

City of Prescott

Board of Adjustment



July 20, 2023 | 9:00 AM
201 N. Montezuma Street
Council Chambers, 3rd Floor
Prescott, AZ 86301

AGENDA

The following Agenda will be considered by the **Board of Adjustment** at their meeting to be held on **July 20, 2023**. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **DISCUSSION & ACTION ITEMS**
 - A. Approval of the February 16, 2023 Board of Adjustment Meeting Minutes.
Recommended Action: MOVE to approve February 16, 2023 meeting minutes as presented
 - B. Public Hearing and Possible Action Regarding V23-003, Variance to Article 3, Section 3.4.3.F (SF-18/Minimum Setbacks) of the Land Development Code (LDC) to Allow a Reduction of the Required 25' Front Setback by 10' Allowing for a 15' Front Setback for a New Single-family Residence on a 0.98 Acre Parcel. Zoning: SF-18 (Single Family). Owner: Steven Letch & Andrea Hlosek RS. Applicant: B&L Custom Homes Inc. Location: APN 115-07-113A, 1359 Rockwood Dr.
Recommended Action: 1) MOVE to close the public hearing; and 2) MOVE to approve or deny V23-003, to allow the proposed single-family residence within the front setback per the site plan provided
 - C. Public Hearing and Possible Action Regarding CUP23-001, a Conditional Use Permit Request for Tattoo Business Bold As Love Tattoo Per Land Development Code (LDC) Sections 4.8 and 9.3. Location: APN 113-10-039, 625 Schemmer Dr. Zoning: Business Regional (BR). Owner: Beverly Family Revokable Trust. Applicant: Ricky Henderson (Bold as Love Tattoo).
Recommended Action: 1) MOVE to close the public hearing; and 2) MOVE to approve or deny CUP23-001
4. **STAFF UPDATES**
5. **ADJOURNMENT**

Upon a public majority vote of a quorum of the Board, the Board may hold an executive session, which will not be open to the public, regarding any item listed on the agenda but only for the following purposes:

- (1) Discussion or consideration of personnel matters (A.R.S. §38-431.03(A)(1));
- (2) Discussion or consideration of records exempt by law (A.R.S. §38-431.03(A)(2));
- (3) Discussion or consultation for legal advice with the city's attorneys (A.R.S. §38-431.03(A)(3));
- (4) Discussion or consultation with the city's attorneys regarding the city's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation, or in settlement discussions conducted in order to avoid litigation (A.R.S. § 38-431.03(A)(4));
- (5) Discussion or consultation with designated representatives of the city to consider its position and instruct its representatives regarding negotiations with employee organizations (A.R.S. §38-431.03(A)(5));
- (6) Discussion, consultation or consideration for negotiations by the city or its designated representatives with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city (A.R.S. §38-431.03(A)(6));
- (7) Discussion or consultation with designated representatives of the city to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property (A.R.S. §38-431.03(A)(7)).

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall on 7/12/23 at 4:00 p.m. in accordance with the statement filed by the Prescott City Council with the City Clerk.

Sarah M. Siep

Sarah M. Siep, City Clerk



TO: MAYOR AND CITY COUNCIL
AGENDA: July 20 Board of Adjustment Agenda
DATE: July 20, 2023
DEPT: Community Development
ITEM #: 3.A
SUBJECT: Approval of the February 16, 2023 Board of Adjustment Meeting Minutes.

ITEM SUMMARY

This item is for the approval of the February 16, 2023 Board of Adjustment Meeting. Staff recommends approval of the minutes as presented.

BACKGROUND

None.

FINANCIAL IMPACT

There is no fiscal impact at this time.

RECOMMENDED ACTION

MOVE to approve February 16, 2023 meeting minutes as presented

ATTACHMENTS

1. 2.16.23 BOA Minutes

City of Prescott
Board of Adjustment

February 16, 2023 | 9:00 AM
201 S. Cortez Street
Council Chambers
Prescott, AZ 86303

MINUTES

1. CALL TO ORDER

Chairman Jim Lamerson called the meeting to order at 9:00 A.M.

2. ROLL CALL

Members:

Jim Lamerson, Chairman
Tony Teeters, Vice Chairman
Thomas Davis, Absent
Mary Frederickson
Mark Hokeness
Larry Meads
James Myers

Staff:

Chelsea Walton, Interim Community Development Manager
George Worley, Planning Manager
Tammy Dewitt, Community Planner
Kaylee Nunez, Historic Preservation Specialist
Patricia Lollar, Recording Secretary

City Leadership:

Councilwoman Connie Cantelme, Liaison
Councilman Brandon Montoya, Liaison

3. DISCUSSION & ACTION ITEMS

A. Approval of the November 17, 2022 Board of Adjustment Meeting Minutes.

Board Member Teeters moved to approve the minutes of the November 17, 2022, Board of Adjustment meeting, seconded by Board Member Hokeness: Passed (6-0). Board Member Davis abstained from the vote.

B. **V22-007**, Variance to Article 3, Section 3.10.3.B. (Density and Dimensional) and Section 3.10.3.F. (Multifamily High Density Minimal Setbacks) of the Land Development Code (LDC) to allow a reduction of the required side setbacks on

both parcels and to allow lots less than the minimum 6,000.00 square feet to allow for a revision of plat to correct building encroachments; Applicant is Tony Olvera; APN's 109-03-048B, 109-03-048A and 109-03-049A; Location: 436 and 440 S. Granite Street West.

Planning Manager George Worley presented a summary of the request including the location, zoning, and history of the property. He showed the current property line, structures on each of the properties, and the encroachments from one parcel to the other. He went on to say that to correct the historical situation of two homes on one lot and have one home on each parcel, there needed to be several variances approved by the Board.

Mr. Worley showed the site plan that showed the corrections to the lot lines and how it would correct the encroachment issues and allow for one home on each parcel. Mr. Worley detailed all the variances that were needed which included:

- Variance for reduction in minimum lot size
- Variance for reduction rear setback
- Two Variances for reduction of side setbacks

Mr. Worley said the variances were for existing buildings only and not for any new construction that may be done in the future. He said separating the properties was necessary to resolve the question of ownership and to allow for the properties to be conveyed in the future.

Board Member Hokeness asked how this situation had happened. He wanted to know if the buildings had been built without permits.

Mr. Worley said when the original structures were built, building permits were not required and that the buildings had been in existence for a long time.

Board Member Meads asked if this would go from 2 lots to 3 or if this would just revise the shape of the lots.

Mr. Worley said it was going from 3 to 2 lots and showed the current configuration of the lots on the aerial map. He said the 3 lots would be combined with the lot line adjustment creating 2 lots and the shape of the lots would change.

Board Member Meads asked where the lot line would be located as proposed.

Mr. Worley showed on the site map where the proposed lot line would be located.

Board Member Frederickson asked if the flagpole part of new flag lot that would be created was how they currently accessed the alley.

Mr. Worley confirmed that current access to the back property was from the alley. He said there were additional easements that would be part of the lot line adjustment but would not be affected by the variances.

Board Member Hokeness asked if the house on the property to the west of the subject property would have adequate setbacks after the lot line adjustment.

Mr. Worley said yes it would and showed on the aerial map how the properties would have adequate setbacks.

Board Member Hokeness asked if there had been any comments from the public.

Mr. Worley said there had been no comments for support or in opposition for this item.

There being no further questions for Staff, Chairman Lamerson opened the item for public discussion.

Scott Lyon representing the applicant addressed the Board.

Mr. Lyon said he could provide additional history if needed. He also said a primary reason for the variance was to prevent one of the parcels from being land locked.

Board Member Meads moved to approve V22-007 per the site plan submitted, seconded by Board Member Teeters: Passed (7-0).

- C. **V23-001**, Variance to Article 4, Section 4.13 (Specialty Planned Community) and Section 4.13.7 (Density and Dimensional Standards) of the Land Development Code (LDC) to allow an increase in the allowed 35' building height by 8'7" to allow for a maximum building height of 43'7" for a new single-family residence. Property Owner: Rob and Sherry Shults; Applicant: Crystal Creek Builders, Inc.; APN 108-19-306; Location: 576 Lodge Trail Circle.

Community Planner Tammy DeWitt presented a summary of the request. Ms. DeWitt explained that more requests like this one could be coming forward more often as there was a change to the Fire Department code for the slope requirement on driveways. She explained that when a property owner had to bring in fill to bring up the grade, they were losing the height of the building. She then showed the existing grade of the subject property and the amount of fill that would need to be brought in for the slope of the driveway so it could be approved by the Fire Department for the home.

Ms. DeWitt next showed the site plan, the elevations, buffer map and aerial view of the subject property. She noted that the property owners had to build within the approved building envelope for this subdivision and that because of the slope of the subject property, they were only allowed to develop 50% of the lot. She showed on the elevation, the height the home would be after the fill was brought in to meet the new Fire Department driveway code. Ms. DeWitt said that the new fire code went into effect a couple of years ago and that houses that had been built prior to the new code did not have to adhere to it. Ms. DeWitt said there had been one letter of opposition.

Board Member Davis asked if the dashed line of the elevation slide was the 42'7" height.

Ms. DeWitt said that was correct and there was an additional peak that was captured to get the total height request of 43'7".

Board Member Davis clarified that the dash line was not the 35' height, but the end result.

Ms. DeWitt said that was correct.

Board Member Davis commented the home to the southwest of the subject property appeared to be a mirror image of the proposed site plan but flipped. He asked if that home was the same height as the proposed home. He said the property to the southwest was substantially higher than the home to the north of the subject property.

Ms. DeWitt said she had not seen any other granted variances in the area during her research. She said they could have gotten an exception to reduce the front setback and bring the home forward. She went on to say approval to reduce the front setback would have been granted by the Hassayampa Homeowner's Association.

Board Member Davis said he was wondering why this proposal did not go through the same process as the home next door to meet the height requirement.

Ms. DeWitt answered that the home to the southwest did not have to meet the same driveway slope requirements that were currently in place.

Board Member Davis said it did not appear that the driveway to the southwest was that steep.

Ms. Dewitt said they could have brought that home forward to decrease the slope of the driveway. She said she would have to look to see if there were plans that showed what had been done. She went on to say the subject property had an approved building envelope and they were trying to stay within that building envelope and to do that, they would have to raise the height of the home to meet the slope requirement for the driveway.

Board Member Davis asked where the Boards decision on this would stand with the homeowner's associations approval.

Ms. DeWitt said the homeowner's association had no concerns with the request.

Board Member Hokeness asked to see the slide with the slope from the presentation and commented since the structure was not built that they could design around the slope issue. He asked if they only needed to lower the roof line in one area.

Ms. DeWitt replied no that they would have to lower the whole house. She said the building would meet the height requirement from natural grade, but the building pad would need to be brought up 8' to build the 35' house to meet the slope requirement for the driveway.

Board Member Hokeness said they lower the height of construction instead. He said the proposed plan did not comply with current requirements and they could design a home that did comply.

Ms. DeWitt said they possibly could. She said it was a similar design as other homes in the Hassayampa area.

Board Member Hokeness asked how much of an encroachment on the building height the request was.

Ms. DeWitt said they were asking for 43'7".

Board Member Hokeness said that was about 8'.

Ms. DeWitt replied yes.

Board Member Hokeness asked if the height would be in compliance if they cut off the additional peak shown on the elevation slide.

Ms. DeWitt replied no and showed the area on the elevation slide where the proposed home would still be exceeding the 35' height requirement.

Board Member Hokeness asked if the 35' height requirement was shown on the elevation slide.

Ms. DeWitt said only the overall height was shown by the dotted line and then showed approximately where the 35' line would be. She said they would still have to build the pad up no matter what for the driveway.

Board Member Hokeness asked if another alternative was to ask for a variance for front setback to place the home closer to the road.

Ms. DeWitt said that may not help because of how steep the slope of the property was.

Board Member Hokeness said he was just trying to see if there were alternatives for the property owner so they could have use of the property. He said he thought there were alternatives.

Ms. DeWitt said she would have to defer that question to the designer.

Board Member Meads agreed with Board Member Hokeness that it would be helpful to see the 35' height requirement on the elevation slide. He also said he didn't think that a variance for front setback would help accommodate the home, the 35', and the driveway slope due to the slope of the property. He then asked if fire sprinklers in the home would mitigate the driveway slope requirement.

Ms. DeWitt replied no.

Board Member Frederickson expressed concern that the Board was being asked to consider this proposed plan as if it was the only plan possible for the property. She said they did not have any input from the construction firm or the owners as to other plans that may have been considered that would be able to reach both requirements for height and driveway slope.

Ms. DeWitt said they were there to answer any questions.

Scott Nalda with Crystal Creek Builders representing the homeowners addressed the Board.

Mr. Nalda said they began working with the property owners prior to the change in the code for the driveway slope. He said the original plan was to locate the home farther down the hill like the adjacent neighbor. Mr. Nalda went on to say when dealing with slope, it was mitigated with distance and the idea of pulling it closer to the road would make the angle of the driveway steeper.

Mr. Nalda said due to covid and other circumstances the property owner had placed the project on hold and that was when the change to the fire code was made. He addressed the question of another plan for this home and said no, if the home was closer to the street the driveway would be steeper, he said they were dealing with the code that starts from natural grade and that would not change.

Mr. Nalda said he didn't think there was anything that could be done to change the outcome. He said there were two criteria they were battling with and that the height requirement and the slope requirement were in conflict with each other on a site like this.

Board Member Davis asked Mr. Nalda if he had knowledge that the house left was exceeding the 35' height limit.

Mr. Nalda said he did not have any history on that home.

Board Member Davis asked if the driveway slope on the house to the left was similar to the current proposal.

Mr. Nalda said he did not have any information on that home, and he did not know. He said visually the home on the right had a very steep driveway, but he did not have any answer as to what the driveway slope was or the height of the homes.

Ms. DeWitt added that those homes were developed prior to the new fire code.

Board Member Davis said he understood that. He said he would maybe not have a problem with the proposal if it was exactly the same or similar to the house on the left. He said the house on the left appeared to be high. He said the problem with this proposal was enjoying something special that none of the other houses had enjoyed.

Mr. Nalda said they would not have this issue if they were able to put the house where it was originally intended to be, but the code changed for driveway slope. He said there were other properties in the community that were steeper and trying to comply with both the height requirements and driveway slopes could be almost impossible. He said the homes on the other side of the street are elevated more and the proposed home backed up to the golf course, so there would be no obstruction of views.

Ms. DeWitt asked if it would be safe to say the proposed home design was similar to the design of the home to the right.

Mr. Nalda said all the homes in the area were fairly consistent.

Board Member Meads asked to see the location of the property that sent in the letter of opposition.

Ms. DeWitt showed on the aerial map the location stating it was around the corner from the subject property.

Board Member Meads said the Board in the past had approved variances similar to this one. He said he had taken into account the criteria of obstruction of view, and he agreed with Mr. Nalda that no views of neighboring properties would be obstructed.

Ms. DeWitt asked Mr. Nalda if there was a size requirement for homes in Hassayampa.

Mr. Nalda said he believed the minimum started at 2,200 square feet and that the proposed home was larger than that.

Board Member Frederickson asked if there had been any consideration for a different plan for the house or if a different house could be designed that would accommodate both the pitch of the driveway and the height requirement.

Mr. Nalda said if the garage was built at a certain elevation and have stairs going down to the front door it may keep the height shorter. He went on to say that was

not what the owners intended or what the other homeowners in Hassayampa had gotten. He said there had been success with variances approved in the past and that this would happen more and more with steep properties.

Mr. Nalda said he had had meeting with Staff and the Fire Department when the driveway code was changed as to how they would deal with steep properties, and there had not been a site that they couldn't make work. He also said some consideration should be given to the property owner. He said from a design perspective probably anything could be done, but would it be livable for the owner and would the resale value be affected. Mr. Nalda said the project was started before the change was made, it was the owners dream home and to make something that would possibly work would be an extreme change. He said he was not sure they could make that something someone would like.

Chairman Lamerson commented he lived in the area and knew what he was buying when he bought. He said you do your due diligence before you buy.

Board Member Hokeness commented on the letter of opposition. He said this was an 8'7" change to what was allowed per the code, and it should not be ignored. He said there were alternatives, the house had not been built yet, a different plan or a different variance could be asked for. He agreed that due diligence should be done and he would not want to see something built out of code in his neighborhood. He said he was struggling to see why a variance should be granted in this case.

Board Member Frederickson commented that as noted by Ms. DeWitt, as the hard lots were built upon this would come up more and more. She said she understood it seemed unfair that codes were one way when property was purchased and then changed at a later date, but that they may have to shrink their dream home to comply. She agreed with Board Member Hokeness in the struggle to see why this was necessary since the plan could change.

Board Member Davis said the home on the left appeared to be the same footprint as what was proposed. He said he wouldn't have a problem approving this site plan and building if it replicated exactly what the neighbor had. He said that would be consistent with what had been approved in the past. He said he would not be happy setting a precedent of exceeding the height limit by 8 or more feet.

Board Member Meads commented that in the Staff packet there was a paragraph that described the requirements for a variance and had addressed each requirement. He said his interpretation was that he was fine with the application. He also commented on the letter of opposition saying that their views would not be impacted by the increase in height. He said that maybe there could be a different design, but in this case that was a pretty heavy hammer.

Mr. Nalda said in that regard the owners would not go forward with the home they intended to build. He said he understood the code had changed and the owners did also. He said they were spending a lot of extra money to have the house raised. Mr. Nalda said again if the home was moved forward they would be in violation of the driveway slope. He said he did not believe there was a reasonable

design that would accommodate both codes.

Board Member Meads asked Ms. DeWitt if the driveway slope could be subject to a variance.

Ms. DeWitt replied no.

There being no further questions for Staff, Chairman Lamerson opened the item for public discussion.

Bonnie McMinn introduce herself and addressed the Board. Ms. McMinn said she lived in the area and walked on Lodge Trail Circle almost every day. She went on to say she objected to the proposal, she had built her home 14 years ago and followed the rules. She said the rules changed in the middle of building her home and they had to sprinkle every room in the house.

Ms. McMinn said she understood it would be difficult if plans had to be redone. She also said the lot was extremely narrow and steep and an argument could be made that the property should not be developed. Ms. McMinn concluded saying that rules were in place for a reason, that Hassayampa was a carefully planned community and they had to respect the rules and the other homeowners in the community.

Anna Smith introduced herself and addressed the Board. Ms. Smith said she lived in the area and wanted to know how far out of code the homes to the left and right of the subject property were.

Ms. DeWitt said she could not answer that question.

Ms. Smith said she thought that was something that should be answered.

Ms. DeWitt replied that each variance is unique to itself and their situation. She said she did look for variances that had been granted in the area on other properties and had not found any. She went on to say this lot had extreme slope and was also affected by a code change. She also said that the owners had designed a home prior to the code change and they were now adapting to the new code.

Ms. DeWitt said the steepness would still be an issue if the home was brought forward. She said the home adjacent had a steep driveway that did not meet code because the house was set lower on the property but was existing and when the code changed and they did not have to adapt to that change. She said the subject property was under the new driveway code requirements and they were trying to adapt to a plan they started a few years ago. Ms. DeWitt said they did have a hardship that ran with the land and was not self-imposed. She said the neighbor may have gotten a building envelope adjustment that would have been approved by the homeowner's association.

Ms. Smith said they should build a driveway that does meet code and the house had to go with it. She said you can't build up that far and that there were two

other houses, that even though the driveway may not meet code were not over height limit. She said they didn't have to build up 8 feet.

Ms. DeWitt said she would have to find the building plans for those lots.

Ms. Smith thought there were some questions that were unanswered.

Board Member Hokeness asked Ms. Smith if she lived in the neighborhood.

Ms. Smith replied yes she did.

Board Member Hokeness commented it was not the role of the Board to change the code for steep lots in Prescott. He said there were alternatives for this homeowner and they could meet the existing code another way. He said there were neighbors that objected, the HOA had rules that were enforced, and the City rules should be enforced also.

Board Member Teeters asked if the homeowners association had approved the height pending approval of the Board.

Ms. DeWitt said they had applied for a building permit, the height of the home was noted and the variance was the process they needed to go through.

Board Member Teeters commented that the homeowners association said it was ok if it was ok with the Board.

Ms. DeWitt replied yes.

Board Member Meads commented if the variance was approved, that it would not change the slope or height requirements for any other lot in the City, only for this particular lot.

Ms. DeWitt said that was correct.

Board Member Meads moved to approve V23-001, per the site plan and renderings submitted, seconded by Board Member Myers: Passed (4-3). Board Member Hokeness, Board Member Frederickson and Board Member Davis were opposed.

4. STAFF UPDATES

Chelsea Walton, Interim Community Development Director introduced herself to the Board.

5. ADJOURNMENT

There being no further business to discuss, Chairman Lamerson adjourned the meeting at 10:03 AM.

Tony Teeters, Vice Chairman

ATTEST:

Patricia Lollar, Recording Secretary



TO: MAYOR AND CITY COUNCIL
AGENDA: July 20 Board of Adjustment Agenda
DATE: July 20, 2023
DEPT: Community Development
ITEM #: 3.B
SUBJECT: Public Hearing and Possible Action Regarding V23-003, Variance to Article 3, Section 3.4.3.F (SF-18/Minimum Setbacks) of the Land Development Code (LDC) to Allow a Reduction of the Required 25' Front Setback by 10' Allowing for a 15' Front Setback for a New Single-family Residence on a 0.98 Acre Parcel. Zoning: SF-18 (Single Family). Owner: Steven Letch & Andrea Hlosek RS. Applicant: B&L Custom Homes Inc. Location: APN 115-07-113A, 1359 Rockwood Dr.

ITEM SUMMARY

The applicant is requesting a Variance to allow for a decrease in the front setback to allow for a new single family residence. Per the site plan, the house is at an angle on the property to fit in the flat area of the parcel. In the request, the applicant states that due to the existing granite rock outcroppings and drainage on the property, there is limited area to put the proposed residence.

BACKGROUND

STAFF ANALYSIS AND RECOMMENDATION:

The staff analysis and recommendation is based on a review of the request's consistency with the 2015 General Plan, and consistency with neighborhood characteristics, as well as the Variance requirements of LDC Section 9.13.4.

COMPATIBILITY WITH THE NEIGHBORHOOD:

In review, the area is just being developed and many parcels are still vacant. Some of the adjacent parcels received Topographic Exceptions to reduce the front and rear setbacks due to slope.

VARIANCE REQUIREMENTS:

Variances may be granted only if, because of special and unusual circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the zoning code will deprive such property of privileges enjoyed by other properties in the district. Such Variance shall not constitute a grant of special privileges inconsistent with other properties in the vicinity or be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

COMPLIANCE WITH REQUIRED VARIANCE CRITERIA:

1. Extraordinary Conditions (LDC Section 9.13.4.A.1). There are extraordinary 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. For example, a Variance may be justified because of topography, or size, shape, intrusive off-site impacts, or other special conditions unique to the property and development involved.

Staff Comments: The applicant states that due to the slope/drainage and rock outcrops on the property, there is a limited area to build a single-family residence. Currently, the property is vacant.

2. Substantial Detriment (LDC Section 9.13.4.A.2). Granting 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.

Staff Comments: The proposed residence will not affect any of the neighboring properties.

3. Special Privileges (LDC Section 9.13.4.A.3). 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.

Staff Comments: The request does not grant the applicant special consideration as compared to other existing residences nearby. As such, no special privilege would be conferred on the applicant by the granting of this request.

4. Self-induced Hardship (LDC Section 9.13.4.A.4). The hardship is not the result of the applicant's own actions.

Staff Comments: The property currently is vacant. The request states this will allow the property to remain more undisturbed.

5. General Plan (LDC Section 9.13.4.A.5). It will be in substantial compliance with the General Plan or other relevant area plans or neighborhood plans.

Staff Comments: The proposed Variance is on an existing residential lot and is, therefore, in compliance with the General Plan.

6. Utilization. Because of special circumstances applicable to the property, 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.

Staff Comments: In the request, the applicant states that the topography and geology of the site limits the area for a new residence.

NEIGHBORHOOD COMMENTS:

Staff has not received any comments from the public.

FINANCIAL IMPACT

There is no fiscal impact associated with this item.

RECOMMENDED ACTION

1) MOVE to close the public hearing; and 2) MOVE to approve or deny V23-003, to allow the proposed single-family residence within the front setback per the site plan provided

ATTACHMENTS

1. VARIANCE Questionnaire
2. Maps and pictures

VARIANCE QUESTIONNAIRE

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

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

The lot sits down below and behind another lot that is on the roadway. This lot is surrounded by large natural granite formations on 3 sides, a steep drop off of large natural granite boulders on the back side and a large natural drainage wash next to the boulder on the north side - pictures have been uploaded.

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.

The home for this family would not fit on the lot properly without the attempt to remove or blast out large natural granite structures. An adjustment to the front set back makes the lot usable like the other homes in the neighborhood.

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).

OWNER STATEMENT:

The home we have planned for this lot includes space for our elderly (78 year old) handicapped mother that we take care of daily, as well as a garage for her handicap vehicle and equipment. We request the 25-foot front setback to be reduced to a 15-foot setback so our home, such that the dwelling for our handicapped mother, will fit on the building pad in a manner optimal for her accessibility. We designed the home to have her accommodations oriented on the flattest, safest portion of the lot, and to allow her a small sequestered outdoor area to enjoy fresh air without risking falling on the steep backside slope or the drainage channel on the other side of the driveway.

Our plan also ensures that the building pad retains the large natural granite formations at the front of the lot undisturbed, and it would be a monumental task to change the topography of the lot, if even possible. Further, the site plan for the home minimizes encroachment into the drainage channel, and the natural stone and vegetated areas of the lot. The front set back of this lot is not along the roadway, but sits behind and below another lot. We believe reduction of the front setback would be an easy solution to our own hardships, and not be an encumbrance to the neighboring lot. In fact, moving the setback to 15" should maximize the neighbor's view towards the rear of the lot, by partially masking our home from their view so they may better see over our roof.

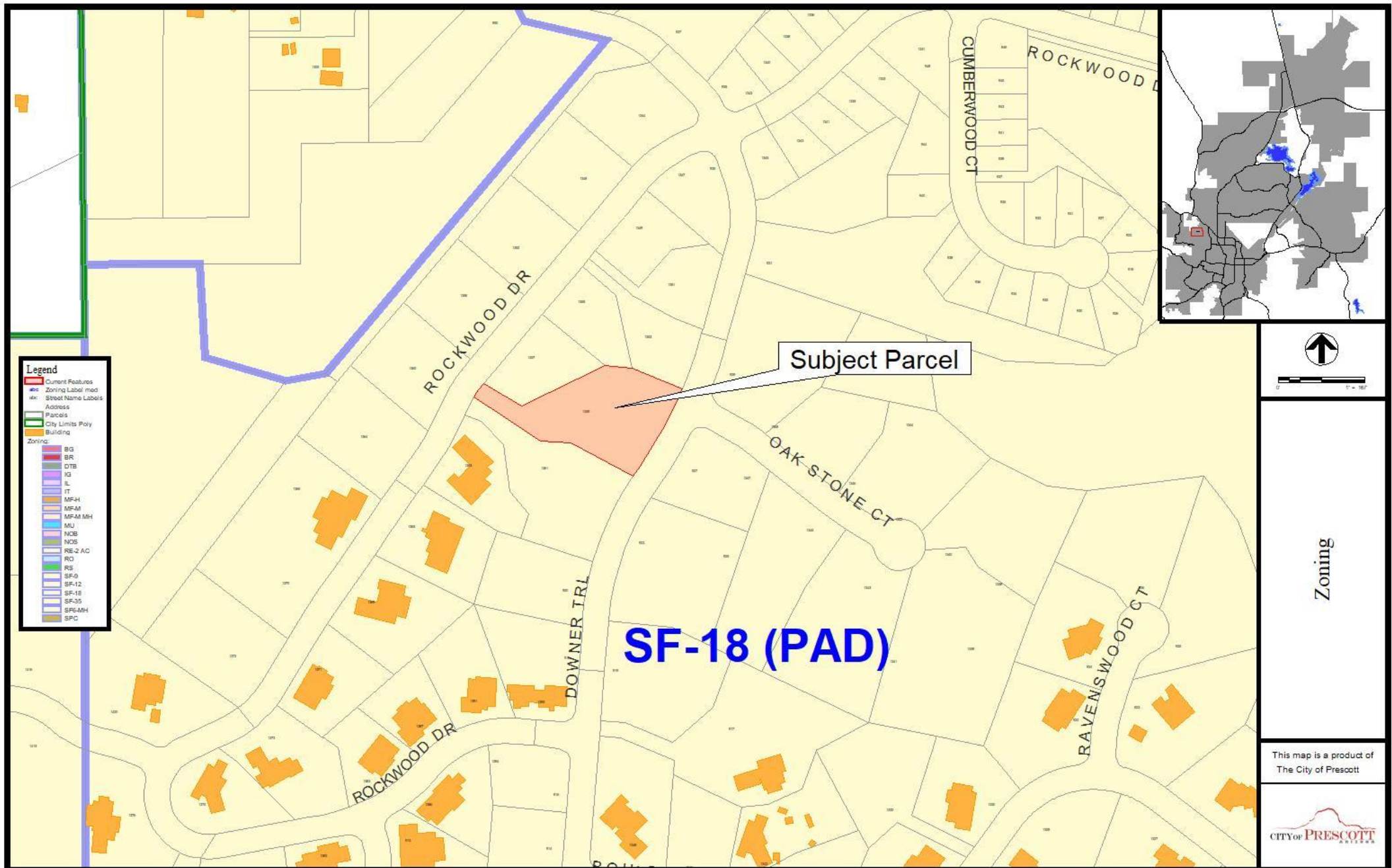
Due to the unique features of the lots in this neighborhood, and our lot specifically, we believe a site visit would give a better perspective on this situation and allow you to evaluate the necessity and the benefits of this variance.

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.

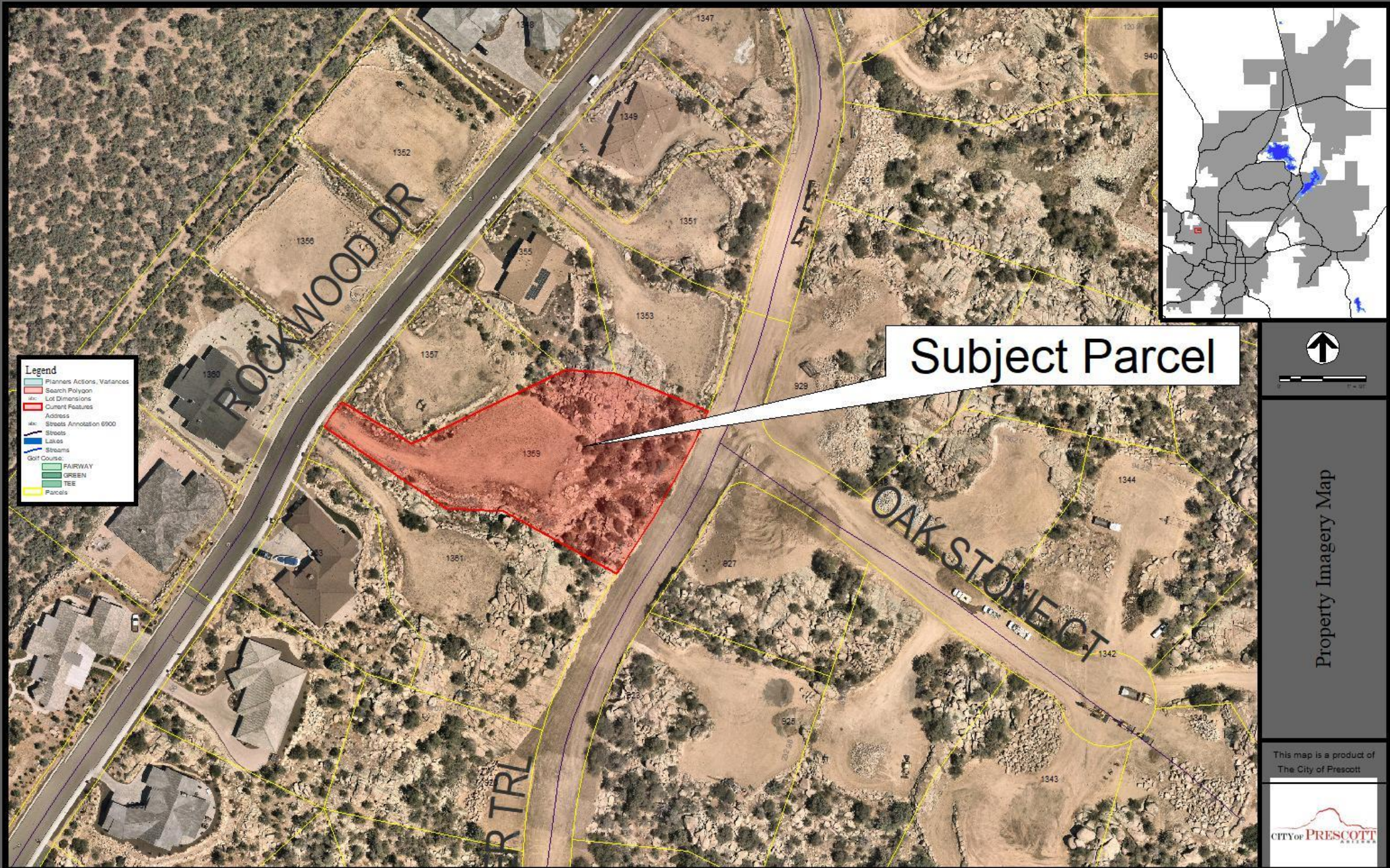
Changing the front set back by 10' will only make it possible for the family to build the home they need.

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

The lot sits behind and below the lots that are adjacent to the roadway. Adjusting the front set back will not change views or encroach on others privacy. A site visit would be best to understand the situation.



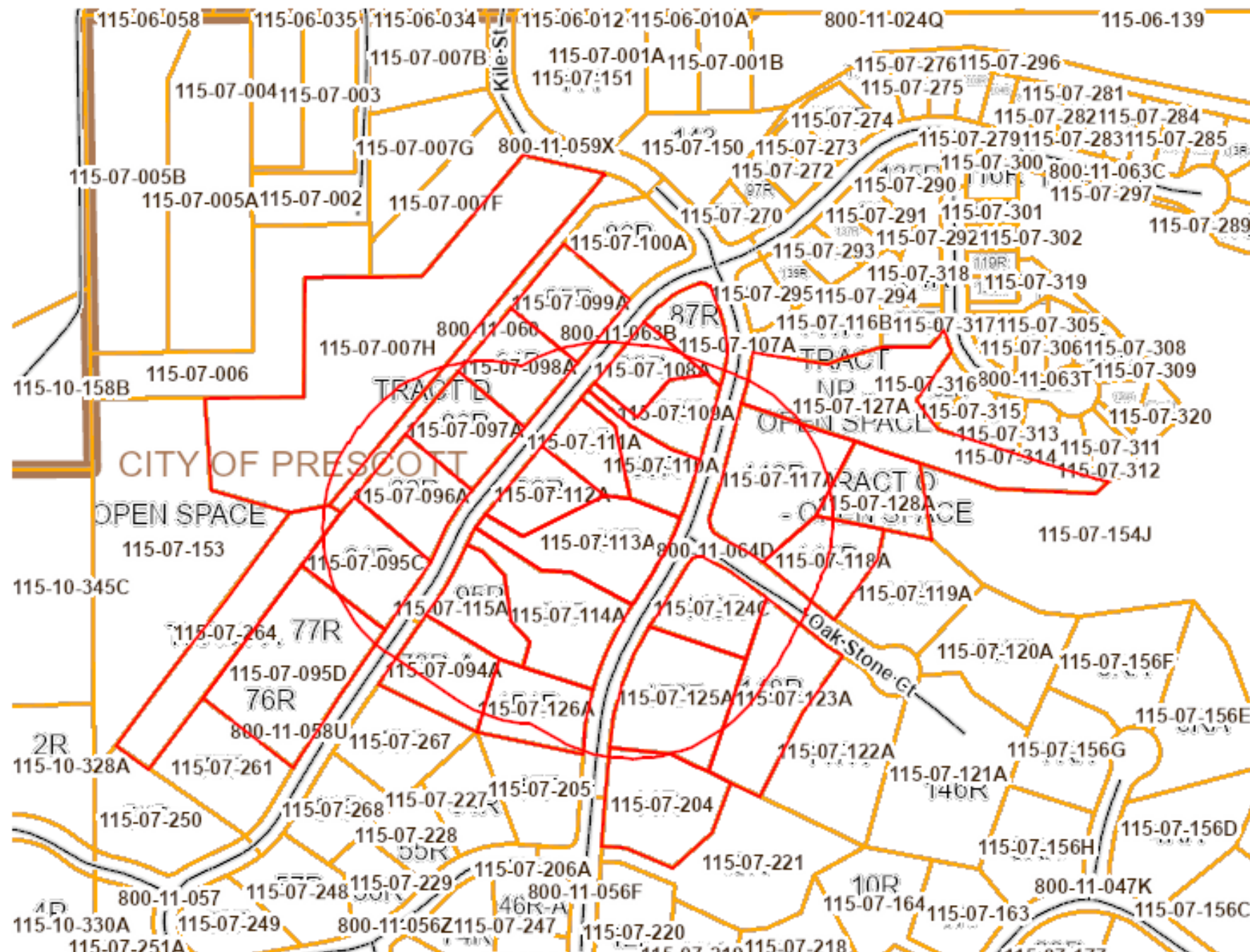




300 ft Buffer Map

Legend

- City Boundaries
- Cottonwood
- Peoria
- Prescott
- Sedona
- Camp Verde
- Chino Valley
- Clarkdale
- Dewey-Humboldt
- Jerome
- Prescott Valley
- Wickenburg
- County Boundary
- Counties
- Parcels
- Major Roads
- Interstate
- State Highways
- Major Roads
- Road Centerlines



View of Building Pad of Lot



View of Encroachment Area and Closest Residence to the North



Subject Parcel

Parcel to South

Access to Lot

City of Prescott
Variance
Application
V23-003
1359 Rockwood Dr.
July 20, 2023
Board of Adjustment
PUBLIC HEARING



TO: MAYOR AND CITY COUNCIL
AGENDA: July 20 Board of Adjustment Agenda
DATE: July 20, 2023
DEPT: Community Development
ITEM #: 3.C
SUBJECT: Public Hearing and Possible Action Regarding CUP23-001, a Conditional Use Permit Request for Tattoo Business Bold As Love Tattoo Per Land Development Code (LDC) Sections 4.8 and 9.3. Location: APN 113-10-039, 625 Schemmer Dr. Zoning: Business Regional (BR). Owner: Beverly Family Revokable Trust. Applicant: Ricky Henderson (Bold as Love Tattoo).

ITEM SUMMARY

This request seeks a Conditional Use Permit (CUP) for a new tattoo parlor in a suite in an existing building. 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.

BACKGROUND

SITE INFORMATION:

The proposed tattoo business is located in a multi-tenant property on a site with designated parking. 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 11am to 6pm seven days a week. Most of the business is by appointment only. In past applications, the Board has focused on hours of operation for tattoo uses and placed 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 commercial properties.

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 which are all commercial properties and uses.

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, is within a building with other businesses and will not impact any adjacent properties.

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 building is existing with other service businesses similar to the proposed tattoo business.

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 has no additional conditions to suggest.

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.

NEIGHBORHOOD COMMENTS:

Staff has not received any public comments regarding this Conditional Use Permit request.

FINANCIAL IMPACT

There is no fiscal impact associated with this item.

RECOMMENDED ACTION

1) MOVE to close the public hearing; and 2) MOVE to approve or deny CUP23-001

ATTACHMENTS

1. Narrative
2. maps and site plan

To Whom it may Concern

I am proposing to open a small tattoo studio at 625 Schemmer Rd. Unit B
Bold as Love Tattoo Studio

There is clear walkways throughout the studio and clear pathways to the exit.

Hours of operation will be from 11:00am - 6:00pm Monday through Sunday.

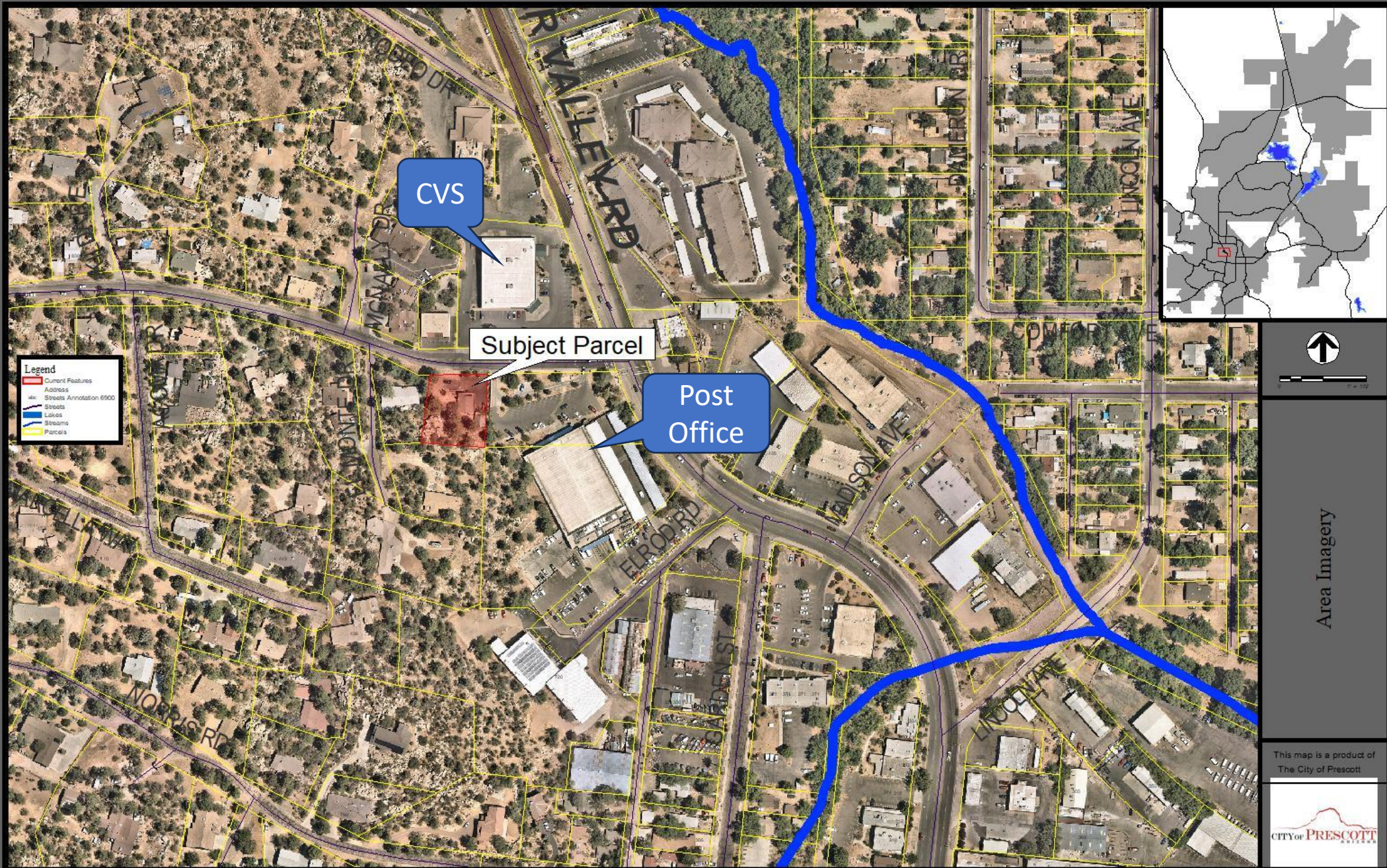
We are wheel chair accessible. There is also designated wheel chair parking
additional to the existing customer parking.

My business will not have any effect on adjacent businesses. Nor will it have any effect on
emergency services or access to the property.

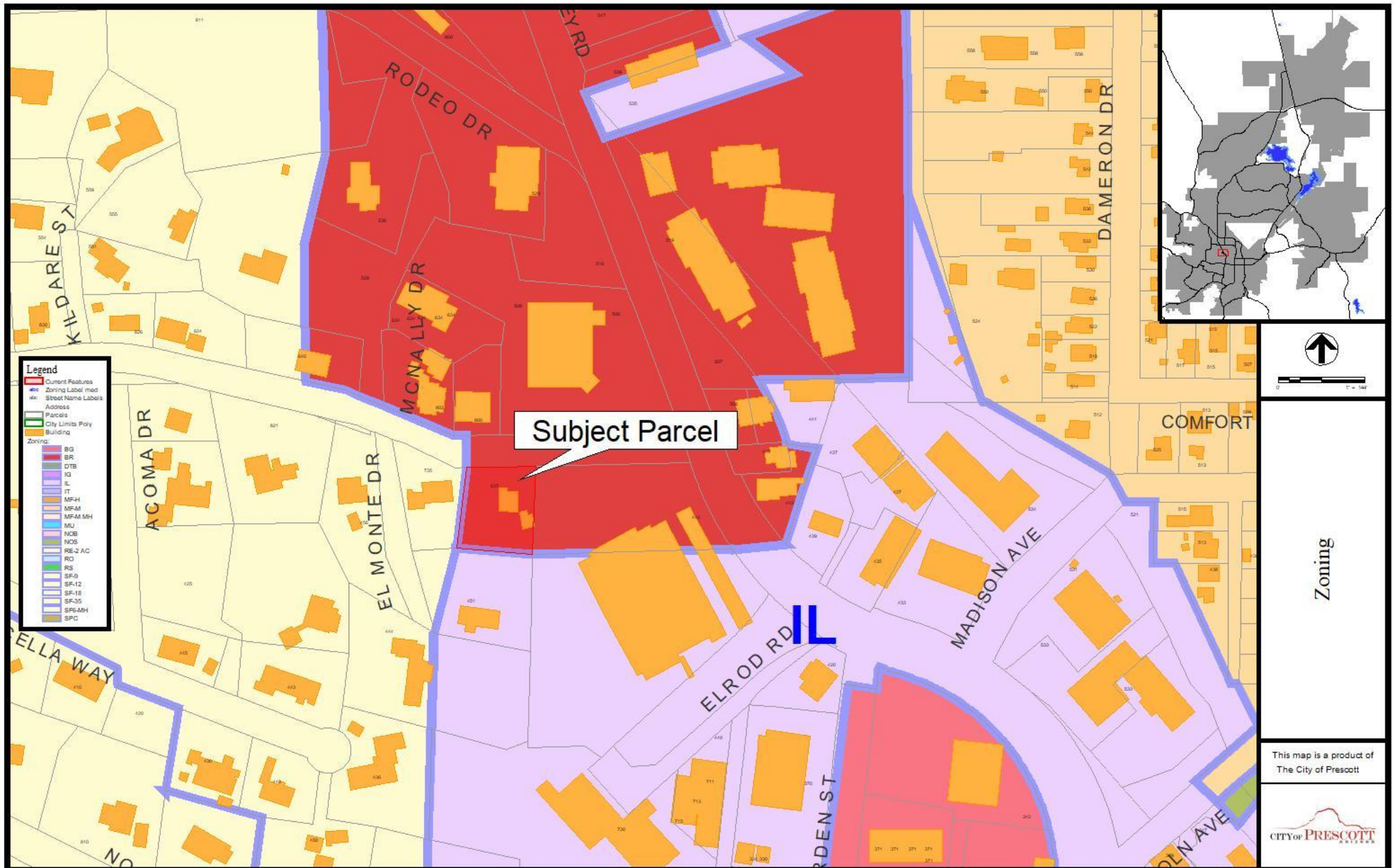
Best

Ricky Henderson

Owner of Bold as Love Tattoo Studio







View of lower parking area and adjacent property



Suite
access

HEALING ARTS
THERAPIES
MASSAGE THERAPY
928-227-7594
SOUND THERAPY • ENERGY WORK
CONNECTIVE TISSUE • CUPPING

WE ARE
OPEN

LOADING
ZONE

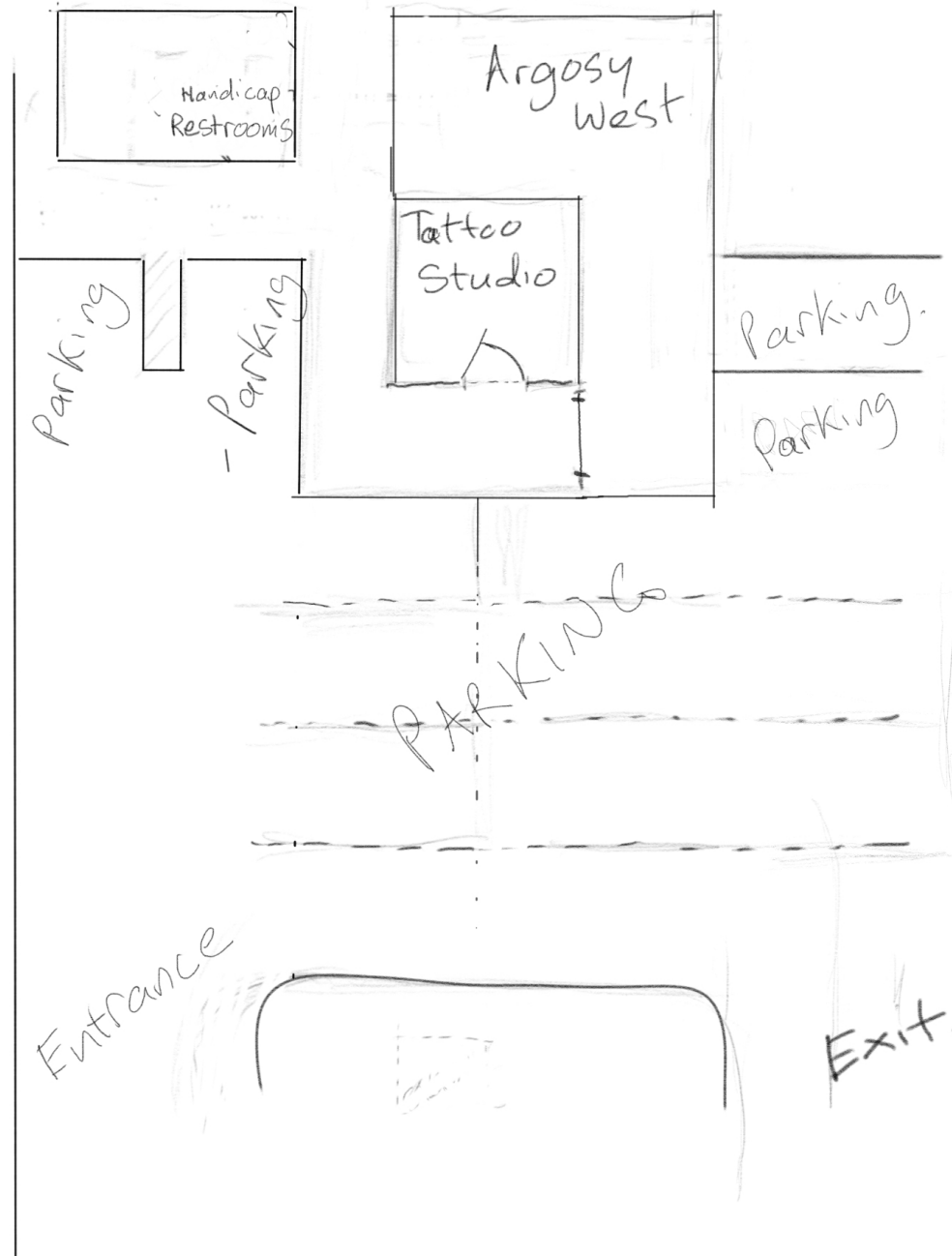


WHITE
PARKING

ARCS WEST
COMPUTERS



Site Plan



Floor Plan

