



City of Stockton

Legislation Text

File #: 18-4807, Version: 1

ONE-YEAR REVIEW OF THE USE PERMIT FOR A LOUNGE WITH THE ON-SALE OF GENERAL ALCOHOLIC BEVERAGES AT 2333 PACIFIC AVENUE (P17-0431)

RECOMMENDATION

It is recommended that the Planning Commission approve a motion to carry out Condition No. 21 of Planning Commission Resolution No. 2017-08-10-0502 requiring a one (1) year review of Use Permit P17-0431.

Summary

On August 10, 2017, the Planning Commission approved Resolution No. 2017-08-10-0502 resulting in modifications to Use Permit P09-038 intended to address issues of excessive noise and nuisance activities (Attachment A - Planning Commission Staff Report, 8-10-2017; and Attachment B - Planning Commission Resolution, 2017-08-10-0502). This resolution included a monitoring requirement consisting of Planning Commission review at a six-month and 12-month time increment.

On May 24, 2018, the Planning Commission conducted a six-month review (Attachment C - Planning Commission Staff Report, 5-24-2018). At the conclusion of the review, the Planning Commission passed a motion authorizing the business to continue operations and return for review at the prescribed 12-month timeframe.

Since the six-month review, a total of thirteen (13) calls for service occurred between May 1, 2018 and August 31, 2018. Three (3) calls were due to a noise/disturbance but did not result in a crime report. Further, Community Development Department staff have not received any complaints regarding excessive noise from the surrounding neighbors. As a result, staff recommends that the Planning Commission complete the one (1) year review to allow the applicant to continue the operation of the bar with the on-sale of general alcoholic beverages.

DISCUSSION

Background

In 2009, a Use Permit P09-038 was approved to allow a lounge with on-sale of general alcoholic beverages and live entertaining at 2333 Pacific Avenue ("Ave on the Mile"). Beginning in July 2016 and through approximately April 2017, the business came under scrutiny for violations related to excessive noise and nuisance activities. This culminated in a public hearing before the Planning Commission on August 10, 2017. Resolution No. 2017-08-10-0502 modified the permit's conditions and imposed a compliance monitoring requirement for 6-month and 12-month time increments.

On May 24, 2018, the Planning Commission conducted the required 6-month review. Notice was not

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sent to the surrounding property owners for the 6-month review, consistent with the normal process for compliance monitoring reviews. The applicant and his supporters appeared at the meeting and spoke in support of their business. They described the following improvements for the reduction of music volume from the premises.

1. Completed the sound-proofing of front and back doors in the building and implemented lower music volumes after 10:00 p.m. when the live entertainment is being provided.
2. Use Identification scan device to verify each patron's age before entering the premises.
3. Take a proactive approach in following up with the neighbors to ensure that the music volume from the bar does not disturb the surrounding neighborhood.
4. Provide security guards to monitor the premises including the kitchen and restrooms when the live entertainment is being provided.

At the end of the 6-month review, the Commission passed a motion authorizing the business to continue operations and return for review at the prescribed one-year timeframe. The Commission also requested that the surrounding property owners be provided notice of the 12-month review when it occurs.

Present Situation

For the current 12-month review, staff contacted the Police Department regarding any 9-1-1 calls for service (CFS) for excessive noise violations and nuisance activities from the subject site. According to the Police Department, the subject business had a total of thirteen (13) 9-1-1 calls for service between May 1, 2018 and August 31, 2018 (Attachment D - 9-1-1 Calls For Service Statistics). Three of the thirteen (13) calls for service were for disturbance and loud music and did not result in a crime report because it is within the responding Police Officer's discretion to decide whether a call for service warrants a crime report. The remaining ten (10) calls for service were related to drunk in public, business burglary, photo request, ambulance requested, suspicious person, and 911 call hang-up. Further, as of the writing of the staff report, staff has not received any complaints regarding an excessive noise volume from the bar.

Public Comments

At the six-month review, the Commission required a notification to the surrounding property owners for a one-year review of the Use Permit. As a result, a public notice was provided via newspaper legal ad and mail to residents within 300-feet of the subject site at least 10 days before the hearing on this item.

Conclusion

Based upon the public testimony at the one-year review, staff recommends that the Planning Commission complete the one (1) year review to allow the applicant to continue the operation of the

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bar with the on-sale of general alcoholic beverages. Alternatively, if the Planning Commission requests continued and/or different oversight over the business, a motion to schedule for the Revocation and Modification of the Use Permit under Stockton Municipal Code (SMC) Chapter 16.108 may be made.

Attachment A - Planning Commission Staff Report, 8-10-2017

Attachment B - Planning Commission Resolution, 2017-08-10-0502

Attachment C - Planning Commission Staff Report, 5-24-2018

Attachment D - 9-1-1 Calls For Service Statistics

This staff report was prepared by Senior Planner Jenny Liaw, (209) 937-8316; jenny.liaw@stocktonca.gov.



City of Stockton

Legislation Text

File #: 17-3832, Version: 1

MODIFICATION OF A USE PERMIT FOR A LOUNGE WITH THE ON-SALE OF GENERAL ALCOHOLIC BEVERAGES AND LIVE ENTERTAINMENT AT 2333 PACIFIC AVENUE (P17-0431/P09-038)

RECOMMENDATION

Staff recommends that the Planning Commission adopt a resolution approving the modification of the conditions of approval for Use Permit No. (P17-0431/P09-038) for a lounge with the on-sale of general alcoholic beverages and live entertainment consisting of disc jockey, live band, and acoustic music, for property located at 2333 Pacific Avenue (The Ave on the Mile, The Ave Lounge, The Ave), in accordance with the findings of fact and revised conditions of approval detailed herein.

Summary

The City initiated the modification of the noted Use Permit in response to numerous complaints received by the Police Department from the surrounding neighborhood regarding excessive noise and nuisance activities on the subject site since July 28, 2016. The business has been cited on numerous occasions for failing to monitor exterior noise levels. On May 17, 2017, the operator (Kevin Hernandez) met with the Community Development Director, Planning Director, and a Lieutenant from the Police Department to discuss possible solutions to the excessive noise complaints against the lounge. After that meeting, the operator indicated that he has made physical sound attenuation improvements to the lounge, including the installation of sound proofing material on both sides of the front door and vent closures in the back closet area; the consultation of a sound professional regarding speaker movement and base volume; turning off the seating area 2 speaker no later than 10:00 p.m.; and using a noise decibel reading device to monitor the noise level outside the lounge building. The noted improvements resulted in the reduction of calls for police service related to noise complaints from area residents.

To ensure that the operator continuously maintains the sound levels to comply with noise standards in the City's General Plan and Development Code, staff is recommending modification of the Use Permit's conditions of approval. The modifications include: revised Condition Nos. 2, 4, 10, 18, 19, and 22. Condition Nos.

3 and 23 related to live entertainment have been deleted. In addition, new conditions (Condition Nos. 22 through 25) have been added regarding the time to turn off the seating area 2 speaker, a special event permit required for any events in accordance with the Stockton Municipal Code (SMC) section 12.72.060, the submittal of a Noise Study, and the effective date of this Use Permit following the time for filing an appeal in accordance with SMC section 16.100.020.C.1.

Therefore, staff recommends that the Planning Commission approve the modification of the subject Use Permit in accordance with the findings of fact and revised conditions of approval detailed herein.

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DISCUSSION

Background

In 2009, a Use Permit was approved to allow a lounge with the on-sale of general alcoholic beverages and live entertainment at the above location. The Ave Lounge, also known as "The Ave on the Mile" or "The Ave," is located in an existing commercial building on the west side of Pacific Avenue, between Central Court and Tuxedo Court on the Miracle Mile. The overall site is approximately 5,000 square feet in size. The site is zoned CG (Commercial, General). The site is bounded to the:

- north by retail uses zoned CG;
- east across Pacific Avenue by retail uses zoned CG;
- south by retail uses zoned CG; and
- west by a parking lot and single-family homes zoned RL (Residential, Low-Density) (Attachment A - Location Map and Aerial Photograph).

The General Plan designates the project site for Commercial land uses. This land use designation and the accompanying CG zoning conditionally allow the use, subject to the approval of a Use Permit.

Present Situation

Violations of Use Permit and SMC

Beginning July 2016, the Police Department received numerous complaints from the surrounding neighborhood regarding excessive noise and nuisance activities from the subject site. The subject use is in violation of Use Permit Condition No. 16 regarding noise volume exceeding noise standards for commercial land uses, as specified in the City's General Plan and Development Code. The business has been cited on numerous occasions for failing to monitor noise levels. A synopsis regarding the complaints of excessive noise is listed below:

1. Between 07-28-2016 and 12-16-2016 - the Vice/Criminal Intelligence Division of the Police Department received a complaint on July 28, 2016 and observed seven (7) violations for excessive noise and maintaining a nuisance for violating a special event permit in the rear parking lot from 7-29-2016 to 9-21-2016. The first administrative citation was issued to the business operator on October 7, 2016. There were four (4) more violations observed between 11-05-2016 and 12-16-2016. The second administrative citation was issued on December 21, 2016.
2. Between 03-23-2017 and 05-10-2017, the business operator continued to violate the SMC (excessive noise). Three administrative citations were issued on April 13, May 01, and May 10, 2017 (Attachment B - Violation Dates and Administrative Citations).

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3. Between 07-15-2016 and 04-17-2017, there were approximately 38 calls for service (CFS) regarding excessive or loud music/noise from this premises including 10 CFS between 01-01-2017 and 04-12-2017. In addition, the Police Department indicated that there were two additional CFS received on May 13, 2017 and June 15, 2017.

For the Commission's information, there are two conditions related to live entertainment imposed on the State Department of Alcoholic Beverage Control (ABC) license for the subject site. The operator also violated ABC license conditions for live entertainment beyond 12:00 a.m. on Friday and Saturday and California Civil Code section 3479 regarding noise nuisance. On April 5, 2017, the Police Department and the Community Development Department received a certified letter from ABC regarding a request to modify the ABC license conditions to extend the hours of live entertainment. Both departments submitted written responses to ABC opposing the request. (Attachment C - Opposition Memorandum and Letter.)

On May 17, 2017, the operator met with the Community Development Director (CDD), Planning Director, and a Lieutenant from the Police Department to discuss possible solutions to the excessive noise complaints from area residents. The Director recommended that the operator hire a noise consultant to evaluate noise attenuation and prepare noise mitigations to minimize the impacts on the surrounding neighborhood. As of this report, staff has not received the Noise Study.

Mitigation of Noise

On June 30, 2017, the operator again met with staff (Planning Director, Planning staff, and a Lieutenant from the Police Department) to discuss his mitigation efforts. The operator indicated that the following physical sound attenuation improvements have been completed:

1. Installation of a sound-proof door with sound-proofing material on both sides of the front door. The front door is now closed to block sound when entertainment is being provided;
2. Installation of a sound proof door in the back of the premises and sound proofing material to fit within vent closures in the back closet area;
3. Consultation with a sound professional on speaker movement, positioning, and base volume. The seating area 2 speakers are being turned off no later than 10:00 p.m. when entertainment is provided;
4. A noise decibel reading device is being used to monitor the noise levels from the lounge building when entertainment is being provided; and
5. Two security officers have been hired to patrol the premises when live entertainment is provided. One is responsible for the front area and door to check patron's identification (ID) and another one patrols the inside of the premises and back parking lot.

The operator submitted pictures to show the physical noise attenuation improvements of the lounge and letters from the surrounding neighbors to support his business. (Attachment D - Support Letters from the Neighbors and Pictures.)

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Modification of Conditions of Approval

Based upon the records from the Police Department, calls for service regarding noise complaints from area residents are non-existent since June 30, 2017. Modification of the conditions of approval for this Use Permit will ensure continuous maintenance of the exterior noise levels in compliance with the noise standards of the City's General Plan and Development Code.

The recommended modification is as follows:

1. Revise:
 - Condition No. 2 - delete "the live entertainment";
 - Condition No. 4 - add "ingress and";
 - Condition No. 10 - remove "Prior to the commencement of the proposed use";
 - Condition No. 18 - add "no outdoor speakers and amplified sound";
 - Condition No. 19 - eliminate "live entertainment"; and
 - Condition No. 22 - revise a six-month and one-year review following the effective date of the modification.
2. Delete Condition Nos. 3 and 23 related to live entertainment on the premises. These conditions are no longer valid following the court's decision in the Maxim's lawsuit (2009).
3. Add new conditions (Condition Nos. 22 through 25) related to the time to turn off the seating area 2 speaker, a special event permit required for any events in accordance with SMC section 12.72.060, the submittal of a Noise Study, and the effective date of this Use Permit following the time for filing an appeal in accordance with SMC section 16.100.020.C.1. (Attachment E - Amended Conditions of Approval - Redline Version.)

Public Notice

In accordance SMC Section 16.108.030. 2. A, a certified letter with return receipt for the public hearing notice will be mailed to both the property owner and the business operator of the lounge on July 28, 2017, informing them of the public hearing date to consider modification of the subject Use Permit. Further, staff has provided both legal advertisement and public hearing notice to property owners within 300 feet of the site in accordance with SMC section 16.88.030(B)(2)(b)(ii)(C), and, to date, has not received any public communication on the subject Use Permit.

Finding

The Development Code contains specific Findings, all of which must be made in the affirmative to support the modification of the conditions of approval for this Use Permit. If one or more of the Findings cannot be made, the Use Permit cannot be approved.

There are seven General Findings in SMC Section 16.168.050.A that require compliance with all

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applicable provisions in the SMC; maintaining the integrity and character of the applicable zoning district; consistency with applicable General Plan objectives and policies; physical suitability of the site for the proposed use; not endangering or jeopardizing the public health, safety, peace, or general welfare of the public; compatibility with surrounding uses; and consistency with the California Environmental Quality Act, as indicated in the Proposed Resolution. With the modifications to the conditions of approval, staff believes all findings can be made in the affirmative.

Environmental Review

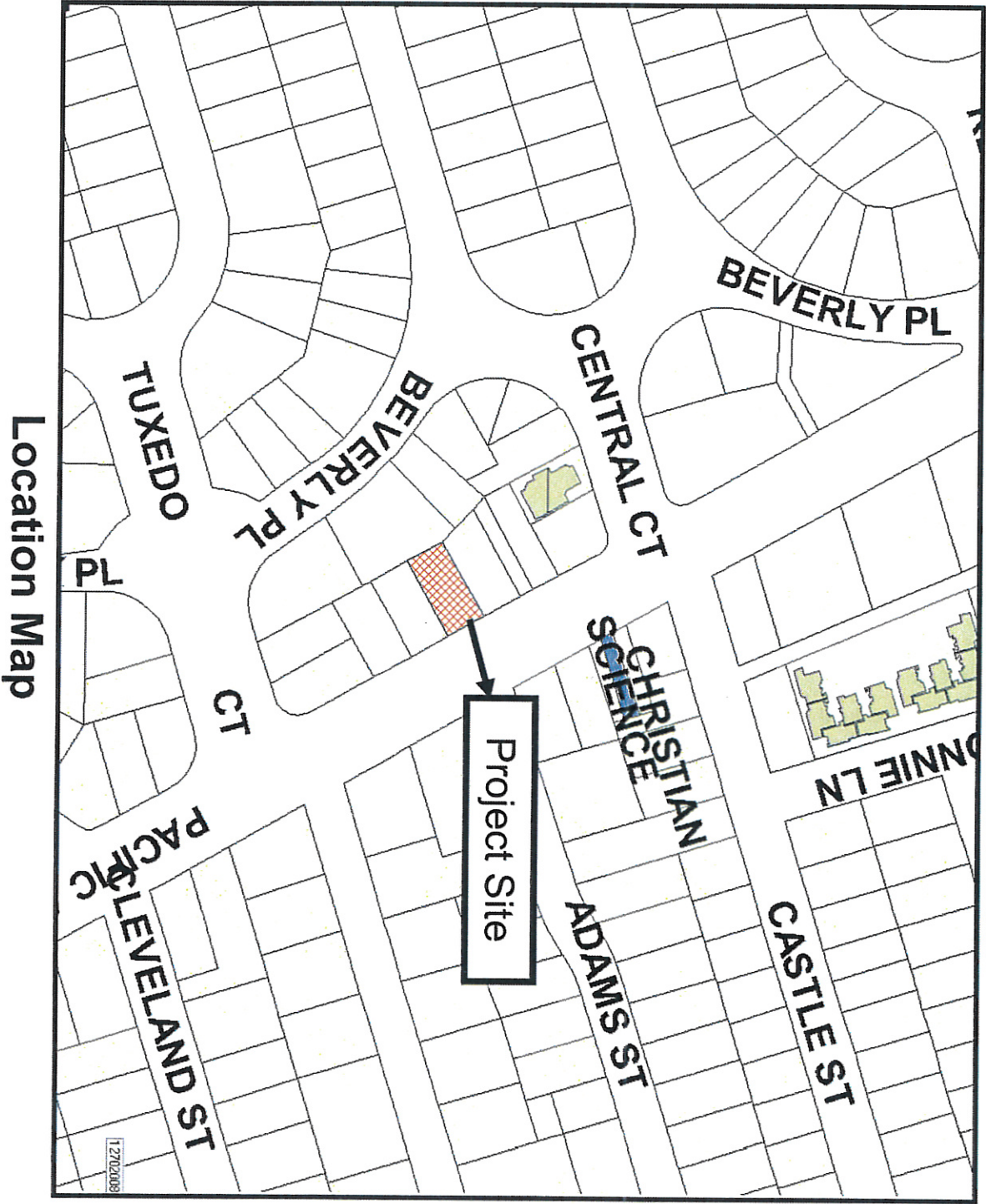
This request is categorically exempt under the California Environmental Quality Act (CEQA) Guidelines (Section 15301, Class 1), the use of an existing facility.

VOTES REQUIRED

A vote of a majority, four (4), of the total authorized membership of the Planning Commission is required for the Commission to take action on this matter.

Attachment A - Location Map and Aerial Photograph
Attachment B - Violation Dates and Administrative Citations
Attachment C - Opposition Memorandum and Letter
Attachment D - Support Letters from the Neighbors and Pictures
Attachment E - Amended Conditions of Approval - Redline Version

The staff report was prepared by Senior Planner Jenny Liaw (209) 937-8316; jenny.liaw@stocktonca.gov.



Location Map



Aerial Photograph

THE AVE LOUNGE BAR-2333 PACIFIC AVENUE-TIMELINE

1. On 07-28-16, I received a complaint from a subject named Sub-██████████ regarding loud music coming from The Ave Lounge located at 2333 Pacific Ave.
2. Between 07-29-16 to 09-21-16 Vice observed approximately 7 violations for SMC re: excessive noise and maintaining a nuisance, including violating the conditions for a special event permit in the rear parking lot (city property).
3. On 09-09-16, Sgt Graviette and I met with The Ave owner-Kevin Hernandez along with RP-██████████ about the violations.
4. On 09-26-16, Vice assisted Stockton ABC with a minor consuming alcohol at The Ave Bar. The case was handled to conclusion by ABC and a fine with pending suspension was issued to the bar.
5. On 10-07-16, an administrative citation was issued to The Ave Lounge for SMC and CA Civil Code violations.
6. Between 11-05-16 to 12-16-16 Vice observed 4 violations for SMC, again re: the same excessive noise and maintaining a nuisance.
7. On 12-21-16, a second administrative citation was issued to The Ave Lounge for the same SMC and CA Civil Code violations.
8. On 03-21-17, a Minor Decoy was sent into The Ave Lounge, the decoy was not served alcohol and was turned away.
9. On 03-23-17, 03-28-17 and 04-08-17, 3 violations were observed for SMC and the same excessive noise and maintaining a nuisance. A 3rd citation is pending.
10. On 03-23-17 I began a neighborhood canvass re: the noise violations affecting the neighborhood around The Ave Lounge. I last canvassed 04-04-17, there are still approximately 7-8 neighbors that still need contact. Of the neighbors interviewed approximately 50 percent had issue with the noise, the other half did not.
11. On 03-23-17 there was a noise violation at The Ave Lounge, on that date Vice and ABC made contact with the owner-Hernandez regarding the loud music.
12. Between 01-01-17 to 04-12-17, there have been 10 calls for service re: loud music/noise at The Ave Lounge.
13. On 04-06-17 City of Stockton received notice from ABC of condition modification request.
14. On 04-13-17, third administrative citation was issued to The Ave Lounge for SMC and CA Civil Code violations.
15. On 04-17-17, I, Detective Villanueva filed a letter of Objection with CA Department of Alcoholic Beverage Control regarding the application by The Ave Lounge to modify their entertainment hours.
16. On 05-01-17, a fourth administrative citation was issued to The Ave Lounge for SMC and CA Civil Code Violations that occurred on 04-19-17 documented on 17-14285.
17. On 05-10-17, Patrol Officers issued Kevin Hernandez a SMC citation for violating the SMC Noise ordinance. Criminal citation issued #A217942.

NOTES:

Deputy City Attorney Lori Asunsion is the contact for the listed violations and has been briefed accordingly. The primary conditions that The Ave Lounge is violating are listed below.

City of Stockton Use Permit conditions:

No. 23; Live entertainment shall be allowed only until 11:00 pm Sundays through Thursdays and until 12:00 am on Fridays and Saturdays.

Alcoholic Beverage Control Conditional License:

No. 1 Live entertainment shall be allowed only until 11:00 pm. Sundays through Thursdays and until 12:00 am Fridays and Saturdays.

No. 2 Entertainment provided shall not be audible beyond the area under the control of the licensee(s).

SMC Sections Violated/Cited:

1. 8.20.030 (A) (1) Public nuisance-noise.
2. 16.80.180 (c) Continual failure to monitor noise levels.
3. 16.224.030 (A) (2) & (5) Continual violation of Use Permit condition &
 - a. Maintenance of public nuisance
 - b. Violation of ABC License for live entertainment beyond 12:00 am.
4. California Civil Code 3479. Continual maintenance of nuisance noise.

Detective C. Villanueva #1120
Stockton Police Department
Vice/Criminal Intelligence Unit



CITY OF STOCKTON

COMMUNITY DEVELOPMENT DEPARTMENT

City Hall • 425 N. El Dorado Street • Stockton, CA 95202-1997 • 209 / 937-8444 • Fax 209 / 937-8893
www.stocktongov.com

April 27, 2017

California Department of Alcoholic Beverage Control
Attn: Paul Fuentes, Supervising Agent-in-Charge
31 East Channel Street, Room 168
Stockton, CA 95202

OBJECTION REGARDING THE PROPOSED CONDITION MODIFICATION FOR THE ABC LICENSE AT 2333 PACIFIC AVENUE (AVE ON THE MILE)

This letter has been prepared in response to the request from the operator of the above business to modify the conditions on its Alcoholic Beverage Control license (ABC) regarding permitted hours for live entertainment. The Community Development Department concurs with and supports the recommendation of the Police Department in its memorandum to ABC (dated April 17, 2017; attached). As noted by the Police Department, the business has been the subject of numerous complaints from the surrounding neighborhood regarding excessive noise and nuisance activities and has been cited on numerous occasions for failing to monitor noise levels (a requirement of Stockton Municipal Code Section 16.80.180.C) and not complying with applicable City Noise Standards (Stockton Municipal Code Section 16.60.040.C). The Community Development Department is, therefore, recommending that ABC deny the request by the business operator to modify the conditions on its ABC license.

Please feel free to contact me if you have questions or need additional information. Thank you.

DAVID KWONG, DIRECTOR
COMMUNITY DEVELOPMENT DIRECTOR

RICHARD LARROUY, PLANNING MANAGER
PLANNING AND ENGINEERING SERVICES DIVISION

DK:rl

Attachment

cc: Thomas Pace, Planning and Engineering Services Division
Kathryn Nance, Stockton Police Department
Chris Villanueva, Stockton Police Department
James Knief, Stockton Police Department
Scott Meadors, Stockton Police Department



CITY OF STOCKTON

POLICE DEPARTMENT

22 East Market Street • Stockton, CA 95202-2876
www.stocktongov.com

MEMORANDUM

Monday, April 17, 2017

TO: Paul Fuentes-Supervising Agent in Charge
California Department of Alcoholic Beverage Control
Stockton District

FROM: Chris Villanueva, Detective #1120
Stockton Police Department
Special Investigations Section-VICE

SUBJECT: OBJECTION FOR CONDITONS MODIFICATION, FOR LICENSE AT
2333 PACIFIC AVENUE, STOCKTON CA 95204-AVE ON THE MILE

The Stockton Police Department received notification that an application for a conditions modification was filed with Alcoholic Beverage Control by the licensee-Kevin Hernandez.

The Stockton Police Department is requesting the application for conditions modification be denied based on continued complaints by the neighboring community and observations and investigations by this Unit (Vice); regarding Alcoholic Beverage Control license conditions and Stockton Municipal Code violations by this licensee and business. Below is a brief synopsis of the complaints and investigations. The Department is concerned that allowing this condition modification, it will cause a strain for police services and increase the calls for service at this licensed premise.

1. Between 07-29-16 to 09-21-16 Vice observed approximately 7 violations for Stockton Municipal Codes and Alcoholic Beverage Control operating conditions re: excessive noise and maintaining a nuisance, including violating the conditions of a special event permit in the rear parking lot (city property). This resulted in an administrative citation being issued to the licensed business for Stockton Municipal Code Violations and a CA Civil Code Violation.





CITY OF STOCKTON

POLICE DEPARTMENT

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2. Between 11-05-16 to 12-16-16 Vice observed 4 violations for SMC re: excessive noise and maintaining a nuisance. On 12-21-16, a second administrative citation was issued to The Ave Lounge for the same SMC and CA Civil Code violations.
3. On 03-23-17, 03-28-17 and 04-08-17, 3 violations were observed by Vice for SMC and the same excessive noise and maintaining a nuisance.
4. A third administrative citation was issued for SMC violations and a CA Civil Code violation.
5. Between 07-28-16 to 03-23-17, the licensee (Kevin Hernandez) was advised no less than six (6) times by Stockton Police Department Vice Detectives and no less than three (3) times by an Agent from the Stockton District ABC Office regarding the condition violations regarding condition #1 of his ABC license and violations of the Stockton Municipal Codes.
6. Per a Stockton Police Department calls for service (CFS) check; there have been approximately 38 CFS regarding excessive or loud music/noise for this licensed premise (2333 Pacific Avenue) between 07-15-16 to 04-17-17.

Listed below are the Stockton Municipal Codes & CA Civil Code's the licensed premise was cited for;

SMC Sections Violated/Cited:

- A. 8.20.030 (A) (1) Public nuisance-noise.
- B. 16.80.180 (c) Continual failure to monitor noise levels.
- C. 16.224.030 (A) (2) & (5) Continual violation of Use Permit condition &
- D. Maintenance of public nuisance
- E. Violation of ABC License for live entertainment beyond 12:00 am.
- F. California Civil Code 3479. Continual maintenance of nuisance noise.

Thank you for your consideration into this matter, if you have any questions or comments please contact me.

C. Villanueva #1120

Detective Chris Villanueva #1120
SPECIAL INVESTIGATIONS SECTION-Vice
Chris.Villanueva@stocktonca.gov



DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
 STOCKTON DISTRICT OFFICE
 31 E CHANNEL ST., ROOM 168
 STOCKTON, CA 95202
 (209) 948-7739



Received

APR 05 2017

Community Development
 Permit Center/Building Division March 30, 2017

City of Stockton
 Planning Department
 425 N El Dorado St
 Stockton, CA 95202

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

AVENUE ULTRA LOUNGE LLC
 DBA: AVE ON THE MILE
 2333 PACIFIC AVE, STOCKTON, CA 95204
 File: 48-475538

Planning Department:

This is to inform you that pursuant to an amendment to Section 23803 of the Business and Professions Code which became effective January 1, 1998, the Department is required to notify local governing bodies of any petition to remove or modify conditions on an alcoholic beverage license.

Please be advised that the above-referenced licensee, whose currently licensed premises is within your jurisdiction, has petitioned the Department to remove or modify certain conditions on their alcoholic beverage license. I have enclosed the following items for your information and consideration:

1. A copy of Section 23803 of the Business and Professions Code.
2. A copy of the existing Petition for Conditional License, which contains the license conditions, and the grounds for their original imposition.
3. A copy of the licensee's letter describing the conditions the licensee is seeking to remove or modify.

According to the provisions of Section 23803 Business and Professions Code, you have thirty (30) days to file a written objection to the modification/removal of these conditions. If you have any questions or need any additional assistance in this matter, please do not hesitate to contact this office at (209) 948-7739.

Sincerely,

PAUL FUENTES
 Supervising Agent In Charge

Enclosure

BEFORE THE
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

AVENUE ULTRA LOUNGE LLC

Dbas: A v e

2333 Pacific Avenue

Stockton, CA 95204

File: 48-475538

PETITION FOR
CONDITIONAL
LICENSE

For issuance of an On-Sale General Public Premises License

Under the Alcoholic Beverage Control Act

WHEREAS, petitioner(s) has/have filed an application for the issuance of the above-referred-to license for the above-mentioned premises; and,

WHEREAS, the proposed premises and/or parking lot, operated in conjunction therewith, are located within 100 feet of residence(s); and,

WHEREAS, issuance of the applied-for license without the below-described conditions would interfere with the quiet enjoyment of the property by nearby residents and constitute grounds for the denial of the application under the provisions of Rule 61.4, of Chapter 1, Title 4, of the California Code of Regulations; and,

WHEREAS, the premises to be licensed is located in an area in which there is a significant law enforcement problem; and,

WHEREAS, the issuance of the applied-for license without conditions would not serve public convenience or necessity; and,

WHEREAS, the issuance of an unrestricted license would be contrary to public welfare and morals;

NOW THEREFORE, the undersigned petitioner does hereby petition for a conditional license as follows, to-wit:

1. Live entertainment shall be allowed only until 11:00 p.m. Sundays through Thursdays, and until 12:00 a.m. Fridays and Saturdays.

2. Entertainment provided shall not be audible beyond the area under the control of the licensee(s).

ABC-172 (2/00)

Remove Cond. #1

COPY

48-475438 - Pg 2
Avenue Ultra Lounge LLC

3. At any time the premises is providing any form of live entertainment or amplified music, the petitioner(s) shall provide security personnel at each entrance of the above premises, who shall maintain order therein. Said personnel shall be clothed in such a manner as to be readily identifiable as security.
4. There shall be no male or female performers or fashion shows permitted on the premises at any time.
5. The sale of alcoholic beverages for consumption off the premises is strictly prohibited.
6. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee(s).
7. Petitioner(s) shall regularly police the area under their control in an effort to prevent the loitering of persons about the premises.
8. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons on or about the parking lot. Additionally, the position of such lighting shall not disturb the normal privacy and use of any neighboring residences.
9. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.

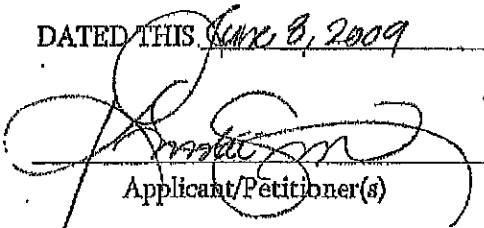
This petition for conditional license is made pursuant to the provisions of Sections 23800 through 23805 of the Business and Professions Code and will be carried forward in any transfer at the applicant-premises.

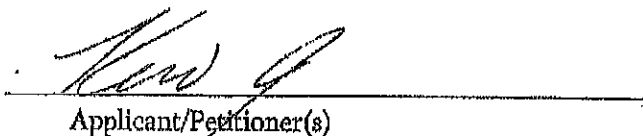
Petitioner agrees to retain a copy of this petition on the premises at all times and will be prepared to produce it immediately upon the request of any peace officer.

The petitioner understands that any violation of the foregoing conditions shall be grounds for the suspension or revocation of the license.

DATED THIS June 8, 2009

DAY OF _____, 2009


Applicant/Petitioner(s)


Applicant/Petitioner(s)

3/28/2017

Alcohol Beverage Control

Attachment A

From: mickeywgh <mickeywgh@aol.com>

To: mickeywgh <mickeywgh@aol.com>

Subject: Alcohol Beverage Control

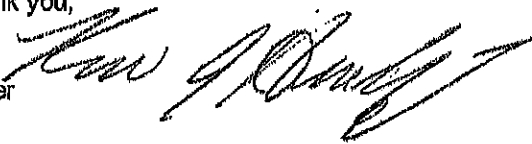
Date: Tue, Mar 28, 2017 9:51 am

To: Alcohol Beverage Control

I Kevin J. Hernandez as owner of AVE on the mile have consulted with City of Stockton planning division Richard Larroway and would like my ABC conditional use #1 to be deleted from the abc use permit.

Thank you,

owner



DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
 STOCKTON DISTRICT OFFICE
 31 E CHANNEL ST., ROOM 168
 STOCKTON, CA 95202
 (209) 948-7739



March 30, 2017

A petition has been made to modify or remove the condition(s) on the license to sell alcoholic beverages as follows:

AVENUE ULTRA LOUNGE LLC

Applicant(s) Name(s)

AVE ON THE MILE

Doing Business As

2333 Pacific Avenue, Stockton CA 95204

Premises Address

Type(s) of alcoholic beverages to be sold:

☐ Beer

☐ Wine

☐ Beer & Wine

☒ All Types

(Beer, Wine and Distilled Spirits)

CURRENT CONDITION(S):

COND #1: Live entertainment shall be allowed only until 11 p.m. Sunday through Thursdays, and until 2:00 a.m. Friday & Saturdays

PROPOSED CHANGE(S):

Remove above Condition #1 to allow live entertainment until 2:00^{PM} each day of the week.

Since you may be affected by such a change, I need to know if you have any objections or comments to the proposed change(s).

I would appreciate hearing from you within the next 15 days regarding this matter. My telephone number is (209) 948-7739.

Sincerely,

COPY

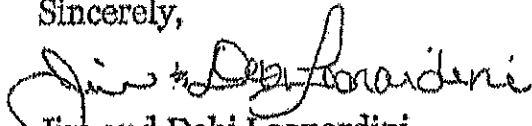
Tess Prado
 Licensing Representative

To Whom it May Concern

We were approached by a neighbor who is circulating a petition voicing concern regarding the noise caused by The Ave. We felt to compelled to express our thoughts on this issue. We have lived in this house since 1997. There has never been any issues with The Ave or its clientele since it opened. As a business they are very conscious of the neighborhood and any impact that they might have on their neighbors. Our residence is across the street from the back door and parking lot of The Ave. We do not have air-conditioning and so during the summer months all of the windows closest to The Ave are open all night long and the front door is open until around midnight to cool the house. We have never been disturbed by the music or activities from The Ave, in fact we have never even heard the music coming from across the street .

I hope this will help with any concern expressed about this issue.

Sincerely,


Jim and Debi Leonardini



To whom It may concern:

We have no problem with AVE petitioning to increase his time on his conditional use permit to allow AVE to play music during his hours of operation during the weekdays and weekends.

Kevin has been a good neighbor and cares about the miracle mile area and the surrounding neighbors. He makes visits and will always inform us if there is an event and we can always reach him if we have any questions.

Thank you for your time and consideration,

Naimah muhammad

[REDACTED]
[REDACTED]
[REDACTED]

1 of 1

Diana J. Lowery

July 1, 2017

To:
City of Stockton Planning Department
City of Stockton Planning Commission

Re: AVE on the Mile

Please be advised that the entire term I was on the Stockton City Council I never recall any complaints presented to me regarding the AVE on the Mile, 2333 Pacific Ave. I might add that the AVE on the Mile is located within District 4, which was the Council District I represented. Kevin Hernandez has been a positive and active participant on the Miracle Mile having owned one of the businesses adding to the recent resurgence of the Pacific Avenue, Miracle Mile area and the economy of our community.

Should you have any additional questions regarding this letter of support, please do not hesitate to contact me at [REDACTED]

Sincerely,
Diana Lowery

To Whom This May Concern.

I have a business here on The Miracle Mile.
I also live on Adams for 14 years. I have
always been an advocate for New Businesses
here.

The Ave is one of those businesses I have
absolutely NO PROBLEMS with the clientel
or staff. If at any time there has been
an issue of any sort I and my neighbors
will contact Louie or his staff be it
noise loud music loudy people whatever
and the issue is handled IMMEDIATELY.
its a business that brings life to the Mile

I do not appreciate anyone saying or
suggesting that my Name is on a poster
to shut them down. As they have been
told.

I do not Understand why if a neighbor
has an issue They cant just go TALK
to Kevin and his staff? we do!

Its nice to have The Ave down the
street.

is it a personal shudge to constantly
go after The Owners?

like I have stated If ever there
is an Issue Kevin and staff
have handled it immediately!

Enough is Enough!

Robert Chadee
Sendor Robles







Amended Conditions of Approval - Redline

1. Comply with all applicable Federal, State, County, and City codes, regulations, and adopted standards, and pay all applicable fees.
2. In the event the live entertainment, the sale of alcoholic beverages or operation of this use prove detrimental to the health, safety, peace or general welfare of the surrounding neighborhood, this Use Permit shall be subject to revocation or modification as provided in the Development Code.
- ~~3. Live entertainment shall consist only of live bands, acoustic performances and a disco jockey.~~
- ~~43.~~ The consumption of alcoholic beverages shall only be allowed within the lounge and the patio area. Signs advising patrons of this condition shall be posted at all points of ingress and egress.
- ~~5.4~~ Food service shall be available at all times while alcohol is being served on the premises.
- ~~65.~~ "No Loitering" signs shall be posted on the exterior of the business in accordance with the Stockton Municipal Code.
- ~~76.~~ Every employee involved in the sale of alcohol shall complete L.E.A.D. (Licensee Education on Alcohol and Drugs) training through the local office of the State Department of Alcoholic Beverage Control within six months of the employees' hire date. Alcoholic Beverage Control also maintains an approved list of other Responsible Beverage Service trainer courses which may be substituted for this condition.
- ~~87.~~ Any pay phones installed shall be located inside the business only and be configured for outgoing calls only.
- ~~98.~~ A minimum of one Police Department-approved, State-licensed, uniformed security officer per every 100 patrons (or portion thereof) shall be provided and shall remain on duty until one hour after the business has closed. Upon the discretion of the Chief of Police, additional security guards may be required.
- ~~109.~~ Prior to the commencement of the proposed use, Aa video surveillance system with at least seven-day continuous recording capability shall be in place and archived for at least 30 days. The video surveillance system shall cover the exterior of the premises including the entrances and exits to the building.
- ~~110.~~ A strict dress code of no gang-affiliated apparel shall be enforced.

4211. The establishment's owner(s) or an employee of the business shall be present in all areas where alcoholic beverages are being served or consumed.
4312. No obstructions shall be attached, fastened or connected to the partitions, ceiling or walls which separate booths or customer seating areas within the interior space of the establishment.
4413. Partitions separating booths or customer seating areas shall not exceed 52 inches in height.
4514. The owner/operator shall not maintain or construct any type of enclosed or private room, except for restrooms, intended for use by patrons for any purpose.
1615. No outside speakers shall be permitted on the subject premises and any noise or music originating from the establishment shall not pose a nuisance to the surrounding area and shall conform to the noise standards for commercial land uses, as specified in the City's General Plan and Development Code.
1716. The operator of the establishment shall monitor the area surrounding the lounge to prevent patrons from congregating outside the premises and to prevent parking and noise problems.
- ~~1817. The patio area of the establishment shall not utilized for any type of live entertainment. Speakers or amplified sound shall not be provided in the outdoor patio area of the establishment. All entrances and windows shall remain closed during the hours of amplified live entertainment the hours of operation, except for doors for necessary ingress and egress.~~
1918. ~~When live entertainment is being provided, a~~ An identification scanning device shall be utilized to check the California Department of Motor Vehicle Identification, or other Government Issued Identification, of all patrons entering the business to purchase or consume alcohol. This device shall have recording capability with which to capture the patron's identification information. This information shall be provided to the Police Department upon request in the course of a criminal investigation.
2019. All signs shall be subject to approval by the Community Development Director or Planning Commission.
2120. The Use Permit shall be posted in a conspicuous place and be made available immediately to the City personnel upon inspection of the premises.
2221. The Use Permit shall be subject to review by the ~~Planning Commission~~ at six months and one year following the effective date of the modification of this Use Permit.

- ~~23. Live entertainment shall be allowed only until 11:00 p.m. from Sundays through Thursdays, and until 12:00 a.m. On Fridays and Saturdays.~~
22. An application for a special event shall be submitted no less than 14 days before the event in accordance with the Stockton Municipal Code (SMC) section 12.72.060.
23. The seating area 2 speakers shall be turned off no later than 10:00 p.m.
24. The business operator shall submit a Noise Study with noise mitigations prepared by a professional noise consultant to minimize the noise level in the lounge within 30 days following approval of the modification of this Use Permit.
25. The Use Permit shall become effective after the completion of a ten-day appeal period following approval of the modification of this Use Permit (SMC section 16.100.020.C.1).

Resolution No. **2017-08-10-0502**

STOCKTON PLANNING COMMISSION

RESOLUTION APPROVING THE MODIFICATION OF A USE PERMIT FOR A LOUNGE WITH THE ON-SALE OF GENERAL ALCOHOLIC BEVERAGES AT 2333 PACIFIC AVENUE (P17-0431/P09-083)

The City initiated the modification of the conditions of approval for a Use Permit (P09-038) to allow a lounge with the on-sale of general alcoholic beverages and live entertainment consisting of disc jockey, live band, and acoustic music, for property located at 2333 Pacific Avenue; and

The Police Department has received numerous complaints from the surrounding neighborhood regarding excessive noise and nuisance activities from the subject site since July 28, 2016. The business has been cited on numerous occasions for failing to monitor noise levels; and

On May 17, 2017, the operator met the Community Development Director, Planning Director, and a Lieutenant from the Police Department to discuss possible solutions to the excessive noise complaints from area residents; and

The business operator made physical sound attenuation improvements in the lounge to reduce noise impacts; and

To ensure that the operator continuously maintains the noise levels to comply with the noise standards of the City's General Plan and Development Code, staff recommends modification of the conditions of approval of the subject Use Permit; now, therefore,

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF STOCKTON, AS FOLLOWS:

A. The Planning Commission hereby approves the modification of the conditions of approval for a Use Permit (P17-0431/P09-038) to allow a lounge with the on-sale of general alcoholic beverages, for property located at 2333 Pacific Avenue (Exhibit 1, Site and Floor Plans), based on the following Findings of Fact and revised Conditions of Approval:

General Findings

1. The subject use is allowed within the CG (Commercial, General) zoning districts, subject to approval of the revised conditions and new conditions for the noted Use Permit and compliance with all other applicable provisions of the Development Code.

2. The subject use, with modified conditions of approval, would maintain the integrity and character of the surrounding neighborhood, because the subject use would operate in an existing commercial building in the CG zoning district and be compatible with the existing retail uses in the Miracle Mile commercial district.

3. The subject use is consistent with applicable general land uses, objectives, policies, and programs of the General Plan and any applicable specific plan or master development plan related to the subject use, because it is a commercial use on a site designated for Commercial land uses and is consistent with the following General Plan policies:

Health and Safety Policy No. HS-2.2, Noise Compatibility Guidelines - The City shall allow the development of noise sensitive land uses (which include, but are not limited to, residential neighborhoods, schools, and hospitals) only in areas where existing or projected noise levels are "acceptable" according to Table HS-11.1 "Land Use Compatibility for Community Noise Environments." Noise mitigation measures may be required to reduce noise in outdoor activity areas and interior spaces to achieve these levels.

HS-2.17, Commercial Uses - The City shall require that noise produced by commercial uses not exceed 75 dB Ldn/CNEL at the nearest property line.

The business operator made the physical sound attenuation improvements of the premise to reduce noise levels. These improvements contained the installation of sound proofing material on both sides of the front and back doors and vent closures in back closet area; consultation with a sound professional regarding a speaker movement, positioning and base volume; turning off the seating area 2 speakers no later than 10:00 p.m.; using a noise decibel reading device to monitor the noise level, and security officers to patrol the subject site.

4. The subject site would be physically suitable for the type and density/intensity of use being proposed including the provision of services (e.g., sanitation and water), public access, and the absence of physical constraints (e.g., earth movement, flooding, etc.), because the subject use already has existing services and there are no known physical constraints.

5. The establishment, maintenance, or operation of the subject use at the location proposed and for the time period(s) identified, if applicable, is not expected to endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, peace, or general welfare of persons residing or working in the neighborhood of the proposed use, because revised and new Conditions of Approval adequately address potential public convenience, health, safety and peace issues that may be associated with the subject use.

6. The design, location, size, and operating characteristics of the subject use are expected to be compatible with existing and future land uses on the site and in the vicinity of the subject property, because the subject use is classified as a retail use, in accordance with Table 2-2 (Allowable Land Uses and Permit Requirements) of the Development Code, and is expected to be compatible with existing and future uses already in place in the same commercial area. The anticipated customer base, traffic patterns, noise levels, and general operational conditions of the subject use are similar to those of existing uses in this commercial district.

7. The proposed action is a Categorically Exempt use, in accordance with the provisions of Section 15301, Class 1, of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines, because it will be located within an existing commercial building and existing infrastructure is adequate to serve the site and subject use.

Modified Conditions of Approval

1. Comply with all applicable Federal, State, County, and City codes, regulations, and adopted standards, and pay all applicable fees.
2. In the event the sale of alcoholic beverages or operation of this use prove detrimental to the health, safety, peace or general welfare of the surrounding neighborhood, this Use Permit shall be subject to revocation or modification as provided in the Development Code.
3. The consumption of alcoholic beverages shall only be allowed within the lounge and the patio area. Signs advising patrons of this condition shall be posted at all points of ingress and egress.
4. Food service shall be available at all times while alcohol is being served on the premises.
5. "No Loitering" signs shall be posted on the exterior of the business in accordance with the Stockton Municipal Code.
6. Every employee involved in the sale of alcohol shall complete L.E.A.D. (Licensee Education on Alcohol and Drugs) training through the local office of the State Department of Alcoholic Beverage Control within six months of the employees' hire date. Alcoholic Beverage Control also maintains an approved list of other Responsible Beverage Service trainer courses which may be substituted for this condition.
7. Any pay phones installed shall be located inside the business only and be configured for outgoing calls only.
8. A minimum of one Police Department-approved, State-licensed, uniformed security officer per every 100 patrons (or portion thereof) shall be provided and shall

remain on duty until one hour after the business has closed. Upon the discretion of the Chief of Police, additional security guards may be required.

9. A video surveillance system with at least seven-day continuous recording capability shall be in place and archived for at least 30 days. The video surveillance system shall cover the exterior of the premises including the entrances and exits to the building.
10. A strict dress code of no gang-affiliated apparel shall be enforced.
11. The establishment's owner(s) or an employee of the business shall be present in all areas where alcoholic beverages are being served or consumed.
12. No obstructions shall be attached, fastened or connected to the partitions, ceiling or walls which separate booths or customer seating areas within the interior space of the establishment.
13. Partitions separating booths or customer seating areas shall not exceed 52 inches in height.
14. The owner/operator shall not maintain or construct any type of enclosed or private room, except for restrooms, intended for use by patrons for any purpose.
15. No outside speakers shall be permitted on the subject premises and any noise or music originating from the establishment shall not pose a nuisance to the surrounding area and shall conform to the noise standards for commercial land uses, as specified in the City's General Plan and Development Code.
16. The operator of the establishment shall monitor the area surrounding the lounge to prevent patrons from congregating outside the premises and to prevent parking and noise problems.
17. Speakers or amplified sound shall not be provided in the outdoor patio area of the establishment. All entrances and windows shall remain closed during the hours of operation, except for doors for necessary ingress and egress.
18. An identification scanning device shall be utilized to check the California Department of Motor Vehicle identification, or other Government issued identification, of all patrons entering the business to purchase or consume alcohol. This device shall have recording capability with which to capture the patron's identification information. This information shall be provided to the Police Department upon request in the course of a criminal investigation.
19. All signs shall be subject to approval by the Community Development Director or Planning Commission.

20. The Use Permit shall be posted in a conspicuous place and be made available immediately to the City personnel upon inspection of the premises.
21. The Use Permit shall be subject to review at six months and one year following the effective date of the modification of this Use Permit.
22. An application for a special event shall be submitted no less than 14 days before the event in accordance with the Stockton Municipal Code (SMC) section 12.72.060.
23. The seating area 2 speakers shall be turned off no later than 10:00 p.m.
24. The business operator shall submit a Noise Study with noise mitigations prepared by a professional noise consultant to minimize the noise level in the lounge within 30 days following approval of the modification of this Use Permit.
25. The Use Permit shall become effective after the completion of a ten-day appeal period following approval of the modification of this Use Permit (SMC section 16.100.020.C.1).

PASSED, APPROVED, and ADOPTED August 10, 2017


ELIZABETH MOWRY HULL, CHAIR
City of Stockton Planning Commission

ATTEST:


DAVID W. KWONG, SECRETARY
City of Stockton Planning Commission



Legislation Text

File #: 18-4550, Version: 1

SIX-MONTH REVIEW OF THE USE PERMIT FOR A LOUNGE WITH THE ON-SALE OF GENERAL ALCOHOLIC BEVERAGES AT 2333 PACIFIC AVENUE (P17-0431)

RECOMMENDATION

It is recommended that the Planning Commission approve a motion to:

1. Proceed with the scheduled one (1) year review; or
2. Initiate a public hearing for the modification/revocation of the Use Permit.

Summary

On August 10, 2017, the Planning Commission approved a modification to the Conditions of Approval for Use Permit (P17-0431) to allow a lounge with the on-sale of general alcoholic beverages, for property located at 2333 Pacific Avenue (The Ave). The modified conditions of the Use Permit deleted live entertainment conditions, restricted the speaker and amplified music located in the outdoor patio area, and required a six-month and one-year review (Attachment A - Planning Commission Staff Report, 8-10-2017; and Attachment B - Planning Commission Resolution, 2017-08-10-0502). On April 11, 2018, applicant, Kevin Hernandez, requested a continuance for the six-month review from April 12 to May 24, 2018. At the Planning Commission meeting of April 12, 2018, Chair Aguiard granted the applicant's request.

Discussion

Staff contacted the Police Department regarding any calls for service (CFS) for excessive noise violations and nuisance activities from the subject site during the six-month period (between 8/11/2017 and 2/10/2018). The Police Department provided the following reports:

1. Between 09/4/2017 to 01/31/2018 - There have been 12 CFS related to a variety of noise complaints. In 11 of those calls, citations were not issued as the police officers either deemed the music within acceptable limits, and therefore, not a violation or they arrived after the bar was closed, due to the time of the call and their call load.
2. On 01/31/2018 - A citation was issued to the operator because of a call for an excessive noise volume from the premises (Attachment C - Notice of Noise Violation, 01/31/2018).
3. 02/11/18 - Police Officers responded to a call for a noise violation at the subject site and subsequently issued a citation to the manager (Attachment D - Notice of Noise Violation, 02/11/2018).

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4. 02/14/2018 - A citation was issued to the operator due to a loud music violation, a fight, and underage drinking at The Ave (Attachment E - Notice of Noise Violation, 02/14/2018).
5. 02/22/2018 - A neighbor made complaints about excessive noise and disturbances from the Ave (Attachment F - Incident Report, 02/22/2018).
6. 03/21/2018 - A follow-up investigation was conducted regarding underage drinking in the Ave on the morning of 02/14/2018 (Attachment G - Incident Report, 03/21/2018).

Furthermore, the Police Department provided two CFS Statistics for The Ave before and after the modification of the Use Permit (Attachment H - CFS Statistics).

1. Between 01/1/2017 and 08/09/2017 (before the modification): There were 35 CFS and most common calls for service were loud music (16 calls) and disturbances (2 calls). There were a total 18 calls for loud music and any type disturbances or 51.4% of police response.
2. Between 08/18/2017 and 03/18/2018 (after the modification): There were 44 CFS. The most common calls for service were loud music (18 calls) and any type disturbances (8 calls). There were a total 26 calls for loud music and any type disturbances or 59.1% of police response.

Based on the noted Statistics, the CFS from the Ave after the modification of the Use Permit was higher than before the modification.

On February 27, 2018, the operator met with city staff from the Community Development and Police Department to discuss the noted citations for excessive noise violations from the subject site. The Director also advised the operator that a six-month review of the Use Permit would be scheduled on April 12, 2018. As explained above, the review was continued to May 24, 2018 at the request of the applicant.

Conclusion

Staff has determined that the business owner at 2333 Pacific Avenue has not complied with the modified Conditions of Approval for the Use Permit and recommends that the Planning Commission take one of the following actions:

1. Proceed with the scheduled one (1) year review, which will take place in August 2018; or
2. Initiate a public hearing for the modification/revocation of the Use Permit.

Attachment A - Planning Commission Staff Report, 8-10-2017
Attachment B - Planning Commission Resolution, 2017-08-10-0502
Attachment C - Notice of Noise Violation, 01/31/2018
Attachment D - Notice of Noise Violation, 02/11/2018
Attachment E - Notice of Noise Violation, 02/14/2018
Attachment F - Incident Report, 02/22/2018
Attachment G - Incident Report, 03/21/2018

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Attachment H - CFS Statistics

This staff report was prepared by Senior Planner Jenny Liaw, (209) 937-8316; jenny.liaw@stocktonca.gov.

Calls for Service - 2333 PACIFIC AVE
May 1, 2018 - July 31, 2018

CALL TYPE	CALL TYPE DESCRIPTION	MAY	JUN	JUL	TOTAL
415	DISTURBANCE	0	1	0	1
415HW	CELL 911 HANG UP	0	0	1	1
937	CHECK ON	1	0	1	2
647F	DRUNK IN PUBLIC	1	0	0	1
459B	BUSINESS BURGLARY	0	0	1	1
715	PHOTO REQUEST	0	0	1	1
TOTAL		2	1	4	7

Data Source: Crystal Enterprise

Query Filters: Date Range: 005/01/2018 to 07/31/2018, Location: 2333 PACIFIC AV

Calls for Service that Resulted
in a Crime Report

CALL TYPE	CALL TYPE DESCRIPTION	TOTAL
415	DISTURBANCE	0
415HW	CELL 911 HANG UP	0
937	CHECK ON	1
647F	DRUNK IN PUBLIC	1
459B	BUSINESS BURGLARY	1
715	PHOTO REQUEST	0
TOTAL		3

Calls for Service - 2333 PACIFIC AVE August 1 - August 31, 2018		
CALL TYPE	CALL TYPE DESCRIPTION	August
415E	LOUD MUSIC	2
937	CHECK ON AREA	2
945	AMBULANCE REQUESTED	1
912	SUSPICIOUS PERSON	1
TOTAL		6

Data Source: Crystal Enterprise

Query Filters: Date Range: 08/01/2018 to 08/31/2018, Location: 2333 PACIFIC AV

****NONE OF THE CALLS TAKEN RESULTED IN A CRIME REPORT****

Memorandum

To: City of Stockton Planning Commissioners
From: Mary Elizabeth
CC: City Clerk and Planning staff via email: Jenny.Liaw@Stocktonca.gov
City.Clerk@Stocktonca.gov

Re: Request for a public hearing for modification/revocation of the Use Permit for AVE ON THE MILE 2333 Pacific Ave, Stockton CA 95203

I am unable to attend the meeting and have submitted my comments in writing.

Disciplinary Background

The State of California Department of Alcohol Beverage Control issued a type 48 license: on-sale public premises (bar) on 18 March 2010. Subsequently the Avenue Ultra Lounge added a caterer permit and event permit. For the record I have included the ABC file summary which includes the disciplinary record for 2333 Pacific Ave, Stockton CA.

The codes on the ABC Disciplinary Report for 2333 Pacific Ave for the two verified violations are summarized based on public information ¹. For both violation events fines were paid. The record indicates that there are two pending violations which are not available yet to the public. All these within 8 years.

Regulatory Number: 16084971 closed for 10 days and in lieu of 10 more days paid \$3000.

23804: Violation of conditions of license

25658(A): Sales to minors

25665: Minor(s) on public premises

Regulatory Number 13079550 no closure fine of \$1080 paid

23300 & 23355: Undisclosed Ownership \

23804: Violation of conditions of license

24200 (A&B) Continuance of a license would be contrary to public welfare or morals (licensee or bartender working in premises while intoxicated, interfering with investigation, or gambling exact nature not specified).

The Planning Department staff has included two City of Stockton Police Department calls for service summaries. For the period between 2 Jan 2017 and 9 Aug 2017 there were 35 calls for service and for the period between 10 Aug 2017 and 18 Mar 2018 there were 44 calls for service. As noted in the staff report there are an increased number of calls for service following the August 2017 Use Permit modification. The expectation was that the Use Permit modification would result in

¹ <http://www.abc.ca.gov/trade/Penalty%20Guidelines.pdf>

fewer number of calls for service. The majority of calls for service were related to disturbances. The purpose of the City of Stockton Alcoholic Beverage Sales regulations is to ensure that deemed approved establishments do not pose a nuisance to the surrounding area which in this case The Ave continues to create nuisance conditions .

Between 31 Jan 2018 and 14 Feb 2018 there have been 3 verified noise violations with citations, and following one of these three noise investigations (2.14.18) Stockton Police department broke up the fight and arrested two individuals one of which was underage and heavily intoxicated. Subsequent investigation revealed that the underage individual was intoxicated when arriving to The Ave, allowed into the Ave without verifying ID, and served additional alcoholic beverages by The Ave staff.

The Use Permit modification resolution adopted 10 Aug 2017 by the Planning Commission included a provision that a minimum of one police department approved security officer be provided for every 100 patrons and shall remain on duty one hour after closing. Additionally, an identification scanning device shall be utilized to check all patrons entering the business and shall be provided to the City of Stockton Police department upon request.

Reading through the 14 Feb 2018 noise report which was on a Wednesday, officers arrived after 12:00 AM when according to the hours posted on the businesses website <http://www.aveonthemile.com/> the business should have been closed (M-Th 3:30-12 AM, F 3:30-1 AM, Sat 4:30-1AM, Sun10AM-2PM). There is no mention in the police report or follow-up that a police department approved security officer was on-site or whether the Stockton Police department requested data from the identification scanning device.

I urge you to vote to .initiate a public hearing for the modification/revocation of the Use Permit. The ABC disciplinary actions and City of Stockton Police Department records demonstrate that the owners and operators of The Ave at 2333 Pacific are not able to comply with the operational standards of the Use Permit.

Thank you for your efforts to improve and maintain strong areas of neighborhoods across our city.



California Department of Alcoholic Beverage Control
License Query System Summary as of 05/22/2018

License Information	
License Number:	475538
Primary Owner:	AVENUE ULTRA LOUNGE LLC
ABC Office of Application:	29 - STOCKTON

Business Name
AVE ON THE MILE

Business Address
2333 PACIFIC AVE
STOCKTON, CA. 95204
County: SAN JOAQUIN Census Tract: 0012.00

Licensee Information
Licensee: AVENUE ULTRA LOUNGE LLC
Company Information
OFFICER: HERNANDEZ, KEVIN JOSEPH (MANAGING MEMBER)
OFFICER: SUR, KURSTIE LYNN (MANAGING MEMBER)
STOCKHOLDER: HERNANDEZ, KEVIN JOSEPH
STOCKHOLDER: SUR, KURSTIE LYNN

License Types	
1) License Type:	77 - EVENT PERMIT
License Type Status:	ACTIVE
Status Date:	11-OCT-2011 Term: 12 Month(s)
Original Issue Date:	10-OCT-2011 Expiration Date: 30-SEP-2018
Master: N Duplicate: 1 Fee Code: P40	
License Type was Transferred On:	13-OCT-2009 From: 48-380135
License Type was Transferred On:	To:
2) License Type:	58 - CATERER PERMIT
License Type Status:	ACTIVE
Status Date:	07-JUN-2010 Term: 12 Month(s)
Original Issue Date:	30-SEP-2010 Expiration Date: 30-SEP-2018
Master: N Duplicate: 1 Fee Code: P40	
License Type was Transferred On:	13-OCT-2009 From: 48-380135
License Type was Transferred On:	To:
3) License Type:	48 - ON-SALE GENERAL PUBLIC PREMISES
License Type Status:	ACTIVE
Status Date:	18-MAR-2010 Term: 12 Month(s)
Original Issue Date:	13-OCT-2009 Expiration Date: 30-SEP-2018
Master: Y Duplicate: 0 Fee Code: P40	
License Type was Transferred On:	13-OCT-2009 From: 48-380135
License Type was Transferred On:	To:

Operating Restrictions
*Operating Restrictions exist. For more information, please see our Guidelines for Access to Records .

Disciplinary Action
... No Active Disciplinary Action found ...

Disciplinary History	
Reg. Number:	16084971
1) Section:	23804
2) Section:	25658(A)
3) Section:	25665
Proceeding Status:	CLOSED Decision: POIC
Suspension Days:	20 Stayed Days: 10 POIC/Fine: 3000
Suspension Start Date:	Suspension End Date:
Reg. Number:	
Proceeding Status:	PEND Decision:
Suspension Days:	Stayed Days: POIC/Fine:
Suspension Start Date:	Suspension End Date:
Reg. Number:	13079550

1) Section: 23300 & 23355		
2) Section: 23804		
3) Section: 24200 (A & B)		
Proceeding Status: CLOSED	Decision: POIC	
Suspension Days:	Stayed Days:	POIC/Fine: 1080
Suspension Start Date:	Suspension End Date:	
Reg. Number:		
Proceeding Status: PEND	Decision:	
Suspension Days:	Stayed Days:	POIC/Fine:
Suspension Start Date:	Suspension End Date:	
Holds		
... No Active Holds found ...		
Escrows		
... No Escrow found ...		

For a definition of codes, view our glossary.

Receive

MAY 17 2013

My name is Robert Chaddon
I am a resident of 147 W. Adams St
We live about 75 yards from
The Ave and have since it opened
Kevin and his staff do everything
possible to create a safe and
enjoyable place to go.

Kevin has always been concerned
with the neighbors and the Neighbor-
hood. He reaches out to us on a
regular basis to check on any
issues or concerns we may have.

The Ave brings business to The Mile
and it's great to have there. If there
is ever an issue we can call
Kevin and it's handled immediately.

People have been saying it's noisy
after hours in our parking lots?

It's not customers of the Ave or Valley View.
The last several months the lots have
become party central!

Those businesses have been closed
for hours

Received

MAY 17 2010

if any Questions please call

Conf
Perm C

Robert Chandler

209 915 4971

Receiver

MAY 17 2012

To whom it may concern,

My name is Janelle Laurenti and I reside at 459 N Central Ave here in Stockton. I absolutely love the location as I am a short walk to many of the restaurant, night spots and shopping. Very few cities have such a spot as the Miracle Mile and living so close is an added benefit to this location and the city of Stockton.

I am writing this letter to show my support for many of the business along the Miracle Mile in particular AVE on the mile.

The AVE is my favorite destination as the ownership and management stop at nothing to create a great experience each and every time I go. Not only do they go above and beyond for me I have personally witnessed Kevin Hernandez handle his customer's situations with great care. The AVE has always taken care to listen to customers needed and try to accommodate the requests.

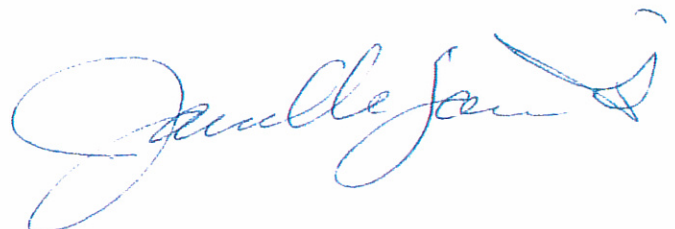
Not only does The AVE and Kevin take care of customers inside the walls they do everything reasonably possible to assure that people on the street, surrounding businesses and most importantly surrounding neighbor's concerns.

The AVE has a high standard of business practice and it is great to see that people like Kevin Hernandez care not just about his business but creating a business that is successful in the city of Stockton.

Thank you,

Janelle Laurenti

916-802-7228





Received
MAY 22 2018
City of Stockton
Community Development

May 17, 2018

City of Stockton Planning Commission,

On behalf of the Miracle Mile Improvement District, I would like to share with you, my interaction and observations with Mr. Kevin Hernandez and the management of his establishment, The AVE.

In my many years of managing Improvement Districts and working with restaurant/bar owners, I have never been more impressed with the dedication and pro-active efforts that I have witnessed from Mr. Hernandez in regard to safety, security and overall concern for the community.

I have visited The Ave multiple times, including busy weekend nights approaching closing. I continuously see him, and his staff go over and beyond to control the environment – as far as directing traffic with flares to ensure public safety after patrons have left his establishment. This is just one of many examples that demonstrates the integrity of Mr. Hernandez and his business practices.

The public concerns that have been brought to my attention regarding nightlife on the Miracle Mile, have not once included a single complaint about The AVE. In fact, there have been times where The Ave has been specifically excluded from a complaint and commended for their efforts.

I would like to express to the City of Stockton Planning Commission, that Mr. Hernandez (The AVE) is a respected business owner, neighbor and citizen. I support and appreciate his contribution to the Miracle Mile and feel that he is an asset to the business community.

I can be reached at (209) 6663-6766 or by email jwatts@stocktonmiraclemile.com for further discussion.

Sincerely,

Jaime Watts, Executive Director

Miracle Mile Improvement District

from: "Tracy Deally" <tdeally@gmail.com>
Date: May 23, 2018 at 5:15:45 PM PDT
To: <kev122pdt@aol.com>
Subject: Stockton Planning Commission Letter

05/23/18

To whom it may concern,

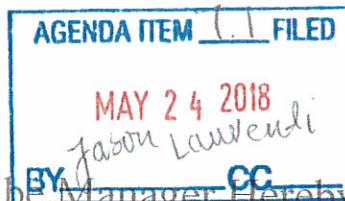
We have been asked to provide input regarding the changes that have taken place at the AVE on the Mile.

Last year, we were in an ongoing battle with the management at the AVE regarding the music volume coming from the establishment. Out of all the neighbors, we were probably the most vocal but we were also one of the houses closest in proximity to the bar.

Kevin and his management team have done a really good job reducing the music volume. There are still times when we can hear the music but it's definitely not at the level that was waking us up during the night. Further, Kevin and his team have also been proactive in following up with to make sure we are not being disturbed. We are happy to say that they have turned this problem around.

It's our understanding that there is meeting on Thursday May 24th for the neighbors to provide feedback. Unfortunately, we will not be in town, but please accept this note as our positive feedback.

Thank you,
Tracy and Tom
209-481-4782
2309 Beverly Place
Stockton, CA



I, _____, as Vibe Manager Hereby agree to follow these stated rules and protocol set forth by Ave on the mile.

1. Screen, Check and Insure Valid ID and Search when necessary all patrons entering the premises. Must use ID scan device.
2. Will not allow access to anyone with questionable identification.
3. Notify a member of Management when handling issues.
4. Maintain a high level of professionalism and conduct when dealing with patrons.
5. Monitor the restrooms and kitchen for problems.
6. Will not drink or abuse illegal substances during shift.
7. Dress in approved AVE on the mile attire.
8. Help maintain a safe working environment in front and back after closing.
9. Will assist AVE on the mile in adhering with the City approved use permit.

Signature and Date

RECEIVED

Attachment A

SEP 24 2013

9/21/18

CITY OF STOCKTON

PERMIT CENTER (310) 444-1000

To whom it may concern.

My name is Jerry Gregerson. I am the Building owner and Landlord of 2333 Pacific Avenue. The business known as "AVE on the Mile" and to the respected business owner Kevin Hernandez.

Kevin has rented from me for the past 8 years, now going on his 9th year.

Kevin has been a model tenant and business owner with a good reputation during this time. I am happy to say that I have never had any problems or concerns with Kevin or his business and I only hear good things about him and his business. Kevin has an outstanding reputation within our business community. He has served on several business boards, He has Masters Degree from the University of Pacific in Speech Pathology employed by Stockton Unified, while running his business here on the Miracle Mile, Kevin also participated as a City Planner, serving the City of Stockton and the Stockton community doing his civic duty and his love Stockton. Kevin is also respected by the many business owners on the Miracle Mile as well as neighbors that reside within our Commercial business area. I have actually seen and heard of Kevin's cooperation in meeting with the neighbors in keeping them happy and satisfied by working together on solutions to keep their neighbor hood, our Miracle Mile business community, and the neighbors safe, satisfied and happy.

It is with my sincere appreciation to write this letter on Kevin's behalf as he is a proven responsible business owner here on the Miracle Mile. Our City would be a better place with more Business Owners like Kevin that care about Stockton and our City.

Thank you,


.....
Jerry Gregerson

Jenny Liaw

From: Jeff Kjeldsen <jkjeldsen@ksninc.com>
Sent: Wednesday, September 26, 2018 1:13 PM
To: Jenny Liaw
Subject: 2333 Pacific Avenue - Case No P17-0431/P09-038

Ms. Liaw,

This email reaches you because I found I am unable to attend the above mentioned hearing on Thursday, the 27th of September, 2018.

After the last hearing, the AVE Ultra Lounge has made noticeable improvements to their operational nuisances and disturbances. While these changes are appreciated, their operations still need improvement. Still on most Tuesdays, the music noise level between around 11:30 p.m. to close to 1 a.m. is still quite audible with yet still, the low bass levels being the main offense. It is still a simple matter of turning down the bass. Also lately, Thursday's late night activities are noticed to be rising in volume and I hope do not continue into a second day per week of unnecessary late-night residential disturbances. While many other use permit conditions are also not being met, it is these music bass noise levels that are continuing to be causing the major problems.

I hereby grant this permission, allowing you to present this email at the hearing.

Regards,



Jeff Kjeldsen, P.E. P.L.S.
Civil Engineer | Land Surveyor

711 N. Pershing Ave. Stockton CA 95203
209 946-0268 | fax: 209 946-0296 |
jkjeldsen@ksninc.com | <https://www.ksninc.com>

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