



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, October 11, 2018, 7:00 p.m.
777 B Street, Hayward, CA 94541**

MEETING

A regular meeting of the Hayward Planning Commission was called to order at 7:21 p.m. by Chair Goldstein.

CALL TO ORDER Pledge of Allegiance

Commissioner Patton led in the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS: Willis, Andrews, Bonilla, Patton, McDermott, Faria
CHAIRPERSON: Goldstein
Absent: COMMISSIONER: None

Staff Members Present: Brick, Chan, Lee, Lochirco, Vigilia, Wright

General Public Present: 9

ELECTION OF OFFICERS:

The Planning Commission held their annual election of officers.

Commissioner McDermott made a motion to elect Commissioner Faria as Chair, Commissioner Willis Jr. as Vice Chair, and Commissioner Bonilla Jr. as Secretary.

Commissioner Patton seconded the motion.

The motion passed with the following vote:

AYES:	Commissioners Willis, Andrews, Bonilla, Patton, McDermott, Faria Chair Goldstein
NOES:	None
ABSENT:	None
ABSTAIN:	None

PUBLIC COMMENT:

There were none.



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PUBLIC HEARINGS: For agenda item No. 1, the item has been continued to a date certain of November 8, 2018.

For agenda items No. 2 and No. 3, the decision of the Planning Commission is final unless appealed. The appeal period is 10 days from the date of the decision. If appealed, a public hearing will be scheduled before the City Council for final decision.

1. Appeal of Denial of a Proposed Temporary Concrete Recycling Facility at 24701 Clawiter Road (APN: 439-0020-002-03) Kimberly Douglas for Bay Area Concrete Recycling, LLC (Applicant)/S & A Investment Holdings (Owner) requiring an Administrative Use Permit Application 201801996 **(Continued to November 8, 2018)**
2. 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 Round One Entertainment (Applicant) on Behalf of Southland Mall LP, (Owner) Requiring Approval of Conditional Use Permit Application No. 201803296

Associate Planner Lee provided a synopsis of the staff report and a PowerPoint presentation. Mr. Lee noted there were minor revisions to the Traffic Study that were clerical in nature and does not impact the analysis or its conclusions. Mr. Lee said there is an amendment to Condition of Approval (COA) 17, Section b. to now read: "Premises or its adjoining grounds will include within the tenant space and exterior areas within 50 feet of the building".

In response to Commissioner Willis' question if the proposed project is like the one in Jack London Square, Mr. Steven Takeuchi, applicant, described the facility as outlined in the staff report. The bowling will be for fun, the facility does not promote leagues, and patrons can bring their own bowling balls and shoes.

In response to Commissioner Andrews' question about having happy hours, Detective Wright, Hayward Police Department, said the City allows happy hours only at full service restaurants. In response to Ms. Andrews question about the type of games, Mr. Takeuchi said the facility will have modern games that are pulled from domestic distributors and partners in Japan. Ms. Andrews expressed concern about competition for the High Scores business located in downtown Hayward.

Commissioner Goldstein requested a description of the dining option, Mr. Takeuchi responded that they are not a full-service restaurant as the food is a convenience for the patrons and will consist of typical bowling alley food such as pizza, nachos, hamburgers,



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fries and ice cream. Mr. Goldstein said he is glad the facility will offer food on site as it can be a deterrent to alcohol consumption behavior.

Mr. Takeuchi described for Commissioner McDermott that dining tables and chairs will be spread throughout the facility, there will be a staff of approximately 40 to 50 people and they will be hiring age 18 years and above. Ms. McDermott encouraged the applicant to consider hiring locally. In response to Ms. McDermott's question about shooting/war games, Mr. Takeuchi said there will be a handful of shooting games, but the majority will be redemption games where the patrons will exchange tickets for prizes. Ms. McDermott expressed concern with shooting/war games in this family-oriented space, and as a parent and grandparent, it is a struggle with children playing those type of games, and she requested the applicant take this into consideration. Mr. Takeuchi said his game team does take this into consideration and will conform their games to the City's regulations. Mr. Takeuchi said for normal day-to-day operations security tapes are deleted after 30 days, but if there is an incident then security video will be kept longer. Associate Planner Lee responded to Ms. McDermott that the facility can hold up to 800 people, and Dick's Sporting Goods will not be impacted during the holiday season as Mr. Takeuchi has been in discussions with Dick's to schedule the project's construction to begin in mid-January with construction typically taking about five months.

Chair Faria had questions about shuttles for Cal State East Bay students, if there have been any security issues at the other locations, and if patrons can go in and out of the facility. Mr. Takeuchi said his marketing and operations team is in discussion with Southland Mall about the shuttles and will follow up on this item; patrons can come and go and upon return to the facility, patrons are subject to security measures in place to check their wristbands. Mr. Takeuchi said there have been occasional fights, but no major incidents have occurred at the other locations. Ms. Faria expressed concerns about patrons going in and out, loitering issues and the impact to Dick's Sporting Goods and Southland Mall patrons. Associate Planner Lee confirmed for Ms. Faria that the public notice area starts at Southland Mall's property line and goes 300 feet into surrounding neighborhoods. In response to Ms. Faria's concerns about traffic impacts at LaPlaya and Hesperian and if there will be any improvements, Mr. Lee said the traffic study did not indicate any impact to that intersection from the proposed project.

In response to Commissioner Willis' question about facility access on the second floor, Mr. Takeuchi said there will be two access points, one from an outside, dedicated door that goes directly to the second floor, and the other dedicated access point through the mall. Southland Mall has remodeled inside the mall to accommodate this indoor access point. Mr. Takeuchi said when the mall is closed, patrons would access the facility through the dedicated outside door and their hours of operations will be 10 a.m. to 1:30 p.m.



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Mr. Takeuchi confirmed for Commissioner Faria that there will be elevator access.

Chair Faria opened the public hearing at 8:05 p.m.

Mr. Edward Bogue, President of the Southgate Homeowners Association, spoke in favor of the project; noted he and his neighbors received the 300-foot notice about the proposed project, he said the conditions are appropriate and cover anything that may occur, it is a professional operation and the project has comprehensive security measures in place and spoke about the positive aspects when he visited the San Jose location. Mr. Bogue said the Homeowners Association agrees with the change to Condition #17 and the traffic study. He said the traffic issue at LaPlaya and Hesperian have to do with drivers and not the proposed project. Mr. Bogue noted the food and alcohol sales are side-by-side at two separate counters and operated by two separate crews. Mr. Bogue responded to Commissioner McDermott that he visited the San Jose location this past Sunday from 12:30 p.m. to 3 p.m.

Chair Faria closed the public hearing at 8:10 p.m.

Commissioner Bonilla said he is excited about the proposed project and how it will help to revitalize the City. He said that it is great to have these types of establishments come to the City and hopes that more will open in Hayward.

Commissioner McDermott said this is exciting for Southland Mall as it will help revitalize the mall, she likes that this is family-oriented entertainment, children will have a great time and then there is time for young adults as well. Ms. McDermott said this is a great location and she will be supporting the motion.

Commissioner Andrews is excited about the proposed project and encouraged the applicant to hire locally.

Chair Goldstein concurred with his fellow Commissioners and would have liked hiring locally to be a condition but at this stage he instead asked the applicant to have a preference to hire locally as this will benefit the local economy and decrease the traffic impacts.

Commissioner Willis commented that this will be a regional facility and will draw people from around the Bay Area. He said the proposed project will bring a new form of entertainment to the region.

Commissioner Willis made a motion to approve the staff recommendation which includes the amendment to Condition of Approval (COA) 17, Section b. to now read: "Premises or its adjoining grounds will include within the tenant space and exterior areas within 50 feet of the building".



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Commissioner Patton seconded the motion.

The motion passed with the following vote:

AYES:	Commissioners Willis, Andrews, Bonilla, Patton, McDermott, Goldstein Chair Faria
NOES:	None
ABSENT:	None
ABSTAIN:	None

3. Proposed Cannabis Manufacturing (Level 1) Use Located at 2363 Tripaldi Way, Assessor Parcel No. 463-0093-001-03 by Stoned Age Edibles (Applicant); Ching Lee (Property Owners), Requiring Approval of Conditional Use Permit Application No. 201803933

Principal Planner Lochirco provided a synopsis of the staff report and a PowerPoint presentation.

In response to Commissioner Goldstein's request for more details on the Community Benefits Program and their hiring plan, Mr. Milgram, applicant, indicated partnering with Mr. Morales of the South Hayward Parish, who was seated in the audience, on projects such as organize events for the Clean Streets initiative for graffiti clean-up, create a mural, and partner with the Chamber of Commerce and the Hayward Rotary Club on future community events. Mr. Milgram said he and his team are focused on Hayward local hiring, continued business education for their staff, using the living wage calculator, and striving to have a good working relationship with the City.

In response to Commissioner McDermott's questions about the facility and their hiring plan, Mr. Milgram said the facility they are renting is owned by Red Dot Kitchens, they will be hiring five employees, and will hire more as needs increase. Ms. McDermott thanked the applicant for hiring locally and asked about the GPS tracking system. Mr. Milgram explained how the GPS tracking system will work for their product, the security in place and the delivery of the product. He said the GPS tracker is connected to the track and tray system which is mandated by the State of California, and that this information is sent to the State and hosted onsite for local law enforcement. Mr. Milgram said the routes will be randomized for drivers not to duplicate the same route. Mr. Milgram said he will be working fulltime, introduced his two co-owners, Ms. Samantha Flores, who is the kitchen manager and bookkeeping/operations and Mr. Brian Guilardi, who is the technical consultant, and will assist with any engineering requirements. Ms. McDermott requested, as part of the Community Benefits Program, that the applicants consider partnering with the Hayward Unified School District (HUSD) on promoting a program to educate middle and high school students on the dangers of e-cigarettes and vaping, an increasing trend



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among these age groups; Mr. Milgram said they have developed a pamphlet that speaks about cannabis awareness and diversion to prevent teens from smoking and said they will contact HUSD to partner with them. Mr. Milgram responded to Ms. McDermott that for 24-hour contact information, all three co-owners, as well as the security company, will provide their contact numbers.

In response to Commissioner Willis' questions about cannabis product's addictiveness, their customer base, and food product regulation, Mr. Milgram said that cannabis has been found to be non-addictive, their customers are strictly wholesalers, and their food product is subject to the Manufactured Cannabis Safety Branch (MCSB) regulated by the State of California Department of Food. Mr. Milgram assured Mr. Willis that their facility is more than 600 feet from any sensitive operations.

In response to Commissioner Andrews' question about the cannabis concentrate, Mr. Milgram said the concentrate can only be used for food manufacturing and the product cannot be sold on the black market. Mr. Milgram said they are following all requirements recommended by the City ensure their facility is secure.

In response to Commissioner McDermott's question regarding protocols for approval, Principal Planner Lochirco explained that the applicant can apply to the State at any time for a license to operate, but the State will ask the City if the applicant has received land use approval which would be the use permit. Once the use permit has been issued, then the State will offer the applicant a license to operate. Mr. Lochirco said the City has several Conditions of Approval (COA) that are included prior to the issuance of the City's Cannabis Permit. Mr. Lochirco said when Council took action earlier in the year, it was a preselection process contingent upon the applicant finding a location, acquiring land use approvals, and ensuring the build-out of the site/space be consistent with the applicant's business plan in order to obtain their Cannabis Permit. In response to Ms. McDermott's inquiry regarding what revenue the City would receive, Mr. Lochirco said the proposed project would be taxed similar to any manufacturing use when products are sold and taxed for distribution.

Mr. Milgram thanked the City staff for their time in assisting them with their proposed project. He and his fellow owners look forward to making a positive impact on the City.

Chair Faria opened the public hearing at 8:56 p.m.

Dennis Mack, Hayward business owner, opposed the proposed project. Mr. Mack owns the building east of the proposed project site and has concerns about security and safety for his employees, what kind of activity this industry will bring to the area, and how the cannabis businesses cannot deposit their money into banks nor obtain business insurance. Principal Planner Lochirco said the State is in discussions regarding implementing an



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individual banking system independent of the FDIC regulations that prohibit deposits of funds derived from cannabis industries. Mr. Lochirco said Hayward along with cities throughout California and other States that have legalized cannabis have these same questions and issues.

Mr. Milgram said to address safety and security, they are implementing security measures of cameras and lights, and there will be a security guard onsite during operations. He said the landlord has insurance on the buildings and the applicants are obtaining separate cannabis insurance policies and shared that there are about 50-60 longstanding cannabis industry insurance companies specific to California and a few dozen nationwide. Mr. Milgram said the kitchen will have a fire suppression system, they do not work with any volatile materials, and they have received the Fire Department's approval.

In response to Commissioner Willis, Mr. Milgram provided his work background which includes experience in making businesses run well and pointed out that Ms. Flores and Mr. Guilardi also have a lot of business experience.

In response to Commissioner Goldstein's question of product and general liability insurance, Mr. Milgram said that the cannabis insurance also covers those areas.

Mr. Ralph Morales, Interim Executive Director for South Hayward Parish, spoke in favor of the proposed project; said the applicant has been very helpful and is one of the "good guys"; the South Hayward Parish Board approve working with Mr. Milgram and said this has been a good fit for the Parish.

Chair Faria closed the public hearing at 9:08 p.m.

Commissioner Andrews suggested the applicants reach out to the Keep Hayward Clean and Green Task Force which can connect the applicants with local artists. Ms. Andrews did have concerns about security and suggested that the applicant's insurance company conduct a risk assessment to review their security plan and share the results with Mr. Mack.

Commissioner McDermott commented that the cannabis industry is new for both medical and recreational use and understands that there are reservations. Ms. McDermott said she knows Mr. Morales and the South Hayward Parish and trusts his opinion about the applicant. Ms. McDermott appreciated the applicant's enthusiasm about helping the Hayward community.

Commissioner Willis said he also has concerns, but it is important for the City to control and regulate the cannabis industry and not drive it underground. Mr. Willis hopes this business is successful.

Commissioner Willis made a motion to approve the staff recommendation.



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Commissioner Bonilla seconded the motion

The motion passed with the following vote:

AYES:	Commissioners Willis, Andrews, Bonilla, Patton, McDermott, Goldstein Chair Faria
NOES:	None
ABSENT:	None
ABSTAIN:	None

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters:

Principal Planner Lochirco announced to the Commissioners that they will be receiving invitations to a Commissioners reception hosted by the Mayor and City Council. The reception will be held in the City Hall Rotunda on December 14, 2018, from 6 to 8 pm.

Commissioners' Announcements, Referrals:

There were none.

ADJOURNMENT

Chair Faria adjourned the meeting at 9:18 p.m.

APPROVED:

Ray Bonilla, Secretary
Planning Commission

ATTEST:

Denise Chan, Senior Secretary
Office of the City Clerk