

BOARD OF ADJUSTMENT AGENDA

**BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY, April 19, 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 April 19, 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 March 15, 2012 public hearing.
2. **V12-003, 580 Miller Valley Road.** APN: 113-07-062B totaling ±0.19 acre. LDC Sections 2.7.3.D and 4.8. Zoning is Business Regional (BR). Request a Variance to reduce front yard and rear yard setbacks. Owner/Applicant is Michael D. Scannel, 1425 Adams Drive, Prescott, AZ 86305. Community Planner is Ryan Smith (928) 777-1209.

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

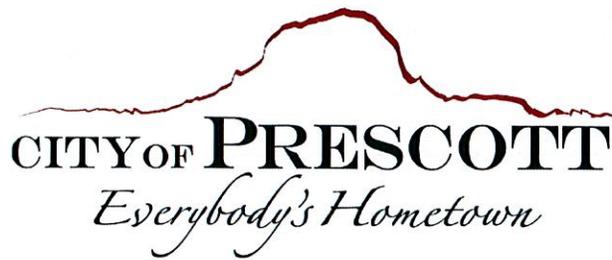
V. SUMMARY OF CURRENT OR RECENT EVENTS

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 April 13, 2012 at 2:00 PM in accordance with the statement filed with the City Clerk's Office.


Suzanne Derryberry, Administrative Specialist
Community Development Department



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**

MINUTES OF THE PUBLIC HEARING OF THE BOARD OF ADJUSTMENT held on March 15, 2012 in COUNCIL CHAMBERS, CITY HALL, located at 201 S. Cortez Street, Prescott, Arizona.

I. CALL TO ORDER

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

II. ATTENDANCE

Members

<i>MEMBERS PRESENT</i>	<i>STAFF PRESENT</i>
Michael Klein, Chairman	George Worley, Planning Manager
Greg Lazzell, Vice Chairman	Matt Podracky, Sr. Assistant City Attorney
Dick Rosa	Mike Bacon, Community Planner
Duane Famas	Suzanne Derryberry, Administrative Specialist
George Wiant	
Johnnie Forquer	
James Di Rienzo	

III. REGULAR AGENDA / PUBLIC HEARING ITEMS

1. Approve the minutes of the December 22, 2011 public hearing

Mr. Wiant, **MOTION: to approve the minutes of the December 22, 2011** public hearing. Mr. Rosas, 2nd. **Vote: 5-0-2** (abstentions due to absence: Di Rienzo and Klein).

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 side yard and front yard 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.

Mr. Bacon began by briefly discussing the purpose of variances for the benefit of the new committee members.

Mr. Bacon reviewed the staff report and indicated:

- the request for variance is located at 1418 Paar Drive
- the request is for a side yard and front yard variance
- the applicant's are asking for a side yard setback of 5 feet instead of the required 7 feet and a front yard setback of 22.5 feet instead of the required 25 feet
- the applicants intention is to add another bedroom located in the front of the home
- by drawing the attention to the overhead-projector, Mr. Bacon pointed out a current 5 foot setback already on the property
- prior to 2004 the accepted setback for the SF9 zoning districts allowed the 5 foot setback
- the applicant's would like to continue that particular setback
- there is a significant rock outcrop to the east on the adjoining property
- the adjoining property owner submitted a letter to the board indicating he had no objection to the side yard variance
- due to the substantial rock outcrop in the back of the property it would prevent expanding the home in that direction
- the applicant submitted several photos showing other properties in the same area that have the 5 foot setback
- the administrative portion of the land development code allows staff to reduce the front yard or any dimensional requirement by 10%
- staff could reduce the front yard from 25 feet to 22.5 feet without coming before the board, however, that would mean an additional application and more paperwork, it was suggested by staff for the applicant to come to the board
- in conclusion, Mr. Bacon stated that staff recommended approval of the variance based upon certain criteria:
 - privileges being enjoyed by other property owners in the same neighborhood but are being denied to the applicant
 - topographic conditions of the applicant's property and that of the adjoining neighbor
 - the 2004 Land Development Code change in setback measurements, which are unfair to the property owner
 - the adjoining property owner has given his approval of the request
 - architectural appearances
- Chairman Klein inquired if there were any questions from the board to staff
- Mr. Lazzell questioned if the applicant did so much "homework" at the request of staff or if they took it upon themselves
- Mr. Bacon stated that he showed them how to do it but they were the ones that made the effort
- Chairman Klein gave the applicant the opportunity to address the board; the applicant declined
- Chairman Klein called for any questions from the board to the applicant; there were none
- Chairman Klein then made a call to the public to address any comments or concerns; there were none
- Mr. Wiant, **MOTION: to approve V12-001. Mr. Rosas, 2nd. VOTE 7-0**

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.

Mr. Bacon reviewed the staff report and indicated:

- the request is for a storage building to be used for antique cars and farm equipment
- the accessory building will be located on a 2.1 acre parcel
- Mr. Bacon displayed the property location on the overhead-projector
- the properties in that area are zoned SF18
- the 2.1 acre parcel is unusual in that area since there are mostly just smaller lots
- it would be problematic to create a subdivision of the parcel due to access issues
- the applicant is requesting to build an accessory building of 2880 sq ft including a front outdoor porch
- by drawing attention to the overhead-projector, Mr. Bacon showed the neighboring property in relation to the requested accessory building
- the applicant is requesting variance for several reasons:
 - topographic considerations
 - the Land Development Code requirement states that the gross floor area of all accessory structures on a lot shall not exceed 600 sq ft or 50% of the total gross floor area of the principle structure on the lot; whichever is greater
 - under our current code, having the 1200 sq ft home would only entitle him to be able to build an accessory building with a maximum size of 600 sq ft
 - if he could attach it to the main house he could make it as large as he wished, but because of topographic considerations that is not possible
- Mr. Bacon recommended approval of the variance stating that the applicant is being denied a privilege being enjoyed by others of larger size lots
- while staff identified no significant impacts upon adjoining property owners, a letter was submitted by an adjoining property owner, Rebecca Terry, stating she objected to the project
- another letter received by another adjoining property owner stated they do approve of this particular project
- the applicant offered to plant trees along the shared property line with Rebecca Terry to shield the view of the accessory building
- there will be a distance of forty-two feet from the accessory building to the property line
- Mr. Bacon stated the applicant was present at the meeting to answer any questions
- Chairman Klein called for any questions to staff from the board
- Mr. Lazzell questioned the concerns of Ms. Terry regarding floods or drainage issues which could possibly affect her property
- Mr. Bacon added that there is a wash located on the applicants property and during the course of a building department review, it would be evaluated and the engineering department would take appropriate measures if necessary
- Chairman Klein asked for the total combined footage of all buildings including the building in question

- Mr. Bacon stated that the detached barn is 860 sq ft, the carport is 400 sq ft and the proposed accessory building will be 2,880 sq ft with the house being 1,200 sq ft
- Chairman Klein commented that according to code, the maximum coverage would be 600 sq ft for the proposed building
- Mr. Bacon confirmed that is true
- Mr. Bacon noted that SF18 lots allow 35% or 6,300 sq ft of lot coverage
- the lot coverage applicant is proposing on his two acre lot is only 5.8% which is significantly less than the SF18 requirements
- the applicant has the right to build a home of up to 6,300 sq ft but is only proposing a total of 5,344 sq ft for all structures on his two acres
- Mr. Wiant inquired about height requirements of the accessory structure
- Mr. Bacon stated that the height may not exceed twenty feet and he is under that requirement
- Chairman Klein provided the opportunity to the applicant to address the committee
- Brice Smith, 420 Lori Lane, informed the committee of another letter from the applicant's neighbor stating they are not opposing the request
- Mr. Bacon informed the committee that the applicant was willing to plant trees along the north property line
- Mr. Famas questioned if the applicant planned to have utilities in the accessory building
- the applicant stated he do not, at this time he just planned to use it as an area for storage
- Chairman Klein called for any comments from the public; there were none
- Mr. Rosa, **MOTION: to approve V12-002**, he added that he did not have any reason to require the applicant to put up any trees. **Mr. Wiant, 2nd**.
- Mr. Famas interjected with his concerns that he would like to have trees planted to benefit Ms. Terry by providing coverage of the view of the building
- Chairman Klein stated that they have a motion and a second and asked Mr. Wiant if he would be willing to amend his motion
- Mr. Wiant stated that he would accept that, but asked what type of trees Mr. Famas would be suggesting
- Mr. Famas added that he would ask the applicant what he had in mind
- Chairman Klein directed attention to Mr. Rosa and asked if he was willing to amend his motion as well
- Mr. Lazzell requested clarification of how they would be voting on the motion
- Chairman Klein asked Mr. Podracky how to handle a motion being made and seconded, when the original second and mover agree to the amendment
- Mr. Podracky stated that so far they had an amended motion and they were currently in the discussion phase of an amended motion
- Chairman Klein stated that they will amend the motion but they need to specify the type of tree, how many and where they would be planted
- Mr. Smith drew the attention to the overhead-projector and pointed out where he was suggesting to plant the trees
- he was proposing to plant three to four cypress along the north side of the property line
- Mr. Bacon added that he would suggest three Arizona Cypress trees approximately twenty feet back from the property line
- Chairman Klein asked Mr. Rosas if he would like to amend his motion to include three Arizona Cyprus trees
- Mr. Rosas stated, "yes"

- Chairman Klein wanted to make it clear; the motion was to approve the variance as per staff recommendation and include three Arizona Cypress trees running along the north property line of the subject's property
- Chairman Klein called for a vote on the amended motion
- Chairman Klein stated it was **unanimous, VOTE 7-0**
- Chairman Klein then moved on to the next item on the agenda

IV. REVIEW ITEMS

None

V. SUMMARY OF CURRENT OR RECENT EVENTS

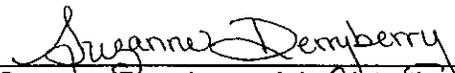
Chairman Klein thanked Tom Kayn for his service on the board, he served many years on the Board of Adjustment and he turned into a good friend. Mr. Wiant inquired if the city recognizes service in any way. Mr. Worley noted that Mr. Kayn was recognized at the City Council meeting the week prior for his years of service and he was given an award.

Mr. Lazzell wanted to acknowledge the retirement of Dick Mastin.

VI. ADJOURNMENT

Chairman Klein adjourned the meeting at 9:35a.m.

Mike Klein, Chairman


Suzanne Derryberry, Administrative Specialist
Community Development Department

Variance Request

V12-003

Reduction of the required front and rear yard setbacks to replace an exiting structure for a yogurt shop.

COMMUNITY DEVELOPMENT – PLANNING AND ZONING DIVISION
BOARD OF ADJUSTMENT MEETING FOR April 19, 2012.

STAFF REPORT

TO: Board of Adjustment

FROM: Tom Guice, Community Development Director 
George Worley, Planning Manager 
Ryan Smith, Community Planner 

Date: April 11, 2012

Parcel Number: 113-07-062B

Location: 580 Miller Valley Rd.

Zoning: BR (Business Regional)

Owner/Applicant/Agent: Michael D. Scannell
1425 Adams Ave.
Prescott, AZ 86305

REQUEST:

The applicant is seeking a variance approval to reduce the required front yard setbacks from 25' to 16' and to reduce the required rear yard setback from 10' to 6'. Current federal regulations require handicap access. A wheelchair accessible ramp is proposed that may further encroach the required setback.

BACKGROUND:

The applicant purchased 3 adjacent properties with the intent of replacing the existing dilapidated building to open a yogurt shop. The combined properties was formally a car sales lot. The paved area that is not needed for yogurt shop parking may be utilized for seasonal outdoor sales, as provided for in the BR zoning district.

Before purchasing the properties, the applicant went through the Preliminary Application Conference (PAC) process, where he was erroneously informed by staff that rebuilding the structure, which encroaches the required front and rear setback areas, would not be an issue. The error was later discovered after the purchase was made.

The project is largely in a floodway where no new construction is permitted. The flood code allows that a structure in a floodway may be rebuilt using the same footprint as the existing building. The existing structure is considered a legal non-conforming (grandfathered) use of the property in terms of both setbacks and the floodway. The

setback requirement combined with the flood footprint requirement precludes the applicant from rebuilding or relocating the structure anywhere on the 3 properties.

CODE REQUIREMENTS:

Minimum Setbacks: There is a major street setback requirement of 25' along Miller Valley Road. Therefore, at this location, the required setbacks for a non-residential structure within the BR zoning district is 25' front, 7 side and 10 rear.

The Land Development Code provides that ramps for handicap accessibility, added to buildings built prior to December 21, 2004, may encroach into a required setback. Should the applicant add a ramp to the existing building, he would be allowed to do so even if it encroached in the setback area. The flood code would also allow such an addition.

PAST BOARD OF ADJUSTMENT ACTIONS: No prior actions have been taken on the subject property. However, A variance has been granted on a nearby property allowing for a 9' rear setback. Several other variances exist in the vicinity allowing for relief from various code requirements.

HISTORIC PRESERVATION:

The subject property is not within a historic district.

VARIANCE CRITERIA:

Extraordinary Conditions:

Variances may be granted for special and unique circumstances to the property. There are topographic conditions present on the property that constrain development. The current FEMA floodway map shows that the floodway from Miller Creek extends over most of the property and through the existing building.

Substantial Detriment:

There will not be detrimental effects to the public health safety and welfare or be materially injurious to nearby properties. Impacts are expected to be minimal to nearby properties.

Special privilege:

The proposed project is consistent with other properties in the area. Many examples exist of pre-existing encroachments into the modern setback requirement. Other structures on the street are close to the front property line. Granting the variance will not constitute a special privilege.

Self-induced hardship:

The existing building is in a dilapidated condition. The area would benefit from it's removal. The applicant did not anticipate the need for a variance due to erroneous information provided to him by City staff.

General Plan:

The structure and use is in conformance with the General Plan.

Utilization:

Variances may be granted for extraordinary conditions affecting the land such as size and shape, and strict application of the code will deprive the applicant of the reasonable use of his land. A unique circumstance exists due to the floodway combined with the current required setbacks, which creates an extremely limited building envelope.

NEIGHBORHOOD COMMENTS:

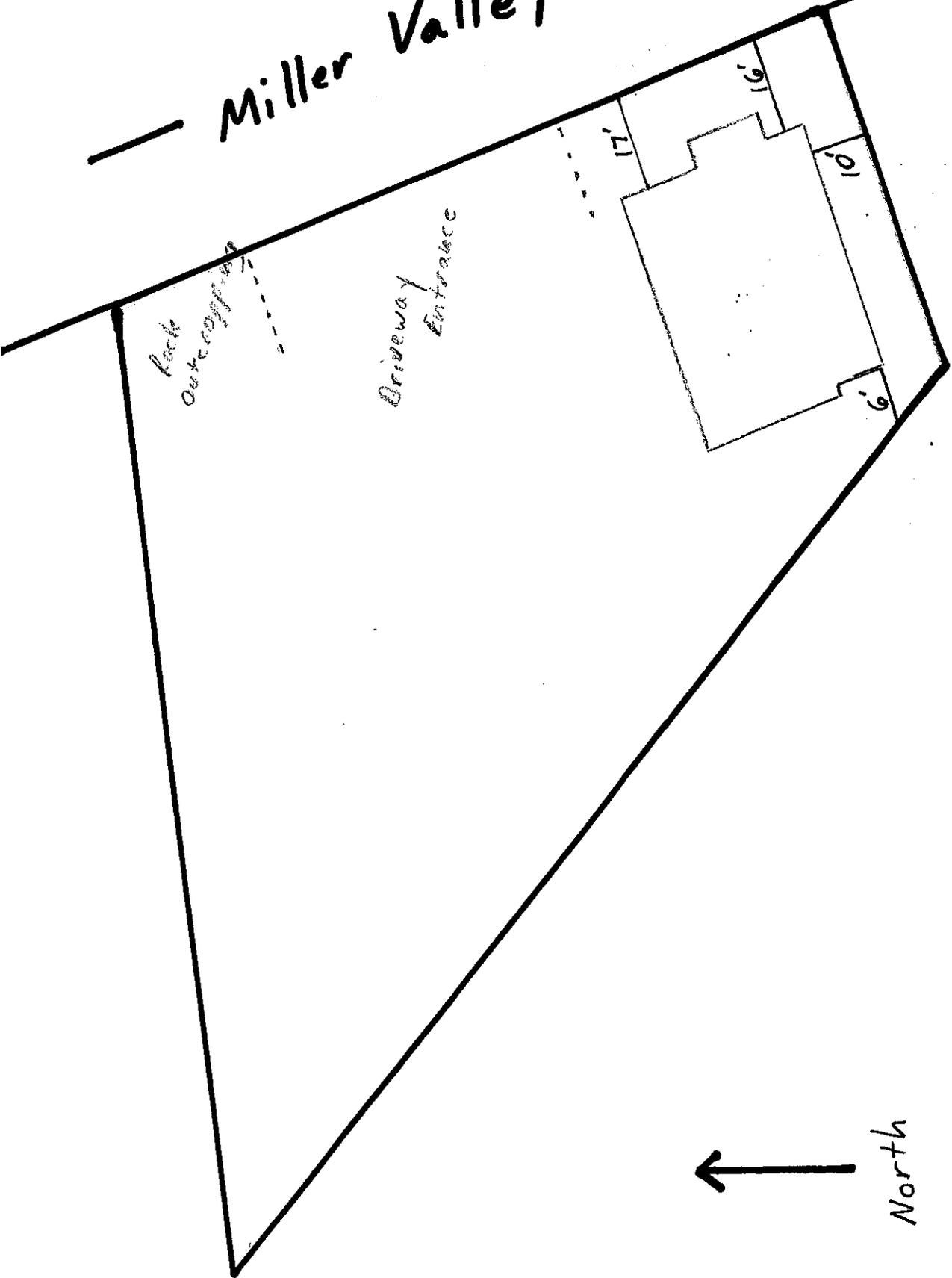
No comments or inquires have been received as of this writing.

STAFF RECOMMENDATION:

Staff recommends approval based on a review of the request's consistency with the provisions contained in the Land Development Code as expressed above.

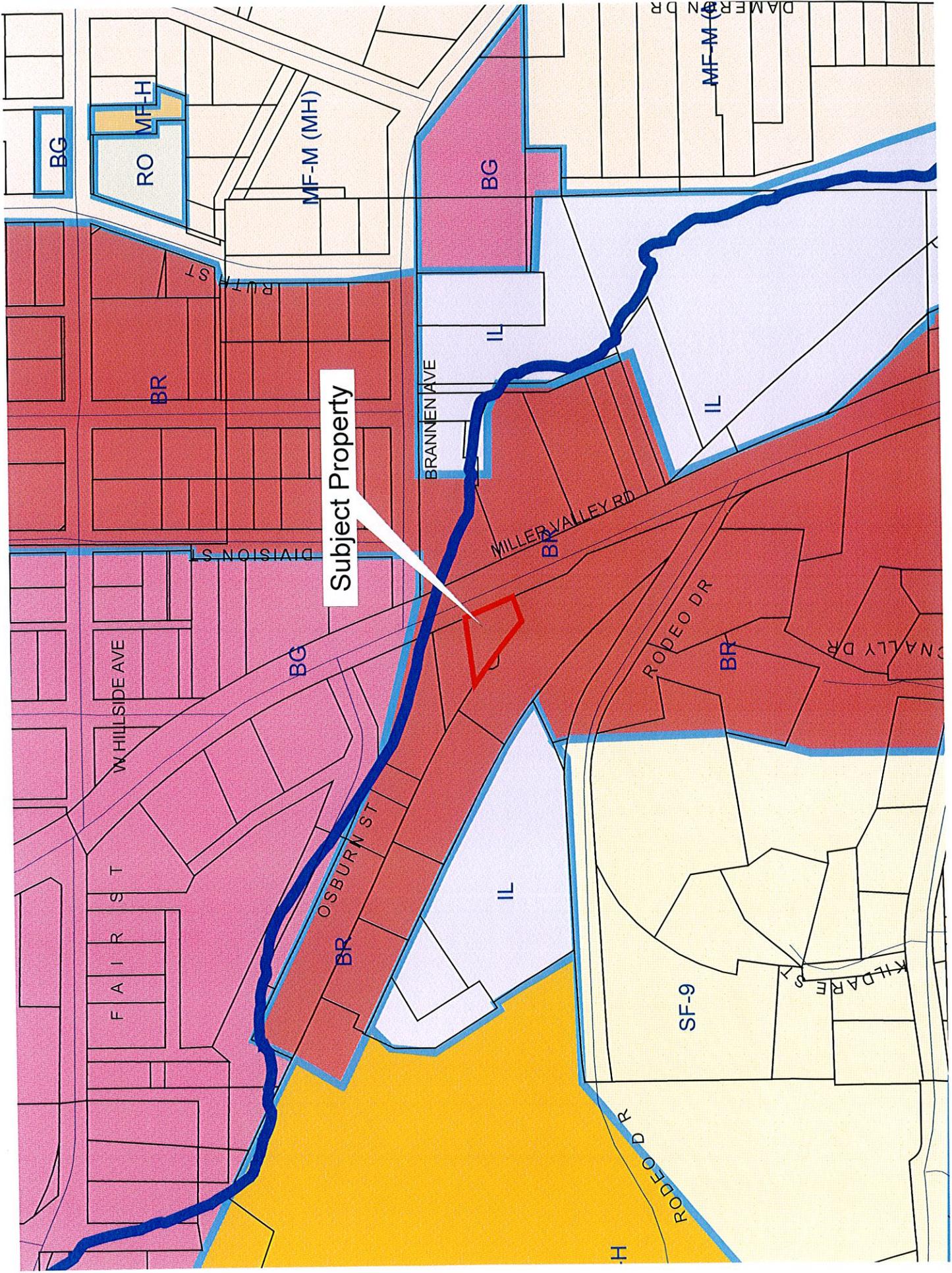
Attachments: Site Plan
 Vicinity & Zoning Map
 Floodway Map

Miller Valley Rd

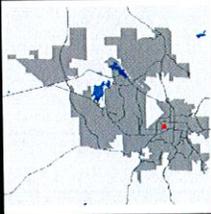


North

Variance Request Site Plan



Subject Property

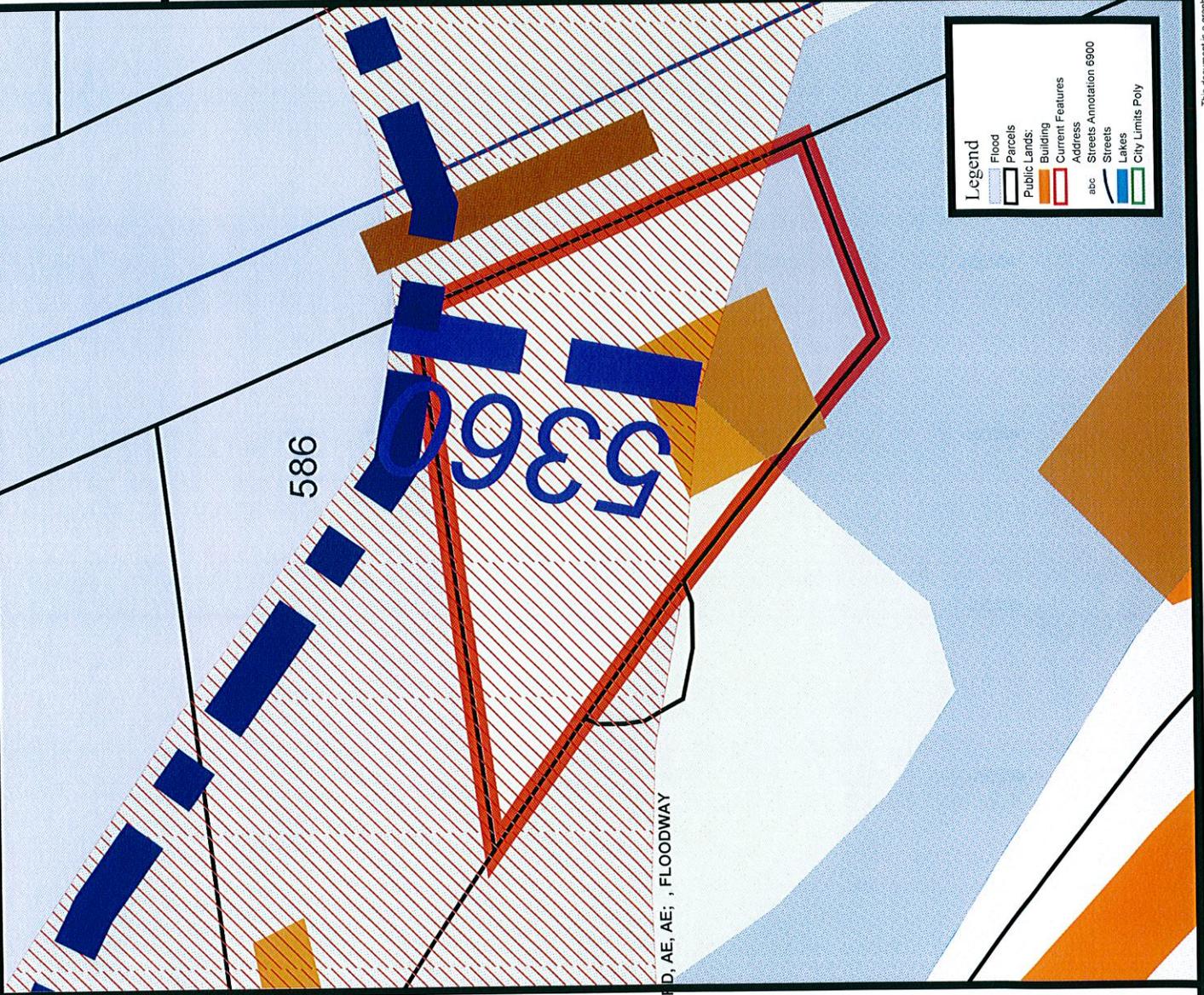


580 MILLER VALLEY RD

This map is a product of The City of Prescott



0 1" = 36'



Legend

- Flood
- Parcels
- Public Lands
- Building
- Current Features
- Address
- Streets Annotation 6900
- Streets
- Lakes
- City Limits Poly

Parcel Report for APN: 113-07-062B

Site Address: 580 MILLER VALLEY RD

Owner: SPARTA FAMILY LIMITED PARTNERSHIP
PO BOX 165
JOSEPH CITY AZ 86032

Subdivision Name: -

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

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

Acres: 0.19 acres
Square Ft: 8,177 sq.ft.
TRS: T14-R2-S33

DOR Usage Code: Commercial
Description: 1720-SVC STA, SELF SVC

Zoning Information

Zoning: BR

Flood Zone: 0.2 PCT ANNUAL CHANCE FLOOD HAZARD, AE, AE1, FLOODWAY
FIRM Panel: 04025C2061G

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: