

**CITY OF HAYWARD PLANNING DIVISION
CONDITIONAL USE PERMIT APPLICATION NO. 201803296
545 SOUTHLAND MALL
DRAFT CONDITIONS OF APPROVAL**

October 11, 2018

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 Applicant: Round One Entertainment on Behalf of Owner: Southland Mall LP, Requiring Approval of Conditional Use Permit Application No. 201803296.

General

1. The proposed commercial amusement facility with ancillary beer and wine sales shall conform to these conditions of approval and the proposed plans and business narrative on file with the Planning Commission dated June 26, 2018 and September 26, 2018 respectively, and stamped "Exhibit A".
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. 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.
5. 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.
6. A copy of these 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.
7. 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.
8. The applicant shall be required to obtain and maintain a current valid business license in the City of Hayward at all times of operation.

9. 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.
10. Prior to final inspection, all pertinent conditions of approval and all other improvements shall be completed to the satisfaction of the Planning Director.
11. All administrative and conditionally permitted uses that cease operation for a period of more than six (6) 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.
12. All promotional and/or permanent signage for the establishment shall be required to obtain a sign permit by the Planning Division and Building Division. The proposed signs shall comply with Chapter 10, Article 7 (Sign Regulations) of the Hayward Municipal Code.
13. The permittee shall ensure compliance with all local, County, State, and Federal laws for the ancillary beer and wine sales. The permittee shall maintain compliance with the City's Zoning Ordinance, Alcoholic Beverage Outlet Ordinance, Cabaret and Dances Ordinance, and the Hayward Municipal Code, as applicable.

Building Division

14. 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.
15. The Building Official has determined that an occupant load factor of 15 square feet per person (net) is acceptable for the arcade area and that floor area occupied by arcade games can be deducted from the total floor area of the arcade area for purposes of calculating the occupant load. The applicant shall provide a note on the building permit plans indicating this determination.

Police Department

16. 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.

17. 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.
18. 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.
19. 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.
20. 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.
21. 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.

22. 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.
23. 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.
24. The permittee/licensee shall provide two (2) security guards Monday through Thursday from 9:00 p.m. to 2:00 a.m. and three (3) security guards Friday through Sunday from 7:00 p.m. to 2:00 a.m. Uniformed contract security guards 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.
25. Interior illumination shall allow the unaided inspection of personal identification by members of the Hayward Police Department while inside premises.
26. No outside and/or promoter sponsored events are allowed on the premise.
27. 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 10 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" x 24" and have 2-inch block lettering.

28. 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.
29. Hours of the sales of alcohol shall be limited to 10:00 a.m. to 1:00 a.m. daily. The kitchen must be open and food must be available for sale whenever alcohol is served.
30. Minors under 18 years of age shall not be allowed on the premises after 10:00 p.m. Persons 18 years of age and older but under 21 years of age shall not be allowed on the premises after 12:00 a.m. Persons 18 years of age or older but under 21 years of age shall wear white wristbands at all times. Persons 21 years of age and older shall wear colored wristbands at all times. For individuals purchasing beer, their age shall be verified and their wristband stamped when they purchase a beer. Security guards and staff shall make regular rounds (minimum every 30 minutes) to ensure that anybody drinking alcohol has a colored wristband for persons 21 years of age and older. In addition, beer may not be purchased for another individual to drink.
31. No dancing, live bands, or pre-recorded music (DJ's) are permitted without proper permits issued by the City of Hayward.
32. No reduced priced or "Happy Hour" drink specials are permitted.
33. No minimum drink purchase or similar charge or minimum purchase shall be imposed on or required of customers entering the establishment.
34. No sales of pitchers or buckets of beer or alcoholic beverages shall be permitted. Bottle service shall be prohibited.
35. 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.
36. No employee, security staff, or agent shall solicit or accept any alcoholic beverage or non-alcoholic beverage from any customer while in the premises.

37. Self-service of alcohol shall be prohibited, included refrigerated coolers or buckets of alcoholic beverages available, prior to the order from a customer.
38. The sale of alcoholic beverages for consumption OFF the premises shall be strictly prohibited. No alcoholic beverages shall be permitted to leave the premises. Licensee shall post and maintain on the premises and at all points of exit, signage that is clearly visible to the public/customers exiting the location that state "NO OPEN ALCOHOLIC BEVERAGE CONTAINERS ARE ALLOWED OUTSIDE THE BUSINESS." These signs shall be no less than 18" x 24" and have 2-inch block lettering.
39. 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.
40. The Hayward Police Department will conduct periodic audits of all Police calls for service involving the facility. If after reviewing the audit, the Hayward Police Chief determines that there has been an excessive number of calls for service involving the facility's operation, the Police Chief or his designee will meet with the permittee to discuss the calls for service and allow the permittee to make changes in operations to reduce the number of calls for service. If the permittee is unwilling to make changes or refuses to make changes in operations to reduce calls for service, the Police Chief may recommend revocation of this permit.

Utilities and Environmental Services

41. Please submit the Construction and Demolition Debris Recycling Statement at the time of your building permit (section 4). You 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>.
42. 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 a new enclosure need to be constructed or an existing enclosure modified in order to meet capacity needs and design requirements.
43. The applicant shall address the following items in the building permit application:

- a. Provide a written response clarifying the space number that will be occupied at Southland Mall.
- b. Plumbing plans were not provided. Provide a complete plumbing plan with the building permit application.
- c. Provide a written response clarifying which water meter will serve this tenant space for water, such as a utility account or water meter number.
- d. Complete the attached meter sizing table and provide the completed table with the building permit application. If the water meter is shared by other tenant spaces, the water fixture unit count for all the tenant spaces that share the water meter must be provided. This can be done with a floor plan that shows all tenant spaces that share the water meter or by completing the attached meter sizing table that includes the water fixture count for all tenant spaces.
- e. Complete the attached Industrial/Commercial Sanitary Sewer Connection application and submit it with the building permit plans. Please provide the following supporting information with the application:
 - i. A written response with describing the type of food that will be prepared in the kitchen.
 - ii. If available, supporting documentation regarding the estimated wastewater discharge that the proposed business will generate (e.g., 12 months of water bills from an existing, similarly-sized operation). If this information isn't available, sewer capacity may be made based on the water usage of similar types of existing businesses in Hayward.

44. A grease interceptor is required. The plumbing plans submitted with the building permit application shall show the grease waste line connecting all three-compartment sinks, mop sinks, food prep sinks, and fryers to the grease interceptor, and provide the sizing/specifications for the grease interceptor.

45. Water & Sewer Service are available and subject to standard conditions and fees in effect at time of application and payment of fees:

- a. Water Services – It is unclear how this space is served for water service. Any modifications needed to the existing water services and/or water meters (upscale, downsize, relocate, etc.) must be performed by City crews at the owner's/applicant's expense.
- b. Sewer Service – Sewer connection and capacity fees for non-residential connections are calculated based on the volume and strength of the wastewater discharge. Additional information is needed to determine if the existing sewer capacity is sufficient to accommodate the wastewater discharge from the proposed business. Additional sewer capacity may need to be purchased to accommodate additional wastewater discharge over the permitted sewer capacity.

46. All domestic & irrigation water meters shall have Reduced Pressure Backflow Prevention Assemblies, per City of Hayward Standard Detail 202. Backflow Prevention Assemblies shall be at least the size of the water meter or the water line on the property side of the meter, whichever is bigger.

Fire Department

47. Automatic fire sprinkler system alterations shall be designed and installed conforming to NFPA 13 Standards in the newly created space. A separate fire permit is required for the fire sprinkler system alterations. A State Licensed C-16 Fire Sprinkler Contractor shall be responsible for the fire sprinkler system installation.

48. A maximum static pressure of 80 PSI shall be used when test data indicates higher pressures. Residual pressures used in the calculation shall be adjusted accordingly.

49. A fire alarm system is required to supervise water flow in the event of a sprinkler head activation. A minimum of one fire alarm box is required when the building is equipped throughout with fire sprinkler system and the notification appliance will activate upon sprinkler flow. System design and installation shall meet the California Fire Code (CFC) and NFPA 72 Standards and shall be installed to meet ADA requirements. Fire Alarm alterations are required in the new space to meet all requirements of an "A" occupancy with elevator recall.

50. Commercial cooking equipment and ventilation hood and duct systems shall have fire protection systems installed per NFPA 96 Standards and other applicable NFPA Standards relative to the fire extinguishing system type. As per the California Fire Code all new dry-chemical and wet-chemical extinguishing systems shall comply with UL300. Installation shall also conform to UL 300 requirements. Such protection shall be tied into the buildings' central station monitoring.

51. In conjunction with the automatic fire extinguishing system, the restaurant tenant space shall have an audible and visual horn/strobe device installed in a central location as approved by the Fire Department. The audible/visual alarm device shall be interconnected to the cooking equipment's fire extinguishing system and shall alert the occupants within the restaurant space upon any activation of the fire extinguishing system. System design and installation shall meet the California Fire Code (CFC) and NFPA 72 Standard in addition to meeting ADA installation requirements.

52. 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.

53. 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.
54. 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.
55. The project will be classified as an "A" occupancy (50 occupants or more and less than 300 occupants). The following requirements may 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 (CBC), including low-level exit signage.
 - c. As per the approved plans, aisle widths shall follow the California Building (CBC) and Fire Codes (CFC) 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 (seated) capacity for this restaurant will be posted in each tenant space.
 - 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. Permit shall be obtained prior to certificate of occupancy.
 - h. Fire and evacuation drill shall be conducted quarterly by employees.
56. Submit plans and indicate on the plans the type and volume of any hazardous materials being used, and or stored (carbon dioxide (CO₂), propane, cleaning materials, cooking oils, hydraulic oils, etc.).
57. If a CO₂ tank is proposed for sodas/beers, the owner/vender is required to obtain a Hayward Fire Department permit to install a liquid carbon dioxide (CO₂) dewar/tank(s). All liquid carbon dioxide dewar/tanks shall comply with NFPA 55 standards including, seismic restraints, pressure gauges, vent and pressure relief devices, and signage. For indoor CO₂ tank locations, and volumes greater than 1,000 cubic feet, a CO₂ detection system is required. This CO₂ detection system must be

capable of detecting and notifying the building occupants of a gas release of CO₂ vapors more than 5,000 parts per million. The CO₂ detection system must be installed, inspected, and approved by the Fire Department to receive a "Certificate of Occupancy".

58. All compressed gas cylinders (nitrogen, propane, CO₂) – must be chained and secured. When in storage all cylinders shall have valve, caps installed.