

Staff Summary Report



Board of Adjustment Hearing Date: January 23, 2008

Agenda Item Number: 3

SUBJECT: This is a public hearing for a possible revocation of one (1) use permit issued to **CHRONIC CAR AUDIO INC.** located at 2404 North Scottsdale Road.

DOCUMENT NAME: 20080123dssd01

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for the review of the following for possible revocation of the use permit per the City of Tempe Attorney office's direction due to non-compliance with the Condition of Approval No. 4, which reads, "Install noise mitigation buffer material to the interior of the service bays. The installation to received Development Services staff approval and be completed by 04/01/07."

Request by **CHRONIC CAR AUDIO INC (PL070002/ZUP07006)** (Hub Blanchette, applicant; Aja Investors, property owner) for a use permit to allow a car audio, mobile video and car alarm installation and repair business located at 2404 North Scottsdale Road, in the CSS, Commercial Shopping and Services District.
(Use permit transfer was administratively issued February 1, 2007.)

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

CODE INSPECTION: Jeff Tamulevich, Code Enforcement Administrator, (480) 350-8441
Marvin White, Code Inspector, (480) 350-8966

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

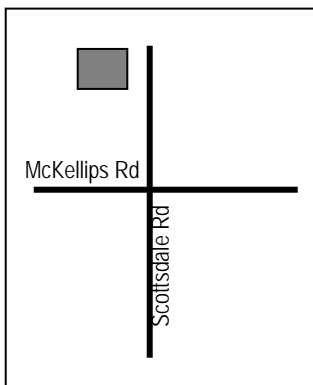
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LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval of Revocation

ADDITIONAL INFO: The applicant, City of Tempe is requesting a review of the Chronic Car Audio (ZUP07006) for possible revocation of the use permit. Chronic Car Audio has been in violation of the use permit, for not completing all conditions of approval. Condition of approval No. 4 "Install noise mitigation buffer material to the interior of the service bays. The installation to received Development Services staff approval and be completed by 04/01/07."



PAGES:

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

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Faxed Letter of Intent for Transfer, dated December 19, 2006
- 4-5. Approval letter (PL070002) February 1, 2007
6. October 10, 2007 letter to Chronic Car Audio from Marvin White
7. October 18, 2007 letter to Chronic Car Audio from Marvin White
8. November 8, 2007 certified letter to Hub Blanchette from Jeff Tamulevich
- 9-10. Letter of opposition from North Tempe Neighborhood Association, dated September 26, 2007
11. Site plan
- 12-14. Staff Photograph(s)

COMMENTS:

The applicant, City of Tempe, is requesting a review of the Chronic Car Audio use permit (ZUP07006) for possible revocation. Chronic Car Audio has not complied with all of the use permit conditions of approval of their February 1, 2007 approval. Specifically, condition number four (4) of the use permit approval states that the applicant shall "Install noise mitigation buffer material to the interior of the service bays. The installation to receive Development Services staff approval and be completed by 04/01/07." The installation has not been completed and has resulted in a citizen complaint.

Commercial Code Compliance Division has issued a verbal warning and two (2) violation letters to the business regarding the absent noise mitigation material as required by condition. Chronic Car Audio has made little effort to comply with the noise mitigation requirement. Hub Blanchette, owner and Russ Smith, store manager were informed by staff at a meeting on November 29, 2007 that should the business not resolve this violation by January 23, 2008, Chronic Car Audio's use permit would be placed before the Board of Adjustment for possible revocation.

Chronic Car Audio has been in operation at this location since February 2007. The Zoning & Development Code prohibits vehicle repair in the CSS, Commercial Shopping and Services District. The use permit approved in February allowed Chronic Car Audio to transfer the approval from the previous business (V1 Motorsports) at that location, therefore allowing Chronic to operate a vehicle repair/installation business. Previous Zoning Ordinance (Ordinance 808) allowed auto repair/installation subject to a use permit.

Use Permit

Zoning Ordinance 808 required a vehicle repair/installation to obtain a Use Permit in the C-2, General Commercial District. All uses in the C-2 district required a use permit.

The Zoning and Development Code prohibits vehicle repair in the CSS, Convenience Shopping and Services District.

Conclusion

Staff recommends approval to revoke the use permit.

REASON(S) FOR APPROVAL:

1. Non-compliance with the conditions of approval. Zoning and Development Code, Section 6-603 allows for a review and possible revocation of use permits, if conditions of approval are not met.

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

CONDITION(S) OF APPROVAL (ZUP07006):

1. The use permit is valid for Chronic Car Audio and may be transferable to successors in interest through an administrative review with Development Services Manager, or designee.
2. The use permit is for the installation and repair of car audio, mobile video, car alarms, and related system.

3. Installation and repair work to be performed in rear building (2412 N. Scottsdale) only. All installation and testing must occur inside bays and shall comply with City of Tempe Noise Ordinance Standards.
4. Install noise mitigation buffer material to the interior of the service bays. The installation to receive Development Services staff approval and be completed by **04/01/07**.
5. No outdoor speakers allowed.
6. In the event that your business has vehicles on display, please note that the parking or display of vehicles in the driveway and/or landscape is prohibited. Display of vehicles is only permitted on the previously approved display pad located on the Fillmore Street side.
7. Chronic Audio shall not park any of their motorized vehicles or employee vehicles on Fillmore Street.
8. Chronic Audio shall provide adequate parking for customers on their business property to discourage customer parking on Fillmore.
9. All signs to be approved by Design Review with sign permit(s) obtained prior to installation. No banners, pennants, balloons allowed without obtaining permits; portable signs strictly prohibited.
10. No expansion or intensification of business allowed without review of the use permit.

HISTORY & FACTS:

August 27, 2003	<u>BA030183</u> : Board of Adjustment approved a use permit for Scottsdale Motor Company to allow sales and leasing of motor vehicles including sales of accessories. (Ordinance 808)
November 2, 2004	<u>BA040199</u> : Board of Adjustment approved a use permit for Vision One Motorsports (V1) to allow the installation and sale of automotive accessories. (Rear Bldg: 2412 N. Scottsdale Rd) (Ordinance 808)
April 4, 2006	<u>BA050195</u> : Planning staff approved a transfer of an existing (Scottsdale Motor Company) use permit for V1 Motorsports to allow sales and display of motor vehicles, ATV's and accessories. (Zoning and Development Code)
February 1, 2007	<u>ZUP07006</u> : Planning staff approved a transfer of an existing (V1 Motorsports) use permit for Chronic Car Audio to allow car audio, mobile video, and car alarm installation and repair business. (Installation and repair work performed at rear building 2412 N. Scottsdale Rd) (Zoning and Development Code)
September 26, 2007	Complaint letter from North Tempe Neighborhood Association received by Commercial Code Compliance.
September 28, 2007	<u>CM071360</u> : Site inspected and complaint was verified. Chronic Car Audio had not complied with Hearing Officer conditions of approval.
October 10, 2007	Marvin White (Commercial Code Inspector) sent a violation letter to Chronic Care Audio for not complying with conditions of approval.
October 18, 2007	Marvin White (Commercial Code Inspector) sent a second violation letter to Chronic Car Audio for not complying with conditions of approval.

November 8, 2007 Jeff Tamulevich (Commercial Code Compliance Manager) sent a certified letter to business owner (Hub Blanchette) requesting his attendance to discuss the status of the Chronic Car Audio use permit. The meeting was originally scheduled for November 15, 2007 and was later rescheduled for November 29, 2007.

November 29, 2007 Meeting to discuss status of use permit with Hub Blanchette and Russ Smith from Chronic Car Audio. City of Tempe staff included Jeff Tamulevich, Steve Abrahamson, Shawn Daffara, Dean Miller, Marvin White and City Attorney Dave Park. Hub Blanchette agreed to submit plans and install noise mitigation material before the January 23, 2008 meeting.

DESCRIPTION: Owner – AJA Investors
Applicant – City of Tempe, Commercial Code Compliance.
Existing Zoning – CSS, Commercial Shopping and Services District
Lot Area – 19,942 s.f. / .45 acres

**ZONING AND
DEVELOPMENT
CODE REFERENCE:** Part 6, Chapter 3, Section 6-308: Use Permit

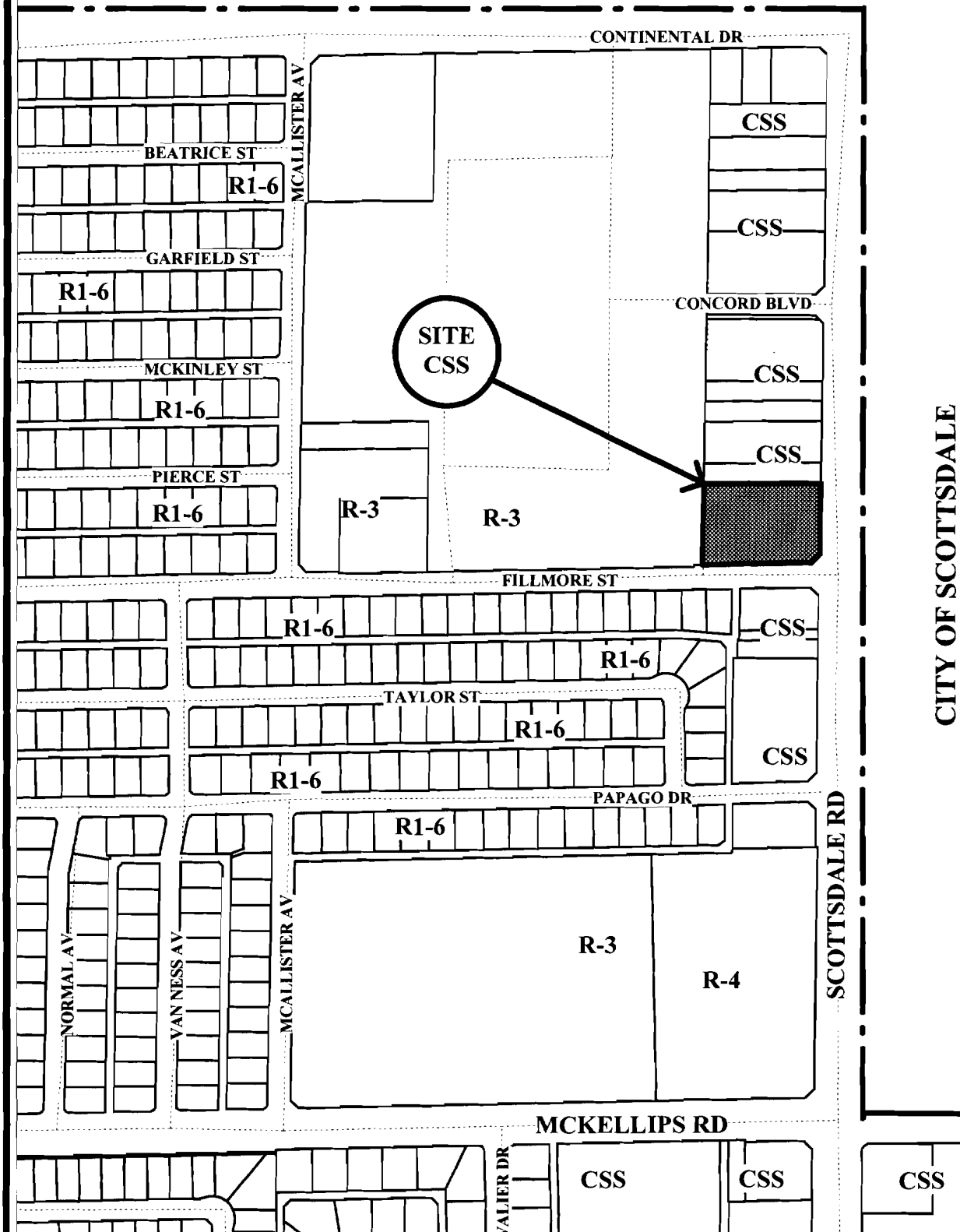
Part 6, Chapter 6, Section 6-603: Time Limits on Conditions

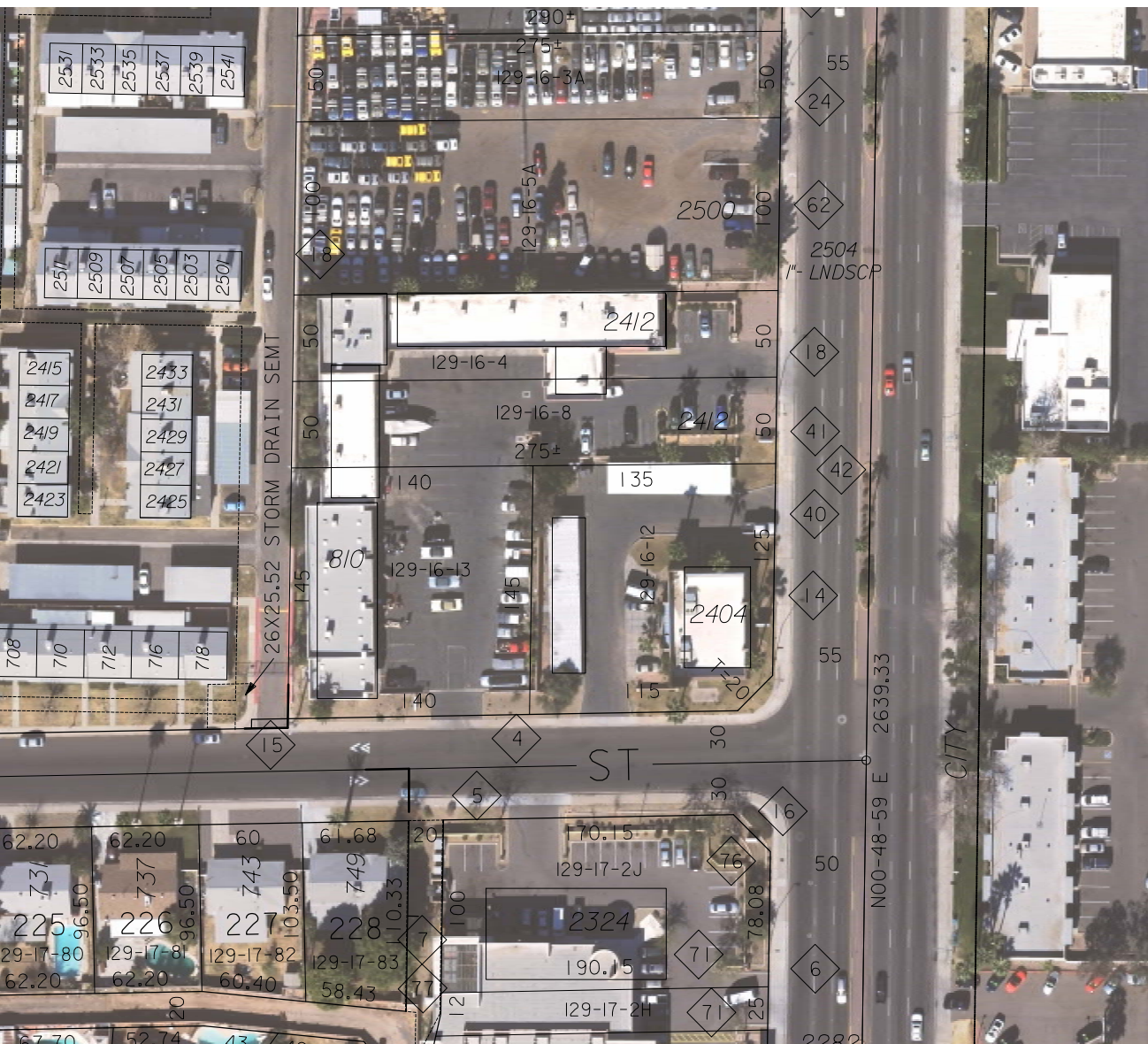
Part 6, Chapter 9, Section 9-903: Transfer of Permits/Approvals

CHRONIC CAR AUDIO INC

PL070002

CITY OF SCOTTSDALE





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Attention:
Sherri Lesser

This letter is to request a Transfer of Use permit, at 2404 N. Scottsdale Rd. bldg. A. Tempe, AZ. 85281, and bldg. E. at 2412 N Scottsdale Rd. to Chronic Car Audio, Inc. The property, previously occupied, by a rim and car audio, owned by Mr. Bader.

Chronic Car Audio Inc. is in the business of installing car audio, mobile video and car alarms. Our hours of operation are, Mon. - Sat. 9:00 am. - 7:00 pm. Sun. 10:00 am. - 5:00 pm.

We are moving our present store, located at 1462 N. Scottsdale Rd. Tempe, AZ. 85281, to the new above location (2404 N. Scottsdale Rd.). Therefore this is not an additional store but, relocation. We will do our utmost to be courteous neighbors, and conduct our audio testing within the bay areas.

Please find enclosed our Credit Card Authorization form for payment of \$309.00. If you have any questions or concerns, feel free to call me. I can be reached at our corporate office's, # 480-396-0250, or on my cell, # 480-283-5167.

Thank you,
Hub Blanchette
CFO, Chronic Car Audio, Inc.

Corporate Office 6055 E. University Dr. Mesa, AZ 85205
Phone: (480) 396-0250 Fax: (480) 396-5294 E-mail: accounting@chroniccaraudio.com

250 N. Power Rd. Mesa, AZ 85205	1462 N. Scottsdale Rd. Tempe, AZ 85281	2030 N Alma School Rd. Chandler, AZ 85224	812 E. Camelback Rd. Phoenix, AZ 85014	1705 W. University Dr. Tempe, AZ 85281
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Check us out at one of our five valley store locations

Development Services
Department
(480) 350-8331

February 1, 2007

FILE COPY

Mr. Hub Blanchette
Chronic Car Audio Inc.
6055 East University Drive
Mesa, Arizona 85205

RE: CHRONIC CAR AUDIO INC.
2404 North Scottsdale Road
PL070002/DS070006/ZUP07006

Dear Mr. Blanchette:

The Development Services Department Board of Adjustment staff has approved your request for the transfer of an existing use permit to allow a car audio, mobile video and car alarm installation and repair business located at 2404 North Scottsdale Road, in the CSS, Commercial Shopping and Services District.

Specific factors, which contributed to this decision, are as follows:

1. The proposed use will be a continuation of an existing use.

This approval is based on compliance with the conditions listed below:

1. The use permit is valid for Chronic Car Audio and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
2. The use permit is for the installation and repair of car audio, mobile video, car alarms and related systems.
3. Installation and repair work to be performed in rear building (2412 N. Scottsdale) only. All installation and testing must occur inside bays and shall comply with City of Tempe Noise Ordinance Standards.
4. Install noise mitigation buffer material to the interior of the service bays. The installation to receive Development Services staff approval and be completed by **04/01/07**.
5. No outdoor speakers allowed.
6. In the event that your business has vehicles on display, please note that the parking or display of vehicles in the driveway and/or landscape is prohibited. Display of vehicles is only permitted on the previously approved display pad located on the Fillmore Street side.
7. Chronic Audio shall not park any of their motorized vehicles or employee vehicles on Fillmore Street.
8. Chronic Audio shall provide adequate parking for customers on their business property to discourage customer parking on Fillmore.
9. All signs to be approved by Design Review with sign permit(s) obtained prior to installation. No banners, pennants, balloons allowed without obtaining permits; portable signs strictly prohibited.
10. No expansion or intensification of business allowed without review of the use permit.

11. The hours of operation to be 9:00 AM to 7:00 PM Monday- Saturday and 10:00 AM to 5:00 PM Sunday. All installation work to cease within one hour of close of business as per times stated in this condition and applicant's letter of explanation.
12. All landscape areas to be maintained with immediate replacement of any dead or missing landscape material. All weeds and trash to be removed from landscape and paved areas and adequately maintained.
13. **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 set to re-evaluate the appropriateness of the use permit.**

In order to contest any conditions of this approval, you must request (in writing) to be placed on a Hearing Officer agenda.

If you have any questions please contact me at (480) 350-8486.

Sincerely,



Sherri Lesser
Senior Planner

SL/dm

cc: Kay Savard, COT Tax & Licensing
Dean Miller, COT DSD
Ms. Darlene Justus
File

October 10, 2007

Chronic Audio
2404 N. Scottsdale Rd.
Tempe, AZ. 85281

RE: Zoning Violation – 2412 N. Scottsdale Rd. Tempe, AZ. 85281

Dear Business Owner:

This is a courtesy letter to inform you that the City of Tempe Development Services Department received a complaint that your business at the above address has not met the conditions of approval for your Use Permit. Please review the conditions of approval dated February 1, 2007. Please be advised failure to comply with these conditions may result in the re-evaluation of your Use Permit as stated in condition #13 below.

This approval is based on compliance with the conditions listed below:

1. The use permit is valid for Chronic Car Audio and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
2. The use permit is for the installation and repair of car audio, mobile video, car alarms and related systems.
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12. All landscape areas to be maintained with immediate replacement of any dead or missing landscape material. All weeds and trash to be removed from landscape and paved areas and adequately maintained.
13. **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 set to re-evaluate the appropriateness of the use permit.**

Sincerely,



Marvin White
Code Inspector
Development Services Department
(480) 350-8966

Copy: File

October 18, 2007

Chronic Car Audio Inc.
6055 E University Dr.
Mesa, AZ. 85205

RE: Zoning Violation – 2412 N. Scottsdale Rd. Tempe, AZ. 85281


Dear Business Owner:

This is a courtesy letter to inform you that the City of Tempe Development Services Department received a complaint that your business at the above address has not met the conditions of approval for your Use Permit. Please review the conditions of approval dated February 1, 2007. Please be advised failure to comply with these conditions may result in the re-evaluation of your Use Permit as stated in condition #13 below.

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13. **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 set to re-evaluate the appropriateness of the use permit.**

Sincerely,



Marvin White
Code Inspector
Development Services Department
(480) 350-8966

Copy: File

November 8, 2007

Mr. Hub Blanchette
Chronic Car Audio
6055 East University Dr
Mesa, AZ 85205

**RE: Chronic Car Audio- Use Permit
2404 North Scottsdale Road
PL070002/DS070006/ZUP07006**

Dear Mr. Blanchette:

We are requesting your presence at an administrative hearing to discuss the conditions of approval for your Use Permit for Chronic Car Audio at 2404 North Scottsdale Road (ZUP07006). Condition number four (4) of the approval letter dated February 1st, 2007 required the installation of noise mitigation buffer material to the interior of the service bays. The condition required the installation to receive Development Services staff approval, and be completed by April 1st, 2007. Our records indicate that this condition has not been met.

Please be advised that the City of Tempe Zoning and Development Code Part 6, Chapter 9, Section 6-902 states that if the applicant has not taken corrective actions to resolve the issues related to the approval, then the original decision making body may revoke the use permit. We have scheduled the hearing for November 15, 2007 at 1:00 PM in the City of Tempe Development Services Department Conference Room located at 31 E. 5th Street, Tempe. Staff recommends that you be in attendance for the hearing to provide any relevant information and/or plans for possible corrective actions that may be taken to avoid the revocation of your Use Permit.

Should you have questions concerning this notice, please contact me directly at (480) 350-8441.

Sincerely,



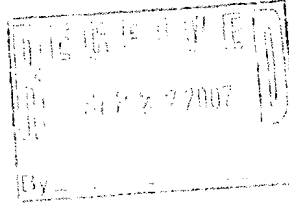
Jeff Tamulevich
Commercial Code Compliance Manager
Development Services Department
480-350-8441

Copy: File

9/26/2007

Tempe Commercial Code Compliance

Regarding: Chronic Car Audio
2404 N. Scottsdale Road
Tempe, AZ 85281



Cc: Chris Anaradian
Sherry Lesser

Attachment: One CD with photos taken on 8/12/07, 9/15/07 & 9/25/07

The North Tempe Neighborhood Association is filing a formal complaint against Chronic Car Audio for the following reasons:

- 1) Regarding Use Permit Stipulation #4
 - a. Noise mitigation buffer material was to be installed to the interior of the service bays and was to be inspected by Development Services staff by 04/01/07.
 - i. It is our understanding that this was NOT done.
 - ii. There is extremely loud noise from testing of installations.
 - iii. Repeated neighbor complaints have been ignored.
 - iv. There is also loud noise from radios used while installing.
- 2) Regarding Use Permit Stipulation #11
 - a. Hours of operation to be 9:00 AM to 7PM Mon-Sat, 10AM – 5 PM Sun, as listed in Use Permit. (FYI - Advertised hours Mon-Sat are 9AM - 6PM)
All installation work is to cease 1 hour of close of business.
 - i. Installers are many times still working until 9, 10 or 11 PM and occasionally even much later! Employees stated that the late hours are why they don't clean up the parking lot.
- 3) Regarding Use Permit Stipulation #12
 - a. All landscape areas to be maintained ----- All weeds and trash to be removed from landscape and paved areas and adequately maintained.
 - i. Trash left on the premise for days and weeks at a time.
 - ii. Dumpsters overflowing for weeks at a time.
 - iii. Uncontained trash and trash strewn about parking lot and on sidewalk in front of installation offices. This is a habitual problem!
 - iv. 2 to 3ft high weeds growing up through graveled landscaping.
 - v. Trash throughout weeds along sidewalk.
 - vi. Uncontained trash is blowing into neighbors' yards.
- 4) The empty monument sign frame (numbered 2412) needs to be removed.

5) Regarding Use Permit Stipulation #13

- a. A Public hearing should be set to re-evaluate the appropriateness of this Use Permit.
- b. Employees were spoken with on 8/12/07 regarding trash, and extreme noise. Things have only gotten worse.

Regards,



Darlene Justus, President
North Tempe Neighborhood Association
P.O. Box 1616
Tempe, AZ 85280

480-529-3584

EXHIBIT 'A'

