



BOARD OF ADJUSTMENT AGENDA

**BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY, May 17, 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 May 17, 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 DiRienzo	

III. REGULAR AGENDA / PUBLIC HEARING ITEMS

1. **Approve the minutes** of the April 19, 2012 public hearing.
2. **CUP12-001, 633 Miller Valley Road.** APN: 113-07-007 totaling ±0.07 acre. LDC Sections 2.3 and 9.3 and Table 2.3. Zoning is Business General (BG). Request Conditional Use Permit for a Tattoo Parlor. Owner is Ina Womack. Applicant is Big Easy Tattoo, 633 Miller Valley Road. Community Planner is Mike Bacon (928) 777-1360.
3. **V12-005, 3700 Willow Creek Road.** APN: 106-02-006 totaling ± 20 acres. Zoning is Business General (BG). Request is for a variance to allow a 26 square foot electronic changeable copy sign within existing sign structure area. LDC Section 6.12.8. Owner is Embry-Riddle Aeronautical University. Applicant is A & B Sign. Community Planner is Ruth Hennings (928) 777-1319.

IV. REVIEW ITEMS

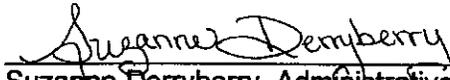
V. SUMMARY OF CURRENT OR RECENT EVENTS

VI. ADJOURNMENT

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.

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 May 11, 2012 at 12:00 PM in accordance with the statement filed with the City Clerk's Office.


Suzanne Derryberry, Administrative Specialist
Community Development Department

CUP12-001**CONDITIONAL USE PERMIT**

Agenda # _____

The Big Easy Tattoos

COMMUNITY DEVELOPMENT - PLANNING & ZONING DIVISION

BOARD OF ADJUSTMENT

STAFF REPORT

Meeting Date: 5/17/12

TO: Board of Adjustment Members
FROM: Tom Guice, Community Development Director 
George Worley, Planning Manager 
Mike Bacon, Community Planner 
DATE: 5/4/12

Location: 633 Miller Valley Road **Zoning:** BG **Assessor Parcel No.:** 113-07-007
Applicant: Big Easy Tattoo, 633 Miller Valley Road, Prescott, AZ 86301
Owner: Ina Womack, 409 W. Delano Ave. Prescott, AZ 86301

REQUEST/ Project Description: The applicant is requesting a Conditional Use Permit for a tattoo parlor within an existing ±680 sf. tenant space. City Building Department records reveal permits were issued for this building on Nov 22, 1965. The building is located in an older commercial neighborhood where parking has occurred for many years partially in the Walnut Street R.O.W., and also in the rear yard of some of these buildings facing Walnut Street.

Parking. There are two parking spaces potentially available in the rear yard and two parking spaces provided on Walnut Street. No additional parking is required according to Section 6.2.2.C of the Land Development Code which addresses buildings existing prior to October 28, 1968.

"C. Change of Use

Off-street parking and loading must be provided for any change of use or manner of operation that would, based on the Off-Street Parking Table 6.2.3 result in a requirement for more parking or loading spaces than the existing use; provided, however, buildings and uses which existed prior to October 28, 1968, which did not conform to the off-street parking requirements shall not be required to furnish such additional off-street parking unless there is sufficient room on-site for additional parking."

Neighborhood Comments. No neighborhood comments have been received.

STAFF ANALYSIS

Compliance with Zoning Code and ARS 9-462.06: Yes

Past Board of Adjustment Actions: None

Area CUP's:

CUP08-002 approved on 5/15/08 at 635 Walnut for Prescott Tattoo (no longer in business)

CUP09-005 approved on 11/19/09 at 600 Miller Valley Road for Penetration Tattoo.
(business has changed name)

CUP10-007 approved on 1/12/11 at 623 Miller Valley Road Suite B for Canvas Tattoo.

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

<u>Direction</u>	<u>Land Use</u>	<u>Zoning</u>
North:	Commercial	BG
South	Commercial	BG
East	Office and Commercial	BR
West	Commercial	BG

Conditional Use Review Criteria (Section 3.5 Land Development Code)

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

(Note: Staff comments are *italicized*).

A. Effect on Environment

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

B. Compatible with Surrounding Area

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

C. External Impacts Minimized

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

D. Infrastructure Impacts Minimized

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

Photo 1: View West from Walnut Street



Photo 2: View to the rear of the building.



E. Consistent with General Plan and Code

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

F. Parcel Size

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

G. Site Plan

The proposed use shall comply with the procedures and requirements of Sec. 9.8, Site Plan Review. *No site plan review is required because a tattoo parlor is not considered a change of commercial use, therefore, the use involves no additional Building or Fire Department requirements.*

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

STAFF RECOMMENDATION

Staff recommends approval.

SUGGESTED MOTION

Move to Approve CUP12-001 in accordance with the Exhibit A dated April 16, 2012.

Attachments:

Narrative
Zoning Map
Site Plan

4-18-2011

Re: Big Easy T~~AT~~ 633 Miller Valley

To whom it may concern,

I would like to have a tattoo shop at 633 Miller Valley. There are three tattoo shops nearby and two medical marijuana shops. There is parking in front and back. A front entrance and rear exit. There is no schools or churches nearby. It is a retail, commercial location. There are no impacts on emergency services. There are no noise issues.

Operation hours are 12-8pm M-F, 12-10 F,S. Closed Sunday. The artists are certified and trained. I have a state and city license.

Jama Davis



SITE

*cup 08-006

*cup 10-007

W HILLSIDE AVE

DIVISION ST

WALNUT ST

Island Store

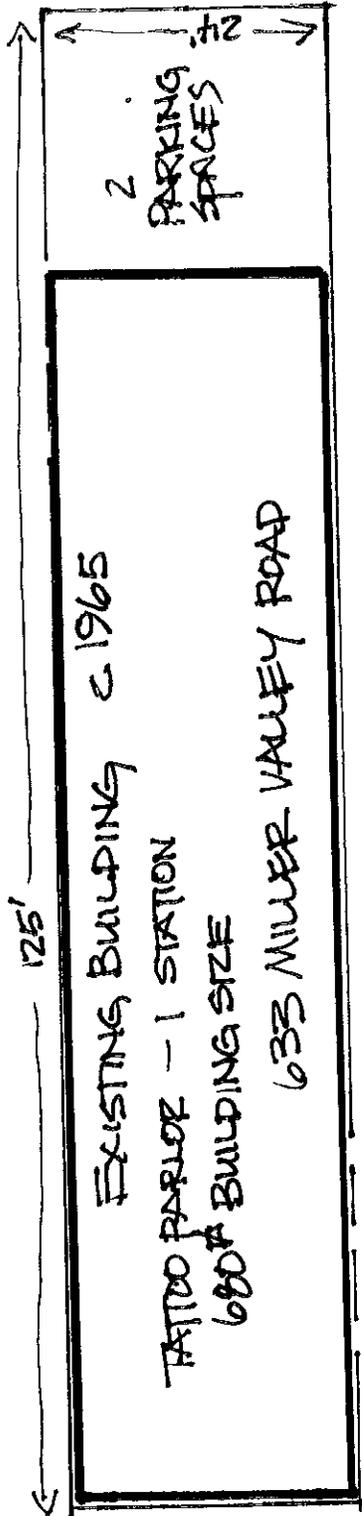
MILLER VALLEY ROAD

OSBURN ST



NO SCALE

APN 113-07-010



WALNUT STREET

MILLER VALLEY ROAD

EXHIBIT 'A'

APRIL 16, 2012

V12-005**VARIANCE****3700 Willow Creek Road**

COMMUNITY DEVELOPMENT – PLANNING AND ZONING DIVISION

BOARD OF ADJUSTMENT MEETING for May 17, 2012

STAFF REPORT

TO: City of Prescott Board of Adjustment (BOA)

FROM: Tom Guice, Community Development Director *TG*
George Worley, Planning Manager *GW*
Ruth Hennings, Community Planner *RH*

DATE: May 17, 2012

ZONING: Business General (BG) **ADDRESS:** 3700 Willow Creek

APN: 106-02-006

OWNER: ERAU Inc.
3700 Willow Creek Rd
Prescott, AZ 86301

APPLICANT: A & B Sign
691 N 6th St
Prescott, AZ 86301

REQUEST: The applicant is proposing to repaint the existing sign face and to replace 26 square feet of the existing sign area with an LED electronic changeable copy sign. The total sign area, 100 square feet, is to remain the same.

BACKGROUND: In 2005, Embry Riddle Aeronautical University (ERAU) was permitted a freestanding sign under the current Land Development Code sign standards. The standards for Highway Commercial signage (arterials with speeds greater than 35 mph) permitted two square feet of signage for every foot setback from the right-of-way, up to 100 square feet. The sign is 100 square feet, and is set back 50 feet from Willow Creek Road.

While the current Land Development Code permits up to 100 square feet of freestanding signage, it also prohibits changeable copy signage exceeding 12 square feet (Section 6.12.8, Prohibited Signs). Changeable copy signs may be manual (e.g. marquees) or electronic (e.g. LCD, LED, etc.). The variance request is to permit 26 square feet of changeable copy sign area, which exceeds the 12 square feet allowed by code.

VARIANCE REVIEW CRITERIA: A Variance is an exception to or deviation from the established zoning regulations. The Board of Adjustment shall consider the following criteria in its review:

- 1) **Extraordinary conditions:** *There are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Code will deprive the applicant of the reasonable use of his land.*

The sign is set back 50 feet from Willow Creek Road and is 100 square feet in size. The applicant contends that due to both the speed of the roadway and the location, the typical 12 square foot changeable copy sign may be difficult to read. In addition, the applicant has suggested that a 12 square foot sign is not proportional to the scale of the 100 square foot sign.

- 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 existing sign was reviewed by the Building, Engineering, and Planning Department as a part of the typical sign permitting process for any potential adverse impacts, and it was approved with no conditions. ERAU has substantial street frontage with a very limited number of adjacent property owners. As the sign location and size are to remain, there are no additional impacts that may adversely affect visibility along the roadway. The lighted portion of the electronic sign will be subject to review during the building permit process to ensure that the brightness meets the nighttime lighting standards.

- 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 such property is located.*

There are no similar properties in the vicinity. A similar institution, Yavapai College, has an electronic sign that is 24 square feet in size, which was permitted prior to the adoption of the current Land Development Code, limiting changeable copy signs to 12 square feet.

- 4) **Self-induced hardship:** *The hardship is not the result of the applicant's own actions.*

The hardship is in part due to the size and location of the existing sign. At the time the sign was created, the owner did not anticipate the opportunity to modify the sign as proposed. However, the hardship is also in part due to the speed of the roadway and the growth of ERAU, which both contribute to the need for a larger than otherwise permitted electronic sign.

- 5) **General Plan:** *Granting of the Variance would be in substantial compliance with the General Plan or other relevant area plans or neighborhood plans.*

Signage and advertising is not specifically addressed by the General Plan. However, higher education, in general, contributes to Prescott's quality of life and also contributes to overall economic development (Section 11.5.4). Embry Riddle Aeronautical University is noted in the General Plan as an important community asset, both as a major employer and as a producer of a highly skilled workforce (Section 11.5.1).

- 6) **Utilization:** *Because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district.*

ERAU is a unique development for several reasons. As a university, it offers a wide array of activities, events, resources, and other amenities to the student body and the community. Different from other businesses, its offerings are of a beneficial nature to the greater Prescott community. The property itself is also unique in that it encompasses over 400 acres with close to one mile of frontage along Willow Creek Road.

STAFF RECOMMENDATION: Staff recommends approval of V12-005. The project meets the majority of the criteria required for the granting of a Variance as set in the Land Development Code.

No inquiries or written comments from the public have been received to date.

Attachments:

- 1) Variance questionnaire
- 2) Site plan
- 3) Proposed sign

VARIANCE QUESTIONNAIRE

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

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.

The main entrance to ERAU is at the signaled intersection of Willow Creek Rd and the entrance to the zoo as well as the university. The existing sign (which is to be reused) is situated in a "cut" of the embankment which hinders its visibility especially for southbound vehicles. As the campus continues to grow and as the popularity of the surrounding attractions grow, the informational importance of the marquee will also increase.

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.

ERAU is an entity with its own campus, housing, theater, auditorium, ect. It is not a retail/business venture. Because of this it would not set a new standard for other properties in the area.

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).

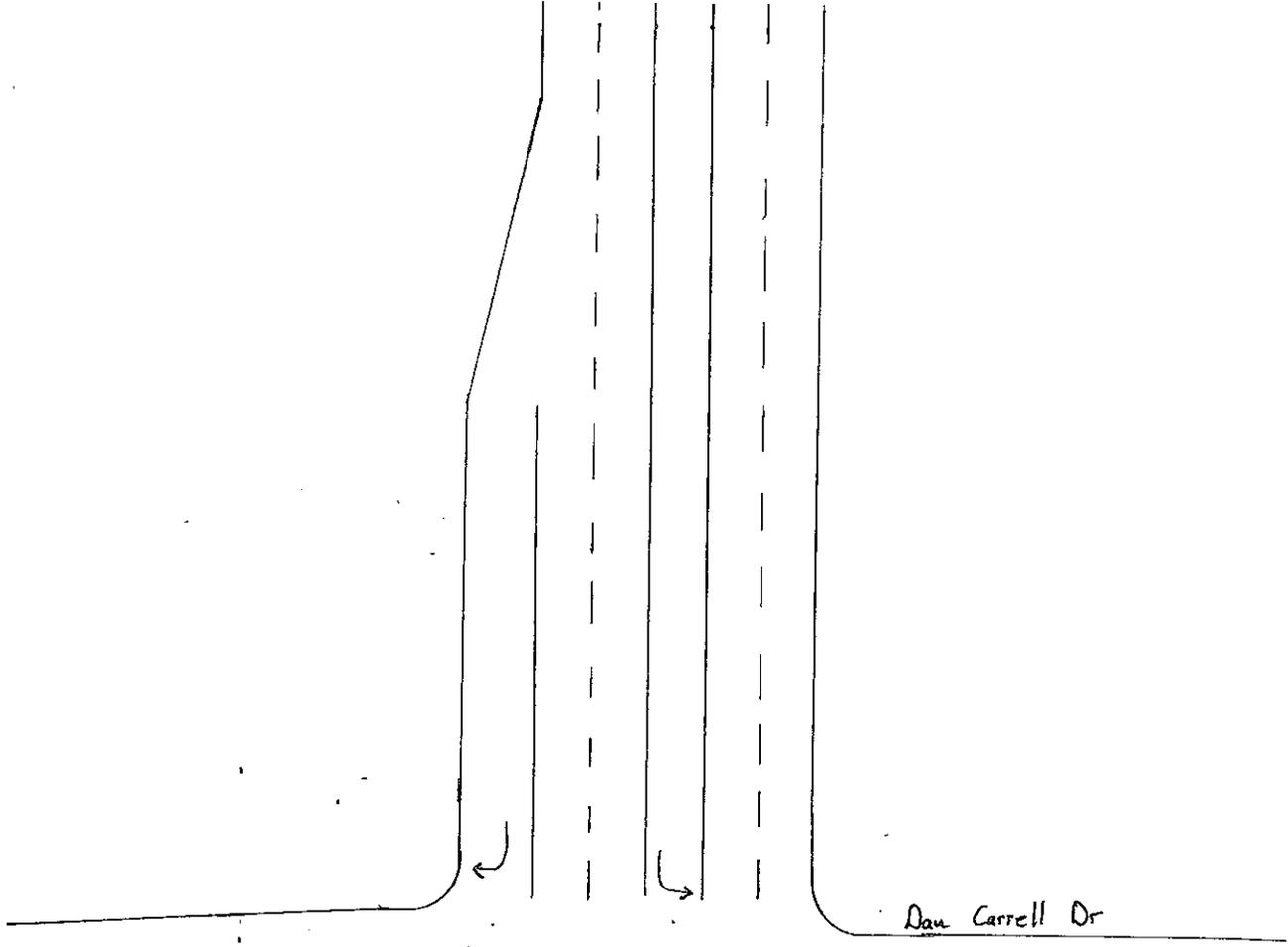
ERAU is a full course University with a large student body. It hosts many community functions as well as student activities which need to be posted for students as well as the general public. The current restrictions on "changeable copy" signs permits only 12 square feet which, due to the speed limit on Willow Creek Rd will severely limit the readability of community and campus information.

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.

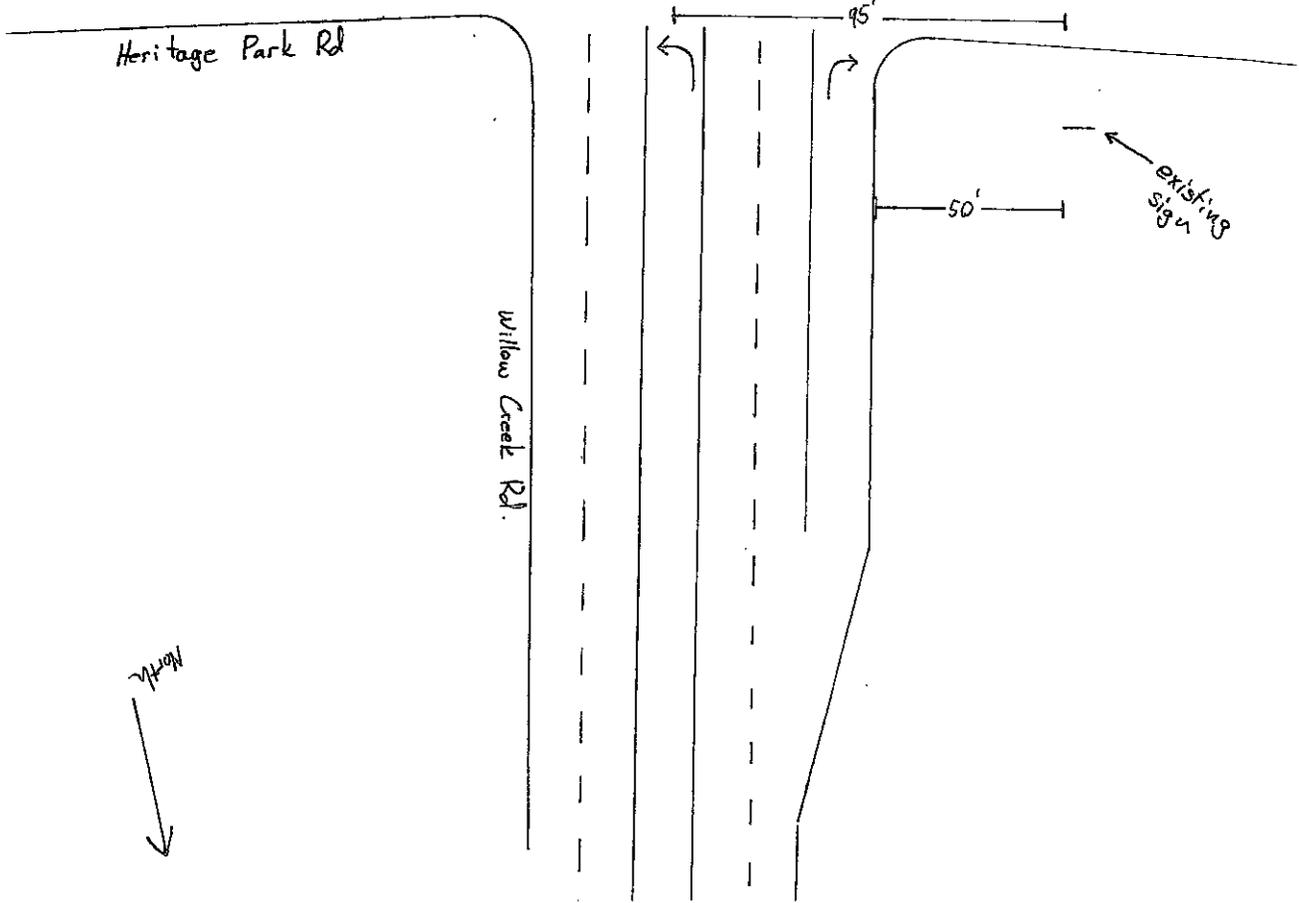
The existing zoning code allows for electronic message centers. This variance is requesting a larger message center due to the campuses need to disseminate information quickly.

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

The campus has substantial street frontage with no commercial or residential neighbors in close proximity.



Dan Carrell Dr



Heritage Park Rd

Willow Creek Rd

95'

50'

existing sign

North



Prescott's Only Full Services Sign Shop
 AZ. Licensed Contractor # 070010

THIS ARTWORK HAS BEEN CREATED
 THESE DESIGNS ARE EXCLUSIVE PROPERTY OF A&B SIGN COMPANY AND ARE

Office 928 445-6995

Fax 928 776-4429

absign@qwest.net

691 North 6th street
 Prescott, AZ 86301

COMPANY: Embry-Riddle

CLIENT: Ryan Moosh

PHONE: 777-3735

APPROVAL: