

Staff Summary Report



Hearing Officer Hearing Date: 8/16/11

Agenda Item Number: 6

SUBJECT: This is a public hearing for a request by the **A & Z SMOKE SHOP** located at 2700 West Baseline Road, Suite No. 136, for one (1) use permit.

DOCUMENT NAME: 20110816cdsl05 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **SOUTHPOINT SHOPPING CENTER - A & Z SMOKE SHOP LLC (PL110278)** (Ansar Ashrak, applicant; Strass Family Trust, property owner) located at 2700 West Baseline Road, Suite No. 136, in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP11071 Use permit to allow a tobacco retailer.

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

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

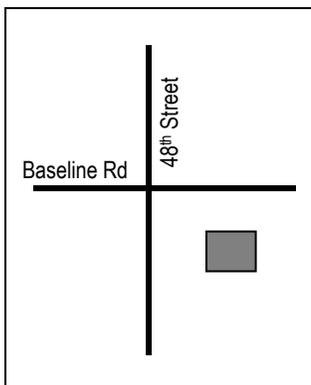
LEGAL REVIEW BY: N/A

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

FISCAL NOTE: There is no fiscal impact to City funds.

RECOMMENDATION: **Staff – Approval, subject to conditions**

ADDITIONAL INFO:



The applicant is before the Hearing Officer to request approval of a use permit to allow a tobacco retail store. The business will involve the sale of tobacco-related products, lighters, e-cigarettes and other convenience store type items. There has been no public input to date regarding this request. Staff recommends approval of the request as submitted.

PAGES:

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

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Site plan
5. Floor Plan
6. Staff Photograph(s)

COMMENTS:

The proposed store will be located within the Southpoint Shopping Center at 2700 West Baseline Road at the northeast corner of the intersections of Baseline Road and 48th Street. The balance of the shopping center is a mix of retail, restaurants and services. The shopping center is surrounded by single family residences. To date, staff has received no public input concerning this request.

Use Permit

The Zoning and Development Code requires a Tobacco Retailer to obtain a use permit in the PCC-1, Planned Commercial Center District. Additionally, tobacco retailers must meet ZDC separation requirements and may not be located within 1,320 feet of a school.

This use permit request meets all applicable tests in the following manner:

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

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
 - *There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.*
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
 - *This is a retail use, similar to others within the shopping center; there should be no nuisances.*
- c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
 - *The proposed development would not contribute to neighborhood deterioration or downgrade property values. This use permit request is consistent with the General Plan 2030's Land Use Element. The requested use permit will not be detrimental to the surrounding area, but will further the General Plan Land Use Element Goals and Strategies.*
- d. Compatibility with existing surrounding structures and uses;
 - *The proposed use appears to be compatible with surrounding uses.*
- e. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public:
 - *The proposed use is a retail establishment will not create a nuisance.*

Conclusion

Staff recommends the use permit, subject to conditions.

REASON(S) FOR APPROVAL:

1. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
2. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.
3. Traffic generated by this use should not be excessive.
4. The use appears to be compatible with the building, site and adjacent property.

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

**CONDITION(S)
OF APPROVAL:**

1. The use permit is valid for A & Z Smoke Shop and may be transferable to successors in interest through an administrative review with the Community Development Manager, or designee. Should the business be sold, the new owners must contact the Community Development staff for review of the business operation.
2. This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
3. 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.
4. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer for further review.
5. All business signs shall receive a Sign Permit. Please contact Dean Miller at (480) 350-8435.
6. The applicant shall submit a security plan to the City of Tempe Crime Prevention Unit. Please contact William Gallauer at 480-350-8749 within 30 days of this approval (September 16, 2011).

HISTORY & FACTS:

None pertinent to this case.

DESCRIPTION:

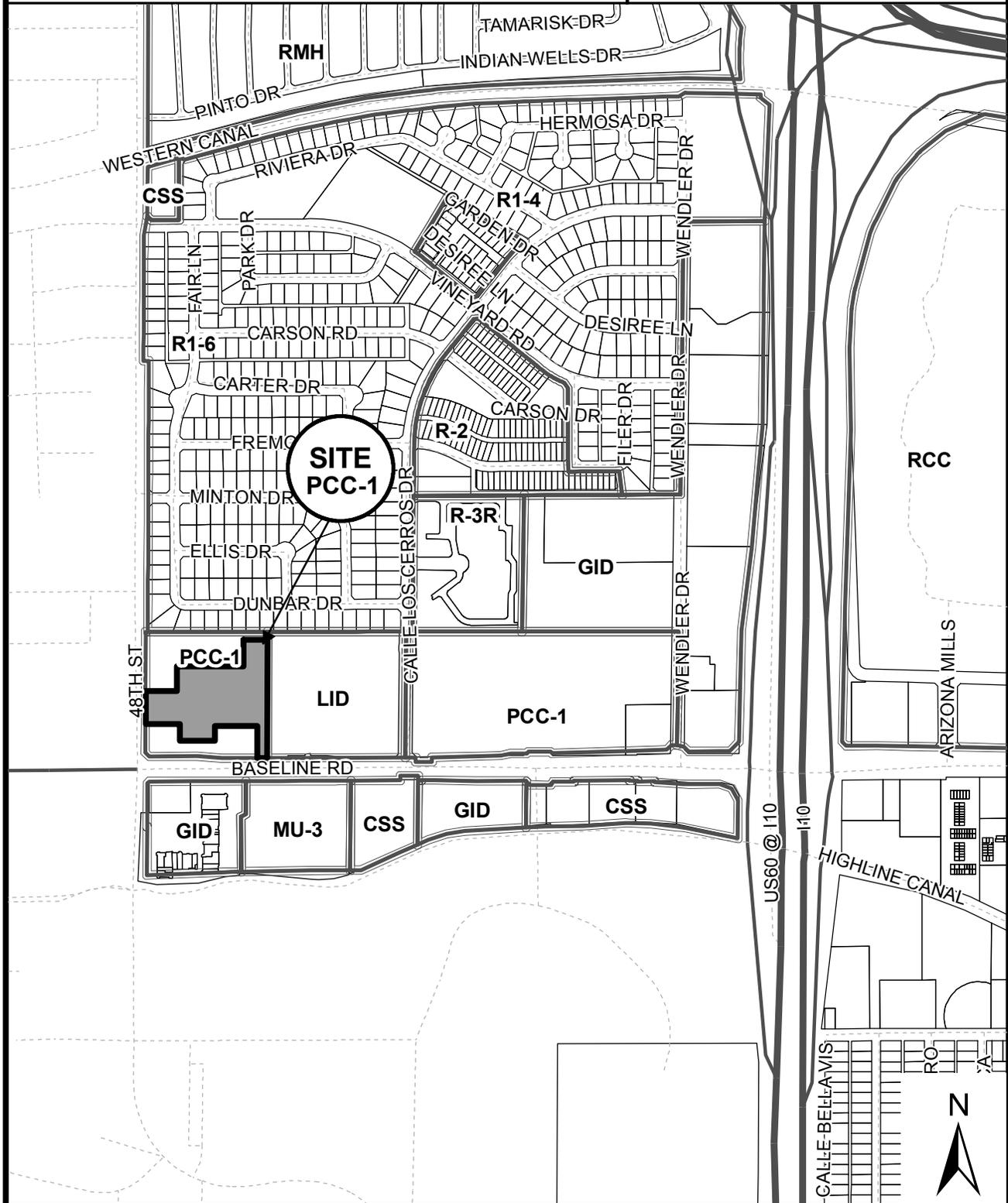
Owner – Strass Family Trust
Applicant – Ansar Ashrak
Existing Zoning – PCC-1, Planned Commercial Center Neighborhood District

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Part 3, Chapter 2, Section 3-202 – Permitted Uses in Commercial and Mixed-Use Districts
Part 6, Chapter 3, Section 6-308 – Use Permit

**SOUTHPOINT SHOPPING CENTER
A & Z SMOKE SHOP LLC**

PL110278



Location Map



SOUTHPOINT SHOPPING CENTER - A & Z SMOKE SHOP LLC (PL110278)

AZ SMOKE SHOP LLC

C/O Ansar Ashrak
4101 W. Union Hills Dr.
Apartment number 2023
Glendale, AZ, 85308
Phone (205) 239-5255

City of Tempe
Development Services
31 East Fifth Street
Garden Level
Tempe, AZ, 85308

To Whom it may concern,

This letter of explanation is in reference to the intended start of business for AZ Smoke Shop LLC in the city of Tempe. AZ Smoke Shop LLC's intended location is 2700 W. Baseline Rd. Ste. 136, Tempe, AZ, 85282.

AZ Smoke Shop LLC is a retail establishment in the business of selling tobacco and tobacco related products. The shopping center of our intended location has a variety of small establishments including Subway, Cricket, FedEx, and a Nail Salon and would be compatible with all. These small stores are attached to a Fry's Foods Store which as you can imagine has gigantic parking lots with many different entrances like all major grocery store chains. In conclusion, having another small business at this address would surely not cause any significant vehicular or pedestrian traffic in adjacent areas.

The amount of customers that frequent the store should not be too great in number because it is a specialty store not a convenience store. Our customers will be individuals over the age of 18 as established by local, state, and federal laws. Also, even though all products sold in the store will be tobacco related, there will be no smoking in or within 10 feet of the entrance of the store per state laws so there will be no nuisances (odor, gas, noise, vibration, smoke, heat, glare, etc.) exceeding that of ambient conditions,

Our intended hours of operation are 9AM to 8PM, operating 7 days a week, These hours of operation are not too early in the morning or late at night to disrupt anyone. We will not be selling liquor or any mind ingested substances, play loud music, have flashing lights, etc, that would possibly result in any disruptive behavior or may create a nuisance to the surrounding area or general public. AZ Smoke Shop LLC is a family owned business that will be managed by Ansar Ashrak and Abdo Alhajjaji with the option of employing others as the business is sure to grow and would not possibly even think of doing anything that could contribute to the deterioration of the neighborhood or be in conflict with the goals, objectives, and policies of the great city of Tempe.

Sincerely,

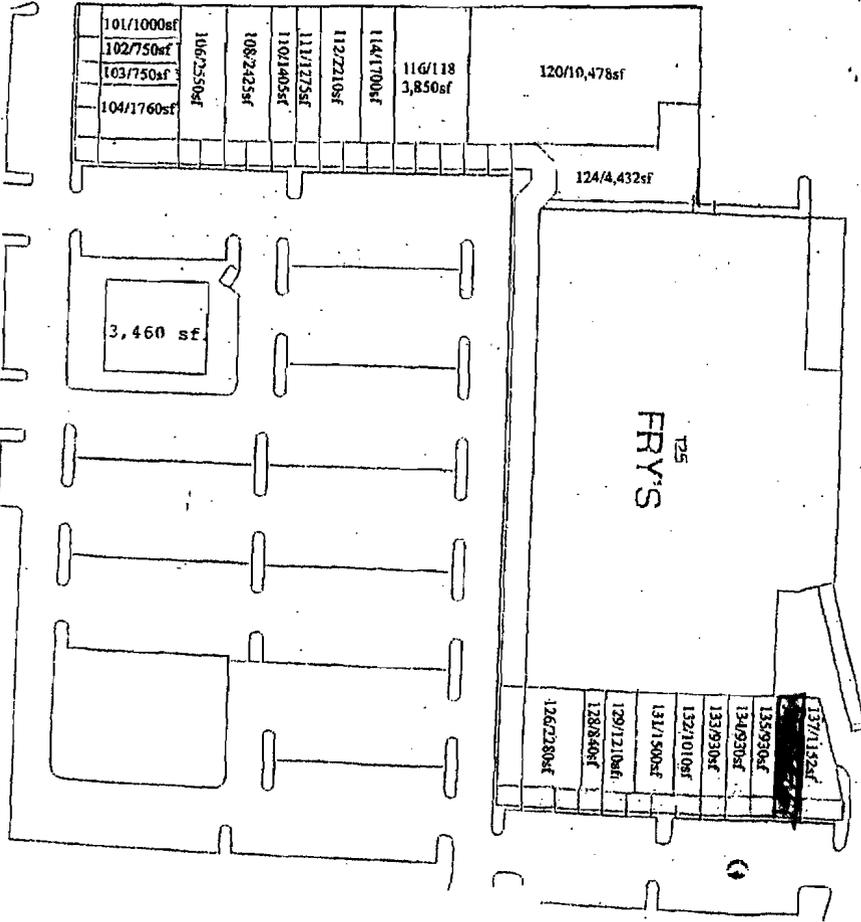
Ansar Ashrak
Owner, AZ Smoke Shop LLC

EXHIBIT C
DEMISED PREMISES PLAN

Revised 12/16/09

Information contained herein has been obtained from sources whom Landlord deems reliable. Landlord has no reason to doubt its accuracy but does not guarantee it. All plans and specifications hereto are preliminary in nature and Landlord reserves the right to modify them without notice.

4875 St.



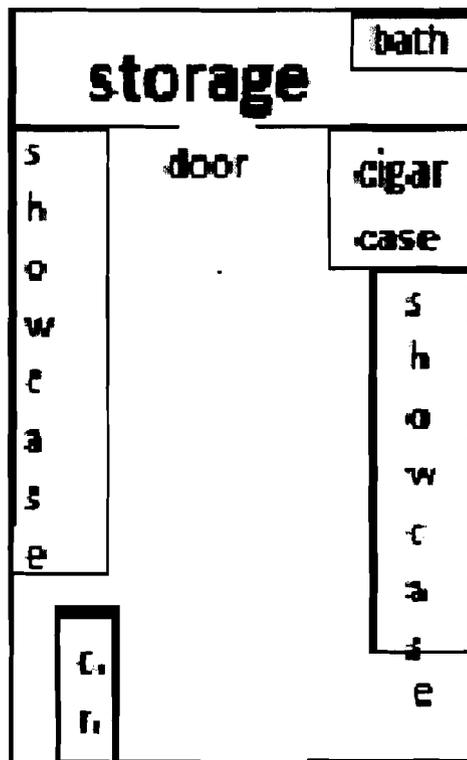
Baseline Rd.

AZ SMOKE SHOP

2700 W. BASELINE RD. STE 136

TEMPE, AZ, 85282

930 SQFT.



entrance



**SOUTHPOINT SHOPPING CENTER – A & Z
SMOKE SHOP LLC**

2700 WEST BASELINE ROAD

PL110278

FRONT OF BUSINESS

