

Staff Summary Report

Development Review Commission Date: 08/14/07

Agenda Item Number: 11

SUBJECT: Hold a public meeting for an Appeal of the Hearing Officer Approval for UNION PLAZA-BODY ACCENTS TATTOO AND PIERCING STUDIO located at 1524 North Scottsdale Road.

DOCUMENT NAME: DRCr_BODYACCENTSTATTOOAPEAL_081407

SUPPORTING DOCS: Yes

COMMENTS: Request an Appeal of the Hearing Officer Approval for **(PL070211)** by North Tempe Neighborhood Association: (Darlene Justus., Applicant) for an appeal of the approval of Body Accents Tattoo and Piercing Studio, located at 1524 North Scottsdale Road in the CSS, Commercial Shopping and Services District. The request includes the following:

UPA07005 – Appeal of the approval of Use Permit (ZUP07067) for a tattoo and body piercing studio.

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)

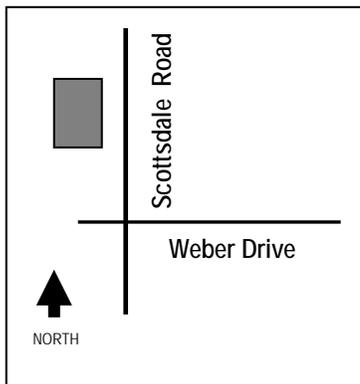
REVIEWED BY: Steve Abrahamson, Planning and Zoning Coordinator (480-350-8359) *SEA*

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Denial of the appeal

ADDITIONAL INFO:



Gross/Net site area	2.79 acres
Total Building area	38,000 s.f.
Tenant area	1,500 s.f.
Vehicle Parking Required	137 spaces
Vehicle Parking Provided	152 spaces

A neighborhood meeting is not required with this application (appeal).

North Tempe Neighborhood Association (Darlene Justus, Representative) is requesting an appeal of the June 27, 2007 Hearing Officer's approval of a use permit for Body Accents to allow a tattoo/body piercing studio located at 1524 North Scottsdale Road in the CSS, Commercial Shopping and Services District. The Hearing Officer reviewed the use and determined it complies with the criteria for approval of the use permit. To date, the only public input received has been the letter of appeal. Staff recommends denial of the appeal, thus upholding the Hearing Officer's approval of the use permit.

ATTACHMENTS:

1. List of Attachments
 2. Comments / Reasons for Denial of Appeal
 3. Hearing Officer's Conditions of Approval / History & Facts
 4. Zoning & Development Code Reference
-
1. Location Map(s)
 2. Aerial Photo(s)
 3. Letter of Intent
 4. Appeal Letter from North Tempe Neighborhood Association
 5. Other Documentation from North Tempe Neighborhood Association
 6. Hearing Officer Approval Letter (June 28, 2007)
 7. Site plan
 8. Floor Plan
 9. Staff Photograph(s)

COMMENTS ON APPEAL:

Body Accents Tattoo and Body Piercing went before the Hearing Officer on June 27, 2007 to request a use permit to allow a tattoo/body piercing studio within the Union Plaza at 1524 North Scottsdale Road in the CSS, Commercial Shopping and Services District. Five (5) neighbors appeared to oppose the use permit request. The concerns were comprised of noise/music levels, loitering, secondary effects, health issues, and the suggestion that tattoo studios are an unregulated business. The Hearing Officer stated the tattoo industry is largely a self-governing industry. At the Hearing Officer's request, staff crafted an additional condition to install a no loitering sign to ease neighborhood concerns. One citizen indicated his support for the use permit request and asked the City to give this business a chance to succeed on its own merits. The Hearing Officer approved the use permit, subject to twelve (12) conditions of approval.

The North Tempe Neighborhood Association (N.T.N.A) filed an appeal of the use permit approval. The N.T.N.A feels the business may cause "secondary effects" creating a "skid row effect" in this area. A neighboring business Hickman Plumbing, has hinted at relocating if a tattoo studio is allowed at this location. The N.T.N.A also believes a tattoo business will detract revitalization efforts along the Scottsdale Road corridor.

The Hearing Officer indicated a tattoo business would not cause secondary effects to the surrounding community. He pointed-out the industry has become more mainstream and is no longer considered with the taboo as it has in past. Staff recommends denial of the appeal, thus upholding the Hearing Officer's approval of the use permit.

COMMENTS FROM HEARING OFFICER 6/27/07:

Body Accents is requesting approval of a use permit for a tattoo and body piercing studio. The proposed business will occupy 1,500 s.f. within the north building of Union Plaza. The property is located on the west side of Scottsdale Road between Weber Drive and McKellips Road. The proposed floor plan indicates three (3) tattoo rooms and one (1) body piercing room with a separate sterilization area. The applicant states the business will be staffed by three (3) employees with the hours of operation will be twelve o'clock (12:00) p.m. to nine o'clock (9:00) p.m. Monday through Saturday and twelve o'clock (12:00) p.m. to six o'clock (6:00) p.m. on Sunday.

Staff received one letter of opposition regarding the original request. The letter stated the request is inappropriate and doesn't belong adjacent to a residential neighborhood. The author believes the tattoo studio at Rural Road and University Drive (Club Tattoo; 825 South Rural Road) already serves north Tempe and another tattoo studio in the area should not be permitted.

REASONS FOR DENIAL OF THE APPEAL:

1. Traffic generated by this use should not be excessive.
2. There will be no apparent damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.
3. The use appears to be compatible with the building, site and adjacent property.

THE HEARING OFFICER'S CONDITIONS OF APPROVAL 6/27/07:

1. Prior to the Use Permit becoming effective, the establishment must have written procedures on the proper handling and sterilization of equipment and demonstrate that all personnel are trained in the procedures.
2. Prior to the Use Permit becoming effective, all practitioners must have training in blood-borne pathogens and cross-contamination.
3. Prior to the Use Permit becoming effective, the establishment must post and provide to customers, upon request, written instructions on tattoo care.
4. All business signs shall have required sign permits obtained prior to installation.
5. The use permit is valid for the plans and business operation as submitted to and approved by the Hearing Officer.
6. This use permit is not transferable. Should the business be sold, the new owners must process through the Hearing Officer for a new use permit.
7. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
8. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
9. Any intensification or expansion of this use shall require that a new use permit be applied for and obtained.
10. A 'No Loitering' sign(s) meeting Crime Prevention Unit specification shall be installed in plain view at the business by business opening.
11. The rear exit door shall have a 6" x 6" lexan vision centered at 63" above finish floor (a.f.f.) by business opening.
12. The non-compliant light fixture at the rear of the suite shall be removed and replaced with a compliant light fixture that complies with Zoning and Development Code, Part 4, Chapter 8. Staff to review, approve and inspect the light fixture within thirty days.

HISTORY & FACTS: Union Plaza; 1428-1526 North Scottsdale Road

- | | |
|-------------------|--|
| April 26, 1990 | <u>BA900088</u> : Use Permit approved for Sutter's Gold to allow Live Entertainment. |
| April 23, 1992 | <u>BA920015</u> : Use Permit and parking variance approved for Sutter's Gold. |
| January 27, 1994 | <u>BA940009</u> : Use Permit Approved for 1001 Fantasies Lingerie. |
| April 26, 1995 | <u>BA950085</u> : Use Permit Approved for an expansion of 1001 Fantasies Lingerie. |
| December 27, 1995 | <u>BA950242</u> : Use Permit Denied for Alley Kat Tattoo. |

February 28, 1996 BA960047: Use Permit Appeal, Denied for Alley Kat Tattoo.
June 27, 2007 ZUP07067: Use Permit approved for Body Accents Tattoo and Piercing Studio
July 11, 2007 North Tempe Neighborhood Association filed an appeal of ZUP07067

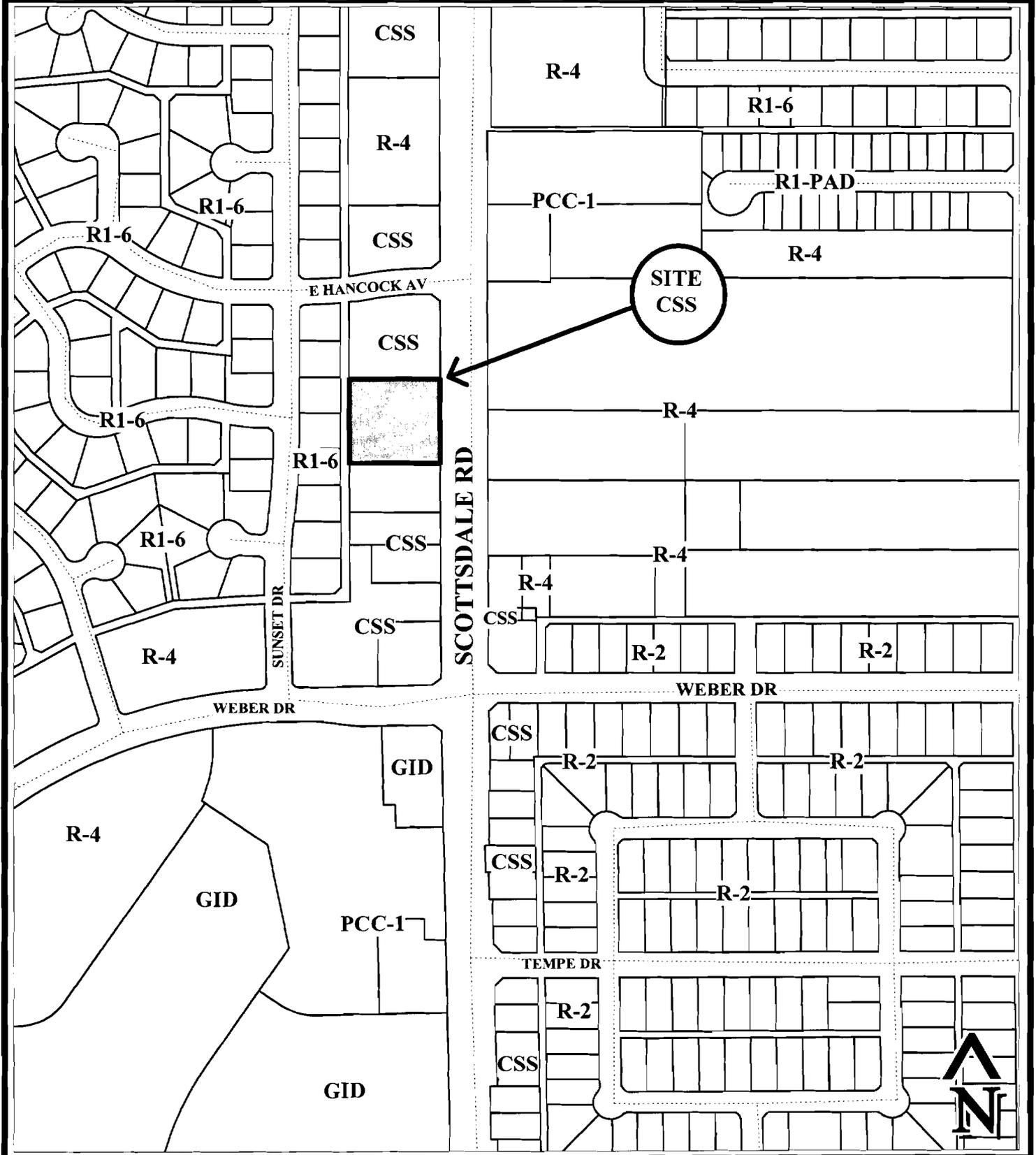
ZONING AND DEVELOPMENT CODE REFERENCE:

Part 3, Chapter 2, Section 3-202 – Permitted Uses in Commercial and Mixed-Use Districts

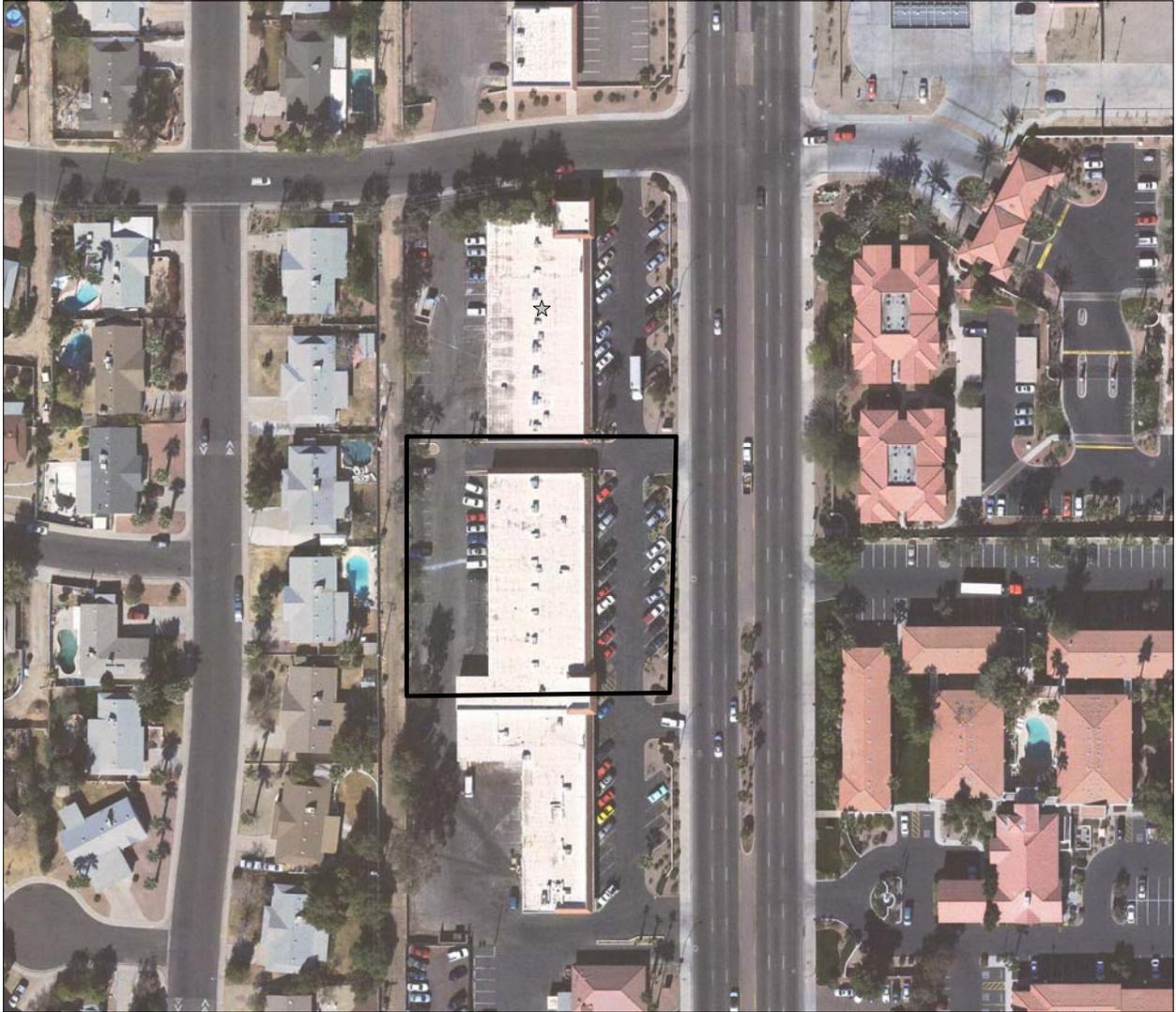
Part 6, Chapter 3, Section 6-308 – Use Permit

**UNION PLAZA -
BODY ACCENTS TATTOO AND PIERCING STUDIO**

PL070211



Location Map



UNION PLAZA - BODY ACCENTS TATTOO AND PIERCING STUDIO (PL070211)

Letter of intent:

For Body Accents Tattoo & Piercing Studio

My name is Elizabeth Preston

I have been working in the services industry for 7 years the last 3 years I have been the manager of Virtual Reality Tattoos,

This business has been running for 13 years, and is doing very well,

All bio hazard waste disposed of properly all health and safety concerns addressed,

It also has a great client list, that I to will also build in Tempe that will include police officers, fire men, blue and white collar workers, moms, dads, and every different type of person that you would want as a client,

It also meets and passes OSHA standers, and with that, I to have plans to build a studio in your city, like this Studio,

That will have the best of every thing, in accordance with OSHA standers and by APT: Alieance of professional Tattooist,

That Bio Hazard waste will be disposed of at a hospital; there will be no bio hazard waste in dumpsters etc

There will be no noise smells or any other annoying things to bother Neighbors from my business

TEMPERANCE DEPARTMENT
SERVICES DEPARTMENT

07 JUN -4 PM 1:19

RECEIVED

It will be run and kept up to the highest standards, to assure the City and Neighbors will be happy to see it thrive.

I am a female looking to start my own business in Tempe,

I believe it will be a great service to the community and to the City to have a female running a studio in the most professional way,

And up to the highest health standards, it will be a very professional studio, that will be run to please the City the Neighbors and Clients coming in,

With no room for concern

We will be open 12-9 Mon-Sat and 12-6 Sundays

We will have 3 people in the studio and about 2-3 customers an hour thus taking only minum parking spots So not to add any congestion to the area.

Thank you for this opportunity.

Elizabeth Preston

July 11, 2007

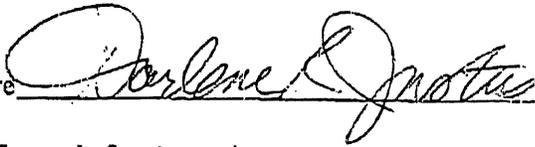
Appeal Request for Use Permit ZUP07067. approved June 27, 2007

- a. Applicant – Elizabeth Preston
Union Plaza – Body Accents Tattoo and Piercing Studio (PL070211)
1524 N. Scottsdale Road

Use Permit ZUP07067 - Use permit for a tattoo and body piercing studio

- b. Petitioner – Darlene Justus, President, North Tempe Neighborhood Association
P.O. Box 1616, Tempe, Arizona 85281
480-529-3584

Signature



Date

June 11, 2007

- c. Grounds for Appeal
1. Clustering of yet another secondary effect businesses, into the proposed location will only add to the creation and perpetuation of an “Adult Use, Secondary Effect Business District” in our neighborhood!

This tattoo and body piercing business wants to locate into a strip mall that already has “Smokin Lingerie”, a Pay Day Loan business, a Liquor Store with many calls for service to the Tempe Police, and an unregulated Bail Bonds that recently established without a hearing. All are in the same strip mall.

Report attached. Effects of clustering Adult Use businesses... ..
Refer to Town of Southeast, Adult Use Zoning Planning Report, August 18, 2005
Town of Southeast, New York
“Adult uses in close proximity to one another can create a “skid row effect.”

2. We do not want to lose another good north Tempe business. Hickman Plumbing, at 1522 E. Scottsdale Road, will relocate if the tattoo parlor locates next to their business.

Hickman Plumbing is owned by long time north Tempe residents. Hickman Plumbing is the type of businesses that our neighborhood needs!

Hickman Plumbing (Plumbing, Heating & Cooling) pays Tempe sales taxes for all jobs done in the City of Tempe. A tattoo and body piercing business does not pay sales tax on tattoos and piercing, only on any jewelry sales and that would be very minimal.

A plumbing business does not create secondary effects in a neighborhood.

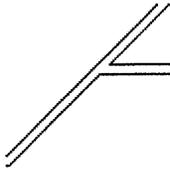
3. We are working with the City of Tempe to create a revitalization district encompassing the Scottsdale Road Corridor in north Tempe. A tattoo and body piercing business is not in the best interest of a commercial revitalization district or for our neighborhood.
4. A tattoo and body piercing business, clustered with other secondary effect businesses, will not enhance a Tempe Gateway commercial corridor or help with commercial revitalization.

We are working to establish a Tempe Gateway in north Tempe. We have been working with the owners of Valero, a new gas station which will be located at McKellips and Scottsdale Roads. They have up graded their plans, the faced of the building, canopy posts, screening wall and landscaping. They are planning to locate a Tempe Gateway feature on the corner of their business in the near future. This is yet another example of our efforts and local business' efforts to revitalize our commercial Scottsdale Road corridor.

A tattoo and body piercing business, clustered with other secondary effect businesses, will not enhance our Tempe Gateway commercial corridor.

5. There are enough tattoo parlors in Tempe to accommodate the tattoo and body piercing needs of our neighborhood.
6. Many cities and communities across America offer programs for young folks to have hand and face tattoos removed so that they can again become employable. This is a very costly and painful procedure. We do not need another tattoo and body piercing business in Tempe.
7. We have serious concerns regarding loitering, loud music, extended hours of operation, health and safety issues, needle reuse and sterilization techniques, serious body piercing complications and marketing to youth.

HICKMAN PLUMBING, INC.



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Part of that service is this Web site where you can get answers to many of your questions about home comfort, plumbing and/or electrical service. Learn how to save energy and get the absolute most from your home-comfort dollar.

You'll find resources here that will not only help you make better decisions to ensure the comfort, health and safety of your family, but also, the people you can trust to help you do just that!

If you have further questions, don't hesitate to call us directly at (480) 945-6771.



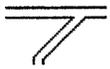
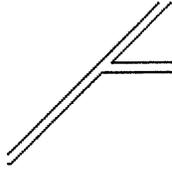
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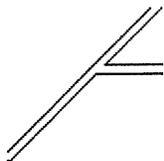
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Ongoing Technical Training Combined with Qualified Supervision and Office Support Results in the Best Service You Can Get

We are committed to providing you with excellent technical service. That's why we require our technicians to attend training sessions on a regular basis. Not only do you receive service from a trained service technician, but every technician has a highly competent and experienced field supervisor who provides valuable backup to each technician. This allows you the security of knowing that every one of our service technicians can get a second opinion about any technical question they may encounter from a highly qualified expert.

Your field technician is also supported by additional back up. If a question comes up prior to performing any work for you or if a part needs to be special ordered, the technician can access this service with nothing more than a call to the office support team.

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Phone: (480) 945-6771 Fax: (480) 970-1295

Development Services
Department
(480) 350-8331 (Phone)

June 28, 2007

Ms. Elizabeth Preston
Body Accents Tattoo & Piercing Studio
525 South Gilbert Road #3
Mesa, Arizona 85204

**RE: BODY ACCENTS TATTOO AND PIERCING STUDIO
PL070211 / ZUP07067**

FILE COPY

Dear Ms. Preston:

You are hereby advised that at the hearing held June 27, 2007, the Hearing Officer of the City of Tempe, acting in accordance with Section 1-305, Paragraphs C and D, of the Zoning and Development Code:

Approved the request by **UNION PLAZA – BODY ACCENTS TATTOO AND PIERCING STUDIO (PL070211)** Elizabeth Preston, applicant; Colliers International, property owner) located at 1524 North Scottsdale Road in the CSS, Commercial Shopping and Services District for:

ZUP07067 Use permit for a tattoo and body piercing studio.

Subject to the following conditions:

1. Prior to the use permit becoming effective, the establishment must have written procedures on the proper handling and sterilization of equipment and demonstrate that all personnel are trained in the procedures.
2. Prior to the use permit becoming effective, all practitioners must have training in blood-borne pathogens and cross-contamination.
3. Prior to the use permit becoming effective, the establishment must post and provide to customers, upon request, written instructions on tattoo care.
4. All business signs shall have required sign permits obtained prior to installation.
5. The use permit is valid for the plans and business operation as submitted to and approved by the Hearing Officer.
6. This use permit is not transferable. Should the business be sold, the new owners must process through the Hearing Officer for a new use permit.
7. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
8. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
9. Any intensification or expansion of this use shall require that a new use permit be applied for and obtained.

10. A 'No Loitering' sign(s) meeting Crime Prevention Unit specification shall be installed in plan view at the business by ~~July 11, 2007~~ **business opening. MODIFIED BY HEARING OFFICER**
11. The rear exit door shall have a 6" x 6" lexan vision centered at 63" above finish floor (a.f.f.) by ~~July 27, 2007~~ **business opening. MODIFIED BY HEARING OFFICER**
12. The non-compliant light fixture at the rear of the suite shall be removed and replaced with a compliant light fixture that complies with the Zoning and Development Code, Part 4, Chapter 8. Staff to review, approve and inspect the light fixture within thirty (30) days, by ~~July 27, 2007~~ **business opening. MODIFIED BY HEARING OFFICER**

Approvals are specifically conditioned upon the applicant proceeding with the proposed use(s) and/or variance(s) within twelve (12) months of the date of the approval by the Hearing Officer and required by the Zoning and Development Code.

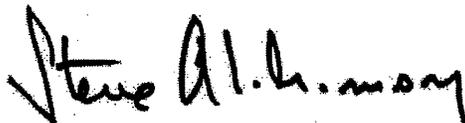
In addition to proceeding with the approvals granted, it is understood that any and all conditions as stipulated by the Hearing Officer as indicated above, shall be fully complied with.

If the action of the Hearing Officer was required for the purposes of rectifying any violations of the Zoning and Development Code, the violations shall be the responsibility of the applicant/owner to fully correct and achieve conformance.

In sign-related violations, corrections shall be made within five (5) days of Hearing Officer action; in all other matters, corrections shall be made within fifteen (15) days of Hearing Officer action, unless specifically conditioned otherwise by the Hearing Officer.

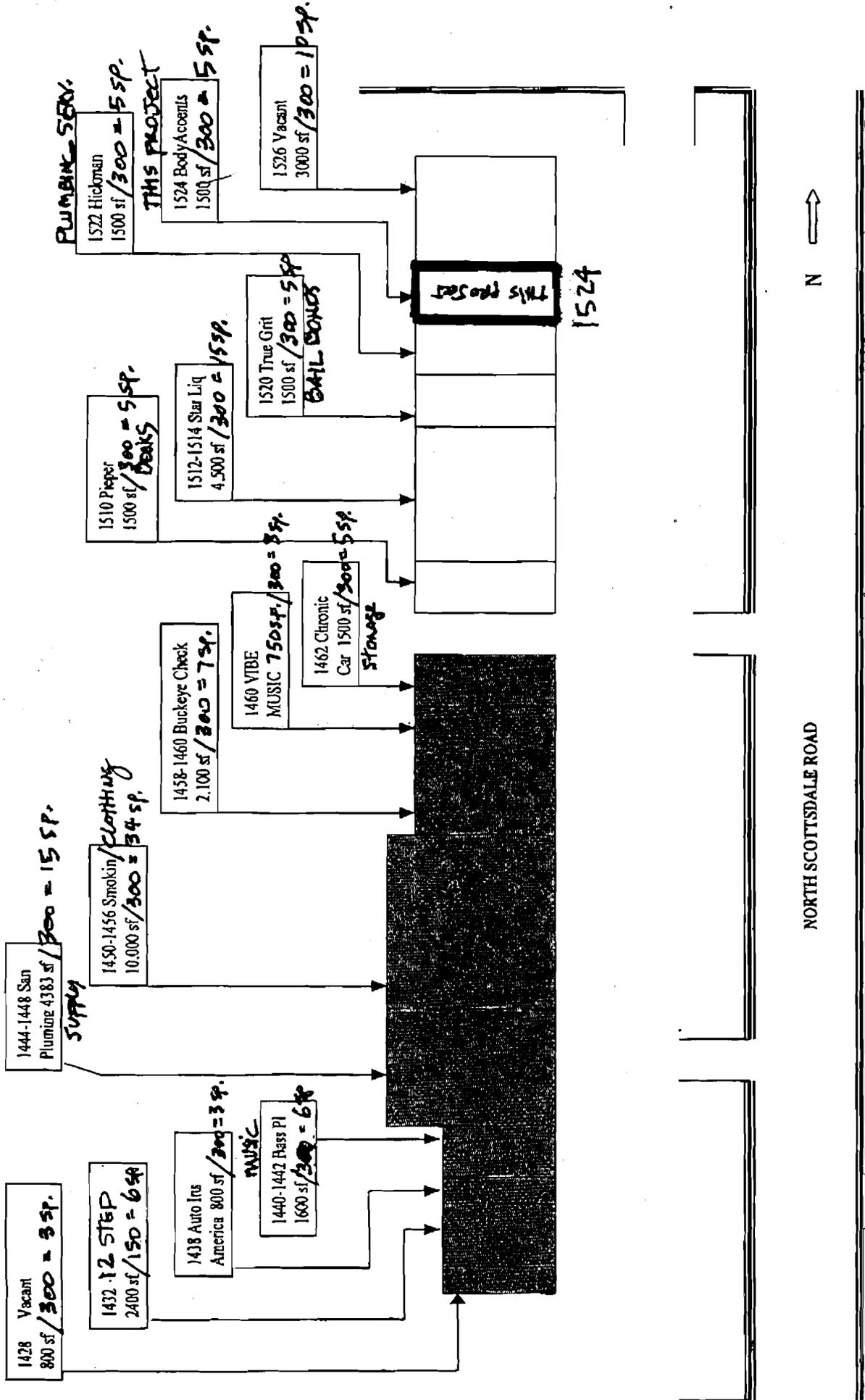
You are further advised that the above does not waive the requirements for obtaining building permits and other clearances as may be necessary.

Sincerely,



Steve Abrahamson
Planning and Zoning Coordinator

cc: Ms. Helen Winn/Colliers International
File



PARKING REQUIRED = 137 SPACES
 PARKING PROVIDED = 152 SPACES

UNION PLAZA
 1428-1526 NORTH SCOTTSDALE ROAD, SCOTTSDALE, ARIZONA

EXHIBIT 'A'
 PARKING CALCULATION

bath rm

bath rm

clean rm
auto clave

copier files hechta graph

office

tattoo rm

tattoo rm

tattoo rm

piercing rm

Lobby

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TEMPERATURE DEPARTMENT
SERVICES DEPARTMENT

07 JUN

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JUN 15 2007

June 10, 2007

Dear Sir,

This is a quiet residential neighborhood, a tattoo and piercing studio is inappropriate. There

already is a tattoo parlor on the east side of Rouse; south

of University.
Please deny the permits.

Sincerely,
Eckel Ott

Opp 709 E. Saguaro Dr. PHOENIX
Tempe, AZ 85281



BODY ACCENTS TATTOO AND PIERCING STUDIO

1524 N. SCOTTSDALE RD.

PL070211

STORE FRONT: VIEW TO WEST



BODY ACCENTS TATTOO AND PIERCING STUDIO

1524 N. SCOTTSDALE RD.

PL070211

ILLEGAL LIGHT FIXTURE: REAR OF BUILDING