

**CITY OF HAYWARD PLANNING COMMISSION
CONDITIONAL USE PERMIT APPLICATION NO. UP-23-0021
A&A BILLIARDS - 895 B STREET
FINDINGS FOR APPROVAL**

Findings for Conditional Use Permits – Per Hayward Municipal Code (HMC) Section 10-1.3225, the Planning Commission may approve or conditionally approve a Conditional Use Permit if it is able to make all the following findings:

A. The proposed use is desirable for the public convenience or welfare;

The proposed use is desirable for the public convenience and welfare in that the establishment will increase the variety of indoor recreation options and contribute to the overall vibrancy and popularity of downtown by drawing additional customers, consistent with the goals and policies of the General Plan and Downtown Specific Plan. Furthermore, the increase of visitors downtown could result in a positive impact for other downtown businesses, including restaurants and retail uses.

B. The proposed use will not impair the character and integrity of the zoning district and surrounding area;

The proposed project will not impair the character and integrity of the zoning district and surrounding area in that the project site is located within the Downtown-Main Street (DT-MS) zoning district, which allows for a diverse mix of businesses and land uses. The proposed use will be compatible with the other adult-oriented recreation and entertainment uses and is consistent with many goals and policies of the City's General Plan and Downtown Specific Plan. In addition, the applicant will be required to adhere to several operational conditions of approval to illegal activity and prevent incidents that could have an adverse effect on public safety and welfare.

C. The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

The proposed use is in harmony with the applicable City policies and the intent and purpose of the zoning district involved in that the subject site is located within the DT-MS zoning district and is designated as Central City: Retail and Office Commercial (CC-ROC) in the *Hayward 2040 General Plan*. The DT-MS zoning district regulates land uses in the core of the City's downtown and allows adult-oriented uses such as pool halls that sell alcohol, bars, and nightclubs subject to approval of a Conditional Use Permit. Similarly, the CC-ROC land use designation is also focused on the core of Downtown Hayward and prescribes a variety of land uses and policies which are intended to transform the area into a vibrant, pedestrian-friendly mixed-use city center as well as a regional destination. Allowed uses under the CC-ROC land use designation include retail, restaurant and service uses as well as indoor recreation and entertainment uses, including bars and nightclubs. The project is consistent with the following goals and policies of the *Hayward 2040 General Plan*:

- Land Use Policy LU-2.1: The City shall encourage private-sector investment in Downtown to transform it into a safe, vibrant, and prosperous arts and entertainment district that offers enhanced shopping, dining, recreational, and cultural experiences and events for residents, families, college students, and visitors.
- Land Use Policy LU-2.16: The City shall encourage the development of uses and amenities to attract creative-class professionals and businesses to Hayward, including: restaurants and cafes; art studios and galleries; and entertainment and cultural venues.
- Land Use Policy LU-5.1: 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.
- Economic Development Policy ED-1.14: 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.
- Economic Development Goal ED-3: Grow the local economy and employment base by supporting efforts to expand and retain local businesses.
- Community Safety CS-1.12: 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 shall promote a healthy balance of public safety and nightlife vibrancy, and may include surveillance cameras, crowd management practices, and on-site security staff.

The project is also subject to the goals and policies of the Downtown Specific Plan (DSP) and Deve. The DSP recognizes that establishments that provide entertainment options for adults play an important role in the economic and social well-being of the City by attracting customers, increasing pedestrian activity in and around the downtown area, and providing adults with a variety entertainment options. The project is consistent with the following goals and policies of the Downtown Specific Plan:

- Land Use Goal #1. Downtown is transformed into a vibrant, walkable City center that serves as regional destination to live, work, and play for City residents, neighboring communities, and local college students.
- Land Use Policy LU-1. Attract more downtown visitors, including families and college students and faculty from Cal State University, East Bay, and Chabot College, by offering a wide array of retail, dining, services and entertainment uses that create a dynamic environment and depend on pedestrian foot traffic.
- Long Term Vision Goal 2.2. Downtown Hayward is a regional destination, celebrated for its distinct history, culture, and diversity; providing shopping, entertainment, employment, and housing options for residents and visitors of all ages and backgrounds; that is accessible by bike, foot, public transit, and car.

As conditioned, the proposed project will be required to operate in accordance with various safety and security measures prescribed by the Police Department to minimize any negative impacts to adjacent properties or uses, including reducing possible calls for service.

D. The development will be operated in a manner determined to be acceptable and compatible with surrounding development.

The proposed project, as conditioned, will not be detrimental to the public health, safety, or general welfare in that establishment will be subject to the regulations prescribed by the State Department of Alcoholic Beverage Control (ABC) for an establishment operating under a Type 40 liquor license, including other building/life safety codes, as applicable. In addition, the conditions of approval will ensure the applicant will: 1) require all employees who sell beer to complete a responsible beverage service training course and provide copies of their certifications to the Hayward Police Department; 2) utilize computerized identification scanners on all customers to check identifications and ensure that no underage patrons enter the establishment during late night hours or school time hours or attempt to purchase beer; 3) limit beer purchases per customer to no more than two at a time; and 4) prohibit patrons from leaving the establishment with any open containers. Finally, the applicant will be required to operate a closed-circuit television (CCTV) surveillance camera system and make the video footage available to the Police Department. Violations of any of the project conditions of approval or the restrictions of the Type 40 liquor license could result in the revocation of the license and/or this Use Permit.

Findings for Conditional Use Permits for New Alcoholic Beverage Outlets – Per HMC Section 10-1.2756, the Planning Commission may approve or conditionally approve a CUP for a new alcohol-serving establishment when all the following findings are made:

A. The proposed will not result in an undue concentration of establishments dispensing alcoholic beverages in the area.

While there are other alcohol-serving establishments in Downtown, the City's Alcoholic Beverage Outlets ordinance allows up to two such establishments per block, on each side of the street. The subject block of B Street currently does not contain any alcohol-serving establishments on either side of the street; as such, the proposed use would not result in an oversaturation of alcohol-serving establishments in the area.

B. The proposed use will not detrimentally affect the surrounding neighborhood considering its distance from the following: residential structures, churches, schools, playgrounds and parks, recreation centers, and other similar uses.

The proposed use was reviewed by the Police Department and, although the business location is not adjacent to any sensitive uses such as residences, schools, churches or playgrounds, conditions of approval have added to ensure the proposed use would not be detrimental to surrounding properties and businesses.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, Existing Facilities, in that the project involves a minor change to an existing use that will not result in any expansion of, or other physical changes to, the building in which the use is located.