

Staff Summary Report



Hearing Officer Hearing Date: September 4, 2007

Agenda Item Number: 12

SUBJECT: This is a public hearing for a request by the **ELECTRIC HAVEN TATTOO (PL070349)** located at 3402 South McClintock Drive for one (1) use permit.

DOCUMENT NAME: 20070904dssa02

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the **RJO MANAGEMENT LLC d.b.a. ELECTRIC HAVEN TATTOO (PL070349)** (Richard Oliver/RJO Management LLC, applicant; Silor LTD Partnership, property owner) located at 3402 South McClintock Drive in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP07121 Use permit to allow a tattoo parlor and barber shop.

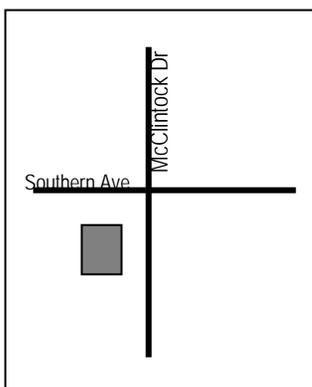
PREPARED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval subject to Conditions 1-10.

ADDITIONAL INFO: RJO Management, LLC d.b.a. Electric Haven Tattoo is seeking a use permit for a tattoo studio and barber shop business located in the PCC-1, Planned Commercial Center Neighborhood District. The proposed use complies with criteria for approval of the use permit. To date, one (1) phone call of opposition to the request has been received. Staff recommends approval of the use permit.



PAGES:

1. List of Attachments
2. Comments
3. Reason(s) for Approval; Conditions of Approval; History & Facts/Description
4. Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map
2. Aerial Photo
3. Letter of Intent
- 4-8. Letter(s) of Opposition (2)
9. Site plan
- 10-12. Staff Photograph(s)

COMMENTS:

Electric Haven Tattoo is requesting approval of a use permit for a tattoo and barber shop. The proposed business will occupy approximately 1,750 s.f. within the southeast building of the shopping plaza at the southeast corner of McClintock Drive and Southern Avenue. The property is located at 3402 South McClintock Drive in the PCC-1, Planned Commercial Center Neighborhood District. Their future floor plan indicates three (3) tattoo rooms and two (2) barber stations with a separate sterilization area. The applicant proposes the business will be staffed by between four (4) and six (6) employees with the hours of operation will being twelve o'clock (12:00) p.m. to nine o'clock (9:00) p.m. Monday through Saturday and twelve o'clock (12:00) p.m. to six o'clock (6:00) p.m. on Sunday. The business anticipates between 40 and 60 customers weekly.

To date, staff has received two (2) letters and one (1) phone call of opposition regarding this request. Concerns indicated in the letters and the call were the proximity of the residential neighborhood, "saturation" of tattoo shops and the perceived limited economic impact of the tattooing industry.

Use Permit

The Zoning and Development Code requires shops to obtain a use permit in PCC-1, Planned Commercial Center Neighborhood District. 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 service use, similar to others within the area; 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.

Conclusion

Staff recommends approval of the use permit for this business. As a condition of approval, the business shall comply with the Tattoo Parlor Regulations as established by the Tempe City Council.

REASON(S) FOR APPROVAL:

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 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. 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 obtained.

HISTORY & FACTS:

None pertinent to the request.

DESCRIPTION:

Owner – Silor LTD Partnership
Applicant – Richard Oliver/RJO Management LLC
Existing Zoning – PCC-1, Planned Commercial Center Neighborhood District
Tenant's Suite Area – 1,750 s.f.

**ZONING AND
DEVELOPMENT**

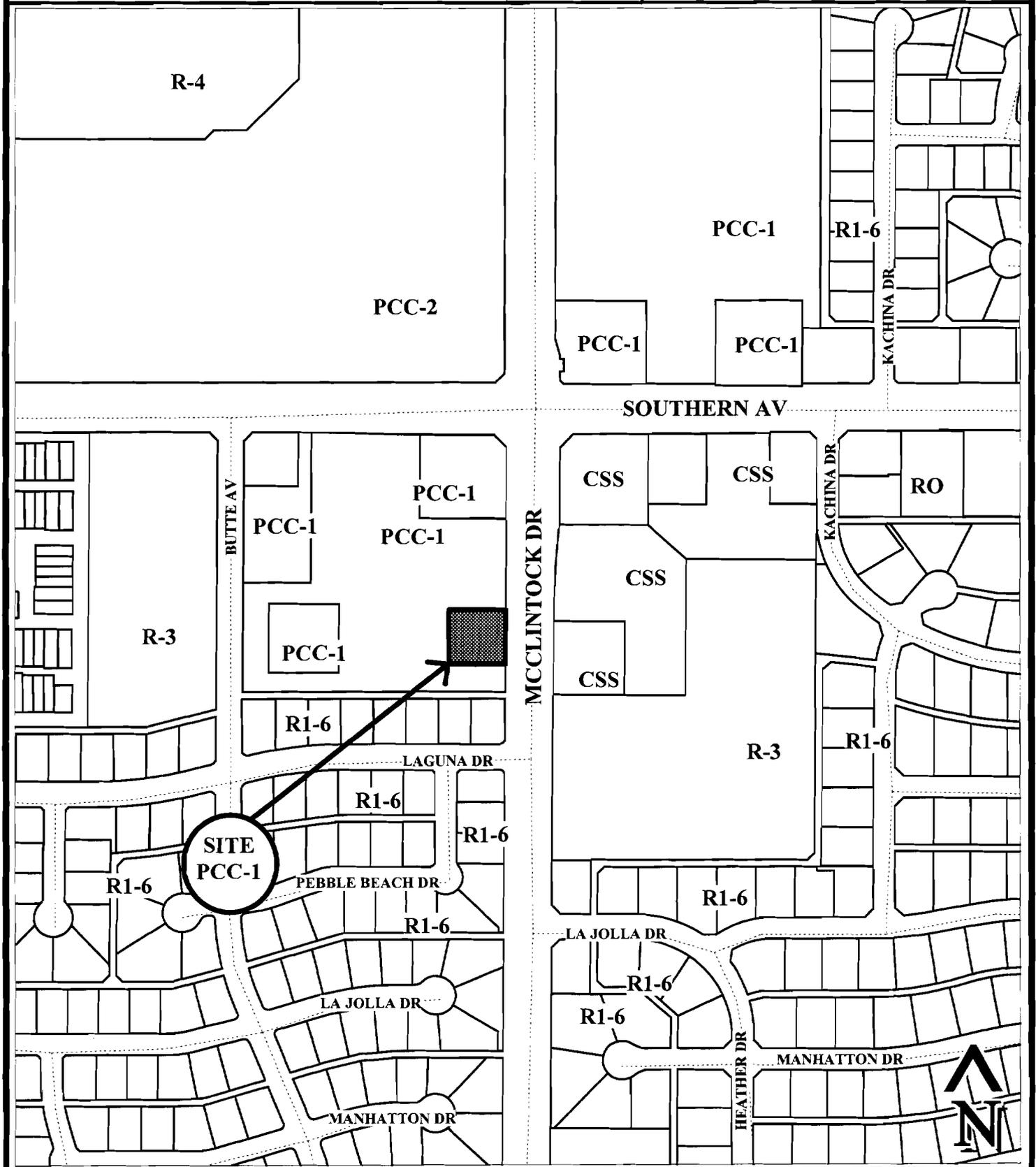
CODE REFERENCE:

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

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

RJO MANAGEMENT LLC
d.b.a. ELECTRIC HAVEN TATTOO

PL070349





RJO MANAGEMENT LLC d.b.a. ELECTRIC HAVEN TATTOO (PL070349)

RJO MANAGEMENT, LLC
396 South Meadows Lane
Chandler, AZ 85224
480-732-9729

August 1, 2007

City of Tempe
Development Services
31 East Fifth Street
Tempe, AZ 85280-5002

RE: USE PERMIT

To Whom It May Concern:

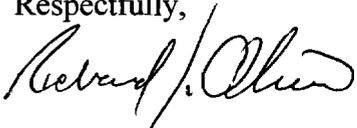
RJO Management, LLC proposes to apply for a use permit to conduct business as a Barber Shop and Tattoo Parlor at 3402 S. McClintock Drive, Tempe, AZ. This will include light retail sales of related products.

Our business hours will be 12:00pm to 9:00pm Monday through Saturday; Sundays will close at 6:00pm. We will employ 4-6 people which will sufficiently handle the expected flow of 4 to 6 customers per hour.

Existing parking is more than sufficient and will not impede pedestrian traffic. There will not be any excessive noise or odors related to the operation of our business. Our signage will be consistent and compatible with neighboring businesses.

Our intention is to operate an upscale, friendly, and clean business.

Respectfully,

 8/1/07

Richard J. Oliver
Owner

 8/1/2007

Joan J. Oliver
Owner

August 28, 2007

Steve Abrahamson
Planning & Zoning
City of Tempe
31 E. 5th St.
Tempe, AZ 85281

RE: ELECTRIC HAVEN TATTOO

Dear Steve,

I am writing today to express my dire concern over the City's application from Electric Haven Tattoo for a Use Permit for the location at 3402 S. McClintock. I am strongly opposed to this particular type of establishment to be placed so closely to my residence. I live at 1740 E. Laguna Dr.

Up until now, I have been a very happy Tempe resident who has owned a total of 4 homes in Tempe since 1996. I am a REALTOR® with an office in Tempe. I am also a member of the Tempe Chamber of Commerce. I have a child that attends Imagine Elementary in Tempe, and I am an active member of Grace Community Church. All of these are located within a mile of this proposed Tattoo Parlor.

I strongly urge that the City of Tempe does not approve this Use Permit. There were at least 13 existing tattoo parlors in the city of Tempe, prior to the City's recent approval of three more since May 2007. After Dark Tattoo was approved May 1, 2007 at 2101 S. McClintock. It is one mile away from where Electric Haven wants to conduct its business. It has 2400 square feet of space in order to house any local demand for tattoos. In addition, the City also approved Intense Creations at 1400 S. McClintock on June 5th, 2007. That is two sites approved for tattoo parlors, within 3 months, and within 1 ½ miles from the proposed tattoo parlor. On June 27th, the City of Tempe also approved Body Accents Tattoo at 1524 N. Scottsdale Rd. This is further north or the proposed site, but the number of tattoo parlors being approved is utterly astounding.

I believe that the City of Tempe is already overly saturated with tattoo parlors. Sixteen (16) tattoo parlors within 40 square miles is more than enough! I realize that the current zoning does not require a separation requirement for a body modification shop, but I would like to request that the hearing officer present this to the staff. I do not believe that a body modification shop should be allowed to be located this close to residential. The patrons of this suite can literally look into my backyard.

There are separation requirements for tobacco sales and financial institutions such as check cashing stores, but my little 7 year old boy can be exposed to a tattoo parlor. I believe there is a problem with this type of zoning. In addition, I believe that there should be a separation requirement for a body modification shop in location to a school. Imagine Elementary is across the street from this tattoo shop on the NWC of Southern

and McClintock. Hudson Elementary is approximately ½ mile from the proposed shop and so is Ward Traditional Elementary. If my son were to walk to school, he would have to walk directly past this tattoo parlor to arrive at his destination.

I also have a Bachelor Degree in Real Estate, which I obtained at Arizona State University. I have 3 years of experience in commercial real estate, in addition to 11 years in residential sales. There are statistics to prove that allowing a tattoo parlor into a neighborhood will lead to lower property values in the resale residential market. There are also negative impacts to the commercial development as current tenants and future prospects will choose to either leave or forgo the development due to the other type of tenants within a project. Future prospects also tend to sway away from a commercial development that rents to a tattoo parlor.

Due to the timing of this report that you are submitting today, Steve, I will not be able to get letters from other concerned citizens and business owners to you. However, I will be attempting to do this before the public hearing. The timing on this particular issue seems somewhat tilted in favor of the applicant. In order to establish and involve the parties which are in opposition to this shop, I have to attempt to gather signatures and letters over Labor Day weekend. I believe this puts the tattoo shop in a much better position than the opposition. Many people are already out of town or will be gone this weekend. However, I intend on rallying church members, local REALTORS®, school faculty, neighbors, local business owners, and any others to write letters and/or call in, sign a petition, and hopefully show up for the public hearing.

In the event that the Use Permit is approved, I would like to request that the hearing officer enact a “No Loitering” policy for the entrance of this business. I can easily hear anyone and everyone directly in front of the proposed suite. I am very concerned about my son being able to play in his backyard without having to worry about having to sensor any conversations that take place directly in front of the proposed site.

Loud music should not be allowed to emanate or reverberate from the premises. Residential property law states that I have the right to Quiet Enjoyment of my premises. I believe the City of Tempe has a noise law as well.

I am concerned about the hours as well. As it states in the application, the tattoo parlor intends on doing business from 12 p.m. to 9 p.m. Monday through Saturday and 12 p.m. to 6 p.m. on Sunday. I have a 7 year old little boy who has to be in bed at 8:30 p.m. each night so he can go to school each morning. His room is at the back of our home, which is only a few hundred feet (maybe) from the tattoo parlor.

Finally, the application states that this establishment will be a tattoo parlor and a barber shop. It states that there will be 20-30 customers a week for each section of the store. I strongly urge the hearing officer to state on record that if the applicant deviates from this business plan, that they would be subject from a revocation of the Use Permit. Revocation should be based on whether the hours change or if the shop changes the services offered that were used to apply. In other words, this is supposed to be a tattoo

parlor and barber shop. If they are not using it as a barber shop for at least 50% of their business and it is not being patroned for that service, the Use Permit should be revoked.

I would like to close in saying that I am not the only resident who backs up to this commercial development with a small child. My neighbor to the east also has a child younger than my own. This family has verbally agreed to support me in this opposition. My neighbor to the west has agreed to support it as well. I have already contacted my son's school and a few of the ministry directors at my church

Please do not underestimate the neighborhood's feeling on this matter. Tempe citizens are not going to support what I see happening in this sad attempt at commercial revitalization. If this Use Permit is granted, please know that there will be a public outcry for the entire zoning process to be scrutinized. It is already underway. It started long before I received my letter from the City of Tempe on this matter.

Thank you for your time and your consideration. Please note that we are a long standing Tempe family that is involved in the community. Please don't make our community one that people wouldn't want to live in, but instead a place that people would like to move to. Also, show the local businesses that you care about the success of their businesses and that you want to continue striving for a successful and thriving commerce in the City of Tempe!

Sincerely,

--

Kriste Melcher, CRS, GRI, TRC, AHWD
Bachelor of Science in Real Estate
W.P. Carey School of Business - ASU

John Hall & Associates
4677 S. Lakeshore Dr.
Tempe, AZ 85282
(480) 332-4413
MelcherHomes@cox.net
www.KristeMelcher.com

Abrahamson, Steve

From: Jeff.M.Melcher@gtservicing.com
Sent: Tuesday, August 28, 2007 3:12 PM
To: Abrahamson, Steve
Subject: Electric Haven Tattoo

To Whom it May Concern:

I have a few problems with a tattoo parlor being allow so close to schools & residential areas. I have seen tattoo parlors that are clean, quiet & respectful to all of their neighbors, but they seem to be the exception not the rule.

1. Commercial property in a neighborhood can have a positive, neutral or negative affect on property values. So far I have never seen a single tattoo parlor that increased property values. Any possible negative effects on property values should be a major concern to all Tempe residents, especially in todays declining market.
2. The number of jobs created will be minimal or nonexistent. (Possibly just transferring employees from the other 14 tattoo parlors in Tempe)
3. The amount of tax revenue for the city will be minimal or nonexistent. (Possibly just transferring tax revenue from the other 14 tattoo parlors in Tempe)
4. Commercial property in a neighborhood can have a positive, neutral or negative affect on crime statistics as well. So far I have never seen a single tattoo parlor that decreased crime in an area. The effect on crime statistics should be a major concern to all Tempe residents.
5. I am concerned about the hours of operation, noise & loitering in the area.

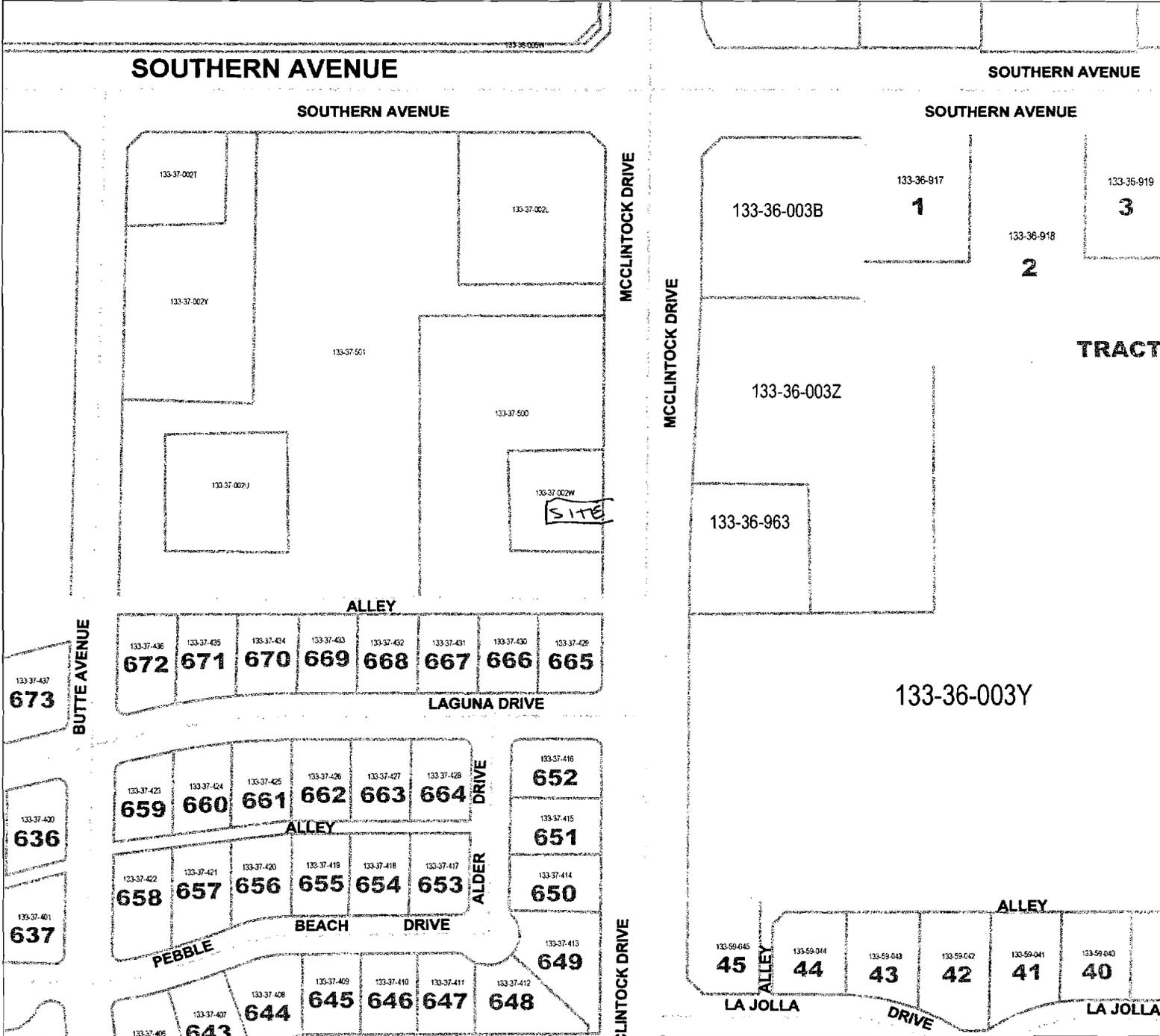
The large majority of tattoo parlors that I have seen or been too are not in the best neighborhood. I do not know if the area is affected by the tattoo parlor, or if the tattoo parlors gravitate toward lower rent areas. Currently this is a nice area of Tempe & I personally would hate to have anything that could jeopardize our property values, safety & peaceful enjoyment of our personal property injected into this quiet community.

Sincerely,
Jeff Melcher
Phone #480-333-6896
Fax #480-383-0638

"Things may come to those who wait, but only the things left by those who hustle. " - Abraham Lincoln

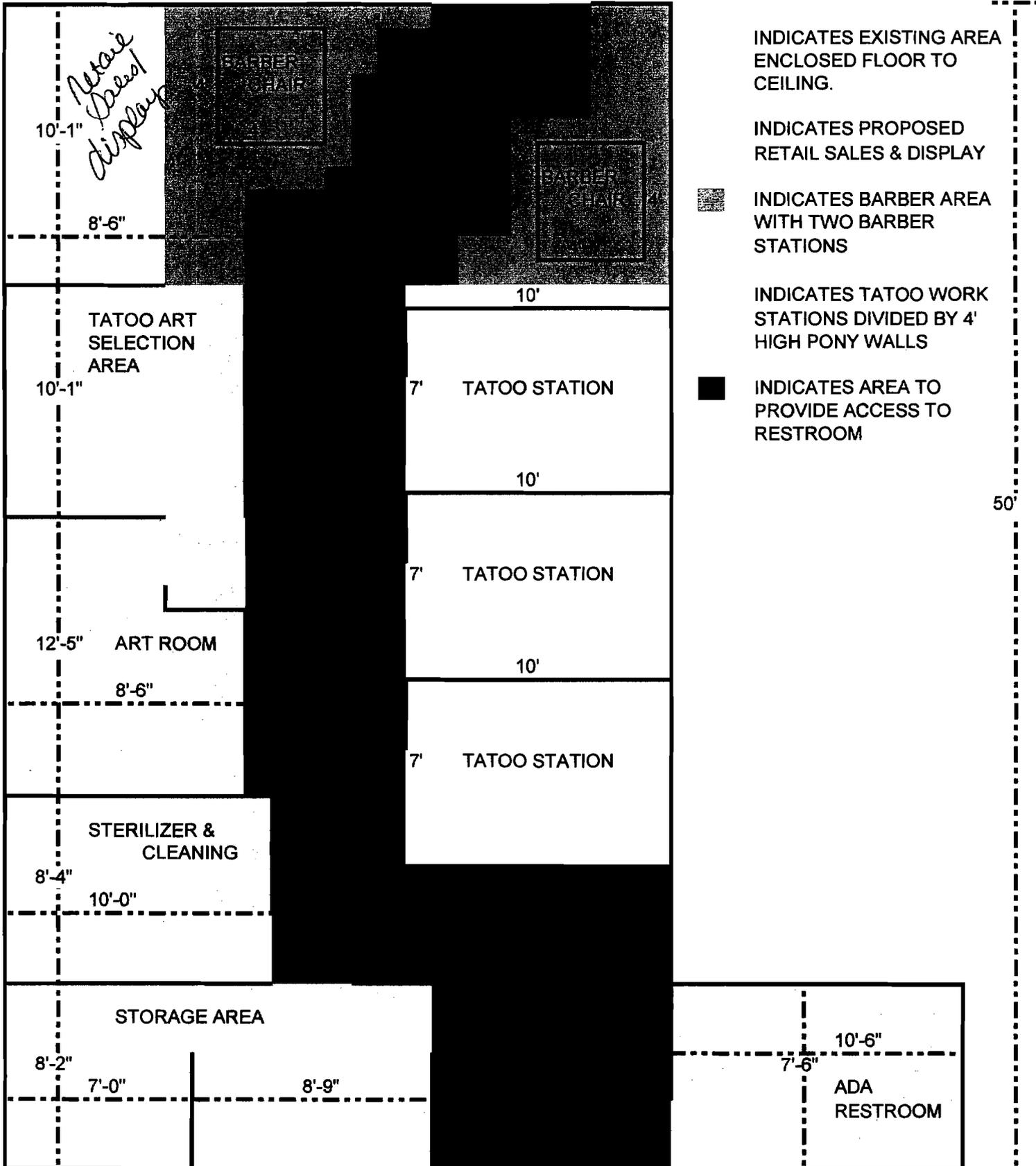
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# County Parcels



GLASS STOREFRONT 25'

DOUBLE GLASS DOOR





**ELECTRIC HAVEN TATTOO**

**3402 S. MCCLINTOCK DR**

**PL070349**

**REAR OF BUILDING: ILLEGAL MOBILE-MINI**



**ELECTRIC HAVEN TATTOO**

**3402 S. MCCLINTOCK DR**

**PL070349**

**FRONT OF SUITE.**



**ELECTRIC HAVEN TATTOO**

**3402 S. MCCLINTOCK DR**

**PL070349**

**REAR OF BUILDING: REAR EXIT DOOR**