



DATE: June 5, 2018

TO: Mayor and City Council

FROM: Interim Development Services Director

SUBJECT Transfer of Partial Ownership of the Palace Poker Casino, LLC 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 City Council adopts the attached Resolution approving the proposed partial transfer of ownership of the Palace Poker Casino, LLC to Heather Plaza, Tami Box, and Richard Box, and approves an amendment to the existing Conditional Use Permit to modify a condition of approval associated with the parking mitigation fee.

SUMMARY

The owners of the Palace Poker Casino (the "Club"), Catherine Aganon and Pamela Roberts, have applied to transfer partial ownership of the Club to additional family members: Heather Plaza, Compliance Officer; Tami Box, Controller and Human Resources Manager; and Richard Box, Assistant Asian Gaming Director.

The Club's owners have also expressed an interest in maintaining the reserved spot within the City's parking garage located at Watkins Street and B Street. Since the previously approved Condition of Approval is due to expire in June 2018, the Club is seeking to extend the use of the parking space. 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 also recommending the City Council adopt the attached resolution approving the modified condition of approval and the proposed transfer of ownership.

BACKGROUND

The Palace Poker Casino, formerly the Palace Card Club, is located at 22821 Mission Boulevard, and has operated in Hayward since the 1950s and is currently the only card club operating in the City.

In June 2013, the City Council considered amendments to the [Hayward Municipal Code \(HMC\), Chapter 4, Article 3 Card Club and Bingo Regulations](#), to allow for the partial or whole ownership interest sale of the Palace Card Club. Pursuant to the HMC, any partial or full transfer of ownership requires City Council approval. Regulations stipulating that any sale, transfer, or assignment of a card club permit would require the prior approval of City Council. To offset the anticipated impact generated by the Club's shuttle operation, a condition was also added to levy a parking mitigation fee related to the reservation of a space in the City's parking garage at Watkins and B Street in the garage. This annual fee was agreed to by the Club's 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 ensure 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

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

Currently, ownership of the card club is shared equally between Catherine Aganon and Pamela Roberts. The requested change would entail transferring a 1% stake in the club to each of the individuals listed above, leaving Pamela Roberts' 50% portion intact and reducing Catherine Aganon's stake to 47%.

As current employees, each of these individuals is registered with the Chief of Police and has passed a background investigation. As an employee on the gaming floor, Richard Box is subject to and has passed a further, in-depth background investigation completed by state regulatory agencies. The proposed transfer of ownership will require the individuals listed above, 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 originally 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 be extended and moderately increased to include 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 is applicable moving forward with payment occurring annually at the time the business license tax is paid.

Planning Commission Public Hearing: The Planning Commission heard this item at their [May 24, 2018](#) meeting and unanimously recommended approval to the City Council including the proposed changes recommended by staff which included a request by the applicant to refrain from transferring 1% ownership to the General Manager, Henry Tang, at this time and to add a condition of approval indicating the ownership transfer is contingent upon the State Gaming Commission approval of the ownership transfer.

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.

ECONOMIC IMPACT

There is no Economic Impact associated with this action as the changes to ownership are not intended to change the function of the Club.

FISCAL IMPACT

Currently the Palace Card Club pays a total of \$230,000 annually to the City's General Fund between the business license tax, a fee for each of its 13 card tables, and the established parking mitigation fee. This is proposed to increase by \$42,342 starting in 2019 based on the recommendation to increase the parking mitigation fee from \$114,186 to \$156,528 and then to add an inflation factor based on CPI moving forward.

STRATEGIC INITIATIVES

This agenda item is a routine operational item and does not relate to one of the Council's Strategic Initiatives.

PUBLIC CONTACT

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 Daily Review Newspaper, which was published on May 25, 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 25, 2018. As of the drafting of this report, no comments were received.

NEXT STEPS

Following the City Council decision relative to the ownership transfer and parking mitigation fee increase, the Club ownership will complete an additional process with the State Gaming Commission to complete the ownership transfer. The new annual parking mitigation fee will be applicable starting in 2019.

Prepared by: Sara Buizer, AICP, Planning Manager

Recommended by: Stacey Bristow, Interim Development Services Director

Approved by:



Kelly McAdoo, City Manager