

Mayor
Willard Rodarmel
Mayor Pro Tem
John Plourde
Council Members
John Gordon
John Murray
William Siegel



**Planning
Department**

711 Cinnamon Drive
Lemoore ♦ CA 93245
Phone ♦ (559) 924-6740
FAX ♦ (559) 924-6708

STAFF REPORT

Item # 5

To: Planning Commission
From: Holly Smyth, Planning Director
Review Date: May 14, 2012
Subject: Entitlement Processes for Tattoo Parlors and Permanent Cosmetic Uses

Background:

During the City Council discussion and subsequent adoption of the new Zoning and Development Codes, the City Council had a stipulation in the adoption motion that staff would bring back a potential change to the entitlement process for tattoo parlors and permanent cosmetic uses to allow them both as permitted uses instead of one being a conditional use permit and the other a permitted use. The Council's thought was that the two instances should be treated the same and the regulation should be less not more so that it would not be harder for a salons to open for business. This issue was brought up by a City Council Member per his earlier discussions with Ms. Linda Bumpus owner of Creative Designs tattoos who was unable to attend the meeting the evening the issue was discussed. The City Attorney determined that changing this zoning entitlement was substantial and would need to go through the normal Zoning Code Amendment process starting at the Planning Commission.

The pre-2012 Zoning Code did not have a separate policy discussion for permanent cosmetics, but was determined by the City a few years ago to be a permitted use if they were ancillary to salons or spas without any special land use entitlements or approvals needed; whereas tattoo parlors were required to get a conditional use permit as required by the code. This was based on old Zoning Code Section 9-9A-2 Permitted Uses: that states "Incidental and accessory structures and uses located on the same site as a permitted use". The new zoning code clarified this unwritten allowance by defining "Tattoo Parlor. Any establishment that engages in the business of tattooing and/or branding human beings. This listing does not include permanent makeup services when incidental to a personal services use (e.g., beauty shops)." Additionally Table 9-4B-2 shows "Tattoo Parlor" as a Conditional use in the DMX-1, DMX-2, NC, and RC districts.

Staff met with Ms. Bumpus along with Mr. Troy Hommerding of the Kings County Health Department to further discuss the issue. Their concern was that whether you have a tattoo parlor or you have permanent cosmetics as an ancillary business, both processes are tattooing and involve the piercing of skin and have the potential of blood born pathogen risks and both are considered tattooing by the Health Department. Ms. Bumpus also stated that tattooing in salons is one of the worst places it can be done given the presence of hair, nail fibers, dead skin, and the chemicals used in hair and skin processes. Ms. Bumpus would prefer to see any kind of tattooing to be done in existing approved tattoo establishment which have the appropriate clean rooms and health training and believes the Conditional Use Permit process should be required for all tattooing types of businesses, regardless if they are ancillary. Another issue brought up was that most permanent cosmetic technicians receive very little training which can pose a greater health risk to clients. The Health Department's main concern is that they get notified of any business doing tattooing so they can ensure that health regulations are adhered to.

PLANNING COMMISSIONERS
Chairperson – Ron Meade *Vice-Chair* – Jeff Garcia
Dave Brown, Bob Clement, Sharon Kendall, Jim Marvin, Bill Wynne

"In God We Trust"

As of July 1, 2012, AB300 will require the applications of new health provisions that all tattooing, regardless of it being an ancillary use or a tattoo parlor, to provide floor to ceiling separation into a type of clean room environment plus additional health safety rules. Generally, health rules such as AB300 are not dealt with as a land use issues unless there is a need to better ensure public health, safety, or welfare.

Entitlements, like conditional use permits, are generally required by City Planning Department's to review and potentially condition specific uses having unique or unusual site development features or operating characteristics to ensure compatibility with the surrounding neighborhood not for health issues alone. In the past, the concern from a zoning entitlement view with tattoo parlors was they had late business hours and potential loitering around the business whereas the stereotyped ancillary permanent cosmetics may be unnoticed and not have any impact to the adjacent neighbors. The concern of Ms. Bumpus and the Health Department is if there is no regulation of tattoo uses (i.e. making them all permitted uses), the Health Department may not receive any notification that a tattoo use exists so that they can insure that health safety provisions are followed.

Recommendation:

Because the individual who recommended that the Council change the ordinance disagrees with the City Council's direction provided, staff would like to have an initial discussion at the Planning Commission of the pros and cons of modifying the entitlement process for tattooing in general and ask for consensus direction before preparing draft zoning text amendment language and beginning the public hearing process at a future meeting.