

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-\_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION FINDING THE PROJECT STATUTORILY EXEMPT FROM CEQA REVIEW AND APPROVING THE PARTIAL OWNERSHIP TRANSFER PER THE CITY'S CARD CLUB REGULATIONS AND RELATED INCREASE TO THE PARKING MITIGATION FEE ASSOCIATED WITH THE PALACE CARD CLUB AT 22821 MISSION BOULEVARD

WHEREAS, the Palace Poker Casino, LLC (Applicant) and Catherine Aganon and Pamela Roberts (Owners/Trustees) submitted a request to transfer partial ownership of the club to Heather Plaza, Tami Box, and Richard Box, and to extend the parking mitigation fee associated with the card club shuttle (the "Project");

WHEREAS, the costs of maintaining the City's Watkin Street parking garage have increased and the parking mitigation fee has not kept pace with inflation;

WHEREAS, the proposed request is statutorily exempt from environmental impact analysis, pursuant to Section 15268 (Ministerial Projects) and Section 15273 (Establishment of Fees) of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on May 24, 2018, and unanimously recommended that the City Council find the Project statutorily exempt from CEQA review and approve the request; and

WHEREAS, notice of this hearing was published in the manner required by law and the hearing was duly held by the City Council on June 5, 2018.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. Pursuant to CEQA Guidelines Section 15268 (Ministerial Projects) and Section 15273 (Establishment of Fees), the Project is statutorily exempt from environmental Impact analysis.

CONDITIONAL USE PERMIT AMENDMENT

2. The proposed use permit modification to increase the parking mitigation fee will be desirable for the public convenience in that there will continue to be a safe location for the Card Cub's shuttle to locate with in the Watkins parking garage to assist both employees and visitors to the Palace Poker Casino and the modest increase will keep pace with maintenance requirements of the City on our facilities.
3. The increase in the parking mitigation fee will not impair the character or integrity of the zoning district in this will have no impact on the overall existing operation of the card club.
4. The increase in the parking mitigation fee will not be detrimental to the public health, safety, or general welfare in that no changes to the existing operation will occur and there have been no reported issues with the operation.
5. The increase in the parking mitigation fee will not impact operation of the business and the card club will continue to be in harmony with all other applicable City Policies and the intent and purpose of the zoning district.

NOW THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby approves the Project, consisting of the partial ownership transfer and modification to the parking mitigation fee, subject to the attached conditions of approval.

IN COUNCIL, HAYWARD, CALIFORNIA June 5, 2018

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

## Conditions of Approval

June 5, 2018

### **Modification of the Parking Mitigation Fee - Palace Poker Casino LLC**

**(Applicant/Owner):** Request to Modify the Parking Mitigation Fee for the Palace Poker Casino to allow for a designated parking space for the club's shuttle. Property is located at 22821 Mission Boulevard.

*Revised text to previous conditions of approval is either bolded or strikeout text.*

#### **General:**

Conditional Use Permit Application No. PL-2011-303 is approved subject to the conditions listed below:

1. 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.
2. A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishment and posted in a place where the general public may readily view them.
3. A shuttle shall be provided and maintained to transport customers between the card club and the municipal parking garage at 805 B Street. The shuttle driver shall park in an identified parking space in the garage while waiting for customers and shall ensure litter from Club customers is removed promptly from the garage. A sign shall be prominently displayed inside the card club, and written materials shall be provided to patrons, advising customers to park in the municipal parking garage and use the card club shuttle program. The sign and written materials shall also inform patrons not to park on the surrounding properties.
4. Management shall take all necessary steps to assure the orderly conduct of employees, patrons, and visitors on the premises including loitering and excessive noise from patrons that are entering or leaving the establishment.
5. The subject property and the adjacent public sidewalk must be kept free of litter and debris and all necessary steps shall be taken to minimize the amount of wind-blown debris into surrounding properties.
6. The applicable conditions of approval associated with the original Use Permit 91-114 shall remain in full force and effect (see attached).

7. Violation of conditions is cause for revocation of this permit, subject to a public hearing before the duly authorized reviewing body.
8. The owner is encouraged to make improvements to the blank wall of the building façade so that the building has greater appeal from the public way. Such improvements may include a trellis, false window, a mural, or other similar elements, subject to the approval of the Planning Director and any building permit, if required.
9. Proposed expansion and remodel shall be in compliance with the California Fire Code, California Building Code, City of Hayward ordinances and codes, as approved by the Hayward Fire Department and Building Division staffs.
10. City of Hayward water and sewer services associated with the proposed expansion and remodel are available and subject to standard conditions and fees in effect at time of building permit applications submittal.
11. The proposed expansion and remodel shall be subject to the City of Hayward's construction and demolition debris recycling requirements, as well as trash and recycling container storage area standards.
12. Related to the Palace Card Club's shuttle and impacts it generates in the public parking garage between Watkins Street and Mission Boulevard, an annual mitigation fee shall be paid to the City by the Club owners. **The 2019 annual mitigation fee shall be \$156,528. Thereafter, on an annual basis, the mitigation fee shall be the prior years' mitigation fee adjusted upwards by the total percentage increase in the Consumer Price Index covering the preceding one-year period (the "Periodic CPI Adjustment"). The index used shall be the All Urban Consumers Price Index (All Cities; All Items) (CPI) for the San Francisco-Oakland-San Jose area of the United States Department of Labor, Bureau of Labor Statistics. If, at the time required for the determination of the Periodic CPI Adjusted Land Value, the CPI is discontinued or revised, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the CPI had not been discontinued or revised. Such fee shall be paid annually for an initial period of five years,** with the ability of such fee to be modified or deleted by the Planning Commission at a noticed public hearing.
13. Access to security cameras shall be provided to the Hayward Police Department.
14. The partial ownership transfer to Heather Plaza, Tami Box, and Richard Box (collectively "Transferees") is contingent upon the Transferees' individual compliance with: a.) Hayward Municipal Code, Chapter 4, Article 3 - CARD CLUB AND BINGO REGULATIONS; b.) the Gambling Control Act of the State of California; and c.) the State Gaming Commission approval of the ownership transfer.

**USE PERMIT APPLICATION NO. 91-114**

**CONDITIONS OF APPROVAL**

15. All improvements indicated on the approved site plan, as amended by staff and labeled Exhibit 'A', must be installed prior to authorization for gas or electric service.
16. Outside utility meters, when not enclosed in a cabinet, shall be screened allowing sufficient distance for reader access.
17. The developer shall contact the Fire Prevention Bureau for the location of standard pipe systems, first aid fire appliances, and/or Fire Department connections.
18. As part of the building permit application, the developer shall, subject to the approval of the Planning Director:
  - a. Submit detailed awning plans including materials and colors. Awning material shall be either fire-treated or non-combustible. Indicate removal of existing wood-shingle fascia around entire building perimeter.
  - b. Submit detailed trash enclosure plan. Provisions for the recycling of glass, paper, aluminum, cardboard, etc. shall be provided within the trash enclosure. Trash enclosure construction shall be of non-combustible materials.
  - c. Submit detailed fencing plan. Existing fencing along the westerly property line adjacent to the service alley shall be replaced with a masonry block wall 8-feet in height.
  - d. Revise building elevations to indicate the northerly and westerly building walls to be repainted.
  - e. Revise roof elevation to include notation roof-mounted satellite antenna shall be painted black or dark brown.
  - f. Submit a detailed sign plan. Signs shall be limited to three in number and shall not exceed 31 square feet in area.
  - g. Submit a detailed exterior lighting plan which shall conform to city security Ordinance Requirements.
18. Prior to final occupancy, the developer shall:
  - a. Repair damaged concrete within service alley.
  - b. Repair existing drain within service alley.
19. The building interior and exterior shall comply with all requirements of the Uniform Fire and Building Codes as adopted by the city of Hayward including but not limited to State Title 24 requirements.

20. Any revision to this use permit shall be prohibited without modification of the use permit pursuant to City regulations.
21. Ninety days after commencing operation, an administrative review of the operation of the facility to ensure compatibility with adjacent uses shall be made by the Planning Director and Police Chief. If problems exist that cannot be administratively resolved, the permit shall be brought back to the Board of Adjustments for modification or addition to the conditions of approval. A similar review shall be made one-year after commencing operation. Nearby residents shall be contacted as part of these reviews.
22. The operator shall comply with all requirements, of the Security Ordinance and requirements of the Chief of Police relating to security and City regulations governing the operation of a card room.
23. Fencing, paved areas, and building exteriors shall be properly maintained and repaired when necessary.
24. Violation of conditions is cause for revocation of permit after public hearing before the duly authorized review body.
25. This permit becomes void on February 19, 1993, unless prior to that time an application for a building permit has been accepted for processing by the Building Official or an extension is approved. A request for an extension must be submitted 15 days prior to the above date.
26. The applicant, with the assistance of City staff, shall attempt to work with the owners of open parking lots located on Francisco street to ensure that patrons of the Palace Club do not utilize these parking lots.
27. With approval of the Public Works Department and within City policies, the signage of the City-owned parking lot located at the northeast corner of 'D' street and Mission Boulevard shall be clearly marked to indicate hours of available public parking.