

Staff Summary Report



Hearing Officer Hearing Date: July 15, 2008

Agenda Item Number: 5

SUBJECT: This is a public hearing for a request by **SHALL WE DANCE PHOENIX (PL080227)** located at 3163 South McClintock Drive for one (1) use permit.

DOCUMENT NAME: 20080715dssl01

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by **BASHAS VALLEY PLAZA CENTER - SHALL WE DANCE PHOENIX (PL080227)** (Mona Brandt Arvidson, applicant; Weingarten Nostat Inc., property owner) located at 3163 South McClintock Drive in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP08105 Use permit for an entertainment establishment (offering DJ, dancing, private functions) in conjunction with a dance studio.

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

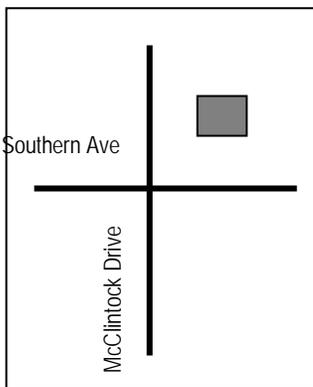
A handwritten signature in black ink, appearing to read 'SEA'.

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions 1-8.

ADDITIONAL INFO: The applicant is requesting approval for a use permit for an entertainment facility in conjunction with a dance studio in the PCC-1, Planned Commercial Center Neighborhood District. The site is located on the northeast corner of Southern Ave and McClintock Drive within the Bashas Valley Plaza. Staff supports the requests with conditions of approval 1-8. To date, staff has received one (1) inquiry regarding this request.



PAGES:

1. List of Attachments
2. Comments;
3. Reasons for Approval; Conditions of Approval; History & Facts
4. Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Site plan
5. Floor Plan
- 6-7. Request for Calls for Service and Report
8. Copy of Correction Notice
9. Copy of Tenant Improvement Permit
10. Staff Photograph(s)

COMMENTS:

The Shall We Dance Center is an existing dance school teaching a variety of styles from beginner to advanced. They are requesting a use permit for an entertainment facility offering DJ's, dancing and reception space for private dances. The business occupies 7,250 s.f. of building area; the hours of operation are from 9AM to 1 AM Daily. According to the applicant's letter, during the day the activities are primarily private lessons with a ratio of 1-2 students per teacher with 8-10 teachers on site. Group classes occur in the evenings between 7 pm to 9 pm where the frequency of students is up to 75 people present on the site, coming and going, within a two hour period. In the evenings, after 8 pm, the business features open dances or is rented for private dances or large group lessons. The applicant did not specify how many nights a week the open dances or private functions may occur.

Public Input

Staff received a call from a surrounding business owner who expressed concern for the control of activities in the parking lot while the facility is hosting open dances or private functions. The caller stated that after a previous private party he was disturbed by gun shots discharged in the parking area, people loitering in the parking area, trash and debris. The Tempe Police Department calls for service report identifies a discharge of weapons violation occurred at this address on May 31, 2008 at 11:57 pm and an assault violation on June 7, 2008 at 11:58 pm. The caller was not opposed to this use permit request if there were provisions made to address patron control and the clean up of debris.

Use Permit

The Zoning and Development Code requires a use permit for entertainment uses within the PCC-1, Planned Commercial Center District. This use permit request meets all applicable tests in the following manner:

Evaluating the use permit, the proposal appears to pass the use permit test listed below:

- a) Any significant increase in vehicular or pedestrian traffic in adjacent areas;
 - There will be no significant increase in vehicular or pedestrian traffic in adjacent areas. The tenant space is approved for an occupancy load of 298 people; as long as the open dances and private functions do not exceed the established occupancy level and continues to operate primarily as a dance studio, the impact to the vehicular or pedestrian traffic level within the center and surrounding area should be minimal.
- b) Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
 - This use will not have any significant impacts of odor, dust, gas, noise, vibration, smoke, heat, or glare. All activity occurs within the interior of the tenant space. A security plan will be developed with the Tempe Police Department to address the control of activities on the exterior of the tenant space.
- c) Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
 - The proposed development would not contribute to neighborhood deterioration or downgrade property values. This use permit request is consistent with the General Plan 2030's Land Use Element. The requested use permit will not be detrimental to the surrounding area, but will further the General Plan Land Use Element Goals and Strategies.
- d) Compatibility with existing surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding uses.

Conclusion

Staff recommends approval of the use permit, subject to conditions.

REASON(S) FOR APPROVAL:

1. Traffic generated by these uses should not be excessive.
2. These uses will not result in the deterioration of the neighborhood or downgrading of property values.
3. The use appears to be compatible with the surrounding structures and uses.
4. The conditions of approval identified below will aid in the mitigation of any potential disruptive behavior both inside and outside the premises.
5. A Police Department Security Plan shall be in place and enforced at all times during business hours.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S) OF APPROVAL:

1. The use permit is valid for the Shall We Dance and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
2. Any intensification or expansion of this use shall require the applicant to return to the appropriate decision-making body for a new use permit. Should the Dance Studio business expand their use to offer liquor sales and consumption; the business would be considered a nightclub or bar which would require a use permit, occupancy clearance and recalculation of the parking requirements.
4. Music generated from the use shall conform to the City of Tempe code requirements for noise control.
5. 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.
6. The applicant shall work with the Tempe Police Department – Crime Prevention Department (480-858-6027) to implement a Security Plan for the business. The security plan to address the control loitering in the parking areas and within the shopping center.
7. There is no outdoor component to the use permit request. All entertainment activity on-site shall be maintained indoors.
8. The applicant is responsible for the clean up of trash and debris created in parking areas following an open dance or private function activity.

HISTORY & FACTS:

- April 16, 2008. A tenant improvement permit was issued to Shall We Dance Phoenix for an adult dance classroom with a maximum occupancy of 278 people.
- May 31, 2008. The Tempe Police Department received a call for service regarding the discharge of firearms at the address of 3163 South McClintock Drive.
- May 7, 2008. The Tempe Police Department received a call for service regarding an assault at the property address of 3163 South McClintock Drive.

DESCRIPTION:

Owner – Weingarten Nostat Inc.
Applicant – Mona Brandt Arvidson
Existing Zoning – PCC-1, Planned Commercial Center Neighborhood District

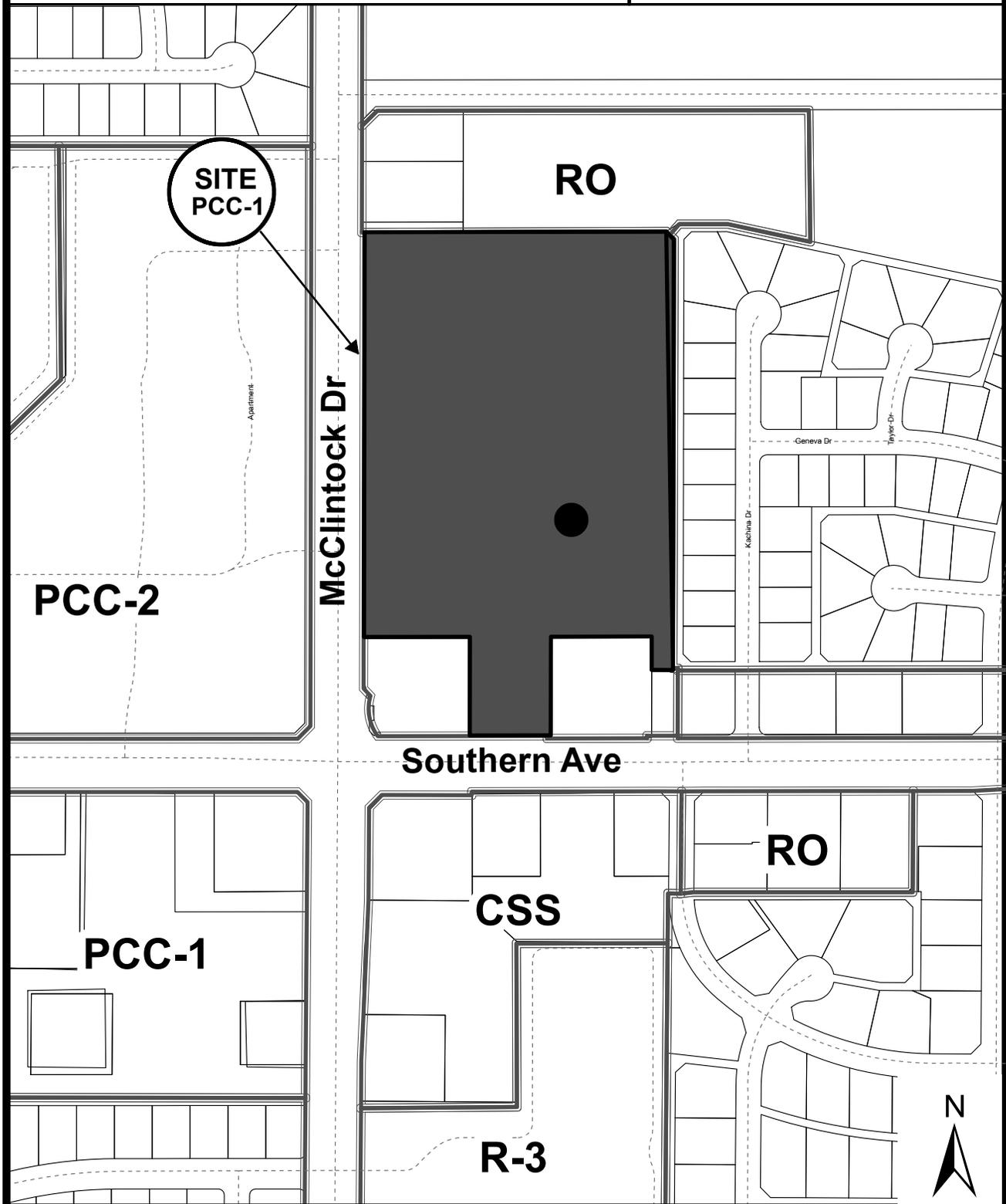
**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

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

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

SHALL WE DANCE PHOENIX

PL080227



Location Map



SHALL WE DANCE PHOENIX (PL080227)

Letter of Explanation

The business is Shall We Dance Phoenix, a dance school, whose primary business is adult dance instruction. Instruction in all forms of dance may occur between the hours of 9AM and 1AM daily. The types of activities may include private lessons, group classes, and practice dances and other dance functions.

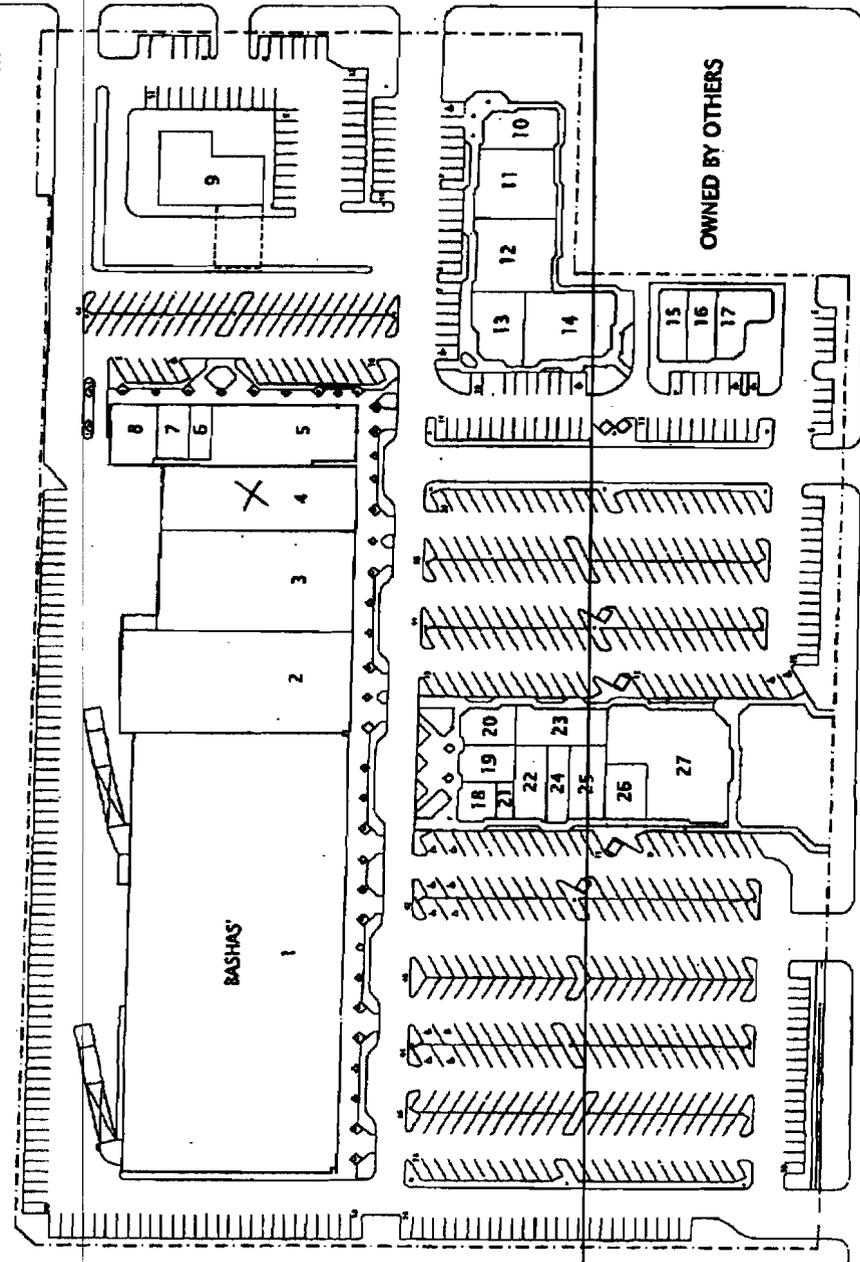
Private lessons occur during the day and evening, and include one or two students for each instructor. Normally there are no more than 8-10 teachers teaching private lessons during any one hour. Group classes occur mainly in the evenings, with the peak hours between 7 and 9 PM. During these times, there may be up to 75 people coming and going in the 2 hour period. Dances occur in the evenings, usually after 8 or 9PM. Customers come and go at varied times during that time, and do not cause significant vehicular or pedestrian traffic in adjacent areas, since they do not arrive or leave all at the same time.

This business has been operating in this fashion, and these activities have not caused significant vehicular or pedestrian traffic in adjacent areas, and have not caused any nuisance to the general public or surrounding area.

The business is applying for a Use Permit for the larger lessons, group classes, practice dances and other functions, which are classified as Entertainment/Amusement by the City of Tempe. This will not change the hours of operation, the number of teachers or customers, or the amount of traffic (vehicular or pedestrian). This will not add any additional nuisance or disruptive behavior. All local, state and federal laws will be complied with. Shall We Dance Phoenix will work with the Tempe Police Department to provide a Security/Safety Plan as required by the Tempe Police Department and this process.

BASHAS' VALLEY PLAZA CENTER

McClintock Drive @ Southern Avenue
Tempe, Arizona



SITE SUMMARY

Building Area: 145,104 Sq. Ft.

1	Bashas'	60,145 SF
2		14,960 SF
3		12,220 SF
4	SHALL WE DANCE	7,480 SF
5	Nello's Pizza	5,199 SF
6	Christian Science Reading Room	765 SF
7	PMT	1,125 SF
8	One Hour Cleaners	1,790 SF
9	Sprint PCS	4,230 SF
10	Taco Del Mar	1,800 SF
11	Otharwides Shoes	3,474 SF
12	Doc Watsons Center For Well Being	2,647 SF
13	Champs	2,543 SF
14		3,534 SF
15	Great Clips	1,250 SF
16	Cafe Wasabi	1,200 SF
17	Starbucks	1,744 SF
18	Subway	900 SF
19		1,235 SF
20	Gold Bar Espresso	1,282 SF
21		422 SF
22		1,440 SF
23	Commercial Credits	2,156 SF
24		1,008 SF
25	Water Nice	1,533 SF
26	Extreme Pita	1,381 SF
27	Modbuster Video	7,023 SF



www.weingarten.com

WEINGARTEN REALTY INVESTORS
2600 CITIZEN PLAZA, SUITE 100, IRVINGTON, TEXAS 77038
P.O. BOX 800333, HOUSTON, TEXAS 77282-4333
(713) 886-9900 TOLL FREE (800) 886-7815 FAX (713) 886-9906

Land Area: 589,266 sf / 13.06 Acres
Building Area: 145,104 sf
Parking: 690 Spaces @ 4.75 /1000sf.

Scale: 1"=40'
REV.: 01.22.2006

0153

Lesser, Sherri

From: Wong, Theresa
Sent: Monday, July 07, 2008 2:02 PM
To: Lesser, Sherri
Subject: RE: Calls for Service
Attachments: 3163SMcClintockDr.xls

Sherri,

I checked our record management system for January 1 through July 6, 2008, and found 3 officer calls for that address. There were also 2 crimes during that time range -- discharge of a weapon to the west of the parking lot of 3163 S. McClintock Dr. and a misdemeanor assault.

I hope the information is helpful. Let me know if you have any questions or would like additional information.

Have a great day!

Theresa Wong
Strategic and Administrative Crime Analyst
City of Tempe Police Department
480-350-8303
www.tempe.gov/cau

From: Lesser, Sherri
Sent: Monday, July 07, 2008 12:09 PM
To: Wong, Theresa
Subject: FW: Calls for Service

Theresa-

I see that is Mona is out of the office until 7/21.... is it possible that you could look up the calls for service for me.

Sherri X8486

From: Lesser, Sherri
Sent: Monday, July 07, 2008 12:06 PM
To: Qureshi, Mona
Subject: Calls for Service

Mona-

I have the following case going to the Hearing Officer of 7/15:

1. Hold a public hearing for a request by **BASHAS VALLEY PLAZA CENTER - SHALL WE DANCE PHOENIX (PL080227)** (Mona Brandt Arvidson, applicant; Weingarten Nostat Inc., property owner) located at **3163 South McClintock Drive** in the PCC-1, Planned Commercial Center Neighborhood District for:

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I know they had an incident in either May or June, could you send me a calls for service report for the past three months.

Sherri

07/09/2008

ATTACHMENT 6

**Citizen and Officer Calls
3163 S. McClintock Dr.
January 1 - July 6, 2008**

Date	Time	Call Type	Disposition
06/07/2008	23:15	SUBJSTOP	OTHER
06/07/2008	23:38	SELFINIT	REPORT
06/07/2008	23:38	SELFINIT	REPORT

**UCR Part I and II Crime
3163 S. McClintock Dr.
January 1 - July 6, 2008**

Date	Time	Offense Description	Disposition
05/31/2008	23:57	DSCHRGWEAP	OTHER DISPOSITION
06/07/2008	23:38	ASSAULT/MISDEMEANOR	EXCEPTIONALCLEARANCE-ADUL

A

City of Tempe *Mylan - Recp*



Development Services Department - Commercial Code Compliance

Correction Notice

Business SHALL WE DANCE

Address 3163 S. McCLINTOCK DR.

This site has been inspected and violation(s) have been identified.
Please correct as noted below

NOTE: YOUR BUSINESS IS IN VIOLATION
OF THE CITY OF TEMPE ZONING
AND DEVELOPMENT CODE SECTION
3-202(A). A USE PERMIT SHALL BE
REQUIRED IN ORDER TO USE THE
BUSINESS AS A BANQUET FACILITY.
PLEASE CONTACT THE PLANNING DEPT
AT 480-350-8921 TO OBTAIN A USE PERMIT
TO AVOID FURTHER ENFORCEMENT ACTIONS.

THANK YOU

By MARVIN WHITE Phone # 480-350-8966

Date 6-5-08

Development Services Department

City of Tempe
 P.O. Box 5002
 31 East Fifth St.
 Tempe, AZ 85280



**Building Safety
 BUILDING PERMIT**

Permit No.: **BP080590**
 Tracking No.: **DS080400**
 Applied Date: **04/10/2008**
 Work Class: **TI**
 Valuation: **\$24,800.00**

Description of Work: **TI**
 Project Address: **3163 S MCCLINTOCK DR**
 Structure:
 Parcel Number: **13334006R** Zoning: **PCC-1**
 Applicant: **SHALL WE DANCE PHOENIX**
 Phone: **281-830-9929**

Validated by: **CT**

Occupancy Group(s):	B*	B*	B		
Ares(s):	896	4,448	448		
Occupant Load:	49	244	5	0	Total: 298

Construction Type/AFES: **III-A /Y** Use(s): **ADULT DANCE CLASSROOM**
 Existing Bldg Area: Existing Use: **GYM/NURSERY**

Building Addition Area:		Building Permit Fee:	\$461.88
TI (Suite) Area:	7,250	Supplemental PC Fee:	\$0.00
Total Building Area:		Plan Review on Standard Plans:	\$0.00
Stories/Height:	0 / .ft	Additional Plan Review:	\$0.00
% Lot Coverage:		Planning Plancheck Fee:	\$0.00
No. Dwelling Units:		Residential Development Tax:	\$0.00
No. Guest Rooms:		Investigation Fee:	\$0.00
Parking-Total Required:		Total Fees:	\$461.88
Parking-Total Provided:		Fees Paid:	\$0.00
Affidavits/Type:	N	Balance:	\$461.88

Special Inspec req'd/type: **N**
N
N

Legal Description:

Deferred Submittal: **N**
N
N
N
N

Miscellaneous: **B* - OCC LOAD FACTOR OF 20 USED FOR ADULT DANCE CLASSROOM**

Planning/Engineering: **N/N**

I have read and agree to the General Conditions and Notices as they appear on the front and back of this permit.

Certification by Permittee

I hereby certify that I agree to comply with all applicable laws and ordinances regulating building construction. I understand that the issuance of a permit based upon plans, specifications and other data does not give authority to violate or cancel any provisions of any state or local laws and does not prevent the City of Tempe from requiring the correction of errors or from preventing building operations being carried on when in violation of said laws. I further certify that all contract work authorized by this permit will be done only by contractors holding valid privilege tax licenses issued by the State of Arizona.

B44034-1-04/17/08-Check

461.88

VOID WITHOUT VALIDATION

Permittee: (please print)

M. J. ...

Phone:

(480) 112

Signature:

[Signature]

Date:

CUSTOMER



**BASHAS VALLEY PLAZA CENTER –
SHALL WE DANCE PHOENIX**

3163 SOUTH MCCLINTOCK DRIVE

PL080227

FRONT OF BUSINESS