

BOARD OF ADJUSTMENT AGENDA

**BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY, March 15, 2012
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 March 15, 2012, 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
Greg Lazzell, Vice Chairman	Richard Rosa
Johnnie Forquer	George Wiant
James Di Rienzo	

III. REGULAR AGENDA / PUBLIC HEARING ITEMS

1. **Approve the minutes** of the December 22, 2011 public hearing.
2. **V12-001, 1418 Paar Drive.** APN: 111-09-082 totaling ±0.25 acre. LDC Sections 3.6.3.F. Zoning is Single-Family Residential 9,000 sq. ft min. lot size (SF-9). Request Variances for sideyard and frontyard setbacks. Owner/Applicant is Monica C. White and Mary E. Bradley, 1418 Paar Drive, Prescott, AZ 86305. Community Planner is Mike Bacon (928) 777-1360.
3. **V12-002, 420 Lori Drive.** APN: 106-23-003 totaling ±2.08 acres. LDC Sections 2.5.2 and 2.5.2.G Zoning is Single-Family Residential 18,000 sq. ft min. lot size (SF-18). Request Variances for maximum size of accessory buildings. Owner is Brian Smith, 420 Lori Lane, Prescott, AZ 86301. Applicant is Bill Watson. 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 March 8, 2012 at 5:00 PM in accordance with the statement filed with the City Clerk's Office.


Suzanne Derryberry, Administrative Specialist
Community Development Department

BOARD OF ADJUSTMENT
PUBLIC HEARING
December 22, 2011
PRESCOTT, ARIZONA

MINUTES OF THE PUBLIC HEARING OF THE BOARD OF ADJUSTMENT held on December 22, 2011 in COUNCIL CHAMBERS, CITY HALL, located at 201 S. Cortez Street, Prescott, Arizona.

I. CALL TO ORDER

Vice Chairman Famas called the meeting to order at 9:00 a.m.

II ATTENDANCE

MEMBERS PRESENT

Duane Famas, Vice Chairman
Johnnie Forquer
Dick Rosa
Greg Lazzell
George Wiant

STAFF PRESENT

George Worley, Planning Manager
Matt Podracky, Sr. Assistant City Attorney
Mike Bacon, Community Planner
Cherri Lerner, Secretary
Suzanne Derryberry, Administrative Specialist

MEMBERS ABSENT

Michael Klein, Chairman
Tom Kayn

II. REGULAR AGENDA

1. Approve the minutes of the August 18, 2011 public hearing.

Mr. Rosa, **MOTION: to approve the minutes of the August 18, 2011 public hearing.**
Ms. Forquer, 2nd. **Vote: 4-0-1** (abstention due to absence: Wiant).

2. CUP11-007, 214 White Spar Road. APN: 109-14-064 and totaling ±0.07 acre. LDC Sections 2.3 and 9.3 and Table 2.3. Zoning is Business Regional (BR). Request is for a Conditional Use Permit for a tattoo parlor. Owner is Russell Palmer, 1045 Scott Drive, Prescott, AZ 86301. Community Planner is Mike Bacon.

Mr. Bacon reviewed the staff report and indicated:

- the request is for a tattoo parlor located at 214 White Spar Road
- he indicated the project site on the overhead projector
- the building was constructed in 2007 for medical office use
- it is a small building; nearly 600 sq ft, which meet all code requirements for that time
- the location has 2 parking spaces available, which also meet city codes
- the location has a turnaround for vehicles on property

- applicant will only be using 200 +/- sq feet of building space for tattoo work and waiting area
- the remaining area will be used for storage or the applicant's private art studio
- there were no issues at the pre-application process
- there were 3 written comments received in opposition
- one phone call was received expressing support for the tattoo parlor
- the surrounding vicinity of the tattoo parlor in question includes:
an art sculptor place, office building, residential rental home, various commercial offices, upholstery shop, and Safeway which is located just off of the map
- Mr. Bacon pointed out the conditional review criteria and its possible affect on the environment
- the board must determine that there are no significant impacts upon adjoining residents; this is not to state there are no impacts, less than significant impacts may be mitigated by the application of conditions of approval should the board so find
- section B discusses compatibility questions where previous tattoo parlors were passed and find that no conditions of approval were placed upon those recent tattoo parlors
- the proposed project is compatible with high rate commercial uses already established on White Spar Road
- the applicant will be open by appointment only: 9:00 am to 7:00 pm, Tuesday-Saturday
- there is a multi-family housing district located nearby; the letter of objection received was from the multi-family apartment owner
- the letter was given to the board members for review
- there is no minimum distance required by Arizona State Statues or Land Development Code for tattoo parlors
- the applicant submitted additional information in response to the letter of objection
- state law mandates parental consent from those under the age of 18 with a minimum age of 16 for tattoos
- photo identification of all clients will be required by the applicant
- no gang or racist hate tattoos will be done at this site
- no tattoo services will be given to those under the influence of drugs or alcohol
- in regard to the letter of objection citing out-of-state decisions, the Board of Adjustments must use laws and standards regarding Conditional Use Permits contained in the Arizona Revised Statues, Arizona Precedential Case Law and City of Prescott Land Development Code which must all be used when considering conditional use applications
- laws and cases from other states have no value in Arizona or for this board decision
- conditional use permit is consistent with the general plan and land development code
- comments from our local police department indicate no particular police department involvement at this site regarding any significant issues
- staff recommends approval of this item; move to approve CUP11-007, concluding Mr. Bacon's report
- Mr. Wiant questioned the parking situation as far as adequate parking for a 600 sq ft. building
- Mr. Bacon explained that the parking is only based upon the actual space that will be utilized by the occupant; remaining space is not taken into account
- applicant, DJ Goslar, expressed his concern as well as others for this site

- Mr. Goslar wishes to have a nice environment to do his work, and for his clients as well
- he also confirms that clients will be by appointment only from 9 am to 7 pm
- he assured the board that there will be no "undo riffraff" to the area
- he uses pre-sterilized, one time use disposable needles and tubes
- there will be no racist, hate or gang affiliated tattoos of any kind
- Mr. Lazzell questioned the applicant as to how the "no race, no gang tattoos" will be enforced
- the applicant stated that it's by moral decision; he won't compromise his virtues or ethics
- he will not tattoo anyone under the age of 16 even though state law shows 14 is allowable with parental consent
- Mr. Lazzell again questioned the applicant as to how the "no drugs no alcohol" is enforced
- the applicant stated that it's by his judgment alone
- Mr. Wiant inquired if the applicant has been in business in another location or another city
- the applicant stated that he has been in Prescott for 18 months and was working at Penetration; an alternative to Hard Luck Tattoo
- Mr. Famas concluded by asking if there was anyone from the public wishing to speak, which there was not
- Mr. Rosa, **MOTION: to approve CUP11-007, Mr. Wiant 2nd. Vote: 5-0.**

IV. REVIEW ITEMS

None

V. SUMMARY OF CURRENT OR RECENT EVENTS

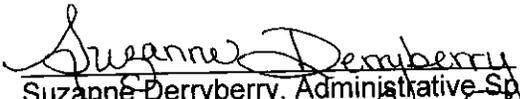
- Mr. Worley shared some updates with the board associated with City Council actions on future code
- City Council has appointment liaisons to all of the boards and commissions
- Councilman Hanna is appointed liaison for this board, he will be present at future meetings.
- another issue for discussion is The Unified Development Code Committee, which is made up of members of the City Council, Planning Commission and the Board of Adjustment
- The Unified Development Code Committee will review potential code changes at a meeting in either January or February of 2012
- The Unified Development Committee will be discussing a number of topics including city code and land development code changes
- Mr. Worley requested the Board of Adjustments input as far as the situation with tattoo parlors being listed as a conditional use being that the last five requests that have gone through the Board of Adjustment passed without conditions being applied
- Mr. Worley is proposing taking that proposal in front of the Unified Development Committee, a discussion item for them to consider taking them off of the conditional use list and making them a permitted use as most other commercial uses are
- He welcomed comments and suggestions in the matter, as well as any other matters

- Mr. Wiant expressed to the board and audience that some of the nicest people he knows in the world, both students and adults, have tattoos. It is not demeaning to have a tattoo and times have changed and he thinks the attitudes toward tattoos have changed
- Mr. Rosas disagreed referring to the few letters of opposition
- Mr. Famas pointed out that they may be complaining more about an establishment than the actual individuals
- most of the applicants have set their own conditions as far as the establishment's hours of operation and accepted clientele which satisfied his own concerns
- Mr. Lazzell addressed that if the code were to be amended or revised would it fall under a general business license
- Mr. Worley stated that this would be kept as a specific type of use; this would be moved from the conditional use category to a permitted use category. It would still require the same zoning that it currently requires; it would just not have to come before the Board of Adjustments to obtain a conditional use
- prior to any modification of codes, it would be brought back to the Board of Adjustments with proposed language
- it is only being brought up as an object of discussion for the Unified Development Code Committee
- Mr. Lazzell questioned about city sales tax
- Mr. Worley stated that there is city sales tax associated with actually selling a product as most do, but it's more to do with products and it's not a big tax generator.
- Mr. Worley concluded the meeting with again asking for any further ideas or suggestions to codes that should be looked at; there was no further discussion

VI. ADJOURNMENT

Vice Chairman Famas adjourned the meeting at 9:21a.m.

Duane Famas, Chairman *pro tempore*


 Suzanne Derryberry, Administrative Specialist
 Community Development Department

V12-001

VARIANCE
Side Yard and Front Yard Setbacks

Agenda # 1

COMMUNITY DEVELOPMENT - PLANNING & ZONING DIVISION
BOARD OF ADJUSTMENT
STAFF REPORT
Meeting Date: 3/15/12

TO: Board of Adjustment Members
FROM: Tom Guice, Community Development Director
George Worley, Planning Manager
Mike Bacon, Community Planner
DATE: 3/2/12

Location: 1418 Paar Drive Zoning: SF-9 Parcel Number: 111-09-082
Owner/Applicant: Monica C. White & Mary E. Bradley, 1418 Paar Drive, Prescott 86305

REQUEST: A variances for the side yard is requested (5' instead of the required 7') and front yard (22.5' instead of the required 25'). The Applicant has submitted a Description of Request (which is attached) that explains the reasons for the request which entail topographical considerations, being denied a privilege of reduced sideyard setbacks enjoyed by others in the same neighborhood.

STAFF ANALYSIS

Lot Size: ±0.25 acre)

Land Development Code Requirement: Sections 3.6.3.F.

Compliance with Zoning Code and ARS 9-462.06: Yes

Neighborhood Residents Concerns. The adjoining property owner at 1416 Paar approves of this request. No other comments have been received.

Variance Criteria (LDC Section 9.13)

The Board of Adjustment shall consider the following specific criteria (*Italicized text indicates 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.

A) *The old Zoning Code measured the required 5-foot sideyard setback to the eave and the front yard setbacks to the wall. The 2004 Land Development Code changed the setbacks so they all measured to the walls for consistency of setback measurements. The sideyard setback was then changed to 7-feet to account for the difference in the length of the eave to the wall.*

B) *In the applicant's case, there is no eave on the house. To sit the building back arbitrarily from the sideyard would *not* be harmonious with the home architecture and provide a hindrance to the handicapped nature of the request, plus it would deprive the property owner of similar setbacks enjoyed by other property owners in the area.*

Photo 1: View North

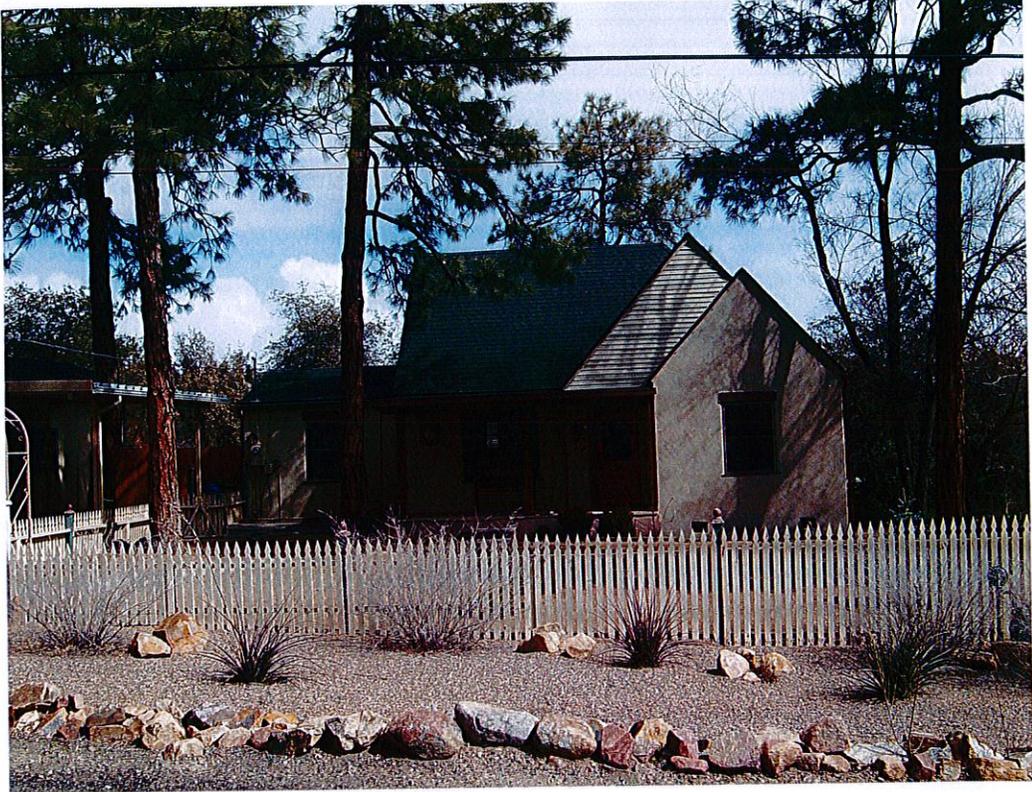


Photo 2: Significant Rock Outcrop on Adjoining Property to the East



C) The front yard request is included as part of the variance application. Normally, the request for a reduction of 10% of the setback is handled through an Administrative Adjustment application and is routinely approved by Staff. Since a variance application is being applied for the sideyard, Staff recommended that the front yard request be made as well in order to reduce the paperwork and processing of 2 separate applications.

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. There are none. A signed statement from the adjoining property owner at 1416 Paar is supportive of the variance requests. The property owner at 1416 Paar has significant rock outcrops on his side of the property facing the new addition, which would prove a hindrance to construction on that part of his property. (See photo) The new addition would therefore not impact him.

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. No other similar variances have been applied for in the surrounding neighborhood area. The applicant has submitted a detailed analysis (see attached letter, photographs, and maps) which additionally reveals other lots in the neighborhood area which have buildings that do not meet the required side yard setback of 7 feet

4. Self-Induced Hardship

The hardship is not the result of the applicant's own actions. The proposal is a result of their own actions.

5. General Plan

Granting of the Variance would be in substantial compliance with the General Plan or other relevant area plans or neighborhood plans.

General Plan Consistency. The project area is designated as "Low-Medium-Family Residential (1-7 DU/Acre)" on the 2003 General Plan Land Use Map. Applicable 2003 Prescott General Plan Policies include:

- "Goal 1. Maintain the integrity and character of existing neighborhoods." (p36).
- "Goal 6. Encourage more compact development..."(p39).

Single-family homes surround the property site. The request is considered to be in compliance 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.

A) Topographic conditions (rock outcrops) in the applicant's rear yard do not allow the addition to be constructed in the rear yard (see photo).

C) The applicant would be deprived a similar privilege of reduced sideyard setbacks enjoyed by others in the neighborhood. The applicant has submitted a detailed analysis

(see attached letter, photographs, and maps) which additionally reveals other lots in the neighborhood area which have buildings that do not meet the required side yard setback of 7 feet. There are rock outcrops to the rear of the house which would preclude an addition to the rear of the house as described

Historic Preservation

The property is not located within a National Historic District.

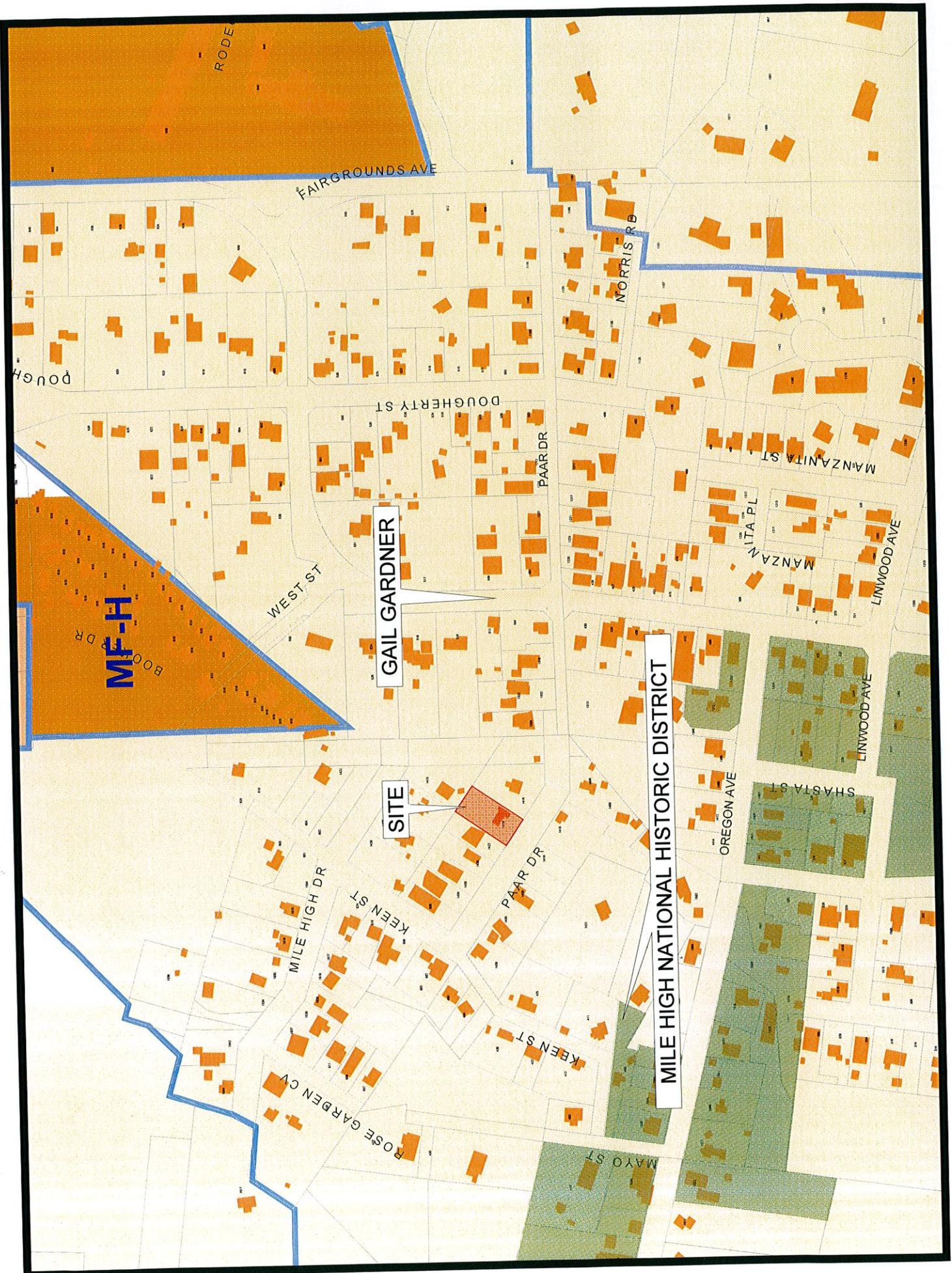
STAFF RECOMMENDATION

Staff recommends approval of this variance based upon:

1. A privilege being enjoyed by other property owners in the same neighborhood but denied to the applicant;
2. Topographical conditions of theirs and the adjoining neighbors;
3. The 2004 LDC change in setback measurements which are unfair to the property owner;
4. The adjoining property owners has given his approval to the request;
5. Architectural appearances.

SUGGESTED MOTION

Move to Approve Variance 12-001 for a reduced sideyard setback of 5' to the wall, and a reduced front yard setback of 22.5' to the wall in accordance with Exhibit A dated 2/13/12



RODE

FAIRGROUNDS AVE

NORRIS RD

DOUGHERTY ST

MANZANITA ST

MANZANITA PL

LINWOOD AVE

WEST ST

GAIL GARDNER

ME-H
BOOK & DR

SITE

MILE HIGH NATIONAL HISTORIC DISTRICT

OREGON AVE

LINWOOD AVE

SHASTA ST

MILE HIGH DR

PAAR DR

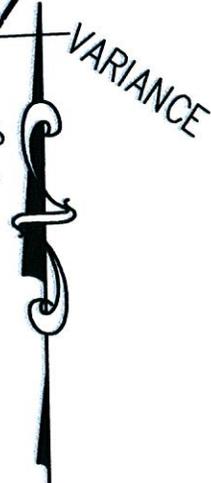
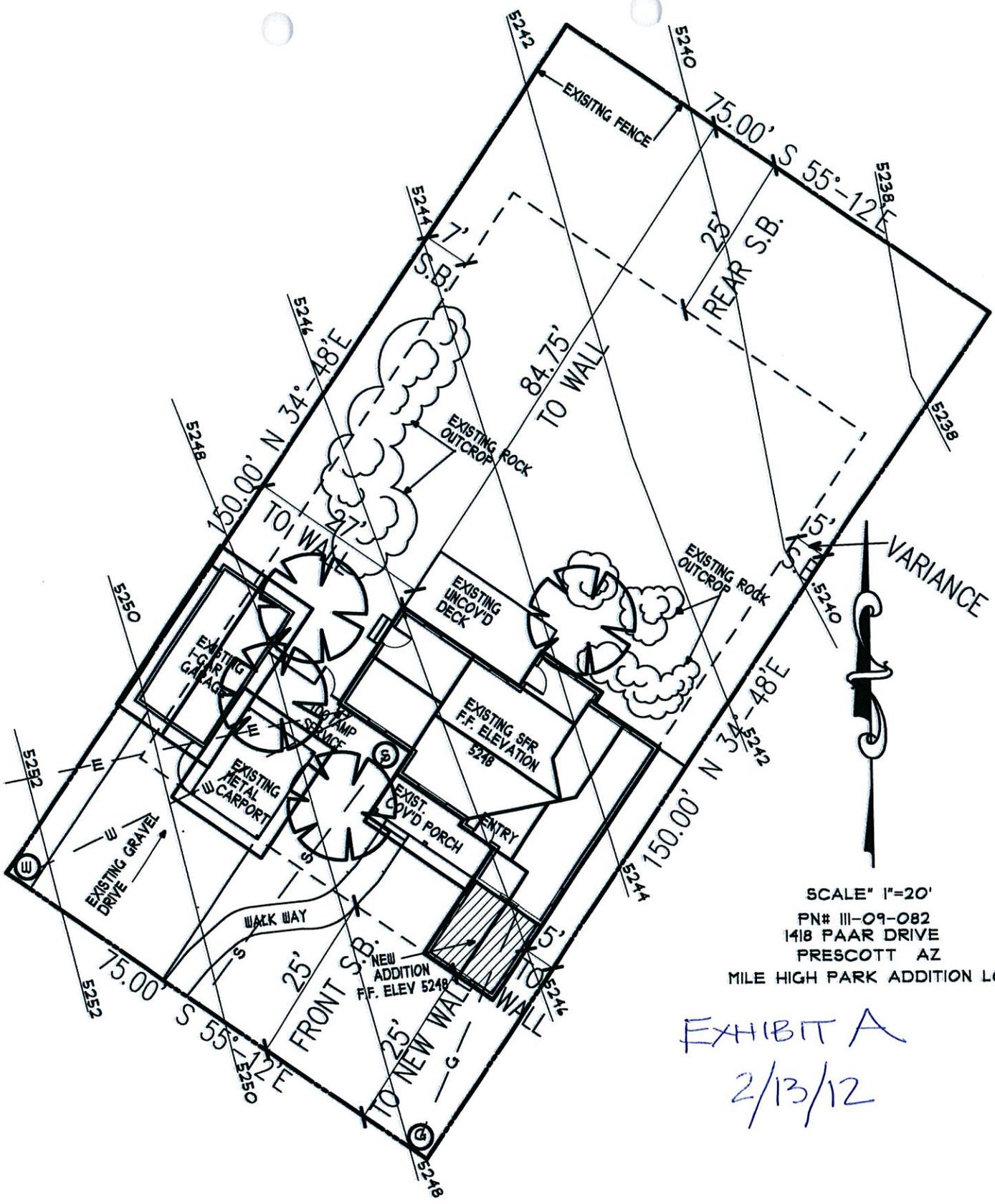
KEEN ST

KEEN ST

ROSE GARDEN CV

MAYO ST

APS
ON POLE



SCALE" 1"=20'
 PN# III-09-082
 1418 PAAR DRIVE
 PRESCOTT AZ
 MILE HIGH PARK ADDITION LOT

EXHIBIT A
 2/13/12

Description of Request:

We would like to build an addition to Monica White's existing bedroom. This addition is being built for handicap accessibility. Monica has a medical condition and we are planning for the future, as her condition deteriorates. We will be seeking a variance for the 7ft. setback from the east property line. As well as, a variance for the 25ft setback, from the front property line. Concerning the variance, on the 25ft. set back, we are seeking an Administrative Adjustment. Our proposed addition is 13 ft. in length, putting the front of the addition, at 23ft., from the front property line. Speaking with staff, we were told, to combine both requests, with the Variance Application.

The existing bedroom is located, at the original 5ft. setback, from the east property line. Moving the proposed addition, from the existing 5ft. setback, to the current setback of 7ft., as required, would result, in a shift, of the proposed addition. This would result, in an awkward, over all appearance, as well as, covering the current front door location, and front porch location, by 2ft..

The east side of our home is lined with boulders. The resident at 1416 Paar Dr. presents with no negative effect, regarding this requested addition. As evidenced, from our conversations, with him. The rear of our home is also impacted by boulders, prohibiting, building out the rear bedroom.

We live in an Historic Neighborhood and this addition will match the current home in all aspects of appearance. We have chosen a qualified licensed contractor.

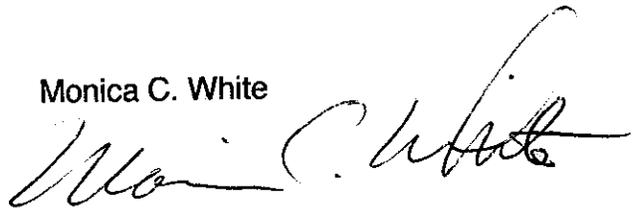
We would appreciate your consideration for this bedroom addition.

Sincerely,

Mary E. Bradley



Monica C. White



VARIANCE QUESTIONS

1. Describe unique conditions peculiar to the land and structure of building, which are not applicable to other lands and structures in same zoning district. There are large boulders off the back of the house, prohibiting construction there, as opposed to construction, off the front of the house. See included photo, for proof of boulders, and their location. Also structure of building, where front bedroom is located, would not accommodate construction, with current set back of 7ft., as required. Moving the proposed addition from the existing 5ft. set back, to the current set back of 7ft., would result in a shift, of the proposed addition. This would result, in an awkward, over all appearance, as well as, covering the current front door location, and front porch location, by 2ft.. See 2 photo's, included, to aid in explanation. One photo showing the required 7ft. set back, as measured off fence line, to where current gas line enters home. The second, showing how moving the addition over, those two additional feet, would partially cover front door and porch area.



Large Boulders at rear of home



Photo shows required 7ft. setback, measured off fence line to where current gas line enters home

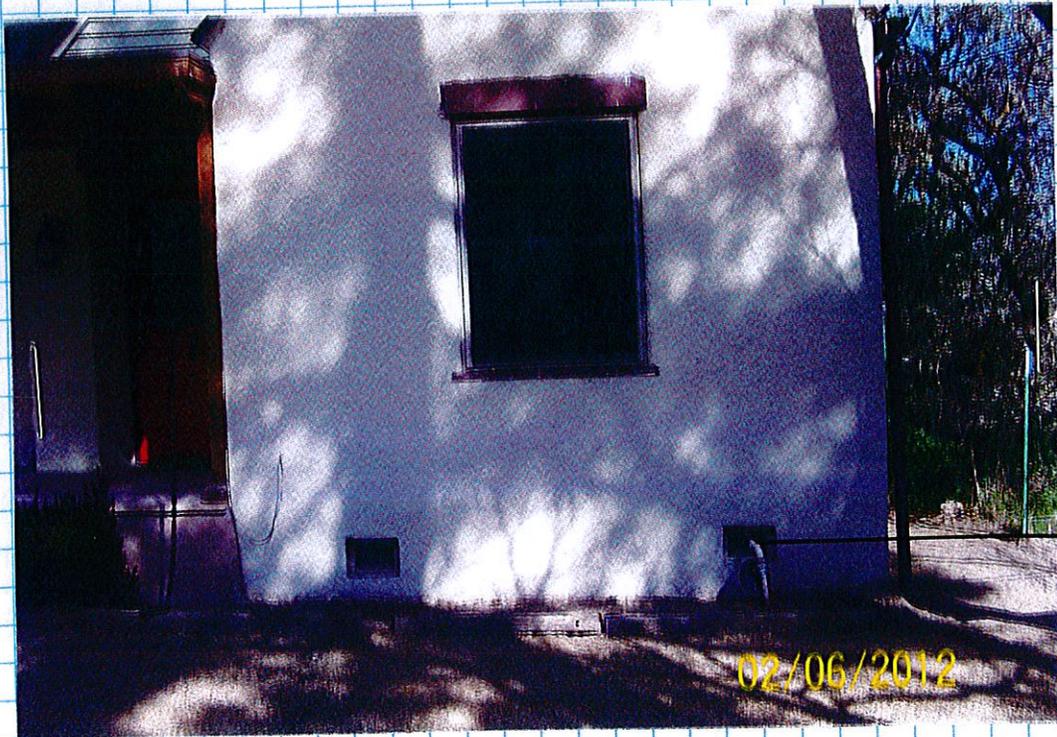
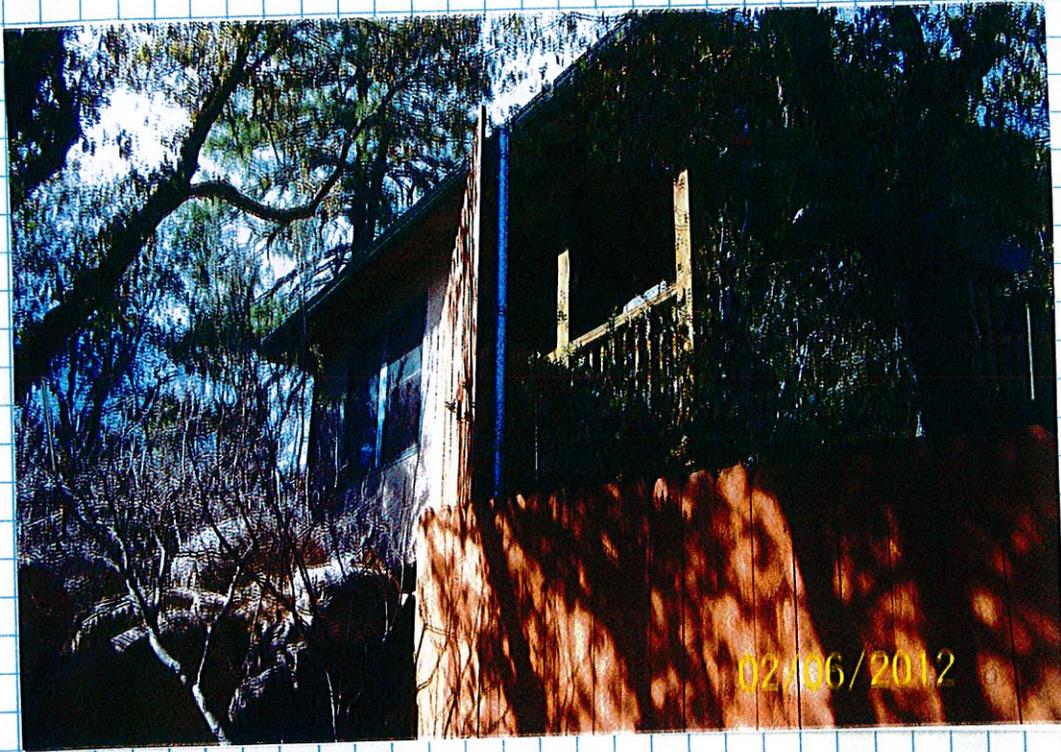


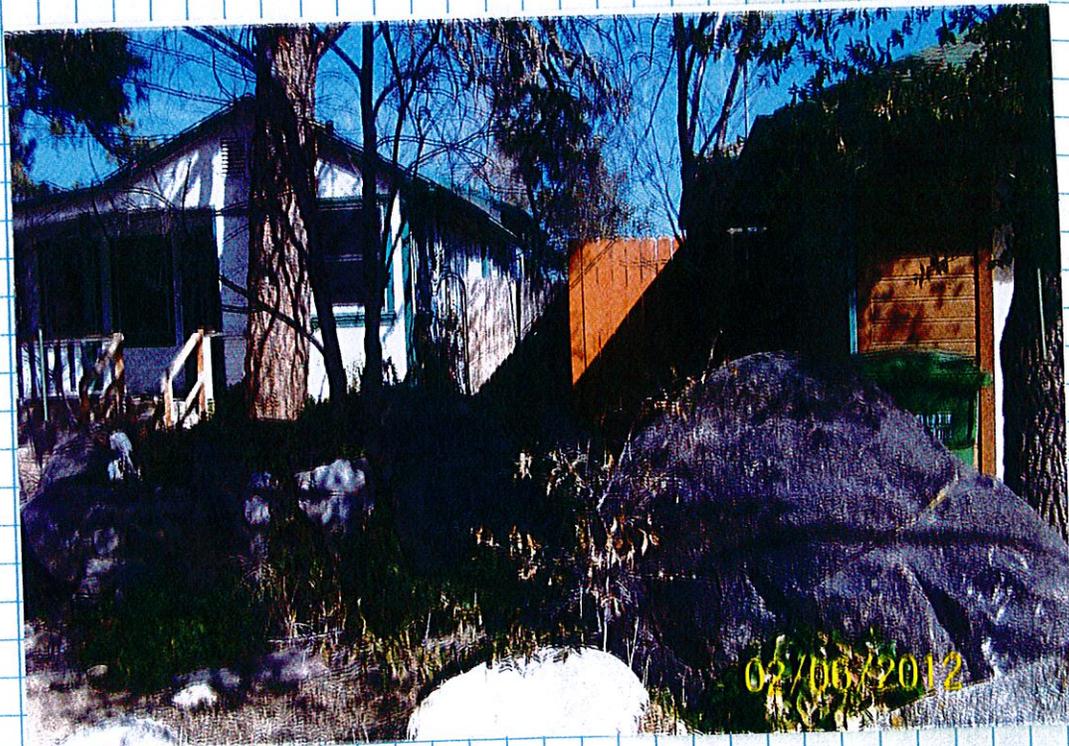
Photo shows how moving the addition over, those two additional feet, would partially cover front door and porch area

VARIANCE QUESTIONS

2. A literal interpretation of the provisions of the Zoning Ordinance would deprive the applicants, of rights commonly enjoyed, by other properties, in the same zoning district, under terms of the Zoning Ordinance. The original 5ft. set back is common in this neighborhood, as indicated, through the use of pictures, corresponding to an area map of Paar Dr., and Keen St.. The pictures show existing structures, at the original 5ft. set back, or less. Note, no survey was conducted. The pictures were taken, sighting in, on supposed property lines, and then measured accordingly.



#1, 1422 Paar Dr. Photo taken from rear yard at 1418 Paar Dr. East side of 1422 shown with fence line as supposed property line. Home within 5FT. of property line.



#2, 1426 Paar Dr. Photo taken to show supposed property line between 1426 and 1422 Paar Dr. Fence at property line. Home within 5FT. of property line.



3. 1430 Paar Dr. Photo taken to show east supposed property line between 1430 and 1426 Paar Dr. Bricks denote property line. Home within 5ft. of property line.



4. 509 Keen St. Photo taken to show east supposed property line (fence) between 509 Keen St. and 1434 Paar Dr. Home within 4ft. of property line.



#5, 1439 Paar Dr. Photo taken to show supposed east property line which is between both sheds. Shed within 1ft. of property line.



#6, 1435 Paar Dr. Photo taken to show supposed west property line which is between both sheds. Shed within 1ft. of property line.

VARIANCE QUESTIONS

3. A literal interpretation of the Zoning Ordinance would limit the construction of the proposed handicap bedroom by 2ft., and when constructing for handicap accommodations, size matters. To shift the construction over 2ft., to accommodate the current 7ft. set back, would result in an awkward appearance, as well as, covering the current front door and front porch location, by 2ft.. See enclosed photo's, used as an example, for question 1. They are included again, here, to aid, in explanation.



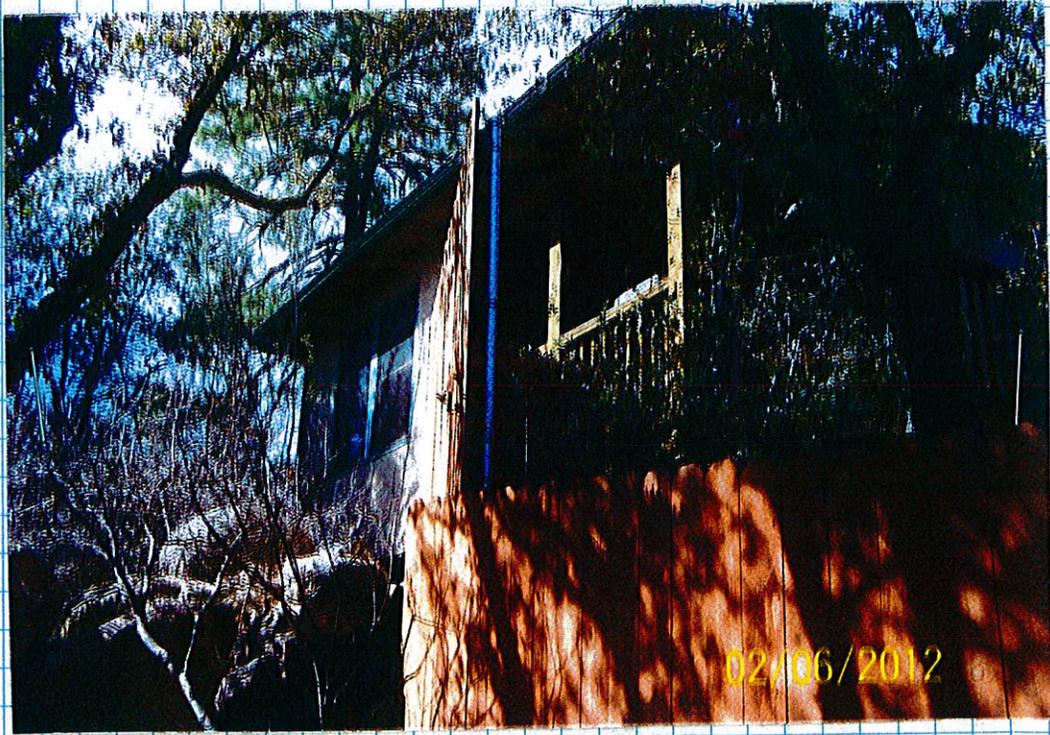
Photo shows required 7FT. setback, measured off fence line to where current gas line enters home



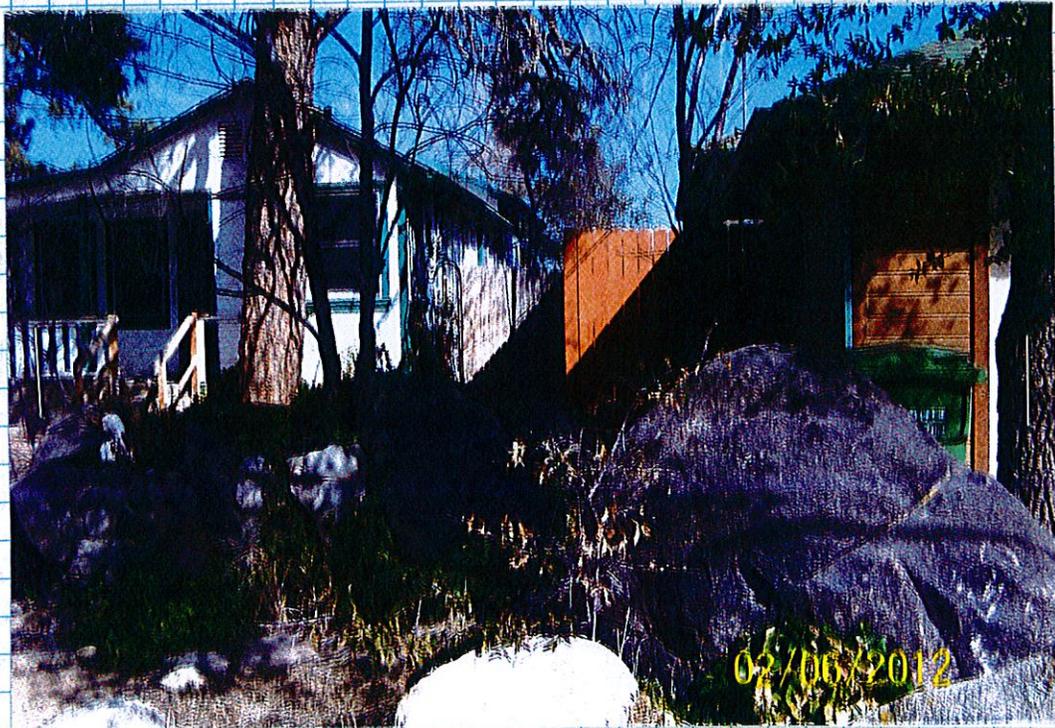
Photo shows how moving the addition over, those two additional feet, would partially cover front door and porch area

VARIANCE QUESTIONS

4. Granting the requested variance will not confer any special privilege upon the applicants. We will use the enclosed photo's, and area map to illustrate our point, as we did, when answering question 2. The pictures correspond to an area map of Paar Dr., and Keen St.. The pictures show existing structures at the original 5ft. set back or less. Note, no survey was conducted. The pictures were taken, sighting in, on supposed property lines, and then measured accordingly.



#1, 1422 Paar Dr. Photo taken from rear yard at 1418 Paar Dr., East side of 1422 shown with fence line as supposed property line. Home within 5ft. of property line.



#2, 1426 Paar Dr. Photo taken to show supposed property line between 1426 and 1422 Paar Dr., fence at property line. Home within 5ft. of property line.



#3. 1430 Paar Dr. Photo taken to show east supposed property line between 1430 and 1426 Paar Dr. Bricks denote property line. Home within 5ft. of property line.



#4. 509 Keen St. Photo taken to show east supposed property line (fence) between 509 Keen St. and 1434 Paar Dr. Home within 4ft. of property line.



#5. 1439 Paar Dr. Photo taken to show supposed east property line which is between both sheds. Shed within 1ft. of property line.



#6. 1435 Paar Dr. Photo taken to show supposed west property line which is between both sheds. Shed within 1ft. of property line.

VARIANCE QUESTIONS

5. Granting the variance will not interfere or injure the rights of other properties in the district. We have included a signed letter from the neighbor most affected by the bedroom addition, at 1416 Paar Dr.. The letter states, that he has no concerns or issues, with our proposed, bedroom addition. Also, find an enclosed photo, showing a line of boulders, obscuring his line of sight, from the addition.

02/04/2012

To the Planning and Zoning Commissioner:

Monica C. White and Mary E. Bradley reside @ 1418 Paar Dr. in Prescott Az.
Per your request we are verifying that our neighbor @ 1416 Paar Dr. has no concerns
or issue with our proposed bedroom addition.

We have meet with our neighbor at 1416 Paar Dr. He has read this above statement
and is in agreement with our addition. Find his signature below.

A handwritten signature in black ink, appearing to read "Russell Rice". The signature is stylized with a large, sweeping flourish at the end.

RUSSELL RICE
1416 Paar Dr.
Prescott, AZ 86305



Photo showing line of boulders, east side of
1418 Paar Dr. Between 1418 and 1416 Paar Dr.

V12-002**VARIANCE**
Accessory Building SizeAgenda # 2

COMMUNITY DEVELOPMENT - PLANNING & ZONING DIVISION
BOARD OF ADJUSTMENT
STAFF REPORT
Meeting Date: 3/15/12

TO: Board of Adjustment Members
FROM: Tom Guice, Community Development Director
George Worley, Planning Manager
Mike Bacon, Community Planner
DATE: 3/2/12

Location: 420 Lori Drive . **Zoning:** SF-18 **Parcel Number:** 106-23-003
Applicant/Agent: Bill Watson, Prescott, AZ
Owners: Brice Smith, 420 Lori Lane, Prescott, AZ 86301

REQUEST: This is a request a storage building to be used for antique cars and farm equipment. It would total 2880 sq ft (including porch for outdoor working and some storage) and would exceed the square footage allowed for accessory buildings on a lot. The applicant has submitted a detailed Description of Request (which is attached). Existing conditions are a 2.08 acre SF-18 zoned parcel with a 1200 sq. ft home, a detached carport (400 sq. ft), and a detached barn of 864 square feet. The total square footage of the existing accessory buildings currently exceeds the 600 square feet allowed (see Section 2.5.2.B below) by 664 sq. ft. of which an additional 2880 sq. ft. is requested for the third accessory building.

Topographic considerations prohibit the proposed accessory building from being attached to the main house (which would negate the need for this variance request). The applicant makes the point that the large size of his property should not be compared to much smaller residential parcels which predominate within the City limits, and deprive him of the full utilization of his property when compared to much smaller urban residential lots with larger homes, and of a privilege enjoyed by others (see attached documentation) who have larger accessory buildings on similar large sized lots.

STAFF ANALYSIS**Lot Size:** ±2.08 acres**Land Development Code Requirement:** Sections 2.5.2

B. For residential uses within residential zoning districts, accessory uses and structures must be subordinate to the principal use and structure on the subject lot in terms of area, extent and purpose. The total gross floor area of all accessory structures on a lot shall not exceed 600 sq. feet or 50 percent of the total gross floor area of the principal structure on the lot, whichever is great

Compliance with Zoning Code and ARS 9-462.06: Yes

Neighborhood Residents Concerns. As of this date, 2 phone comments have been received from area residents: 1 for and 1 against.

Variance Criteria (LDC Section 9.13)

The Board of Adjustment shall consider the following specific criteria (*Italicized text indicates 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.

- A) *The house is located on ±2.08 acres of land. A parcel of this size is not an urban sized parcel, but would be more likely be Rural-Residential zoned 2- acre minimum lot size. Lot coverage of City RE-2 acre lots allowed is 18,120 sq. ft—much greater than what the applicant is proposing (5,344 sq. ft).*
- B) *Due to access via a private easement, the subdivision of this property is problematic. A subdivision would create additional lot coverage and neighborhood impacts in excess of that allowed for this one 2 acre lot.*
- C) *Topographical constraints negate the attachment of the accessory building to the primary residence.*
- D) *The new LDC significantly reduced the size of accessory buildings*

The former Zoning Code stated:

“Section 7.04 A.2.d Accessory buildings in all zoning districts shall at no time exceed the area of the building to which they are accessory.”

Under this Code more than one accessory building could be placed on the property as long as the above requirement was meant, and that the total lot coverage did not exceed that which was allowed within that zoning district.

The applicant has submitted information indicating that larger and more accessory buildings were approved on lots prior to the 2004 LDC.

- E) *Large Size Lots. The City has comparatively few larger privately owned lots of 2.0+ acres in size and greater. Large lots of 2 acres or more are generally considered to be Rural-Residential and not urban.*

The lot coverage requirement for SF-9 lots is 40% (3600 sq. ft.) and SF-18 lots is 35% (6300 sq. ft). The applicant's request would result in 5,344 total sq ft of buildings and a lot coverage of only 5.8% on a 2.08 acre parcel in the City. This is below the 6,300 sq. ft maximum in the SF-18 zoning district. This is far below the City's LDC requirement of 18,120 sq. ft. allowed for City zoned Rural Estate-2 ac. Lots.

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.

There are none. The location is in a draw which surrounding parcels, with one notable exception have limited view of the site. A parcel of this size (2 acres) has more than sufficient area to allow a larger accessory building without impacting surrounding neighbors. Any potential subdivision of this lot would have a greater impact on the surrounding neighboring property in terms of lot coverage and home construction.

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. *No other similar variances have been applied for in the surrounding neighborhood area. The applicant has submitted a detailed analysis (see attached letter, photos, and maps), however, which reveals other similar large-sized lots within the City have accessory buildings that exceed the current accessory building maximum size, and which deny him a similar privilege enjoyed by other of similar sized properties.*

4. Self-Induced Hardship

The hardship is not the result of the applicant's own actions. *The proposal is of his own making.*

5. General Plan

Granting of the Variance would be in substantial compliance with the General Plan or other relevant area plans or neighborhood plans.

General Plan Consistency. *The project area is designated as "Low-Medium-Family Residential (1-7 DU/Acre)" on the 2003 General Plan Land Use Map. Applicable 2003 Prescott General Plan Polices include:*

- "Goal 1. Maintain the integrity and character of existing neighborhoods." (p36).*
- "Goal 6. Encourage more compact development..."(p39).*

Single-family homes surround the property site. The request is considered to be in compliance 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. *Topography, location, and the size of the lot are extenuating circumstances.*

Historic Preservation

The property is not located within a National Historic District.

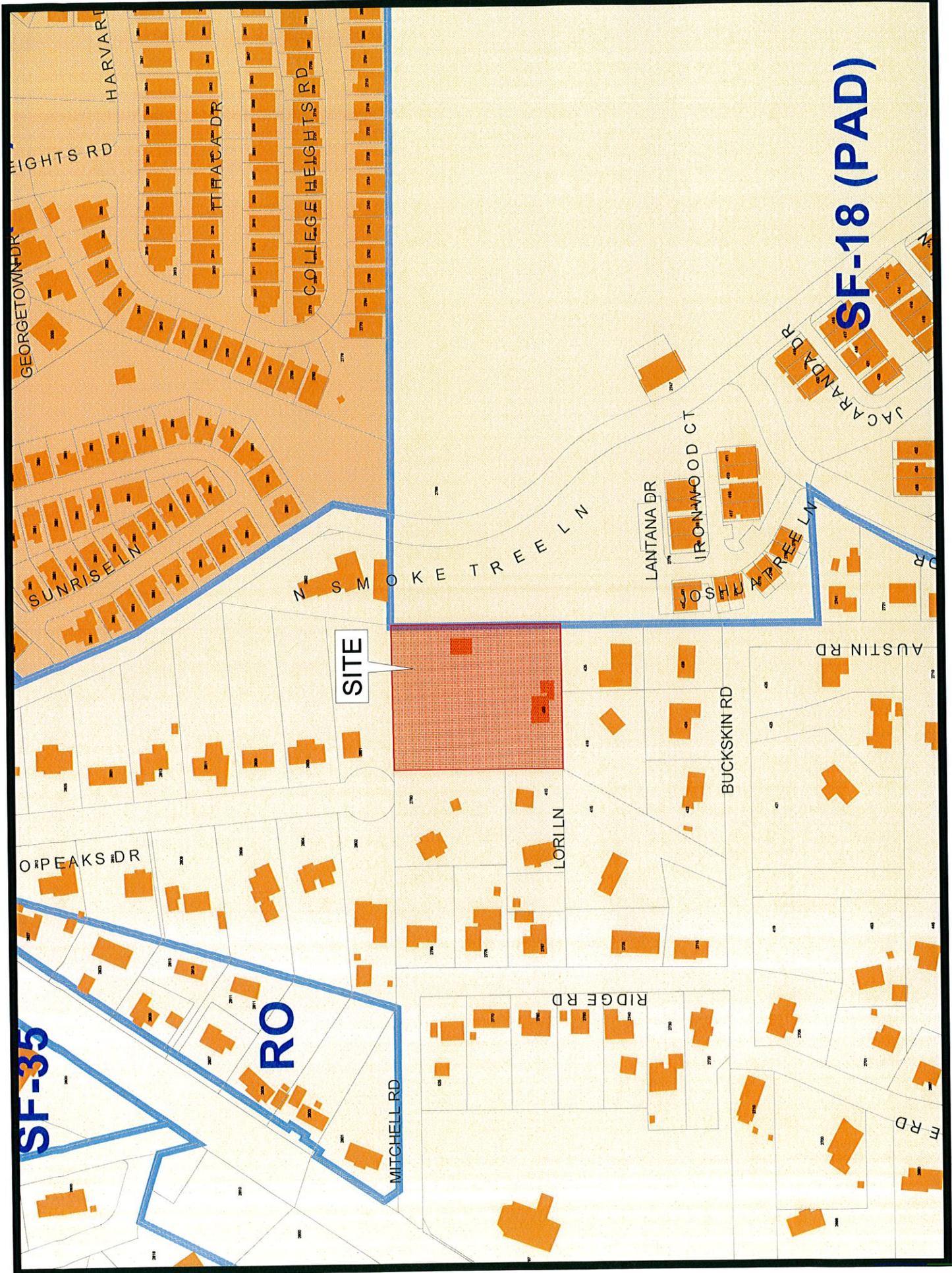
STAFF RECOMMENDATION

Staff recommends approval of this variance based upon the following considerations.

- A) Denial of a similar privilege enjoyed by others of large sized lots.
- B) No significant impacts upon adjoining property owners.
- C) Topographical constraints.
- D) Accessory building limitations on large lots which should be evaluated by Staff for an amendment to the LDC.
- E) Change in accessory requirements in the LDC from the Zoning Code which should be evaluated by Staff for an amendment to the LDC.

SUGGESTED MOTION

Move to Approve Variance #12-002 for the maximum size of an accessory building in accordance with Exhibit A dated 2/16/12.



HARVARD
EIGHTS RD
GEORGETOWN DR
SUNRISE LN
COLLEGE HEIGHTS RD
MITCHELL RD

SITE

SMOKE TREE LN
LANTANA DR
IRONWOOD CT
JACARANDA DR
BUCKSKIN RD
AUSTIN RD
RIDGE RD
E RD

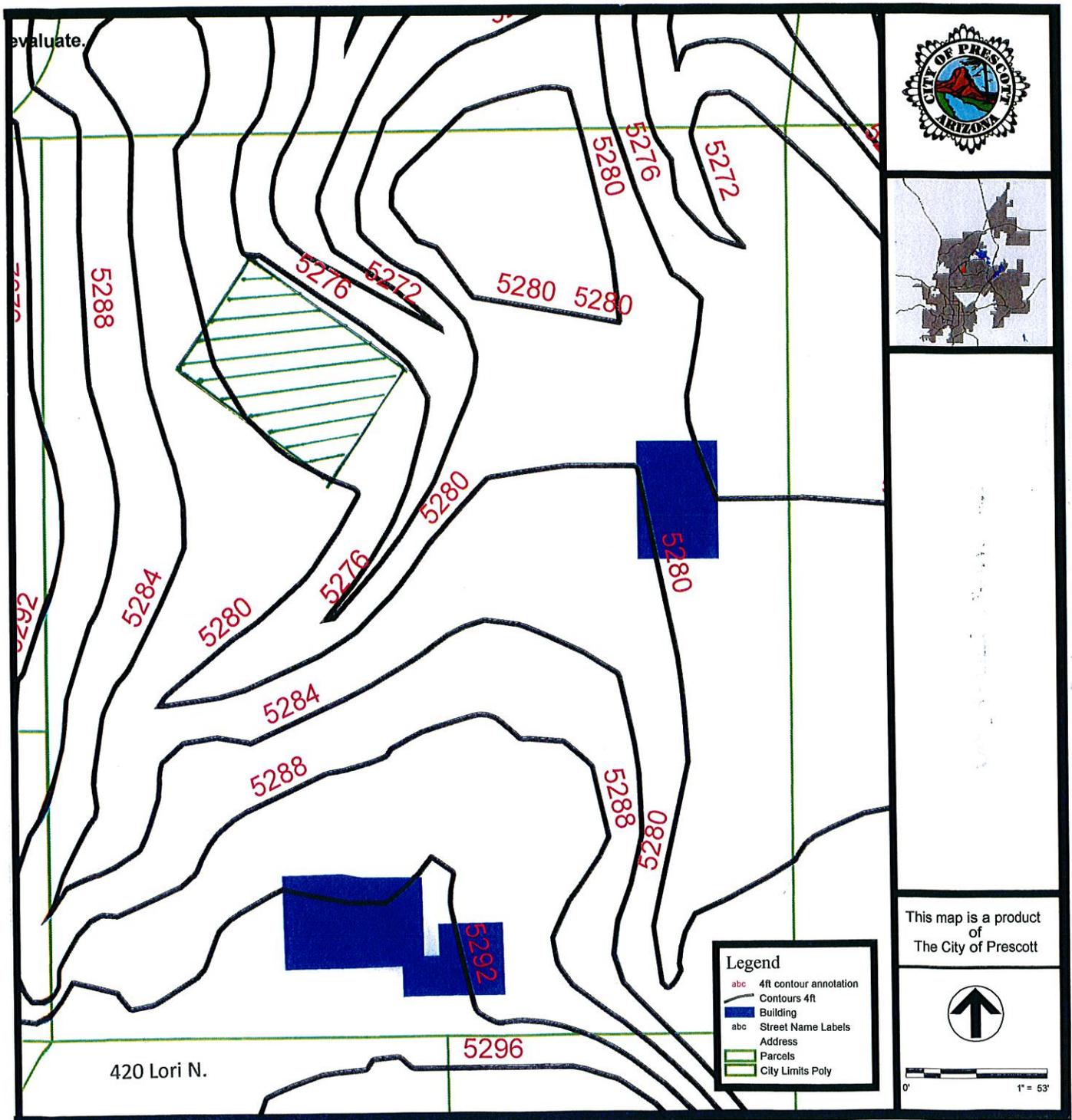
SF-35

RO

SF-18 (PAD)

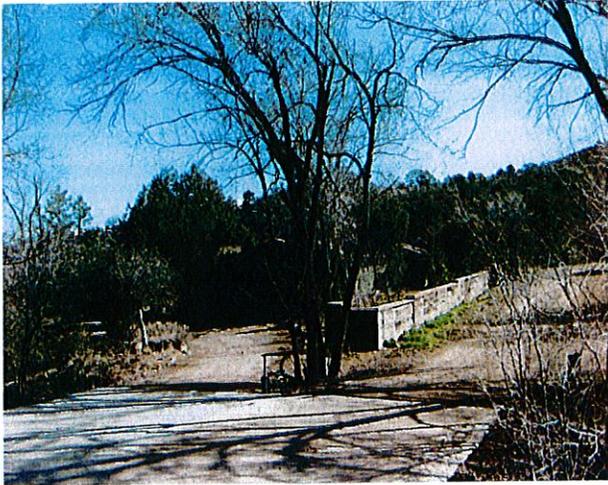
Description of Request:

I am seeking permission to build a 36' x 60' storage building for storing my collection of antique vehicles and farm equipment on my 2.1 acre lot. Current zoning does not allow for a separate structure (not attached to the house) that exceeds the square footage of my 1200sf home. Building this structure as an addition to the house is not practical because of the property topography. There is an area on my 2.1 acres that is well suited for this building while having minimal impact on surrounding properties, native trees and topography.

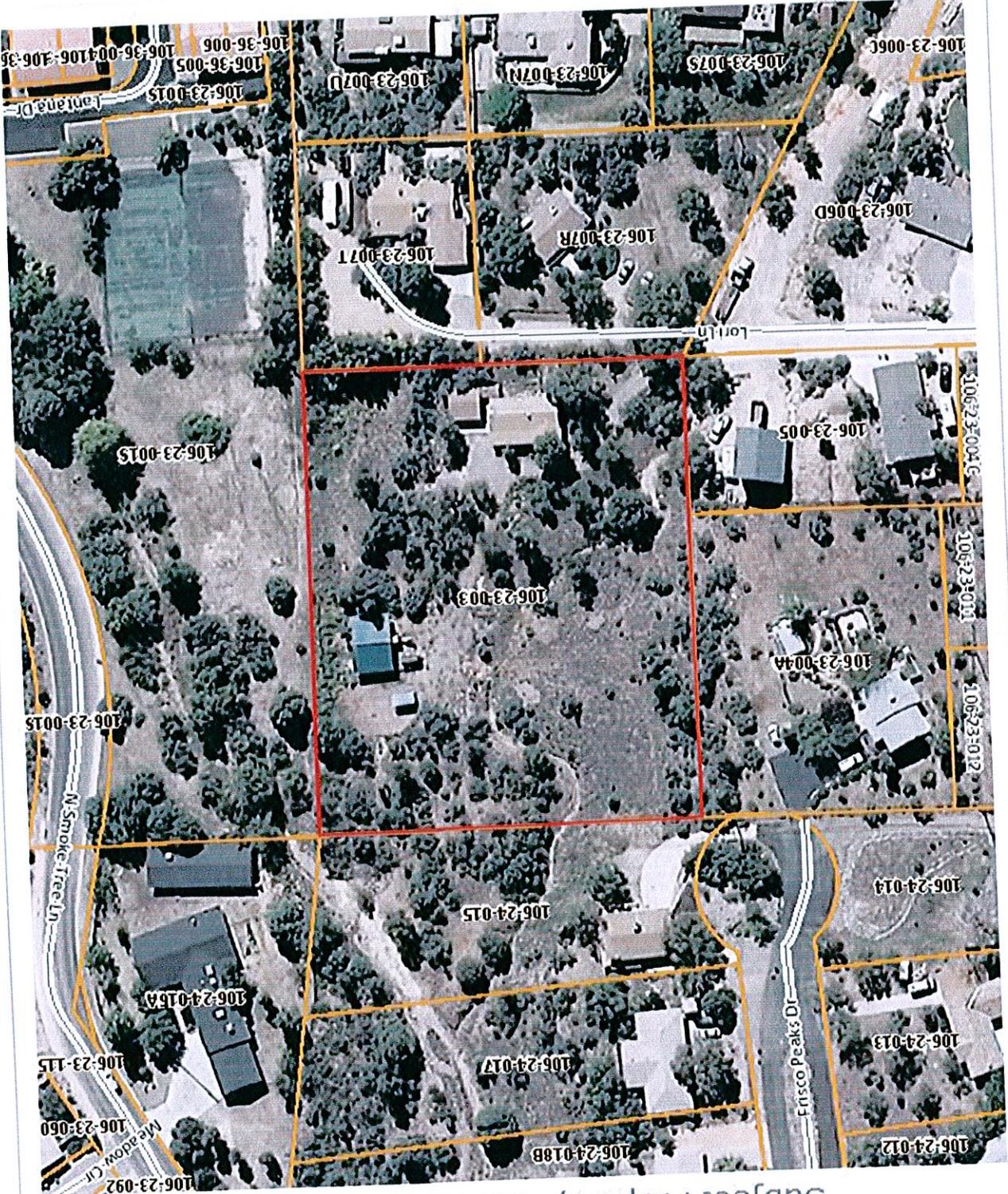


Question One:

Steep topography, mature native trees, existing driveway and septic prevent the construction of this building as an addition to the main house, even with the use of a breezeway.



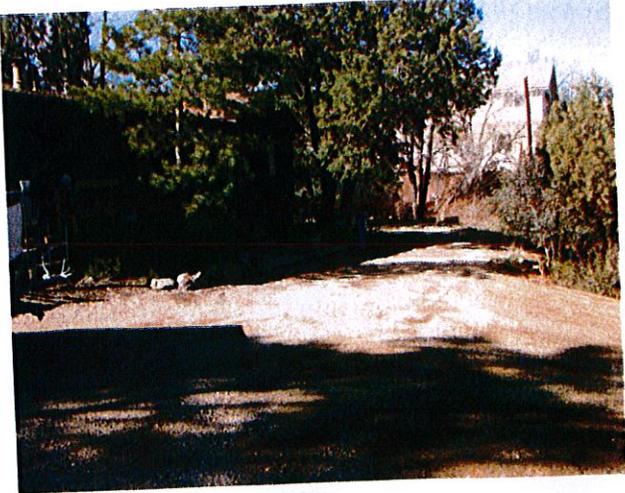
Subject Property 420 Lori Lane



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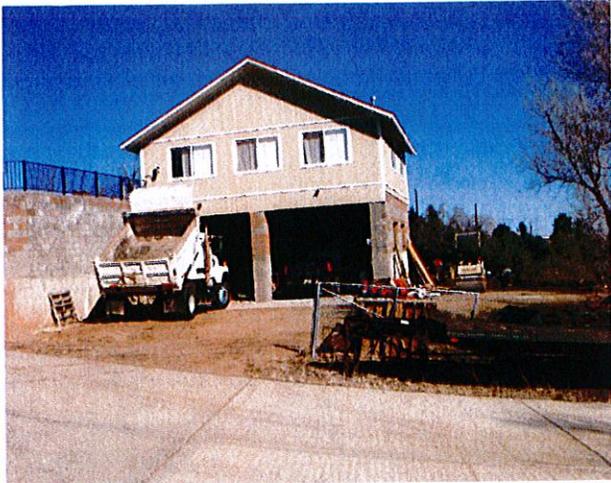
Question One Continued:



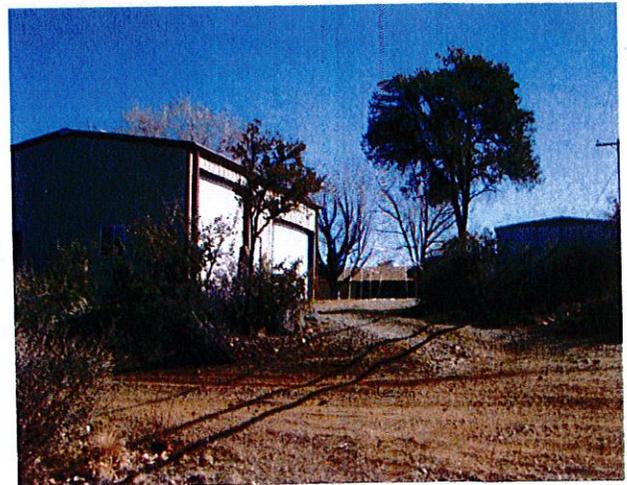
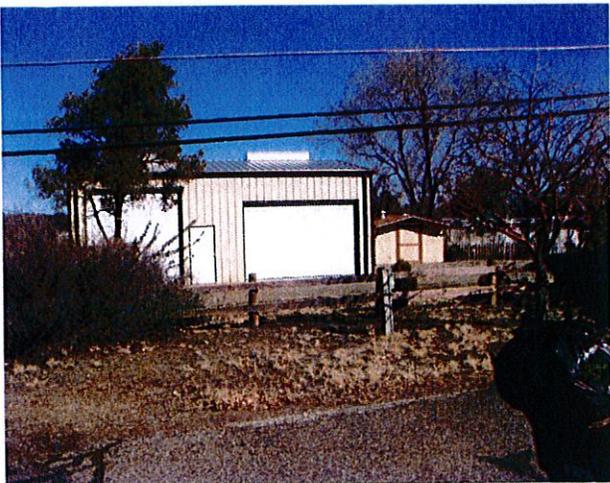
Question Two:

The literal interpretation of the provisions of the zoning ordinance limits a detached structure on my 2.1 acres to 600sf because my house is relatively small. Neighbors in close proximity to my parcel such as 410 Lori Ln., 2802 Frisco Peaks Dr., 2802 Smoketree Ln., 486 Robin Dr, 3206 Jack Dr., 3124 Rawhide Dr, 3116 Rawhide Dr., 3240 S. Burro Dr., and 3251 S. Burro Dr. all enjoy large detached buildings on much smaller parcels.

410 Lori Ln.



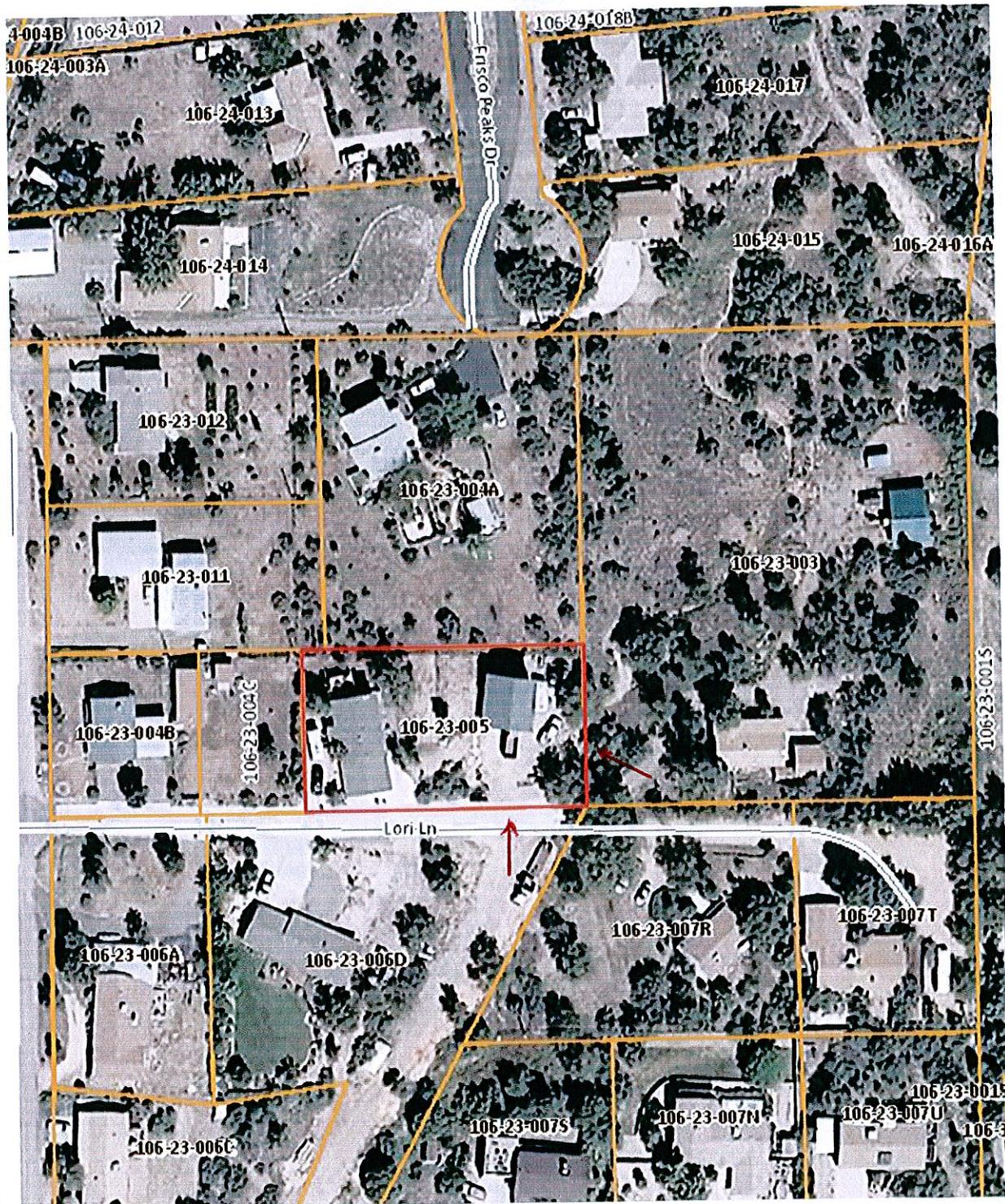
2802 Frisco Peaks Dr.



2802 S Smoke Tree Ln



410 Lori Lane



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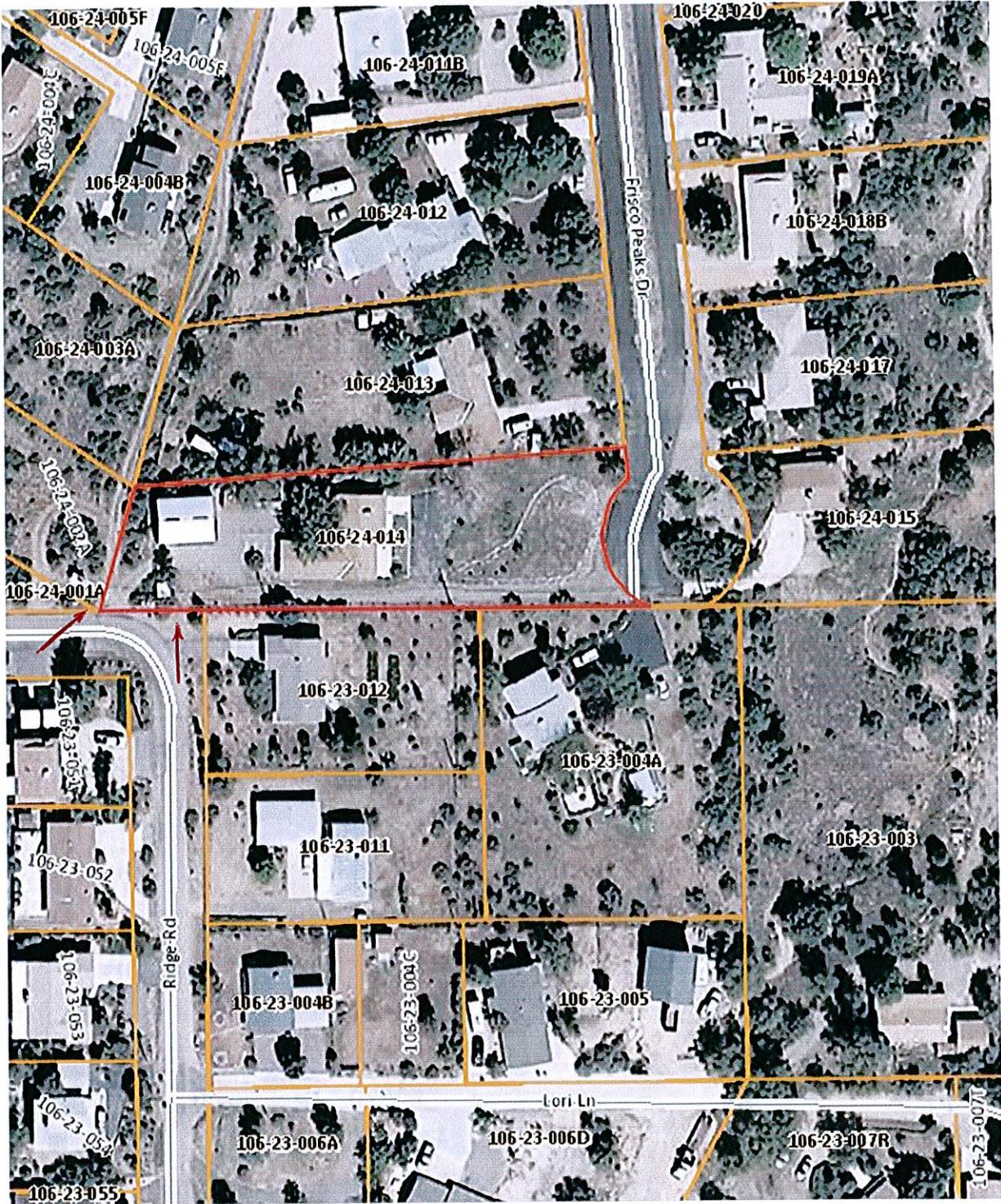
3. SPECIAL PRIVILEGES (SEE STAFF REPORT)

The following square footages were pulled from the City of Prescott Building Permit Records.

Address	Lot Size	House S.F.	Accessory Bldg. S.F.	DATE OF BLDG. PERMIT
Subject Property 420 Lori Lane	2.1 Acres	1200 sf	2160 sf (Proposed)	
410 Lori Lane	.45 Acres	No Record	1800 sf	— 4/9/2003
2802 Frisco Peaks Dr	.78 Acres	No Record	1200 sf	— 12/13/2001
2802 N Smoke Tree Ln	.81 Acres	2840 sf	2304 sf	— 4/3/1986
within 1 mile → 486 Robin Drive	4.4 Acres	3367 sf	1728 sf & 1957 sf	— 2002-2005
within 1 mile → 3206 Jack Drive	3.0 Acres	3244 sf	1492 sf	— 3/15/2000
3116 Rawhide Dr	2.4 Acres	2504 sf	1680 sf	— 11/20/84
3124 Rawhide Dr	2.6 Acres	3166 sf	1440 sf	— 10/6/93
3251 S Burro Dr	1.7 Acres	No Record	2800 sf	— 6/16/93
3240 S Burro Dr	2.3 Acres	1302 sf	1432 sf	— 12/11/2000

All of the above properties are within 1/4 mile of subject property. All of these accessory building are detached from the residence.

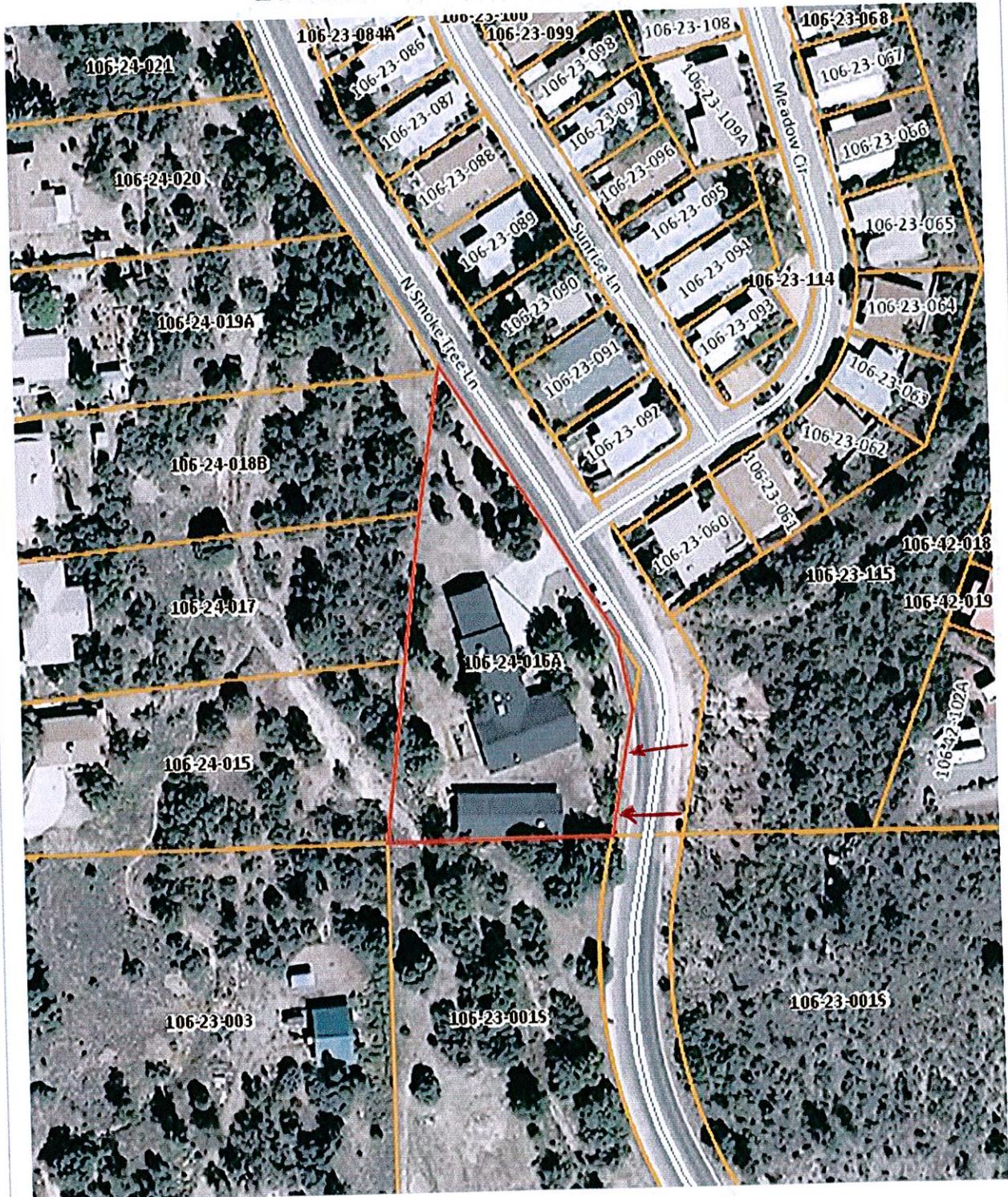
2802 N. Smoke Tree Lane



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2802 N. Smoke Tree Lane

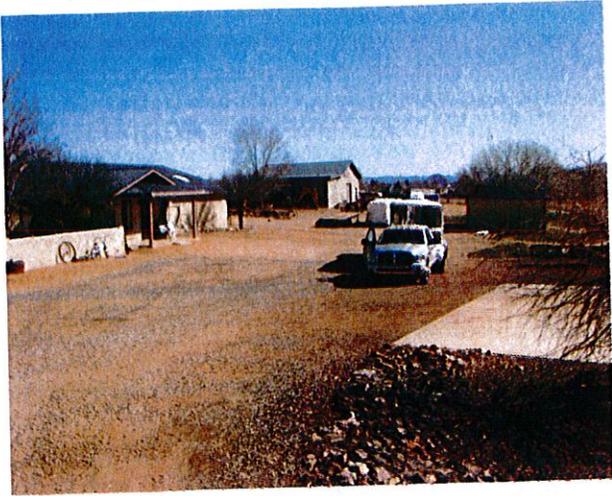


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Question Two Continued:

486 Robin Dr



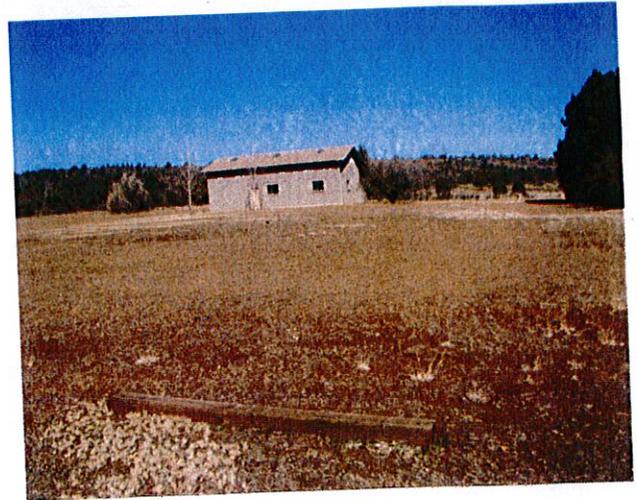
3206 Jack Dr.



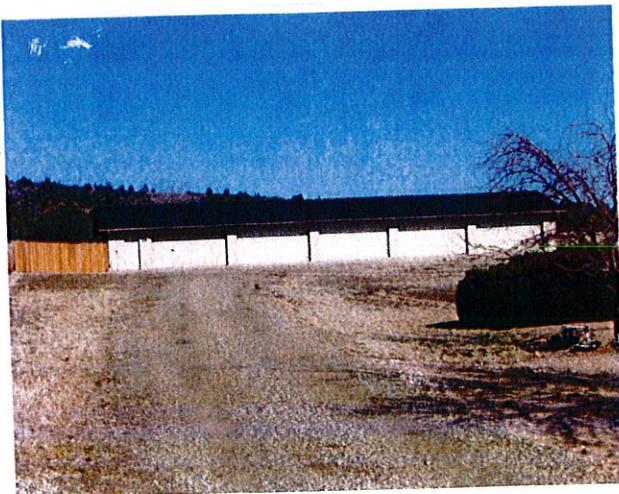
3116 Rawhide Dr.



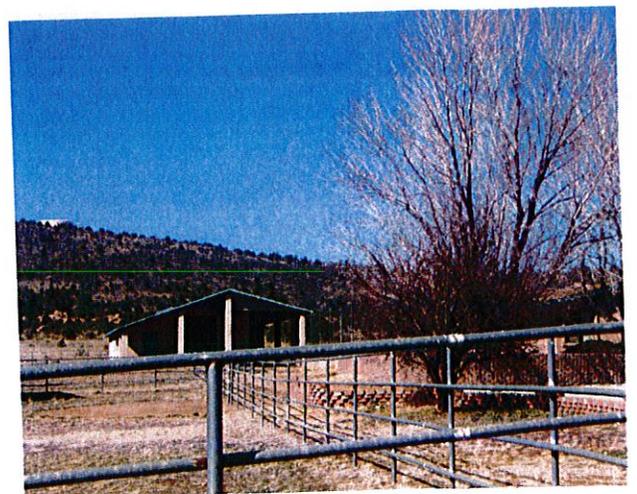
3124 Rawhide Dr.



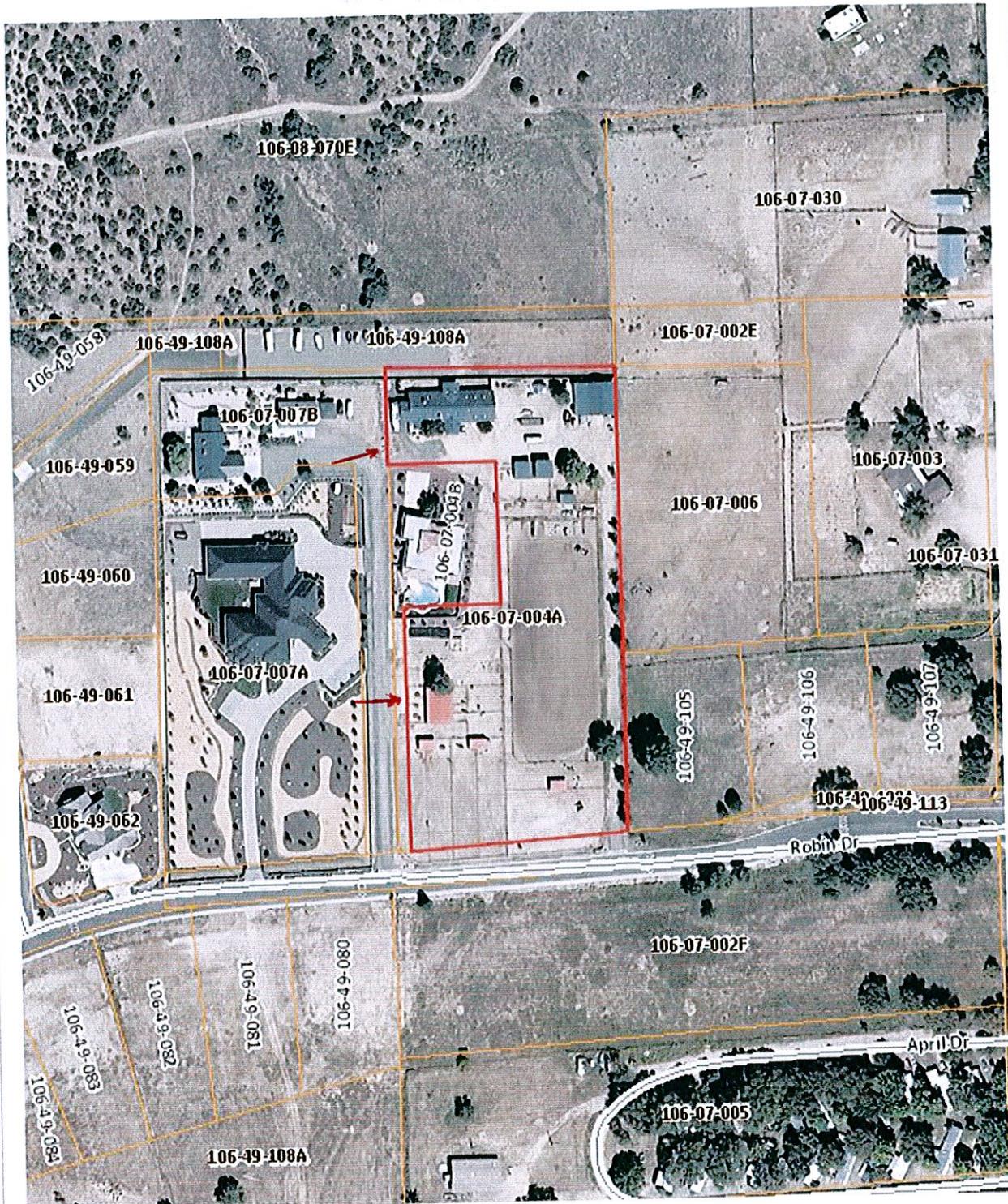
3251 S. Burro Dr.



3240 S. Burro Dr.



486 Robin Drive



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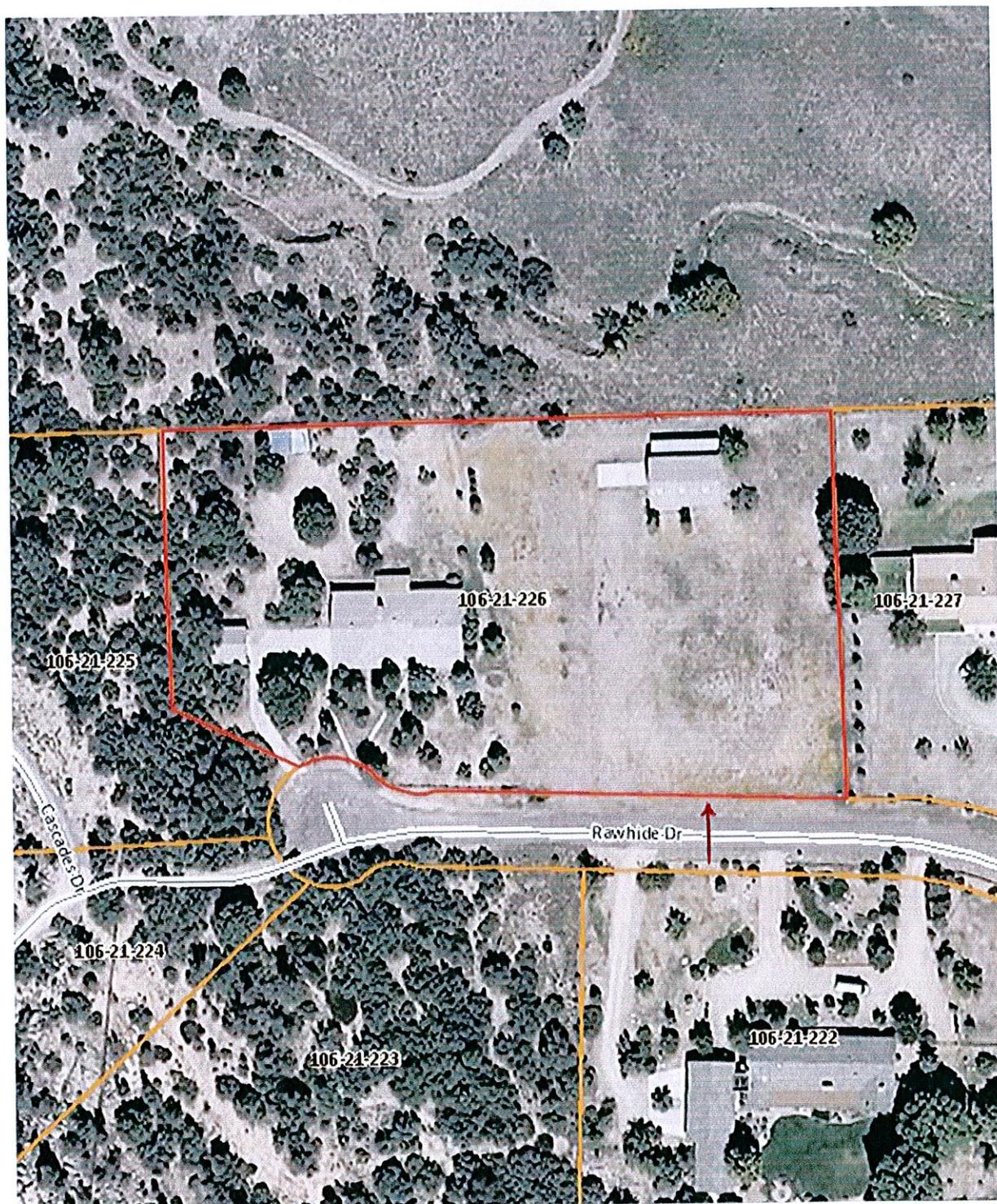
3116 Rawhide Drive



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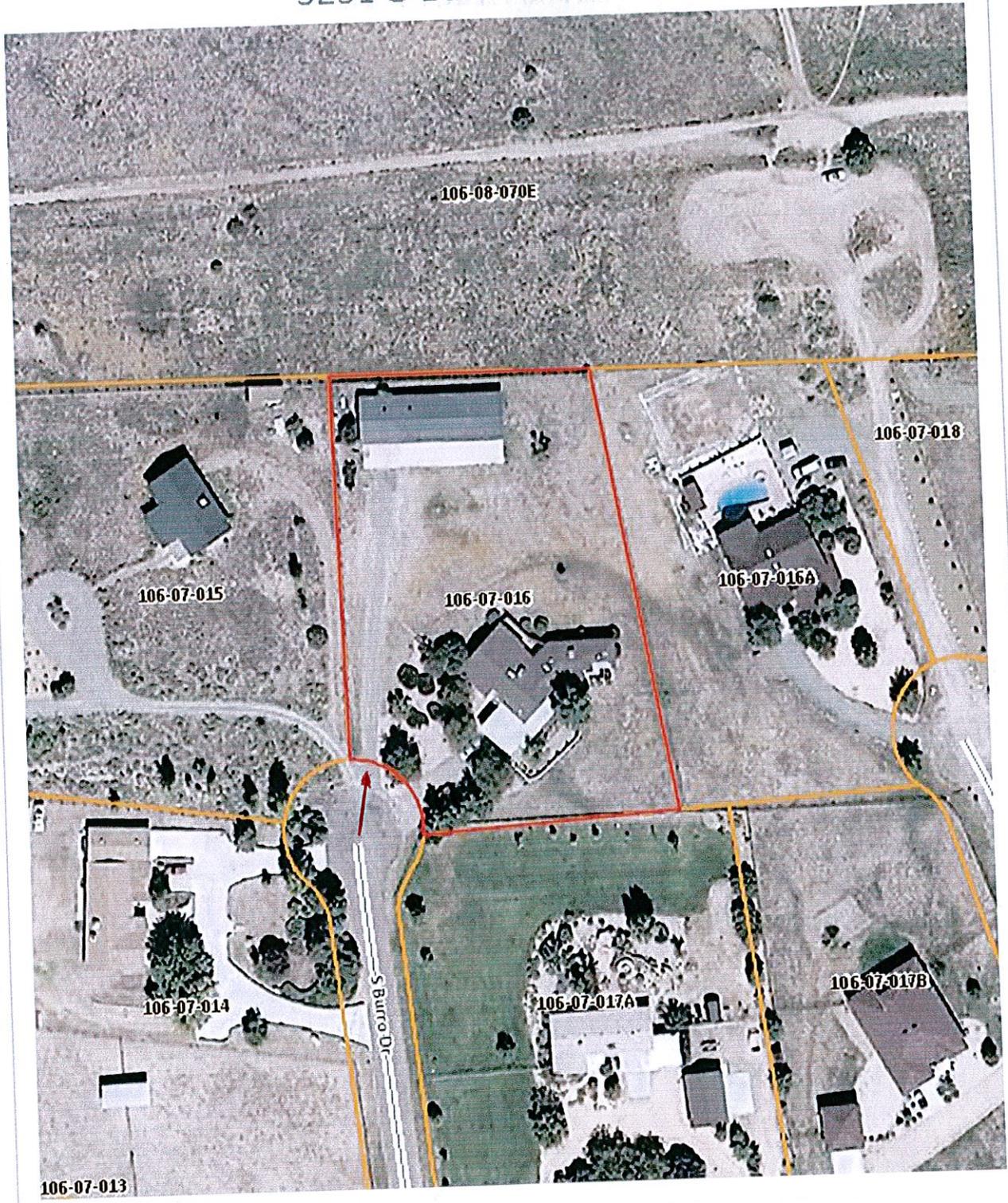
3124 Rawhide Drive



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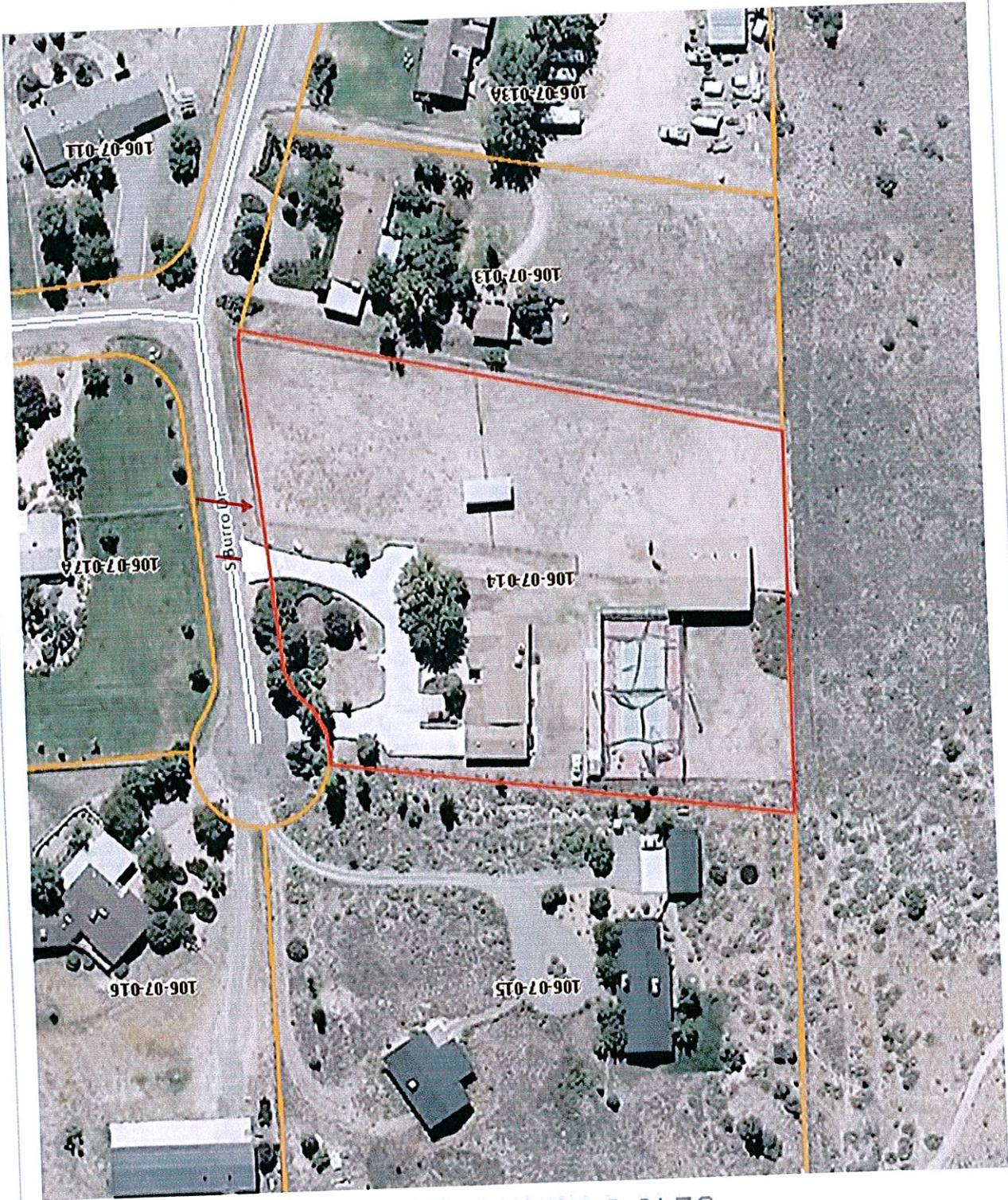
3251 S Burro Drive



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Map printed on: 2.26.2012

3240 S Burro Drive



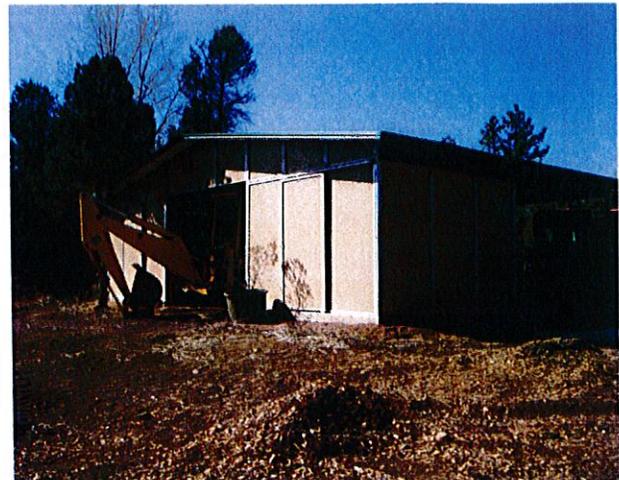
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Map printed on: 2/26/2012

Question Three:

The current zoning SF-18 for my 2.1 acres would allow as many as 5 residences on the property. The City's Article 2/Use Regulations, Sec.2.7 Density and Dimensional Standards, Table 2.7.1 shows that the maximum lot coverage for SF-18 is 35% or 6300 SF. The County's Planning and Zoning Ordinance, Section 516 Density Districts, has a maximum lot coverage of 10% for a 2 acre parcel or 8700 SF. The County also allows accessory buildings to be attached to or detached from the principle building provided same is compatible and common to the district in which it is located and does not alter the character of the premises. Detached is my only option due to the topography around the residence. The proposed building is the same material and color of walls and roofing as the existing 2 stall horse barn as shown below.



Article 2 / Use Regulations

2.4.52 / Townhouses (Residential Use Categories, Household Living)

All Townhouses shall be subject to the following standards:

- A. Each Townhouse may be occupied by a single family or up to a maximum of 8 unrelated persons. (See Definition for "Family" in Sec. 11.2.5)
- B. Where each dwelling unit is located on an individual lot, Townhouses may be permitted in RO, NOB, BG, BR, RE and SF zoning districts in accordance with the Planned Area Development (PAD) procedures of Sec. 9.5.

2.4.53 / Utility Installation and Service, Public or Private Public (Public, Civic and Institutional Use Categories; Utilities)

Utilities and utility installation and services shall be subject to the following standards:

- A. City approval, per Technical Review Committee procedures of Sec. 8.5, shall be required of all buildings and structures, pertaining to water, sanitary sewer, gas, telephone, electric and other utilities.
- B. Any sewage treatment involving surface discharge or land application shall require City review and approval.
- C. All public and private utility installations shall comply with the Site Plan Review requirements of Sec. 9.8, and placed within public utility easements as may be required.

Sec. 2.5 / Accessory Uses and Structures

2.5.1 / Authorization

Any accessory use normally and customarily associated with a primary use, which may be permitted by right consistent with applicable provisions of this Code may be permitted. However, any accessory use customarily associated with a primary use permitted only by Conditional Use or Special Use Permit, must meet all conditional use or special use requirements. The establishment of such accessory uses shall be consistent with applicable design and performance standards set forth in this Code.

2.5.2 / General

All accessory structures and uses shall comply with the following standards in addition to applicable standards specified in Sec. 2.7.3, Measurements, Computations and Exceptions.

- A. No accessory structure or use shall be constructed or established on any lot prior to the issuance of a building permit for the principal structure or an occupancy permit for a principal use to which it is accessory. This provision shall not prohibit the issuance of a permit for a detached garage and/or guest quarters at the time of issuance of a building permit for a principal dwelling unit on the subject parcel.
- B. For residential uses within residential zoning districts, accessory uses and structures must be subordinate to the principal use and structure on the subject lot in terms of area, extent and purpose. The total gross floor area of all accessory structures on a lot shall not exceed 600 sq. feet or 50 percent of the total gross floor area of the principal structure on the lot, whichever is greater. The provisions of this paragraph shall not apply to agricultural or commercial/industrial uses.
- C. Unless otherwise expressly stated, accessory structures and uses shall comply with all applicable regulations of this Code, including the maximum lot coverage, height and setback regulations. No accessory use or structure shall cause any of these standards to be exceeded for the underlying zoning district.
- D. Shipping crates, railroad cars, truck or bus bodies and other similar containers shall not be used as accessory buildings in any non-industrial district.
- E. No more than 3 accessory buildings shall be located on a single parcel in a residential zoning district. There shall be no limit on the number accessory buildings that may be located on a parcel in a nonresidential zoning district. The provisions of this paragraph shall not apply to agricultural uses.

Article 2 / Use Regulations

- A. Required water and sanitary facilities must be provided.
- B. The maximum length of a permit shall be 9 months, but the Community Development Director may extend the permit for a period or periods not to exceed 90 days provided reasonable construction progress has been made and such construction is being diligently pursued. Application for the extension shall be made at least 10 days prior to expiration of the original permit.
- C. The temporary shelter shall be removed from the property upon completion of final inspection for the new or rehabilitated residence. The applicant shall be required to provide express consent and authorization to the City of Prescott to remove the shelter at the owner's expense upon termination of the permit, if the applicant has not done so voluntarily.

Sec. 2.7 / Density and Dimensional Standards

2.7.1 / Residential Base Zoning District Density and Dimensional Schedule

All residential base district development, including all principal and accessory uses (e.g., garages, storage sheds, flagpoles, TV and radio antennas), shall be subject to the density and dimensional standards of this section. The standards shown in the following table may be modified by additional provisions contained in this section or in the individual zoning districts. In the event of a conflict between the text of Article 3 or Article 4 and the standards of this section, the text provisions of Table 2.7.1 shall control.

Commentary:

The residential and nonresidential district density and dimensional standards set forth in this section are not a "guarantee" that stated development intensities can be attained. Other factors—public facility availability, infrastructure capacity, building layout, physical limitations, and parking configuration to name a few—may have the effect of limiting development intensity more than the stated standards. If, for example, sewer service is not available Health Department regulations will often dictate lot sizes that exceed those of the zoning district. The inability to attain maximum development intensities shall not serve as justification for adjusting other standards.

Table 2.7.1

RESIDENTIAL BASE DISTRICT DENSITY AND DIMENSIONAL SCHEDULE										
	RE-2	SF-35	SF-18	SF-12	SF-9	SF-6	RT	MF-M	MF-H	SPC ¹
Single-Family Dwellings										
Max Density (units/acre) via PAD (See Sec.9.5)	0.5	1.1	2.2	3.3	4.4	6.6	12.0	21.0	32.0	--
Min Lot Area/Unit (sf)	87120	35000	18000	12000	9000	6000	7500	6000	6000	--
Min Lot Width/Lot (ft)	200	150	100	75	60	50	50	50	50	--
Minimum Setbacks (ft)	Front	35	30	25	25	25	20	20	20	--
	Side	35	12	9	9	7	7	7	7	--
	Rear	35	30	25	25	25	20	20	20	--
	Corner	35	20	15	15	15	10	10	10	--
Max Building Height (ft)	35	35	35	35	35	35	35	35	35	--
Max Lot Coverage (%)	20%	30%	35%	35%	40%	50%	50%	40%	50%	--

¹ Density and Dimensional Standards, as well as land uses, shall be as determined by City Council as part of an SPC Master Plan and Final Plans approved in accordance with the requirements of Sec. 3.11.

CHAPTER 5 GENERAL PROVISIONS

SECTION 500 GENERAL PROVISIONS

The following provisions shall apply to all Districts, except as may be modified, supplemented or supplanted under the provisions of any particular District.

SECTION 501 ACCESSORY USES AND STRUCTURES

- A.** ACCESSORY USES (including facilities and equipment) are permitted in conjunction with any principal use, provided same is compatible and common to the district in which it is located and does not alter the character of the premises; any reference to a permitted use shall be deemed to include such accessory use.
- B.** ACCESSORY BUILDINGS may be attached to or detached from the principal building, except that no accessory building housing fowl or animals (other than domestic pets) may be attached to any dwelling unit.
- C.** ACCESSORY USES OR STRUCTURES are allowed prior to installation of the principal structure only when a construction permit is issued for the principal structure and construction of same is commenced within six (6) months.
- D.** ANIMAL HUSBANDRY Activities or Projects, i.e., Future Farmers of America, 4-H, or any agricultural or large livestock activity/project conducted primarily for educational purposes or school credits, are permitted in any Zoning District. The following criteria shall be met:
 - 1. Active membership must be maintained and verification of such may be required upon request.
 - 2. The keeping of all animals shall be subject to the regulations of the Yavapai County Environmental Unit and the Health Department.
 - 3. A sign designating a 4-H member is in residence must be posted on the property at all times any such project or activity is in progress.

Under the 4-H exemption, the setback requirements and number of animals allowed per acre do not apply for animals utilized in 4-H projects, with the exception of equine and breeding projects.

E. ALLOWED ANIMAL CHART

Allowed Animal Chart

Animal Type	Animals ALLOWED
CATEGORY A – Swine*, Dairy Cow, Bison, Steer/Heifer, Horse or other of similar size/weight	2 PER ACRE or fraction thereof
CATEGORY B - Ostrich, Miniature Horse, Llama, Sheep, Goat, Emu or other of similar size/weight	5 PER ACRE or fraction thereof
CATEGORY C - Turkeys, Peacocks, Geese, Pheasants, Ducks, Pigeons, Chinchillas, Rabbits, Chickens or other of similar size/weight	8 PER ACRE or fraction thereof
Off-spring up to one year of age of on-site animals do not count towards the total. After one year of age animal off-spring count as adult animals. *Swine shall not exceed five (5) total per parcel.	

SECTION 502 ACCESS REQUIREMENTS FOR NON-RESIDENTIAL USES

An access plan is required for all non-residential uses unless waived by the Public Works Department on the basis that it is not warranted. The access plan shall demonstrate and certify legal and safe ingress/egress from the site to the public roadway system. The plan must be prepared by a civil

YAVAPAI COUNTY PLANNING AND ZONING ORDINANCE

3. In addition to the required parking for the owner of the Inn, one (1) parking space per guest unit and employee shall be provided on site in accordance with the parking standards in Section 602 (Parking).
4. One (1) sign for identification purposes, not exceeding six (6) square feet in size may be attached to the primary structure or placed in the front yard no higher than three feet (3') above grade.

SECTION 516 DENSITY DISTRICTS

- A. The following Density Districts and regulations are intended to be combined with the appropriate Use Districts. The density provisions in the accompanying chart, together with applicable General Provisions (Section 500) shall regulate building heights, yards, lot sizes, lot area per dwelling unit, lot coverage and distance between buildings as though the same had been fully described in this Section.
- B. Requirements of the Density Regulations.

Density Regulations:

A=Acres

Dist.	Min Lot Size in Sq. Ft.	Min Area per dwelling	Min Lot Width and Depth	Min (1) Yard Setbacks Front	Min (1,2) Yard Setbacks Rear	Min (1,2) Yard Setbacks Interior	Min (1) Yard Setbacks Exterior	Max Building Height Stories	Max Building Height Feet	Max Lot Coverage Percent	Min Building Spacing Feet
1	7,500	1,000	75	20	25	7	10	2	50	50	10
2	7,500	2,000	75	20	25	7	10	2	40	50	10
3	7,500	3,000	75	20	25	7	10	2	30	50	10
4	7,500	4,000	75	20	25	7	10	2	30	50	10
5	7,500	5,000	75	20	25	7	10	2	30	50	10
7.5	7,500	7,000	75	20	25	7	10	2	30	50	10
10	10,000	10,000	80	20	25	7	10	2	30	40	10
12	12,000	12,000	90	20	25	7	10	2	30	40	10
18	18,000	18,000	100	30	30	10	15	2	30	25	10
25	25,000	25,000	130	30	30	10	15	2	30	20	10
35	35,000	35,000	145	40	40	20	20	2	30	15	10
70	70,000	70,000	200	50	50	25	30	2	30	15	10
2A	87,120	87,120	225	50	50	25	30	2	30	10	10
175	175,000	175,000	300	50	50	30	50	2	30	10	10
5A	217,800	217,800	325	50	50	40	50	2	30	10	10
10A	435,600	435,600	500	50	50	50	50	2	30	5	10
36A	1,568,160	1,568,160	500	50	50	50	50	2	30	5	10

(1) See Section 588 (Yards and Courts) for exceptions, deviations, and encroachments from minimum yard (setback) requirements.

(2) For C1, C2, C3, M1, and M2 Districts: Minimum interior side and rear yard requirements are waived if the yard is contiguous to C1, C2, C3, M1 or M2 zoned property. A setback of twenty feet (20') shall be required whenever a lot zoned commercial or industrial abuts a lot zoned for residential purposes. Front and exterior side yard requirements shall be observed in all cases.

PLEASE NOTE: DETACHED ACCESSORY STRUCTURES, OTHER THAN STRUCTURES HOUSING ANIMALS, MAY ENCROACH WITHIN FIVE FEET (5') TO REAR LOT LINE TO MAINTAIN A TEN FOOT (10') BUILDING SEPARATION. ALL OTHER SETBACKS AND BUILDING SPACING SEPARATIONS MUST BE ACHIEVED.

PLEASE NOTE: THE ABOVE IS GENERAL INFORMATION PERTINENT TO THE ZONING REQUIREMENTS IN THE CREATION OF A BUILDABLE PARCEL. IT DOES NOT DEAL WITH SPECIFIC QUESTIONS, SUCH AS BUILDING SAFETY, FLOODPLAIN UNIT, ENVIRONMENTAL UNIT OR ENGINEERING. THESE DEPARTMENTS SHOULD BE CONTACTED BEFORE ANY ACTUAL SPLITTING IS PURSUED.

Question Four:

Completing an addition and increasing property values is a privilege enjoyed by all property owners. When these additions are done properly with the approval of surrounding property owners it makes for a more cohesive neighborhood. I am requesting to move the addition further from the house to take advantage of the natural building site afforded by my property. Pictures were taken from location of proposed building.

Looking West



Looking Northwest



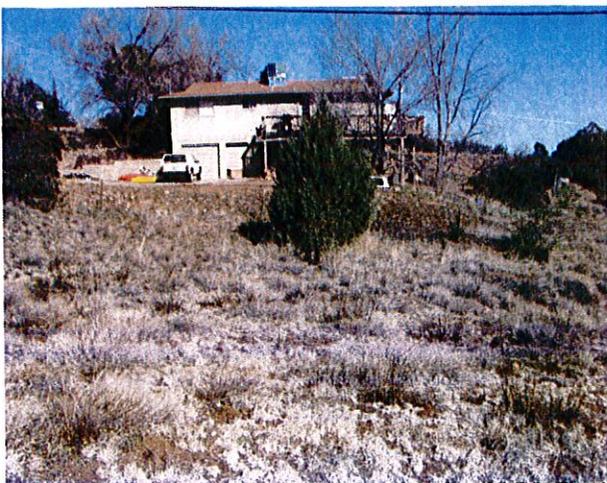
Looking South



Looking East



Looking North



Looking Southwest

Question Five:

The proposed building site has only limited visibility by the neighbors. These neighbors are at such an elevation so as to not have their line of sight obstructed in any way by the proposed building. A third neighbor would see the rear of the building from the rear of their house. I plan to plant a row of trees to act as a visual screen along the north property line.

