



**CITY OF HAYWARD
AGENDA REPORT**

Meeting Date 11/17/05
Agenda Item 2

TO: Planning Commission

FROM: Arlyne J. Camire, AICP, Associate Planner

SUBJECT: Use Permit No. PL-2005-0557 – Corey and Kelly Hensley (Applicants)/Raj Chabra (Owner) – Request to Operate a Tattoo and Piercing Establishment

The Property is Located at 22540 Foothill Boulevard, Unit A, between “A” and “B” Streets in the Central City-Commercial (CC-C) Subdistrict

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines Section 15301, Existing Facilities; and
2. Approve the application subject to the attached findings and conditions of approval.

DISCUSSION:

The applicants propose a tattoo and piercing establishment, to be called Hensley Tattoo Company. It would occupy an approximate 1,600-square-foot, first-floor tenant space in a two-story, multiple tenant commercial/office complex. The property contains two buildings that are occupied by several restaurants, personal services such as a hair salon, a billiards hall, and retail stores. The adjacent properties to the north contain Cycle Path and True Value Hardware. The properties to the south contain vacant tenant spaces, a medical marijuana establishment, and personal services. The properties to the west, across Foothill Boulevard contain Long’s Drugs, The Daily Review, a nail shop, a restaurant, a document processing business and Copy Pacific. All properties are located in the *Central City-Commercial (CC-C) Subdistrict*.

A tattoo parlor is a conditional use in the *Central City-Commercial Subdistrict*. Conditional approval is required to assure that this use is permitted where there is a community need, and to assure that the use is in harmony with the area and with City policies. The General Policies Plan Map designates this property and surrounding properties as *Retail and Office Commercial*. This designation is used to indicate areas where office and retail commercial uses are encouraged and reflects a variety of land uses.

Project Description

The applicants, Corey and Kelly Hensley, will operate the Hensley Tattoo Company. Corey Hensley is a tattoo artist and piercer and his wife, Kelly, is the business manager. He is a member of the Alliance of Professional Tattooists and has ten years of experience as a professional tattoo artist and piercer (Attachment B). He acquired his professional experience in three tattoo studios: Twisted Illusions in Hayward, House of Pain in Santa Clara and Popeye's Imports in San Jose. He wrote the operating procedures, designed the interiors, and managed two locations of Popeye's Imports. Mr. Hensley would be available by appointment Tuesday through Sundays and the establishment would have regular business hours on these days from noon to 10 pm. The establishment would include an office, a clean room, two tattoo booths, one piercing booth and a showroom that would contain a jewelry display case (Attachment C). Staff recommends that each booth be equipped with a locker that could be used by customers to store their personal property. In addition, a condition of approval requires that the business manager actively monitor the front of the business to prevent loitering. The applicants propose to install a 24-hour video surveillance system.

To assure that State requirements are met, a condition of approval requires the verification that customers are at least 18 years of age by way of valid identification and signature of a standard release form (Attachment D). In addition, signs and California Code Section 653 are required to be posted stating that no persons under the age of 18 years are permitted on the premises (Attachment E).

The tattoo and piercing establishment is expected to generate very few vehicle trips. The applicant anticipates approximately three to five tattoo and piercing customers a day. Customer parking would be available in the posted 2-hour zones on Foothill Boulevard and on surrounding streets. In addition, parking would be available in two municipal parking lots. Lot No. 2 would be available for a 5-hour time limit and is located on the west side of Foothill Boulevard behind the retail spaces. During a typical weekday, approximately one-third of the 142 parking spaces of Lot No. 2 are available. Lot No. 6 is located on the northerly side of "A" Street, between Foothill Boulevard and Second Street. On a typical weekday, two-thirds of the 96 parking spaces are available. There is also limited customer and tenant parking located on-site which is accessible through a driveway entrance on "A" Street. Due to the manner in which the business is operated and the type of business, it is anticipated that the capacity of the parking lots will not be impacted.

In order to operate a tattoo parlor in Alameda County, all applicants are required to submit applications to Alameda County Department of Environmental Health. Mr. Hensley has applied for his County clearance (Attachment F). As part of the application process, a designated medical waste hauler, to dispose of the needles used for the procedures, is required to be disclosed to the Department of Environmental Health. Mr. Hensley has secured the services of Sharps Compliance Corporation to dispose of medical waste and has been issued a Medical Waste Generator's Permit (Attachment G). In addition, applicants must provide proof of vaccination or evidence of immunity of Hepatitis B or provide a certificate of proof of vaccination. Mr. Hensley has received all required immunizations. All applicants must demonstrate to the Department of Environmental Health, by examination, knowledge of basic tattooing techniques, health and safety precautions, and sanitation and sterilization techniques

designed to prevent cross contamination. Furthermore, proof of completion of a Local Enforcement Agency approved health and safety class is required to be provided.

At this time, the applicants do not intend to install a wall sign but intend to install a window sign (Attachment H).

Environmental Review

The project is exempt from environmental review as defined by the California Environmental Quality Act (CEQA) guidelines Section 15301, Existing Facilities.

Public Notice

On October 11, 2005, a Referral Notice was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the Chamber of Commerce, Downtown Improvement Advisory Board, and Hayward Area Planning Association. The Police Department is not opposed to the use with the recommended conditions of approval. On November 7, 2005, a Notice of Public Hearing for the Planning Commission meeting was mailed. No public comments have been received.

CONCLUSION:

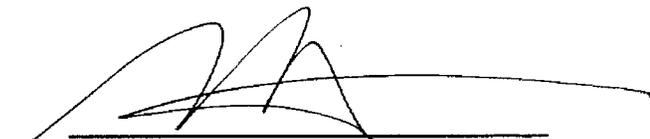
The use is compatible with the General Plan and the Central City-Commercial Zoning Subdistrict. It will generate few vehicle trips and will not create noise. It is the opinion of staff that it will have little or no impact on the adjacent commercial establishments.

Prepared by:



Arlynn J. Camire, AICP
Associate Planner

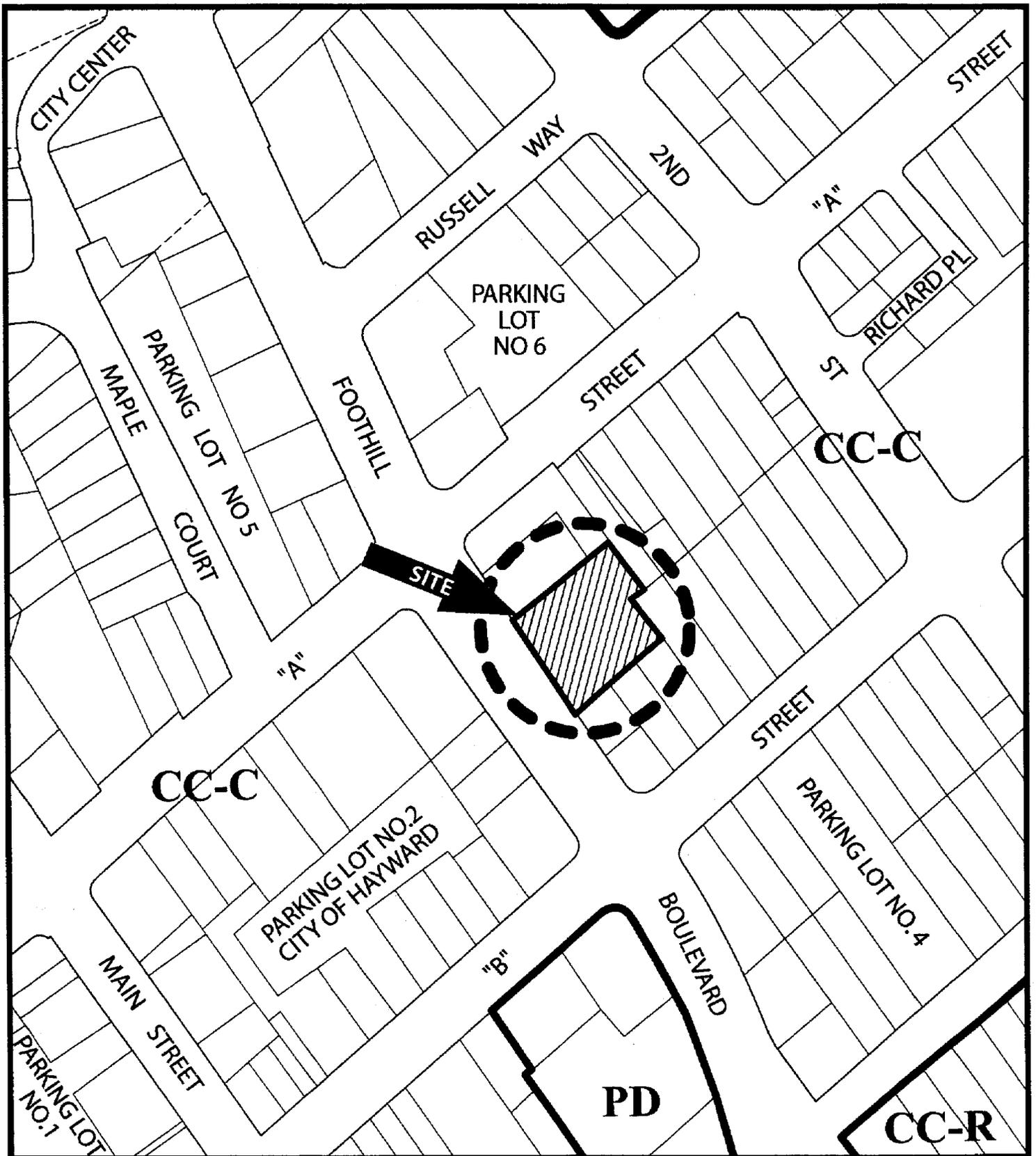
Recommended by:



Richard Patenaude, AICP
Acting Planning Manager

Attachments:

- A Area and Zoning Map**
- B Alliance of Professional Tattooists Certificate of Membership**
- C Floor Plan**
- D Standard Release Form**
- E California Code Sections 652 and 653**
- F Letter of Acknowledgment from Alameda County Health Care Services Agency**
- G Alameda County Environmental Health Medical Waste Generator's Permit**
- H Window Sign Design**
- I Findings for Approval**
- J Conditions of Approval**



Area & Zoning Map

PL-2005-0552 UP

Address: 22540 Foothill Blvd

Applicant: Corey & Kelly Hensley

Owner: Raj Chabra

CC-C - Central City Commercial

CC-R - Central City Residential

PD - Planned Development





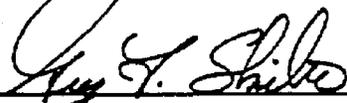
Associate Tattooist Member

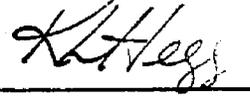
This certifies that

Corey Hensley 1457 AT

subscribes to and abides by the principles and practices of health and safety in tattooing as endorsed by the Alliance of Professional Tattooists, Inc. Thereby accepting the professional standards and stringent infection control procedures as incorporated therein.

KNOWLEDGE • EXPERIENCE • ACTIVISM


President


Secretary

COREY HENSLEY

1457 AT

Member since 10/99

428 Fourth St., #3
Annapolis, Md 21403

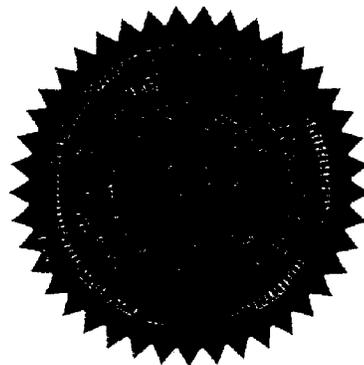
410-216-9630

410-216-9530 fax



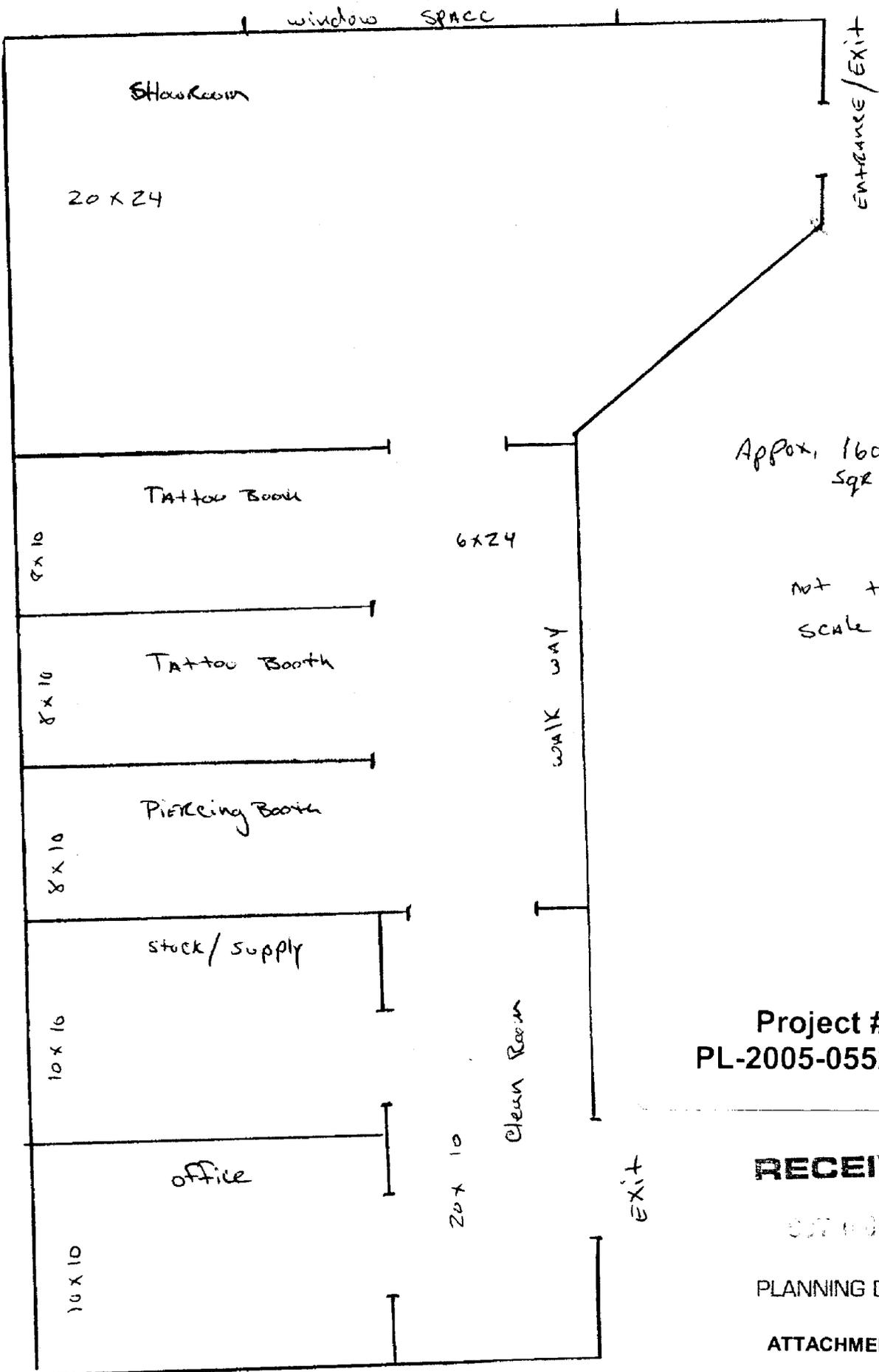
OCTOBER
MONTH

2000



22540 Foothill Blvd suite # 94541

Hensley Tattoo Co.



Approx. 1600
Sqr feet

not to
scale

Project #
PL-2005-0552 UP

RECEIVED

OCT 10 2005

PLANNING DIVISION

ATTACHMENT C

By Corey Hensley

10/5/05

Standard Release Form

I am at least 18 years old. I don't have a heart condition. I don't have epilepsy. I haven't had hepatitis within the last year. I'm not a hemophiliac (bleeder). I'm not under the influence of drugs or alcohol.

To my knowledge, I don't have any physical, mental, or medical impairment or disability which might affect my well-being as a direct or indirect result of my decision to have any tattoo-related work done at this time.

I agree to follow all instructions concerning the care of my tattoo while it is healing. I agree that any touch-up work needed, due to my own negligence, will be done at my own expense. I understand that if my skin color is dark, the colors will not appear as bright as they do on light skin.

Being of sound mind and body, I hereby release any and all persons representing _____, (also known as _____) from all responsibility. I accept any and all responsibility myself for any consequences that might stem from my decision to have any tattoo-related work done by _____.

I agree not to sue _____, in connection with any and all damages, claims, demands, rights, and causes of action of whatever kind or nature, based upon injuries or property damage to, or death of myself or any other persons arising from my decision to have tattoo-related work done at this time, whether or not caused by any negligence of _____.

I agree for myself, my heirs, assigns, and legal representatives to hold _____ harmless from all damages, actions, causes of action, claim judgements, costs of litigation, attorney's fees, and all other costs and expenses which might arise from my decision to have any tattoo-related work done by _____.

I agree to pay for any and all damages and injuries to any and all persons and property belonging to _____, or any other person to whom _____ may become liable contractually or by operation of law, caused by, or resulting from my decision to have any tattoo-related work done by _____.

I agree to leave the premises of _____, or any other establishment where _____ is engaged in business, promptly upon request, for any reason whatsoever, by any agent or employee of _____.

I agree that these waivers also pertain to and are designed to protect any and all establishments where _____ conducts business.

I represent and warrant to _____ that the following information is true and correct.

Please Print

Name: _____
Last First Initial Age Date

Address: _____
Street City State Zip Phone

I have read and understood each of the above paragraphs.

Tattoo: _____

Signature: _____

Location: _____

§ 652. (Operative until January 1, 2005) Infraction for performing or offering to perform body piercing upon a person under the age of 18 years.

(a) It shall be an infraction for any person to perform or offer to perform body piercing upon a person under the age of 18 years, unless the body piercing is performed in the presence of, or as directed by a notarized writing by, the person's parent or guardian.

(b) This section does not apply to the body piercing of an emancipated minor.

(c) As used in this section, "body piercing" means the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration. This includes, but is not limited to, piercing of a lip, tongue, nose, or eyebrow. "Body piercing" does not include the piercing of an ear.

(d) Neither the minor upon whom the body piercing was performed, nor the parent or guardian of that minor, nor any other minor is liable for punishment under this section.

(e) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date. Added Stats 1997 ch 741 § 3 (AB 99), operative until January 1, 2005.

§ 653. Tattooing or offering to tattoo person under age of eighteen. Every person who tattoos or offers to tattoo a person under the age of 18 years is guilty of a misdemeanor.

As used in this section, to "tattoo" means to insert pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, so as to produce an indelible mark or figure visible through the skin.

This section is not intended to apply to any act of a licensed practitioner of the healing arts performed in the course of his practice. Added Stats 1955 ch 1422 § 1 p 2590.

➔ *Witkin Summary (9th ed) Torts § 10; Cal Jur 3d (Rev) Criminal Law § 1975.*

§ 653b. Added by Code Amdts 1873-74 ch 614 § 37 p 435 as § 654, renumbered § 653b by Stats 1905 ch 503 § 1 p 658, and repealed by Stats 1929 ch 161 § 10.4, School Code and Supplemental Acts p 303. See Ed C §§ 44811, 87708.

§ 653c. Added by Stats 1905 ch 505 § 1 p 666, amended by Stats 1927 ch 257 § 1 p 475, Stats 1929 ch 793 § 1 p 1602, Stats 1931 ch 1144 § 1 p 2430, and repealed by Stats 1937 ch 90 (Lab C § 8100) p 328. See Lab C §§ 1810-1815.

§ 653c-1. Added by Stats 1933 ch 632 § 1 p 1644 and repealed by Stats 1937 ch 90 (Lab C § 8100) p 328.

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES
1131 Harbor Bay Parkway
Alameda, CA 94502-6577
(510) 567-6777

RECEIVED

OCT 27 2005

PLANNING DIVISION

October 24, 2005

MW-OT-0135

Mr. Corey E. Hensley
C/o Hensley Tattoo Company
22540 Foothill Blvd. Ste. A
Hayward, CA. 94541

Re: Tattooing, Body Piercing, and Permanent Cosmetic Act

This letter acknowledges that this office has received the following as required by the California Health and Safety Code section 119303 (a) (2) & (3).

1. Your completed registration form.
2. Your check of \$26.00 as a registration fee.

At this time, as the local enforcement agency has not received a copy of the standards for tattoo parlors adopted by the Department of Health Services. You will be informed by mail, as soon as these standards are in place.

You have already received a copy of the Health and Safety Code with your application for your review. Thank you for your immediate attention on this matter. If you have any more questions you may contact me at 567-6756.

Sincerely,

Jorge Goitia, SrREHS
Alameda County
Office of Solid/Medical Waste Management

ATTACHMENT F

Alameda County Environmental Health
1131 Harbor Bay Parkway Alameda, CA 94502-6540 (510) 567-6700

MEDICAL WASTE GENERATOR'S PERMIT

Mail to:

HENSLEY TATTOO COMPANY
22540 FOOTHILL BLVD. STE A
HAYWARD, CA 94541

Facility Name

HENSLEY TATTOO
COMPANY
22540 FOOTHILL BLVD A
HAYWARD, CA 94541

Permit Expires: 10/23/2006

Facility Owner Name

HENSLEY TATTOO COMPANY

Facility ID

FA0306173

Valid Dates (from-to)

10/24/2005 - 10/23/2006

Date Printed

10/27/05

Program Description

3002 MED WASTE SM QTY GEN (W/O ON-SITE
TREATMENT)

Permit Number

PT0307358

By Authority of:

MEE LING TUNG, Director, Department of Environmental Health of Alameda County

Permit NOT TRANSFERABLE

Permit may be revoked or suspended for:

- non payments of fees
- violations of the California Health and Safety Codes and related Statutes
- imminent health hazards

A COPY OF THIS PERMIT MUST BE KEPT ON FILE AT THE FACILITY AT ALL TIMES



FINDINGS FOR APPROVAL
Use Permit Application No. PL-2005-0552
Corey and Kelly Hensley (Applicants)
Raj Chabra (Owner)
22540 Foothill Boulevard, Unit A

1. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301, *Existing Facilities*.
2. The tattoo and piercing parlor is desirable for the public convenience or welfare in that residents and customers with body adornment needs will be accommodated.
3. Tattoos and piercings are socially acceptable forms of body adornment. Therefore, the tattoo, permanent cosmetics and piercing parlor will not impair the character and integrity of the adjacent commercial businesses and zoning district. In addition, the tenant space was formerly occupied by a karate studio which is considered a more intensive use than the tattoo and piercing establishment in terms vehicle trip generation. The tattoo and piercing establishment will generate fewer vehicle trips per day than the karate studio.
4. The tattoo and piercing parlor will not be detrimental to the public health, safety, or general welfare in that qualified tattoo artists and piercers will observe sanitary and safe practices. In addition, all needles will be disposed in an appropriate manner by a qualified medical wastes hauler as required by the Alameda County Department of Environmental Health.
4. The tattoo and piercing parlor will be in harmony with applicable City policies of the Zoning Ordinance and General Plan in that the services provided serve a community need that is compatible with surrounding commercial businesses.

CONDITIONS OF APPROVAL
Use Permit Application No. PL-2005-0552
Corey and Kelly Hensley (Applicants)
Raj Chabra (Owner)
22540 Foothill Boulevard, Unit A

1. Use Permit Application No. PL-2005-0552 is approved subject to the conditions listed below. This approval is void one year after the effective date of approval unless the business has been established in accordance with these conditions of approval or unless an extension is approved. Any modification to this permit shall require review and approval by the Planning Director. All conditions shall be met prior occupancy of the building and prior to the issuance of a business license. A request for a one-year extension-of-time, approval of which is not guaranteed, must be submitted to the Planning Division at least 30 days prior November 17, 2006.
2. The tattoo and piercing establishment shall observe appropriate sanitary practices include proper disposal of materials used during the tattoo process. In addition, the tattoo artist is required to meet all of the requirements of the County of Alameda Environmental Health Department, including registration as a tattoo artist and present evidence thereof to the City of Hayward prior to onset of business.
3. A sign permit shall be approved prior to installation of any wall sign. The final design and size of the sign shall be to the satisfaction and be approved by the Planning Director.
4. The property owner and applicants shall maintain in good repair all building exteriors, walls, lighting, drainage facilities, driveway and parking area. The premises shall be kept clean and free of weeds, and prior to occupancy any weeds located along the base of the building on the south side shall be removed. Any graffiti painted on the property shall be painted out or removed within 72 hours of occurrence.
5. The trash enclosure located in the rear yard shall be repaired.
6. Outdoor storage of recyclables and other items shall not be allowed. All trash and recyclables shall be stored in proper receptacles.
7. The business hours shall be noon to 10:00 pm. If the applicant wishes to extend business hours, the Planning Director shall review and act on any changes.
8. The business manager shall actively monitor the front of the business to prevent loitering.
9. The applicants shall post a sign at the entrance that states, "No Persons Under Age of 18 Years Permitted."
10. The applicants shall post California Penal Code 653 which reads "Every person who tattoos or offers to tattoo a person under the age of 18 years is guilty of a misdemeanor.

As used in this section, to "tattoo" means to insert pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, so as to produce an indelible mark or figure visible through the skin. This section is not intended to apply to any act of a licensed practitioner of the healing arts performed in the course of his practice in unobstructed view to customers."

11. The applicants shall post the business license and California Department of Health Certificate in clear unobstructed view to the public.
12. Lockable storage cupboard or locker shall be provided in each booth for customers to secure their personal belongings while using the services of the business.
13. If interior tenant improvements are to be made, plans shall be submitted to the City of Hayward Building Department for building permit review and approvals.
14. Portable fire extinguishers shall be installed within the tenant space. Minimum size and type of fire extinguisher shall be 5 lb., dry-chemical, with a rating of 2A:10BC. Fire extinguishers shall be installed in accessible locations as approved by the Fire Department.
15. The applicants are responsible for contacting the City of Hayward Hazardous Materials Office for further regulations on medical waste disposal laws, as they pertain to city, county and state regulations. Please contact Hugh Murphy at (510) 583-4924.
16. A building (or tenant space) address shall be installed in a location on the front of the building so as to be visible from the street. Minimum size of numbers shall be 6-inches on a contrasting background.
17. Violation of these conditions is cause for revocation of permit, after a public hearing before the duly authorized review body.