

Staff Summary Report

Development Review Commission Date: 08/28/07

Agenda Item Number: 3

SUBJECT: Hold a public meeting for an Appeal of the Hearing Officer Denial for BROADWAY VILLAGE- SCUMBAGS TATTOO AND PIERCING STUDIO located at 818 West Broadway Road, Suite 110.

DOCUMENT NAME: DRCr_SCUMBAGSTATTOOAPEAL_082807

SUPPORTING DOCS: Yes

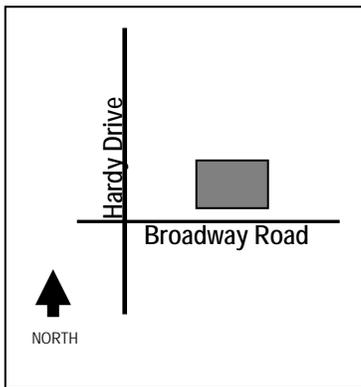
COMMENTS: Request an Appeal of the Hearing Officer Denial for **(PL070231)** by (Phillip Bonet., Applicant) for an appeal of the denial of Scumbags Tattoo and Piercing Studio, located at 818 West Broadway Road, Suite 110 in the CSS, Commercial Shopping and Services District. The request includes the following:

UPA07005 – Appeal of the Denial of Use Permit (ZUP07070) 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 – Approval of the appeal

ADDITIONAL INFO:



Gross/Net site area	1.07 acres
Total Building area	9,500 s.f.
Tenant area	1,250 s.f.
Vehicle Parking Required	Shared Parking Model (DSM07030)
Vehicle Parking Provided	60 spaces

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

The applicant, Phillip Bonet (Scumbags) is requesting an appeal of the July 17, 2007 Hearing Officer's decision to deny a request for a use permit to allow a tattoo/body piercing studio located at 818 West Broadway Road in the CSS, Commercial Shopping and Services District. The Hearing Officer reviewed the request and determined it didn't comply with the criteria for approval of the use permit. To date, staff has received the applicant's letter of appeal and five (5) e-mails of opposition. Staff recommends approval of the appeal, thus overturning the Hearing Officer's denial 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)
 - 3-7.1. Letter of Intent from Hearing Officer Report
 8. Floor Plan
 9. Landscape Plan
 10. Site Plan
 - 11-14. Staff Photograph(s)
 - 15-18. Letters of Opposition from Hearing Officer
 - 19-57. Appeal Letter from Phillip Bonet
 58. Proposed Business Sign
 59. Copy of Trade Name Certification "Deep Impressions Tattoo"
 - 60-64. Letters of Opposition on the Appeal
 65. Hearing Officer Denial Letter (July 24, 2007)

COMMENTS ON APPEAL:

Scumbag's Tattoo and Body Piercing (Phillip Bonet, applicant) went before the Hearing Officer on July 17, 2007 to request a use permit to allow a tattoo/body piercing studio within the Broadway Village at 818 West Broadway Road in the CSS, Commercial Shopping and Services District. One (1) citizen (Lisa Roach, with Clark Park Neighborhood Association) appeared to oppose the use permit request. Prior to the meeting staff had also received four (4) e-mails and four (4) phone calls of opposition. The concerns involved the business' name, secondary effects, health issues, and the suggestion that tattoo industry in general is unregulated. The Hearing Officer stated the City doesn't have authority to regulate business names and the industry is largely a self-governing industry. The Hearing Officer indicated the area is challenged and that he shares some of the concerns with the neighborhood. Starting in 2006, the Hearing Officer had approved seven (7) Use Permits to allow tattoo and body piercing studios. The Hearing Officer stated he could go approve or deny this application and proceeded to deny the use permit stating the use permit seems to be in conflict with the City's adopted goals for conservation for this area.

On July 24, 2007 the applicant Phillip Bonet filed an appeal of the Hearing Officer use permit denial. Mr. Bonet feels the business would not negatively impact the neighborhood (Tattoo studios provide a service) and the City had approved several other tattoo studios that are adjacent to neighborhoods. Mr. Bonet has also changed the name of the business too "Deep Impressions Tattoo" due to the public comments on his initial business name "Scumbags."

Staff had recommended approval of the Use Permit when it went before the Hearing Officer on July 17 and adheres to its recommendation approval of the appeal, thus over turning the Hearing Officer's approval of the use permit.

COMMENTS FROM HEARING OFFICER 7/17/07:

Scumbags Tattoo and Piercing is requesting approval of a use permit for a tattoo and body piercing studio. The proposed business will occupy 1,250 s.f. within the Broadway Village Plaza. The property is located at 818 West Broadway Road in the CSS, Commercial Shopping and Services District. Their future floor plan indicates three (3) tattoo rooms and one (1) body piercing room with a separate sterilization area. The proposed business will be staffed by five (5) 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 by appointment on Sundays.

A site inspection revealed dead and missing landscape and graffiti throughout the plaza. Staff will address these issues through conditions of approval on the use permit.

To date, four (4) emails and four (4) phone calls of opposition regarding this request have been reviewed.

REASONS FOR APPROVAL 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 (service) appears to be compatible with the building, site and adjacent property.

THE HEARING OFFICER'S CONDITIONS OF APPROVAL 7/17/07:

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 obtain
10. A 'No Loitering' sign(s) meeting Tempe Police Department Crime Prevention Unit specification shall be installed in plain view at the business prior to business opening.
11. The property owner and or management shall replace all dead and missing landscape. Landscape shall comply with the approved landscape plan of September 1979.
12. The property owner and or manager shall remove all graffiti from the property. The graffiti areas shall be painted to match the existing building color.

HISTORY & FACTS:

- March 29, 1979: A-79.3.11: Board of Adjustment approved Parking Variance for Broadway Village Plaza.
- July 26, 1979: A-79.3.11: Board of Adjustment approved parking Variance for Broadway Village Plaza to reduce parking from 72-63 spaces.
- January 29, 1981: A-79.3.11: Board of Adjustment approved Parking Variance for Broadway Village Plaza to reduce parking from 72-63 spaces.
- February 29, 1984: A-79.3.11: Board of Adjustment approved Parking Variance for Broadway Village Plaza- Valley Chiropractic Life Center, to reduce parking from 77-63 spaces.

May 26, 1999 BA990112: Board of Adjustment approved Parking Variance for Liz's Kitchen.

September 4, 2001 BA010217: Hearing Officer approved Parking Variance for DiMonte's Grill.

April 15, 2003 BA030062: Hearing Officer approved Parking Variance for Rolberto's Taco Shop.

July 13, 2007 DSM07030: Shared Parking Analysis approved.

July 17, 2007 ZUP07070: Hearing Officer Denied the Use Permit for Scumbag's Tattoo and Piercing Studio

July 24, 2007 Applicant Phillip Bonet filed an appeal

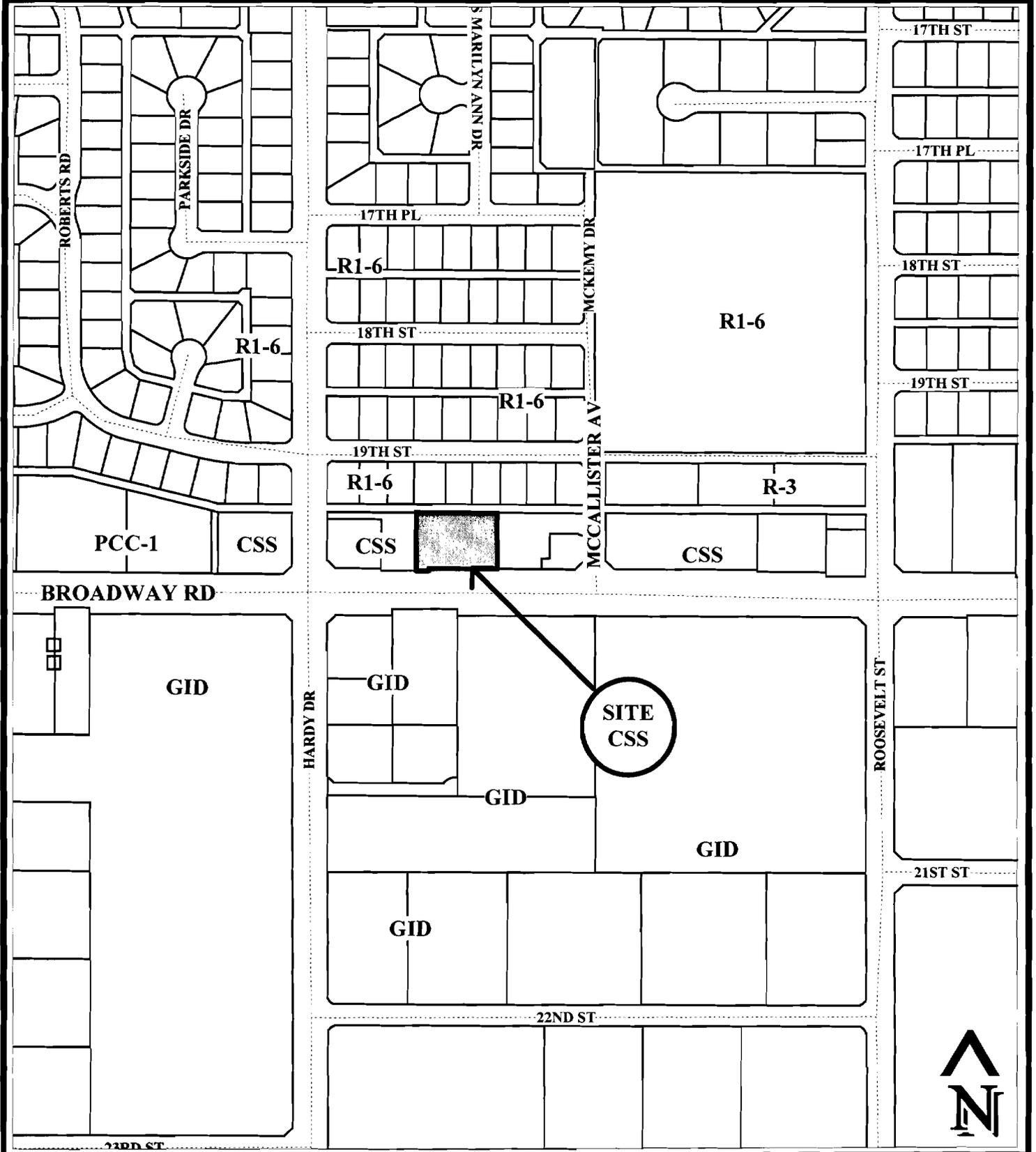
ZONING AND DEVELOPMENT CODE REFERENCE:

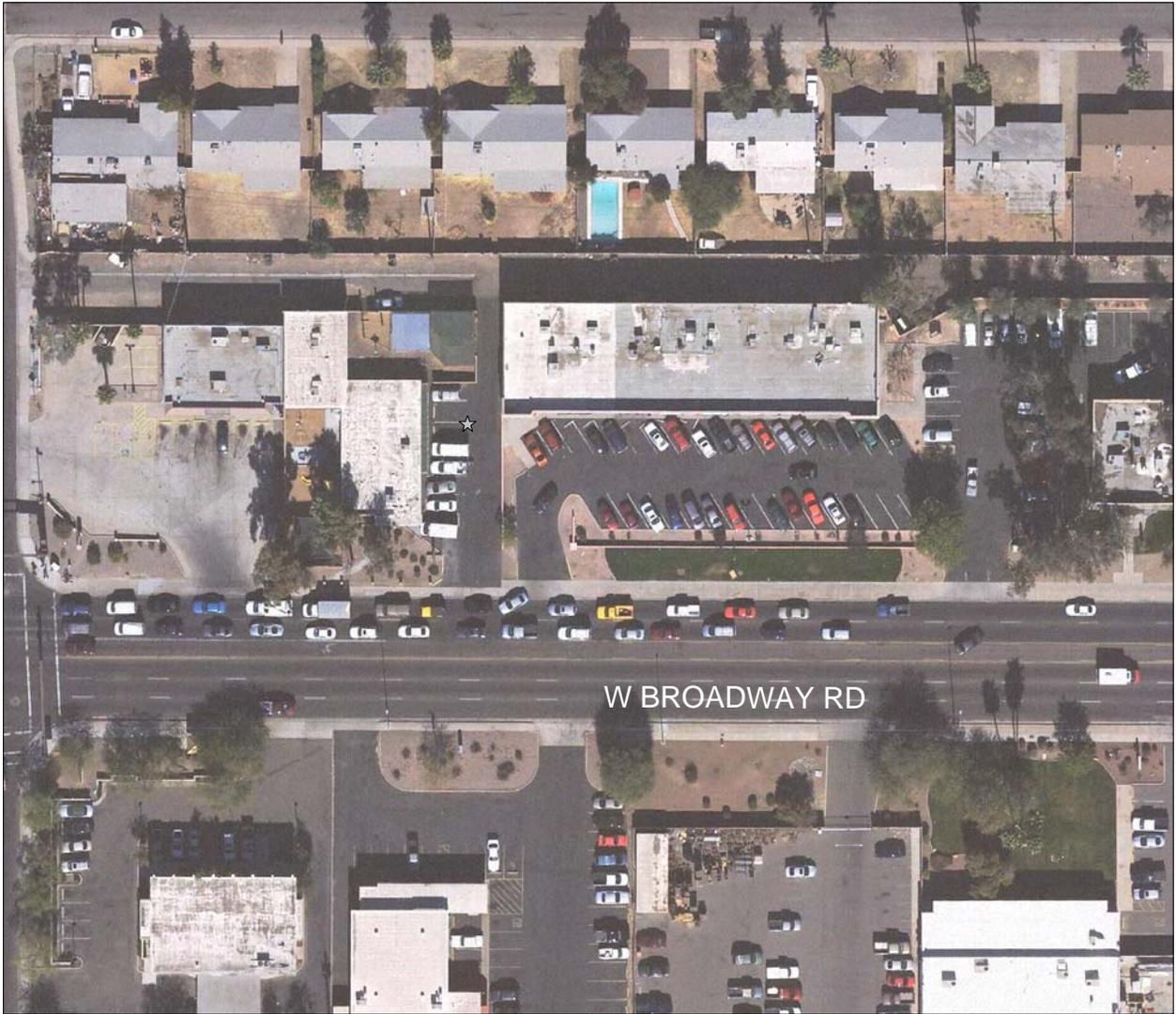
Part 3, Chapter 2, Section 3-202 – Permitted Uses in Commercial and Mixed-Use Districts

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

**BROADWAY VILLAGE -
SCUMBAGS TATTOO AND PIERCING**

PL070231





BROADWAY VILLAGE - SCUMBAGS TATTOO AND PIERCING (PL070231)

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SERVICES DEPARTMENT

Owner Statement:

My name is Phillip D. Bonet, I will be completing my BBA in Business Management in June of 2008. I currently hold two degrees in Culinary Arts and Hospitality Management. I served in the Army and received an honorable discharge after 4 years of service.

I have been in the tattoo and piercing industry for five years; I feel most tattoo shops are lacking customer service. My goal is to provide excellent customer service in a professional environment. My personal goal for this tattoo parlor is to have a very successful body modification establishment.

Funding will be provided by an investment company DPJ LLC. This funding will allow my new business endeavor to provide great custom work at an affordable price. As a new business in the community we will strive to work with the community.

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Purpose and Business Description

Purpose:

S T& P will provide a safe, clean, and professional environment. Our goals are to establish a successful business in a prime location and to provide affordable and high quality tattoos and piercing. Its presentation will cater to a wide range of people. We plan to have a modern upscale place that will be nice enough for a high-end clientele but not intimidating for a thrifter client. Ideally this will establish a consistent flow of clients and a wide demographic range.

Once we have established a good flow of clients being able to retain their business is another goal we'll strive for. We want to have repeat customers, but at the same time we will provide time in the schedule for walk-in clients. Allowing for a walk-in clientele and combining that with a promotional "walk-in" discount creates a casual feel to welcome a thrifter clientele.

Our short-term goals include:

- *Find a location and do necessary renovations*
- *Get funding (i.e. bank loans)*
- *Devise a marketing strategy*
- *Advertise*
- *Hire staff*
- *Open business within two months*

Long term goals include:

- *Pay off funding source*
- *Open new location*
- *Establish self-functioning locations*
- *Establish a relationship with the community*

Business Description:

ST&P will follow both state and federal health laws and regulations.

Our purpose is to provide the best quality of tattoos from touch-ups to full pieces of body art expression. We pride ourselves in providing rooms that will give the utmost privacy to our guests. Each room will have the artists' equipment, a massage chair or table for the client to make themselves feel at home, and an area for the client to store their belongings.

Piercing is another service we offer to our guests. All employees will have health licenses and follow regulations set-forth by the state and federal agencies. From the moment the client walks through the door, they will be greeted by an inviting waiting area; the staff will be highly trained in customer service to ensure that each guest will feel like “family”.

Operations:

Our policy is that each customer is to feel as comfortable as possible. The staff will be extremely courteous and professional it will be apart of continuous education process and stay abreast in the cutting edge of new tattooing and piercing techniques to stay ahead of the competition.

Our hours of operations are as followed:

- * Monday thru Saturday from noon to 9pm
- * Sundays by appointments

Employees:

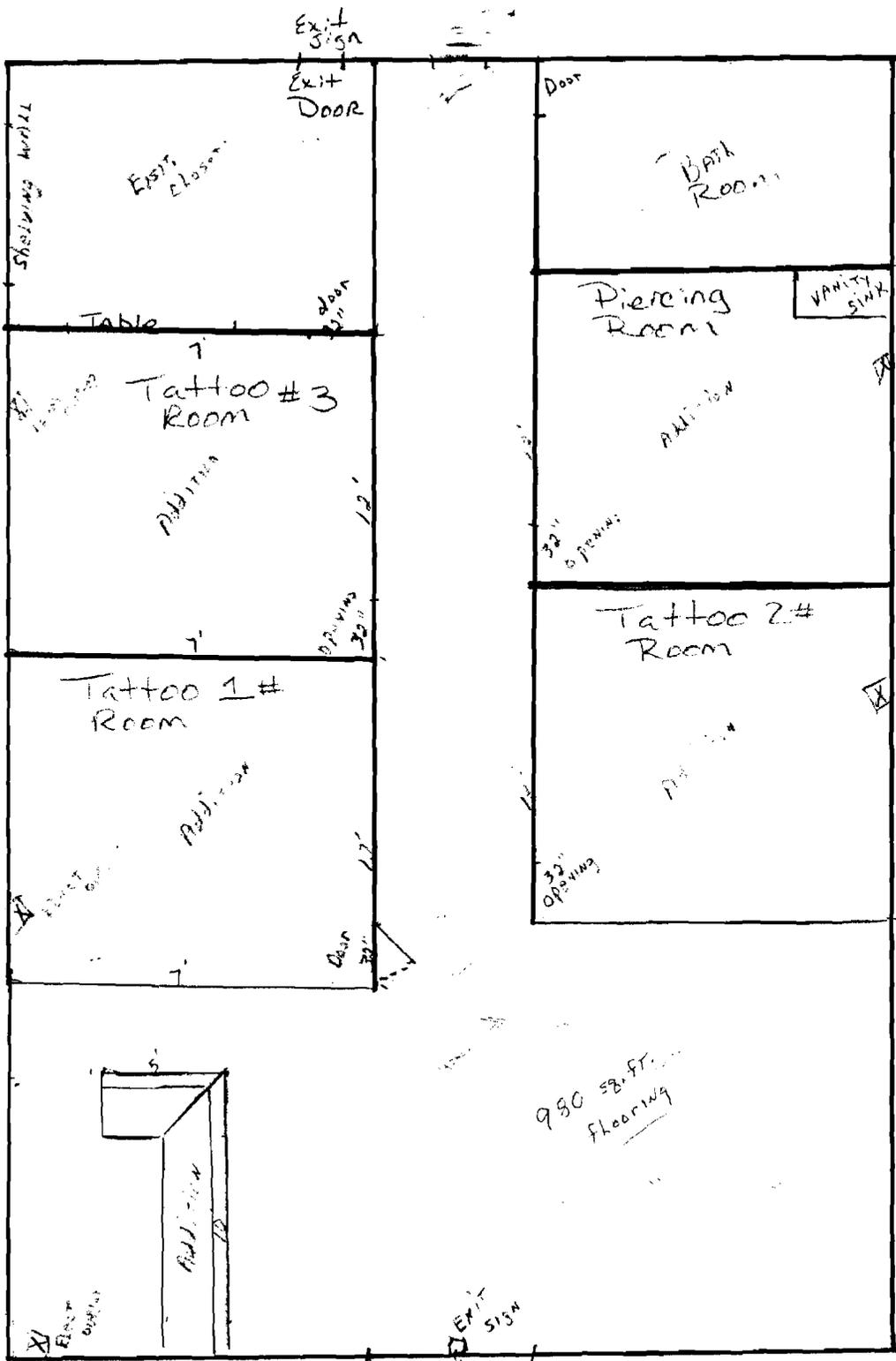
Over 30 years of tattooing and piercing experience, a total of five employees including myself. There will be three tattoo artists, one receptionist and myself as the piercer.

Parking Count:

Our peak hours are different from the restaurants that we share the parking with. This will allow enough parking for the businesses working in the Broadway Village shopping center. The parking lot will have a steady flow of traffic and parking will not be an issue. The landlord has and will provide the center the necessary parking for those who share the lot.

Projected Income Goals:

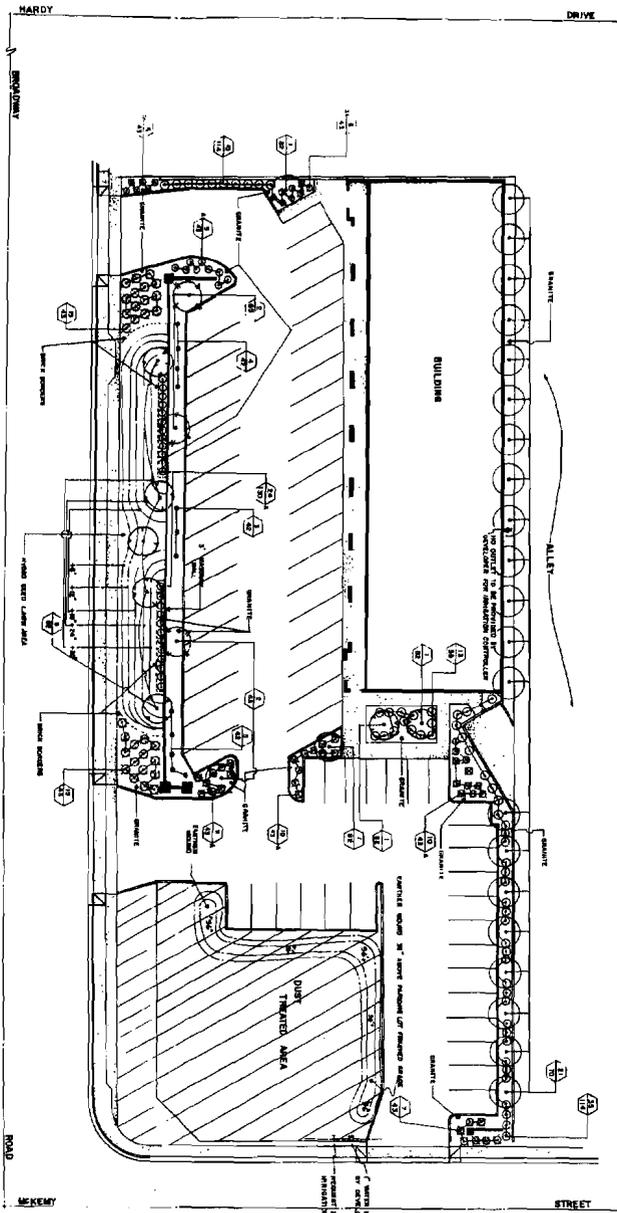
Our projected customer count per month is within the 100 to 300 mark. The more we advertise the more our clientele will grow, we expect our growth to be a rate of 20 new clients a month. With the help of our returning clientele and with the help of walk-ins we will see a growing rate with every passing day. The most important thing is that we up-hold excellent customer service to run a successful business.



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980 sq ft. total
 Each room 7' x 12'
 5 T&P Tattoo Table

Josh
 818 W Broadway 110 E 111
 Tempe AZ 85281

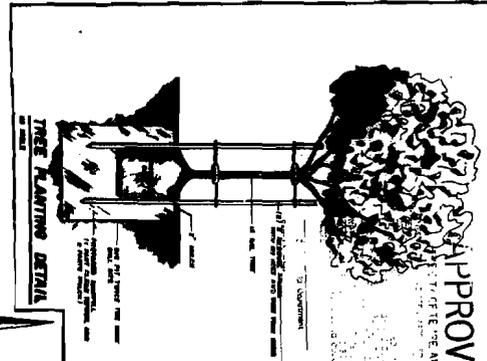
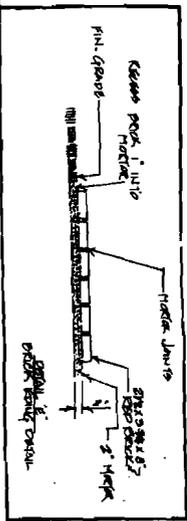


APPROVED

TEMPERATURE DESIGN BOARD

THE BOARD HAS REVIEWED THE LANDSCAPE PLAN AND HAS APPROVED IT AS SHOWN ON THIS SHEET. THE BOARD'S APPROVAL IS LIMITED TO THE LANDSCAPE PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON. THE BOARD'S APPROVAL IS LIMITED TO THE LANDSCAPE PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON.

DATE: 11 SEP 73



APPROVED

DATE OF TEMP REFERENCE # 9248

SECTION A-A

RETAINING WALL

CONCRETE

GRAVEL FILL

SECTION B-B

RETAINING WALL

CONCRETE

GRAVEL FILL

BROADWAY VILLAGE
 BROADWAY RD. & MCKEMY ST.
 TEMPE, ARIZONA
 LANDSCAPE PLAN
 FOR DEVELOPERS MR. ERIC KENNEY & MR. ALLEN ZELL
 5201 N. 19TH AVE. SUITE 122 PHOENIX, ARIZONA

JACK D. MILLER
 LANDSCAPE DESIGNER
 2525 W. NORTHERN SUITE 201
 PHOENIX, ARIZONA
 PHONE 995-0975

EXHIBIT "A"
TO LEASE AGREEMENT

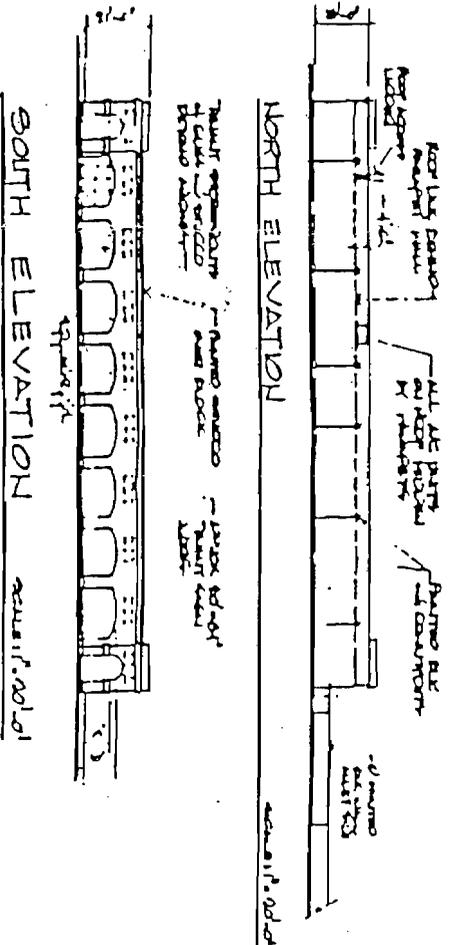
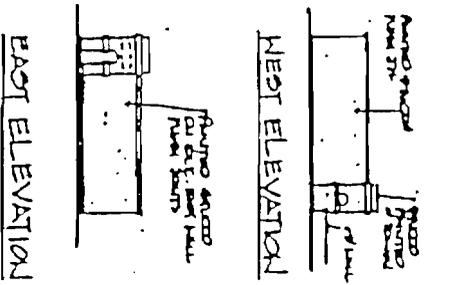
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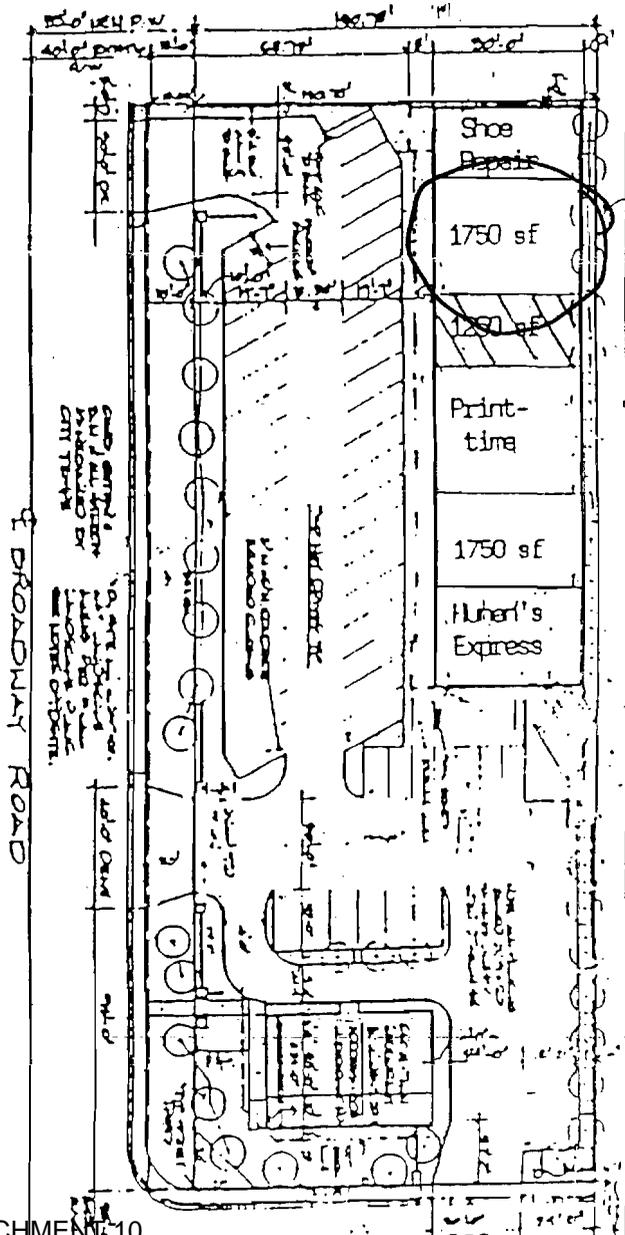
SITE PLAN

TEMPER-DEVELOPMENT
SERVICES DEPARTMENT

LANDSCAPING CONCEPTS:
PLANT SPECIFICATIONS SHALL BE VARIATIONS TO THE SPECIFICATIONS IN THE SCHEDULED SPECIFICATIONS FOR THE LANDSCAPING CONTRACT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE SELECTION OF PLANT MATERIALS AND FOR THE MAINTENANCE OF THE LANDSCAPING CONTRACT THROUGHOUT THE TERM OF THE LEASE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE LANDSCAPING CONTRACT THROUGHOUT THE TERM OF THE LEASE.



SITE PLAN



NOTES:
1. THE LANDSCAPING CONTRACTOR SHALL BE RESPONSIBLE FOR THE SELECTION OF PLANT MATERIALS AND FOR THE MAINTENANCE OF THE LANDSCAPING CONTRACT THROUGHOUT THE TERM OF THE LEASE.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF THE LANDSCAPING CONTRACT THROUGHOUT THE TERM OF THE LEASE.

818 W. Broadway



SCUMBAGS TATTOO & PIERCING

818 W. BROADWAY RD.

PL070231

MISSING LANDSCAPE



SCUMBAGS TATTOO & PIERCING

818 W. BROADWAY RD.

PL070231

MISSING LANDSCAPE



SCUMBAGS TATTOO & PIERCING

818 W. BROADWAY RD.

PL070231

FRONT OF SUITE: VIEW TO THE NORTH



SCUMBAGS TATTOO & PIERCING

818 W. BROADWAY RD.

PL070231

GRAFFITI ON PROPERTY

Daffara, Shawn

From: Collins, Lisa
Sent: Monday, July 02, 2007 10:01 AM
To: Abrahamson, Steve; Daffara, Shawn
Subject: FW: ZUP07070 USE PERMIT HEARING SCUMBAGS TATTOO & PIERCING

FYI – when is this coming to the hearing officer?

Thanks,
Lisa

From: Hort, Jan
Sent: Monday, July 02, 2007 8:11 AM
To: Collins, Lisa
Cc: Gasperich, Kathy; Yennie, Mari; Partridge, Sheri; Woods, Lillian
Subject: FW: ZUP07070 USE PERMIT HEARING SCUMBAGS TATTOO & PIERCING

FYI

From: Martin Ladene M (Dene) [mailto:Dene.Martin@srpnet.com]
Sent: Monday, July 02, 2007 7:49 AM
To: Hort, Jan
Subject: FW: ZUP07070 USE PERMIT HEARING SCUMBAGS TATTOO & PIERCING

② My parents live at 520 w. 17th place..they are the original owners having bought the house in the 50's. They raised a family of 5 children in this neighborhood. They are 87 years old and I'll speak for them when I too say this type of business will not attract the kind of cliental this family neighborhood wants or deserves.

From: clarkparkna@cox.net [mailto:clarkparkna@cox.net]
Sent: Saturday, June 30, 2007 1:44 PM
To: jan_hort@tempe.gov
Subject: ZUP07070 USE PERMIT HEARING SCUMBAGS TATTOO & PIERCING

Attn: Hearing Officer

① RE: ZUP07070
SCUMBAGS TATTOO & PIERCING
USE PERMIT REQUEST

Dear Sir/Madam,

I am voicing my strong opposition to the requested use permit for SCUMBAGS TATTOO AND PIERCING at 818 West Broadway Road. In doing research I was able to find seven (7) other such business in our community. These seven (7) other establishments should offer adequate choices for the tattoo and body piercing needs of our neighborhood.

This is not the type of business needed to revitalize the Broadway Road corridor. This would not provide a family friendly environment and will not encourage other family friendly business's to the area that the residents of this neighborhood want.

In working with many other concerned citizens in our community on the North West Tempe Community Plan (NWTCP), this is not the direction our community wishes to go in.

Once again, I strongly urge you to deny the use permit for SCUMBAGS TATTOO AND PIERCING.

Lisa Roach
President
Clark Park Neighborhood Association
Tempe, AZ. 85281
(480)220-6643

Daffara, Shawn

From: Abrahamson, Steve
Sent: Monday, July 09, 2007 9:19 AM
To: Daffara, Shawn
Subject: FW: scumbag tattoo

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TEMPE-DEVELOPMENT
SERVICES DEPARTMENT

From: Drew Smith [mailto:drew9551@yahoo.com]
Sent: Thursday, July 05, 2007 10:55 PM
To: Abrahamson, Steve
Subject: scumbag tattoo

Hello Steve,

③ Just wanted to voice my opinion on this place. I oppose another tattoo parlor opening up in this area. I live at 811 W Howe St.

Thank you.

Drew

Ready for the edge of your seat? Check out tonight's top picks on Yahoo! TV.

720 West 19th Street
Tempe, Arizona 85281
7 July 2007

Hearing Officer
City of Tempe
P.O. Box 5002
Tempe, Arizona 85280-5002

Dear Sir or Madam:

This letter is to express my strong opposition to granting a permit to allow the SCUMBAGS TATTOO and PIERCING studio to occupy the property located at 818 West Broadway Road.

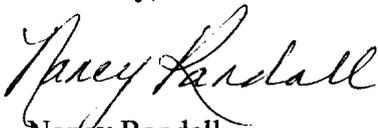
I have lived in my home at the above address since 1966 and have, with great concern and sadness, seen the decline of my neighborhood. Homeowners have sold to investors who have no vested interest in Tempe other than moneymaking resulting in unkempt yards and rowdy late-into-the night parties by renters. Strip malls such as the one that includes the property mentioned herein have been allowed to house cash-advance stores that invite problems. Within the last ten or so years, we have had robberies and shootings in my area, which, in my opinion, have occurred due to targets and easy access to vulnerable places.

A tattoo and piercing studio only adds to this problem. The name of the facility alone is a magnet for attracting, in my opinion, undesirable clientele. My dictionary (Microsoft Encarta College Dictionary, 2001 edition) defines a scumbag as "an offensive term for somebody who is seen as unpleasant or malicious."

I am one of the few homeowners who have chosen to remain in this block of 19th street and I respectfully request that you deny this permit.

Thank you for your consideration.

Sincerely,


Nancy Randall

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TEMPE ECONOMIC
SERVICES DEPARTMENT



Appealing Decision

On July 17, 2007

Deep Impressions Tattoo / Scumbags Tattoo

Phillip Bonet

818 W. Broadway Suite # 111

Tempe Az, 85281

602-410-1163

Table of Context

- 1. Letter of Explanation.**
- 2. Adult Oriented Business/ Tattoo Parlors are not.**
- 3. Written Procedures on the proper handling and sterilization of equipment and demonstrate that all personal are trained in the procedures.**
- 4. Written Instructions on Tattoo Care/ Piercing aftercare.**
- 5. Examples of the neighborhood and surrounding areas.**
- 6. Closing Explanation.**

Letter of Explanation:

Hello Members of the Board, my name is Phillip Bonet and I'm the owner of the Tattoo Parlor Scumbags Tattoo who is requesting a new hearing. On July 17, 2007 a public hearing was set for a permit to allow a tattoo and body piercing studio on 818 W. Broadway suite # 111 Tempe Az, 85281. On this day we were denied the use permit due to many reasons, those reasons maybe from the name (Scumbags Tattoo), the environment we may create around the neighborhoods or even that there are to many tattoo parlors already inexistence in the surrounding areas.

I have since changed the name from Scumbags Tattoo to Deep Impressions Tattoo, may this new name for the tattoo parlor show that we are willing to work with both the city and the surrounding neighborhoods. The name Scumbags wasn't meant to create a bad image or an unpleasant feel for both the city and the neighborhood, so with the request of the neighborhood the name of the tattoo parlor is now Deep Impressions Tattoo.

Adult Oriented Business

We would also like to state that we are not an Adult Oriented Business; this was in question on the hearing held on July 17, 2007. Tattoo parlors follow both state and federal laws in which state that an adult or guardian of someone under the age of 18 must be present when either a

tattoo or piercing will be performed on that individual. A copy of the driver license of the parent or guardian and a copy of the birth certificate of the minor is kept on file to ensure that we are following both state and federal regulations. (A copy of section 13-1422, Adult Oriented Business is included.)

Written Procedures

Proper procedures on handling and sterilization should be followed by any tattoo parlor. We have included a list of equipments and procedures that we as a tattoo parlor will follow to meet both the state and federal health regulations. These procedures will not only ensure that we run a clean and safe environment but also ensure our guest that these procedures are followed by Deep Impressions Tattoo.

Examples of equipment used at Deep Impressions Tattoo.

1. Autoclave: a high-pressure cooker that sterilizes metal instruments; it is the gold standard in sterilization equipment in tattoo parlors as well as hospitals. The pressurized steam destroys microorganisms, killing all sorts of nasty and infectious bugs.
2. Latex or vinyl gloves are worn throughout the tattooing session as well as the piercing process by the artist.

3. "Sharps" containers are biohazard disposal units with sealed lids that prevent the contents from being removed. A clamping system breaks needles prior to disposal; this technique is preformed by a license medical supply store.
4. "Green soap" a strong germicidal soap that cleans up excess ink and blood during sessions.
5. Plastic cups hold the ink and are discarded after each session.
6. Every session begins with new pressured-packed needles, needle tubes are reusable and are autoclave and sterilized after every session and are stored in sealed sterilized packets.

After a tattoo or piercing is performed, a written instruction on the proper aftercare of both a tattoo and a piercing is given to each guest.

Which reads:

1. Do not pick the tattoo
2. Do not expose to direct sunlight for two weeks
3. Do not rebandage the tattoo
4. Wash hands before applying a light coat of Bacitracin ointment a minimum of three times a day. Alternatives are A&D Ointment or Micotracin.

5. The tattoo aftercare is the responsibility of the guest after they leave the parlor but if any questions arise after a few days or weeks please feel free to call the parlor with these questions.

Piercing aftercare:

1. Wash hands thoroughly before moving the “jewelry” around.
2. You may feel Soreness and discomfort for a few days, not to worry your body is getting use to it.
3. If any question you may have please feel free to call the tattoo parlor.

With the proper care by the guest each tattoo and piercing should bring joy and pleasure to the guest.

Concerns:

It was brought to my attention that if we were given a use permit for a tattoo and piercing parlor in the neighborhood surrounding this location, that we would add to the already existing problems that surround this neighborhood. How so I ask, there are seven bars and clubs that surround the area; as well convenience stores who advertise both beer and wine on their signs. We as a tattoo parlor do not sell or allow the use of these products and we also don't except clients who are under the influence of these products. We have the right to refuse service to anyone. I would like to also mention that if the neighborhood was trying to with hold a friendly environment as

well as a clean environment, then why is it that there are several buildings with out any running businesses. Then there is the question of the decline of the neighborhood when there are several homes with unkempt yards that are to be question on proper homecare. I have enclosed several pictures of these businesses as well as some of the homes.

One argument I have for both the neighborhood and city is if a tattoo parlor creates an unwelcoming environment to the city and neighborhood then why is it that Hustler Adult Store was given a use permit just down the street in a clean and more welcoming neighborhood. We as a tattoo parlor have worked with both the city and the strip mall to remove any graffiti on the premises. Now if graffiti is a big problem for the neighborhood there are several buildings that should either be “cleaned” or should be knocked down so this wouldn’t be a problem.

Also with the schools in mind in the surrounding area, there is a high school on Mill Ave and Broadway with an empty lot across from it. The businesses next door to this lot (across the street from the high school) let their employees have “smoke” breaks in plain view of the students and those driving by. Now that is what creates an unwelcoming environment as well telling our children that smoking is okay. The Daycare center right next door to the location where the tattoo parlor would be located is welcoming a new

business even if it's a tattoo parlor for it would bring more business not only to them but the other business in that area.

Closing Explanation:

I ask the community to reconsider their decision on the use permit for the tattoo parlor Scumbags Tattoo, which we have changed the name to Deep Impressions Tattoo. We will work with the city and the neighborhood to ensure that we do not create an unwelcoming environment to both the city and the neighborhood. As a new business in the neighborhood will show that the neighborhood is headed in the right direction when it comes to welcoming new businesses. I have enclosed pictures of those businesses and homes that I believe should be in question and not the use permit for my tattoo parlor.

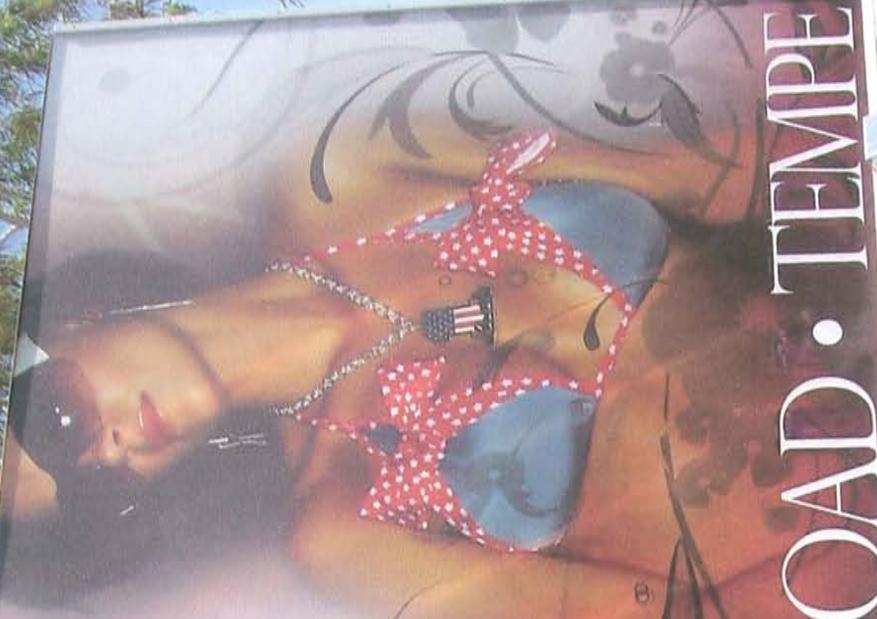
HUSTLER
HOLLYWOOD
A UNIQUE BOUTIQUE

1628

LINGERIE
APPAREL
DVD'S
& MORE

HUSTLER

HOLLYWOOD



1628 E. BROADWAY ROAD • TEMPE



FRIENDLY MARKET
COLD BEER AND WINE

Cambio De Cheques TX

ATM

Check Cashing TX

ATM



























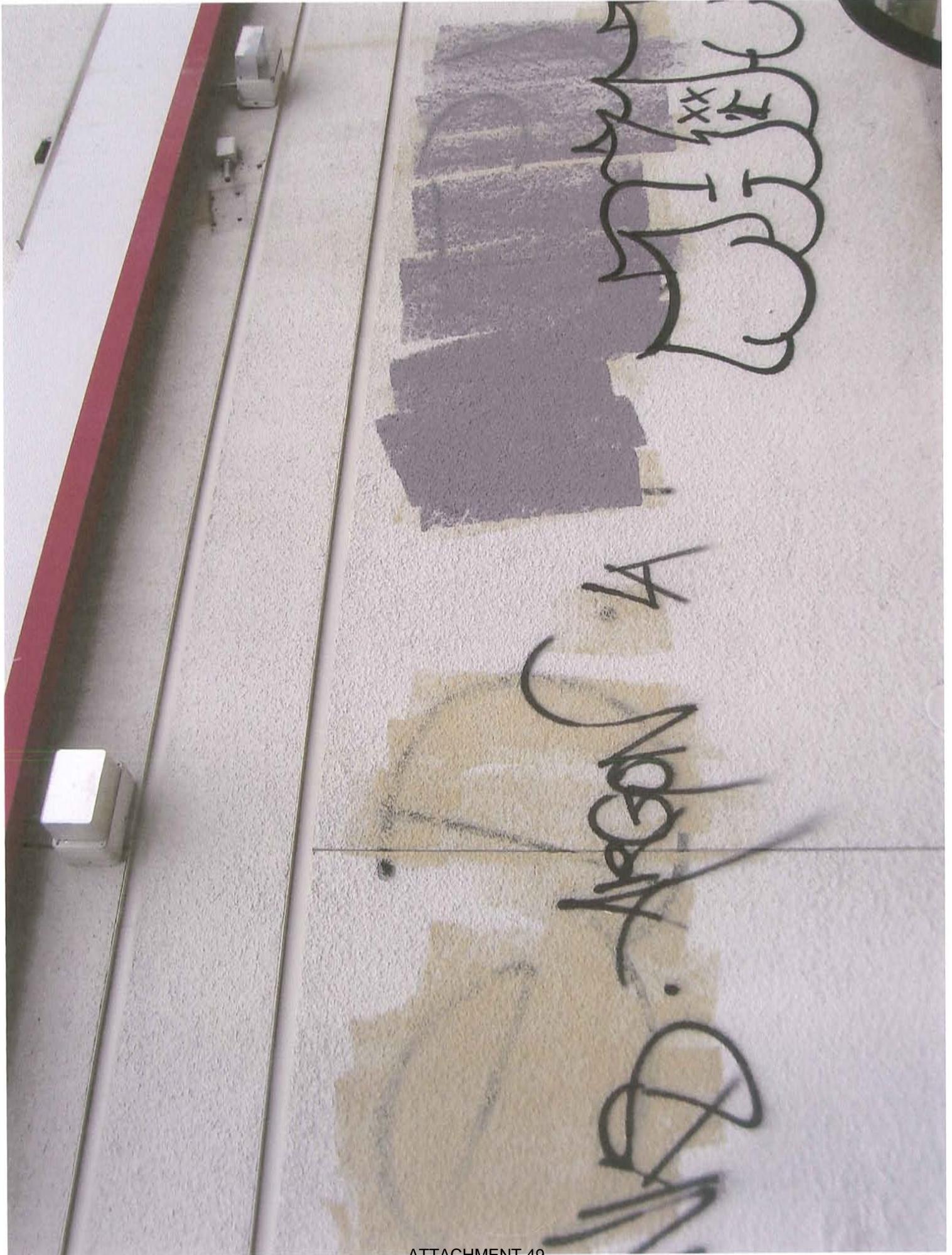














1





chef_phil_b@hotmail.com

Printed: Tuesday, July 24, 2007 3:02 PM

From : Carly Buekers <cbuekers@MPBRealty.net>
Sent : Tuesday, July 17, 2007 6:14 PM
To : "phillip bonet" <chef_phil_b@hotmail.com>
Subject : Input from Landlord

City of Tempe

Denial of Tattoo Parlor for 818 W. Broadway Road, Tempe, AZ

To Whom It May Concern:

I am writing this letter on behalf of the Landlord, as the Property Manager for 818 W. Broadway Road, in Tempe, AZ.

We are disappointed by the denial of the City of Tempe for the use permit for the Tattoo Shop at our center. This space has been vacant for three years without any possibilities for leases. We have shown the space to different tenants and have had nothing concrete come from our leasing negotiations. The owner has had interest from massage parlors, and has turned any offers to rent to a massage parlor because this is not a use she wants to support her center and I am sure that this is not a use that the City of Tempe would approve either.

This owner recently bought the plaza and has to have cash flow to make improvements. The owner was unaware when she bought the plaza of all of the issues surrounding the center. She has had to install a new roof at the center since her purchase. She is hoping to give the center a much needed face lift, and was also just made aware that the landscaping at the center is not to the City of Tempe specifications. She needs to redo the entire parking lot and the lighting at the center is in need of an upgrade as well. We have been working with the City to solve parking issues that we were unaware that we had, we have worked with the City to solve some Tenant violations and code compliance issues that arose in 2001 and were never taken care of with previous owners.

This owner considers this investment a long term hold and is treating the property accordingly. But she has to have paying tenants to complete these renovations, and with this suite vacant for three years and the City turning down a potential tenant, this situation is creating a severe financial hardship for her. Without the property creating any income, it will be difficult to complete the City's required landscaping repairs, to pay for the cost of a parking analysis and upgrade, and to pay contractor's to complete the requirements posted by the City to bring the center up to code.

The owner was welcoming a tattoo parlor for many reasons not only the obvious financial gain of acquiring

<http://by115fd.bay115.hotmail.msn.com/cgi-bin/getmsg?curmbox=BBFACB57%2dB23A...> 7/24/2007

another tenant to help cover the increasing costs of the center's upgrades. We have had continuing issues with that corner space at the center and with homeless people taking up residency. A homeless man sleeps in the corner because the suite is vacant and no one is constantly asking him to move along. We have had issues with vandalism to the door and windows because no one is in the suite to regulate what happens to the doors. The suite has been vacant for three years and this puts an added blighted look to the exterior of the center, I would think you would prefer to have a tenant instead of the blighted look of a vacant suite. The other tenants at the center have welcomed the tattoo parlor and his use, and no one in the center has complained that he is moving in. The owner and the other tenant's are happy that someone will be at the center later at night to help regulate some of the repeat issues we are having with graffiti etc around the property. Having someone on site later will discourage late night loiterers and other people from crossing the property and creating trouble for the tenant's and their storefronts.

I would like to repeat that is not the worst use for this site. We will not have picketers to the tattoo parlor, as we have had up the street at a property we manage at 2525 S. Rural Road that houses a doctor that performs abortions. We are not leasing to a massage parlor that could be open all hours of the day and night with a "happy ending" mentality.

There has been no interest in this suite in three years. I have seen the other locations of tattoo parlors in the area and none of the centers look anywhere near as bad as our center currently looks without the tattoo parlor. We hope to use this additional rent and the rent from our other vacancy to complete the much needed upgrades to the building's exterior. Your approval on this matter would help the Landlord greatly. We understand that the name presented by the tattoo parlor is less than desirably, but as you review the tenant's signage please note that this name will not be on our building for all to see.

We appreciate your repeat consideration of our Tenant's request.

Sincerely,

Carly C. Buekers

Property Manager and Agent for the Landlord, CAL Arizona Properties, LLC

MPB Realty Services, Inc.



chef_phil_b@hotmail.com

Printed: Tuesday, July 24, 2007 3:03 PM

From : Carly Buekers <cbuekers@MPBRealty.net>
Sent : Monday, July 16, 2007 6:51 PM
To : "Phillip Bonet" <chef_phil_b@hotmail.com>
Subject : Broadway Shops, 818 W. Broadway Road, Tempe, AZ

 Attachment : image001.jpg (0.01 MB), BroadwayInvoice.pdf (0.26 MB)

July 16, 2007

To: Phillip Bonet, 818 W. Broadway Road, Suite 110, Tempe, AZ

From: Carly Buekers, MPB Realty Services, Inc., as Landlord's Agent

Phillip,

Per the City of Tempe's Staff Summary Report received by our office July 16, 2007 I am writing this letter on the Landlord's behalf.

The Landlord entered into lease negotiations with Phillip Bonet the beginning of June 2007 and the lease was fully-executed June 21, 2007. If you refer to the lease document please note that the Landlord has leased the Tenant only 980 square feet of the center, not the 1,250 square feet referenced in this letter. The Landlord supports Phillip Bonet and accepts his use to open a tattoo parlor and piecing shop at their strip shopping center located at 818 W. Broadway Road, in Tempe, AZ. We have also spoken with other Tenants currently at the center and their have been no complaints with the idea of leasing next to a tattoo parlor. The current Landlord of Broadway Shops is CAL Arizona Properties, LLC and per a quit claim deed filed against the property their ownership began around March of 2006. Since their purchase of the property they have worked with roofing companies to update the roof, and they are currently working with architects to update the outside appearance of the plaza. They are hoping to submit a proposal to the City of Tempe shortly to give the center a much needed face lift.

They are also working with landscapers to update the landscaping at the property. When they purchased the property the previous landscapers, if any, and the previous owner had let a lot of the landscaping at the property die and never replaced the dead plants. I received the original documents for the required landscaping at the property via fax from the City of Tempe, June 26, 2007. The owners have received the requirements for updates to the landscaping and are working with a new landscaper to bring the building up to code with the City's requirements and original install for the landscaping from 1979. Personally, looking at the plan submitted for landscaping back in 1979, the plan is a bit outdated and we will be filing a change so as to not replant all of the eucalyptus behind the center, otherwise the original design is acceptable to the owner and the upgrades are the next thing on the owner's list for future building improvements.

Attached to this letter is an invoice for the painting of the graffiti at the property. I am sure you have also seen the painting that was completed to the electrical box on the east side of the property. The graffiti has been taken care of, and was before this letter was submitted to the Landlord.

The Landlord has been working with the City of Tempe in regards to the parking at the property, and to that end they have submitted a parking by demand analysis of the current shared parking situation at the property. The Landlord feels that although we do have parking issues during the lunch time hour, Phillip's particular use will not create more of an issue with the current parking situation as the majority of his customers will not be parking in the lot during this prime parking time.

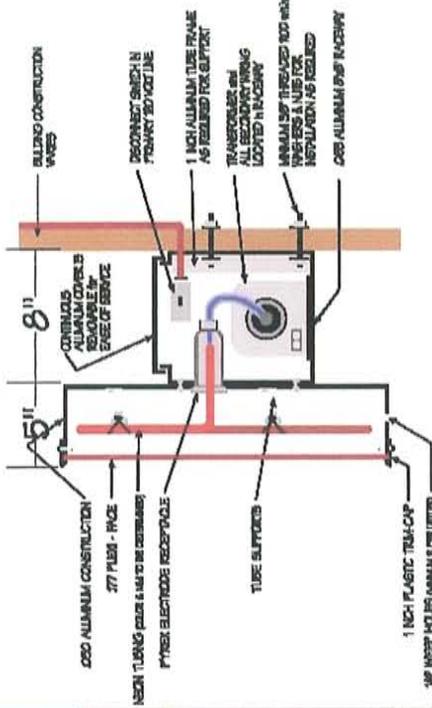
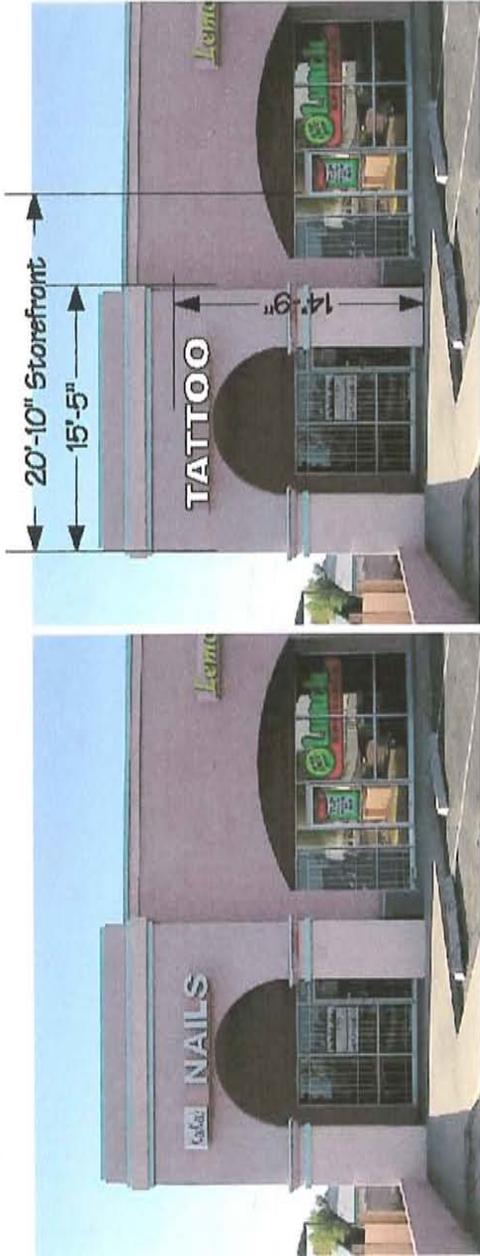
In looking over the emails and letters sent from the neighborhood regarding their concern in opening a tattoo shop at the plaza, the Landlord would like to at least address the concern of the current Money Mart tenant at the center. The Money Mart has leased at Broadway Shops since January 1, 2002. They have remained a tenant in good standing throughout their lease term. They have not brought any undesirables to the center and we have not seen an increase in graffiti associated primarily with them as a tenant. When completing the parking analysis, we noted that the customers of the Money Mart do not linger or loiter at the property; they park and are in and out of the Money Mart in ten minutes max. The owner's have properties in California that they own, and lease to two other Money Mart type stores in California and have had similar non issues with these stores as well. Please also note that we have family restaurants at the centers such as Subway, Hunan Express, the Lemongrass Thai Café and a Taco Shop. We also have a Labor Force tenant. These other uses at the property do not bring any more undesirable people than the Money Mart and their client mix is similar and compatible.

Any further questions we can be reached at 602-280-1010 x. 108 and we wish you luck in your application to the City of Tempe.

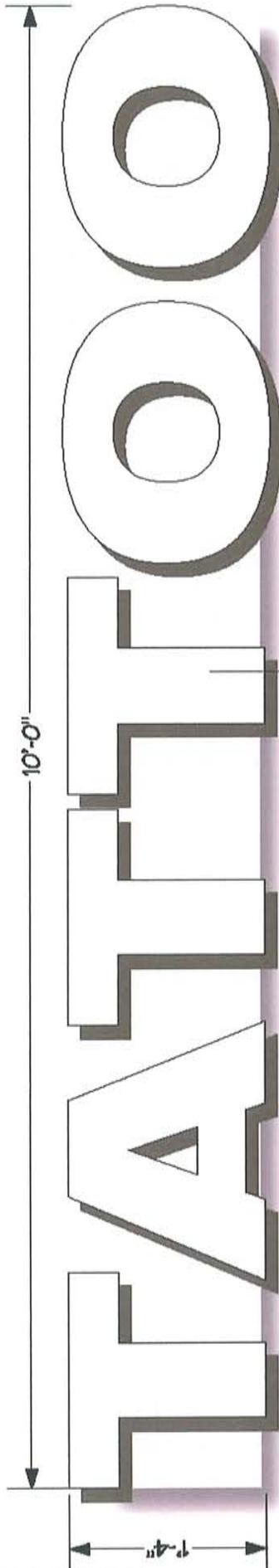
Sincerely,

Carly C. Buekers, signing as Landlord's Agent, MPB Realty Services, Inc.



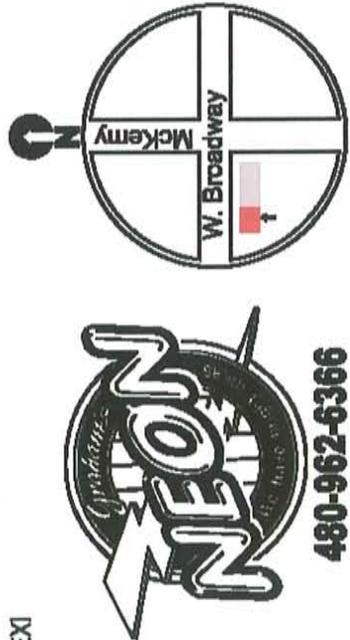


TYPICAL CONSTRUCTION OF CHANNEL LETTER WITH RACEWAY
 (ALL CONSTRUCTION, MATERIALS & CONSTRUCTION TO BE ILL. APPROVED)
 STRAIGHTENED TO VOLT PRIMARY WITH DISCONNECT SWITCH



PCL's TO BE INTERNALLY ILLUMINATED WITH 6500 WHITE NEON
 RETURNS & TRIMCAP TO BE BRONZE
 FACES TO BE WHITE PLEXI

EXISTING RACEWAY TO BE REMOVED - LETTERS TO BE REMOVED
 RACEWAY TO BE RESKINNED & REPAINTED TO MATCH BUILDING
 SIGN TO BE REINSTALLED WITH NEW COPY.



CLIENT: Scarlett TATTOO	SIGN TYPE: Internally Illuminated Cabinet	SQ. FT. 24 Sq. Ft.	DRAWN BY: Karin Brands
ADDRESS: 816 W. Broadway Rd. Tampa, AZ 80282	LOCATION ON BUILDING: Sign Above South	DATE DESIGNED: June 27, 2007	DATE APPROVED: []
SIGN DETAILS:		APPROVED BY:	DATE APPROVED:
<ul style="list-style-type: none"> PCL's internally illuminated with 6500 white neon - returns & trimcap to be bronze as per criteria - faces to be white plexi as per criteria. PCL's to be returned to structural masonry which is to be painted to match building. Raceway to house all secondary wiring & components. Transformation to be UL2181 compliant. 			

STATE OF ARIZONA

Department of State



TRADE NAME CERTIFICATION

DEEP IMPRESSIONS TATTOO

I, Janice K. Brewer, Secretary of State, do hereby certify that in accordance with the Trade Name Application filed in this Office, the Trade Name herein certified has been duly registered pursuant to Section 44-1460, Arizona Revised Statutes, in behalf of:

PHILLIP BONET
PO BOX 25588
TEMPE AZ 85285-

6/19/2007 Application



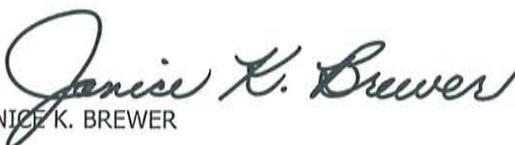
Registration Date: 06/19/2007

Expiration Date: 6/19/2012

Date First Used: 6/18/2007

Trade Name No.: 406574

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Arizona. Done at Phoenix, the capitol, this 26 day of June, 2007.


JANICE K. BREWER

Daffara, Shawn

From: Collins, Lisa
Sent: Friday, August 17, 2007 11:56 AM
To: Abrahamson, Steve; Daffara, Shawn
Subject: FW: NO Scumbags here

Lisa C asked me to check her email, this is Lisa L. forwarding this to you...

-----Original Message-----

From: Philip Amorosi [mailto:philamo@cox.net]
Sent: Thursday, August 16, 2007 10:11 PM
To: Collins, Lisa
Cc: Lisa Roach
Subject: NO Scumbags here

Hi Lisa,

I was just made aware that a tatoo parlor wants to open on 818 W. Broadway as "Scumbags". I know this isn't the Apache Blvd. area but as a fellow Neighborhood Chair and a 30 year Tempe resident I want to go on record to the Development Review Commission that I am supporting the Clark Park neighborhood in their OPPOSITION TO THIS BUSINESS.

The city does not need to cater to an owner that has such disregard for the city and neighborhood to want to attract that sort of business with that sort of name. This isn't South Park.

Please pass this on to the commissioners.

Thanks you for your time,
Phil Amorosi
Hudson Manor NA, Chair

From: Jerry Gantt [mailto:jerrygant41@yahoo.com]
Sent: Wednesday, August 15, 2007 12:52 PM
To: Hort, Jan
Subject: Re: Scumbags Tattoo Parlor, Dev. Review Comm.

Dear City Clerk,

Please inform the Development Review Commission for the August 28 hearing that I am opposed to the proposed name "Scumbags" for the tattoo parlor in the 800 block of west Broadway Road. Not a positive image for the area.

Thank you,

Jerry Gantt
416 W. 11th Street
Tempe, AZ 85281

Boardwalk for \$500? In 2007? Ha!
[Play Monopoly Here and Now](#) (it's updated for today's economy) at Yahoo! Games.

08/16/2007

From: Linda Knutson [mailto:lknutsonpa@yahoo.com]

Sent: Wednesday, August 15, 2007 10:04 AM

To: Hort, Jan

Subject: SCUMBAGS

Hello, I am sending this email to let the City Council know my feelings about the business, SCUMBAGS. I am personally opposed to this business coming into the community. At a time when we are working so hard to clean our neighborhoods up, I feel that another tattoo business is not a good fit. The name alone suggests a lack of regard for the neighborhood. Please, help us continue to improve our neighborhoods west of Mill Avenue by upholding the hearing officers decision to deny their use permit.

Linda Knutson
Mitchell Park East Chair
480-216-1370

Park yourself in front of a world of choices in alternative vehicles.
[Visit the Yahoo! Auto Green Center.](#)

08/16/2007

-----Original Message-----

From: Emily Matyas [mailto:em.em@cox.net]

Sent: Thursday, August 16, 2007 10:28 AM

To: Hort, Jan

Subject: scumbags

Scumbags are just that -- NO MORE TATTOO/PIERCING PARLORS PLEASE!!!

-----Original Message-----

From: pat koppen [mailto:patkop@hotmail.com]

Sent: Thursday, August 16, 2007 8:50 AM

To: Hort, Jan

Subject:

Development Review Commission

Please deny the appeal for Scumbags tattoo and Piercing at 818 west Broadway Road.

I am greatly opposed to this proposed to granting a permit to this business.

This location is less than 1000 feet from Clark Park and from Cactus Pre-school. (which contrary to what scumbags owner said, is NOT in favor of his business).

The neighborhood is putting on a friendlier face with stores like the Antique & Re-sale shop.

Please help the neighborhood to continue to improve it's image by denying Scumbags.

Thank you for this opportunity to voice my concerns.

Pat Koppen
915 E Leeward Lane
Tempe, Az 85283

Tease your brain--play Clink! Win cool prizes!
http://club.live.com/clink.aspx?icid=clink_hotmailtextlink2

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

July 24, 2007

FILE COPY

Mr. Philip Bonet
LLC DPJ
P. O. Box 25588
Tempe, Arizona 85258-5588

**RE: SCUMBAGS TATTOO AND PIERCING
PL070231 / ZUP07070**

Dear Mr. Bonet:

You are hereby advised that at the hearing held July 17, 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:

Denied the request by **BROADWAY VILLAGE - SCUMBAGS TATTOO AND PIERCING (PL070231)** (Phillip Bonet, applicant; Cal AZ Properties LLC, property owner) located at 818 West Broadway Road in the CSS, Commercial Shopping and Services District for:

ZUP07070 Use permit to allow a tattoo and body piercing studio.

Any appeal of the Hearing Officer's decision regarding a use permit must be made to the Development Review Commission within fourteen (14) days of the hearing. You have until **August 31, 2007** to file a formal appeal in writing to the Development Review Commission if you so desire. Should you decide to submit this written appeal, the appropriate fee and a set of ownership mailing labels along with a 300 ft radius map must be attached.

Sincerely,



Shawn Daffara
Planner II

cc: Ms. Carry Buekers/Cal AZ Properties LLC
File

Memorandum



City Attorney

DATE: August 21, 2007
TO: Shawn Daffara, City Planner II
FROM: Dave Park, Assistant City Attorney
SUBJECT: Regulation of Trade/Brand Names

CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

I. ISSUE

What is the authority of the City of Tempe to regulate brand/trade names in general, and more specifically, names that may be deemed offensive to some citizens?

II. ANSWER

The First Amendment protects brand/trade names, and limits government authority to regulate those names. Generally, regulation is appropriate only where there is a substantial governmental interest in doing so. Names that are perceived to be offensive, but which are not misleading or concerning unlawful activity, do not give rise to a substantial governmental interest. Therefore, the City cannot prohibit particular brand/trade names.

III. ANALYSIS

One of the fundamental principles of the First Amendment to the U.S. Constitution is that government cannot prohibit speech solely because the ideas expressed by the speech are considered offensive or disagreeable. *Texas v. Johnson*, 491 U.S. 397, 414 (1989). When a government attempts to prohibit speech based on its content, the action is presumed invalid unless the speech falls into certain unprotected categories (where there are fewer restrictions on a government's authority to regulate). *R.A.V. v. St. Paul*, 505 U.S. 377 (1992). Commercial speech is not unprotected under the First Amendment, but it does enjoy lesser protections than some other types of speech.

Commercial speech is defined as speech which proposes a commercial transaction. *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 762 (1976).

In order to permissibly regulate the content of commercial speech, a government must meet a four prong test set forth by the U. S. Supreme Court in *Central Hudson Gas & Electric Corp v. Public Serv. Comm'n*, 447 U.S. 557 (1980). First, the speech must be protected by the First Amendment, i.e. it must not concern an unlawful activity or be misleading. Second, the government must show a substantial interest in regulating the speech. Third, the regulation of the speech must directly advance the asserted governmental interest. Fourth, the regulation cannot be any more extensive than necessary to serve that interest. *Id.* at 566.

With respect to trade or brand names, those have been recognized as commercial speech, *see Friedman .v Rogers*, 440 U.S. 1, 11 (1979), and therefore, the four prong test of *Central Hudson* applies. Where a trade name does not promote an illegal activity or mislead the public, it is entitled to First Amendment protection. *Central Hudson*, at 563-64; *Piazza's Seafood World, LLC v. Odom*, 448 F.3d 744, 753 (5th Cir. 2006); *Hornell Brewing Co., Inc. v. Brady*, 819 F.Supp. 1227, 1233 (E.D.N.Y. 1993). To regulate this protected speech, a government must have a substantial interest in prohibiting the use of the trade or business name. Note, that "the desire to protect society or certain members of society from the purported offensiveness of particular speech is not a substantial interest which justifies prohibition." *Hornell Brewing Co.*, at 1234. "One of the basic premises of advertising is that if it is too offensive to too many people, its use will be counterproductive, for those who are offended will not only refuse to buy the product, but also, if they are sufficiently offended, they will attempt to persuade others to refuse also." *Sambo's of Ohio, Inc. v. City Council of Toledo*, 466 F.Supp. 177 (N.D. Ohio 1979). Thus, courts have found that while a trade or brand name may be deemed offensive by some, that fact does not create a substantial governmental interest in regulating the speech. *Hornell Brewing Co.*, at 1235.

IV. CONCLUSION

Trade/brand names are constitutionally protected commercial speech which may only be regulated only when there is a substantial governmental interest in doing so. Courts that have considered the issue have found no substantial governmental interest in regulating or prohibiting commercial speech in the form of offensive or distasteful trade/brand names. Accordingly, the City of Tempe cannot be involved in the regulation of such.