



BOARD OF ADJUSTMENT AGENDA

**BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY, September 19, 2019
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 September 19, 2019 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.

CALL TO ORDER

I. ATTENDANCE

Members

Stephen Silvernale	Raymond Everett
Paddie Braden	Tony Teeters, Chair
Johnnie Forquer	Jerry Kaufman
Larry Meads, Vice Chair	

II. MINUTES

Approve the minutes of the August 15, 2019 meeting.

III. PUBLIC HEARING ITEMS

- CUP19-003:** 504 E. Sheldon Street, APN: 114-02-019. Land Development Code (LDC) Sections 4.8 and 9.3. Zoning is Business Regional (BR). Request for a Conditional Use Permit for a Tattoo business. Owner: TDH Investments LLC, Applicant: David Noggle

IV. 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 9/11/19 at 5:00 pm in accordance with the statement filed with the City Clerk's Office.

Maureen Scott, City Clerk

THE CITY OF PRESCOTT ENDEAVORS TO MAKE ALL PUBLIC MEETINGS ACCESSIBLE TO PERSONS WITH DISABILITIES. With 72 hours advanced notice, special assistance can be provided for sight and/or hearing-impaired persons at this meeting. Reasonable accommodations will be made upon request for persons with disabilities or non-English speaking residents. Please call the City Clerk (928) 777-1272 to request an accommodation to participate in this public meeting. Prescott TDD number is (928) 445-6811. Additionally, free public relay service is available from Arizona Relay Service at 1-800-367-8939 and more information at www.azrelay.org.



BOARD OF ADJUSTMENT MINUTES

**BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY, August 15, 2019
9:00 AM**

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

CALL TO ORDER – Chair Teeters called the meeting to order at 9:00am.

I. ATTENDANCE

Members	
Jerry Kaufman	Ray Everett
Paddie Braden	Stephen Silvernale (Absent)
Johnnie Forquer	Tony Teeters, Chair
Larry Meads, Vice Chair	
Staff	
Bryn Stotler, Community Development Director	Tammy DeWitt, Community Planner
George Worley, Planning Manager	Michelle Chavez, Recording Secretary
Council	
James Lamerson	

II. MINUTES

Approve the minutes of the May 16, 2019 meeting.

Member Kaufman made a motion to approve the May 16, 2019 minutes. The motion was seconded by Member Meads and passed unanimously.

III. PUBLIC HEARING ITEM

- CUP19-002**, 514 E Sheldon Street, APN: 114-02-020. Land Development Code (LDC) Sections 4.8 and 9.3. Zoning is Business Regional (BR). Request for a Conditional Use Permit for a Tattoo business. Owner: **Wheaton Management Group. Applicant: Ryan Cristan.**

George Worley gave a brief overview of the request for a Conditional Use Permit for a tattoo business at 514 E. Sheldon St. He showed an aerial view of the site and explained where conditional use permits are needed. He described the surrounding area, parking, previous uses, surrounding and existing zoning, hours of operation, sign requirements and accessibility.

Ryan Cristan, applicant, explained the accessibility ramp. He indicated to the board that a 10:00 pm closing time is fine. Mr. Worley indicated the hair salon portion of the business is permitted by right.

Member Kaufman made a motion to approve CUP19-002. The motion was seconded by Member Forquer.

Citizen Robert McMeekin spoke regarding parking concerns. Mr. Cristan indicated there is only one employee at the tattoo shop. Mr. McMeekin stated other businesses share the same parking area and he is concerned about traffic and congestion in the residential area behind the tattoo shop and other businesses.

The members and staff discussed parking requirements for the site. Mr. Worley indicated there are 4 spaces required based on the type of the business.

Applicant Ryan Cristan stated most of his business is done between 11am and 6pm and the earliest they would open would be 9am. He indicated that he typically sees less than two cars in the parking lot.

Director Stotler stated she is a patron of the adjacent salon which shares the rear parking lot with the other businesses, including the subject property. She related her experience of having always utilized the on-street parking in front of the salon, rather than the shared parking lot, noting that in her experience, on-street parking appeared to be readily available.

Mr. McMeekin mentioned the 504 building and the surrounding area and that he prefers all the businesses closing at 5pm. Mr. Cristan indicated he is typically done working by 8:00pm.

Member Meads asked if the applicant would be amenable to posting closing hours at 8pm and then after that by reservation only, up to 10pm. He indicated that he was ok with that.

The original motion and second were withdrawn.

Member Meads made a motion to approve CUP19-002 with the condition of hours of operation no later than 10pm by reservation. This motion was seconded by member Forquer and the motion passed unanimously.

2. **VAR19-002**, Variance to Article 3, Section 3.6.3 F (Single-family (SF-9) /Minimum Setbacks) of the Land Development Code (LDC) to allow a reduction in the rear yard setback to accommodate the construction of an addition at the rear of the property. [Zoning: SF-9; **Property Owner: David and Gail Hackitt**; APN 114-05-089]. Location: 207 N Mt Vernon Avenue, Prescott, AZ 86301.

George Worley gave an overview of the site including an aerial view and surrounding zoning. The current proposal is to construct a garage with a second floor living space. There are two options; one attached garage with a breezeway, and another a detached building with a variance to the height and setback requirements. The maximum size of a detached accessory building cannot be more than 50% of the primary residence. By adding the breezeway, this would allow the size of the new building to be counted toward the primary residence.

Mr. Worley indicated that variances require a hardship. They must not allow a special privilege for a property owner.

The members, staff and applicants discussed the surrounding properties and what heights and setbacks are contained in the area. The structure is just below the 50% threshold whether it is attached or not.

Mr. Worley indicated the area does have old structures. Anything prior to 2003 was built under a different zoning code. There may be existing legal non-conforming uses. If the structure is not attached to the house the maximum height allowed is 20 feet. If it is attached to the home, the maximum height allowed is 35 feet.

Kurt Womack applicant / designer talked about existing setbacks at other properties, proposed breezeway, and lack of other buildings with breezeways. He indicated he was hoping for a compromise between the existing zoning and the right to build the structure in two phases (scenario B). He prefers the option to not build the breezeway and still be allowed to build up to 27 feet high.

Mr. Worley clarified the differentiation between the attached vs. detached building and clarified that the "attached" structure must have a roof and be "functional."

David Hackitt, applicant, indicated they would prefer to have the 10 foot setback and a 27 foot garage / living space with no breezeway. They tried to draw the plans so that the windows were higher on the project.

Citizen John Baker spoke to the board. He indicated he was not aware how tall the structure would be. He did an informal assessment and found 27 homes between Gurley and Sheldon that had 20 single story garages and 1 two story garage. He doesn't feel this building fits into the character of the neighborhood and feels that it gives the owner a special privilege. He is concerned about the privacy issues also.

Mr. Worley indicated this would fall under the State of Arizona guest quarters law. The state amended their rules to allow vacation rentals in any single family zoning. The applicants have not expressed any desire to do this but future owners could choose to do so. The same restrictions apply to guest quarters and they have to share utilities with the main home.

The applicants indicated they only intend to use the guest quarters for family. They also discussed their perception of a hardship based upon existing neighbor structures and lack of space.

Citizen Mike Mirco spoke to the board. He lives behind the property. He won't be able to see it and feels it is a large structure. His other neighbors built guest homes attached to the front of the garage. He would rather see a similar strategy with this project.

Citizen John Gilway spoke regarding the project and he would like the new structure to match the rest of the neighborhood.

Member Meads made a motion to deny VAR19-002, this motion was seconded by member Kaufman. There were five yeas and one nay (Everett). Motion to deny carried.

IV. ADJOURNMENT

Meeting adjourned at 10:02am.

Michelle Chavez, Recorder

Tony Teeters, Chairman

MEETING DATE: 9/19/19

DEPARTMENT: Community Development

AGENDA ITEM: CUP19-003, 504 E Sheldon Street, APN: 114-02-019. Land Development Code (LDC) Sections 4.8 and 9.3. Zoning is Business Regional (BR). Request for a Conditional Use Permit for a Tattoo business. Owner: TDH Investments, LLC. Applicant: David Noggle. Community Planner, Tammy DeWitt.

Approved By:		Date:	
Director:	Bryn Stotler	<i>BS</i>	9.6.19
Planning Manager:	George Worley	<i>GW</i>	9/6/19
Community Planner:	Tammy DeWitt	<i>TD</i>	9/6/19

REQUEST:

This request seeks a Conditional Use Permit (CUP) for a new tattoo parlor. Per Land Development Code (LDC) Section 2.3/Land Use Table, Tattoo Parlors are allowed in the Business Regional (BR) zoning district by CUP.

In compliance with LDC Section 9.1.2/Common Procedure - Pre-Application Conference, and Section 9.3.3/Conditional Use Permits - Conditional Use Application Process, the applicant completed a meeting with staff prior to submitting the CUP application for the proposed use at this site and has met all other requirements of Section 9.1/Common Procedure.

SITE INFORMATION:

The proposed tattoo business is located in a single-tenant building on a site with no designated parking. East Sheldon Street provides pedestrian access to the site, while North Mount Vernon Avenue provides on-street parking spaces. The applicant does not propose any changes to the existing site or building, other than minor change to the interior space.

PROPOSED USE:

The applicant proposes a tattoo parlor in an existing building, with hours between 10 am- 6 pm, five days a week. Some appointments may run into the 7pm hour, but it is not common. Most of the business is by appointment only with very little foot traffic by walk-ins. In past applications, the Board has focused on hours of operation for tattoo uses and placed

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limitations where the business operation could impact nearby residential uses.

CONDITIONAL USE REVIEW CRITERIA:

Conditional Uses require special consideration regarding the effect on surrounding properties and the use in relation to the objectives of the ordinance. A conditional use permit may be granted only when the Board of Adjustment finds the proposal meets the general criteria, as detailed in LDC Section 9.3.5/Conditional Use Review Criteria.

Section 9.3.5.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.”

The proposed tattoo parlor proposes hours of operation that are compatible with the neighboring properties. A condition limiting hours of operation to 10:00 am to 8:00 pm would mitigate any impacts from noise or activity associated with customers visiting the parlor, even though there is no space for customers or guests to “hang out”.

Section 9.3.5.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 respect to landscaping, scale, lot coverage, and the like.”

The proposed tattoo parlor is within an existing building and no exterior or site changes are proposed.

Section 9.3.5.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 response to these impacts.”

Noises from customers arriving/departing and parking are the only potential impacts on neighbors. Imposing limited hours through a condition could mitigate any potential parking and noise impacts.

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Section 9.3.5.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.”

As a tattoo parlor in an existing building, there would be no negative impacts to infrastructure.

Section 9.3.5.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.”

The proposed use, with Conditional Use Permit, is in conformance with the purposes of the LDC and General Plan, and all relevant policies and plans. Tattoo parlors are allowed by right in the Industrial Transitional (IT) and Industrial Light (IL) zoning districts. The proposed location for this type of business, however, would be more convenient for clients. With nearby restaurants, shops and hotels which clients may frequent during their wait periods, and before and after appointments, this particular location offers other commercial conveniences that are not as common in the industrial zoning districts.

Section 9.3.5.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 affected zoning district.”

This proposed use will not have impacts requiring additional land area.

Section 9.3.5.G. Site Plan

“The proposed use shall comply with the procedures and requirements of Sec. 9.8, Site Plan Review.”

The proposed use is on a legal non-conforming parcel in which there is no on-site parking or access to an adjacent parking area. Previous uses have used on-street parking along North Mount Vernon, and there have been no complaints in the past. The use of the

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building is similar to previous uses of the building with no issues.

Section 9.3.6. 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.”

Staff recommends imposing the condition of hours of operation no later than 8:00 pm daily to ensure compatibility with the surrounding neighborhood, which include some existing residential uses in a commercial zoning district located adjacent to this site.

Section 9.3.7.C. Expiration/Revocation of Approval

“The Board of Adjustment may revoke a Conditional Use Permit in the event of a subsequent failure by the property owner or person in possession to comply with an ongoing condition of approval. Such revocation shall not occur without written notice to the property owner, at least 20 calendar days prior, advising of the revocation consideration and an opportunity to appear before the Board. Revocation procedures shall be subject to the Public Notice requirements set forth in Sec 9.1.8.A.”

Section 9.3.8. Appeal

“An appeal from any final decision regarding a Conditional Use Permit shall be in accordance with Sec. 9.18, Appeal of Council or Board of Adjustment Decisions.”

Appeals must be filed within 30 days of Board of Adjustment decision.

HISTORIC PRESERVATION:

The site is not located within a Prescott Preservation or National Register district.

STAFF RECOMMENDATION:

Staff recommends approval of the Conditional Use Permit for a tattoo parlor, with a condition to allow daily hours of operation no later than 8:00 pm.

NEIGHBORHOOD COMMENTS:

Staff has not received any public comments regarding this variance request.

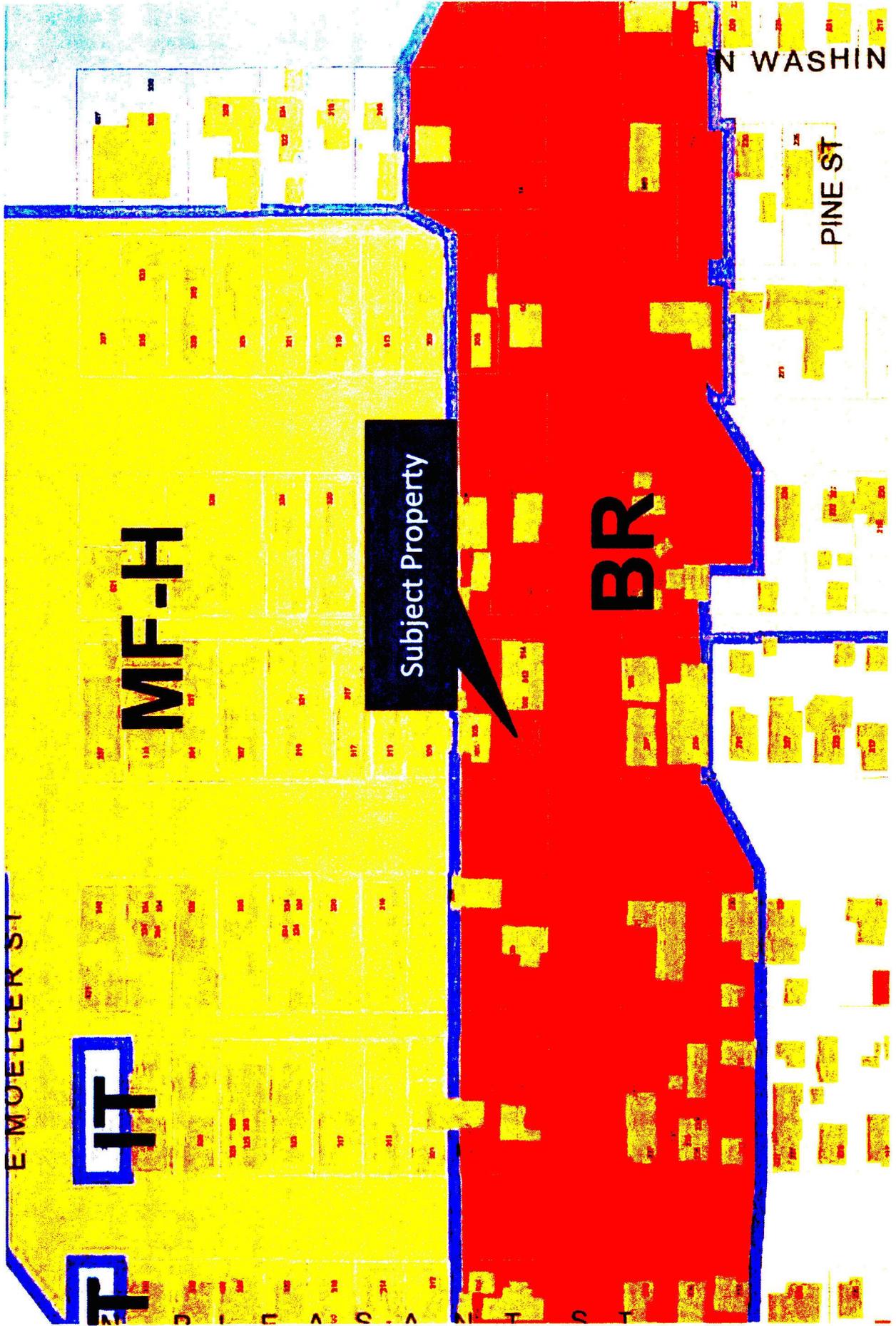
Attachments:

- 1. Aerial/Location Map**
- 2. Aerial Close-up**
- 3. Applicant application**

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SUGGESTED MOTION:

Move to Approve/Deny CUP19-0032, to approve a tattoo parlor in a Business Regional (BR) zoning district located at 504 E. Sheldon Street.



Subject Property

MF-H

BR

IT

E MOELLER ST

N WASHIN

PINE ST





Subject Property

Sheldon Street

© 2019 Google
© 2018 Google

Google Earth

Subject Property

Parking along Mt. Vernon

Mt. Vernon

© 2019 Google
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Google Earth



Narrative for Skindustries LLC dba Studio 6 Tattoo

General Operation:

David Noggle is a tattoo artist of 14 years, who has been tattooing in Prescott for the last four years. The proposed location will be a private studio to serve his existing, and prospective, clientele. Foot traffic/walk-ins are very minimal as he is by appointment mostly, and normally booked out four months in advance. Most impulse tattoo inquiries are mitigated through phone call/text messages by the manager; keeping actual foot traffic to a minimum. Portfolios are managed through social media pages, so the need for viewing a physical portfolio in person is unnecessary. All social media pages (including Google) communicate he is available by appointment.

There will only be one other tattooer in the studio, who is currently apprenticing. We do anticipate she will be tattooing within six months of this application and encouraging appointments, rather than foot traffic. Advertising "walk-in" availability will be limited.

We hold ourselves to a high level of quality that is reflected in the multiple achievements awarded at various industry conventions. Along with quality, we believe our high level of customer service also sets us apart and is an asset to the business community in Prescott.

Parking:

This location does not have a designated parking lot. Street parking on Mt Vernon will be utilized. Once the apprentice is taking customers, the average number of cars parked on the street connected to our business will be four.

Hours:

On average, the hours David keeps is anywhere between 10AM-6PM, five days a week. Occasionally, an appointment might run slightly into the 7PM hour, but not common. We are open to cap the PM hours to whatever is reasonable.

Activity/Noise:

As one would expect from a private studio there will be very low activity and noise coming from our suite. David prefers to have a movie or television show on while tattooing for his customers. If music is played it will be kept at a very reasonable volume, especially because we share a wall with a massage therapist, so we want to respect his space as well. We have created respectful relationships with all of our neighboring businesses, and can provide references upon request. We have introduced ourselves to a few neighboring businesses so far and plan on further introductions to other neighbors.

Our business will not be a “hang out” spot. The two tattoo rooms are on the smaller side so there isn’t much opportunity to have people stop by and “hang out”.

Signage:

We will only need a minimal (non-lighted) sign on the building for our customers to locate us.
Structure Changes:

Down the road, we may make changes to one wall inside the suite, which has been approved by the property owner. If this does take place we will go through the appropriate channels.

Environmental Impact:

We do not reuse any equipment, requiring an autoclave. We currently utilize, and will continue to utilize, a medical waste company for all single use/disposable equipment. David is currently blood borne pathogen certified. The apprentice will also be certified.

License:

We currently hold a business license with the City of Prescott. No sales license is necessary as we do not pierce, sell jewelry or any other products.

Previous Occupant:

The previous business that occupied this suite was similar to our operation. She was a cosmetologist, including permanent makeup.

Social Media:

www.facebook.com/davidnogglestudio6

www.google.com/davidnogglestudio6

Website:

www.studiosixtattoos.com
