

**CITY OF HAYWARD PLANNING DIVISION  
PROPOSED COCKTAIL BAR AND LOUNGE WITH CABARET ENTERTAINMENT  
LOCATED AT 990 "B" STREET  
CONDITIONAL USE PERMIT APPLICATION NO. 201802339**

**DRAFT CONDITIONS OF APPROVAL**

1. The approval of Conditional Use Permit No. 201802339 shall allow the operation of a cocktail bar and lounge (Type 48 liquor license) with cabaret entertainment within an existing 2,363 square-foot tenant space located at 990 "B" Street, Assessor Parcel No. 428-0056-057-00.
2. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
3. All outstanding fees owed to the City, including staff time spent processing this application, shall be paid in full prior to issuance of a building permit
4. The proposed cocktail bar and lounge with cabaret entertainment shall conform to these conditions of approval and the proposed business narrative/plans on file with the Planning Division dated July 10, 2018 and stamped "Exhibit A".
5. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
6. A copy of these conditions of approval shall be scanned and included on a separate full-sized sheet(s) within the building permit plan set.
7. A copy of the conditions of approval for the use permit must be kept on the premises of the establishment and posted in a place where it may readily be viewed by the public.
8. Prior to final inspection of all pertinent conditions of approval and all improvements (interior and exterior) shall be completed to the satisfaction of the Planning Director, Building Official, Police Chief, and Fire Chief.
9. This approval shall be void three years after the effective date of approval unless a building permit application with plans matching the approved plans have been submitted and accepted for processing by the Building Official.
10. The applicant shall be required to obtain and maintain a current valid business license in the City of Hayward at all times of operation.
11. If determined to be necessary for the protection of the public peace, safety and general welfare, the City of Hayward may impose additional conditions or restrictions on this permit. Violations of any approved land use conditions or requirements will result in further enforcement action by the Code Enforcement Division. Enforcement includes, but is not limited to, fines, fees/penalties, special assessment, liens, or any other legal remedy required to achieve compliance including the City of Hayward instituting a revocation hearing before the Planning Commission. Violation of any of the conditions of approval of

this conditional use permit may constitute grounds for revocation pursuant to the Zoning Ordinance.

## **PLANNING**

12. All administrative and conditionally permitted uses that cease operation for a period of more than six (6) consecutive months shall be deemed to be discontinued, and the use permit establishing said use shall become null and void. Reestablishment of said use shall only be permitted upon obtaining a new use permit to be approved before the Planning Commission.
13. The hours of the operation for the establishment shall be limited to 11 a.m. to 1:30 a.m., seven days a week. Cabaret entertainment such as dancing, live and/or amplified music shall be limited from 9 p.m. to the closure of the establishment on Fridays, Saturdays, and Sundays.
14. The final color, design and materials for exterior of the façade (including exterior lighting fixtures) shall be included in the building permit plan check set and reviewed and approved by the Planning Director for compliance.
15. The establishment shall be limited to patrons 21 years of age and over. No individuals under the age of 21 shall be allowed enter the premises or loiter adjacent to the facility entrance. Establishment and security staff shall be responsible to verify legal age of patrons.
16. Prior to the issuance of a building permit, the permittee shall be required to enter into an agreement and receive final design approval by the Development Services Director for an artistic installation on the façade of the building. The art installation may include, but not be limited to a mural, decorative metal, and/or lighting feature to the satisfaction of the Development Services Director. The art installation shall be completed prior to the issuance of a Certificate of Occupancy of final building permit sign-off, whichever comes first.
17. All promotional and/or permanent signage for the establishment shall be required to obtain a sign permit by Planning and Building Divisions. The proposed signs shall comply with Chapter 10, Article 7 (Sign Ordinance) of the Hayward Municipal Code.
18. The permittee shall ensure compliance with all local, County, State, and Federal laws for the cocktail bar and lounge with cabaret entertainment. The permitted shall maintain compliance with the City's Zoning Ordinance, Alcoholic Beverage Outlet Ordinance, Cabaret and Dances Ordinances, and the Hayward Municipal Code, as applicable.

## **POLICE DEPARTMENT**

### General Operations

19. The permittee shall be required to maintain a valid license for the sale of alcoholic beverages from the California Department of Alcoholic Beverage Control (ABC). Failure to maintain a valid license in good standing shall be grounds for the revocation of this use permit.
20. The exterior of the premises, including adjacent public sidewalks and the rear of the building shall be illuminated during all hours of darkness during, which the premises

are open for business in a manner so persons standing in those areas are identifiable by law enforcement personnel to the satisfaction of the Police Chief.

21. The premises shall be kept in a clean, well-maintained condition. Paint and windows shall be kept clean and cracked or broken glass shall be replaced promptly. The licensee(s) shall be responsible for removing graffiti from the premises under the control of the licensee(s) within 48 hours. Public sidewalks adjacent to the establishment shall be cleaned daily. The management shall ensure that no trash or litter originating from the establishment is deposited on neighboring properties or the street.
22. One information sign with a maximum area of six square feet providing hours of operation, emergency contact information, etc. may be placed on the exterior and interior of the establishment. The storefront glass shall not be tinted or clouded to reduce transparency into the establishment.
23. The total occupancy for the establishment shall be limited **89 persons** (including staff, patrons, and entertainment), or the maximum occupancy of the main level as established by the architect and approved by the City Building Official per the California Building Code. The occupancy shall be clearly posted and enforced by the establishment staff to not exceed the limit.

#### Police Department and Safety

24. The occurrence of more than two critical incidents during business hours of the establishment within a one-year period may constitute grounds for revocation of this permit.
  - a. "Critical Incident" is defined as any event in the sole discretion of the Police Chief that results in a crime of violence or large unruly gathering necessitating a police response of five or more police officers. Crimes of violence may include but are not limited to discharge of firearms, robbery, physical assault or assault with a deadly weapon.
  - b. "Premises or its adjoining grounds" will include within the structure of 990 B Street, the sidewalk where queuing for admission occurs, the area to the rear of the building, including any parking lots within 50 feet of the building.

Nothing in this condition restricts the authority of the City to seek revocation of this permit for a single incident of extreme severity.

25. If an undue demand is put on police resources, as determined by the Chief of Police, then such determination would be grounds for revocation of the Conditional Use Permit.
26. Commission of a criminal offense by the permittee or any employee of the permittee of which the permitted establishment was the location where the offense was committed or where there is a direct correlation between the permittee's establishment and the criminal offense; and such criminal offense is found to be detrimental to public health, safety, or general welfare shall be independent grounds for revocation of this permit.
27. The business operator shall be responsible to reimburse the City Police Department for calls for service in response to events that are determined to be a demand on police resources as determined by the Chief of Police. Failure to pay costs within 30 days of

billing for the Hayward Police Department response to the incident may constitute grounds for revocation of this use permit.

28. All employees and the permittee of the establishment shall work collaboratively with the Hayward Police Department, with the goal of maintaining a safe, secure facility. The permittee and employees will call the Hayward Police Department as needed to work with intoxicated, uncooperative, or disruptive patrons. The Facility Security Plan shall be implemented in response to disruptive incidents and patrons. If the permittee or employee of the facility, including security officers, are not able to resolve issues involving disruptive patrons they shall call the Hayward Police Department and request assistance. Failure to work collaboratively with the Hayward Police Department or to reasonably call for assistance, as needed, may result in revocation of this permit.
29. The permittee and the security staff shall be responsible for implementation of the security plan approved by the Hayward Police Chief and for the maintenance of the peace to ensure order on the property. The permittee shall take all necessary steps to ensure that permittee's patrons and visitors refrain from incidents of violence, intoxication, and/or loud or obnoxious behavior that adversely impact the safety and welfare of patrons in the facility and citizens in the surrounding area and the community.
30. The licensee/permittee shall maintain a fully operational digitally recorded CCTV Security system that covers all points of entry/exit, sales of food/beverages (cash registers), locations of cash/monies storage (Safes/Manager's Office), and overall locations of where alcoholic beverages may be consumed within the property. This system must have remote access (via internet or wireless system) that has real-time viewing capabilities by the permittee/licensee and accessible to the Hayward Police Department. The recording capabilities must be that of a system that can maintain storage of recordings for a minimum of thirty (30) days and be provided to the any peace officer upon request. The applicant shall check the digital video surveillance system daily and keep a daily log to ensure that the digital video surveillance system and remote access is operable.
31. Every Friday, Saturday, and Sundays from 8 p.m. until a half hour after closing, the permittee/licensee shall provide four (4) contract security guard. Uniformed contract security guard shall be licensed by the State of California and shall be employees of and acting under the direction of a Private Patrol operator duly licensed as such by the State of California. The hours and/or the required number of licensed uniformed security guards may be adjusted at the discretion of the Chief of Police. Said personnel shall carry his/her Guard Card on their person at all times and present it to any Peace Officer upon demand. Said personnel shall be clothed in such a manner as to be readily identifiable as security. No security guards shall be permitted to be armed with live firearms.
32. Interior illumination shall allow the unaided inspection of personal identification by members of the Hayward Police Department while inside premises.
33. No outside and/or promoter sponsored events are allowed on the premise.
34. The owner, manager, and employees shall make appropriate efforts to discourage loitering from the premises including calling the police to ask that they move loiters who refuse to leave. Persons hanging around the exterior of the establishment with no

apparent business for more than ten minutes shall be asked to leave. Signage at the entrances and visible from the outside shall be posted that state "No Loitering." These signs shall be no less than 18" x24" and have 2-inch block lettering.

35. The exterior of the premises, including adjacent public sidewalks and all parking lots under the control of the licensee, shall be illuminated during all hours of darkness during which the premises are open for business in a manner so persons standing in those areas are identifiable by law enforcement personnel. However, the position of such lighting shall not disturb the normal privacy and use of neighboring residences and are subject to approval by the City of Hayward.
36. Queuing for admission to the facility shall be formed along the Main Street side. Stanchions and rope shall be used to delineate the queue, if needed, and placement shall allow a four-foot sidewalk right-of-way clearance. No congregation of patrons shall be permitted at the rear of the building. Queues are to be limited to areas that do not impede the entrances to adjacent businesses.

#### Alcohol Sales Procedures

37. No minimum drink purchase or similar charge or minimum purchase shall be imposed on or required of customers entering the establishment.
38. No sales of pitchers or buckets of beer or alcoholic beverages shall be permitted. Bottle service shall be prohibited.
39. Snacks and light refreshments shall be available for purchase by patrons at all times. Examples may include, but not be limited to, water, pre-packaged goods including chips, popcorn, crackers, fruit, etc.
40. The sale and service of alcoholic beverage to patrons shall be discontinued no later than 15-minutes prior to the closure of the establishment.
41. The permittee and all employees engaged in the dispensing of alcoholic beverages shall attend the Department of Alcoholic Beverage Control's LEAD Training prior to opening of the bar. Any employee hired after this permit is approved shall attend such training within ninety (90) days of his/her date of hire. As proof of attending the Training, the Department of Alcoholic Beverage Control certificate of completion shall be submitted by the permittee for each employee upon completion of such training to the Hayward Police Department. The applicant may contact Detective Gabrielle Wright at the Hayward Police Department – Vice Unit at 510-293-7013 for further information. No employee or agent shall solicit or accept any alcoholic or non-alcoholic beverage from any customer while in the premises.
42. No employee, security staff, or agent shall solicit or accept any alcoholic beverage or non-alcoholic beverage from any customer while in the premises.
43. Self-service of alcohol shall be prohibited, included refrigerated coolers or buckets of alcoholic beverages available, prior to the order from a customer.
44. The sale of alcoholic beverages for consumption OFF the premises shall be strictly prohibited. No alcoholic beverages shall be permitted to leave the premises.

Sounds and Entertainment

45. The permittee shall be required to obtain a valid cabaret license from the Hayward Police Department in accordance with Chapter 6, Article 2 of the Hayward Municipal Code. The license shall be obtained prior to any entertainment component such as dancing, live and/or amplified music, karaoke, etc. A security and safety plan shall be submitted for review and approval by the Police Department to ensure maintenance of peace and safety on the subject property and surrounding area. The revocation of the cabaret license may also be grounds for the revocation of this use permit.
46. If the event the business transfers ownership, the new owner shall be required to obtain a separate cabaret license with their supplemental security and safety plan from the Police Department with all submittal requirements listed in the Chapter 6, Article 2 of the Hayward Municipal Code.
47. The front doors(s) or any operable windows shall be kept closed at all times during times when amplified music or entertainment is occurring, except in the cases of typical ingress and egress, or emergency situations. Deliveries during such times shall be prohibited. Front door(s) may not include a screen or ventilated security door.
48. Background music shall be permitted anytime. Background music may be live or recorded and shall not utilize a stage nor involve dancing, unless otherwise specified and permitted by the Police Department on the cabaret license.
49. At the applicant's expense, the permittee shall be required to soundproof the establishment with proper window treatment to comply with the City's Noise Ordinance. Noise generated by the establishment or its patrons shall not exceed ambient noise levels beyond the area under the control of the licensee.
50. Earplugs shall be made available to all employees.
51. There shall be no adult entertainment as defined by Section 10- 1.2735 of the Zoning Ordinance. Fashion or lingerie shows shall be prohibited.
52. Pursuant to Section 4-16-.20, it is unlawful for any person to manage, supervise, maintain, provide, produce, possess or use one (1) or multiple simulated gambling devices. Each individual act to manage, supervise, maintain, provide, produce, possess or use a simulated gambling device constitutes a separate violation of this section. Simulated gambling devices shall be prohibited.
53. No billiard tables are permitted with this use permit.

Pre-Operations

54. Not more than 25 percent of the store front windows shall be obstructed to allow a clear view into the establishment.
55. The rear entrance is not permitted to be used as an entrance or exit, except as an emergency exit only. An audible alarm shall be installed on the rear door and shall be armed during times when the rear door is an emergency exit. Also, a security

- staff member shall be stationed at such exit during cabaret or cabaret-related activities are occurring to ensure patrons do not use such rear entrance.
56. No mechanical equipment, solar collectors, television or satellite reception antennas may be placed on the roof unless it is adequately screened from view by the proposed roof structure. Prior to construction, documentation shall be provided that the roof mounted mechanical equipment is adequately screened.
  57. Any work done in the right-of-way (sidewalk, street, partial street closure) requires an encroachment permit from the City.

#### **BUILDING DIVISION**

58. Applicant shall apply for all necessary building permits and/or all other related permits from the Building Division. All structures shall be constructed and installed in accordance with the California Building Code, Uniform Mechanical and Plumbing Code, National Electrical Code, and the California Fire Code as adopted by the City of Hayward.
59. Per the California Building Code and Fire Code, occupant load signage shall be installed conspicuously within of the establishment.

#### **FIRE DEPARTMENT**

60. Duct smoke detectors that are installed within the HVAC system (AHU's and Smoke Dampers) shall meet the California Mechanical Code for installation and the California Fire Code. Such detectors shall be interconnected to the buildings' main fire alarm control panel and zoned separately (if applicable).
61. 2A:10BC type fire extinguishers are required throughout the building for every 75' of travel or every 3,000 square feet of space including dining and service areas. The kitchen area where the cooking equipment is located shall have a minimum 40BC type fire extinguisher or a Class K type fire extinguisher installed within 30' of the cooking equipment.
62. The building shall have an address installed on the front of the building having a minimum 6-inch number height on a contrasting background. The address numbers shall be clearly visible from the street.
63. The project will be classified as an 'A' occupancy (50 occupants or more and less than 300 occupants). The following requirements shall be applicable:
  - a. As reflected on the approved plans, exit doors leading to the exterior shall have panic hardware installed.
  - b. Exit illumination signs shall be installed as per the California Building Code, including low-level exit signage.
  - c. As per the approved plans, aisle widths are in compliance with the California Building and Fire Codes for fixed seating and non-fixed seating.
  - d. Decorative materials shall be flame treated and a "Certificate of Flame Treatment" shall be presented to the fire department prior to certificate of occupancy.

- e. Occupant load signs shall be installed in all dining areas with fixed and non-fixed seating, reflecting the seating capacity for each dining area. In addition, a total capacity shall be posted at the front door stating the maximum seated and standing occupant loads. The maximum capacity for this establishment shall not exceed be 89 persons.
  - f. An evacuation plan shall be posted in approved areas within the restaurant. Locations to be approved by the Fire Department.
  - g. The restaurant will be required to have an Annual Permit for Place of Assembly (2018). Permit shall be obtained prior to certificate of occupancy.
  - h. Fire and evacuation drill shall be conducted QUARTERLY by employees.
64. CO<sub>2</sub> Tank Permit – If a CO<sub>2</sub> tank is proposed for sodas/beers, the owner/vender is required to obtain a Hayward Fire Dept. permit to install liquid carbon dioxide (CO<sub>2</sub>) tank. All liquid carbon dioxide tanks shall comply with NFPA 55 standards including, seismic restraints, pressure gauges, vent and pressure relief devices, and signage. For indoor CO<sub>2</sub> tank locations, a CO<sub>2</sub> detection system is required. This CO<sub>2</sub> detection system must can detect and notifying the building occupants of a gas release of CO<sub>2</sub> vapors in excess of 5,000 ppm. The CO<sub>2</sub> detection system must be installed, inspected, and approved by the Fire Department to receive a “Certificate of Occupancy”.
65. Compressed gas cylinders (nitrogen) – must be chained and secured. When stored must have cylinder valve caps.
66. Obtain an annual Consolidated Permit from the Hayward Fire Department’s Hazardous Materials office for compressed gas volumes greater than 200 cubic feet.

## UTILITIES

67. Domestic: During the building permit submittal, indicate on the floor plans and/or plumbing fixture table the type of water fixtures being proposed (e.g., utility sinks, 3-compartment sinks, dishwashers, toilets, etc.).
- If the existing water services will both be used, clearly indicate which areas of the building would be served by which water meter.
- If one of the existing water services cannot be reused, it must be abandoned by the City’s Water Distribution Personnel at the applicant’s/owner’s expense. Abandonments are billed based on actual costs with a time-and-materials deposit due prior to the start of work. The final cost of the work will be actual costs of work performed and equipment/materials used. If actual costs are less than the deposit amount, the owner/applicant will receive a refund in the amount of the unused deposit. If actual costs exceed the deposit amount, the owner/applicant will receive an invoice in the amount of the overage. The time-and-materials deposit due for the abandonment of the existing service would be \$4,500
68. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each domestic and irrigation water meter, per City Standard SD-202.
69. Water meters and services are to be located a minimum of two feet from top of driveway flare as per SD-213 thru SD-218.



70. Water mains and services, including the meters, must be located at least 10 feet horizontally from and one-foot vertically above any parallel pipeline conveying untreated sewage (including sanitary sewer laterals), and at least four feet from and on foot vertically above any parallel pipeline conveying storm drainage, per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. The minimum horizontal separation distances can be reduced by using higher grade (i.e., pressure) piping materials.
71. The property has two existing commercial sewer services, with a “grandfathered” capacity of 420 gallons per day of domestic strength wastewater discharge. Additional sewer system capacity may need to be purchased, at the rates in effect at the time of purchase and prior to discharge, to accommodate the volume and waste strength of wastewater discharge from the new bar/lounge. Sewer connection fees for non-residential connections are calculated based on the volume and strength of the wastewater discharge.
72. Additional information is needed to determine if the estimated discharge from the proposed business will be under the “grandfathered” capacity. Complete the Sewer Service Connection Fee application and include it in the building permit submittal. Include the number of employees and estimated number of customers to be served in a day.
73. All sewer mains and appurtenances shall be constructed in accordance to the City’s “Specifications for the Construction of Sewer Mains and Appurtenances (12” Diameter or Less),” latest revision at the time of permit approval.
74. Each sanitary sewer lateral shall have at least one cleanout and be constructed per SD-312.

#### **SOLID WASTE & RECYCLING**

75. Submit the Construction and Demolition Debris Recycling Statement at the time of your building permit. The applicant shall will only need to submit the top “applicant” half of the form during the building permit. The bottom half of the form should be completed upon completion of the project to receive final building inspection approval. The form can be located online at <http://www.hayward-ca.gov/services/city-services/construction-and-demolition-debris-disposal>.
76. Per City Ordinance, all businesses are required to arrange for separate collection of recyclables. In addition, food related businesses are required to separately collect organics (compostable materials). For more information, please visit <http://www.recyclingrulesac.org/city/city-of-hayward/>. Please see Section 2 of attached for capacity needs. Also, see Section 3 of attached for trash enclosure design requirements, should an enclosure be deemed necessary.