

Staff Summary Report



Hearing Officer Hearing Date: May 19, 2009

Agenda Item Number: 6

SUBJECT: This is a public hearing for a request by **HAREM NIGHTS (PL090148)** located at 1630 East Apache Boulevard, Suite No. 103 for two (2) use permits.

DOCUMENT NAME: 20090519dssd02 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Hold a public hearing for a request by **HAREM NIGHTS (PL090148)** Kahlil Abulaban, applicant; 1630 Apache LLC, property owner) located at 1630 East Apache Boulevard, Suite No. 103 in the CSS, Commercial Shopping and Services District for:

ZUP09063 Use permit to allow a hookah lounge.

ZUP09067 Use permit to allow live entertainment.

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)

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

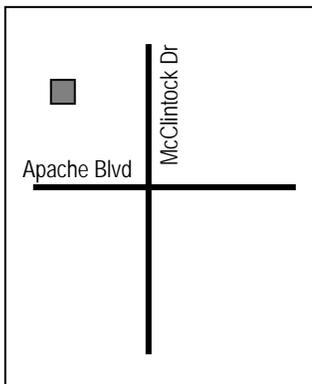
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

ADDITIONAL INFO:



The applicant is requesting two (2) use permits, one to allow a Hookah lounge/tobacco retailer and the second, for live entertainment (belly dancer) located at 1630 East Apache Boulevard in the CSS, Commercial Shopping & Services District. No public input has been received to date. Staff supports the request, as it meets the criteria for a use permit in the Zoning and Development Code.

PAGES:

1. List of Attachments
2. Comments; Reasons for Approval
3. Conditions of Approval; History & Facts
4. 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 applicant is requesting two (2) use permits, one to allow a Hookah lounge/tobacco retailer and the second, for live entertainment (belly dancer) located at 1630 East Apache Boulevard in the CSS, Commercial Shopping & Services District.

The scope of the business is to include a smoking lounge, sale of coffee, hot and cold beverages, and other tobacco-related products. The primary use will be as a hookah lounge with live entertainment (belly dancer) a few nights a week. Hours of operation will be from 5pm to 4am, seven (7) days a week; they will have between 2-3 full time employees. Peak hours for hookah tend to be after dinner into the late evening.

The City of Tempe Zoning and Development Code tobacco retailer separation requirements, which took effect in June of 2007, prohibit a tobacco retailer (hookah lounge) from locating within 1,320 feet of a school. This proposal is not within 1,320 feet of a school, thus a tobacco retailer/hookah lounge can be allowed subject to an approved use permit.

The applicant will also be required to meet the 2003 International Mechanical Code that requires a "smoking lounge" to meet outside air and ventilation requirements. Mr. Abulaban was made aware of this regulation and will be working with a mechanical engineer, and property owner in verifying HVAC requirements for Building Safety permits and clearances.

No public input has been received on this request. Staff supports the request for a use permit to allow a hookah lounge with live entertainment.

Use Permit

The Zoning and Development Code requires use permits for a hookah lounge and live entertainment in the CSS, Commercial Shopping and Services District.

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 hookah lounge and will generate smoke; however all hookah smoking shall be contained within the establishment. Moreover, the hookah lounge has its own independent ventilation system. Therefore this use should not adversely impact neighboring businesses with the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare. The live entertainment will be a belly dancer, which should not cause noise concerns.
- 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 two (2) use permits, subject to conditions.

REASON(S) FOR APPROVAL:

1. The business is a general commercial use, and is compatible with the other businesses on the property and within the area.
2. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
3. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.

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 Harem Nights and may be transferrable with approval from the Hearing Officer staff. Should the business be sold, the new owners must contact the Hearing Officer 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. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective. Since smoking will be permitted on the premises, the owner/management is responsible to adhere to the 2003 International Mechanical Code.
5. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer for further review.
6. The gross sale of beverages and snack items may not exceed that of tobacco and hookah products.
7. No outdoor live entertainment or outdoor speakers shall be allowed.
8. Live entertainment shall not violate the City of Tempe Noise Ordinance.
9. Existing fluorescent lighting above entrance doors shall be operable from dusk until dawn. Staff will conduct evening inspection to verify.
10. All business signs shall receive a Sign Permit. Please contact Planning staff at (480) 350-8331.
11. The applicant shall contact City of Tempe Crime Prevention Unit for a Security Plan within 30 days of this approval. Contact Crime Prevention at (480) 858-6027 before June 19, 2009.

HISTORY & FACTS:

May 4, 1999

BA990101: Hearing Officer approved a use permit request for NATIONAL BANKCARD SERVICES, Suite 101, to allow a professional telemarketing office in the C-2, Commercial District. (Zoning Ordinance 808)

August 12, 1999

BA990203: Hearing Officer approved a use permit request for THE INTRAVERSE, Suite 107, to allow a network of computers for entertainment and office purposes in the C-2, Commercial District. (Zoning Ordinance 808)

December 21, 2000

BA000369: Hearing Officer approved a use permit request for PHOENIX CHURCH OF PENTECOST Suite 107, to allow a church in the C-2, Commercial District. (Zoning Ordinance 808)

DESCRIPTION:

Owner – 1630 Apache LLC
Applicant – Kahlil Abulaban
Existing Zoning – CSS, Commercial Shopping and Services District
Parcel Size – 44,277 s.f. / 1.01 acres
Total Building Area – 12,000s.f.
Tenant Area – 2,000 s.f.
Parking Required – 40 spaces
Parking Provided – 67 spaces

**ZONING AND
DEVELOPMENT**

CODE REFERENCE:

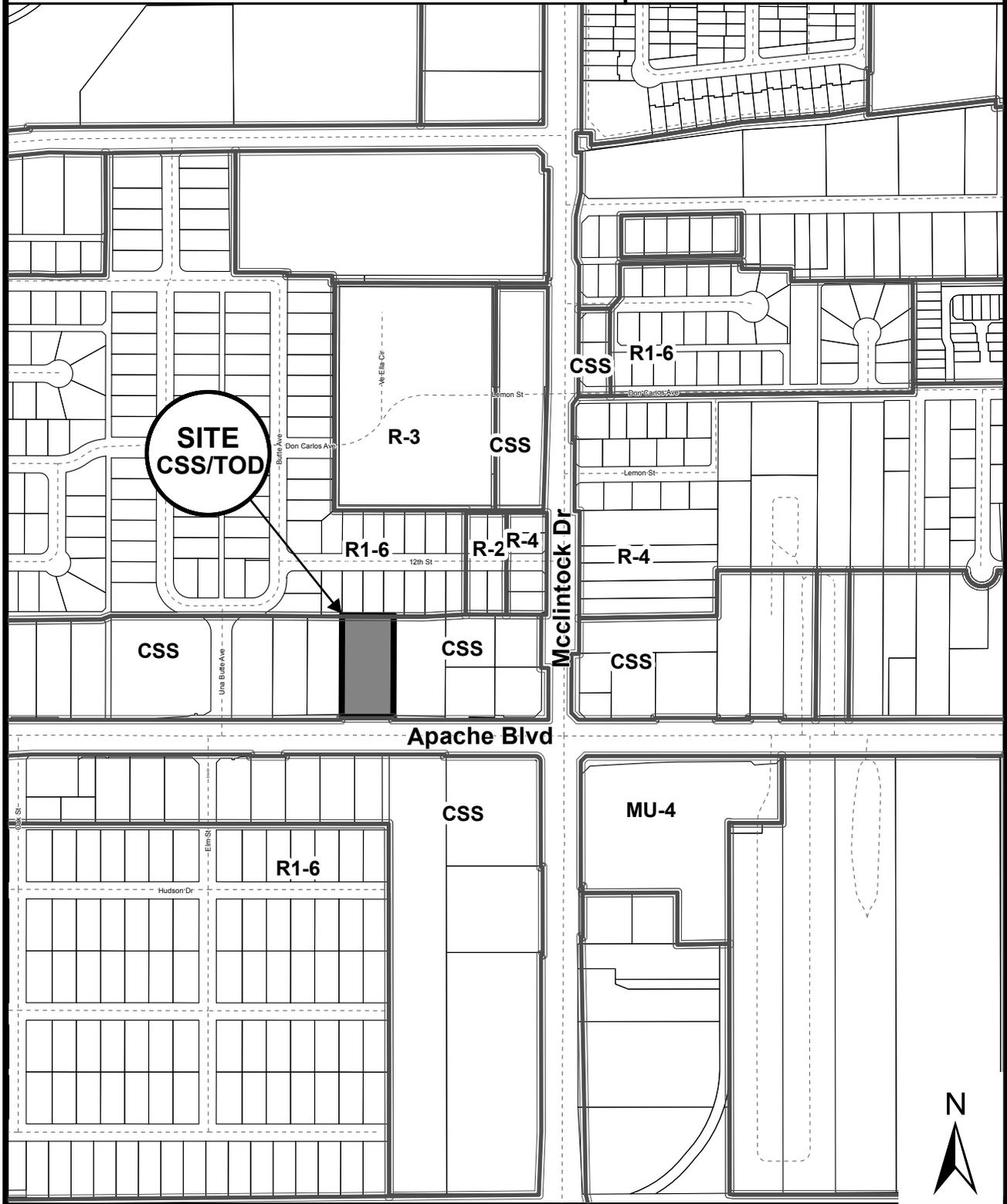
Part 3, Chapter 2, Section 3-202, Table 3-202A – Permitted Land Uses in CSS, Commercial and Shopping and Services District.

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

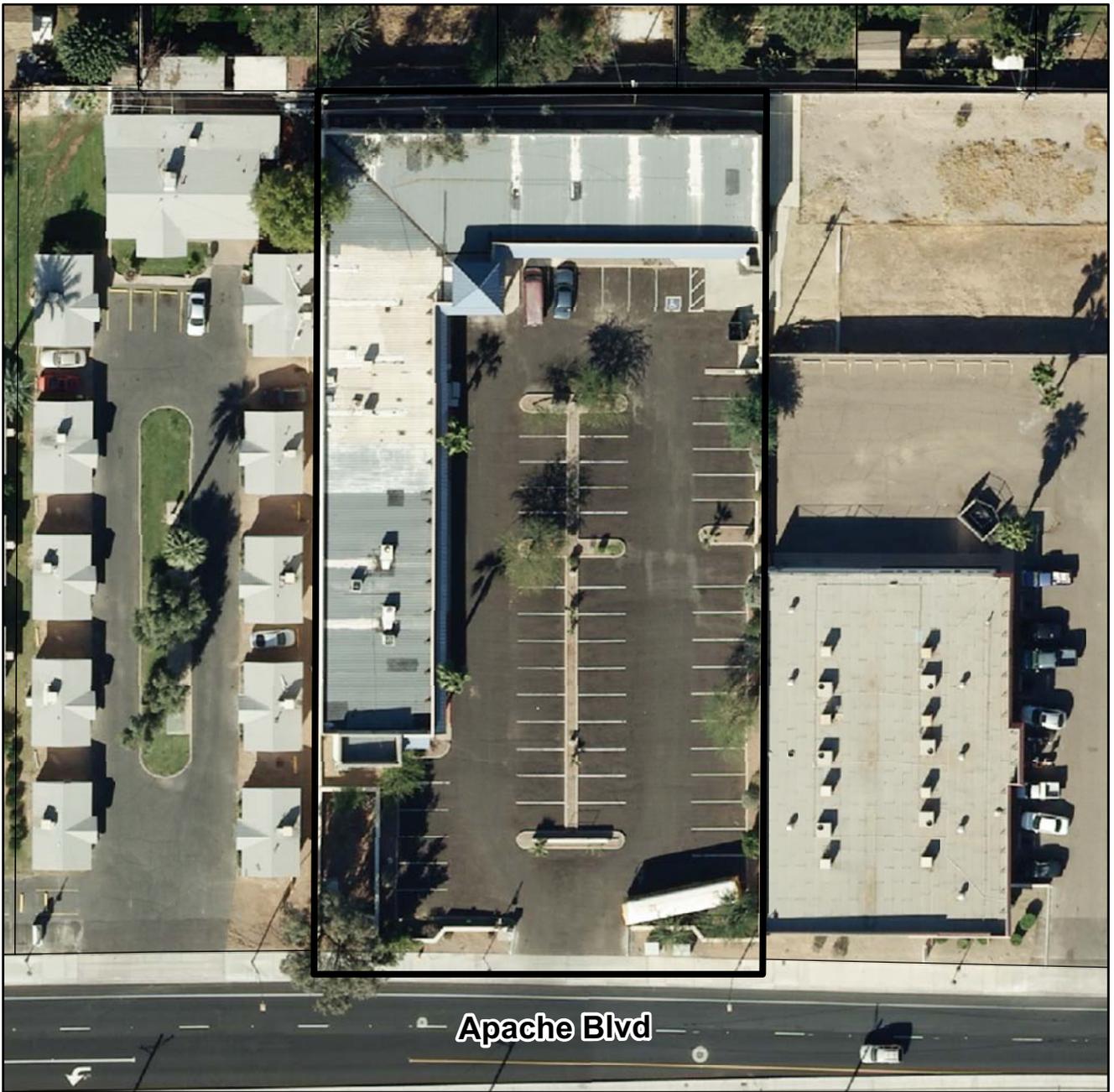
Part 6, Chapter 3, Section 6-313 – Security Plan

HAREM NIGHTS

PL090148



Location Map



HAREM NIGHTS (PL090148)

Harem Nights
1630 E. Apache Blvd Ste 3
Tempe, Arizona 85281

April 21, 2009

LETTER OF INTENT

To Whom It May Concern:

This letter is to serve as my letter of intent and apprise the City of Tempe of my intended function and operation.

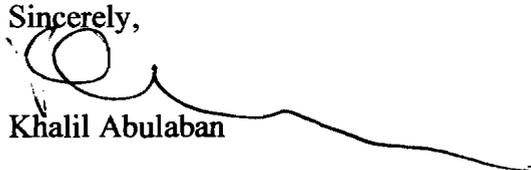
I previously owned and operated a family restaurant from 2001-2007 in the City of Tempe. The establishment provided food, beverage, entertainment, and was also one of the City of Tempe's first hookah lounge.

My intention is to establish a hookah lounge; Harem Nights located at 1630 E. Apache Blvd. Tempe, Arizona and comply with all City codes and zoning regulations

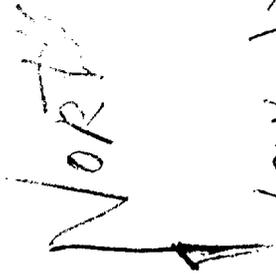
Harem Nights hours of operation will be from 5pm-4am 7 days a week where hookah's with flavored tobacco will be served along with non-alcoholic beverages. There will be no food served staying in compliance with the City of Tempe's no smoking ban. Harem Nights will also provide the sale of flavored hookah tobacco, hookahs and hookah accessories.

Thank you for your timely consideration to my application.

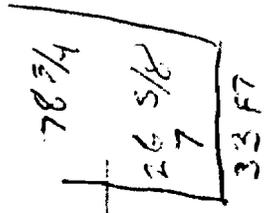
Sincerely,


Khalil Abulaban

APACHE

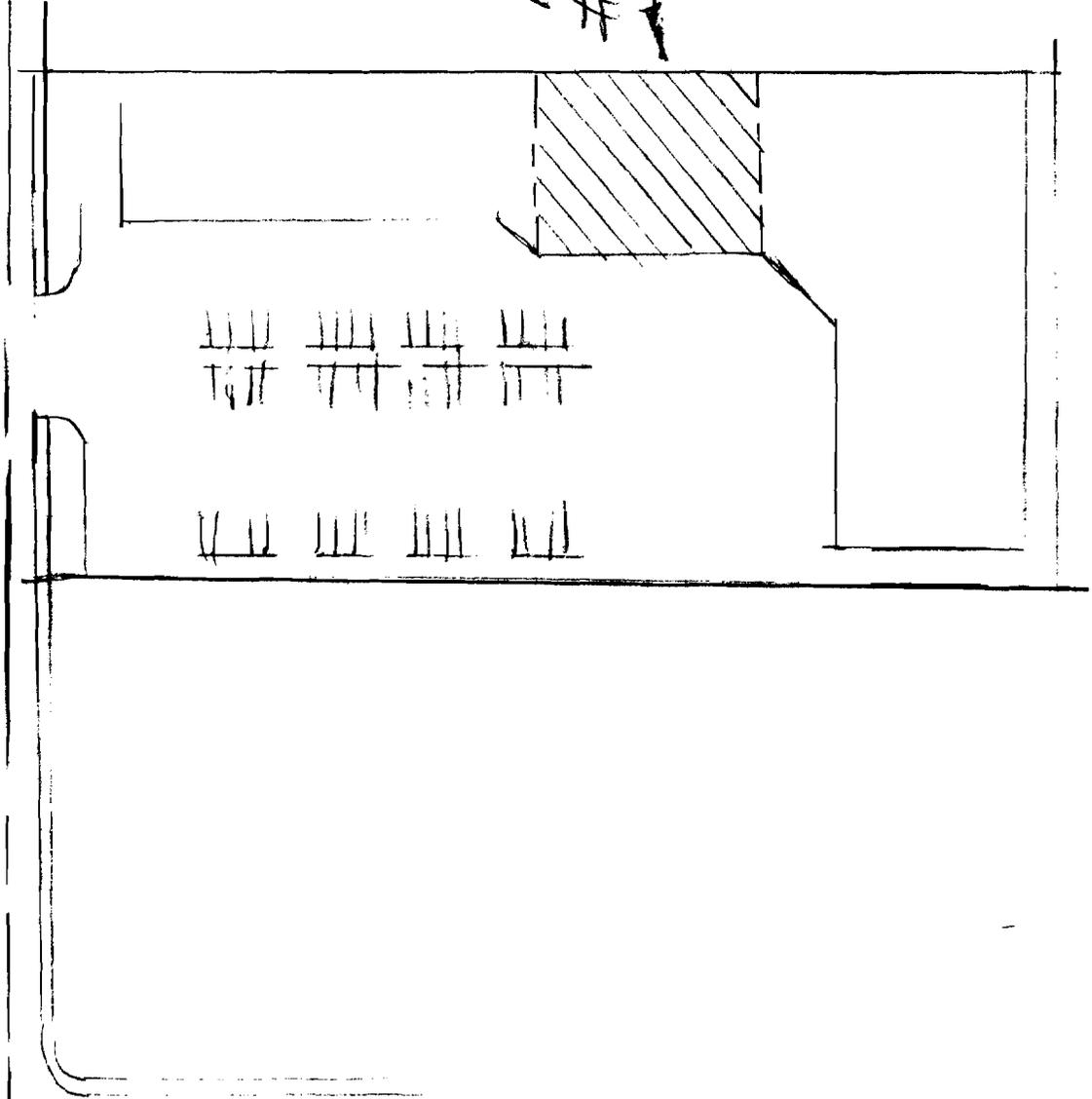


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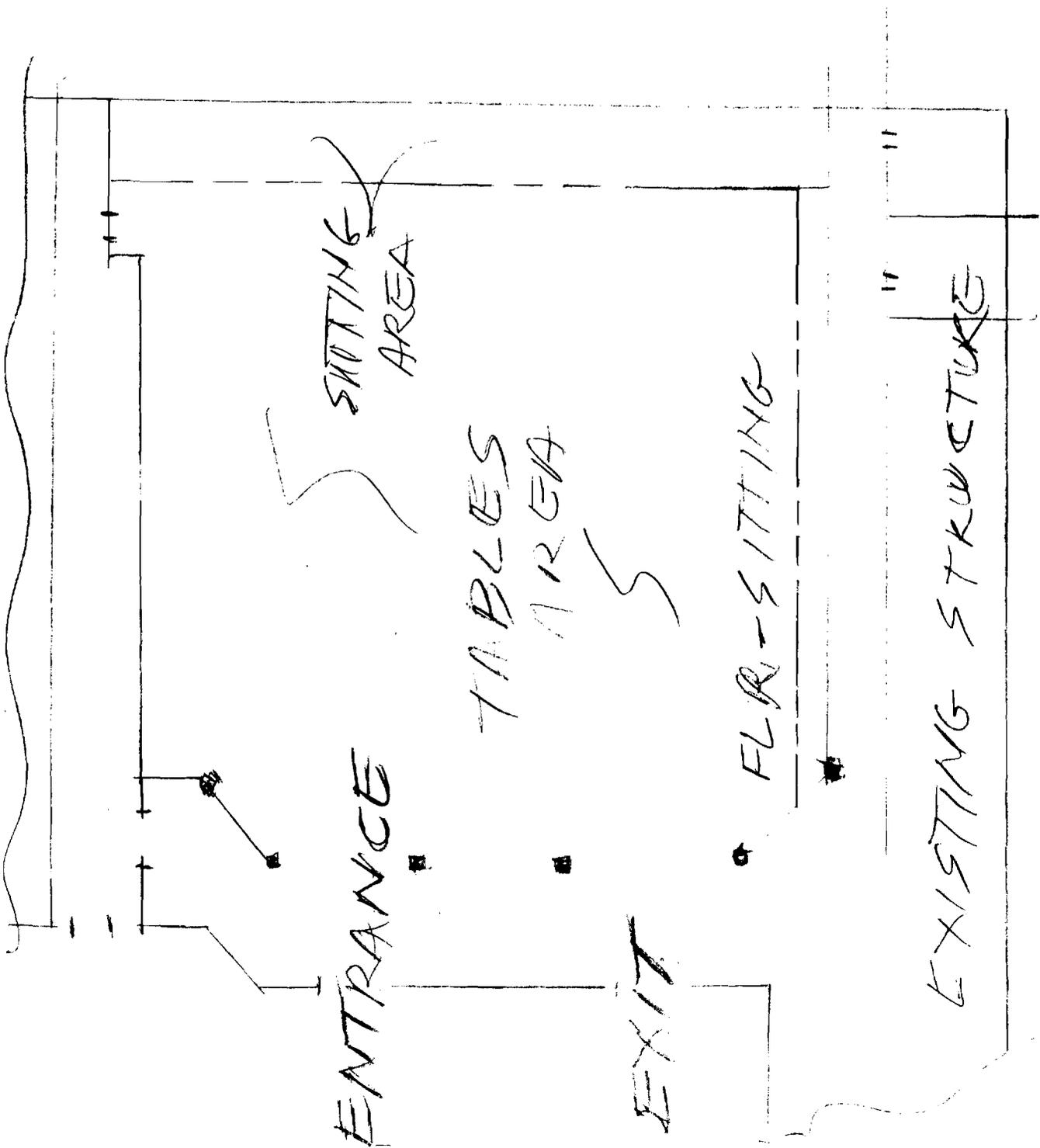
1630
#2



SITE PLAN

McCLINTOCK

EXISTING STRUCTURE



~~FIGURE~~
 KHAIL BY LABAN
 1630 East Beach #102
 Tempe, AZ 85282

FLOOR PLAN (NOT TO SCALE) (SECS 410M)



HAREM NIGHTS

1630 E APACHE BLVD., SUITE NO. 103

PL090148

FRONT OF BUSINESS

