



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: SEPTEMBER 26, 2005

III. 11.
ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-05-33
2156 NEWPORT BOULEVARD

DATE: SEPTEMBER 15, 2005

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714) 754-5136

PROJECT DESCRIPTION

The applicant is requesting approval of a conditional use permit to establish a tattoo parlor within an existing commercial building.

APPLICANT

The applicant is Jeff Mayes, representing the property owners, Steve and Lynn Schultz.

RECOMMENDATION

Approve by adoption of Planning Commission resolution, subject to conditions.



WENDY SHIH
Associate Planner



R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

BACKGROUND

The subject property is located near the southeast corner of 22nd Street and Newport Boulevard, south of Stater Brothers grocery store. It is zoned C1 (Local Business District) with a General Plan designation of Commercial Residential, surrounded by the 55 Freeway across Newport Boulevard to the west, and commercially zoned and developed properties to the north and south. The property to the east is zoned R1 (Single-Family Residential). The property is also located within the Newport Boulevard Specific Plan (NBSP) area.

The applicant proposes to occupy an approximately 500 square-foot first floor suite to establish a tattoo and piercing shop within an existing two-story commercial building. Per Costa Mesa Municipal Code Section 13-30 (144), tattoo parlors require approval of a conditional use permit.

In 1997, City Council adopted Ordinance No. 97-16 (Title 8, Chapter VI of the Municipal Code) that established regulations for tattoo establishments (a copy of which is attached to this report). There are three tattoo establishments currently in operation in the City (2075 Newport Boulevard, 2981 Bristol Street, B-4, and 788 West 19th Street), all of which were approved by conditional use permits. In May 2005, the Planning Commission approved PA-05-12 to allow a tattoo parlor at 2428 Newport Boulevard, Units 5 and 6. The operation of the tattoo parlor at 2428 Newport Boulevard is pending completion of a condition of approval. The Police Department has not received any complaints about the existing tattoo establishments.

ANALYSIS

The proposed business will have a customer waiting area, two tattoo and piercing stations, a storage room, and bathroom. The suite is located at the front of the property, more than 100 feet away from residential property to the rear (east), and is separated by garages.

The applicant proposes to operate between noon and 10 p.m. daily. Since the property backs up to single-family residences, staff is recommending a condition of approval requiring the hours of operation for customer service be limited to the proposed hours. Staff is also recommending a condition that the tattooing or piercing of "specified anatomical areas" as described in Title 13, Chapter IX, Article 1 (Sexually Oriented Businesses) cannot be visible to the public. These conditions are consistent with the conditions of approval for the existing tattoo establishments.

The proposed business is in compliance with the NBSP because the plan allows a wide variety of retail and service establishments. Per Section 2.3 of the NBSP, the business will be subject to limitations on hours of operation, and adequate buffer from the adjacent residential property is already provided.

ALTERNATIVES

If the application is not approved, the use cannot be established on the property. Another use permitted by right in the C1 zone per the Zoning Code may be established.

CONCLUSION

Staff supports the proposed use given that the business location is more than 100 feet away from the residential property to the rear (east) and existing parking garages provide a physical separation. The operators of the tattoo business will be required to comply with all applicable City and County regulations, as well as conditions of approval, to minimize impacts to surrounding properties and uses.

Attachments : Draft Planning Commission Resolution
 Exhibit "A" - Draft Findings
 Exhibit "B" - Draft Conditions of Approval
 Applicant's Project Description and Justification
 Zoning/Location Map
 Plans
 Title 8 Excerpt

cc: Deputy City Manager - Dev. Svs.
 Senior Deputy City Attorney
 City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

Steve and Lynn Schultz
2156 Newport Blvd.
Costa Mesa, CA 92627

Jeff Mayes
31501 Marbeth Rd.
Yucaipa, CA 92399

File: 092605PA0533	Date: 091405	Time: 1:45 p.m.
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RESOLUTION NO. PC-05-

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF COSTA MESA APPROVING PLANNING
APPLICATION PA-05-33**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Jeff Mayes, authorized agent for Steve and Lynn Schultz, with respect to the real property located at 2156 Newport Boulevard, requesting approval of a conditional use permit to establish a tattoo parlor within an existing commercial building; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on September 26, 2005;

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **APPROVES** Planning Application PA-05-33 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this resolution is expressly predicated upon the activity as described in the staff report for PA-05-33 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B". Should any material change occur in the operation, or should the applicant fail to comply with the conditions of approval, then this resolution, and any recommendation for approval herein contained, shall be deemed null and void.

PASSED AND ADOPTED this 26th day of September, 2005.

Chair, Costa Mesa
Planning Commission

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EXHIBIT "A"**FINDINGS**

- A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(e) because:
1. The proposed use is compatible and harmonious with uses on surrounding properties.
 2. The project is consistent with the General Plan and the Newport Boulevard Specific Plan.
 3. The planning application is for a project-specific case and does not establish a precedent for future development.
- B. The information presented substantially complies with Costa Mesa Municipal Code section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, the suite in which the business is proposed is located more than 100 feet away from the residential property to the rear (east) and separated by garages. As a result, there should be no impacts to the residential properties. Additionally, the operators of the business will be required to obtain Orange County Environmental Health Care Agency permits and approvals. Granting the conditional use permit will not allow a use, density or intensity, which is not in accordance with the general plan designation for the property.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL**

- Plng.
1. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
 2. This business shall be conducted in such a manner so that it does not permit the observation by customers or the public of the tattooing or piercing of "specific anatomical areas" as described in Title 13, Chapter IX, Article 1 (sexually oriented businesses).
 3. The conditional and minor conditional use permits herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
 4. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
 5. Hours of operation for customer service shall be limited to the hours between noon and 10 p.m. daily.

PLANNING DIVISION - CITY OF COSTA MESA
DESCRIPTION/JUSTIFICATION

Application #: **PA-05-33**

Environmental Determination:

Address:

2156 NEWPORT BLVD, COSTA MESA

1. Fully describe your request:

BUSINESS LICENSE, FOR TATTOO PARLOR & PIERCING.

2. Justification

A. For a Conditional Use Permit or Minor Conditional Use Permit: Describe how the proposed use is substantially compatible with uses permitted in the same general area and how the proposed use would not be materially detrimental to other properties in the same area.

*BODY ART, IS A FORM OF ART IN IT FULLEST CONTENT,
AND ONLY OFFER TO PEOPLE OVER 18.*

B. For a Variance or Administrative Adjustment: Describe the property's special circumstances, including size, shape, topography, location or surroundings that deprive the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification due to strict application of the Zoning Code.

3. This project is: (check where appropriate)

In a flood zone.

Subject to future street widening.

In the Redevelopment Area.

In a Specific Plan Area.

4. I have reviewed the HAZARDOUS WASTE AND SUBSTANCES SITES LIST published by the office of Planning and Research and reproduced on the rear of this page and have determined that the project:

Is not included in the publication indicated above.

Is included in the publication indicated above.

Signature

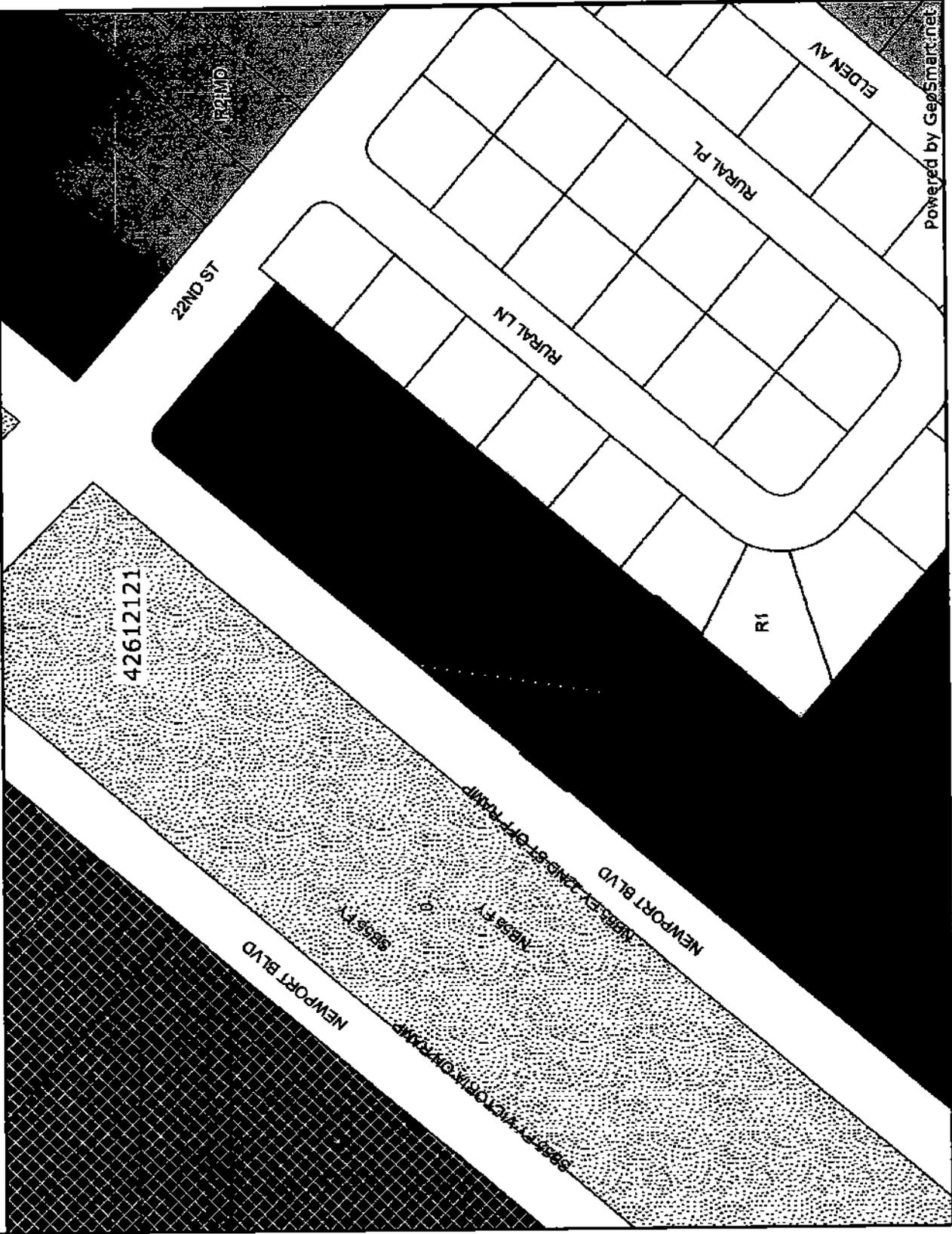
Date

March '96

8

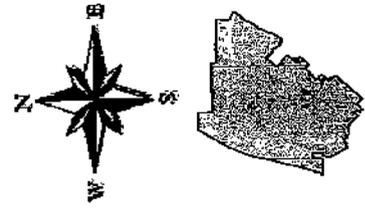
ZONING/LOCATION MAP

2156 Newport Boulevard



Legend

- Selected Features
 - Street Names
 - Parcel Lines
 - City Boundary
 - Zoning
- AP C1 C1-S C2 CL IAR IAR-S MG MP P PDC PDI PDR-NB PDR-LD PDR-MD PDR-NCM R1 R2-NB R2-MD R3 TC Parcels



AERIAL PHOTOGRAPH

2156 Newport Boulevard

Legend

Selected Features

Street Names

Parcel Lines

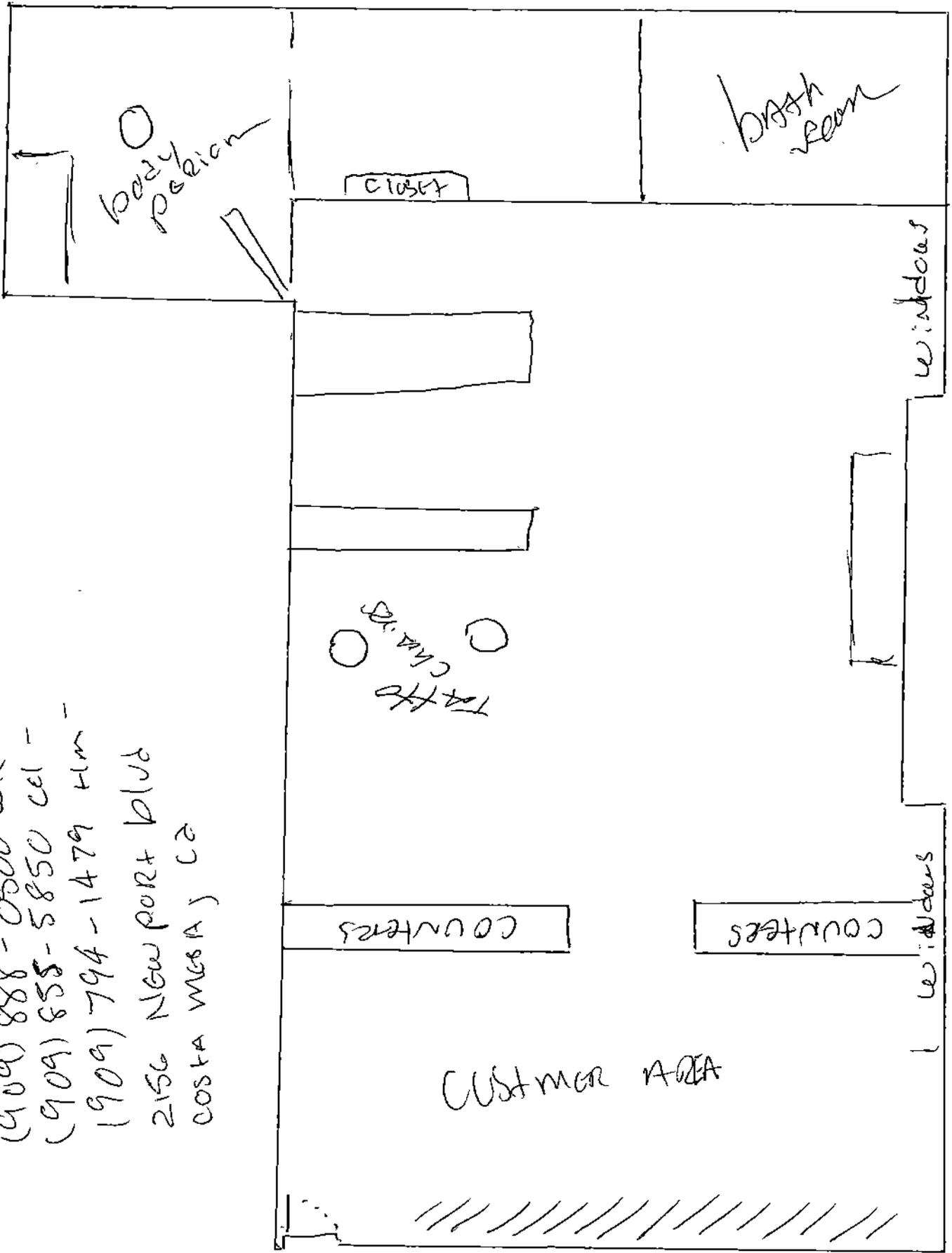
City Boundary

Ortho
Photography

Parcels



Private city TATTOO
 (909) 888-0500 wk.
 (909) 858-5850 cel -
 (909) 794-1479 HM -
 2156 Newport Blvd
 COSTA MESA, CA



(N)

2156 Newport Blvd

drive way

Sec. 8-134. Administration.

The no smoking regulations established by this chapter shall be administered by city code enforcement officers as designated by the city manager. (Ord. No. 91-16, § 1, 6-17-91)

Sec. 8-135. Violations and penalties.

Violation of section 8-133 shall be deemed an infraction and shall be punishable in accordance with the provisions set out in section 1-33 of this Code. (Ord. No. 91-16, § 1, 6-17-91)

**CHAPTER VI. TATTOOING
ESTABLISHMENT AND OPERATION
REGULATIONS**

Sec. 8-136. Definitions.

As used in this chapter, unless the context otherwise requires, the following terms shall have the meaning ascribed to them respectively:

(a) *Health officer* shall mean that person or office designated by order of the city council of the City of Costa Mesa or by contract approved by said council as the person or office having responsibility for the enforcement of the provisions of this article.

(b) *Operator* shall mean any person, whether the proprietor or another person, administering a tattoo to any customer of a tattoo of a tattooing establishment.

(c) *Proprietor* shall mean the person having general control and management over the conduct of business at a tattooing establishment, whether or not such person is the legal owner of the premises or the business.

(d) *Tattoo* shall mean an indelible mark or figure fixed upon a body by insertion of pigment under the skin or by production of scars.

(e) *Tattooing establishment* shall mean the premises used for the business of marking or coloring the skin with tattoos, and all furnishings, equipment, instruments, dyes and inks, and other facilities maintained therein incidental to such use. (Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-137. Maintenance of premises.

(a) All tattooing establishments shall be equipped with running hot and cold water, with adequate toilet facilities and all such appliances, furnishings and materials as may be necessary to enable persons employed in and about such establishments to comply with the requirements of this chapter.

(b) The floors, furnishings and equipment of tattooing establishments shall be kept clean at all times during business hours. For purposes of this paragraph a floor shall not be considered clean if it has not been swept and mopped within the preceding twenty-four (24) hour period.

(c) All operating tables in tattooing establishments shall be constructed of metal with white enamel or porcelain finish, or stainless steel.

(d) Each tattooing establishment shall have adequate lighting and ventilation. For purposes of this paragraph lighting or ventilation shall be considered as inadequate if it fails to comply with a standard prescribed by the health officer.

(e) No tattooing establishment shall be used as a sleeping room or dormitory. (Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-138. Source of dyes and inks.

(a) Proprietors of tattooing establishments shall, on request of the health officer, submit in writing to the health officer the source of all dyes or inks retained for use in tattooing operations, and thereafter shall notify the health officer in writing of any dyes or inks obtained for use in tattooing operations from any source other than those previously submitted.

(b) No dyes or inks from any sources which have been disapproved by the health officer shall be retained available for use in tattooing operations. (Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-139. Maintenance of pigments, dyes and equipment.

(a) No pigments, dyes, or equipment shall be retained available for use in tattooing operations unless cleaned and sterilized as provided in this section. For purposes of this section, equipment shall include needles, needle tubes, towels, blade holders, wiping cloths, paper towels and napkins, charcoal, gauze bandages (unless purchased in individual sterile packages), and all similar items.

(b) All equipment shall be thoroughly cleaned before being sterilized. Instruments shall be cleaned with soap or detergent by use of a brush. The interior of needle barrels shall be brushed. After cleaning, equipment shall be thoroughly rinsed under running fresh tap water.

(c) All equipment shall be sterilized by autoclaving. Each piece of equipment shall be individually wrapped with paper in an approved method for autoclaving. Metal foil may not be used. Tattooing needles shall be threaded through the metal tube that attaches to the tattooing vibrator and shall be placed in a glass (or autoclavable plastic tube) with a cotton plug for autoclaving. Wiping tissues shall be sterilized in a single pack to be used for

one (1) tattoo and then be discarded. All packs shall be marked with temperature recording tape or labels.

(d) Dyes or inks shall be used from containers with a cap that completely covers the opening and is attached to the neck of the dye container, sterilized in an autoclave after first being filled with the dye. Dye shall be handled utilizing aseptic techniques and the dye containers filled with dye shall be autoclaved at least once a week or more often if necessary to keep the dye in a sterile condition. The dyes may be placed in teflon squeeze bottles that will withstand autoclaving.

(e) Steam sterilization of the above listed equipment shall be accomplished in an autoclave with at least fifteen (15) pounds pressure per square inch (251° F) for at least thirty (30) minutes. Other means of sterilization may be approved by the health officer.

(f) All sterilized dyes, pigments and equipment shall be stored in a manner which will ensure sterility at the time of use.

(g) Proprietors shall maintain sufficient sterilized equipment available at the beginning of each workday to allow completion of such workday without requiring re-sterilization of such equipment.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-140. Maintenance of stencils.

No stencil, whether new or used, shall be retained in a manner available for use in any tattooing operation unless it has been pre-cleaned and disinfected in the following manner:

- (a) Each stencil must be pre-cleaned by being scrubbed with soap and brush to the extent necessary to remove all accumulations of carbon and Vaseline in the etched grooves of the stencil.
- (b) Each stencil, after being pre-cleaned and dried, must be disinfected by being soaked, design-cut side down, in a closed container of seventy (70) per cent alcohol for not less than thirty (30) minutes at room temperature.
- (c) Each stencil, after being disinfected, shall be air dried for not less than thirty (30) minutes by being suspended in a manner exposing both sides to the air and, thereafter, shall be stored for next use in a clean envelope.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-141. Tattooing operations—Skin condition of customer.

No tattooing operation shall be performed on skin surface areas containing any rash, pimples, boils, or infection or otherwise manifesting any evidence of unhealthy conditions.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-142. Same—Potential health risks.

The establishment owner shall provide written information as required by the health officer about blood-borne diseases and their transmission to all tattoo operators and maintain records to verify operator receipt of this information. The tattoo operator shall inform the customer of any potential health risks involved whenever the skin is violated as required by the health officer.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-143. Same—Health conditions of operator.

No tattooing operations shall be performed unless the operator is free of communicable diseases and pustular skin lesions.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-144. Same—Smoking.

No operator shall smoke while performing a tattooing operation.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-145. Same—Apparel of operator.

The operator must wear a clean, light-colored, short sleeved smock while performing the tattooing operation.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-146. Same—Cleanliness of operator.

(a) No operator shall perform a tattooing operation with unclean hands. For purpose of this paragraph, hands shall not be considered clean unless they have been thoroughly washed with soap from a single service dispenser and warm water vigorously rubbing all surfaces of lathered hands for at least ten (10) seconds, followed by thorough rinsing under a stream of water. Hands shall be dried using single service towels from a dispenser or hot air blower. If a liquid soap is used, the dispenser shall be cleaned and filled with fresh soap when empty.

(b) Tattoo operators shall wear protective gloves while handling needles or blades, or doing any procedure that may cause bleeding. Gloves shall be discarded between each customer.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-147. Same—Shaving.

No tattooing operation involving shaving shall be performed unless the skin is washed with soap prior to the shaving and unless the blade used in shaving is previously unused and unless the blade holder has been autoclaved since its previous use.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-148. Same—Skin preparation.

No tattooing operation shall be performed unless the skin is adequately prepared prior to the

operation. For purposes of this paragraph, skin shall be considered properly prepared if it is thoroughly washed with soap following shaving and, thereafter, scrubbed gently three (3) times with seventy (70) per cent isopropyl alcohol, using a separate sterile gauze pad each such time, and no alternate method of skin preparation shall be considered adequate unless approved in writing by the health officer.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-149. Same—Use of stencils.

No tattooing operation involving the use of stencils shall be performed unless all of the following requirements have been complied with:

- (a) Each stencil must be pre-cleaned pursuant to section 8-140.
- (b) Each stencil having been pre-cleaned must be wiped with sterile gauze soaked in seventy (70) per cent alcohol and air dried immediately prior to its use in the tattooing operation.
- (c) Petroleum jelly used for stencils must be obtained from a collapsible tube which has not previously been used in any tattooing operation and must be applied to the skin with a sterile gauze which has not previously been used.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-150. Same—Use of approved dyes.

No tattooing operation shall be performed using dyes or inks of a type that has been disapproved for use by the health officer pursuant to section 8-138.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-151. Same—Use of sterile dyes.

No tattooing operation shall be performed unless the following requirements have been complied with:

- (a) The dye or ink used for the tattoo must be obtained from pre-sterilized dye or ink bottles and, prior to the tattooing operation, aseptically transferred from such bottles into sterile paper cups which have not previously been used in any tattooing operation. No refilling of the dye cup is permitted.
- (b) No dye or ink shall be used in which needles used on another person have been dipped.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-152. Same—Use of sterile equipment.

No tattooing operating shall be performed using equipment that has not been cleaned and sterilized in the manner set forth in sections 8-139 and 8-140.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-153. Same—Discarding of certain equipment.

Operators shall discard the following items immediately after use in any tattooing operation:

- (a) Blades used in shaving.
- (b) Tubes and gauze used in application of petroleum jelly used for stencils.
- (c) Paper cups used for dye or ink.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-154. Inspections, health services fee schedule.

The county health officer shall periodically make inspections of tattooing establishments located in the City of Costa Mesa to determine if the proprietor or operator of such establishments are complying with the provisions of this chapter. The county shall, by annual board resolution, adopt health service fees to be paid by the proprietor or operator of the tattoo establishment. Such fees to be paid directly to the county health officer and retained by the county as reimbursement for said services related to this article.

(Ord. No. 97-16, § 1, 6-2-97)

Sec. 8-155. Penalties.

Each of the following acts or omissions shall constitute a misdemeanor and upon conviction shall constitute a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00):

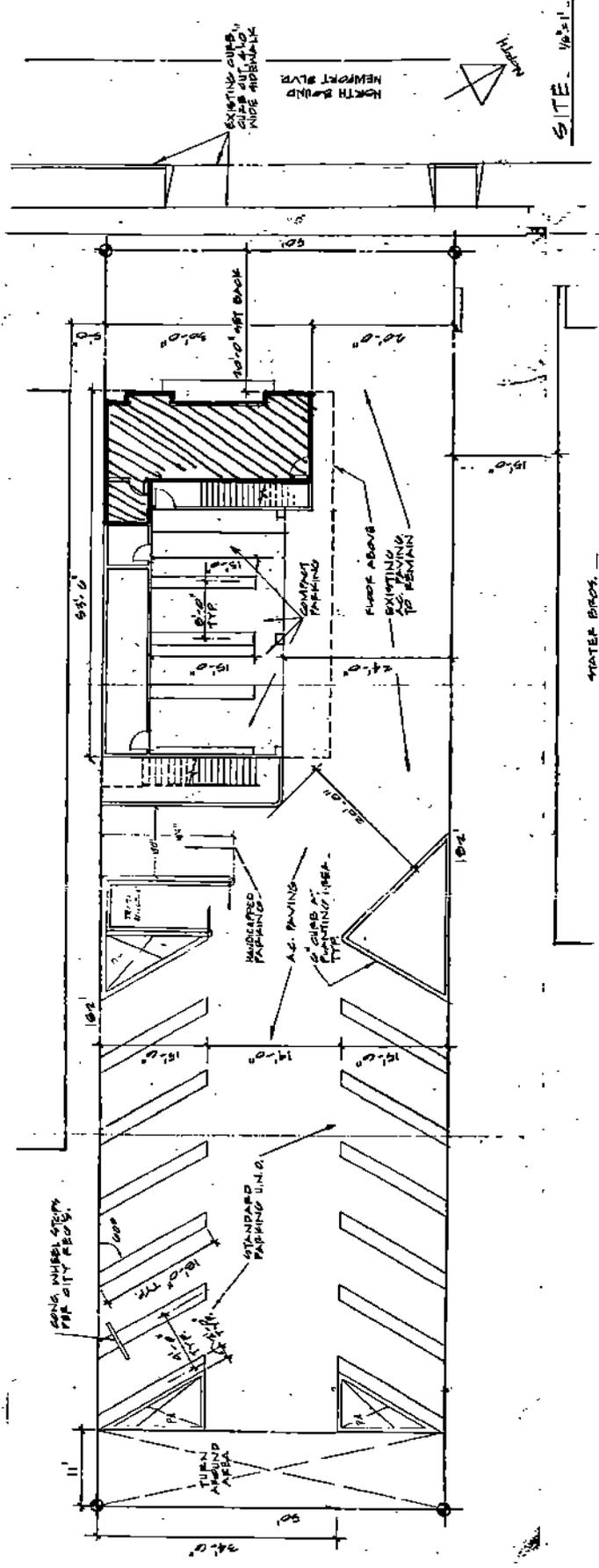
- (a) Any performance of a tattooing operation by an operator in violation of any requirement or prohibition imposed by this chapter.
- (b) Any failure by a proprietor to maintain a tattooing establishment in conformity with the requirements of this chapter. For purposes of this subparagraph (b), each day upon which such a failure to conform occurs shall constitute a separate violation.

(Ord. No. 97-16, § 1, 6-2-97)

OWNER: DR. HUNGERFORD, PH NO. (718) 472-0773
 A.I.M.T. SCHOOL BUILDING
 2100 NEWPORT BLVD
 COST MESA, CA

Sheet	102
Block	
Lot	

DATA
 LOT AREA 9100 SQ. FT.
 BUILDING AREA 1
 FIRST FLOOR 5111 SQ. FT.
 SECOND FLOOR 1400 SQ. FT.
 TOTAL 6511 SQ. FT.
 PARKING 17 SPACES
 PROVIDED 17
 REQUIRED 17
 STANDARD SPACES 17
 COMPACT SPACES 0
 HANDICAPPED 0
 TOTAL SPACES 17
 OPEN SPACE REQUIRED 17
 PROVIDED 17
 PROVIDED X 45 SQ. FT. = 765 SQ. FT.
 PROVIDED PARKING DRIVEWAY, BY COMPANY, BY CONSTRUCTION TYPE: SEN



SITE 102

WATER BROOK