

City of Prescott

Board of Adjustment



November 16, 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 **November 16, 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 October 19, 2023 Board of Adjustment Meeting Minutes.
Recommended Action: MOVE to approve the minutes as presented

- B. **V23-007** - A Variance to Article 3, Section 3.9.3.F (MF-M/Minimum Setbacks) of the Land Development Code (LDC) to Allow a Reduction of the Required 20' Front Setback by 10' to Allow for a 10' Front Setback for a New Single-Family Residence on a 0.26-Acre Parcel. Zoning: MF-M (Multi-Family- Medium Density). Property Owner: Gerald and Antonina Lee Family Trust. Applicant: Gary and Toni Lee. Location: APN 109-04-081E, South of E Aubrey Street on the West Side of S Alarcon Street.

Recommended Action: MOVE to approve or deny V23-007

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 11/9/23 at 4:45 p.m. in accordance with the statement filed by the Prescott City Council with the City Clerk.

A handwritten signature in cursive script, reading "Sarah M. Siep".

Sarah M. Siep, City Clerk



TO: MAYOR AND CITY COUNCIL
AGENDA: November 16 Board of Adjustment
DATE: November 16, 2023
DEPT: Community Development
ITEM #: 3.A
SUBJECT: Approval of the October 19, 2023 Board of Adjustment Meeting Minutes.

ITEM SUMMARY

This item is for the approval of the October 19, 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 the minutes as presented

ATTACHMENTS

1. October 19, 2023 BOA Minutes



City of Prescott

Board of Adjustment

October 19, 2023 | 9:00 AM
201 N. Montezuma Street
Council Chambers, 3rd Floor
Prescott, AZ 86301

MINUTES

1. CALL TO ORDER

Chairman Jim Lamerson called the meeting to order at 9:01 A.M.

2. ROLL CALL

Members:

Jim Lamerson, Chairman
Tony Teeters, Vice Chairman
James Meyers, Board Member
Mark Hokeness, Board Member
Miriam Haubrich, Board Member
Mary Frederickson, Board Member
Tom Davis, Board Member (Absent)

Staff:

Tammy DeWitt, Community Planner
George Worley, Planning Manager
Chelsea Walton, Interim Community Development Director
Sarah Hilton, Recording Secretary
Connie Cantelme, Councilwoman

3. DISCUSSION & ACTION ITEMS

- A. Approval of the September 21, 2023 Board of Adjustment Meeting Minutes.

MOTION BY BOARD MEMBER HOKENESS TO APPROVE THE SEPTEMBER 21, 2023 MINUTES; SECONDED BY BOARD MEMBER TEETERS: PASSED (6 - 0)

- B. **CUP23-002** - A Conditional Use Permit for a Rental Car Agency Business in the Former Sears Tire Center. Location: 3400 Gateway Blvd., APN 103-20-598J. Zoning: Business Regional (BR) (Land Development Code Sections 4.8 and 9.3). Owner: ESPIRE AZ LLC. Applicant: Stroh Architecture Inc.

Tammy DeWitt, Community Planner presented the request which is seeking a Conditional Use Permit for a new rental car agency in an existing building that was previously used as the former Sears Tire Center. Per the Land Development Code section 2.3, rental car agencies are allowed in the Business Regional zoning district with a Conditional Use Permit.

Ms. DeWitt stated that the proposed use is in conformance with the General Plan and all relevant policies and plans. She stated that the proposed location is within

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

Ms. DeWitt presented a zoning map as well as an aerial map showing the subject property. She then presented a rendering as well as photos of the building that the proposed project will be located in. She stated that there will be no changes to the building and that there is plenty of parking for the proposed use as well as other proposed projects on the property.

Ms. DeWitt presented a floor plan and stated that the existing car bays will be used for cleaning and getting cars ready for rental. There is also a large office area.

Ms. DeWitt stated that the project was reviewed by staff and met all criteria with no issues or concerns. She stated that staff did not receive any comments from neighboring properties.

Board Member Mary Frederickson asked if this process includes signage or if there are additional steps for the applicant.

Ms. DeWitt stated that they will have to get a sign permit and meet code requirements.

Board Member Frederickson asked if the spaces would be marked showing that they belong to the rental car agency.

Ms. DeWitt stated that other rental car agencies have had spaces marked for rental cars as well as spaces for customers.

Board Member Frederickson asked where the proposed hotel will be in relation to the proposed rental car agency.

Ms. DeWitt stated that it will be north of the proposed project in the parking lot there is enough parking for all of the businesses that will be in the area. She stated that there is a parking agreement for the mall area.

Board Member Mark Hokeness asked if staff is aware of any other businesses going in near the subject property.

Ms. DeWitt stated that the mall has new owners and they are re-branding but the City has not heard of any new businesses at this time.

Board Member Hokeness stated that there is paving going on at the mall and asked if they are paving the subject area.

Ms. DeWitt stated that they are.

**MOTION BY BOARD MEMBER TEETERS TO APPROVE CUP23-002;
SECONDED BY BOARD MEMBER FREDERICKSON: PASSED (6 - 0)**

4. STAFF UPDATES

No staff updates.

5. ADJOURNMENT

There being no further business to discuss, Chairman Lamerson adjourned the meeting at 9:12 A.M.

JIM LAMERSON, Chairman

ATTEST:

SARAH HILTON, Recording Secretary



TO: MAYOR AND CITY COUNCIL
AGENDA: November 16 Board of Adjustment
DATE: November 16, 2023
DEPT: Community Development
ITEM #: 3.B
SUBJECT: **V23-007** - A Variance to Article 3, Section 3.9.3.F (MF-M/Minimum Setbacks) of the Land Development Code (LDC) to Allow a Reduction of the Required 20' Front Setback by 10' to Allow for a 10' Front Setback for a New Single-Family Residence on a 0.26-Acre Parcel. Zoning: MF-M (Multi-Family- Medium Density). Property Owner: Gerald and Antonina Lee Family Trust. Applicant: Gary and Toni Lee. Location: APN 109-04-081E, South of E Aubrey Street on the West Side of S Alarcon Street.

ITEM SUMMARY

The applicant is requesting a Variance to allow a reduction in the required 20' front yard setback by 10' to allow for a front setback of 10' to accommodate the construction of a new single-family residence in a Multi Family Medium (MF-M) zoning district. Due to the slope of the property, a large drainage channel on the south side of the property and the presence of a large, old juniper tree 48' from the east property line, they are unable to meet the full front yard setback.

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.

BACKGROUND

There are several other properties in the area that appear to have front setbacks less than what is required by current zoning code. This includes 402, 404, 408, 426, 435 & 444 S. Alarcon St. as well as 409, 421, 422, 426, 431 S. Marina St. This is likely due to similar terrain challenges.

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 the presence of a large,

mature Juniper tree 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 negatively 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 many of them do not meet the current, required front setback as well. 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 location to build a house is limited due to a steep drop off in terrain in the middle of the property as well as the aforementioned drainage issues and presence of a large Juniper they would like to preserve.

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: The proposed residence could not be constructed without this variance. There is no other location on the property to construct a residence. The special circumstances the site deprive the applicant of options available to other properties in the district.

NEIGHBORHOOD COMMENTS:

Staff has not received any comments from the public.

Recommended Action: Move to Approve/Deny V23-007, to allow a reduction of the required 20' front setback by 10' to allow for a 10' front setback for a new single-family residence.

FINANCIAL IMPACT

There is no fiscal impact at this time.

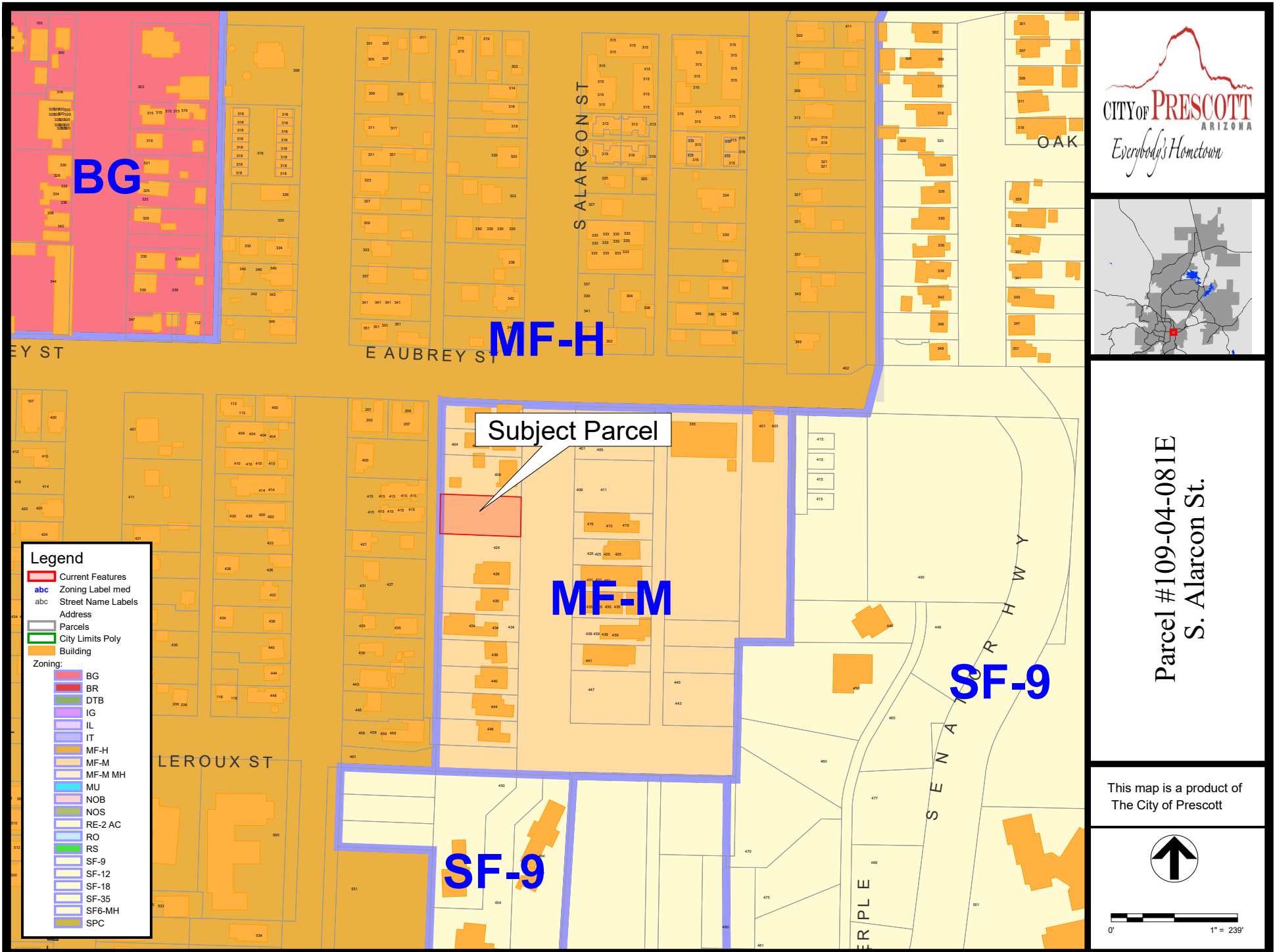
RECOMMENDED ACTION

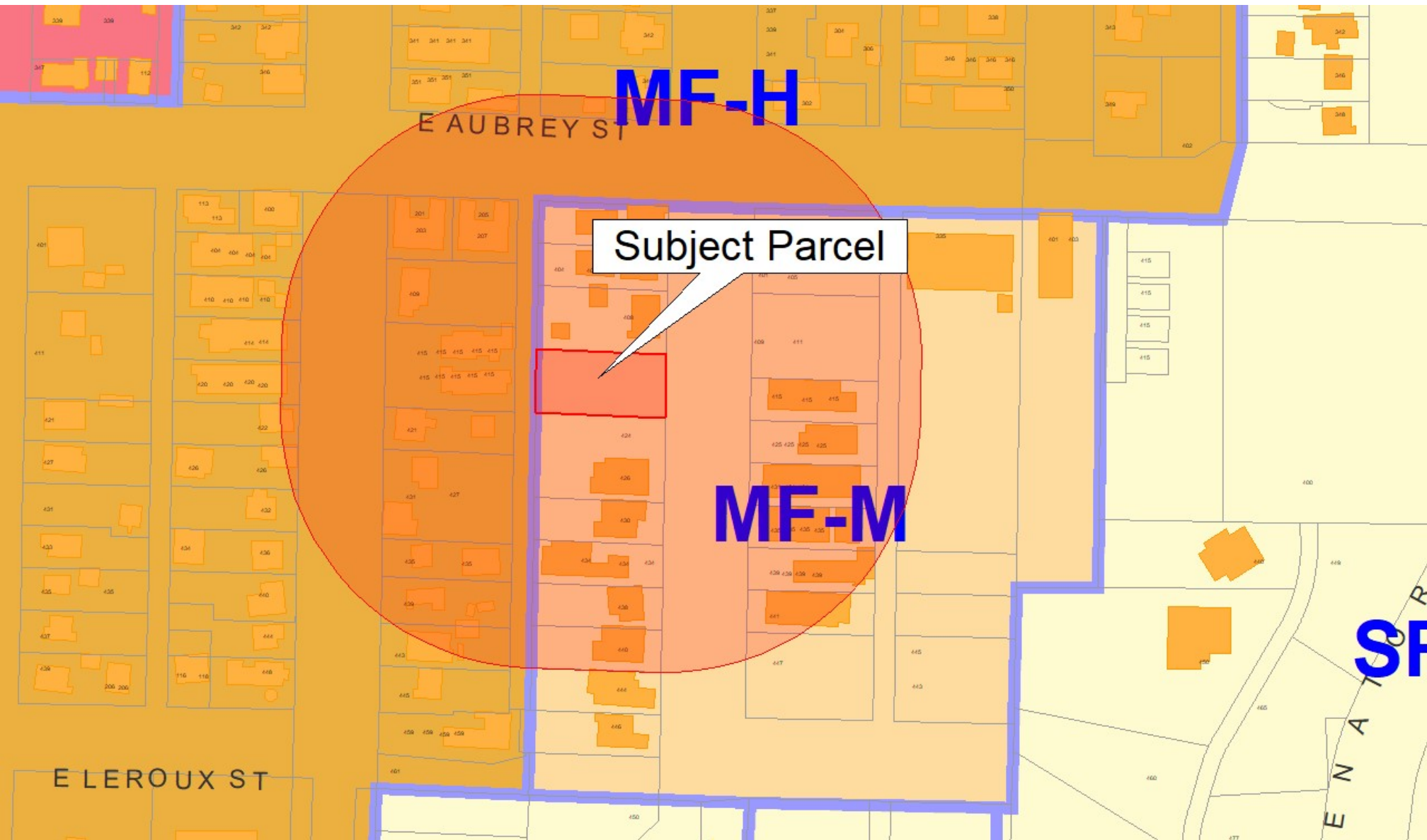
MOVE to approve or deny V23-007

ATTACHMENTS

1. 1 Aerial Map
2. 2 Zoning Map
3. 3 Mailing Buffer Map
4. 4 Variance Questionnaire
5. 5 Map of Drainage and Tree
6. 6 Photos







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.

Parcel 109-04-081E is the only parcel that has a culvert that drains rain/flood water from the entire residential area south of the parcel. The water then flows west and north forming a large dispersement area as part of the City of Prescott drainage plan. As such the area is unsuitable for building. An addition topographic feature of the middle of the parcel consists of wide ravine/wash which starts at the curb and drops off sharply. The onle potential building site is located at the northeast corner of the lot with a small 20' by 20' foot relatively level area. 10' of that area is taken up by the north side setback (see attachment 1).

A very large and very old juniper tree with a large canopy is located 48' from east property line. We would be unable to save the tree without a variance (see attachment 2).

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.

Other homes in the vicinity of the parcel have setbacks of less than 20' which gives them more level ground and better construction options as well as minimizing the disruption to the terrain. We are simply looking for the same consideration.

Addresses: #s 402, 404, 408, 426, 435 and 444 S. Alarcon St.

409, 421, 422, 426, 431 S. Marina St.

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).

Due to the limitations of the terrain and the need to preserve the established drainage dispersment flood area, coupled with compliance with side setbacks and the limited amount of relatively level space our only option of having access from Alarcon to the house is if we are granted the 10 ' variance on the front of the lot (East). We would really like to minimize the disruption to the existing terrain and preserve as much of the existing vegetation as possible. We loved this parcel at first sight. It is something from old Prescott, with large trees and habitat for wildlife. We are planning a modest home that takes very little space so that the rest of the lot can be left as undisturbed as possible. We want our impact to be minimal both on the land and our future neighbors. We feel the variance will help us achieve that.

Thank you for your consideration.

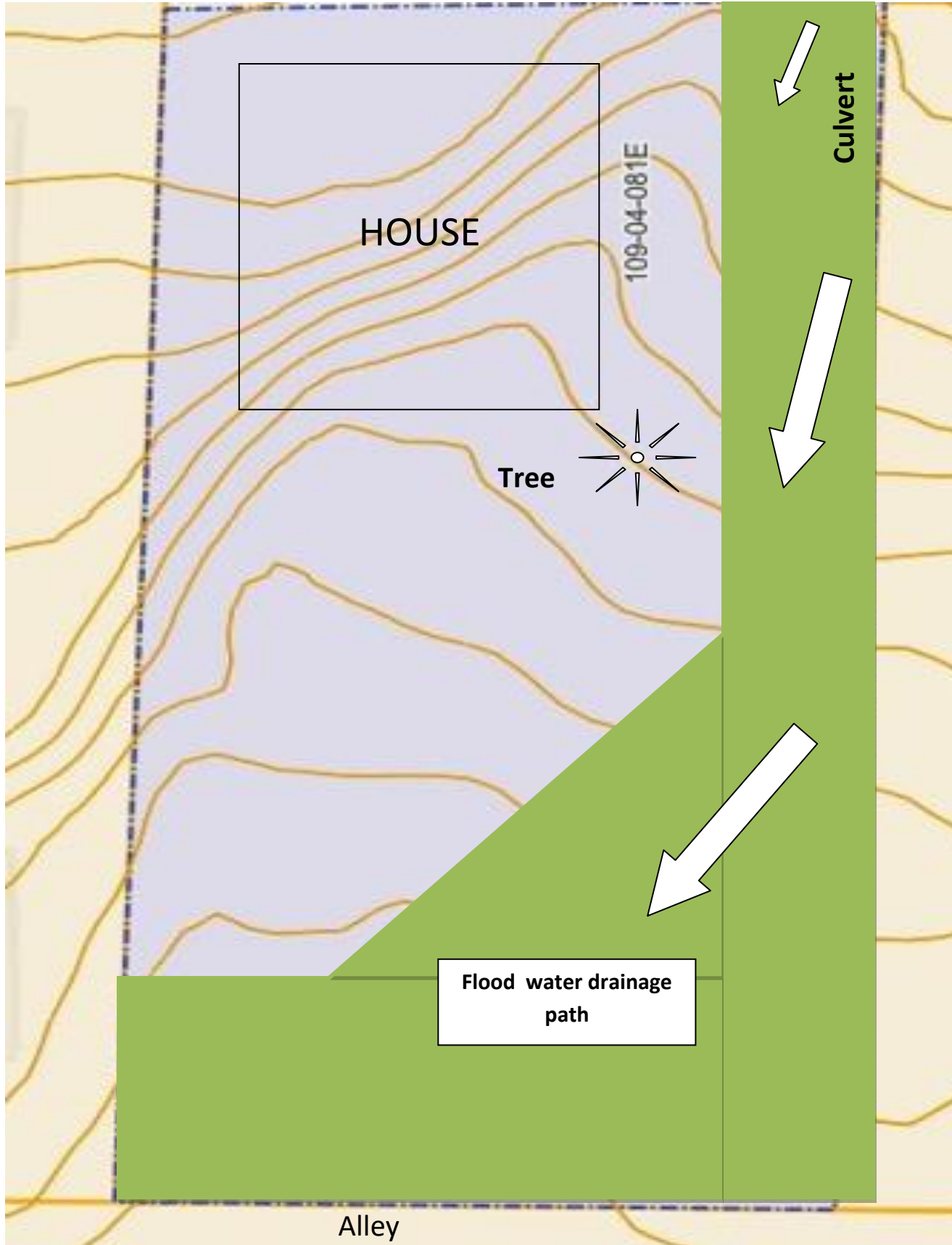
4. Indicate why granting the requested variance will not confer upon the applicant any special privilege that is denied by the Land Development Code to other owning lands, structures or buildings in the same district.

As this is the only vacant parcel and most of the single family homes and some of the multi-family homes on the street do not have setbacks of 20' the variance will simply put the house at the same level as the other residences.

There is no special privilege involved.

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

There is nothing in the proposed variance that would injure or interfere with the rights of other properties on the street. If anything it will help the house blend better in the existing neighborhood.



NE Corner Facing South



Front (East Side) of
Property Facing West



Facing W/SW
Down Slope and
Drainage Channel





