



City of Santa Barbara
Police Department

Memorandum

DATE: February 28, 2013

TO: Fire and Police Commission

FROM: Captain Torres, Administrative Division Commander

SUBJECT: Dance Permit Request – Cadiz Restaurant & Lounge

DISCUSSION:

On December 3, 2012, a dance permit application for 509 State Street was submitted to the Santa Barbara Police Department by Michael “Dante” DeRose. The business at 509 State Street, dba “Cadiz Restaurant and Lounge,” is owned by Alpha Enterprises, LLC which is comprised of fourteen shareholders; Michael DeRose (senior) is listed as the primary shareholder, while Dante DeRose explained that he is the shareholder primarily responsible for business operations. At the time of submission on December 3rd, the application was incomplete, missing, among other things, all required City Clearance forms, a completed Manager/Supervisor page, and completed owner information forms for multiple owners. However, as a courtesy to the owners as well as to expedite the processing time of the application, the incomplete application was accepted in order to allow the many owners to begin the fingerprinting process while the outstanding documents were completed. Per Santa Barbara Municipal Code (SBMC) §5.20.050(A)(12) dance permit applications must include “Completed Police Department fingerprinting for the applicant(s) (including all persons having an ownership interest in the dance establishment to be permitted) as well as fingerprinting for the required designated security managers and the establishment’s designated general manager(s).” At the time of submission of the incomplete application, Dante DeRose was given a detailed list of items needed to complete the application along with the Live Scan fingerprinting forms for multiple owners.

Police Department staff remained in continual contact with Cadiz owners, both in person and via email, communicating primarily with Dante DeRose frequently to ensure that the application was progressing and that the owners understood which aspects of the application remained incomplete. Despite this communication, not all required pages of the application had yet been submitted, and the majority of owners, including primary shareholder Michael DeRose, had not yet gotten their Live Scan fingerprints taken by the deadlines required for the December and January Fire and Police Commission meetings. Therefore, due to the fact that it remained incomplete, the application could not be presented to the Fire and Police Commission at either of the two Commission meetings that followed submission of the application.

On January 24, 2013, owners Michael DeRose and Dante DeRose attended the January Fire and Police Commission meeting. Owner Michael DeRose spoke during

the public comment portion of the meeting, introducing himself and his son to the Commission, informing Commissioners that the application process for a dance permit was underway for their premise, explaining that there were just a few fingerprint results needed for the application to be complete, and inviting Commissioners to visit their business. The following week, on January 30, 2013, Police Department staff held a meeting with Dante DeRose to review the progress of the application, provide Mr. DeRose with a checklist of missing items and requirements for completion, and answer any questions Mr. DeRose had about the process. At that meeting Dante DeRose turned in the final required page of the application, and immediately following the meeting Dante DeRose had his fingerprints taken at the Police Department, as required.

At the time this staff report was written, all required pages of the application have been submitted to the Police Department, and the majority of owners have been fingerprinted, though the fingerprint results for six of the fourteen owners have not yet been received from the Department of Justice. Per the requirements of the Santa Barbara Municipal Code, public notice of this Commission meeting was posted on the premise exterior as well as sent to all owners of real property within 200 feet of the applicant premise within the deadlines specified.

On Wednesday, February 3, 2013, Police Department staff conducted a walkthrough of the premise at 509 State Street. The following premise-related facts were verified during that visit:

- The premise has 14 interior speakers, and 4 exterior speakers;
- There are no security cameras in use on premise, but owners are willing to install security cameras if required to do so;
- Owners planned to have doors and windows open during dancing;
- There are two points of entry into premise: a front door and rear door;
- The rear parking lot is adequately lit;
- The property is located across from a residence on Fig Avenue.

The following business plan information was provided on the application, discussed in meetings with Police Department staff, and discussed during the site visit:

- Music is proposed between 10:00 pm and 1:30 am;
- Dancing is proposed between 10:30 pm and 1:30 am;
- Minors will not be allowed on premise after 10:00 pm;
- 3 security guards will be used during dancing;
- The *Applicant's statement of business goals* states: "We are a high-end restaurant with world-class level food. We also have a full bar and lounge area. Often times on weekends, people like to stay late into the night to enjoy our cocktails and wine list. We'd like to be able to also offer an up-scale, high-end option to enjoy a DJ and dancing in a civilized way."
- Owners informed Police Department staff that the business is "struggling to survive at the moment, as many small businesses are", and the addition of a dance permit at the premise will help increase business during these economically difficult times.

In the course of reviewing the application, Police staff reviewed the history of incidents at the proposed nightclub location. Over the past year there were two reported offenses for this specific location. The first was a warning issued to management on September

12, 2012 for violation of Santa Barbara Municipal Code §5.20.020 – Dance Permit Required. According to the incident report, at approximately midnight on September 12, 2012, officers discovered that a disc jockey was playing music while patrons danced in a designated dance area, despite the fact that the premise did not have a dance permit. Management explained to officers that they held such events approximately once per month but were unaware that a dance permit was required. Management immediately ceased the music and dancing, and informed the officers that they would obtain a dance permit before holding another such event. Officers issued management a warning for the incident.

The second incident occurred on January 26, 2013. Between 2:05 am and 2:15 am, officers discovered that 25 to 30 patrons were still consuming alcohol inside the restaurant. Per regulations of the liquor license issued by the California Department of Alcoholic Beverage Control (ABC), consumption of alcohol is prohibited after 2:00 am. While officers conducted an investigation into the situation, many patrons became confrontational with officers, and a call was made for an additional officer to respond for crowd control. One overly-intoxicated patron became particularly confrontational with officers and was subsequently cited for a violation of Penal Code §647(f) – Public Intoxication: Drunk in Public. Following the confrontation, officers contacted on-duty manager Michael “Dante” DeRose who was then issued a citation for a violation of Business and Profession Code §25632 for allowing patrons to consume alcohol during restricted hours.

There are currently five establishments with approved Nightclub dance permits on the 500 block of State Street, two of which hold Type 47- Restaurant liquor licenses, the same type of license as held by Cadiz, and three of which hold Type 48 – Public Premise: Bar liquor licenses. Approval of this application will increase the number of Nightclub dance permits on the 500 block of State Street to a total of six.

RECOMMENDATION:

Given the above information and facts, the Santa Barbara Police Department recommends that the Board of Fire and Police Commissioners approve the Nightclub Dance Permit application for Cadiz with the following conditions. Said approval would take effect following receipt of all required Live Scan fingerprint results from the Department of Justice, and verification that all such Live Scan results comply with terms of the Santa Barbara Municipal Code.

Recommended conditions:

1. No live entertainment, dancing, or amplified music shall be permitted on any patio or outdoor area.
2. Noise from the premise, including but not limited to recorded music, radio, television, and live entertainment, must not be audible beyond 50 feet of the premise in any direction.
3. A minimum of 3 security guards required during dancing.
4. All security guards must possess valid State of California “guard cards”, and the premise must be registered as a Proprietary Private Security Employer.
5. Rear doors must remain closed, but unlocked, during hours of dancing.
6. Rear doors may not be used for public entry or exit except in an emergency.

7. Staff must maintain an orderly line of patrons awaiting entry into the premise. The queue of patrons must not block passage of pedestrians on the walkway, nor may it extend into any nearby street.
8. Dancing shall be prohibited after 10:00 pm nightly when any patron under the age of 21 years of age is on premise.

ATTACHMENTS:

1. Business Plan page from the Cadiz application
2. ABC Type 47 liquor license