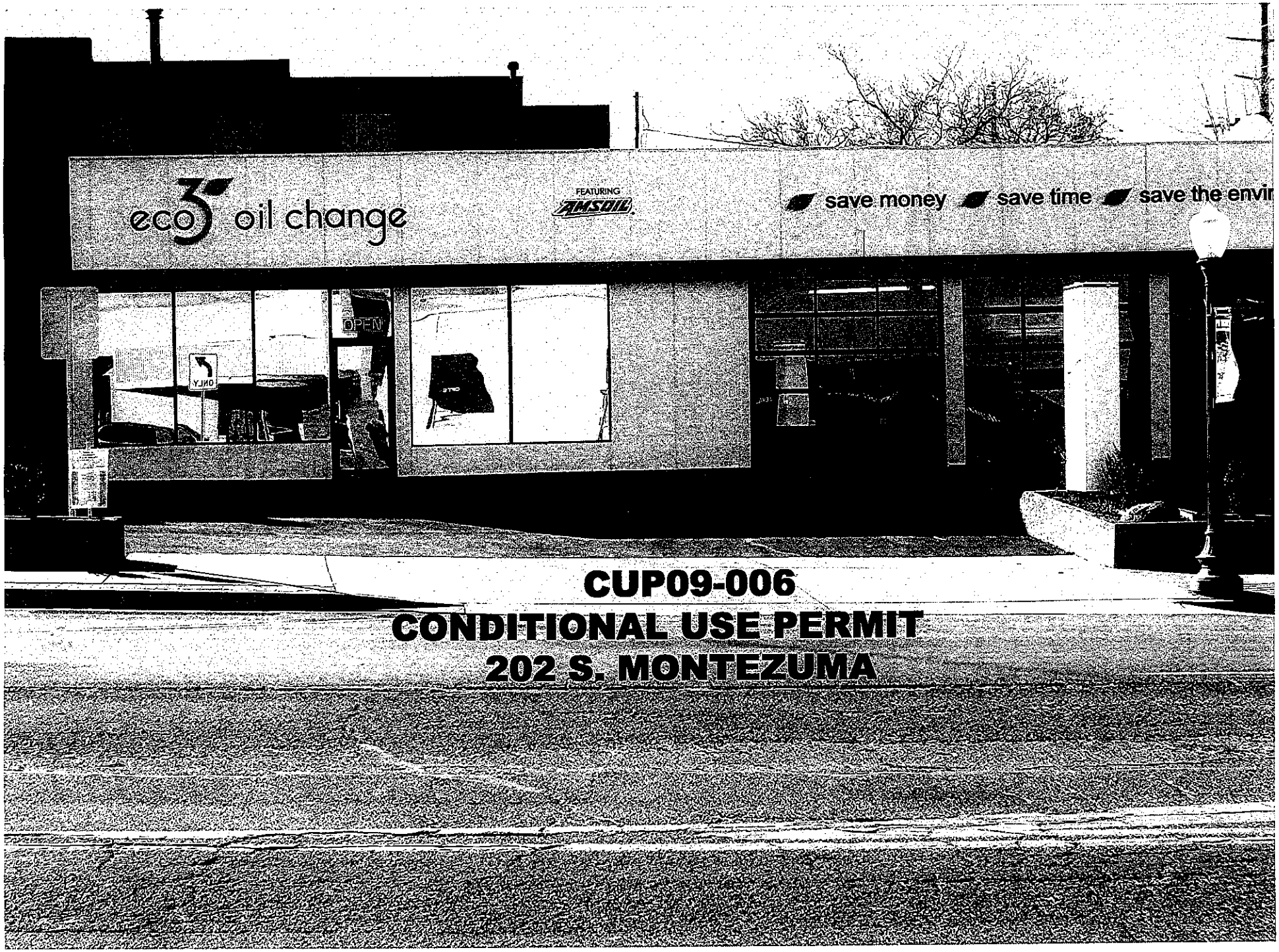
G. Site Plan:

- The maximum allowed footprint of a Mobile Food Vendor Cart is 40 Sq. Ft. with the proposed Hot Dog Cart meeting this requirement.
- The site plan clearly indicates the cart being out of any ingress/egress access points complying with safety regulations.
- The site plan indicates no loss of required parking spaces for the existing business (Eco3 Oil) on site.

NEIGHBORHOOD COMMENTS:
Met with a representative of the Downtown Partnership for a technical review of the proposed Hot Dog Cart.

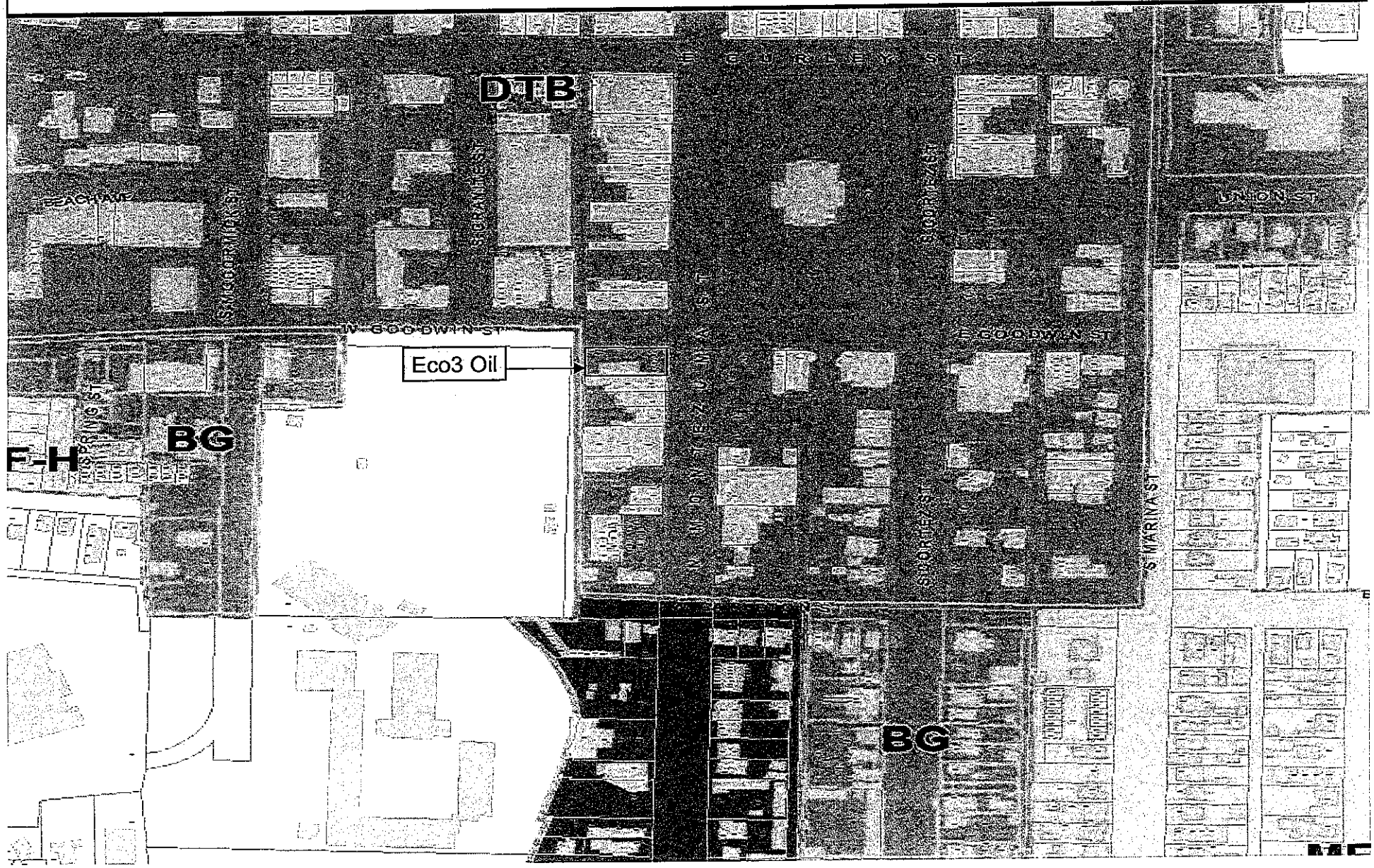
STAFF FINDINGS AND RECOMMENDATION: The CUP application is complete. Staff recommended that the parking stripping and block be removed at the closest point to the Hot Dog Cart for safety purposes, applicant complied with this request. The height of the canopy and square footage is within the guidelines allowed by the LDC. Staff recommends approval of the requested CUP.

SUGGESTED MOTION:
Move To Approve Conditional Use Permit CUP09-006.

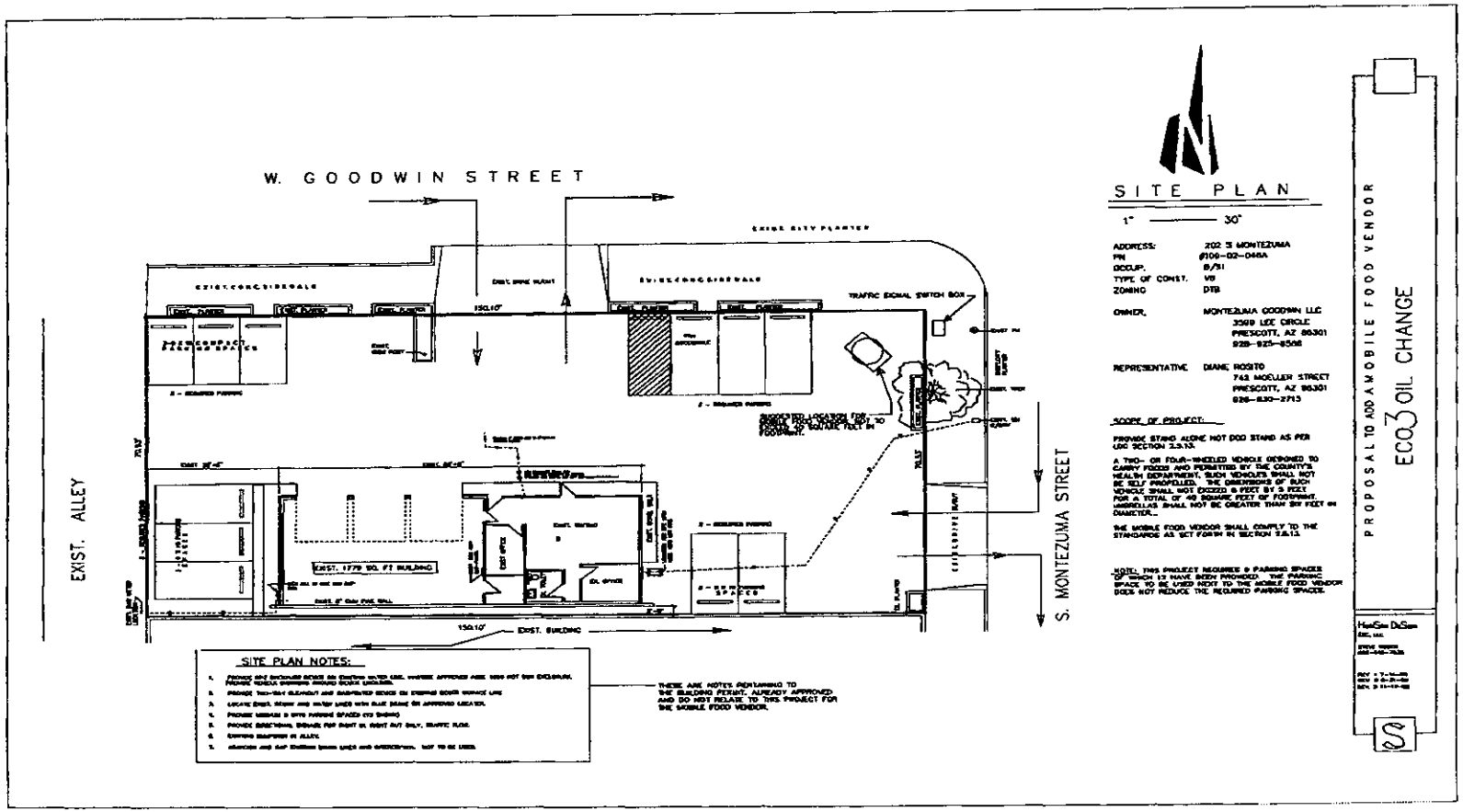


CUP09-006
CONDITIONAL USE PERMIT
202 S. MONTEZUMA

Vicinity & Zoning



SITE PLAN



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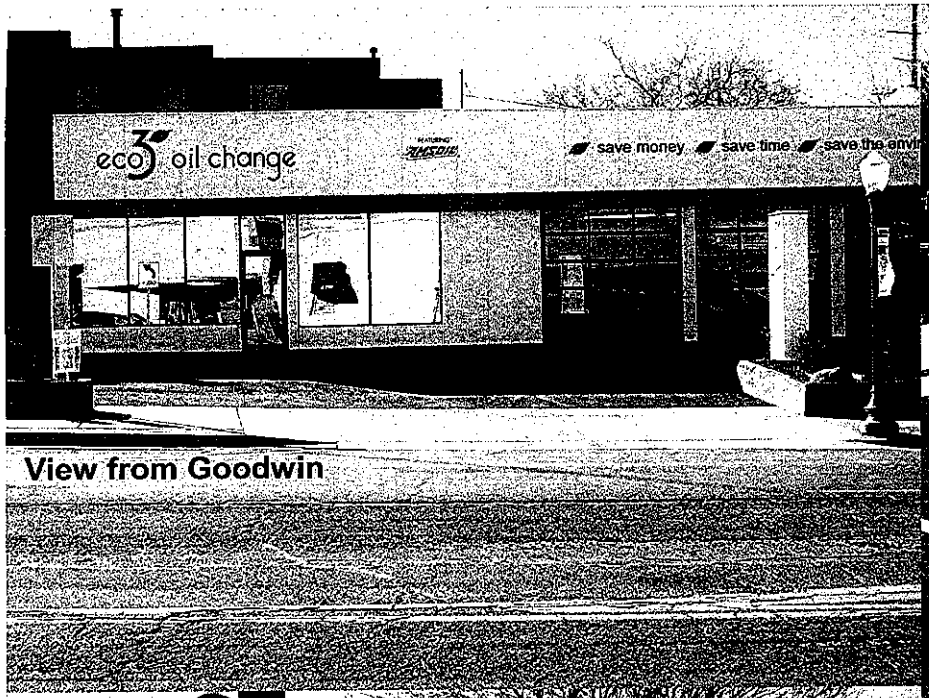
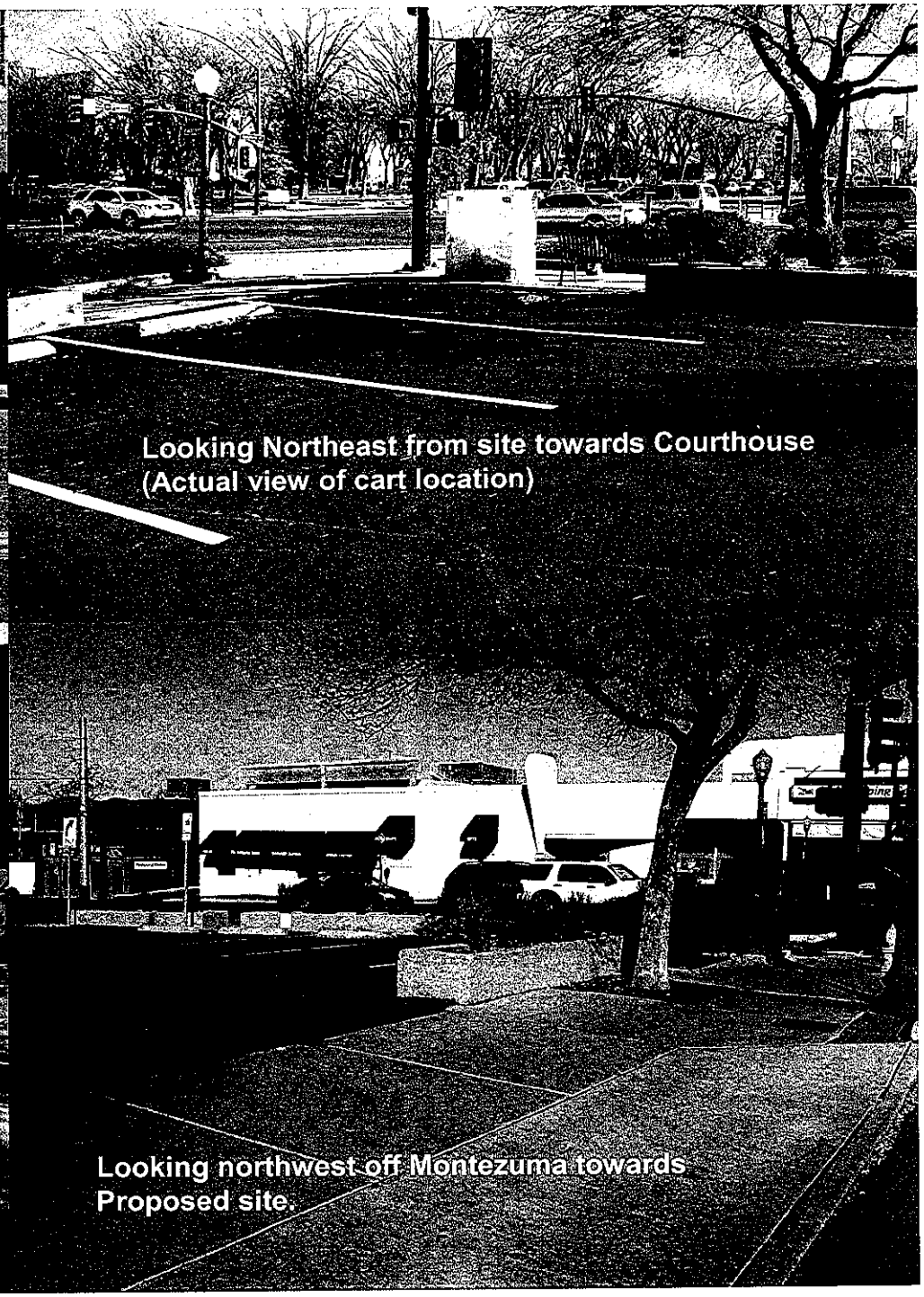
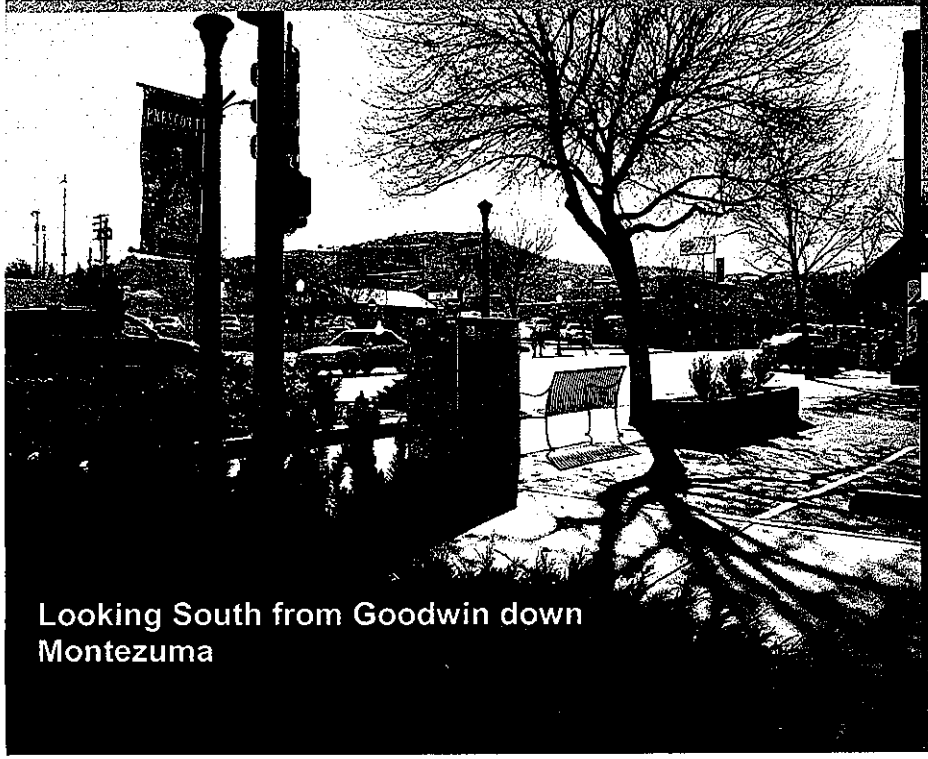


View from Goodwin



Looking Northeast from site towards Courthouse
(Actual view of cart location)



Looking South from Goodwin down
Montezuma

Looking northwest off Montezuma towards
Proposed site.

STAFF FINDINGS AND RECOMMENDATION: Staff recommends approval of the requested Conditional Use Permit (CUP).

SUGGESTED MOTION:

Move To Approve Conditional Use Permit CUP09-006

Prescott Downtown Partnership, Inc.
P. O. Box 3801, Prescott, Arizona 86302
928. 443. 5220
928. 443. 5404 (fax)
info@prescottdowntown.com

RECEIVED
JAN 14 2010
CITY OF PRESCOTT
COMMUNITY DEVELOPMENT

January 14, 2010

City of Prescott
Board of Adjustment
201 South Cortez Street
Prescott, AZ 86303

Re: CUP09-006 Public Hearing

Dear Members of the Board:

On behalf of the Executive Committee of the Prescott Downtown Partnership, Inc., this letter will serve to request that the Board of Adjustment deny the Conditional Use Permit for a Mobile Food Vender Cart (Hot Dog Cart), at the 202 South Montezuma Street location.

There are several reasons for our position on this request.

1) It is the opinion of the executive committee of the PDP that approval of this request would have a profoundly negative impact on the non-profit sponsors of the eight major events on the Courthouse Plaza. Each of these eight events is sponsored by local non-profit organizations that rely heavily on the proceeds of such events for their on-going operations. Food vendors contribute greatly to the success of these events. In addition to the negative impact to the event sponsor, such a mobile food vendor would also negatively impact the food vendors themselves by drawing potential business away from the Plaza. In certain shows, the majority of food vendors are non-profit as well.

2) The Prescott Downtown Partnership, Inc. continues to be very concerned about the overall appearance and upkeep of the historic downtown district, and is proud to support the city's intent to keep the historic ambiance in place. We are of the opinion that mobile vending carts would distract from this ambiance. More importantly, there is the issue of precedence—if one mobile cart is approved, can a second be far behind? Several locations within the historic district could be considered "ripe for the taking" should the Board approve this request.

3) Further, it is the position of the Executive Committee that approving mobile food vendors could potentially be detrimental to overall restaurant sales tax revenues.

While the Prescott Downtown Partnership, Inc. is fully committed to the entrepreneurial system and spirit, we strongly believe that the current code, which does not allow mobile carts in the downtown district as an out-right permitted use, was put in place after considerable discussion and in-put with downtown and community stakeholders as to how the community wanted the historic district to be preserved. With the current request before the Board, we see no compelling reason to deviate from the code and therefore, we urge the Board to deny this request.

Sincerely,

Cliff Petrovsky
President
Prescott Downtown Partnership, Inc.

cc: The Honorable Marlin Kuykendall
Members of City Council
Mr. Steve Norwood
Ms. Jane Bristol
Mr. Tom Guice
Mr. George Worley

V 09-006

VARIANCE
Request for Setback Adjustments
1373 Dalke Point

Agenda # 5

COMMUNITY DEVELOPMENT - PLANNING & ZONING DIVISION
BOARD OF ADJUSTMENT
January 21, 2010

STAFF REPORT

From Tom Guice, Community Development Director TAG
George Worley, Assistant Community Development Director GW
Steven Gaber, Community Planner SG

Date January 15, 2010

Location 1373 Dalke Point **Zoning** SF-35

APN 115-10-312

Owner/Applicant Hehlen Family Trust
Rob and Susie Hehlen
1380 E. Valley View Road
Prescott AZ 86303
925-1779

REQUEST

This request seeks a variance to the provisions of the Land Development Code (LDC) that require 10 foot side yard setbacks in the SF-35 Planned Area Development (PAD) zoning district associated with the Enchanted Canyon Subdivision. The setbacks as prescribed are measured from the property line to the wall of a structure. There is an additional allowance for roof eaves and similar architectural features to project up to 2 feet into the setback area (LDC Section 2.7.3.D.8.a.) The applicants Rob and Susie Hehlen are seeking this variance to reduce the side yard setbacks as follows

1. Garage; proposed to be positioned with northeast corner of building located 3 feet from the northerly property line, as measured to the wall with 3' of eave projecting to the property line.
2. Garage; proposed to be positioned 7 feet from the easterly property line, as measured to the wall with 3 feet of eave projecting towards the property line.
3. Residence; proposed to be located 10 feet from the westerly property line as measured to the wall with 3 feet of eave projecting towards the property line.

The Hehlen's lot is noted on the Enchanted Canyon Subdivision Plat as including areas exceeding 20% slope and as such has a "disturbable envelop" that conforms to the City's Hillside Development Regulations (LDC Section 6.8). The disturbable envelope allows for building coverage, grading and vegetation removal or other land disturbance of 12,804 square

feet. The lot includes 31,790 square feet thus approximately 40% of the lot can be altered. Modifications to the disturbable envelope can occur administratively, by City staff with the Home Owners Association approval, provided that the disturbable area is not increased in overall size. As proposed the Hehlen's development including the home with exterior walk ways, porches the garage and driveway will cover approximately 5,000 sq ft. or 15% of the lot. It is the Hehlen's intend to "nestle" their home into the rocks and boulders of their lot with as little disturbance to the natural landscape as possible.
This request is unusual in that this house will be one of the first to be built in the Enchanted Canyon Subdivision; however the request has merit given the significant rock out croppings and boulders that make up the lot.

VARIANCE CRITERIA
A Variance may be granted by the Board of Adjustment when they find that the strict enforcement of the Code would create a substantial hardship to the applicant by virtue of unique special conditions not generally found within the vicinity, and that the granting of the Variance would preserve the spirit and intent of the Ordinance, would serve the general interests of the public and the applicant, and would preserve public health, safety, and welfare may be secured and substantial justice done.

VARIANCE CRITERIA, LDC 9.13
The Board of Adjustment shall consider the following specific criteria (standard text lists code criteria, italic text provides staff comments).

1. Extraordinary Conditions
There are extraordinary or special conditions affecting the land involved such that strict application of the provisions of the code will deprive the applicant of the reasonable use of his land.
The Hehlen's cite the rock out croppings and boulders that cover their property as extraordinary conditions.
   - *They want to protect a large boulder outcropping south of the proposed garage.*
   - *It is their intent, to the extent possible, to build around the rocks and to fit the home into the rock formations.*
   - *They want to save a "boulder garden" on the west side of the lot.*
   - *The location of the proposed structures and the setback adjustments are located in a manner to reduce impacts to the adjoining lots. Most of the affected area of the adjoining lots will be driveway rather than building site.*

2. Substantial Detriment
Granting of the Variance will not be detrimental to the public health, safety, or welfare or injurious to other property in the area, or to the City in administering this Code.
The Hehlen's have provided two letters with their application. Both letters are from Gary Schnell who represents Enchanted Canyon LLC (the developer) and the Enchanted Canyon Home Owners Association (HOA). Enchanted Canyon LLC owns the adjoining lot to the east (Lot 61) and supports this request for a Variance. The Enchanted Canyon HOA approves the variance request along with the modifications to the building envelope.

The Public Hearing Notice resulted in a phone call form Marcia Stafford who along with her husband own the property to the west (Lot 72). Ms. Stafford does not object to the request and suggests the following conditions of approval;

1. *That drainage control measures occur to insure runoff from the Hehlen's roof and property does not impact the Stafford's driveway.*
2. *That the trees that are located adjacent to the property line separating the two lots not be removed, and that any required trimming of the trees to meet Fire Wise requirements be as minimal as possible.*

Staff discussed Ms. Stafford's suggestions with the Hehlen's and they agreed that these conditions are appropriate and should be applicable to both the easterly and westerly property boundaries. Also, a site visit occurred to look at the trees in question. One pinion tree located on the property line approximately 55 feet from the front corner will require some limbing.

3. Special Privileges

Granting of a Variance shall be subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is located.

The Board will need to evaluate the question of special privilege. The Board has approved a variety of setback adjustments for other properties that include significant rocks and boulders.

4. Self-Induced Hardship

The Hehlen's recognize that their development plan and their property are outside of the "norm". They believe that the rocks and boulders that make up their lot are an asset; however they do provide a challenge in terms of locating the structure.

5. General Plan

The General Plan Land Use Map acknowledges this area as low to medium residential density. This request can be viewed as consistent with the General Plan.

6. Utilization

Because of special circumstances applicable to the property, including size, shape topography, location or surroundings, the strict application of the ordinance will deprive such property of privileges enjoyed by other property of the same zoning district.

As previously described in this report, the special circumstances associated with this property are the rock formations and boulders that make up the lot.

RECOMMENDATION

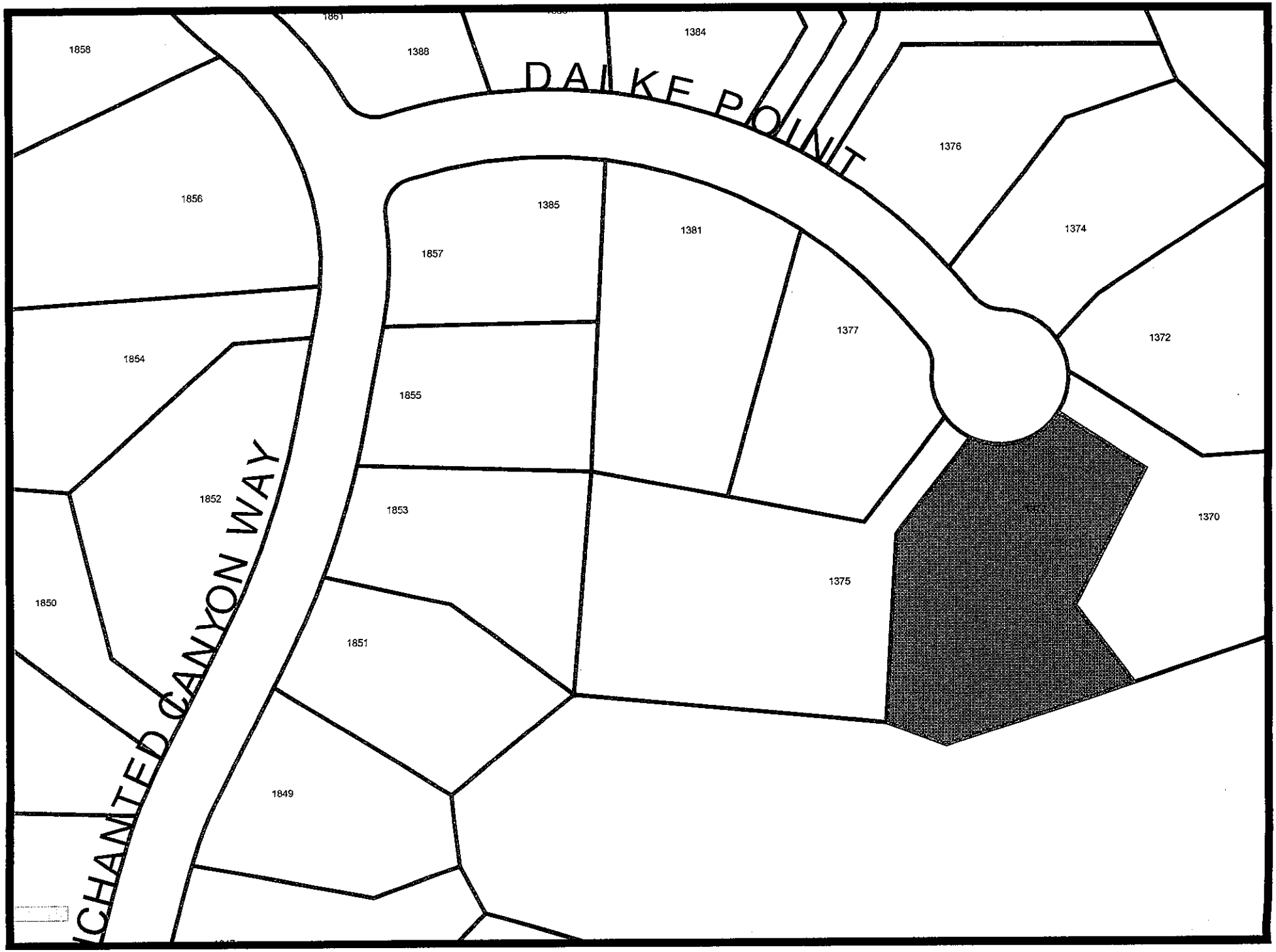
Having discussed this variance with the Hehlen's, and acknowledging the support of their immediate neighbors, staff supports the issuance of this variance with the conditions as suggested by Ms. Stafford.

SUGGESTED MOTION

Move to approve Variance Application V 09-006 with the following conditions.

1. That drainage control measures occur to insure runoff from the Hehlen's roof and property does not impact the adjoining driveways.

2. That the trees that are located along the easterly and westerly property lines not be removed, and that any required trimming of the trees to meet Fire Wise Requirements be as minimal as possible.


DALKE POINT
ICHANTED CANYON WAY
1858
1861
1388
1384
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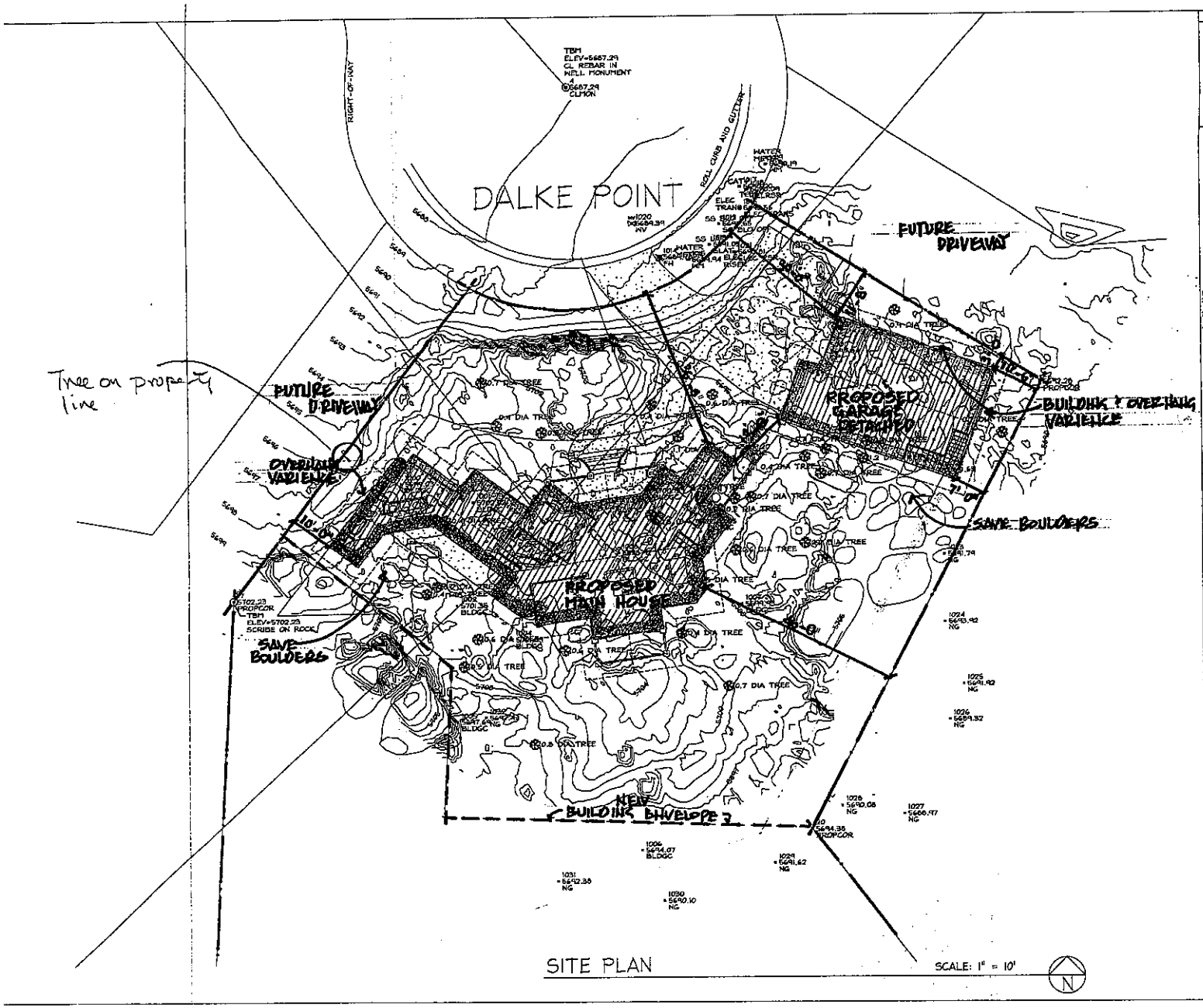


SITE PLAN

SCALE: 1" = 10'

N

PRODUCT INFO

OWNER: BOB & SUSIE HEHLEN
1580 E. VALLEY VIEW ROAD
PRESCOTT, AZ 86303
928 771 8182

ARCHITECT: DISTINCTIVE HOMES
P.O. BOX 8986
PRESCOTT, AZ 86302
928 771 0948

CONTRACTOR:

TYPE OF PROJECT: SINGLE FAMILY RESIDENCE
OCCUPANCY: R-3
TYPE OF CONSTRUCTION: V-N
SIZE IN SQUARE FEET:
LIVABLE: 7,826 SQ. FT. + 958 SQ. FT. GARAGE ATTIC
GARAGES: 1,051 SQ. FT.
COVERED DECKS & PATIO: 927 SQ. FT.
SUBDIVISION & LOT #: MOUNTAIN CANYON LOT 62
PARCEL #: 115-07-[illegible]
LOT SIZE: 1.17 ACRES, [illegible]
PARKING:
ZONED:
SETBACKS:
FRONT: 30'
SIDE: 14'
REAR: 20'
LOT COVERAGE:
HEIGHT LIMITS: 2006 IRC

TYPICAL NOTES FOR SITE PLAN

1. PROVIDE VISIBLE & LEGIBLE ADDRESS ON BUILDING.
2. YAVAPAI COUNTY SPECS SHALL BE A PART OF THESE PLANS IF IN COUNTY JURISDICTION. CONTRACTOR SHALL ATTACH THEM.
3. CONTRACTOR TO PROPERLY PIN & FLAG ALL PROPERTY CORNERS BEFORE PROPERTY INSPECTION.
4. FINAL INSPECTION REQUIRED PRIOR TO OCCUPANCY.

MATERIAL SPECIFICATIONS

CONCRETE: ASTM C-94-86 GRADE 'A' - 1500PSI
MASONRY: Grade 'M' , f' = > 1350 p.s.i.
MORTAR: Type "S" 1800 p.s.i
GROUT: f'c => 3000 p.s.i.
REINFORCING STEEL: ASTM, A-615, Fy = 40 k.s.i.
STRUCTURAL STEEL: ASTM, A-36, Fy = 36 k.s.i.
LUMBER: See Table
* All lumber to Bear Approved Grading Stamp

LUMBER USAGE	SPECIES	GRADE	COMMENTS
2X4 STUDS	DF-L/HF	#2	
2X6 STUDS	DF-L/HF	#2	
2X6 THRU 2X12 JOISTS	DF-L	#2	
2X RAFTERS	DF-L	#2	
2X BEAMS	DF-L	#2	
4X2 BEAMS	DF-L	#2	
4X4 POSTS	DF-L	#2	
6X6 POSTS	DF-L	#2	
TIMBERS (VEGAS)	DF-L	COMMERCIAL	
DECKING	DF-L	COMMERCIAL	
GLUE LAM BEAMS	DF/DF	24F-V4	DF-L
GLUE LAM BEAMS	DF/DF	24E-V8	DF-L

GLUE-LAM BEAMS: Fb = > 2400 p.s.i.; E = > 1,800,000 p.s.i.
PLYWOOD ROOF: 5/8" or 1/2" DSB
PLYWOOD FLOOR: 3/4" CDX TAG standard sheathing panel index 40/20 (Tongue and groove edges or 2X6 blocking or 1/4" underlayment or 2X2 wood strip (with tear in law of TAG).
BOLTS: A-307, Fy = 33 k.s.i.

DESIGN LOADS
FLOORS: INTERIOR 40 lbs LIVE + 10 lbs DEAD = 50 PSF
EXTERIOR 60 lbs LIVE + 10 lbs DEAD = 70 PSF
ROOFS: 30 lbs LIVE + 25 lbs DEAD = 55 PSF
LATERAL: 90 MPH WINDS 3 SECOND GUSTS
EXPOSURE B = 15 PSF
EXPOSURE C = 20 PSF

REVISIONS	BY

DISTINCTIVE HOMES
P.O. BOX 8986
PRESCOTT, AZ 86302
(928) 771-0948

REGISTERED ARCHITECT
23538
THOMAS BRADLEY TOOBY
ARIZONA, U.S.A.

The Hehlen Residence

DATE:
SCALE:
DRAWN:
JOB:
SHEET:
OF SHEETS

COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
201 S. Cortez, Prescott, AZ 86301 (928) 777-1207

VARIANCE APPLICATION

V# 09-0016

Property Address: 1373 Dalke Point

Assessor's Parcel Number (s)(APN): 115-10-312

Township 14 **Section** 30 **Range** 2S **Current Zoning:** SF-35

Subdivision Name: Enchanted Canyon

Owner Name & Address:
Hehlen Family Trust (Rob and Susie Hehlen
1380 E Valley View Rd
Prescott, AZ 86303

Phone: 925-1779 (cell) 771-8182 (hm)
Fax:
Email: prescottrob@qwest.net

Applicant/Agent Name & Address
(If different than property owner, **Agent letter must accompany submittal):**

Phone:
Fax:
Email:

For Staff Use Only

Date Received: 12/16/09
Taken In By: S. Gaber
Assigned To: Gaber
Date Application Complete:
Fees & Charges: 862.50
Receipt #/Date: P000381 12/16/09
PAC Date:
BOA Date:

Description of Request: #1 To protect a large boulder outcropping south of the proposed garage and to allow a garage large enough for 3 vehicles (CC&R's require garaging all vehicles) we are asking to build within the set back on the west, north and east sides (see plans).
#2. To save a natural "Boulder Garden" by the master bath (west side of the lot) we are asking for a variance to allow a 3'0" overhang into a 10'0" set back abutting a future driveway.

Name	Signature	Date
Robert Hehlen	Robert E Hehlen	12-16-09

VARIANCE QUESTIONAIRE

All questions must be answered prior to acceptance of the application.

1. Describe the special or unique conditions and circumstances which are peculiar to the land (e.g. large trees, rocks, outcrops, washes, steep topography, etc), structure or building, which are not applicable to other lands, structures or buildings in the same zoning district in other locations.

There are unique boulder formations and rock outcroppings which we prefer to build around and incorporate into the design rather than destroying to fit within the existing setbacks.

2. Indicate how the literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance. If citing other properties, their addresses must be given.

We' believe other variances have been granted for similar reasons before.

3. Describe how the alleged hardships caused by the literal interpretation of the provisions of the Zoning Ordinance include more than personal inconvenience and financial hardship, which do not result from the actions of the applicant(s).

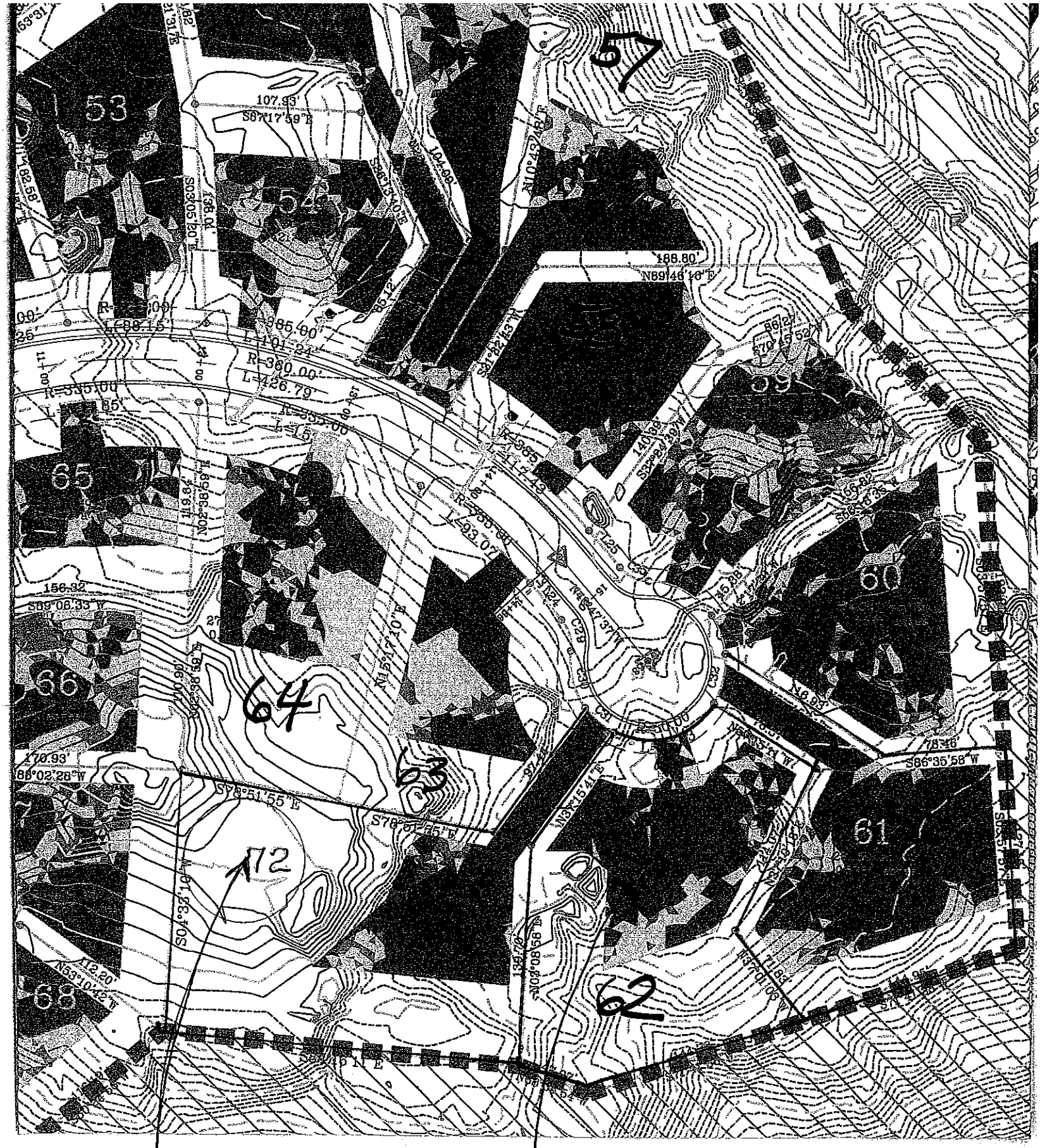
We are trying to build a unique home to enjoy the beauty of the natural landscape "Created by God". Not allowing this variance would destroy some of this natural beauty and have us build to arbitrary lines drawn by the developer rather than natural topographic ones.

4. Indicate why granting the requested variance will not confer upon the applicant any special privilege that is denied by the Land Development Code to other owning lands, structures or buildings in the same district.

Each lot in Enchanted Canyon is very unique. Our lot is very rocky. Granting this variance would allow us to preserve the natural rock and have a garage large enough for three vehicles - enjoyed by most in a subdivision of this nature, therefore this variance is not a special privilege.

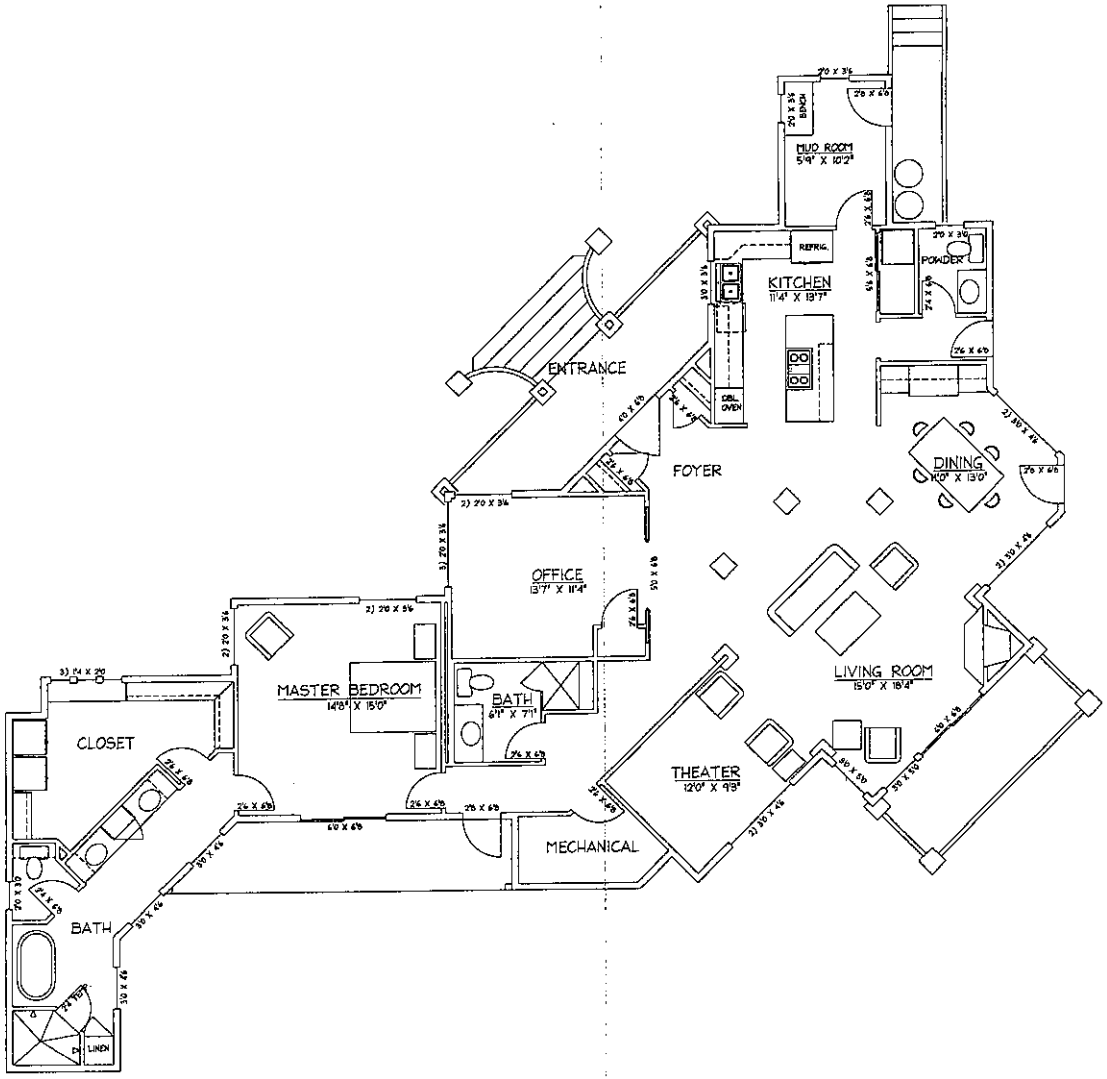
5. Indicate why granting the variance will not interfere with or injure the rights of other properties in the same district.

Granting this variance allows us to build into 2 setbacks along driveways, one setback on our own property (driveway to street) and the setback behind the garage abuts to the side yard in an area of large boulders that will likely be preserved. (and the property owner approves of our request). As such this variance does not interfere with other properties' rights.



Hehlen Lot / disturbable envelope

Buildable area for lot "72" has
been shifted to the west



FLOOR PLAN 2,029 SQ. FT.
COVERED DECKS & PATIO: 327 SQ. FT.

SCALE: 1/4" = 1'

N

REVISIONS	BY

DISTINCTIVE HOMES
P.O. BOX 3888
PRESCOTT, AZ 86302
(928) 771-0948

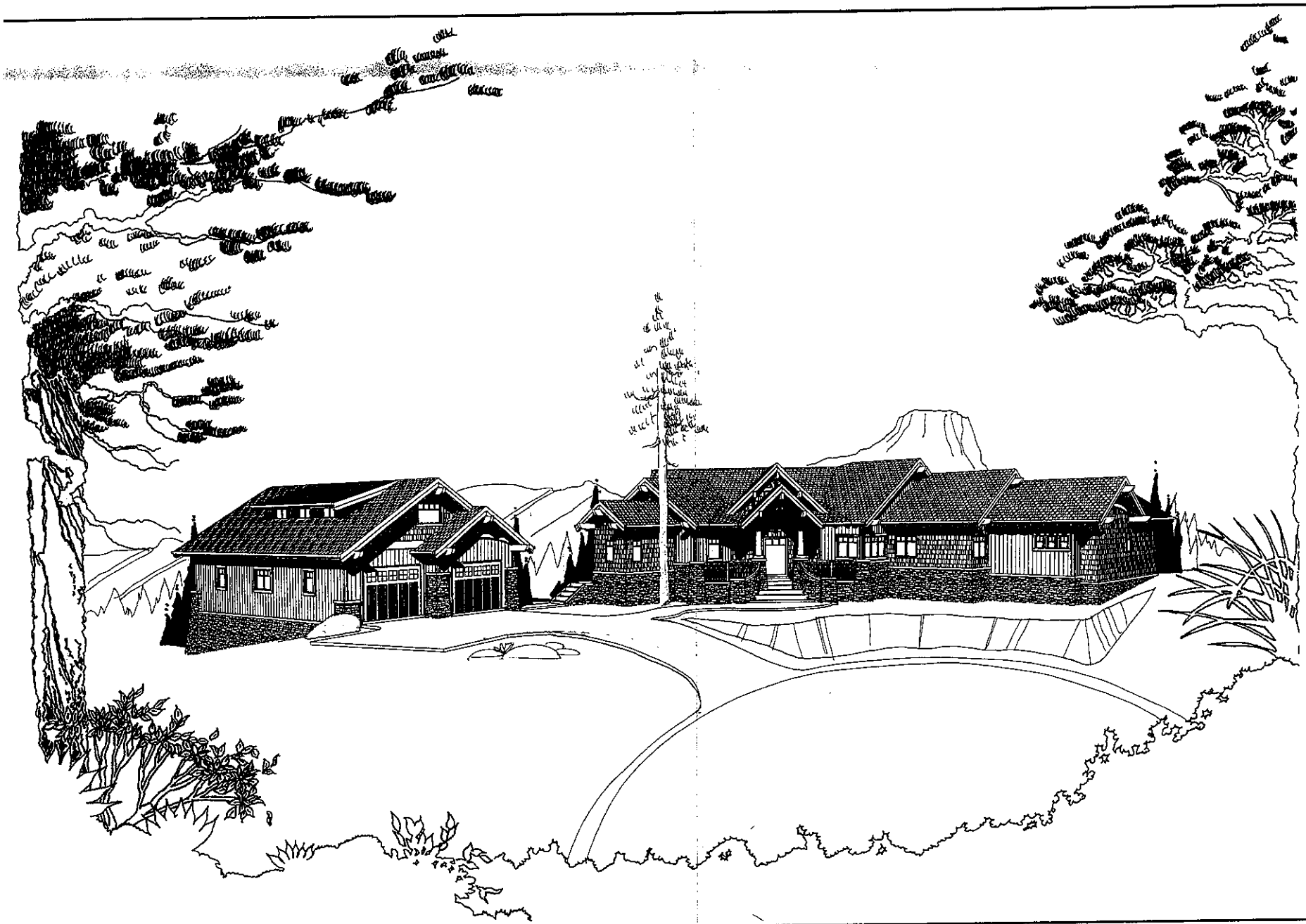
23538
THOMAS CHARLES FERRY
ARIZONA, U.S.A.

The Hehlen Residence

DATE:
SCALE:
DRAWN:
JOB:
SHEET:
OF SHEETS

7

5



REVISIONS	BY

DESIGNS BY
P.O. BOX 2605
PRESCOTT, AZ 86302
(928) 771-0849

The Hehlen Residence

DATE:
SCALE:
DRAWN: JDB
JOB:
SHEET:
OF SHEETS

5

The Hehlen Residence

DATE:
SCALE:
DRAWN: JDS JC
JOB:
SHEET:
OF SHEETS

REVISIONS BY

16

Enchanted Canyon, LLC
10701 S. River Front Parkway, Suite 135
South Jordan, UT 84095

December 8, 2009

Robert and Susan Hehlen
1380 E Valley View Rd
Prescott, AZ 86303

Re: Lot 62 – City Variance Request.

Rob and Susan,

As the owner of Lot 61 in the Enchanted Canyon subdivision, we have reviewed your site plan and the variance you have proposed to encroach outside the buildable envelope with your proposed detached garage and have the garage corner to be approximately 3' for the Lot 61/62 property line. Given your desire to maintain existing rock and tree outcroppings, we support your request for variance with the City of Prescott.

Sincerely,

Gary Schnell
Authorized Signer, Enchanted Canyon, LLC

17

ENCHANTED CANYON
HOMEOWNERS ASSOCIATION

10701 S. River Front Parkway, Suite 135
South Jordan, UT 84095

December 8, 2009

Robert and Susan Hehlen
1380 E Valley View Rd
Prescott, AZ 86303

Re: Lot 62 – City Variance Request.

Rob and Susan,

The HOA Architectural Review Committee (ARC) has reviewed your site plan and the variance you have proposed to encroach outside the buildable envelope with your proposed detached garage. Given your desire to maintain existing rock and tree outcroppings, the HOA supports your request for variance with the City of Prescott.

This approval is for the for this request only and in no way sets any precedent for future requests for variance or relief from the conditions of the CC&R's and Architectural Guidelines for Enchanted Canyon.

Sincerely,

Gary Schnell
President, Enchanted Canyon HOA
Director, Enchanted Canyon ARC

CUP 09-007

CONDITIONAL USE PERMIT
Pawn Shop
650 Miller Valley Road

Agenda # 6

COMMUNITY DEVELOPMENT - PLANNING & ZONING DIVISION
BOARD OF ADJUSTMENT
January 21, 2009

STAFF REPORT

From Tom Guice, Community Development Director TG
George Worley, Assistant Community Development Director GW
Steven Gaber, Community Planner SG

Date January 8, 2010

Location 650 Miller Valley Road

Zoning Business General (BG)

Parcel Number 113-07-031A

Owner Conant Family Trust
Roger Conant
2633 E. Beekman
Phoenix, AZ 85016
928 445 7115

Applicant Prescott Pawn and Coin
Gilbert and Michelle Garside
231 N. Cortez Street
Prescott, AZ 86305
445-9319

REQUEST

Gilbert and Michelle Garside have submitted an application for a Conditional Use Permit to move their business Prescott Pawn and Coin from their current location at 231 N. Cortez Street to 650 Miller Valley Road. The Garside's have operated their business at the current location for 10+ years. Their lease expires in March, thus they are looking for a new location. The property located on Miller Valley Road is zoned Business General (BG). Table 2.3.1 of the Land Development Code (LDC) designates Pawn Shops in the BG district as requiring a Conditional Use Permit. The Code does not provide any Use Standards. Section 9.3.5 provides Conditional Use Permit Criteria.

SITE INFORMATION

This property is located at the south west corner of Miller Valley Road and Fair Street. The property is currently vacant. A review of city files shows a variety of uses over the years including a drug store (1960's -70's') a variety of office and retail uses during the 70's, 80's and 90's. The property was most recently occupied as a tortilla factory and food store. The parking lot includes 27 spaces.

CONDITIONAL USE PERMIT CRITERIA, LDC 9.3.5

A Conditional Use Permit may be granted by the Board of Adjustment when the application is found to meet the following criteria, code provisions are shown in regular text, staff comments are provided in italic text.

1. 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.
This is a retail use proposed to occur in a commercial neighborhood. There are no known or anticipated health, welfare or safety issues.

2. 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.
The proposed pawn shop can be considered to be compatible in terms of scale, density and lot coverage.

3. 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.
There are no known nuisances.

4. 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.
No impacts to infrastructure or services are expected.

5. Consistent with General Plan and Code.
The proposed use will be consistent with the purposes of the Land Development 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, there must be substantial reason for locating the use in an area where it is only conditionally allowed.
The use as proposed is consistent with the General Plan. Commercial use of the property is consistent with the Land Development Code.

PAST BOARD OF ADJUSTMENT ACTIONS

The Miller Valley Road area includes an unusual mix of land uses. Over the years the Board of Adjustment has reviewed 70 separate requests for land use adjustments along this commercial corridor. These have included, but not been limited to, selling vegetables from a truck and

produce stands, construction of billboard signs, signage variances, parking variances, setback variances, second hand stores, auto sales, tattoo parlors, upholstery repair shops.

HISTORIC PRESERVATION
The property is not located with in a Prescott Preservation or National Register District.

RECOMMENDATION
Staff recommends approval of this Conditional Use Permit.

SUGGESTED MOTION
MOVE to approve Conditional Use Permit Application CUP 09-007 allowing Prescott Pawn and Coin to relocate to 650 Miller Valley Road.

Parcel Report for APN: **113-07-031A**

Site Address: **650 MILLER VALLEY RD**

Owner:
CONANT FAMILY TRUST
2633 E BEEKMAN
PHOENIX AZ 85016

Subdivision Name: **OSBURN SUBDIVISION**

Max. Lot Coverage: **60%**
Max. Bldg Height: **35 ft**
Setbacks
- Front: **15 ft**
- Side: **5-12 ft**
- Rear: **10 ft**
- Corner: **8 ft**

Acres: **0.47 acres**
Square Ft: **sq.ft.**
TRS: **T14-R2-S33**

DOR Usage Code: **Comm**
Description: **STORE FRONT COMMERCIAL BLDG**

Zoning Information

Zoning: **BG**

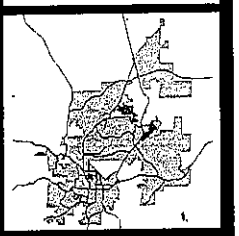
Flood Zone: **X;**
FIRM Panel: **04025C2090F**

Overlay District Information

HPD District:	**Outside**
NR 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:

-



650 MILLER VALLEY RD

This map is a product of The City of Prescott

0' 1" = 51'

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This document is a graphic representation only of best available sources. The City of Prescott assumes no responsibility for any errors.

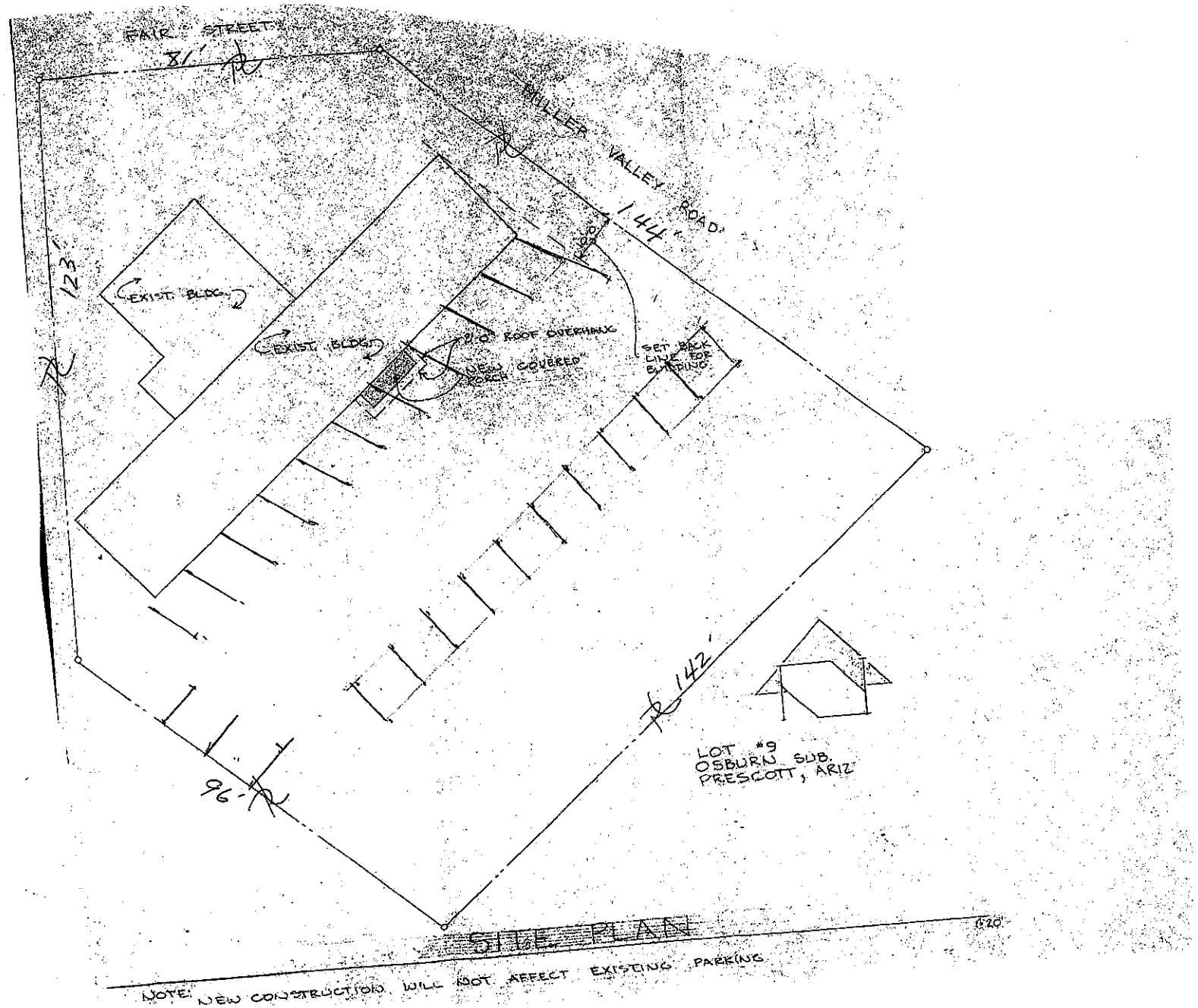
CW09-007
Wellington Heights

To Whom it May Concern,

We, Gilbert and Michelle Garside, owners of Prescott Pawn and Coin are requesting a conditional use permit. We currently reside at at 231 N Cortez Prescott, Az 86305, which we have been at 10 years. We would like to move our business to 650 Miller Valley Rd. Prescott, AZ, due to our present lease running out. Our hours of operation are Monday Thru Friday 8:30am to 5:00pm. We represent no health or safety risk to surrounding area.

We are also submitting the legal description of the proposed property along with drawings of the parking

Sincerely
Michelle Garside


FAIR STREET
31'
MILLER VALLEY ROAD
144'
123'
EXIST. BLDG.
EXIST. BLDG.
2'-0" ROOF OVERHANG
NEW COVERED PORCH
SET BACK LINE FOR BUILDING
142'
96'
LOT #9
OSBURN SUB.
PRESCOTT, ARIZ
SITE PLAN
1"=20'
NOTE: NEW CONSTRUCTION WILL NOT AFFECT EXISTING PARKING

CUP 09-008

CONDITIONAL USE PERMIT
Mountain Oak School
1455 Willow Creek Road

Agenda # 7

COMMUNITY DEVELOPMENT - PLANNING & ZONING DIVISION
BOARD OF ADJUSTMENT
January 21, 2009

STAFF REPORT

From Tom Guice, Community Development Director
George Worley, Assistant Community Development Director
Steven Gaber, Community Planner

Date January 15, 2010

Location 1455 Willow Creek Road

Zoning Single Family 9 (SF-9)

Parcel Number 116-17-270B

Owner First Assembly of God Church
Steve Lummer, Pastor
1455 Willow Creek Road
Prescott, AZ 86301
778 1455

Applicant Mountain Oak School
Cynthia Roe, Principal
124 N. Virginia Street
Prescott, AZ 86301
541 7700

REQUEST

The Mountain Oak Charter School is negotiating a lease/purchase agreement to acquire 3.8 acres of the First Assembly of God Church property located at 1455 Willow Creek Road. The School has submitted an application for a Conditional Use Permit to move the School from their current location at 124 N. Virginia to the Willow Creek Road property. The School has occupied the Virginia Street property for 10+ years.

The Church property includes 6.13 acres. The lease/purchase agreement is for the easterly 3.8 acres including the existing Church buildings. The westerly 2.33 acres that are undeveloped are not proposed for acquisition at this time. The Church will cease to operate at this location and the School will operate from the existing buildings with minor internal changes. External development is proposed to include a play ground, fencing and a road/driveway providing secondary access to/from Northside Drive. Primary access will occur from Willow Creek Road. The property is zoned Single Family 9 (SF-9). Table 2.3.1 of the Land Development Code (LDC) designates "Schools, public or private, K-8" as requiring a Conditional Use Permit in the SF-9 district. The Code does not provide specific use standards for schools. Section 9.3.5 provides Conditional Use Permit Criteria.

The School currently serves 150 students (pre-school through the 8th grade). Moving to the new site will allow for increasing the number of students to 225. The School has 16 full time employees, 14 part time employees and numerous volunteers. The school operates on a schedule comparable to public schools including;

- School term from August/September to May
- School hours from 8:00am to 3:00pm. The drop off of students occurs between 7:30 and 8:00am. Young Students (pre school and kindergarten) are picked up at noon. Older students depart at 2:45 to 3:00 pm.
- The School recently counted vehicle arrivals/departures between 7:30 to 8:00 am, and tallied 101 vehicles arriving, 75 were drop offs, the other 26 were staff and/or volunteers.

A Traffic Impact Analysis was developed for the Church property in 2006. This Traffic Analysis was associated with the proposed rezoning of the property to allow for development of an office park. The rezoning request was withdrawn. The Traffic Impact Analysis is being updated to include the schools use of the easterly portion of the site. Additional information will be provided to the Board at the Public Hearing.

SITE INFORMATION

The Church was constructed in 1984. The gym/all purpose building was added in 1993. A storage building was added in 2000. The property includes a significant drainage channel that provides drainage from the Northside Drive area through the central area of the site connecting to the drainage structures that are part of the Willow Creek Road system. Any improvements to the property will be required to maintain and/or improve this drainage system. Drainage issues also exist along the alley that borders the property to the north.

AREA MEETING

An "area meeting" occurred on Wednesday, January 13, 2010. The meeting was attended by 15 residents from the neighborhood along with 3 representatives of the School and City staff. The meeting was generally positive. The discussion included;

1. An overview of the Schools programs.
2. An overview the schools proposed use of the property.
3. Neighboring residents concerns about;
    - Traffic, particularly in relation the driveway connecting to Northside Drive.
    - The drainage discussion centered upon the neighbors knowledge of the drainage problems with particular reference to the north east area of the site, the location of the ditch/channel in the area where the driveway connecting to Northside Drive is proposed and the ponding that occurs in the undeveloped areas.
    - Fencing of the site both in terms of security and in terms of playground activity. Regulations associated with schools require that the school grounds be fenced for security.
    - Landscaping and/or other treatments to buffer the neighborhood from the school.

CONDITIONAL USE PERMIT CRITERIA, LDC 9.3.5

A Conditional Use Permit may be granted by the Board of Adjustment when the application is found to meet the following criteria, code provisions are shown in regular text, staff comments are provided in italic text.

1. 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.
The change in use of this property from a church to a school appears to be a good fit. While the neighbors are apprehensive about the change there appears to be consensus that this use is a better fit to the neighbors than the office park that was proposed in the past. While there will be an increase in traffic, the size of the site, and the two points of ingress/egress form Willow Creek Road and the access to Northside Drive will allow for distribution of the peak time traffic. It is staff's view that this change in use can occur in a manner that will not overly impact the neighboring residents. It has been suggested that the driveways be gated to prevent pass through traffic during times when the school is not in session.

2. 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.
The School is proposing to occupy a large partially developed site that can be considered to be a transitional. The site separates the neighborhood from the commercial corridor associated with Willow Creek Road. The site retains its residential zoning. Any new use or changes in use will require a public review process. Staff believes that this change in use is compatible with the surrounding area.

3. 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 School will generate additional traffic and noise, however staff does not believe that there will be negative impacts to the neighborhood.

4. 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.
Infrastructure serving the area is sufficient for this use.

5. Consistent with General Plan and Code.
The proposed use will be consistent with the purposes of the Land Development 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, there must be substantial reason for locating the use in an area where it is only conditionally allowed.

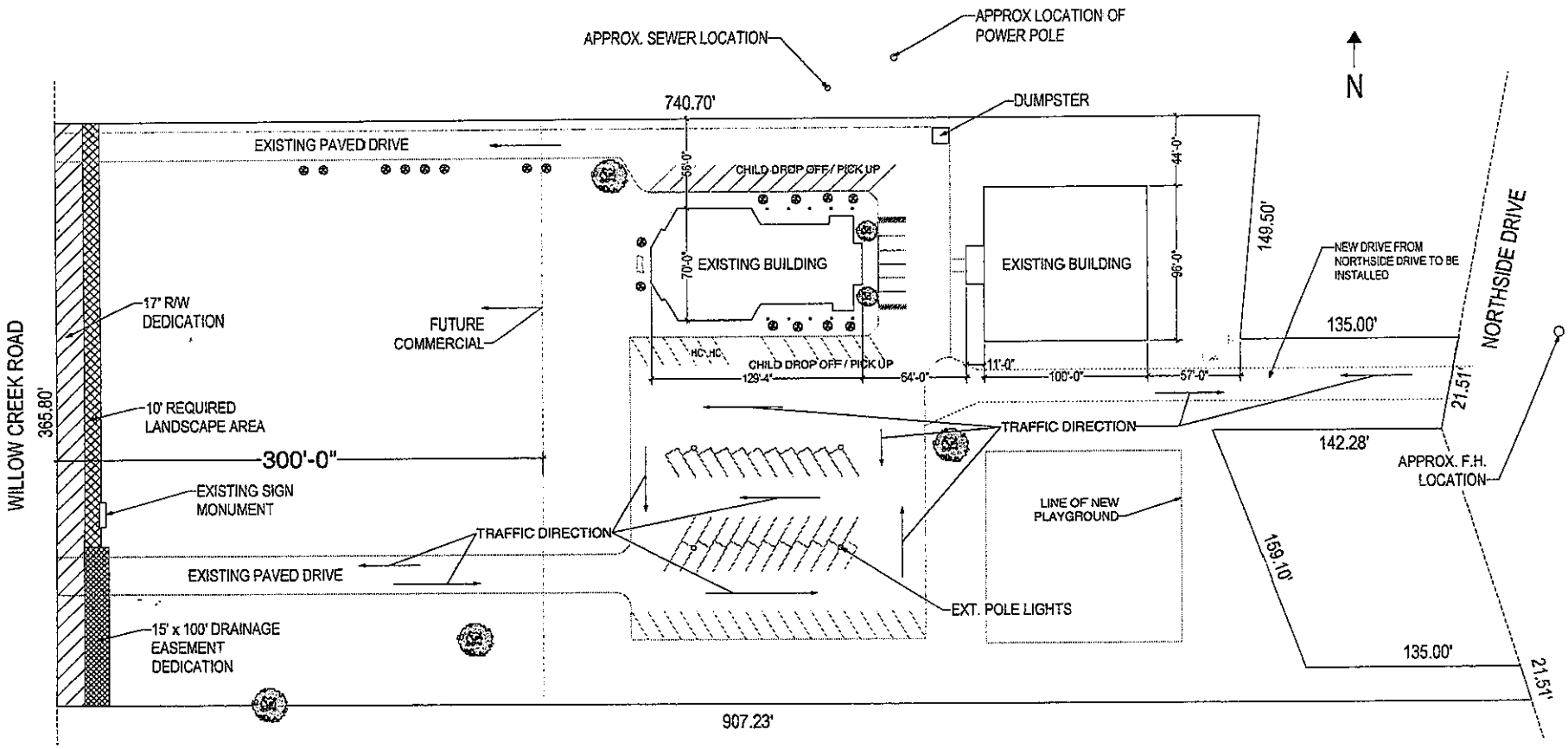
The use as proposed is consistent with the General Plan. The General Plan and the Willow Creek Corridor Plan acknowledge the residential zoning of the property. The existing Church occurs by way of a Conditional Use Permit Commercial. The School is seeking a Conditional Use Permit.

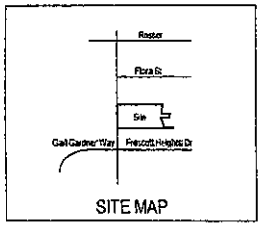
PAST BOARD OF ADJUSTMENT ACTIONS
The Board of Adjustment approved the original Conditional Use Permit in 1983 (CU8230) allowing the sanctuary and all purpose/gym building. The Permit was amended in 2000 (CUP 0003) allowing for the addition of a storage building.

HISTORIC PRESERVATION
The property is not located with in a Prescott Preservation or National Register District.

RECOMMENDATION
Staff recommends approval of this Conditional Use Permit with two conditions.
1. That the development of the driveway to create access to Northside Drive include a paved driving surface 24 feet in width, improved and maintained drainage ways and enhanced landscaping to partially buffer the adjoining properties.
2. That the driveways be gated to prevent pass through traffic during times when the School is not in session.

SUGGESTED MOTION
MOVE to approve Conditional Use Permit Application CUP 09-00 allowing Mountain Oak School to relocate to 1455 Willow Creek Road subject to the following condition;
1. The development of the driveway to create access to Northside Drive include a paved driving surface 24 feet in width, improved and maintained drainage ways and enhanced landscaping to partially buffer the adjoining properties.
2. That the driveways be gated to prevent pass through traffic during times when the School is not in session.





Proposed location for:

MOUNTAIN OAK CHARTER SCHOOL

1455 WILLOW CREEK ROAD, PRESCOTT, ARIZONA

December 15, 2009

Scale: 1"=30'-0"

Mountain Oak

• 124 N. Virginia St. Prescott, AZ 86301•

A Waldorf-Inspired Charter School

December 17, 2009

1455 Willow Creek Rd Conditional Use Permit Application Narrative.

Project Description: Mountain Oak School is a publicly funded, non-profit charter school that was established in Prescott in 1999. The school serves a student population of up to 225 students in grades pre-k through eighth. Currently the enrollment is 155 students. The curriculum of the school is based on Waldorf education methods.

Our current school site, at 124 N. Virginia, has been leased for the past 10 years. It is the intention of Mountain Oak School to purchase the Willow Creek property as a permanent home for the school. Mountain Oak is currently negotiating a lease purchase of the subject site.

The subject site located at 1455 Willow Creek Rd is currently a church located on 6.13 acres with approximately 15,000 square feet of building space. Mountain Oak school plans to purchase and use the 3.8 acres furthest from Willow Creek Road. The school will operate out the existing buildings with only minor interior modifications to redistribute classroom space. External development will be limited to the development of the driveway off Northside Drive, the installation of playground equipment and fencing.

Compatibility: The adjacent land use surrounding the proposed development consists of single and multi-family residential parcels, general business parcels, and residential office parcels. In general, the west side of Willow Creek Road in the vicinity of the proposed project consists of various businesses with the east side of Willow Creek Road consisting of residential subdivisions. We believe that moving Mountain Oak School to this location would have approximately the same impact as the school has on its current location.

Emergency services including fire and ambulance along Iron Springs Road are both closer to the proposed site than the existing site on N. Virginia. Access to the school would be from both Willow Creek Road and Northside Drive on the east side. It is recommended that the Willow Creek access driveways be "Right turn in, right turn out" to eliminate possible left turn impacts.

Parking is required at 2 spaces per classroom (24 total), the subject property exceeds the requirement with 64 spaces.

Phone: (928) 541-7700 Fax: (928) 445-1301
E-mail: mtnoak@cableone.net Web: www.mountainoakschool.org

Mountain Oak

• 124 N. Virginia St. Prescott, AZ 86301•

A Waldorf-Inspired Charter School

The hours of operation will generally be 8:00 am until 3:00 pm with occasional evening and weekend events. There are no known health and safety concerns for the neighborhood. The proposed facility will be much smaller than nearby Taylor Hicks school. Noise from the operation will be consistent with the current location.

Early canvassing of the neighborhood conducted 12/16/09 revealed excellent support for this project.

We look forward to the successful completion of this project which we believe will fit well within the neighborhood and dramatically improve Mountain Oak School.

Sincerely,

Cynthia Roe

Cynthia Roe
Principal

Phone: (928) 541-7700 Fax: (928) 445-1301
E-mail: mtnoak@cableone.net Web: www.mountainoakschool.org

MEMORANDUM

TO: City of Prescott Planning Department

FROM: Pastor Steve Lummer, Prescott First Assembly of God Church

DATE: December 17, 2009

SUBJECT: Conditional Use Permit Application – 1544 Willow Creek Road
Submitted by Mountain Oak School

The Prescott First Assembly of God Church has been working closely with Mountain Oak School for many months on the concept of relocating the school on a portion of the property located at 1455 Willow Creek Road. The property under consideration is approximately 3.8 acres located on the easternmost end of the property and would include two existing structures.

The church and its governing board authorize submission of the application and are overwhelmingly in support of the application for a Conditional Use Permit. We stand ready to assist the process in any manner necessary.

Should you have any questions or need additional information from the church as landowner please do not hesitate to call Travis Bard at 928.710.7007.

Thank you,

Pastor Steve Lummer

Pastor Steve Lummer

12/17/2009

Date