

# Staff Summary Report



Hearing Officer Hearing Date: April 1, 2008

Agenda Item Number: 6

**SUBJECT:** This is a public hearing for a request by **SMOKE MART (PL080078)** located at 818 West Broadway Road, Suite 105A for one (1) use permit.

**DOCUMENT NAME:** 20080401dsac01

**PLANNED DEVELOPMENT (0406)**

**SUPPORTING DOCS:** Yes

**COMMENTS:** Hold a public hearing for a request by **SMOKE MART (PL080078)** (Saleem Masri, applicant; MPB Realty Services, property owner) located at 818 West Broadway Road, Suite 105 in the CSS, Commercial Shopping and Services District for:

**ZUP08033** Use permit to allow a smoke shop.

**PREPARED BY:** Alan Como, Planner II (480-350-8439)

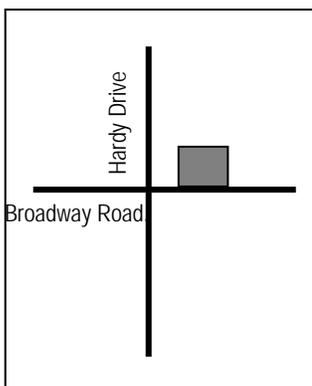
**REVIEWED BY:** Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

**LEGAL REVIEW BY:** N/A

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff – Approval subject to Conditions 1-4

**ADDITIONAL INFO:** Smoke Mart is requesting a use permit to allow a smoke shop/tobacco retailer in a CSS, Commercial Shopping and Services district. The applicant plans to sell tobacco, hookah pipes and other tobacco related products, snacks and refreshments, knives, and apparel. Staff supports the request for the use permit as it meets the criteria in the Tempe Zoning and Development Code.



**PAGES:**

1. List of Attachments
2. Comments; Reason for Approval
3. Conditions of Approval; History & Facts/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. Staff Photograph(s)

## COMMENTS:

Smoke Mart is requesting a use permit to allow a smoke shop in a CSS, Commercial Shopping and Services district. The applicant plans to sell tobacco, hookah pipes and other tobacco related products, snacks and refreshments, knives, and apparel. Furthermore the applicant has indicated this will not be a hookah lounge, and no smoking will be allowed in the store. According to the definition in the Tempe Zoning and Development Code this establishment would constitute a hookah lounge if it allowed the hookah's to be smoked on premises. One phone call of inquiry has been received, but did not indicate either support or opposition, and no other public input has been received. Staff supports this request as it meets the criteria for a use permit as defined by the Tempe Zoning and Development Code.

## Use Permit

The Zoning and Development Code requires a use permit to operate a smoke shop in the CSS, Commercial Shopping and Services district.

Evaluating the use permit, the proposal appears to pass the use permit tests 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. There are approximately 50 parking spaces in the center and this use would require 4 spaces.
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
  - There will not be any emission of odor, dust, gas, noise, vibration, and smoke from the use. As this is not a hookah lounge there will be no smoking allowed in the store.
- 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 proposal would not contribute to neighborhood deterioration or downgrade property values. The use permit 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. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
2. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.
3. Traffic generated by this use should not be excessive.
4. The use appears to be compatible with the building, site and adjacent property.
5. Approval of the use permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or the public welfare in general.

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

**CONDITION(S)  
OF APPROVAL:**

1. Obtain all necessary clearances from the Building Safety Division.
2. 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 set to re-evaluate the appropriateness of the use permit.
3. This store is not permitted to operate a hookah lounge under this use permit. A hookah lounge would be an intensification of this use and would require a separate use permit.
4. A security plan is required for this establishment due to the sale of weapons. Contact Tempe Police Department Crime Prevention Unit (480-858-6333) by **May 1, 2008**.

**HISTORY & FACTS:**

February 21, 2008: CM080247 – Use Permit and Sign Violation for operating business without a use permit.

**DESCRIPTION:**

Owner – Carly Buerkers for MPB Realty Services  
Applicant – Saleem Masri  
Existing Zoning – CSS, Commercial Shopping and Services District  
Building Area – 10,500 s.f.  
Store Area – 1250 s.f.  
Parking required by use – 4 spaces  
Parking provided on site – 50 spaces

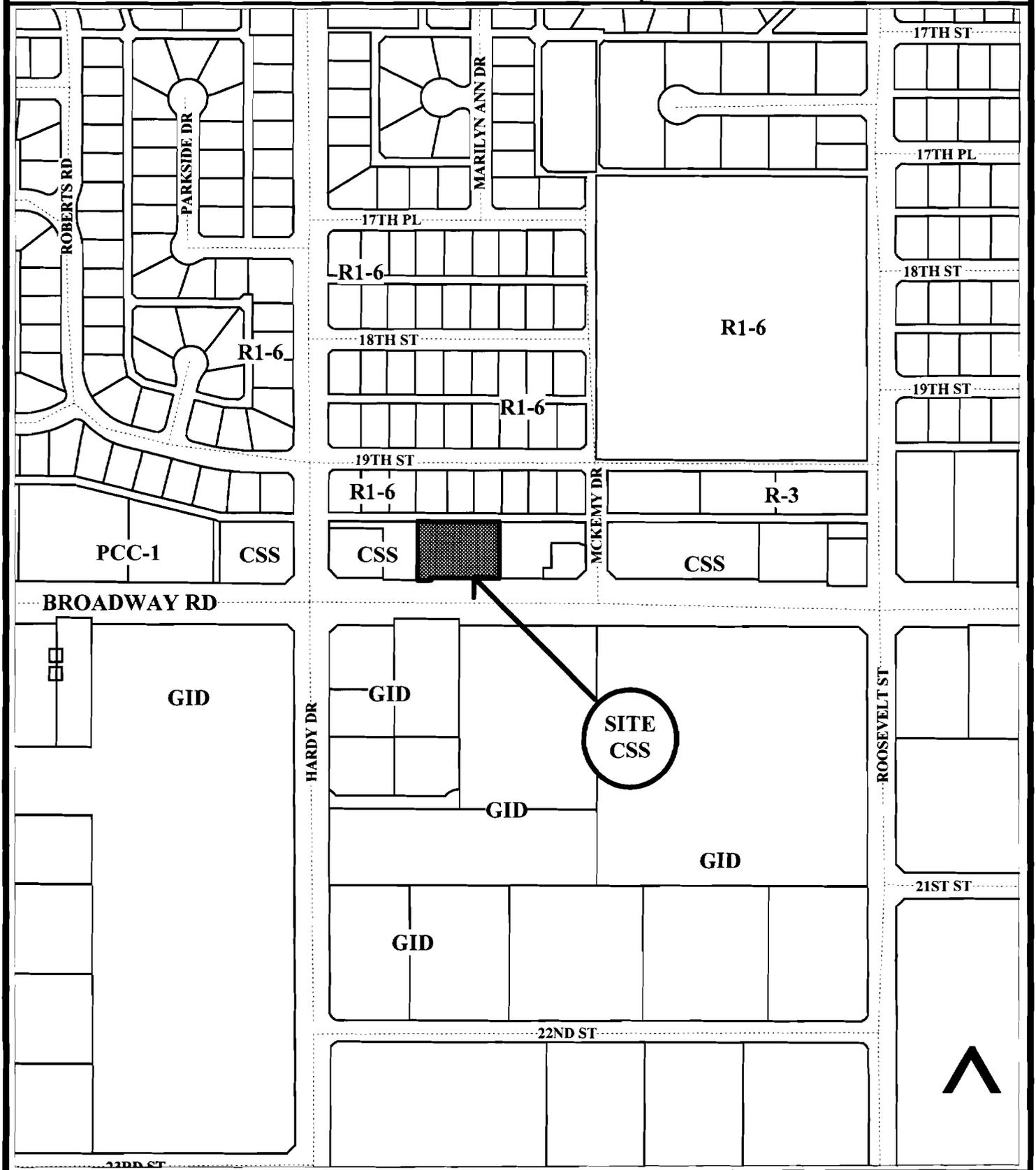
**ZONING AND  
DEVELOPMENT**

**CODE REFERENCE:**

Part 4, Chapter 2, Section 4-202, Table 4-202A - Development Standards  
Part 6, Chapter 3, Section 6-308- Use permits  
Part 7, Chapter 1, Section 7-109 – Hookah Lounge

# BROADWAY VILLAGE - SMOKE MART

PL080078



**Location Map**



BROADWAY VILLAGE - SMOKE MART (PL070078)

March 3, 2008

City of Tempe  
Development Services  
31 East Fifth Street  
Tempe, AZ 85280-5002

Re: Letter of Explanation

I am seeking a Use Permit to operate a retail store by the name of Smoke Mart at 818 West Broadway, Suite 105A Tempe, Arizona 85282.

Following is a brief list of items that I intend to sell at Smoke Mart:

Tobacco:	hookahs, hookah tobacco, cigarettes, cigars, pipes etc.
Refreshments:	fountain drinks, bottled drinks and canned drinks.
Snacks:	potato chips, cookies, candy bars etc.
Souvenirs:	t-shirts, hats, bumper stickers, candle holders etc

Smoke Shop hours of operations are as follows:

Monday-Saturday	10:00am to 8:00pm
Sunday	12:00pm to 6:00pm

One full time employee will be responsible for store operations. No modifications will be made to the external structure of the building. A few minor modifications have been made to the interior to display items for sale.

Smoke Mart intends to attract the local resident who patronize the shopping complex for other needs. There is no significant increase in traffic expected due to Smoke Mart. Consequently; there should be no additional nuisances due to Smoke Mart's operation.

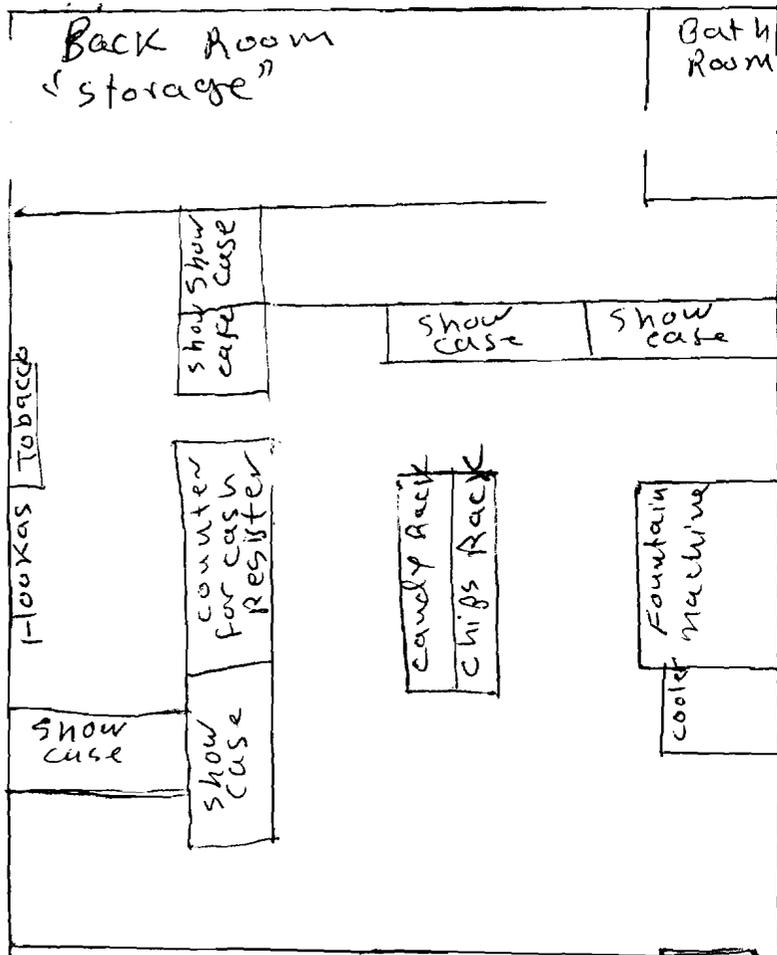
Smoke Mart is to be a perfectly legal retail operation, and should not be in any conflicts with the goals, objectives and policies of the City of Tempe.

If you have any questions or need further information, please feel free to contact me.

Sincerely,

Saleem Masri  
818 West Broadway #105A  
Tempe, Arizona 85282  
(480) 326-2522





note: Not drawn to scale



**SMOKE MART**

**818 W BROADWAY RD**

**PL080078**

**FRONT OF BUSINESS**