



SUBJECT

Proposal to Establish a Commercial Amusement Facility with Ancillary Beer and Wine Sales Located at 545 Southland Mall (APNs 442-0010-004-19 & 442-0010-004-20) by Round One Entertainment (Applicant) on Behalf of Southland Mall LP, (Owner) Requiring Approval of Conditional Use Permit Application No. 201803296.

RECOMMENDATION

That the Planning Commission approve the Conditional Use Permit application for the proposed Round One Commercial Amusement Facility, based on the analysis set forth in this report and the required Findings (Attachment II) and subject to the Conditions of Approval (Attachment III).

SUMMARY

Round One Entertainment is requesting approval of a Conditional Use Permit to occupy an existing, vacant 45,506 square-foot tenant space located at Southland Mall for a new commercial amusement facility with ancillary beer and wine sales. The proposed facility will include a bar serving beer and wine, a dining area, arcade games, bowling lanes, karaoke rooms, and billiard tables. The project will also include exterior and interior tenant improvements including updating the façade, retrofitting the interior for compliance with the Americans with Disabilities Act (ADA), and complying with current California Building Code requirements for energy efficiency.

BACKGROUND

The tenant space is located on the second floor of Southland Mall, above Dick's Sporting Goods. The first and second floors were previously occupied by a Kohl's department store, which opened in 2009 and closed in 2015. Dick's Sporting Goods leased the first floor in 2016 but the second floor has largely remained vacant since then. Round One submitted the subject application on June 26, 2018 to occupy the entire second floor area.

Round One currently has 21 locations throughout the US and six locations in California. The nearest facilities are in San Jose and Concord. Round One is looking to add three more locations in the Bay Area including the proposed facility at Southland Mall. All locations offer multiple entertainment and recreational amenities in one location to provide a fun, family-oriented environment.

Public Outreach. On July 2, 2018, a Notice of Receipt of Application was sent to all property owners and interested stakeholders within 300 feet of the subject property. On September 14, 2018, a Notice of Public Hearing was sent to all property owners and interested stakeholders within 300 feet of the subject property and published in the Daily Review newspaper. To date, the City has not received any public comments regarding the project.

PROJECT DESCRIPTION

Existing Conditions. The 45,506 square-foot tenant space is located in Southland Mall on the second floor above Dick's Sporting Goods. All of Southland Mall is zoned CBB20 (Central Business – 20,000 Square Feet Minimum Lot Size) District and designated Retail and Office Commercial (ROC) in the *Hayward 2040 General Plan*. Southland Mall, which was incrementally developed between the 1950's and 1970's, includes approximately 1.3 million square feet of regional retail space on an approximately 87-acre site. In addition to the main building, Southland Mall includes scattered pad buildings and parcels under various ownership that were developed with a mix of retail, service, and other commercial uses.

Southland Mall is located within the Southgate neighborhood, which is characterized by single-family residential development and commercial shopping centers. The subject tenant space, which is part of the main mall building, is surrounded by commercial retail and service land uses, smaller retail businesses, restaurants, offices, banks, and health clubs. The project location is also within proximity to the Hayward Executive Airport.

The subject tenant space has vehicular access from Southland Drive, La Playa Drive, and Hesperian Boulevard through internal drive aisles within the Southland Mall complex. Currently, visitors can access the tenant space directly from the exterior through the entrance to Dick's Sporting Goods or internally through the main mall building.

Proposed Project. Round One Entertainment is proposing to occupy an existing, vacant 45,506 square-foot tenant space located in Southland Mall on the second floor above Dick's Sporting Goods to operate a new commercial amusement facility with ancillary beer and wine sales. The proposed facility will offer over 200 arcade games occupying approximately 8,900 square feet of floor area and a redemption store for patrons to exchange tickets won from playing games for prizes. The facility will also offer eight bowling lanes, four billiard tables, two private party rooms with karaoke machines, and a dining area with a kitchen and bar. The kitchen will offer snacks, entrees, and beverages such as chicken wings, pizzas, burgers, and soda. Patrons will be able to enjoy food and drinks while watching the latest sporting events on TV monitors nearby.

The bar will offer beer and wine for on-site consumption but no distilled spirits or liquor, which would require a Type 41 alcohol license from the California Department of Alcoholic Beverage Control (ABC) following issuance of a Conditional Use Permit. ABC defines the Type 41 alcohol license and associated privileges as the following:

“On Sale Beer and Wine (Eating Place) – Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.”

The proposed hours of operation are from 10:00 a.m. to 1:30 a.m. every day of the week but alcohol will only be served until 1:00 a.m. Additionally, guests under 18 years old are not

allowed on the premises after 10:00 p.m. and guests over 18 years old but under 21 years old are not allowed on the premises after midnight without a legal guardian.

The project also proposes improvements to the interior of the existing tenant space to modify the floor plan for the proposed activities and comply with ADA and California Building Code requirements. Exterior improvements include repainting the primary exterior entrance and constructing an exterior stairway on the west building façade to comply with California Building Code access requirements. Any new signage will require a Sign Permit application and must comply with the City's Sign Regulations.¹ A copy of the project plans are included as Attachment IV and a copy of the business and security plan is included as Attachment V.

Security Plan. Round One Entertainment has submitted a detailed security plan, which provides procedures and precautions that will be part of the operations of the business, including on-site security, limited hours of operation for minors with ID checking to verify age, and house rules for maintaining a safe environment for the patrons. In addition to the general security services provided by Southland Mall during general hours of operation, Round One Entertainment will contract a third-party security company, Professional Security Consultants (PSC), to provide supplemental private security services during the evenings. The facility will maintain two to three private security guards on- and off-site during the evenings who will check IDs, monitor patron activities, and patrol entrances to prevent loitering and illicit activity. Furthermore, the third-party security team will be responsible for enforcing the restricted hours of operation for guests under 21 years old. Guests over 21 years old will be given a colored wristband to allow security to clearly differentiate them from guests under 21 years old. The third-party security team will also enforce the house rules prohibiting loitering and/or solicitation, alcoholic beverages within the private party rooms, alcohol purchased off the premises, and other activities that would compromise public safety.

Security infrastructure will also be installed such as proper locks, cameras and video surveillance, motion sensors, and window and door monitoring devices. Additional security measures will be further evaluated by the Police Department prior to any issuance of a cabaret license. The draft conditions of approval further stipulate the additional security requirements that will be enforced and monitored by the Hayward Police Department and Code Enforcement Division.

Traffic Study. A Traffic Study was prepared by Advanced Mobility Group on October 3, 2018 (Attachment VI). The purpose of the Study was to determine whether the proposed facility would have any impacts on traffic operation, vehicle queuing, and on-site circulation and to recommend any improvements, if warranted. The traffic study concluded that there would not be any significant impacts related to intersection levels of service at adjacent signalized intersections.

Sustainability Features. The interior and exterior tenant improvement associated with the proposed project would be reviewed by the Building Division for conformance with State and local requirements related to sustainability (i.e. California Building Code), which require a minimal level of energy efficiency, resource conservation, material recycling, etc.

¹ Sign Regulations, https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART7SIRE

POLICY CONTEXT AND CODE COMPLIANCE

Hayward 2040 General Plan. The project site is designated Retail and Office Commercial (ROC)² in the *Hayward 2040 General Plan*. The ROC land use designation generally applies to regional and community shopping centers and professional office developments. Allowed uses include retail, dining, service, and office uses as well as entertainment and recreational uses. The proposed use is consistent with the *Hayward 2040 General Plan* in that it is an entertainment and recreational use, which is allowed by the ROC land use designation. The project will also support the following General Plan policies:

- Land Use Policy 5.1 (Mix of Uses and Activities): *The City shall encourage a mix of retail, service, dining, recreation, entertainment, and cultural uses and activities in regional and community centers to meet a range of neighborhood and citywide needs.*
- Land Use Policy 5.5 (Southland Mall): *The City shall support private-sector efforts to improve the economic health and vitality of the Southland Mall, including major redevelopment efforts that transform the property into a regional destination for shopping, dining, and family and youth entertainment and recreation.*
- Economic Development Policy 1.10 (Opportunity Sites): *The City shall promote key retail, office, and manufacturing opportunity sites, as identified in the City's Economic Development Strategic Plan, General Plan, and other specific plans and master plans.*
- Economic Development Policy 1.14 (Hospitality and Entertainment Business Clusters): *The City shall encourage the development of a hospitality and entertainment business cluster within Downtown Hayward and other appropriate locations to improve opportunities for shopping, dining, arts and entertainment, lodging, business conventions, and cultural events.*
- Community Safety Policy 1.12 (On-Site Security): *The City shall require conditions of approval related to the provision of on-site security and safety measures for bars, nightclubs, live entertainment businesses, and related uses. Conditions of approval shall promote a healthy balance of public safety and nightlife vibrancy, and may include surveillance cameras, crowd management practices, and on-site security staff.*

Economic Development Strategic Plan. The purpose of the City's Economic Development Strategic Plan (EDSP)³ is to promote the City as a business-friendly place. The EDSP identifies Southland Mall as one of the City's key retail areas and catalyst sites, which will provide the most immediate positive results related to the City's business attraction and retention efforts. Furthermore, Goal SR2 (Service and Retail Industry) of the EDSP is to secure new businesses in priority locations that are good for the City. The project would support the EDSP in that it would redevelop a portion of Southland Mall, which is a priority site, and provide an attractive and potentially activating business to an underutilized space and site.

² Retail and Office Commercial (ROC) Land Use Designation, <https://www.hayward2040generalplan.com/land-use/comm>

³ Economic Development Strategic Plan (EDSP), https://www.hayward-ca.gov/sites/default/files/documents/Economic_Development_Strategic_Plan.pdf

Zoning Ordinance. The project site is zoned CBB20 (Central Business – 20,000 Square Feet Minimum Lot Size) District. The CBB20 District allows for commercial amusement facilities with the approval of an Administrative Use Permit. However, Round One is proposing to sell beer and wine for on-site consumption as part of the business operations, which requires a Conditional Use Permit per Section 10-1.2754 of the HMC⁴. Therefore, the project requires a Conditional Use Permit and would be consistent with the City's Zoning Ordinance with the approval of the subject application.

Pursuant to Section 10-1.3205 of the HMC⁵, the purpose of the Conditional Use Permit is to ensure that certain land uses are permitted where there is a community need while ensuring that such uses occur in harmony with the surrounding area. Per Section 10-1.3225 of the HMC⁶, the following Conditional Use Permit findings are required for the project:

- The proposed use is desirable for the public convenience or welfare;
- The proposed use will not impair the character and integrity of the zoning district and surrounding area;
- The proposed use will not be detrimental to the public health, safety, or general welfare; and
- The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

Staff believes that the project meets the required Conditional Use Permit findings and has provided a more detailed analysis in Attachment II.

Alcohol Beverage Outlets Ordinance. The purpose of the City's Alcoholic Beverage Outlets regulations⁷ is to provide for the orderly integration of alcohol related uses in a manner that will protect public safety and encourage business growth. As such, a Conditional Use Permit is required for any new alcoholic beverage sales establishment. The Conditional Use Permit process is used as the means to review the impacts of alcoholic beverage outlets on neighboring properties and land uses on a case-by-case basis to prevent overconcentration and the undesirable impacts on the community. To prevent an overconcentration, the HMC mandates that for any area outside of the Downtown Entertainment Area, no new on-sale alcohol-related establishment shall be permitted within a radius of five hundred (500) feet of any other on-sale or off-sale alcohol-related establishment, with the exception of new or existing establishments exempted under Section 10-1.2754 of the HMC, or within five hundred (500) feet of any school, public park, library, playground, recreational center, day care center, or other similarly sensitive use. The proposed location meets these buffer requirements and would not result in an overconcentration as defined in the HMC. If approved, the establishment would be required to comply with the performance standards

⁴ Section 10-1.2754 of the HMC,
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.2750ALBEOU_S10-1.2754COUSPENEALBESAES

⁵ Section 10-1.3205 of the HMC,
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.3200COUSPE_S10-1.3205PU

⁶ Section 10-1.3225 of the HMC,
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.3200COUSPE_S10-1.3225FI

⁷ Alcoholic Beverage Outlets Regulations,
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.2750ALBEOU

listed within the ordinance that include, but are not limited to, providing adequate exterior lighting, discouraging loitering, verifying legal age of patrons, and maintaining their liquor license in good standing with ABC, in addition to the other recommended Conditions of Approval (Attachment III).

Cabaret License. The Cabarets and Dances regulations⁸ establish the requirements for a cabaret license, including the application procedures, criteria for the suspension and revocation of licenses, operating standards, and mandatory security conditions. Round One Entertainment will be required to obtain a cabaret license from the Hayward Police Department to operate any live entertainment activities, including karaoke in private rooms as proposed in the subject application. Additionally, the Police Department and Development Services Department reserve the right to modify, suspend, or revoke the cabaret license if it has been determined that the use is disturbing the peace of persons within the vicinity or it is deleterious to the public peace, morals, health, safety, and general welfare.

Airport Land Use Compatibility Plan. The project site, and most of Southland Mall, is located within Safety Compatibility Zone 2, Inner Approach/Departure Zone, of the Hayward Executive Airport Land Use Compatibility Plan (ALUCP). Although new development is limited within Zone 2, the City's Airport Overlay Zone Ordinance⁹, which was adopted in 2017, allows for infill development within all safety zones if the development will not extend the perimeter of incompatible uses or increase the density and intensity of the uses proposed for development. The intent of this regulation was to allow for redevelopment at Southland Mall as long as it is not more intensive than existing development. The proposed Round One facility will occupy an existing tenant space and be built within the current footprint of Southland Mall. Additionally, the total occupant load of the proposed use and the existing Dick's Sporting Goods would be slightly lower than the occupant load of the old Kohl's department store, which previously occupied both floors of the tenant space. As such, the project is considered an infill development and allowed within Zone 2 per Section 10-6.30¹⁰ of the HMC. Furthermore, the *Hayward 2040 General Plan* was deemed consistent with the ALUCP. The project is consistent with the *Hayward 2040 General Plan* and therefore consistent with the ALUCP.

Strategic Initiatives. The project supports the City's Complete Communities Strategic Initiative. The purpose of this initiative is to create and support services and amenities that provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. The project will provide a safe and fun place for recreation and entertainment at an appropriate location and help Southland Mall become a more attractive regional destination. As such, the project supports the following goals and objectives:

⁸ Cabarets and Dances Regulations,

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE.CH6BUPRTR_ART2MIBU_CADA

⁹ Airport Overlay Zone Ordinance,

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE.CH10PLZOSU_ART6AIOVZOOR

¹⁰ Section 10-6.30 of the HMC,

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE.CH10PLZOSU_ART6AIOVZOOR_S10-6.30AIOVZODESTUShttps://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE.CH10PLZOSU_ART6AIOVZOOR_S10-6.30AIOVZODESTUS

Goal 1: Improve quality of life for residents, business owners, and community members in all Hayward neighborhoods.

- Objective 2: Foster a sense of place and support neighborhood pride.
- Objective 3: Increase collaboration with businesses, non-profits and neighborhood groups on placemaking projects.

STAFF ANALYSIS

Staff believes that the Planning Commission can make the required findings to approve the subject Conditional Use Permit application for a commercial amusement facility with ancillary beer and wine sales as discussed in greater detail in Attachment II. The proposed use is compatible with the surrounding land uses and is appropriate for the site. Additionally, the proposed facility will be operated in a manner that will not be detrimental to public safety.

Land Use Compatibility. As discussed earlier, the project would be consistent with applicable City policies and regulations. Furthermore, the proposed entertainment use would be compatible with the existing land uses of the surrounding area. The subject tenant space, which is part of the main Southland Mall building, is surrounded by various commercial retail and service land uses including department stores, smaller retail businesses, restaurants, offices, banks, and health clubs. The proposed activities would be consistent with the intensity and character of the existing commercial land uses surrounding the site. Additionally, there is ample parking in Southland Mall to accommodate the proposed use and the traffic study prepared by Advanced Mobility Group concluded that the project would not result in any significant traffic impacts to Southland Mall and the surrounding area. Therefore, staff believes the proposed use is suitable at the proposed location.

Public Safety. The proposed alcohol sales will be conducted in a safe manner and not be detrimental to public health and safety. As discussed earlier, the proposed facility will be subject to the City's Alcoholic Beverage Outlet Ordinance and the Department of Alcoholic Beverage Control's (ABC's) regulations, which provide operating and performance standards for establishments that include the sale of alcoholic beverages to minimize nuisances on neighboring properties. Round One Entertainment has also submitted a thorough security plan with various operational policies to foster a safe and inviting environment. Furthermore, violations of any conditions of approval or regulations listed above may result in Code Enforcement action or the revocation of licenses and permits.

Overall, the project would provide a state-of-the-art, unique, and family-friendly commercial amusement facility in a convenient location for families and friends to gather. Although there are currently a few recreational venues in the City, none of these facilities provide multiple entertainment and recreational amenities all in one location. Furthermore, the project would redevelop a currently vacant tenant space and introduce a desirable business to Southland Mall, which has been identified as a key retail area and catalyst site but is currently underutilized. The project would help attract new businesses to the City and Southland Mall and help Southland Mall become a stronger regional destination.

ENVIRONMENTAL REVIEW

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1 (Existing Facilities) in that the project involves the leasing of an existing tenant space that will create a negligible impact on the environment. Therefore, no environmental review is necessary.

NEXT STEPS

If the Planning Commission approves the Conditional Use Permit application, then a 10-day appeal period will commence from the date of decision. If no appeal is filed, then the decision will be deemed final. If an appeal is filed within the 10-day time frame, then the application will be heard by the City Council for final disposition.

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