



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- [REDACTED] 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- [REDACTED] 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,

A handwritten signature in black ink, appearing to read 'Paul Fuentes'.

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: Ave
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).

48-475438 - Pg 2
Avenue Ultra Lounge LLC

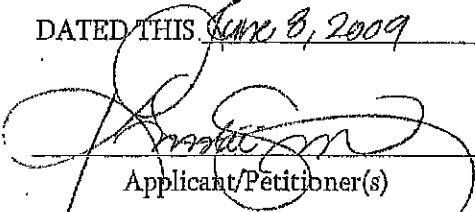
3. At any time the premises is providing any form of live entertainment or amplified music, the petitioner(s) shall provide security personnel at each entrance of the above premises, who shall maintain order therein. Said personnel shall be clothed in such a manner as to be readily identifiable as security.
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.

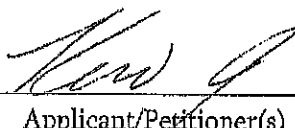
This petition for conditional license is made pursuant to the provisions of Sections 23800 through 23805 of the Business and Professions Code and will be carried forward in any transfer at the applicant-premises.

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 ^{A.M.} 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 Kevin 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 Petition 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 Grudge 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 Chaele
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 disc 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, 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.
- ~~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.
- ~~4817. 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).