

Staff Summary Report



Hearing Officer Hearing Date: May 5, 2009

Agenda Item Number: 3

SUBJECT: This is a public hearing for a request by **CHRONIC TACOS (PL090124)** located at 15 East 6th Street for one (1) use permit.

DOCUMENT NAME: 20090505dssd01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Hold a public hearing for **CHRONIC TACOS (PL090124)** (Kay Price/Mill Avenue Tacos LLC, applicant; Herzel Nahom, property owner) located at 15 East 6th Street, in the CC, City Center District for:

ZUP0905 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) *SEA*

LEGAL REVIEW BY: N/A

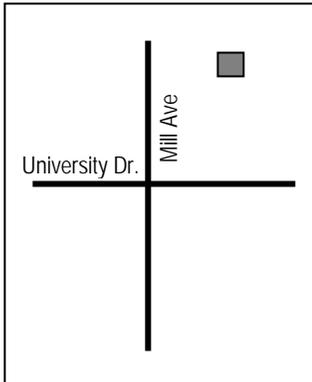
DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

ADDITIONAL INFO:

The applicant is requesting a use permit to allow live entertainment at an existing restaurant, located at 15 East 6th Street in the CC, City Center District. The entertainment would be in the form of live music, dancing, DJ's, and karaoke. To date no public input has been received. Staff supports approval of the use permit.



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/Floor Plan
5. Staff Photograph(s)

COMMENTS:

The applicant is requesting a use permit to allow live entertainment at an existing restaurant, located at 15 East 6th Street, in the CC, City Center District. The entertainment would be in the form of live music, dancing, DJ's, and karaoke. Live entertainment will take place on Mondays through Sundays during regular business hours.

Similar to other downtown Mill Avenue District restaurants and bars, the live entertainment shall only be allowed inside the tenant's lease space. The live entertainment DJ stand can be allowed on the patio, but speakers will not be allowed on the front patio, they will need to be placed on the interior space behind the garage/roll up doors.

To date no public input has been received. Staff supports approval of the use permit.

Use Permit

The Zoning and Development Code requires a use permit for live music in the CC, City Center 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 should 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;
 - The restaurant use is similar to others in the area; sound from music will have to conform to the noise ordinance.
- 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 requested use would not contribute to neighborhood deterioration or downgrade property values.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed requested use would not contribute to neighborhood deterioration or downgrade property values.

Conclusion

Staff recommends approval of the use permit, subject to conditions of approval.

REASON(S) FOR APPROVAL:

1. Traffic generated by this use should not be excessive.
2. This use will not result in the deterioration of the neighborhood or downgrading of property values.
3. The use appears to be compatible with the surrounding structures and uses.

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 Chronic Tacos and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
2. Any intensification or expansion of this use shall require the applicant to return to the appropriate decision-making body for a new use permit.
3. Noise generated from the use shall conform to the City of Tempe Noise Ordinance requirements for noise control.
4. 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.
5. No outdoor speakers permitted on the patio. Speakers to be placed behind the garage/roll up door in the interior of the business.
6. The use permit is valid for the plans as submitted within this application.
7. The applicant shall work with the Tempe Police Department to update the Security Plan for the business. Contact the Crime Prevention Department at 480.858.6027.

HISTORY & FACTS:

September 5, 2007 DPR07149: Development Plan Review staff approved a new outdoor patio for CHRONIC TACOS.

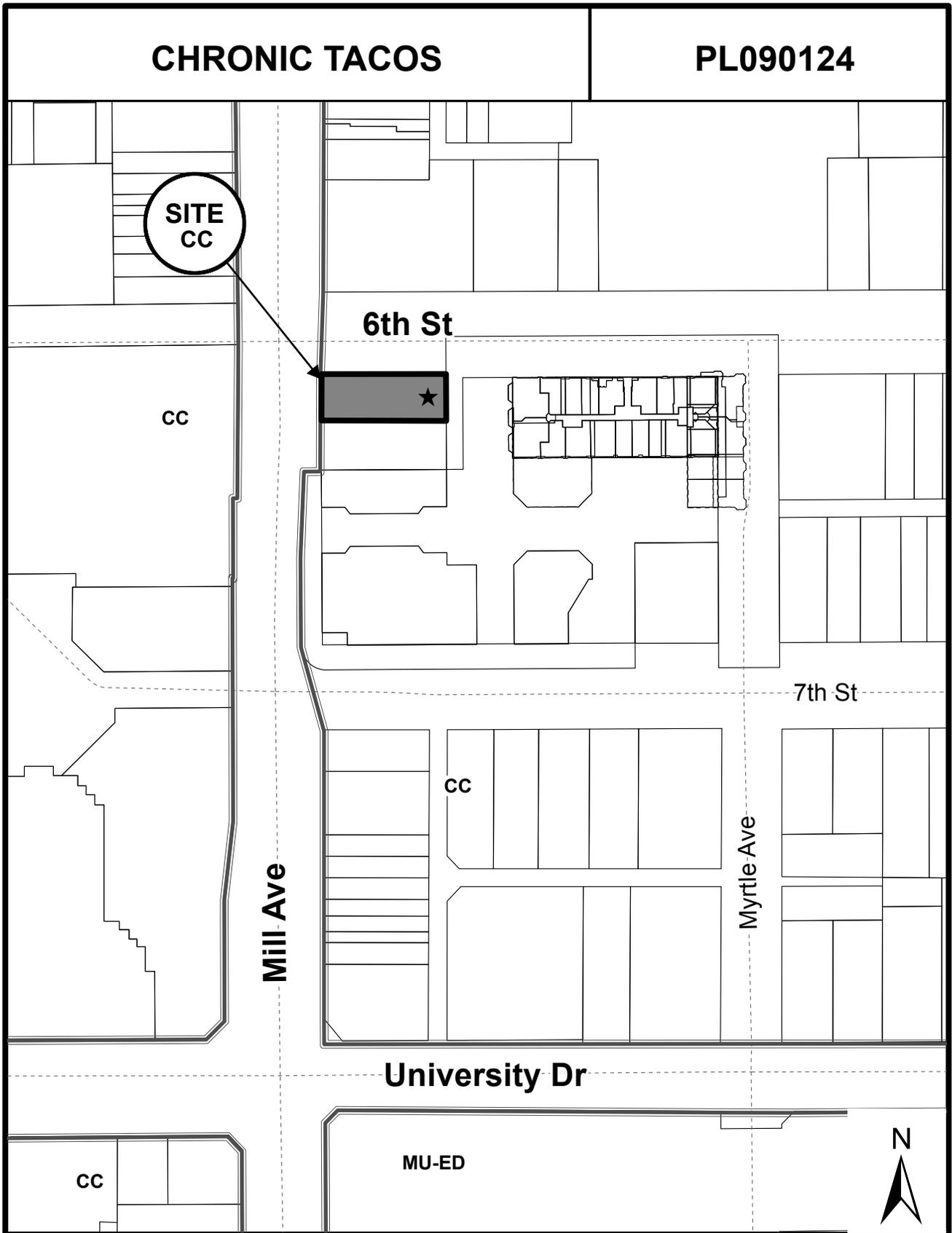
DESCRIPTION:

Owner – Herzel Nahom
Applicant – Kay Price/Mill Avenue Tacos LLC
Existing Zoning – CC, City Center District
Parcel Area – 7,226 s.f.
Suite Size – 1,500 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



Location Map



CHRONC TACOS (PL090124)



Date: 4-03-09

RE: Letter of Intent, Live Entertainment Use Permit

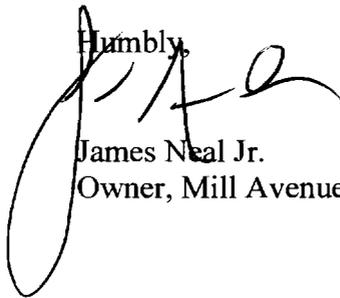
To Whom It May Concern:

I am writing this letter on behalf of the entire ownership group of Mill Avenue Tacos, LLC DBA Chronic Tacos. We are applying for a Live Entertainment Use Permit. Chronic Tacos is a restaurant that employs twenty and is open seven days per week from 11am till 2am. Chronic Tacos took over the lease of a retail shop located at 15 E 6th Street on August 1st, 2007. The conversion from retail to restaurant space took just over four months with the improvements costing over \$500,000.00 Chronic opened for business December 27th, 2007.

In the fifteen months we have been open, Chronic has become a local favorite for Mexican food. Our intent is to further along our business by adding live entertainment a few days per week. While we do not want to rule out any type of entertainment we intend to have a DJ playing music on our patio on Tuesday evenings and Sunday afternoons. The DJ set up (turntables and a laptop) would be on the east end of our patio, facing west. We are applying for the use permit in this form for several reasons. First, Chronic Tacos is one of the smaller locations in downtown. Our square footage is 1500sq ft under roof. We need to utilize every foot of space we can. Second, our storefront includes a 15' glass garage door that opens to our patio. It is only an imaginary line between the indoor space and outdoor space, which is very unique to our location. It is our understanding that there are stipulations that can be placed on this type of a permit and we would be happy to discuss options.

If there is any further information needed or if there is anything more I can do on behalf of the ownership group to further this application along, please do not hesitate to contact me. Thank you for your consideration and I look forward to working with you on this application.

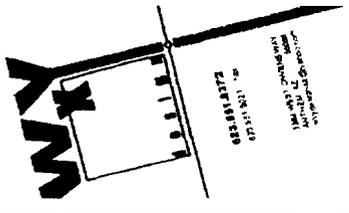
Humbly,



James Neal Jr.
Owner, Mill Avenue Tacos, LLC DBA Chronic Tacos

L.A.B.
 Design Collaborative
 7157 E. Rancho Vista Dr.
 #2002
 Scottsdale, Arizona
 85251
 JOHN LABAHN
 480 664 6377

IN ASSOCIATION WITH



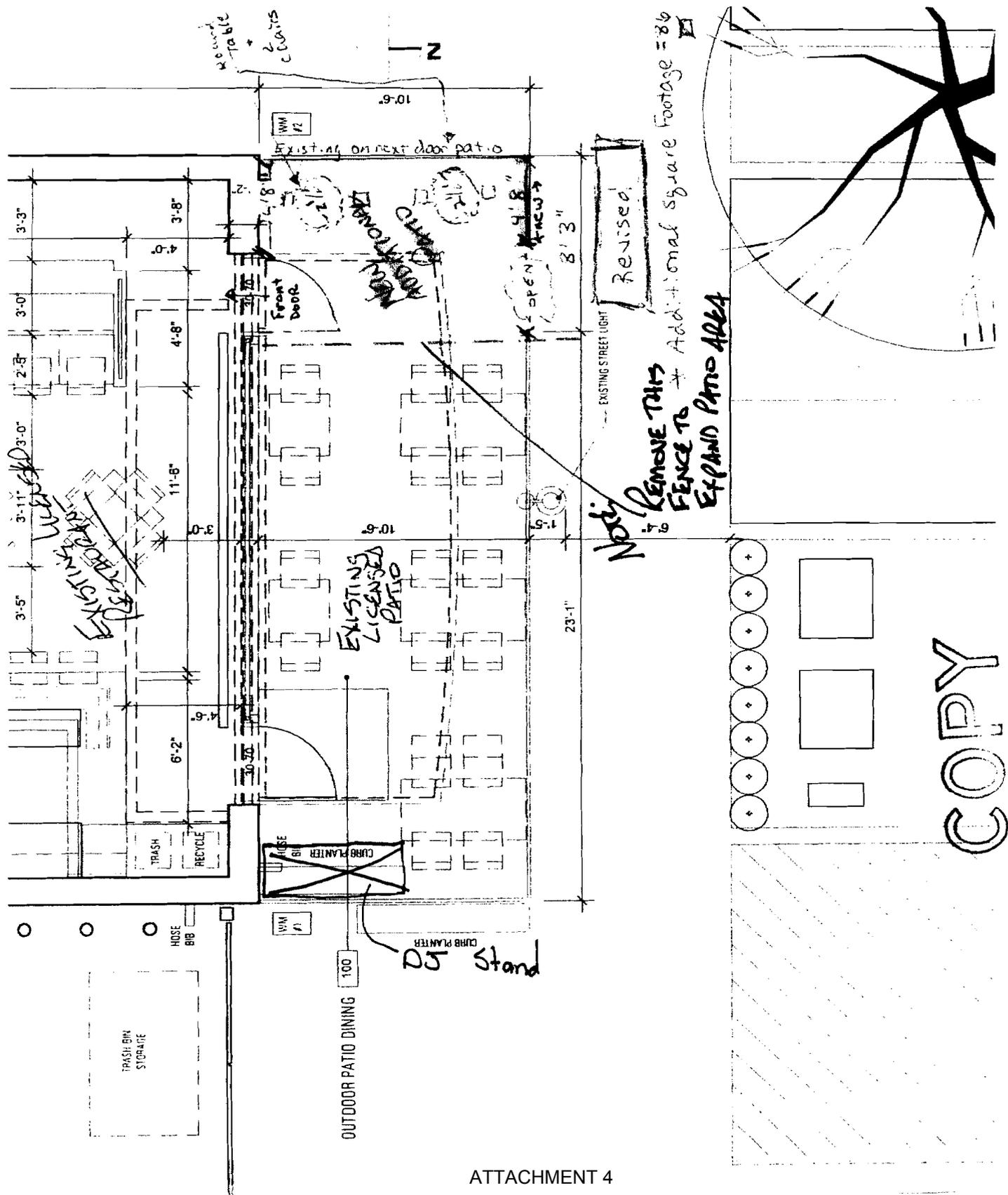
CHRONIC TACOS
 15 East 6th St.
 TEMPE, AZ 85251
 SPR 07076
 DS070893

PATIO SITE PLAN

SCALE: 3/16" = 1'-0"

7.27.07

PA1.0



PATIO SITE PLAN

SCALE 3/16"=1'-0"

1

COPY



CHRONIC TACOS

15 EAST 6TH STREET

PL090124

FRONT OF BUSINESS

