



CITY OF
HAYWARD
HEART OF THE BAY

PLANNING COMMISSION

OCTOBER 3, 2013

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CITY OF HAYWARD
777 B STREET, HAYWARD, CA 94541-5007
(510) 583-4205 / www.hayward-ca.gov
LIVE BROADCAST – LOCAL CABLE CHANNEL 15

AGENDA
HAYWARD PLANNING COMMISSION
THURSDAY, OCTOBER 3, 2013 , AT 7:00 PM
COUNCIL CHAMBERS

MEMBERS OF THE AUDIENCE WISHING TO ADDRESS THE PLANNING COMMISSION:
 Obtain a speaker’s identification card, fill in the requested information, and give the card to the Commission Secretary. The Secretary will give the card to the Commission Chair who will call on you when the item in which you are interested is being considered. When your name is called, walk to the rostrum, state your name and address for the record and proceed with your comments. The Chair may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens for organization. Speakers are expected to honor the allotted time.

ROLL CALL

SALUTE TO FLAG

PUBLIC COMMENT: (The PUBLIC COMMENTS section provides an opportunity to address the Planning Commission on items not listed on the agenda. The Commission welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Commission is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff for further action).

ACTION ITEMS: (The Commission will permit comment as each item is called for Public Hearing. Please submit a speaker card to the Secretary if you wish to speak on a public hearing item).

PUBLIC HEARINGS: For agenda item No. 1, 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. Conditional Use Permit No. PL-2013-0115 – Review of Operations of an Existing Billiard Parlor (Chalk It Up, UP-90-59) and Request to Modify Conditions of Approval (PL-2010-0046) to Allow Minors on Weekends, to Allow “Happy Hours,” to Allow the Sale of Beer by the Pitcher and Bucket, and to Modify Existing Security Requirements. The proposed Project is Categorically Exempt from Environmental Review in Accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15301(e)(2), Existing Facilities – Noam Garfinkel (Applicant)/ Raj Chabra (Owner). The Property is Located at 22546 Foothill Boulevard, between A and B Streets, in the Central City-Commercial (CC-C) Zoning Sub-district.

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| | <p>Assistance will be provided to persons requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Persons needing accommodation should contact Sonja Dal Bianco 48 hours in advance of the meeting at (510) 583-4204, or by using the TDD line for those with speech and hearing disabilities at (510) 247-3340.</p> |
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[Planning Commission Staff Report](#)
[Attachment I - Area and Zoning Map](#)
[Attachment II - Findings for Approval](#)
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COMMISSION REPORTS:

2. Oral Report on Planning and Zoning Matters
3. Commissioners' Announcements, Referrals

APPROVAL OF MINUTES

4. None.

ADJOURNMENT

PLEASE TAKE NOTICE that if you file a lawsuit challenging any final decision on any public hearing item listed in this agenda, the issues in the lawsuit may be limited to the issues which were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing. **PLEASE TAKE FURTHER NOTICE** that the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.

NOTE: Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Permit Center, first floor at the above address. Copies of staff reports for agenda items are available from the Commission Secretary and on the City's website the Friday before the meeting.

DATE: October 3, 2013

TO: Planning Commission

FROM: Carl T. Emura, ASLA. Associate Planner

SUBJECT: **Conditional Use Permit No. PL-2013-0115 – Review of Operations of an Existing Billiard Parlor (Chalk It Up, UP-90-59) and Request to Modify Conditions of Approval (PL-2010-0046) to Allow Minors on Weekends, to Allow “Happy Hours,” to Allow the Sale of Beer by the Pitcher and Bucket, and to Modify Existing Security Requirements. The proposed Project is Categorically Exempt from Environmental Review in Accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15301(e)(2), Existing Facilities – Noam Garfinkel (Applicant)/ Raj Chabra (Owner).**

The Property is Located at 22546 Foothill Boulevard, between A and B Streets, in the Central City-Commercial (CC-C) Zoning Sub-district.

RECOMMENDATION

That the Planning Commission finds that the proposed Project is categorically exempt from the California Environmental Quality Act (CEQA) Guidelines, Section 15301(e)(2), Existing Facilities, and approves modifying the conditional use permit to allow minors, aged 18 and above, in the establishment on Fridays and Saturdays, subject to the attached findings and revised conditions of approval.

SUMMARY

Staff, including the Hayward Police Department (HPD) staff, is recommending that only one requested revision to the existing use permit conditions be approved, which would allow minors aged 18 and above in the establishment on Fridays and Saturdays. The other recommended revisions to allow happy hours, sale of beer by the pitcher or bucket, and reduction in security personnel without HPD approval, is not recommended for approval. The reasons that such amendments are not supported are concerns with potential over-drinking and because staff feels there are other ways to attract customers aside from alcohol-related promotions, as explained in the staff report. The recommendation to allow minors aged 18 and older in the venue two more days a week is done to encourage a more active downtown and a venue for college-aged students, while requiring ID checks and wristbands for minors.

BACKGROUND

In 1991, the City of Hayward Board of Adjustment approved a Conditional Use Permit (UP 90-59) for a billiard parlor at 22546 Foothill Boulevard, with a restriction prohibiting the sale of alcohol on the premises.

On March 10, 2011, the Planning Commission approved Conditional Use Permit PL-2010-0046 to allow the sale of beer at the establishment, Chalk It Up, and to increase the occupancy from 100 to 250 persons. When the Planning Commission considered the current conditional use permit, the applicant elected to exclude minors on Fridays and Saturdays in order to reach out to an older customer base and to eliminate the risk of underage drinking on the two busiest nights of the week. A condition of approval was added to the use permit prohibiting minors in the billiard parlor on Fridays and Saturdays. Additionally, in an effort to minimize the establishment's potential negative impacts to the Downtown and on public safety resources, the conditions also prohibit happy hour drink specials and the sale of pitchers and buckets of beer. The conditions also required that the Planning Commission review the use permit and the facility's conformance with the conditions of approval after one year of operation. The one-year anniversary of the opening of the bar was August of 2012. Because of the on-going construction on Foothill Boulevard and the work on the building façade, staff extended the review period and the required one-year review is part of this review.

The applicant subsequently applied for and was granted an Alcoholic Beverage Control (ABC) Type 40 license for the billiard parlor. A Type 40 ABC license allows the sale of beer for consumption on or off the premises. The license allows minors on the premises and requires snacks and/or sandwiches be available for sale.

Currently, Chalk It Up has nineteen pool tables, one ping-pong table, a bar and lounging area in the basement and a lobby area on the street level. Building façade improvements have recently been completed, and Chalk It Up also has a new entrance and lobby at the street level on Foothill Boulevard. Chalk It Up is open 6:00 p.m. to 1:00 a.m., Sundays through Thursdays, and 6:00 p.m. to 2:00 a.m. on Fridays and Saturdays. Customers of all ages, including minors under the age of 21, are allowed Sundays through Thursdays.

As required by the existing conditions of approval, the applicant has provided documentation that all Chalk It Up employees who serve alcohol have completed the Department of Alcoholic Beverage Control's Licensee Education on Alcohol and Drugs Alcohol Seller/Server (LEAD) training. Other required improvements to the facility, including exterior lighting, a new trash enclosure and a sign permit for the new sign, have also been completed.

Hayward Police Department's (HPD) Crime Analysis Unit conducted an analysis for service calls within 500 feet and quarter-mile mile radius of Chalk It Up for the period of April 2011 to September 24, 2013 and found no incidents directly attributed to the facility. HPD staff noted that remote access to the digitally recorded CCTV Security system via the internet was inoperable at the

time it was checked in April 2013; however, the system has since been repaired and is currently operable.

According to the applicant, Chalk It Up has experienced a forty to fifty percent decline in weekend gross sales and a fifty percent decrease in customers compared with its previous operation that did not include beer sales and therefore, accommodated minors during the weekends. As stated previously, with the approval of the use permit in 2011 to allow beer sales, a restriction was placed to prohibit minors entering the facility on Fridays and Saturdays.

The applicant has observed that many of their regular customers were college age or younger, and while beer was an attractive addition to the billiard parlor, many legal-age young adults stopped coming when their underage friends could not join them. In addition, the Foothill Boulevard roadway and building improvements construction contributed to the decline in patronage. Subsequently, the applicant reduced the number of security guards from two to one on Fridays and Saturdays, after receiving approval from the HPD to do so, in accordance with the conditions of approval. The applicant also reports that the introduction of beer sales had little or no impact on generating additional business during the rest of the week. In addition, Chalk It Up stopped issuing wristbands and stamping hands for persons age 21 and older when beer was purchased, as required by the current conditions of approval. The applicant informed staff and HPD that he felt his employees could adequately monitor individuals who purchased beer.

To increase business and as reflected in Attachment VI, the applicant requests that minors be allowed into the facility on Fridays and Saturdays, that "happy hour" drink specials be approved, and the sale of beer by pitcher or buckets be allowed. In addition, the applicant requests that discretion be granted to him, without input or approval by HPD, in determining how many security guards are needed at the billiard parlor.

DISCUSSION AND STAFF ANALYSIS

Allowance of Minors on Fridays and Saturdays - After review of the request and calls for service, the Hayward Police Department (HPD) supports allowing minors in the billiard parlor on Fridays and Saturdays only if the other request to Condition 30 (Security Guards), Condition 38 (Happy Hours) and 39 (Sales of Pitchers/bucket of beer) are denied.

Staff and HPD support lowering the age requirement to 18 years old for customers for Fridays and Saturdays so that the downtown area has an entertainment venue for college age young adults on the weekends and Chalk It Up can reach out to them. Therefore, staff recommends modifying Condition 31 to read (modifications are indicated in bold text and/or crossed off):

*"Minors **under the age of 18** shall not be permitted in the billiard parlor on Friday and Saturday."*

In addition, staff recommends and HPD supports the following modifications to Condition 32 for monitoring minors and purchasing of beer:

*When minors are allowed into the billiard parlor, wristbands shall be given to persons ~~over~~ **under** twenty-one. **Minors shall only be allowed to utilize the six billiard tables in the rear half of the billiard parlor closest to the bar. For individuals purchasing beer, their age shall be verified and hand stamped.** ~~and their hand stamped when they purchase a beer and the~~ **The** security guard and staff shall make regular rounds (minimum every 30 minutes) to ensure that anybody drinking alcohol has a ~~wristband and~~ **hand** stamp. In addition, beer may not be purchased for another individual to drink. ~~on days minor are present.~~*

Modification of Security Requirements - Under the current conditions of approval, the owner is required to provide one uniformed contract security guard from 9:00 p.m. until one-half hour after closing on Thursday, Friday, and Saturday. On Friday and Saturday, a second uniformed contract security guard is required from 6:00 p.m. until one-half hour after closing. Condition 30 states:

Every Thursday, Friday and Saturday, from 9 pm until a half hour after closing, the permittee/licensee shall provide one uniformed contract security guard. Every Friday and Saturday, a second uniformed contract security guard shall be provided from 6:00 pm until a half hour after closing. 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.

The applicant requested that a second security guard not be required and it be left up to his discretion when a second security guard would be needed. HPD recommends denial of this modification because it anticipates an increase in customer volume when minors are permitted on Friday and Saturday and believes a second security guard would be required for the following reasons:

- 1) One (1) security guard is needed at the street level lobby to check identification cards and provide wristbands for minors 18 and above.
- 2) A second security guard is needed inside and outside the business to conduct security checks to discourage minors from consuming alcoholic beverages and subjects from loitering and smoking outside the business. (Staff received a comment from the public noting people smoke marijuana and drink in the rear parking lot.)

HPD does not believe the applicant should be given sole discretion to determine when a second security guard is required, since he may request a reduction from the Chief of Police at any time.

Allowance for Happy Hour - The applicant also requests that he be able to have “happy hours” and that condition 38 be removed. He believes it would draw customers during the slower periods of the day. Condition 38 states:

No reduced priced “Happy Hours” drink specials are permitted.

HPD is not supportive of this request because there is a large concentration of drinking establishments in the downtown area (eight bars) and an over-concentration of on-sale liquor licenses within the census tract in which Chalk It Up operates. Staff recommends that the applicant explore other promotions to bring customers in during slower periods. Such promotions could include reduced hourly rates to play billiards; reduced prices or free food, chips, peanuts, etc.; and conducting leagues and tournaments.

Pitchers and Buckets of Beer - The applicant would like to sale pitchers and buckets of beer. According to the applicant, many of their customers have requested that they serve pitchers of beer. The applicant feels confident that they can control the access of the beer to minors. Condition 39 states:

No sales of pitchers or buckets of beer shall be permitted.

HPD is not supportive of removing this condition. The sale of beer pitchers or buckets of beer would provide easier access for alcohol consumption, especially by minors.

Conditional Use Permit Findings - As conditioned, staff believes the following findings can be made in support of allowing minors 18 and over in the billiard parlor on Fridays and Saturdays:

- a. The proposed use is desirable for the public convenience or welfare.**
The allowance of minors 18 and over on Fridays and Saturdays is desirable for the public convenience in that it would provide a college age venue in the downtown area on the weekend that would in turn increase pedestrian traffic along the east side of Foothill Boulevard between A and B Streets and help revitalize downtown Hayward.
- b. The proposed use will not impair the character and integrity of the zoning district and surrounding area.**
The allowance of minors 18 and over on Friday and Saturday, as conditioned, will not impair the public welfare in that minors would be given a wristband to identify them as a minor and be restricted to the six pool tables closest to the bar/check in counter where the establishment's staff can more easily monitor alcohol consumption.
- c. The proposed use will not be detrimental to the public health, safety, or general welfare.**
The allowance of minors 18 and over in the billiard parlor on Fridays and Saturdays, as conditioned, will not be detrimental to the public health, safety, or general welfare in that security guards/staff would check identification upon entering the billiard parlor, issue wristband to minors and be restricted to the six pool tables closest to the bar/check in counter where the establishment's staff can easily monitor alcohol consumption.
- d. The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.**
The allowance of minors 18 and over in the billiard parlor on Fridays and Saturdays, as conditioned, is in harmony with applicable City policies and the intent and purpose of

the zoning district involved in that the purpose of the Central City – Commercial Sub-District is to establish a mix of businesses and other activities which will enhance the economic vitality of the downtown area. Allowing minors 18 and over will provide a college age venue in the downtown area, which will help enhance the economic vitality of the downtown area.

Environmental Review - It has been determined that the conditional use permit application is categorically exempt from environmental review in accordance with the California Environmental Quality Act (CEQA) guidelines, Section 15301, Existing Facilities.

PUBLIC CONTACT

An official notice of this application was sent on April 26, 2013, to property owners and tenants within a 300-foot radius. In addition, the notice was sent to Hayward Coalition for Healthy Youth (HCHY). Staff received two responses: one respondent wishes to remain anonymous and another was received from HCHY. The anonymous respondent indicated support for allowing beer by the pitcher and happy hours, but was not supportive of reducing the security guards and notes problems occurring outside of the billiard parlor (see Attachment V). The Hayward Coalition for Healthy Youths is opposed to lessening the conditions that would “create more subtle opportunities for our youth to engage in drinking” and expresses “attracting younger people (to a drinking establishment) is not conducive to a family-oriented and safe environment for Hayward (see Attachment IV).

On September 20, 2013, A Notice of Public Hearing for the Planning Commission meeting was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor’s records, and to interested parties. At the time this report was written, staff did not receive responses to this notice.

NEXT STEPS

The modified conditions of approval will be reviewed by the Development Services Department and the Police Department following one year of continued operation of Chalk It Up to determine compliance.

Prepared by: Carl T. Emura, ASLA, Associate Planner

Approved by:



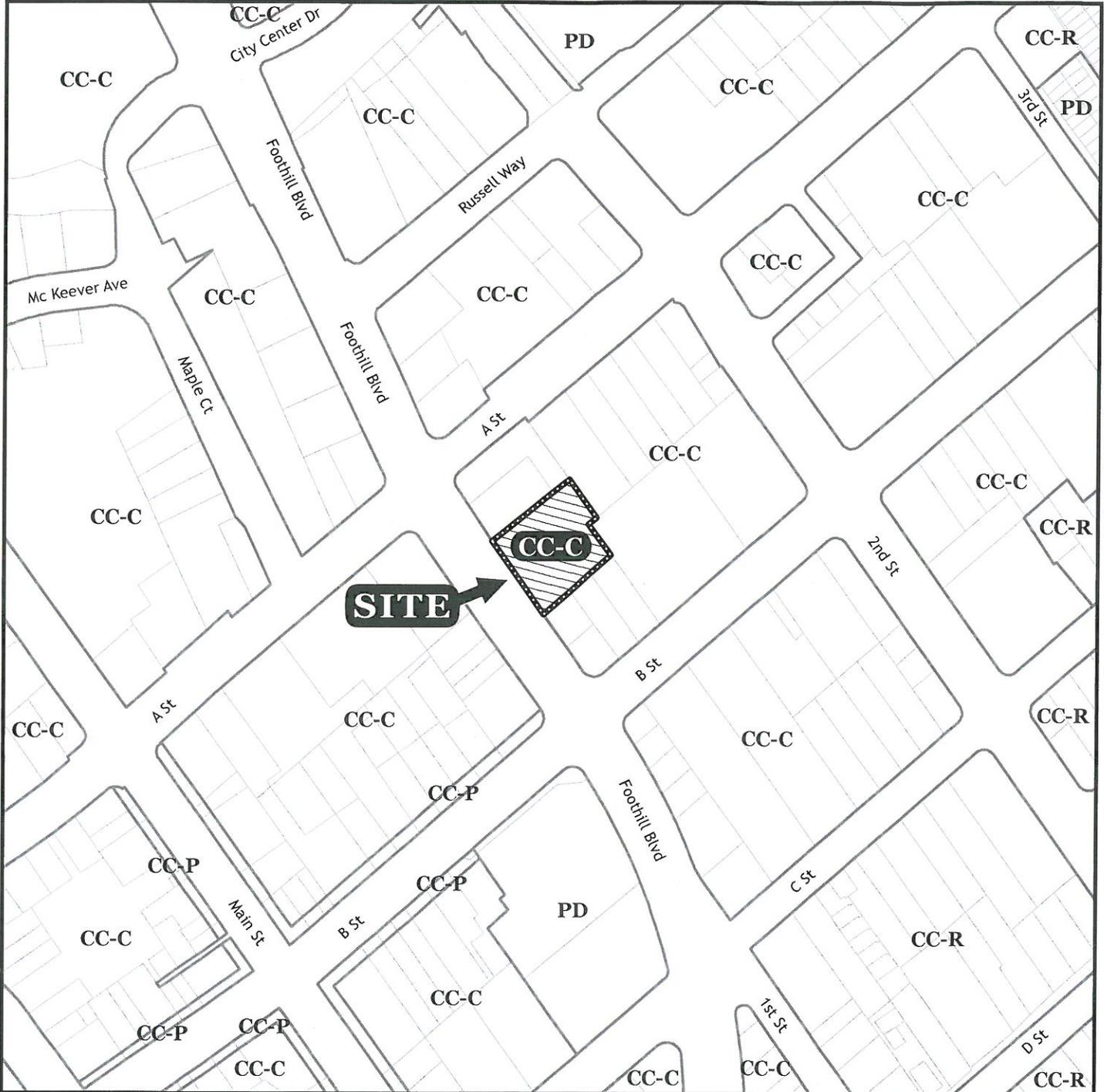
David Rizk, AICP
Development Services Director

Attachments:

- Attachment I - Area and Zoning Map
- Attachment II - Findings for Approval
- Attachment III - Conditions of Approval
- Attachment IV - Letter from Hayward Coalition for Healthy Youth dated May 8, 2013
- Attachment V - Email dated April 30, 2013
- Attachment VI – Applicant’s Written Submittal
- Attachment VII - Plans



Area & Zoning Map



PL-2013-0115 CUP Review

Address:
22546 Foothill Boulevard

Applicant:
Noam Garfinkel

Owner:
Raj Chabra

Zoning Classifications

- CENTRAL CITY**
 CC-C Central City - Commercial
 CC-P Central City - Plaza
 CC-R Central City - Residential
- OTHER**
 PD Planned Development



**CITY OF HAYWARD
PLANNING DIVISION
CONDITIONAL USE PERMIT APPLICATION NO. PL-2013-0115
(Modification of Conditional Use Permit PL-2010-0046)
October 3, 2013**

CONDITIONAL USE PERMIT NO. PL-2013-0115 –Noam Garfinkel (Applicant)/ Raj Chabra (Owner) – One Year Review of Operations of Chalk It Up and Request to Modify Security Guard Requirements, to Allow Minors on Friday and Saturday, to Allow “Happy Hours” and the Sale of Beer by the Pitcher and Bucket

The site is located at 22540 Foothill Boulevard, between A & B Street, in the Central City – Commercial (CC-C) Subdistrict, (APN: 427-0011-016-00).

FINDINGS FOR APPROVAL

- A. Approval of Use Permit Application No.PL-2013-0115 to allow modifications to the Conditions of Approval (UP PL-2010-0046) for the operation of a bar in an existing establishment in the Central City- Commercial District is exempt from the provisions of California Environmental Quality Act (CEQA) pursuant to project is Categorically Exempt from the California Environmental Quality Act (CEQA) Guidelines, Section 15301 Class 1 (a), Existing Facilities;
- B. **The proposed use is desirable for the public convenience or welfare.**
The allowance of minors 18 and over on Fridays and Saturdays is desirable for the public convenience in that it would provide a college age venue in the downtown area on the weekend that would in turn increase pedestrian traffic along the east side of Foothill Boulevard between A and B Streets and help revitalize downtown Hayward.
- C. **The proposed use will not impair the character and integrity of the zoning district and surrounding area.**
The allowance of minors 18 and over on Friday and Saturday, as conditioned, will not impair the public welfare in that minors would be given a wristband to identify them as a minor and be restricted to the six pool tables closest to the bar/check in counter where the establishment’s staff can more easily monitor alcohol consumption.
- D. **The proposed use will not be detrimental to the public health, safety, or general welfare.**
The allowance of minors 18 and over in the billiard parlor on Fridays and Saturdays, as conditioned, will not be detrimental to the public health, safety, or general welfare in that security guards/staff would check identification upon entering the billiard parlor, issue wristband to minors and be restricted to the six pool tables closest to the bar/check in counter where the establishment’s staff can easily monitor alcohol consumption.

E. **The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.**

The allowance of minors 18 and over in the billiard parlor on Fridays and Saturdays, as conditioned, is in harmony with applicable City policies and the intent and purpose of the zoning district involved in that the purpose of the Central City – Commercial Sub-District is to establish a mix of businesses and other activities which will enhance the economic vitality of the downtown area. Allowing minors 18 and over will provide a college age venue in the downtown area, which will help enhance the economic vitality of the downtown area.

CITY OF HAYWARD
CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT APPLICATION NO. PL-2013-0115
(Modification of Conditional Use Permit PL-2010-0046
Changes indicated in Bold print or struck out)
October 3, 2013

CONDITIONAL USE PERMIT NO. PL-2013-0115 –Noam Garfinkel (Applicant)/ Raj Chabra (Owner) – One Year Review of Operations of Chalk It Up and Request to Modify Security Guard Requirements, to Allow Minors on Friday and Saturday, to Allow “Happy Hours” and the Sale of Beer by the Pitcher and Bucket

The site is located at 22540 Foothill Boulevard, between A & B Street, in the Central City – Commercial (CC-C) Subdistrict, (APN: 427-0011-016-00).

CONDITIONS OF APPROVAL

The billiard parlor shall operate according to these conditions of approval, the plans labeled Exhibit "A" and the previously approved conditions of approval for the billiard parlor (UP 90-59 and CUP PL-2010-0046) except as superseded by the conditions herein. This permit becomes void three years after the effective date of approval, unless prior to that time the operation of the bar has commenced. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division at least 15 days prior to March 10, 2014.

1. If a building permit is issued for construction of improvements authorized by the use permit approval, said approval shall be void two years after issuance of the building permit, or three years after approval of the application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance upon the use permit approval.
2. Any modification to the approved plans or conditions shall require review and approval by the Planning Director.
3. 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.
4. Prior to the sale of alcohol, all interior improvements (bar, lighting, additional security cameras, etc) shall be completed and new menu items shall be available to customers.
5. 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 it may readily be viewed by the general public.
6. At the expense of the applicant, the Planning Commission shall review the use permit and the facility's conformance with the conditions of approval after one-year of operation.

7. A covered trash enclosure shall be provided. Contact the City's Solid Waste Division in Public Works for requirements.
8. All illegal signs shall be removed from the building within one month of approval of this permit. All new exterior signs shall require a separate Sign Permit and shall comply with the Sign Ordinance of the City of Hayward.
9. Prior to final inspection/occupancy, all improvements and conditions of approval shall be completed to the satisfaction of the Planning Director, Building Official, Police Chief, and Fire Chief.
10. The exterior of the premises, including adjacent public sidewalks and all parking lots under control of licensee(s), 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. The lighting shall meet Chapter Title 24 of the California Building Code.
11. The premises shall be kept in a clean, well-maintained condition. Paint, doors 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.
12. There shall be no promotional signs of any kind affixed on the interior or exterior of the doors or windows of the business, except for one information area with a maximum area of 25% of the glass door providing name of business, hours of operation, emergency contact information, etc. The storefront glass doors or windows shall not be tinted.
13. No pay phones shall be permitted on the premises.
14. No mechanical equipment, 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.
15. Per the California Building Code and Fire Code, occupant load signage shall be installed within the billiard parlor.
16. Violation of any of the conditions of approval of this conditional use permit may constitute grounds for revocation pursuant to Section 10-1.3260 of the Zoning Ordinance.

Police Department

17. The occurrence of more than two (2) "Critical Incidents" during business hours with in 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 not limited to discharge of firearms, robbery, physical assault, or assault with a deadly weapon.

- b. "Premises or its adjoining grounds" will include with the structure of 22450 Foothill Blvd, the sidewalk where queuing of admission occurs, the area to the rear of the business and including any parking lots within 50 feet of the rear of the business and including any parking lots within 50 feet of the building.

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

18. The Hayward Police Department will conduct periodic audits of all Police calls for service involving the billiard parlor. If after reviewing the audit, the Hayward Police Chief determines that there has been an excessive number of calls for service involving the billiard parlor'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 (i.e. genre of music, facility, marketing demographics) to reduce the number of calls for service. If the permittee is unwilling to make changes or refuses to make changes in billiard parlor operations to reduce calls for service, the Police Chief may recommend revocation of this permit.
19. 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.
20. 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.
21. 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.
22. All employees and the permittee of the billiard parlor 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.
23. 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.

24. Prior to issuance of building permit, a revised written security plan shall be submitted for review and approval by the Police and Fire Departments to ensure maintenance of peace and safety on the subject property and in the surrounding area. The security plan be maintained at all times and shall address, but not be limited to, the following:
- (a) The number, training, duties, means of identification and equipment of security personnel;
 - (b) Age verification procedures, weapon screening and customer access controls;
 - (c) Prevention of minors from drinking and loitering;
 - (d) Prevention of loitering and alcohol consumption in the vicinity of the establishment and parking areas;
 - (e) Prevention measures to be taken to ensure that patrons and visitors refrain from incidents of violence and/or intoxication that adversely impact the safety of the community;
 - (f) Enforcing maximum occupancy;
 - (g) Rules of acceptable conduct;
 - (h) Protocol for contacting the Hayward Police Department for disturbances and acts of violence;
 - (e) Compliance with the Alcoholic Beverage Control license requirements;
 - (f) The written policies, procedures and practices of security personnel;
 - (g) Fire prevention measures, fire alarm and suppression systems and fire exiting;
 - (h) After-hours security;
 - (i) Policies and procedures for graffiti and outside litter control;
 - (j) Maintenance of maximum occupancy loads including an accurate system to keep head counts for Police Department and Fire Marshal reporting;
 - (k) Cash handling procedures
 - (j) Evacuation and procedure plan which addresses: fire, natural disaster, crime of violence and power failure;
 - (l) Location of security staff, i.e. security personnel shall be assigned to periodically check the rear parking area;
 - (m) Protocol for dealing with a patron refusing to leave and citizen's arrest for trespassing;
 - (n) Protocol and procedures for preventing minor from drinking;
 - (o) Bar and Billiard Parlor occupancy compliance and patron removal;
 - (p) Specifications and operating procedures for a Close Circuit Television System with a Digital Video Recorder covering the parking lot, entrances and exits, bar area and public assemblage areas.

25. A fully enhanced operating/recording digital video surveillance system with retrievable memory and containing 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. Recordings of this system shall be available to law enforcement upon demand and as a condition of operating.
26. Permittee/Licensee is allowed an ABC Type 40 (On-Sale Beer Only).
27. Violation of Department of Alcohol Beverage Control regulations is grounds for revocation of this permit.
28. The applicant is required to bring the Alcoholic Beverage Control application to the Planning Division for review in consultation with Police Department staff. At that time, the conditions of approval will be attached to the application form to be submitted by the proponent to the Department of Alcoholic Beverage Control.
29. Hours of the sales of alcohol shall be limited from 10am to 1 am daily. The kitchen must be open and sandwiches and snacks must be available for sale whenever alcohol is served.
30. Every Thursday, Friday, and Saturday, from 9 pm until a half hour after closing, the permittee/licensee shall provide one uniformed contract security guard. Every Friday and Saturday, a second uniformed contract security guard shall be provided from 6 pm until a half hour after closing. 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.
31. Minors **under the age of 18** shall not be permitted in the billiard parlor on Friday and Saturday.
32. When minors are allowed into the billiard parlor wristbands shall be given to persons ~~over~~ **under** twenty-one. **Minors shall only be allowed to utilize the six billiard tables in the rear half of the billiard parlor closest to the bar. For individuals purchasing beer, their age shall be verified and hand stamped.** ~~and their hands stamped when they purchase a beer and the~~ The security guard and staff shall make regular rounds (minimum every 30 minutes) to ensure that anybody drinking alcohol has a ~~wristband and hand~~ stamp. In addition beer may not be purchased for another individual to drink ~~on days minors are present.~~
33. Interior illumination shall allow the unaided inspection of personal identification by members of the Hayward Police Department while inside premises.
34. No outside/promoter sponsored events are allowed on the premise.
35. No dancing, live bands, karaoke or pre-recorded music (DJ's) are permitted without proper permits issued by the City of Hayward.
36. No cover charge or admittance fees.
37. No minimum drink purchase or similar charge or minimum purchase shall be imposed on or required of customers entering the establishment.
38. No reduced priced or "Happy Hour" drink specials are permitted.

39. No sales of pitchers or buckets of beer shall be permitted.
40. 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 six months 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 Ryan Cantrell at the Hayward Police Department at 510-293-7013 for information regarding class scheduling.
41. No employee or agent shall solicit or accept any alcoholic or non-alcoholic beverage from any customer while in the premises.
42. The sale of alcoholic beverages for consumption OFF the premise is strictly prohibited.
43. Consumption of alcoholic beverages outside the main building is strictly prohibited. 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 that 18" x 24" and have 2 inch block lettering.
44. Self-service of alcoholic beverages is prohibited, included refrigerated coolers and buckets.
45. The permittee shall be responsible for the maintenance of the peace to ensure order on the permittee's property. The permittee shall take all necessary steps to ensure that permittee's patrons and visitors refrain from incidents of violence and/or intoxication that adversely impact the safety of the community and, therefore, become an increased burden on the limited resources of the Police Department.
46. 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 that 18" x 24" and have 2 inch block lettering.
47. 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.

Fire Department

48. Maximum Occupancy is limited to 100 persons. A fire sprinkler system shall be install in the entire building (1st, 2nd floors and basement) with full protection in accordance with NFPA 13 if the occupancy exceeds 100 persons. The installation of the sprinkler system shall allow the maximum occupancy in the billiard parlor to be lifted from 100 to 150 persons. A fire sprinkler permit is required for the installation of the sprinkler system.
49. An annual A-2 occupancy permit shall be obtained annually.

50. Panic hardware shall be required on all exit doors.
51. Exit illumination signage required as per Chapter 10 of the Uniform Building Code.
52. Aisle widths shall meet requirements of the Uniform Fire and Building Codes.
53. Occupant load signage shall be properly posted.
54. All decorative materials shall be flame treated.
55. Must provide an approved plan for exiting. The plan shall be posted in locations approved by the Fire Marshal.

Utilities

56. Prior to issuing a building permit, provide gallon per minute demand on plans to determine proper water meter size. Any modifications needed to the water service and/or water meter (upsized, downsized, relocated, etc.) must be performed by City Water Distribution Personnel at the applicants'/developer's expense.
57. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each domestic and irrigation water meter, per City Standard SD-202.
58. A separate water service line is required to supply the fire sprinkler system. All fire services shall have a Double-Detector Check and Trim/Fire meter installed by City Water Distribution Personnel at the applicant's/developer's expense, per City Standard SD-204. Minimum sizing shall be per Fire Department's requirements.

Wednesday, May 8, 2013

Carl T. Emura, AICP
City of Hayward, Planning Division
777 B Street
Hayward, CA 94541

Re: PL-2013-0115 CUP Review, Raj Chabra (Owner) & Chalk It Up (Applicant)

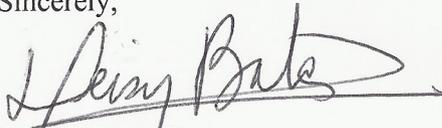
Dear Mr. Emura:

The Hayward Coalition for Healthy Youth (HCHY) has reviewed Chalk It Up's application to modify its CUP to request modifications to security guard requirements, allowance of minors on weekends, "happy hours", and beer purchases. HCHY is opposed to any lessening of these restrictions. Further, the Coalition is concerned with enforcement of the conditions.

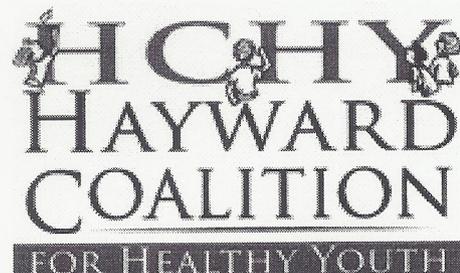
1. In the past, the applicant has failed to adhere to the terms and conditions of its CUP. We would like to know what the City will do to ensure compliance with the conditions moving forward.
2. When the occupant load in Chalk It Up is significant, how will just one security guard adequately monitor and enforce the security and alcohol-related requirements of the CUP?
3. How will 'Risk groups' be monitored by the staff at the bar to ensure that underage drinking is not occurring? How will underage drinking be prevented if staff at the bar becomes busy assisting customers?

We are strongly opposed to the addition of sales of pitchers of beer and "happy hours," as this will encourage increased alcohol consumption. HCHY strives to make environmental changes to reduce alcohol accessibility for our youth. It is unfortunate to hear that Chalk It Up is interested in attracting more people under the age of 21 to their facility. This creates more subtle opportunities for our youth to engage in drinking. The City, through policy and effective regulations, can reduce the exposure of alcohol to young people. We know that when drinking begins at an early age, it is a factor in developing subsequent drinking patterns. Revitalizing our downtown area is definitely what we strive for as members of this community; however, Chalk It Up's interest in attracting younger people is not conducive to a family-oriented and safe environment for Hayward. Therefore, HCHY strongly disagrees with the requests to decrease security while at the same time intensifying alcohol sales and consumption.

Sincerely,



Delsy Bates, Chair
Hayward Coalition for Healthy Youth



Carl Emura

From:
Sent: Tuesday, April 30, 2013 11:06 AM
To: Carl Emura
Subject: pl-2013-0115 CUP Review

This is in regards to the Chalk It Up PL-2013-0115 CUP Review.

I am supportive of allowing beer by the pitcher and happy hours.

I believe Chalk It Up must maintain a security guard. While they do attempt to run a clean business, the nature of their patrons and alcohol consumption does create problems on the block.

Security, safety, and cleanliness issues we have had are:

1. I have seen fights outside of Chalk It Up.
2. The back parking lot is dark and poorly visible from the street. There is some marijuana smoking and drinking that happens around the parked cars.
3. There are persistent problems with graffiti in the back and front of the buildings.
4. There are persistent problems with glass etching on the block around Chalk It Up.
5. I have seen patrons play pool and run out and not pay. I have seen the security guard run out to chase.

I believe the poorly visible breezeway, back parking lot and alcohol consumption can create a public safety problem and damage to private property without the presence of a security guard when Chalk It Up is open.

Application to modify CUP

Background

It has been over one year since we started serving beer at Chalk it Up. This change has had mixed results on the performance of the business. Our weekday business got something of a boost, which was helpful. The weekends, however, which were our bread and butter and the bulk of our gross income, suffered a great deal. This is due to the fact that the CUP has a condition prohibiting entry to minors on Fridays and Saturdays-- condition 31. In our original application for the use permit, we stated that we were going to limit the access of minors on the weekends. The reason we decided to do this was because we believed, and wrongly so, that there would be plenty of business from non-minor customers. Staff turned our suggestion into a condition which we were ok with at the time. The result was a loss of between 40-50% of our weekend gross. This was a very big surprise. The reason this happened is twofold. First, as it were, Chalk it up was one of the few entertainment venues minors were allowed to enter. Second, we had to turn large groups of potential customers away because only one or two of them were minors. The end result was a space that used to have waiting lists for tables and a bustling atmosphere on our busiest hours transform into a place with less than half the people and a quarter of the energy. In my estimation, and I'm sure many business owners would agree, what makes a business look good and welcoming, above all else, are patrons. People can make a space look good. Happy people can make it look great. Less people on the weekends made the place less vibrant, less fun and we felt both for the customers who could no longer enter and for the ones who did, only to find a shadow of what the place was once like on the weekends, and, clearly, the business felt it as well. We have worked hard in the last year and a half to remain in compliance with the conditions that were given to us. There were times, however, where this proved increasingly challenging and we had to make certain judgment calls. Given the dramatically decreased weekend volume, we had nowhere close to the need for the amount of security initially required of us. We still made sure there was a security guard at all times on weekends but cut the second guards' hours as well as the Thursday evening guard. Safety is a top priority and we are confident that our changes did not compromise the operations integrity. Additionally, we stopped issuing wristbands on the weekdays. The bartenders kept track of the customers they served, who were few in number, and made rounds to make sure that things are in order. The application of the wristband from across the wide bar proved impractical unhelpful. If minors were to be allowed on weekends, the security guard at the door would be responsible for checking ID's and issuing wristbands as well as stamps. This would help streamline the process.

Future expansion

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 PLANNING DIVISION

PROJECT NUMBER
PL-2013-0115 CUP Review

In the coming months we plan to combine the basement space of chalk it up with the street level storefront adding another 1600sqf or so. We believe that this will give the business a much stronger presence and help attract more customers. The plans for the space upstairs are still in development. For the time being, we have put up walls that block the entire space upstairs forcing patrons to go downstairs much in the same way they had before. We have a security camera pointed at the entrance. When we are ready to include the upstairs portion of the business- something that will require a separate application- we will install cameras and provide the details of our planned utilization of the space as well as up to date floor plans.

Business hours

Chalk it up is open every day from 6pm to 1a.m and on Fridays and Saturdays until 2a.m

Food sales

Chalk it up has a variety of pressed panini sandwiches as well as soft drinks and snacks available for purchase.

We would like the following conditions modified:

Condition 30 as stated in original conditions of approval: Every Thursday, Friday, and Saturday from 9pm until a half hour after closing the permittee/licensee shall provide one uniformed contract security guard. Every Friday and Saturday, a second uniformed contract security guard shall be provided from 6p.m until a half hour after closing. Uniformed contract security guard shall be licensed by the state of California and shall be the employees of and acting under the direction of a Private Patrol operator duly licensed as such by the state of California. The hours or the required number of licensed uniformed security guards may be adjusted at the discretion of the Chief of Police

Our request:

We would like more discretion with regards to security. Due to the dramatically decreased weekend volume this past year we concluded that there was no need for more than one security guards on the premises. Making sure the place feels safe, and *is* safe, is of paramount importance, but we must also run the business efficiently. Having two security guards on days when the pool hall is all but empty is simply not viable. One possibility would be the idea of thresholds, as in having one security guard for every x amount of customers. Some research revealed that this number tends to be anywhere from 50-100 people.

Condition 31 as stated in original conditions of approval: Minors shall not be permitted in the billiard parlor Friday and Saturday

Our request:

We would like Condition 31 to be removed and to be given discretion regarding age restrictions on weekends. In order to insure that there is no co-mingling of minors and alcohol we will enact the following safeguards:

- A. Having at least one security guard roving around at ALL TIMES during weekend hours.
- B. Stamping AND providing wristbands for customers over 21 years of age.
- C. Placing 'Risk groups', that is, mixed groups with minors AND adults, to the six tables closest to the bar to allow for closer monitoring.
- D. Adding additional security guards and employees as needed depending on volume. This will give us greater control and help prevent co-mingling.

Important

As it stands now, minors are allowed to enter on weekdays and we have had no trouble with co-mingling of minors and alcohol, and for that matter, no trouble of any kind since beer was introduced in August 2011. No police calls, no disturbances and no complaints. We believe that we are deserving and capable of dealing with the additional volume that would result from this request.

Condition 38 as stated in original conditions of approval: No reduced price or "happy hour" drink specials are permitted.

This condition prohibits happy hour and other reduced drink specials. We would like it removed. By opening a few hours earlier we would like to appeal to a new audience. Having a happy hour special is an excellent tool that would help us to accomplish that.

Condiiton 39as stated in original conditions of approval: No sale of pitchers or buckets of beer shall be permitted.

Our request:

This condition prohibits the use of pitchers. We would like it removed. We are confident in our ability to control the space and would like every opportunity to help serve our customers and make their experience more enjoyable. Countless customers have asked us to make use of pitchers available and we would like to be able to do so.

pmdesign
311 Oak St. #715
Oakland, CA 94612
T1: 510.847.8767
T2: 510.684.7767
info.pmdesign@gmail.com

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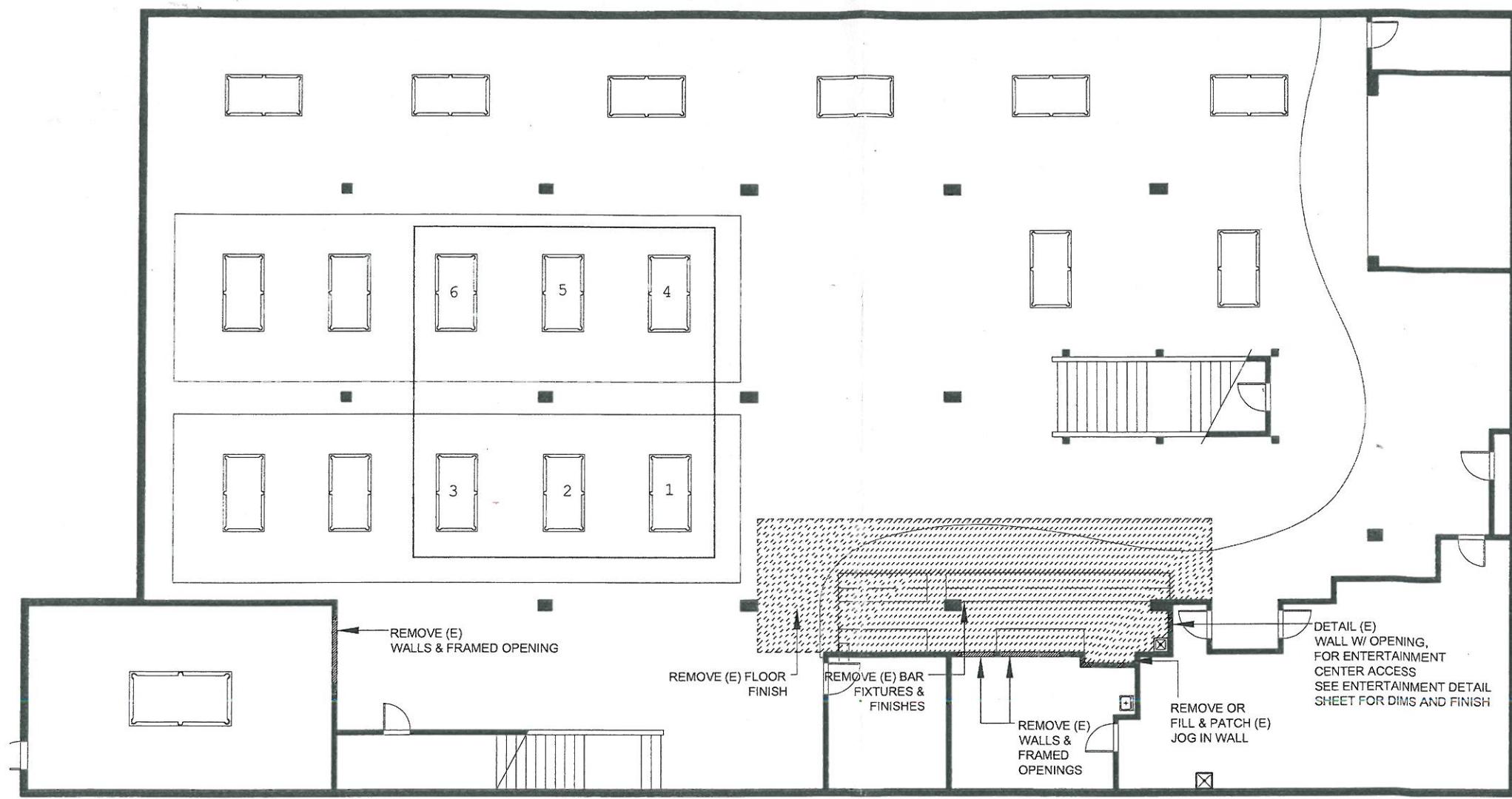
PROJECT NUMBER
PL-2013-0115 CUP Rev 1

PROJECT:
CHALK IT UP
22540 Foothill Blvd.
Hayward, CA 94541

DRAWING:
DEMOLITION
PLAN

SCALE: 1/4" = 20'-0"
DATE: 05.08.2011
JOB NO.: 2011.01
DRAWN: NM
CAD FILE:

A1.00



Scale
10 feet

DEMOLITION PLAN - CHALK IT UP BILLIARDS 1

