



SUBJECT

Transfer of Partial Ownership of the Palace Card Club per the Hayward Card Club Regulations and a Conditional Use Permit Amendment related to the Parking Mitigation Fee associated with the Palace Card Club shuttle located at 22821 Mission Boulevard (APN 428-0081-033-00) Catherine Aganon and Pamela Roberts (Owners and Applicants).

RECOMMENDATION

That the Planning Commission recommend City Council approval of the proposed partial transfer of ownership of the Palace Poker Casino, LLC to Heather Plaza, Tami Box, Richard Box, and Henry Tang and approve an amendment to the existing Conditional Use Permit to modify a condition of approval associated with the parking mitigation fee.

SUMMARY

In June 2013, the City Council considered amendments to the City's [Card Club Regulations](#) to allow for the partial or whole ownership interest sale of the Palace Card Club (the "Club") and added a condition which levied a parking mitigation fee related to the reservation of a space in the City's parking garage at Watkins and B Street to offset the anticipated impacts the Club's shuttle operation was generating in the garage. Since that time, the Club's ownership, Catherine Aganon and Pamela Roberts, also applied to transfer partial ownership of the Club to additional family and long-time employees of the business to Heather Plaza, Compliance Officer; Tami Box, Controller and Human Resources Manager; Richard Box, Assistant Asian Gaming Director; and Henry Tang, General Manager. Pursuant to the Hayward Municipal Code, any partial or full transfer of ownership requires City Council approval. In addition, the Club's new ownership also expressed an interest in maintaining the reserved spot within the City's parking garage and since the previously approved Condition of Approval was due to expire in June 2018, the Club is seeking to extend the use of the parking space include the fee. Due to increasing maintenance costs associated with City's parking garage, staff is recommending a modest increase to the existing fee and is also recommending that an inflationary factor be incorporated to allow for annual fee adjustments tied to San Francisco's Consumer Price Index (CPI). If approved, this inflationary measure will allow regular adjustments of the fee structures associated with the parking space without needing to return to the City Council for approval. Staff is recommending the Planning Commission make a recommendation to the City Council on the modified condition of approval and the proposed transfer of ownership.

BACKGROUND

Previously known as the Palace Card Club, the Palace Poker Casino has operated in Hayward since the 1950s and is currently the only card club operating in the City.

There have been a number of changes over the years with the most recent modification in 2013 when the City Council approved an amendment to the Card Club Regulations stipulating that any sale, transfer, or assignment of a card club permit would require the prior approval of City Council. At that same time, a parking mitigation fee was also established to off-set potential impacts on the City's parking garage at Watkins and B Streets by the card club's shuttle. This annual fee was agreed to by the Club ownership and was established for a period of five years with the ability for the fee to be modified or deleted by the Planning Commission at a noticed public hearing.

- In late 2017, the current owners filed an application with the City to amend a condition of approval of their existing Conditional Use Permit and are requesting an extension of the parking mitigation fee, given continued need for the garage space for their shuttle.

Pursuant to HMC Section 10.1-3260, the Planning Commission has the authority to refer the requested action to the City Council for consideration, with or without a recommendation, in order to insure the proposed modification and use is consistent with the findings made pursuant to [Section 10-1.3225](#). No revisions to the previously adopted findings or amendments to the existing Conditional Use Permit related to the operation of the Card Club are proposed with this modification and all previously adopted conditions of approval will remain in effect.

The applicant is also requesting to transfer partial ownership of the club to the following individuals, all of whom are currently employed by the Card Club:

- Heather Plaza, Compliance Officer
- Tami Box, Controller and Human Resources Manager
- Richard Box, Assistant Asian Gaming Director
- Henry Tang, General Manager

Pursuant to Hayward Municipal Code Section 4-3.16, no card club permit or any table operated under a card club permit may be sold, transferred, or assigned by the permittee or by operation of law, to any other person, persons, or legal entity, without the prior approval of the City Council, which approval shall be conditioned upon the proposed transferee's compliance with the provisions of this Article and the Gambling Control Act of the State of California. Following action by the City Council, the owners will coordinate approval of the ownership transfer with the State pursuant to the State Gambling Control Act.

DISCUSSION AND STAFF ANALYSIS

Currently, ownership of the card club is shared equally between Aganon and Roberts. The requested change would entail transferring a 1% stake in the club to each of the individuals listed above, leaving Roberts' 50% portion intact and reducing Aganon's stake to 46%.

As current employees, each of these individuals is registered with the Chief of Police and has passed a background investigation. As employees on the gaming floor, Richard Box and Henry Tang are subject to and have passed further, in-depth background investigations completed by state regulatory agencies. The proposed transfer of ownership will require the individuals listed above, and their spouses, to apply for and obtain a state gambling license from the Bureau of Gambling Control, a process which also involves an extensive background check that includes investigation of the applicant's honesty, integrity, general character, reputation, habits, and financial and criminal history.

According to the Hayward Police Department, the current owners and operators of the Palace Poker Casino have demonstrated responsible management and ownership of the business, and the security team has a good relationship with HPD staff.

With regards to the parking mitigation fee, the fee was established as a condition of approval attached to the Use Permit for the Club to off-set impacts the shuttle was having on the City's parking garage at Watkins and B Streets. The fee was established for an initial period of five years with the ability for the fee to be modified or deleted by the Planning Commission. Given the continued need for the designated parking space within the parking garage for the Club's shuttle, staff is recommending the fee not only be extended, but be moderately increased, including the addition of a CPI moving forward and eliminating the timeframe associated with the fee. This increase has been agreed to by the ownership and would be applicable moving forward with payment occurring annually at the time the business license tax is paid.

Public Outreach: No public contact was undertaken related to the proposed transfer of ownership nor the proposed parking mitigation fee increase, however, notice of this Public hearing was made in both the Newspaper, which was published on May 12, 2018 and were sent to all property owners and residents within a 30-foot radius of the Palace Card Club. Those notices were mailed on May 11, 2018. As of the drafting of this report, no comments were received.

Strategic Priority: This agenda item does not relate to one of the Council Strategic Initiatives.

ENVIRONMENTAL REVIEW

This project is statutorily exempt from CEQA pursuant to Section 15268, Ministerial Projects for the ownership transfer and Section 15273 related to the parking mitigation fee increase.

NEXT STEPS

The recommendation of the Planning Commission will be presented to the City Council for a final decision relative to the ownership transfer and parking mitigation fee increase. Following the Council action, the Club ownership will need to complete an additional process with the State Gaming Commission to complete the ownership transfer.

Prepared and Recommended by: Sara Buizer, AICP, Planning Manager

Approved by:



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