

DATE: September 22, 2009

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Text Amendment Application No. PL-2009-0188 - Palace Poker Casino LLC (Applicant/Owner) - Request to Amend Hayward Municipal Code Section 4-3.18 to Increase the Number of Card Tables Allowed at a Single Location from 8 to 11

Modification of Use Permit Application No. PL-2009-0190 - Palace Poker Casino LLC (Applicant/Owner) - Request to Modify the Use Permit for the Palace Poker Casino to Increase the Number of Card Tables from 8 to 11. The Property is Located at 22821 Mission Boulevard in the Central City-Commercial (CC-C) Zoning District

RECOMMENDATION

That Council adopts the attached resolution adopting the attached Negative Declaration, and the modification of use permit application; and introduces the attached ordinance approving the text amendment.

BACKGROUND

The Palace Club has existed in Hayward since 1950. It moved to its present location in 1992 when the Redevelopment Agency purchased the building in which the club was previously located along with other structures on the same block, to construct the public parking structure located across from City Hall.

The Card Club Ordinance was created in 1979. In 1998, the ordinance was amended to comply with new State regulations. In 2006, a modification allowed the current owner, Katherine Bousson, to pass the club ownership onto her three children.

On July 2, 2008, the State Senate passed Assembly Bill (AB163). The bill allows government agencies, without voter approval, to amend their local ordinance to permit an expansion of the number of gaming tables by three within a single establishment if the local ordinance in effect on July 1, 2007, allowed five to eight tables. The applicant proposes to take advantage of AB163 and has requested to increase the number of card tables at the existing Palace Poker Casino from 8 to 11, which would require the City to amend its Card Club Regulations Ordinance and the property's Conditional Use Permit.

On July 23, 2009, the Planning Commission voted to recommend that the City Council approve the text amendment and the modification to the conditional use permit. The 4-3 vote came after discussion of concerns over adequate parking and late-night disturbances in the neighborhood. As a result of such discussions, the recommended Conditions of Approval were modified by the Commission to require continuation of the existing shuttle service between the public parking garage, located across from City Hall, and the card club.

DISCUSSION

The requested three additional tables would add the ability to seat 24 more patrons than the 64 persons accommodated by the existing eight tables. It is the nature of the business for customers to come and go sporadically, and stay for long periods of time, which eliminates large peak periods of business.

The City's Off-Street Parking Regulations do not require additional parking for businesses that relocate within existing buildings within the downtown Central City Zoning Districts. There is also no requirement to provide additional parking for the expansion of a use or business. Therefore, when the card club was relocated to its current location, no parking was required, nor would the expansion require parking to be provided. Club patrons are encouraged to park within the public parking structure across the street from City Hall. The club currently has a shuttle service that shuttles employees and customers between the parking structure and the club. Pursuant to Planning Commission recommendation, a condition of approval would require that the shuttle service be retained and available at all times that the Club is open for business. A condition also requires that handouts and signage be available that would instruct patrons to use the shuttle and not to park on nearby streets or parcels.

There is concern that card club patrons create a noisy environment in the surrounding neighborhood, especially on the vacant lot located between Francisco Street and Watkins Street. This lot is designated for customers of The Ranch restaurant. The parking lot for "The Ranch" is not gated and does not have on-site security and therefore is susceptible to the general public parking there. The bar at "The Ranch" is open until approximately midnight. In addition, there are other businesses that have driveways and parking lots that access Francisco Street, such as Pizza Hut, which is open until midnight on Fridays and Saturdays.

The Hayward Police Department has no objection to the increase in the number of card tables. A review of service calls for the club over the last five years did not reveal a historical pattern of excessive calls for service. The calls received are standard service calls that are minor in nature such as escorting unwanted patrons off the premises and the discovery of a counterfeit bill that was used by one of the patrons. In 2008, the police responded to five incidents and have responded to three incidents so far in 2009.

Findings

There are four findings that are required to be made in order to approve the text amendment and four finding to modify the conditional use permit. It is staff's opinion that the findings for both

applications can be made. Amending the Card Club Ordinance and modifying the use permit complies with the policies and strategies of the General Plan and the intent of the zoning district. Expansion of an entertainment facility that is well run and has not imposed a burden on City services would promote the general welfare of the City. The increase in tables within a card club could be beneficial to the City as it would attract more patrons to the downtown area, thereby, increasing the potential for retail activity. The addition of the tables would not significantly burden existing facilities or services (refer to Exhibit D, Planning Commission Report and the attached Draft Resolution).

FISCAL AND ECONOMIC IMPACT

On an annual basis the Palace Poker Casino pays the City a Card Club Fee (\$40.00), Emergency Services Facility Tax (\$550.00), and a Downtown Business Improvement Area Fee (\$75.00). These taxes and fees are charged per business location; thus, the three additional tables will not generate additional revenue. In addition, the City collects an Annual Permit Fee (\$1,500.00 per table) and a monthly Business License Tax (\$33.35 for the first table and \$16.70 for each additional table). The annual revenue generated by the existing facility totals \$14,468.00 a year.

The addition of three tables would generate an additional annual revenue of \$5,101.20. A fiscal study done for the South Hayward Bart/Mission Boulevard Concept Design Plan, prepared in 2005, stated the average police service call cost \$180.00. It is anticipated that the addition of three tables would generate two additional police service calls a year at an annual cost of \$360.00.

PUBLIC CONTACT

Prior to the Planning Commission hearing, staff received a letter supporting the project and two emails expressing concerns regarding loitering, late night noise, trash, and illegal parking in the area (see Exhibit F).

During the hearing, several people spoke in favor of the card club, but most were associated with the club. A general manager of the club noted that the club has 107 employees and on any given day, the casino has 250 customers. A resident of Francisco Street stated card club patrons don't respect the neighborhood and his property has been burglarized and vandalized. He commented that the casino operators blame other businesses in the area, but explained that they are not open late.

It is not reasonable to assume that people creating a disturbance in the area are solely associated with the card club. Other businesses in the immediate area are open late. Pizza Hut, which has a parking lot that empties onto Francisco Street, is open until 10 p.m. Monday through Thursday and until midnight on Friday and Saturday. The Ranch serves dinner until 10:00 p.m. Monday through Saturday and their bar is open until approximately midnight. The parking lot, located directly across the street from the single-family residences on Francisco Street, is signed as parking for customers of The Ranch, but the lot is ungated and without on-site security. As a result, it is susceptible to open parking, which may include the general public that is not associated with any business.

Commissioners expressed concerns with expanding the casino at this site where no on-site parking is available and that expanding the use may not be suitable for that neighborhood. Other Commissioners supported the expansion citing the business was well run, and would bring more visitors to the downtown area. It was agreed that a shuttle service to the parking garage across from City Hall be a mandatory requirement to the expansion.

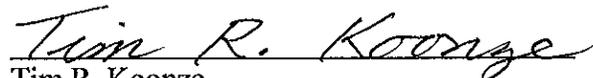
It should be noted that as part of the Route 238 Corridor Improvement project, the City will construct a 28-stall public parking lot across Mission Boulevard from the Card Club at the southeast corner of Mission Boulevard and D Street, the former site of Pablito's Mexican restaurant. The parking lot will be open 24 hours a day.

On September 12, 2009, a Notice of the City Council public hearing was published in *The Daily Review*, and property owners and occupants within 300 feet of the project boundaries were notified, as were interested parties and appropriate public agencies. At the time of completion of this report, the Planning Division had not received any correspondence related to such notice.

NEXT STEPS

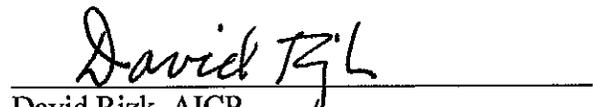
If the City Council approves the Text Amendment and Modification of the Conditional Use Permit Application, the applicant plans to proceed with the addition of three new card tables.

Prepared by:



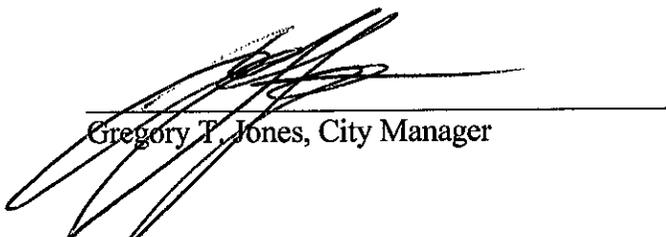
Tim R. Koonze
Associate Planner

Recommended by:



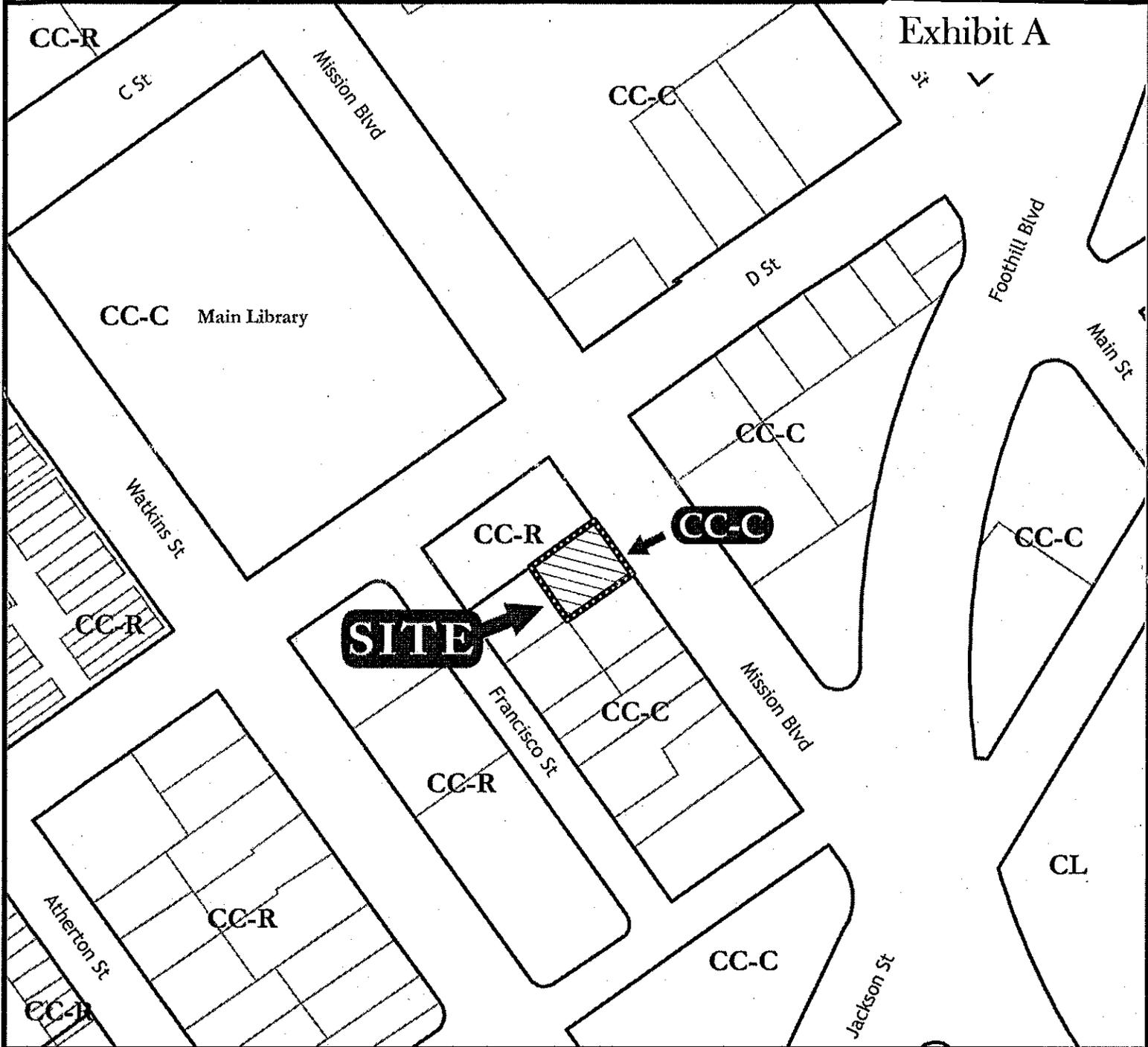
David Rizk, AICP
Development Services Director

Approved by:



Gregory T. Jones, City Manager

- Attachments:
- Exhibit A. Area and Zoning Map
 - Exhibit B. Conditions of Approval, revised by Planning Commission
 - Exhibit C. Negative Declaration and Initial Study
 - Exhibit D. Planning Commission Report, dated July 23, 2009 (without attachments)
 - Exhibit E. Draft Planning Commission Meeting Minutes, dated July 23, 2009
 - Exhibit F. Responses to Neighborhood Notifications (4)
Draft Resolution
Draft Ordinance



Area & Zoning Map

PL-2009-0190 CUP

Address: 22821 Mission Boulevard

Applicant: Katherine Bousson

Owner: Katherine Bousson

Zoning Classifications

COMMERCIAL

CL Limited Access Commercial

CENTRAL CITY

CC-C Central City - Commercial

CC-P Central City - Plaza

CC-R Central City - Residential



FEET 100 200

Conditions of Approval

July 23, 2009

Modification of Use Permit Application PL-2009-0190 - Palace Poker Casino LLC

(Applicant/Owner): Request to Modify the Use Permit for the Palace Poker Casino to Increase the Number of Card Tables from 8 to 11. Property is located at 22821 Mission Boulevard.

As revised by the Planning Commission

General:

Conditional Use Permit Application No. PL-2009-0190 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.** A sign shall be prominently displayed inside the card club, **and written materials shall be provided to patrons,** advising customers to park in the ~~City Hall~~ **municipal parking garage and encourage the use of 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. ~~Management shall be responsible for the daily pickup of trash originating from the site, including that which is deposited on adjacent properties within 300 feet of the perimeter of the site.~~ **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 conditions of approval associated with the original Use Permit 91-114 remain in full force and effect.
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.**



**DEPARTMENT OF
COMMUNITY AND ECONOMIC DEVELOPMENT
Planning Division**

NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that no significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. *PROJECT DESCRIPTION:*

Request to amend Section 4-3.18 of the Municipal Code to increase the number of card tables in the City from 8 to 11.

Text Change Application PL-2009-0188; Katherine Bousson (Applicants/ Owners)

II. *FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:*

The proposed project could not have a significant effect on the environment.

III. *FINDINGS SUPPORTING DECLARATION:*

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project could not result in significant effects on the environment.
2. The project will not result in any development that would adversely affect any scenic resources.
3. The project will not result in any development that would have an adverse effect on agricultural land.
4. The project will not result in any development that would have significant impacts related to changes into air quality.
5. The project will not result in any development that would have significant impacts to biological resources such as wildlife and wetlands.
6. The project will not result in any development that would have significant impacts to known cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains.

8. The text amendment will not affect water quality standards.
9. The text amendment is not in conflict with the policies of the City General Policies Plan, and the Zoning Ordinance.
10. The text amendment could not result in a significant impact to mineral resources since no construction will take place as part of this project.
11. The text amendment could not result in a significant noise impact.
12. The text amendment could not result in a significant impact to public services.
13. The text amendment could not result in a significant impact to traffic or result in changes to traffic patterns or emergency vehicle access.
14. The text amendment could not result in a significant impact to parking in that establishments taking advantage of this ordinance shall conform to the City's Off-Street Parking Regulations.

IV. PERSON WHO PREPARED INITIAL STUDY:

Signature: _____
 Tim R. Koonze, Associate Planner

Dated: June 8, 2009

V. COPY OF INITIAL STUDY IS ATTACHED

For additional information, please contact the City of Hayward Development Review Services Division, 777 B Street, Hayward, CA 94541-5007 or telephone (510) 583-4209

DISTRIBUTION/POSTING

- Provide copies to project applicants and all organizations and individuals requesting it in writing. Provide copy to Alameda County Clerks Office.
- Reference in all public hearing notices to be distributed 20 days in advance of initial public hearing and/or published once in Daily Review 20 days prior to hearing.
- Project file.
- Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.



**DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
Planning Division**

INITIAL STUDY CHECKLIST FORM

Project title: Text Change Application PL-2009-0188; Request to amend Section 4-3.18 of the Municipal Code to increase the number of card tables in the card club establishment from 8 to 11. - Katherine Bousson - Applicant/Owner.

Lead agency name and address:

City of Hayward, 777 "B" Street, Hayward, CA 94541-5007

Contact person:

Tim R. Koonze, Associate Planner
(510) 583-4207 tim.koonze@hayward-ca.gov

**Project location:
Project sponsor's name and address:**

Citywide
Katherine Bousson
22821 Mission Blvd
Hayward, CA 94541

General Plan:

N/A

Zoning:

N/A

Description of project:

Request to amend Section 4-3.18 of the Municipal Code to increase the number of card tables at a card club from 8 to 11.

Surrounding land uses and setting:

N/A

Other public agencies whose approval is required:

None

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is "Potentially Significant Unless Mitigation Incorporation" as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology /Soils |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use / Planning |
| <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance | |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
- I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature:

Date: April 9, 2009

Tim R. Koonze, Associate Planner, City of Hayward

ENVIRONMENTAL ISSUES:

I. AESTHETICS -- Would the project:

- a) Have a substantial adverse effect on a scenic vista?
Comment: The text amendment would not result in any development that would have an effect on a scenic vista.
- b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?
Comment: The text amendment would not result in any development that would substantially damage scenic resources..
- c) Substantially degrade the existing visual character or quality of the site and its surroundings?
Comment: The text amendment would not result in any development that would substantially degrade the existing character or quality of the site and its surroundings.
- d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?
Comment: The text amendment would not result in any development that would create a new source of substantially light or glare which would adversely affect day or nighttime views in the area.

II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?
Comment: The text amendment would not result in any development that would affect farmland.
- b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?
Comment: Refer to II.a) above.
- c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?
Comment: Refer to II.a) above.

III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

- a) Conflict with or obstruct implementation of the applicable air quality plan?
Comment: The text amendment would not obstruct implementation of the Bay Area Air Quality Management District's Clean Air Plan.

- b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

Comment: *The text amendment would not violate any air quality standard or contribute substantially to existing or projected air quality violation.*

- c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

Comment: *Refer to III.a).*

- d) Expose sensitive receptors to substantial pollutant concentrations?

Comment: *The text amendment would not result in any development that would expose sensitive receptors to substantial pollutant concentrations.*

- e) Create objectionable odors affecting a substantial number of people?

Comment: *The text amendment would not result in any development that would create objectionable odors affecting a substantial number of people.*

IV. BIOLOGICAL RESOURCES -- Would the project:

- a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

Comment: *The text amendment would not result in any development that would have a substantial adverse affect on any fish or wildlife species or regional plans, policies, or regulations set forth by the California Department of Fish and Game or US Fish and Wildlife Service.*

- b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?

Comment: *Refer to IV.a) above.*

- c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Comment: *Refer to IV.a) above.*

- d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Comment: *Refer to IV.a) above.*

- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Comment: *Refer to IV.a) above.*

- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?

Comment: *The text amendment would not result in any development that would conflict with any habitat conservation plans.*

V. CULTURAL RESOURCES -- Would the project:

- a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?
- Comment:** *The text amendment would not result in any development that would cause a substantial adverse change in the significance of a historical resource as defined in §15064.5.*
- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?
- Comment:** *The text amendment would not result in any development that would cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5.*
- c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?
- Comment:** *The text amendment would not result in any development that would directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.*
- d) Disturb any human remains, including those interred outside of formal cemeteries?
- Comment:** *The text amendment would not result in any development that would cause any human remains, including those interred outside of formal cemeteries to be disturbed.*

VI. GEOLOGY AND SOILS -- Would the project:

- a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
- i) Rupture of a known earthquake fault, as delineated on the most recent Hayward Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.
- Comment:** *The text amendment would not result in any development that would expose people to any geological hazard.*
- ii) Strong seismic ground shaking?
- Comment:** *See VI.ai.*
- iii) Seismic-related ground failure, including liquefaction?
- Comment:** *See VI.ai.*
- iv) Landslides?
- Comment:** *See VI.ai.*
- b) Result in substantial soil erosion or the loss of topsoil?
- Comment:** *The text amendment would not result in any development that would result in substantial soil erosion or the loss of topsoil.*
- c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?
- Comment:** *See VI.ai.*
- d) Be located on expansive soil, as defined in the Uniform Building Code, creating substantial risks to life or property?
- Comment:** *See VI.ai.*

- e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

Comment: *The text amendment would not result in the construction of any structure that would create a need for septic tank or alternative wastewater disposal systems.*

VII. HAZARDS AND HAZARDOUS MATERIALS - Would the project:

- a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Comment: *The text amendment would not result in any development that would create any hazard related to hazardous materials.*

- b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Comment: *Refer to VI.ai.*

- c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Comment: *Refer to VI.ai.*

- d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Comment: *Refer to VI.ai.*

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

Comment: *The text amendment would not result in any development that would have an affect or be affected by a public or private airport.*

- f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

Comment: *Refer to VI.ai.*

- g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Comment: *The text amendment would not have an affect or interfere with any known emergency response plan or emergency evacuation plan.*

- h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

Comment: *The text amendment would not result in any development that would cause people to be exposed to wild land fires.*

VIII. HYDROLOGY AND WATER QUALITY -- Would the project:

- a) Violate any water quality standards or waste discharge requirements?

Comment: *The text amendment would not result in any development that would cause a violation of any water quality standards or waste discharge requirements.*

- b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?
- Comment:** *The text amendment would not result in any development that would affect ground water supplies or interfere substantially with ground water recharge.*
- c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site?
- Comment:** *The text amendment would not result in any development that would affect on the existing drainage pattern.*
- d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?
- Comment:** *Refer to VIII.c.*
- e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?
- Comment:** *Refer to VIII.c.*
- f) Otherwise substantially degrade water quality?
- Comment:** *The text amendment would not result in any development that would affect on the water quality.*
- g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?
- Comment:** *There is no housing associated with this project.*
- h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?
- Comment:** *There are no structures associated with the text amendment.*
- i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?
- Comment:** *Refer to VIII.g.*
- j) Inundation by seiche, tsunami, or mudflow?
- Comment:** *Refer to VIII.g.*

IX. LAND USE AND PLANNING - Would the project:

- a) Physically divide an established community?
- Comment:** *The text amendment would not result in any development that would physically divide an established community.*
- b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?
- Comment:** *The text amendment would not be in conflict with the Zoning Ordinance or the General Plan.*

- c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

Comment: *The text amendment would result in any development that would conflict with a habitat conservation plan or a natural community conservation plan.*

X. MINERAL RESOURCES – Would the project:

- a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

Comment: *The text amendment would not result in any development that would affect any mineral resource.*

- b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

Comment: *Refer to X.a*

XI. NOISE - Would the project result in:

- a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

Comment: *Increasing the numbers of tables would increase the amount of activity in a card club. An increase in activity could potentially result in an increase in ambient noise associated with a card club. The noise resulting from the club can be controlled with proper management of the club.*

- b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

Comment: *Refer to XI.a.*

- c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

Comment: *Refer to XI.a.*

- d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

Comment: *See XI.a.*

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

Comment: *The text amendment would not result in any development that would have an affect or be affected by a public or private airport.*

- f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

Comment: *Refer to XI.e.*

XII. POPULATION AND HOUSING -- Would the project:

- a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

Comment: *The text amendment would not induce substantial population growth in any area of the City.*

- b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

Comment: *The text amendment would not result in any development that would displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere*

- c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

Comment: *The text amendment would not result in any development that would displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.*

XIII. PUBLIC SERVICES

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

- a) Fire protection?

Comment: *No new fire protection facilities will be required as a result of the text amendment.*

- b) Police protection?

Comment: *An increase in card tables would result in an increase of cliental. With proper management there should not be a need for additional police services.*

- c) Schools?

Comment: *No new school facilities will be required as a result of the text amendment.*

- d) Parks?

Comment: *The text amendment will not generate additional use of the park systems in the area.*

- e) Other public facilities?

Comment: *No other public facilities will be significantly impacted.*

XIV. RECREATION --

- a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

Comment: *The text amendment would not affect recreational facilities.*

- b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

Comment: *Refer to XIV.a.*

XV. TRANSPORTATION/TRAFFIC -- Would the project:

- a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?
- Comment:** *The increase in the number of card tables would have the potential to create 30 more patrons which would not have a significantly impact on traffic.*
- b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?
- Comment:** *.Refer to XV.a.*
- c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?
- Comment:** *Refer to XV.a.*
- d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?
- Comment:** *The text amendment would not include any construction that would modify a traffic or roadway design.*
- e) Result in inadequate emergency access?
- Comment:** *The text amendment would not include any construction that would result in inadequate emergency access.*
- f) Result in inadequate parking capacity?
- Comment:** *The increase in the number of card tables would have the potential to create 30 more patrons. The card club would be required to meet the City's Off-Street parking requirements.*
- g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?
- Comment:** *The text amendment would not conflict with adopted policies, plans, or programs supporting alternative transportation.*

XVI. UTILITIES AND SERVICE SYSTEMS - Would the project:

- a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?
- Comment:** *Refer to VIII.a.*
- b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?
- Comment:** *Refer to VIII.a.*
- c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?
- Comment:** *Refer to VIII.a.*
- d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?
- Comment:** *The text amendment would not result in any development that would affect on sufficient water supply.*
- e) Result in a determination by the wastewater treatment provider, which serves or may serve the project, that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Comment: *The text amendment would not result in any development that would affect on sufficient wastewater facilities.*

- f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

Comment: *The text amendment would not result in any development that would affect sufficient landfill capacity.*

- g) Comply with federal, state, and local statutes and regulations related to solid waste?

Comment: *The text amendment would not result in any development that would affect the ability to meet solid waste regulations.*

XVII. MANDATORY FINDINGS OF SIGNIFICANCE

- a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Comment: **The text amendment would not result in any development that would have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory.**

- b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

Comments: **The immediate impact of the text amendment would be the addition of only three card tables at a single site within the City of Hayward, which would not have a cumulative effect nor a substantial negative environmental effect.**

- c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Comments: **The addition of three card tables at a single site in the City would not have an adverse environmental effect on human beings.**



CITY OF
HAYWARD
HEART OF THE BAY

DATE: July 23, 2009

TO: Planning Commission

FROM: Tim R. Koonze, Associate Planner

SUBJECT: **Text Amendment Application No. PL-2009-0188 - Palace Poker Casino LLC (Applicant/Owner) - Request to Amend Hayward Municipal Code Section 4-3.18 to Increase the Number of Card Tables Allowed at a Single Location from 8 to 11**

Modification of Use Permit Application No. PL-2009-0190 - Palace Poker Casino LLC (Applicant/Owner) - Request to Modify the Use Permit for the Palace Poker Casino to Increase the Number of Card Tables from 8 to 11. The Property is Located at 22821 Mission Boulevard in the Central City-Commercial (CC-C) Zoning District

RECOMMENDATION

That the Planning Commission recommends that the City Council approve the negative declaration, the request to amend Hayward Municipal Code Section 4-3.18, and the modification to the Poker Palace Casino conditional use permit, subject to the attached findings and conditions of approval.

BACKGROUND

The Palace Club has existed in Hayward since 1950, and it has been at its present location at 22821 Mission Boulevard, in the Central City-Commercial (CC-C) Zoning District, since 1991. In 1979, the City's Police Chief initiated a change to the card club ordinance that limited the number of tables within the City to 16, split equally between the City's two card clubs at the time. The Police Chief determined that these changes were needed to adequately monitor the activities of the clubs. The two clubs were the Hayward East Club and the Palace Poker Casino which were located within 100 feet of each other. In 1980, the Palace Poker Casino Club bought out the Hayward East Club. The Palace Poke Casino currently has eight tables.

In 1997, the State required all cities to adopt a comprehensive card club ordinance. Hayward revised the Card Club Ordinance to meet State requirements and modified the ordinance to include limiting the number of tables to eight tables per location and prohibit the relocation of card clubs unless a governmental acquisition forced the relocation. The ordinance also limits the number of card club establishments in the City to one club. The permit for that club will expire when the last of the remaining, current owners is deceased.

On July 2, 2008, the State Senate passed Assembly Bill (AB 163). The bill allows government agencies to amend their local ordinance to permit an expansion of the number of gaming tables by three within a single establishment if the local ordinance in effect on July 1, 2007, allowed five to eight tables. This amendment could occur without voter approval.

DISCUSSION

Text Amendment

The applicant proposes to take advantage of AB163 and has requested to increase the number of card tables at the existing Palace Poker Casino from 8 to 11. In order to do so, the City must amend its Card Club Regulations Ordinance and the applicant's Conditional Use Permit.

The Text Amendment would allow three more card tables to be placed within the existing establishment. An environmental evaluation was completed for the proposal, and it was determined that the increase in tables would have no significant negative environmental impact. The three additional tables would accommodate 24 more patrons, eight per table. It is the nature of the business for customers to come and go sporadically and stay for long periods of time, which eliminates large peak periods of business.

The Hayward Police Department has no objection to the increase in the number of card tables. A review of the last five years of calls for service for the card club did not reveal a historical pattern of excessive calls for service. In 2008, the police responded to five incidents and have responded to three incidents so far in 2009. According to the Police Department, the service calls are standard service calls that are minor in nature such as escorting unwanted patrons off the premises and the discovery of a counterfeit bill that was used by one of the patrons. These types of calls are considered common to any commercial business.

Approving the text amendment would be in keeping with the direction provided by the Card Club Ordinance, the policies and strategies of the General Plan and the intent of the zoning district.

Findings for Approval – Text Change Amendment to Municipal Code Section 4-3.18 Card Club Regulation, Limitations on the number of card tables.

A. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.

The proposed text amendment will promote the public health, safety, convenience, and general welfare of the residents of Hayward by allowing the expansion of an entertainment facility that is well run and has not imposed a burden on City services.

B. The proposed change is in conformance with all applicable, officially adopted policies and plans.

That the proposed text amendment is in conformance with the City's General Plan policies and the policies and strategies within the Urban Design Objectives of the Downtown Core

Area specified in the Downtown Hayward Design Plan, and will result in development that will be compatible with surrounding land uses and zoning.

The Land Use Policies and Strategies of the City's General Plan include:

- *"Promote mixed-use development where appropriate to ensure a pedestrian friendly environment that has opportunities such as housing, jobs, child care, shopping, entertainment, parks and recreation in close proximity."*

The card club is located among commercial and residential uses. The text amendment would allow the expansion of an existing entertainment facility within a downtown environment.

The Economic Development Policies and Strategies of the City's General Plan include:

- *"Approve development opportunities that result in minimal impacts to the City's environment."*

The proposal text amendment meets the strategies and policies of the Economic Development Section of the General Plan in that an environmental evaluation determined that the expansion of three card tables within an existing business would have an insignificant negative impact the City's environment.

C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified.

The increase of three card tables within an existing card club would not have a significant negative impact on the sanitary sewer and water already serving the existing card club. The Zoning Ordinance only allows card clubs in the CC-C District and, under the Card Club Regulations, the Palace Poker Casino is the only card club allowed to exist in the City. The Off-Street Parking Regulations do not require additional parking as a result of an expansion of an existing use in the Central City Commercial Zoning District.

D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

The increase in tables within a card club could attract more patrons to the downtown area, thereby, increasing the potential for retail activity.

Conditional Use Permit

Conditional Use Permit 91-114 was approved on February 19, 1992, allowing the club to relocate to its current location. The use permit must be modified to allow the expansion of the use. A condition of approval would be added to ensure that the card club would take the necessary steps to assure the orderly conduct of employees, patrons, and visitors on the premises. In addition, a sign

would be required to be prominently displayed inside the card club, advising customers to park in the parking garage across from City Hall and use the club's shuttle service. The card club management would also be responsible for the daily pick-up of trash within 300 feet of the card club property. All other conditions of approval would remain the same. The additional three card tables would be located within the existing building. There would be minor interior changes to accommodate the tables. No exterior changes are proposed.

Approving a modification to the existing conditional use permit would be in keeping with the policies and strategies of the General Plan and purpose of the Zoning Ordinance.

Findings for Approval – Modification of the Conditional Use Permit of the Palace Poker Casino to increase the number of card tables from 8 to 11.

A. The proposed use is desirable for the public convenience or welfare.

A modification to the existing use permit allows the City to make some changes or additions to the conditions of approval related to the modification. In order to address neighborhood concerns, staff recommends that conditions of approval be added to ensure that the card club takes the necessary steps to assure the orderly conduct of employees, patrons, and visitors on the premises. In addition, a sign would be required to be prominently displayed inside the card club, advising customers where to park and encouraging the use of the shuttle program. The card club management would also be responsible for daily trash pick-up within 300 feet of the card club property. These measures would promote the public health and safety of the community.

B. The proposed use will not impair the character and integrity of the zoning district and surrounding area.

The proposed expansion of the use will not impair the integrity of the zoning district as entertainment is an allowed use. The card club facility is a well-run facility in the downtown area. The expansion of three card tables will occur within the existing building and, with the proposed additions to the conditions of approval, would not create a significant impact on the surrounding area.

C. The proposed use will not be detrimental to the public health, safety, or general welfare.

The expansion of the existing use would not be detrimental to the public health, safety or general welfare in that the card club facility is a well-run facility that has had very few incidents requiring police service calls. The service calls that have occurred are minor in nature and commensurate with any commercial establishment.

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

The modification of the proposed conditional use permit is in conformance with the City's General Plan policies and the policies and strategies within the Urban Design Objectives of the Downtown Core Area specified in the Downtown Hayward Design Plan, and will result in development that will be compatible with surrounding land uses and zoning.

The Land Use Policies and Strategies of the City's General Plan include:

- *"Promote mixed-use development where appropriate to ensure a pedestrian friendly environment that has opportunities such as housing, jobs, child care, shopping, entertainment, parks and recreation in close proximity."*

The card club is located among commercial and residential uses in a mixed-use downtown area. The proposal meets the strategies and policies of the Land Use Section of the General Plan in that it allows the expansion of an entertainment facility within an existing building which would have minimal impact on the surrounding area.

The Economic Development Policies and Strategies of the City's General Plan include:

- *"Approve development opportunities that result in minimal impacts to the City's environment."*

The modification of the use permit meets the strategies and policies of the Economic Development Section of the General Plan in that the environmental evaluation determined that the increase in card tables, and consequently patrons, would not have a significant impact, as reflected in the negative declaration prepared for this project. The increase in the number of tables would occur within the existing structure, therefore, it would not reduce any retail opportunities.

The modification of the use permit meets the land use purposes expressed in the Central City-Commercial Subdistrict section of the Zoning Ordinance:

- *"To establish a mix of businesses and other activities which will enhance the economic vitality of the downtown area. Permitted activities include, but are not limited to, retail, office, service, lodging, entertainment, education, and multi-family residential uses."*

The modification of the use permit meets the purpose of the zoning district by expanding an existing entertainment facility. Additional patrons could result in an increased retail activity, thereby, enhancing the economic vitality of the downtown area.

ENVIRONMENTAL REVIEW:

An Initial Study and Negative Declaration have been prepared for the proposed text amendment pursuant to the California Environmental Quality Act (CEQA) (see Attachment F). No significant environmental impacts, including those related to parking as stated previously, are expected to result from the project. The Conditional Use Permit was found to be categorically exempt pursuant to Section 15301 Existing Facilities, of the CEQA Guidelines.

PUBLIC NOTICE:

On April 17, 2009, an Official Notice was sent to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. As a result of the notice, staff received three emails expressing concerns regarding loitering, late night noise, trash, and illegal parking.

A condition of approval would require the management of the card club to take the necessary steps to assure the orderly conduct of employees, patrons, and visitors on the premises. In addition, noise levels, measured at the property line, would not exceed the level of background noise normally found in the area. The card club would also be responsible for the daily pick-up the trash originating from the site that is deposited on adjacent properties within 300 feet of the perimeter of the site. The card club would also be required to prominently display a sign inside the card club, advising customers where to park and encouraging the use of the shuttle program.

On June 19, 2009, 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. On June 19, 2009, a Notice of Public Hearing was placed in *The Daily Review*. No responses have been received to date.

Prepared by:

Tim R. Koonze, Associate Planner

Recommended by:

Richard E. Patenaude, AICP, Planning Manager

Attachment A:	Area and Zoning Map
Attachment B:	Findings for Approval for the Text Amendment
Attachment C:	Findings for Approval for the Modification to the Conditional Use Permit
Attachment D:	Conditions of Approval for the Modification to the Conditional Use Permit
Attachment E:	Text Amendment
Attachment F:	Negative Declaration and Initial Study
Attachment G:	Application Forms



**MINUTES OF THE REGULAR MEETING OF Exhibit E
CITY OF HAYWARD PLANNING COMMISS.
Council Chambers
Thursday, July 23, 2009, 7:30 p.m.
777 B Street, Hayward, CA 94541**

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2. **Text Amendment Application No. PL-2009-0188 - Palace Poker Casino (Applicant/Owner) - Request to Amend Hayward Municipal Code Section 4-3.18 to Increase the Number of Card Tables Allowed at a Single Location from 8 to 11**

Modification of Use Permit Application No. PL-2009-0190 - Palace Poker Casino LLC (Applicant/Owner) - Request to Modify the Use Permit for the Palace Poker Casino to Increase the Number of Card Tables from 8 to 11. The Property is Located at 22821 Mission Boulevard in the Central City Commercial (CC-C) Zoning District

Planning Manager Richard Patenaude gave the report indicating some modifications were made to the conditions of approval for the conditional use permit and provided a list of the changes to the Commissioners.

Referring to a copy of a letter the Commissioners received from Dyana Anderly, consultant for the applicant, that states that the California Department of Justice regularly inspects the operations of the casino, Commissioner Márquez asked staff about the role of the agency and whether or not they've expressed any concerns. Planning Manager Patenaude said the Hayward Police Department would know of any concerns and nothing has been passed along to staff. Commissioner Márquez confirmed that the Casino is open 24/7 and asked if it is ever closed. Staff didn't know, but audience members indicated no.

Commissioner Loché asked if there have been a significant number of calls to police regarding the towing of vehicles. Planning Manager Patenaude said nothing has been reported to staff.

Commissioner Mendall asked if any fees or taxes are collected on a per table basis from the Casino. Mr. Patenaude indicated yes. Commissioner Mendall then asked when the City Council voted to extend the license of the Casino. He thought it was two or three years ago and staff was unable to confirm the date.

Commissioner Peixoto asked for more information about several emails mentioned, but not attached to, the written report expressing concerns such as loitering, late-night noise, trash, and illegal parking around the casino. Mr. Patenaude said staff was not able to verify that the noise was caused by the casino in particular and that the trash came from casino clients. Staff noted that the casino provides a shuttle to and from a nearby parking structure and that no complaints have been issued with police regarding any of the aforementioned matters. Commissioner Peixoto asked if there were any representatives in the audience from the police department. There were none.

Chair Lavelle opened the Public Hearing at 7:57 pm.

Steve Namoto, San Ramon resident and one of the general managers of the casino, spoke on behalf of owner Katherine Bousson and her two daughters Catherine Aganon and Pamela Roberts, saying that on most nights all the tables are full. Especially on weekends, the three tables being requested are needed and would be appreciated by customers who are currently forced to wait up to an hour or

more to play. The Bousson Family has been successful for over 50 years in downtown Hayward and has maintained a good relationship with the City and the community, and a positive rapport with the Hayward Police Department. The casino employs over 100 people making them one of the largest employers in the downtown area. Mr. Namoto said the casino always staffs three security guards and one shuttle driver 24 hours a day which allows them to provide a friendly and secure environment. This allows them to constantly monitor club activities and provide services such as a complimentary shuttle service. He said in the past year, the casino has invested over half a million dollars in these services. The club also has over 24 surveillance cameras over each table, at the entrance, and looking up and down Mission Boulevard. Recently their cameras helped the police solve an unrelated crime. On any given day, the casino has 50 employees and 250 customers who have a positive economic effect on surrounding downtown businesses. They strive to have positive relations with both business and residential neighbors. Signs posted in the casino remind the customers to use the complimentary shuttle service and be respectful of neighbors and to avoid parking in private lots. In conclusion, he said they have shown that over the last 50 years the Palace is a responsible business that has maintained a positive relationship with the City. On behalf of the Bousson Family, loyal customers and employees, Mr. Namoto asked that the Planning Commission grant them approval to add three additional, much needed, gaming tables.

Dyana Anderly, Cameron Park, California, said it has already been established that the casino is an appropriate land use so the only question is increasing the number of tables. She suggested the commissioners compare the request to adding more tables in a restaurant, which is not required to ask permission to do so. The casino is not required to provide additional parking when expanding because the City wants businesses to bring more people downtown and that is what the club is doing, she said. The addition of three tables would follow City policy which considers the downtown the social center of the city and encourages night-time activities plus the club has 24-hour security and absolutely no alcohol. She noted there is plenty of room to add the additional tables and maximum capacity would still not be reached. The area is zoned Central City Commercial which allows for a number of different uses including entertainment. The casino is compatible with surrounding businesses and actually brings in business to these establishments. She pointed out that the noise complaints could come from these surrounding businesses that are also open late. She concluded by urging the Commission to recommend approval to the City Council because the expansion would benefit the downtown and supports the Bousson family who have been such a big part of the community.

Vencent Caballero, Winsdor, California resident and Palace tournament director and shift manager, said he's worked at the casino for seven years and he's still one of the youngest employees because "most have been around for a long, long time". That says a lot about the organization, he said. He said one thing the Commissioners may not be aware of is the casino's charitable history. They started with small donations, then started giving more including donating computers to schools. Now they hold poker tournaments and Casino Nights for local charities with all employees working at their own expense. For the last two years, they have been working with four charities in the area. In February, the Palace Casino, along with neighboring casinos in California, raised \$150,000 for the Kidney Foundation. In September they are working with the Police Association to host a poker tournament to raise money for a scholarship program and separately, the upcoming golf tournament. Through the years they have raised a lot of money, he said, and all the employees work for free.



**MINUTES OF THE REGULAR MEETING OF THE
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Thursday, July 23, 2009, 7:30 p.m.

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Commissioner Peixoto thanked Mr. Caballero for a recent tour and the information about the charities. During the tour, he said one of things that impressed him the most was the amount of supervision at the casino. Each table has a point person, Commissioner Peixoto recalled, but asked Mr. Caballero to explain what other types of supervision are in place. Mr. Caballero explained that there are three floor managers for eight tables to make sure everything goes smoothly. The shift manager oversees the floor managers and there may also be a general manager on site as well. Commissioner Peixoto asked about the certification process for various employees. Mr. Cabellero explained that managers are required to hold two different licenses, both issued from the state, one from the California Department of Justice. Clearance for the Key License, or Manager License, takes about two years, and the casino must have someone on the floor with that license at all times. He noted that guests can tell who has the license by the color of their shirt.

Commissioner McKillop asked Mr. Cabellero if he commutes from Windsor and if there are any card clubs there. Mr. Cabellero said he does commute and there are five casinos in the area, but none in Windsor itself.

Jim Wieder, President of the Hayward Chamber of Commerce and owner of Hayward Ace Hardware, said that his sister manages a casino in Palm Springs and she tells him about the other side of gambling, of people losing everything, or stealing to gamble, and he isn't sure expanding a casino or building more is the right approach for generating revenue in Hayward. With that said, however, Mr. Wieder said owner Bill Roberts and the casino staff are courteous and professional. Mr. Roberts is a member of the Hayward Rotary, the Chamber, and is "a man of his word" running a professionally, well-run operation, therefore Mr. Wieder said the chamber supports the expansion.

Bob Aganon read a letter on behalf of Paul Martin who could not attend. In his letter, Mr. Martin states that he owned property directly across from the casino and found that the casino was instrumental in the survival of surrounding businesses. If there were any issues with the club or its patrons, management was always responsive and cooperative. Without reservation Mr. Martin stated that the Palace Casino was a good neighbor to his tenants. He said in the past, card clubs have had the stigma of catering to an undesirable element, however, with the advent of on-line poker sites and the world series of poker televised on ESPN, card clubs and the gaming they provide have now become mainstream entertainment. The Palace provides that entertainment opportunity for folks patronizing downtown businesses; additional tables will serve to increase that opportunity. Mr. Martin states that he knows Mr. Roberts personally and has been to the club to see that it is a "clean operation". Mr. Martin concludes his letter by strongly urging the Planning Commission to recommend approval of the item to City Council.

William Roberts, Oakdale resident and one of the general managers at the Palace, member of the Chamber of Commerce and an honorary Deputy Sheriff with Alameda County, said he has worked for the Palace for over 16 years. He said the Bousson family has done everything in its power to do whatever the community has asked of them. The Palace is an equal opportunity employer with 107 current employees, many from the Hayward area, he said. They run the business in a safe and professional manner always striving to provide a safe and positive environment for their customers

and the surrounding neighborhood. He said the casino provides 24/7 security and shuttle service for the safety of their customers but also for the surrounding businesses and neighbors. That service, he said, is at the annual cost of \$700,000. Also on an annual basis, Mr. Roberts said the club pays \$12,000 in table fees to the City; \$21,400 in badge fees for the employees; and \$22,000 in table fees to the State. Mr. Roberts expanded on the list of local and national charities the Palace contributes to and concluded that the Palace has been a good business for the Hayward community.

Commissioner Peixoto thanked Mr. Roberts for the information and asked about the size of casino operations and how much revenue is produced each year. Mr. Roberts deferred the question to the club owners.

Commissioner McKillop asked Mr. Roberts how much sales tax is generated and he again deferred the question to the owners.

Commissioner Loché read condition of approval number four which states that management shall take all necessary steps to assure the orderly conduct of employees, patrons, and visitors on the premises. He asked Mr. Roberts what steps, if any, are going to take place if the requested tables are added. Mr. Roberts said it would depend on the customer base and need. Right now security is more than sufficient, he said. Besides the three security guards and shuttle driver, the managers are trained to provide intervention if a situation appears to be escalating. Commissioner Loché said that he had recently toured the casino and asked where the three additional tables were going to go and if any services would be eliminated or changed if the tables are added. Mr. Roberts said an unused fireplace would be eliminated and a counter that is currently being used as a waiting area would be removed to create more space for the additional tables.

Commissioner Márquez thanked Mr. Roberts for a tour of the casino and asked what specific complaints were made in the three emails received and who made them. Mr. Roberts said he didn't know who they came from but he does know one did not come from Alice Nguyen, the owner of the restaurant next door. In the past she had complained about casino patrons parking in her lot, but since the casino started the shuttle service and posted notices reminding patrons not to park in private lots, the problem has almost been eliminated. Commissioner Márquez asked what the parking shuttle looks like and how it was identified. Mr. Roberts said there are three Toyota Prius with the name of the security service on the door. Commissioner Márquez then asked if job opportunities would be created by adding the tables and Mr. Roberts said yes. She suggested that under Directions on the casino's website they add the location of the municipal parking lot and information about the shuttle.

Commissioner Mendall asked where customers would wait if the previously mentioned counter was eliminated. He expressed concern that people would be waiting outside of the casino. Mr. Roberts said the interior of the club would be modified to use the space more effectively and create a waiting area. He said there is also a sheltered area on the side of the building for people to wait and no patrons are allowed to loiter out front.

Lorenzo Gamero, Francisco Street resident, said he lives right behind the casino and the rosy picture casino representatives are painting is false. He said there is not enough room in the club to fit three more tables and if tables are added that will drive people outside into the area around his home. While they wait they drink, start problems and don't respect his property or his neighbor's



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Thursday, July 23, 2009, 7:30 p.m.

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property. He said he's been harassed, and his property burglarized and vandalized. When he called the police it didn't do any good, the vandalizing continued. He said he came to the meeting to let the Commissioners know what was really happening. He pointed out that while casino managers are more than willing to say how much they spend on security and different charities they won't say how much revenue the club generates. He said he opposes the expansion. He said casino representatives blame the Ranch Restaurant for the problems in the area, but he said they aren't open late. None of the businesses downtown are open late, only the casino, he said. He has lived at this location since 1982; he has watched downtown develop into a nice city. The casino definitely helps the City, he said, but the club is big enough, they don't need to expand.

Robert Sakai, Chatham Court resident since 1948, said he has watched the city grow and is proud of the city. He said it's important to help local businesses be as successful as possible and the casino has been around for a long time with long-time employees and customers. The City should support businesses like that, he said. He pointed out that the downtown area doesn't have a lot of successful entertainment venues so it's even more important to support one that is a "very good" community member. He said he personally knows the owner, Mr. Roberts, who has a very good reputation and supports local community organizations. Someone like that should be allowed to expand so he can continue to contribute to the community.

Catherine Aganon and Pamela Roberts, daughters of owner Katherine Bousson, introduced themselves as the co-owners of the Palace Poker Casino and thanked staff and the commissioners for their time and consideration. On behalf of the family and their extended family of employees and customers, Ms. Aganon respectfully requested that the commission approve the request to add three more gaming tables. Ms. Aganon thanked the commission and said that retired Sheriff Plummer was supposed to be at the meeting to speak on the club's behalf but he had an accident, broke a rib, and wasn't able to attend.

Commissioner Loché said he had heard that Palace clients have walked right through the neighboring restaurant to get to their cars, he asked Ms. Aganon and Ms. Roberts if they had been made aware of this concern. Ms. Roberts said she has a good relationship with restaurant owner Alice Nguyen and although this has happened in the past, security has been on alert and Ms. Nguyen has reported no new problems.

Commissioner Mendall asked why the Palace didn't pursue an application submitted a year or two ago to move to another location with more room for expansion. Ms. Aganon confirmed that the family had considered purchasing the Kumbala space on Foothill Boulevard because at their current location they have no dedicated parking and they wanted to expand and add amenities like a restaurant. Their brother was involved in that process but when he passed away suddenly, their mother asked them not to pursue it. Commissioner Mendall expressed his condolences and asked about condition of approval number eight that requests the improvement of the current building's plain front façade. Ms. Aganon said they would be happy to comply. He then asked about making the shuttle service a requirement rather than a voluntary service. Ms. Aganon said she doesn't have a problem with that but pointed out that the casino can't patrol all the streets all the time in regards

to illegal parking. The casino is not the only business on the street; the Ranch Restaurant doesn't close until 2am, she said. While casino staff is trying very hard to monitor where patrons park, they can't control everyone. While Commissioner Mendall agreed that the casino can't control every patron, he said what the casino really needs is a location that has its own parking. He explained that that's why the Kumbala location made sense to him. Ms. Aganon said that building isn't an option for them but they would like to move to a location away from residential housing and with plenty of parking.

Ms. Roberts sympathized with Mr. Gambero saying she wouldn't want a casino in her back yard either, but they have been there long before 1982 and they are doing the best they can with the little space they have. Ms. Roberts mentioned that the building next to the casino is really an eyesore and should be considered if the City wants to improve the look of the street.

Commissioner McKillop asked for information about sales tax revenues for the casino. Ms. Aganon said she didn't have those figures with her, but said the casino pays the City \$1,500 per table, or \$12,000 annually for all tables. Commissioner McKillop asked if the bulk of the club's revenue was subject to sales tax. Ms. Aganon said she didn't have that information but from the audience Mr. Roberts confirmed Commissioner McKillop's understanding that it was not.

Alberta Gambero, Francisco Street resident and wife of Mr. Gambero, said years ago, the City asked them if the Palace Poker Casino could move into their current location. The Gamberos said yes because it was a small business and the City told them when Katherine Bousson passed away the business would close. Mrs. Gambero asked what happened with that. Chair Lavelle said staff would answer the question at another time since it didn't pertain to the matter at hand. She suggested Mrs. Gambero give her phone number to staff or talk to someone after the meeting. Mrs. Gambero said they have been there longer than the Casino. She understands it's difficult to control patrons, but it's hard for them too because they have to get up very early for work and day and night there are people coming and going, starting their cars, fighting; it makes them afraid and worried that something might happen to them.

Chair Lavelle closed the Public Hearing at 8:45 pm.

Commissioner McKillop asked for confirmation that the expiration of the use permit was extended to include Ms. Bousson's children. Assistant City Attorney Maureen Conneely confirmed that the use permit will expire when the last of her three children passes away. Commissioner McKillop asked when that was changed and Ms. Conneely said four or five years ago when Ms. Bousson requested that the permit include her children.

Commissioner Mendall said he doesn't oppose the expansion of the casino, but he does have a problem with the expansion at this site. He said there is currently a parking problem and if more tables are added the additional customers will add to it. He said he's also concerned that adding more tables will push waiting customers outside and create issues for local businesses and residents. He said he was interested in hearing the opinions of the other commissioners.

Commissioner Thnay thanked staff for their work and Mr. Caballero for the tour of the Palace. He agreed with Commissioner Mendall that the main issue in approving the expansion is parking, but he said the Palace should be proud that they've been around for 50 years. While he personally



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doesn't support excessive gambling, he said the City should support long-time businesses in Hayward. He suggested that the casino could help their residential neighbors by assisting with the cost of installing an alarm system or dual-pane windows; something "to make their life easier". Commissioner Thnay also suggested that handouts be given to customers promoting the shuttle service. He said security should ask everyone coming in where they parked and ask them to move their car if the location is inappropriate. Steps like these, he said, would make the casino a better neighbor. He said by modifying the floorplan, the casino can accommodate the additional tables.

Commissioner Thnay moved, seconded by Commissioner Peixoto, to recommend to City Council to approve the Negative Declaration, the request to amend Hayward Municipal Code Section 4-3.18, and the modification to the Poker Palace Casino conditional use permit, subject to the attached findings and conditions of approval. Commissioner Thnay asked that the conditions of approval include monitoring of customer parking by casino staff; promotion of the shuttle service to all customers; and assistance for nearby residences to mitigate noise and security issues.

Commissioner McKillop said while the operation is very well run and they've done everything necessary to make the casino a strong, safe, viable business, she disagrees with Findings for Approval A in the written report that states: "Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward." She said she doesn't see that. She also questioned Finding D, which states all uses are compatible with present and future uses. She notes that the casino is right across, and kiddie-corner, to the library park and a playground park for children. If the casino was to relocate to another spot in the City away from residential buildings and with plenty of parking, she would fully support the motion, but at the current location she does not.

Commissioner Márquez agreed that the Palace was a well-run operation and was pleased that the police department has no stated concerns about the establishment. However, she requested adding to the conditions of approval a requirement for signage on surrounding streets prohibiting parking by casino patrons; patrols by the casino of local streets to monitor customer parking; and making the shuttle service mandatory. On a personally level she said she's fully supportive of the casino making donations to charities but hopes they would focus more specifically on Hayward organizations to reach out further to the community.

Chair Lavelle asked Assistant City Attorney Conneely if the City could restrict parking on local streets by club patrons. Ms. Conneely said if the street is a public right-of-way parking cannot be restricted to any particular member of the public. Commissioner Márquez then asked about the patrol request. Planning Manager Richard Patenaude pointed out that a patrol person would not know what cars are owned by casino patrons and said condition number three already requires the casino to inform customers of the shuttle service.

Chair Lavelle also pointed out that Commissioner Thnay had already requested that handouts be given to all patrons regarding the parking shuttle service.

Commissioner Thnay said if the neighbors don't mind, signs could be added directing casino patrons where to park.

Chair Lavelle confirmed that he meant that patrons would be encouraged to use the near-by parking structure and utilize the shuttle. Planning Manager Patenaude said residents could also work with the police department to form neighborhood parking districts that could require decals or restrict parking to certain times of day, but that would take some work by the residents on Francisco Street.

While he had the floor, Planning Manager Patenaude gave more information about the aforementioned emails. He said one was sent by Alice Nguyen's husband regarding parking, but Mr. Nguyen didn't indicate how he felt about the expansion. The other two emails came from nearby property owners making complaints regarding noise, furniture dumping, vandalism, etc. Mr. Patenaude pointed out that nearby businesses (such as Pizza Hut and The Ranch) have driveways that exit to Francisco Street and there's a vacant lot on Francisco. These factors, he said, could certainly attract these types of problems and without any indication of trouble from police; these concerns are not necessarily related to the casino.

Commissioner Loché said he has no objection to gambling. He said he was very impressed with what he saw when he toured the facility and agrees the business is well-run. He applauds the casino for instituting the shuttle service on its own prerogative. It bothers him to impede a business's growth; businesses should be allowed to thrive, he said, but the lack of a parking lot will only make a bad situation worse by expanding at that location. At that location he thinks it would be a mistake to expand and he said he will not be supporting the motion.

Commissioner Peixoto said he visited the casino the day before and found it to be a well-run business. He points out that the casino employs 107 people, many of whom live in Hayward; casino customers patronize nearby businesses; it's been in Hayward for many years; and the business donates to local charities. If this was a new applicant he would be concerned, he said, but this is a business that has shown its desire to make a contribution to the community. The casino brings people outside of Hayward to the City to spend their money. He was very impressed with the security. Commissioner Peixoto said he realizes that parking is an issue, but that's why the City built the parking structures. He said improved signage regarding the availability of the municipal lot and the shuttle service should mitigate any of the parking problems that might occur on Francisco Street. In the past, when patronizing The Ranch, he admitted he parked on Francisco Street which is a public street. "You can't just blame it on the Palace," he said, "they've done everything they can to mitigate this parking issue." He said the City wants to encourage businesses that have done well and contributed to the community and this is an example of that. He said he fully supports the motion.

Commissioner Mendall confirmed that Commissioner Márquez's amendment to the motion would require the shuttle service to be mandatory but said he would be voting against the motion because of the parking. If this request was at a larger location that had parking and no residences next door, he said he would probably support the motion. But at this location with no parking, residential units next to it, and a fairly small building that could be crowded inside and perhaps outside, he said adding more tables just doesn't seem the right way to expand. He said he would not be supporting the motion.



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Chair Lavelle thanked the public for participating and the Palace staff for the tour and information. She said she participated in a charity Poker Night here at City Hall and really enjoyed her experience with the dealers from the casino. She said she is in favor of the motion. She appreciates the efforts the business makes to help patrons find parking. When she toured the casino on a Wednesday night she was frankly surprised to see every seat occupied. There probably is a need, she said, and expects the customers will start using the new tables the moment they are added. Chair Lavelle said she's a customer in downtown, is pleased with the efforts the City has made to improve and expand downtown and the Palace's request is an expansion of an existing business; it's not adding another facility. The City needs more businesses, more people, more customers, more visitors, and more parkers to come to Hayward, she said. The availability of entertainment is lacking in the downtown. She concluded by saying that she looks forward to the continued success the Bousson Family has brought to Hayward. She said she agrees with all the comments expressed by the other commissioners about the care and concern of neighbors who live in the neighborhood and the nearby businesses. She hopes the casino will be receptive to any complaints they receive, not just those from residents. She said she appreciates the added condition of approval number eight that requires an improvement to the façade. She recalled a beautiful historic mural that was on the side of a restaurant that was recently torn down and expressed a preference for a replacement mural on the casino.

Chair Lavelle asked staff if they needed any clarification on the amendments to the motion and when told no, called for a vote.

The motion was approved with the following vote:

AYES:	Commissioners, Márquez, Peixoto, Thnay, Chair Lavelle
NOES:	Commissioner McKillop, Mendall, Loché
ABSENT:	None
ABSTAINED:	None

ADDITIONAL MATTERS

3. Oral Report on Planning and Zoning Matters

Planning Manager Richard Patenaude encouraged Commissioners to enjoy the August break and indicated that election of officers would take place when they return. He also reminded members that the Commission is now switching meeting times to the 1st and 3rd Thursday of each month for the rest of 2009.

4. Commissioners' Announcements, Referrals

Commissioner Mendall said in a recent trip downtown that he was pleased to see some new businesses and fewer empty storefronts. He encouraged everyone to visit downtown and checkout

the new stores and restaurants.

Commissioner Thnay asked staff to contact the owner of the property at Mission Boulevard and Tennyson Avenue which is becoming unsightly due to high weeds.

Commissioner Márquez said last week's downtown street party was very well attended and she was pleased to see so many people enjoying downtown Hayward. She encouraged people to come to the next two parties.

Commissioner McKillop agreed with Commissioner Márquez and complemented the City on their efforts saying the party just keeps getting bigger and better. The new Kids Section of the party was a great addition, she said.

Chair Lavelle said there's a new opportunity to hear free music downtown; on three future Friday evenings the Chabot College Jazz Band will perform by the fountain outside of City Hall. She encouraged people to come enjoy the music. She complimented staff on the beautiful landscaping in the formerly empty fountain outside of the main library. And finally she thanked the Commissioners for their courtesy and patience while she served as Chair, is looking forward to the new Chair come September, and said she hopes they enjoy their summer break and come back fully charged for a busy Fall.

APPROVAL OF MINUTES

5. Minutes from June 11, 2009 were unanimously approved.
6. Minutes from June 25, 2009 were unanimously approved with one minor change by Commissioner Loché.

ADJOURNMENT

Chair Lavelle adjourned the meeting at 9:21 pm.

APPROVED:

Rodney Loché, Secretary
Planning Commissioner

ATTEST:

Suzanne Philis, Senior Secretary
Office of the City Clerk

MARTIN LAND COMPANY

July 23, 2009

Tim Koonze, Associate Planner
City of Hayward
777 B Street
Hayward, California

RE: Planning Commission Meeting of July 23, 2009, Public Hearing Item 2, Palace Card Club

Dear Mr. Koonze:

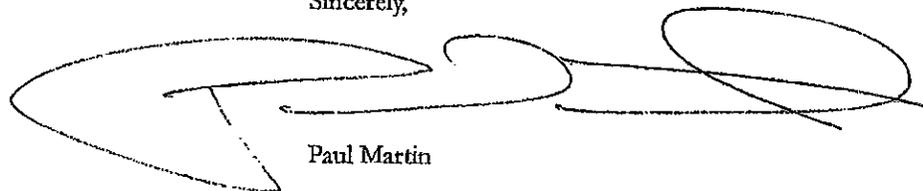
I am writing to express my support of the text amendment for the Palace Card Club.

For almost 90 years my family had owned the property directly across the street from the club's current location. Over the years we had a number of restaurant operators in our building that were business neighbors with them. They shared a customer base, and for some of my tenants, the club's customers were instrumental to their survival. On every occasion where an issue arose with the club or its patrons, their management was responsive and cooperated in resolving the matter. I can say without reservation that they had been a good neighbor to our tenants.

In years past, card clubs have carried the stigma of being establishments catering to an undesirable element. However, with the advent of online poker sites like Full Tilt poker, and the World Series of Poker televised on ESPN, card clubs and the gaming they provide have now become main stream entertainment. The Palace provides that entertainment opportunity for folks patronizing downtown businesses. Adding additional tables will serve to increase that opportunity.

I know the general manager of the Palace, Bill Roberts, personally and have visited his operation. He is a good operator and the card club is a clean operation. I strongly urge the Planning Commission to recommend approval of this item to City council.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Paul Martin', is written over the typed name below.

Paul Martin

From: E Fuentes [erferferf3@yahoo.com]
Sent: Thursday, April 23, 2009 10:49 PM
To: Tim Koonze
Cc: erferferf3@yahoo.com
Subject: Comments on The Palacerequest for increase of card tables - For Planning Commission

Dear Tim Koonze,

I am the owner of the commercial building (22827 Mission) next to the Palace and live in the house located at 22838 Francisco Street, behind the Palace.

I strongly urge the Commission to deny this request to increase the number of card tables at the Palace.

Today, as the result of the Palace activity, customers loiter in front of my building leaving trash and cigarette butts and I had two incidents of broken windows at my building. Furthermore, in and around my house, the Palace customers park their cards illegally on Francisco, loiter in the middle of night, frequently have loud arguments about their losses at the games and leave alot of trash behind.

With the increase of tables comes an increase in customers and incidents of the above unfavorable activity continuing and increasing.

In addition, the Palace does not make any attempt to keep their frontage free from trash and they never wash down their sidewalk.

I request that you pull the police records in the area as record of the criminal activity that with all likelihood will increase with more customers at the Palace.

Respectfully submitted,
Eulalio (Ed) Fuentes
510-409-2220

From: Lorenzo Gamero [lbgamero@sbcglobal.net]
Sent: Monday, April 27, 2009 8:43 PM
To: Tim Koonze
Subject: REFERENCE; PL-2009-0188 TA & PL -2009-0190 CUP.

GOOD EVENING Mr KOONZE LET ME INTRODUCE MYSELF , MY NAME IS LORENZO GAMERO , RESIDENTWARD FOR THE LAST 25 YEARS . MY FAMILY , NEIGHBORS ,FRIENDS AND MYSELF HAVE SEEN THIS BEAUTIFULL CITY OF HAYWARD GROW AND RISE TO ITS POTENTIAL. NEW SCHOOLS ,RECREATIONAL PARKS ,REAL STATE DEVELOPMENT,COMERCE ALL PART OF GROWING. WE HAVE ALL ENJOYED.WHEN IT CAMES TO PALACE POKER CASINO: ITS BECOME THE SORE EYE OF OUR NEIBORGHOOD. PEOPLE WHO PATRONISE THIS CASINO ARE (MOST OF THEM) VERY DISRESPECTFULL, THEY PARK ILLIGALLY ALL OVER OUR STREET,ON OUR DRIVEWAYS,ON OUR FRONT LOANS, THEY LOITER AROUND OUR HOMES IN THE MIDDLE OF THE NIGHT ,PLAY THEIR VEHICLE STEREOs AND PARTY WHILE PEOPLE TRY TO SLEEP . THEIR PARTTY IS OVER AND ALL KINDS OF TRASH IS LEFT BEHIND FROM OLD TIRES,CAR BATTERIES, LOADS OF CIGARRETE BUTTS ,BEER AND LIQUOR BOTLLES ,FAST FOOD CONTAINERS,OLD FURNITURE YOU NAME S#! BY CALLING THE H.P.D. SOME OF US HAVE EXPERIANCE RETALIATION , LIKE GRAFFITY ON OUR WALLS, OUR CARS HAVE BEEN VANDALIZE, OUR FENCES RUN OVER,OUR TRASH CANS TURN OVER JUST TO NAME A FEW. . .SO , Mr KOONZE IF YOU WERE IN OUR SHOES WOULD YOU SUPPORT THE REQUEST TO AMEND SECTION 4-3.18 OF THE MUNICAL CODE AND ALLOW AN INCREASE IN THE NUMBER OF CARD TABLES FROM 8 TO 11 AT THE PALACE POKER CASINO ?!?!?! PLEASE Mr KOONZE ,ITS ALLREADY BAD ENOUGH. THANK YOU MrKOONZE FOR READING OUR CRY.FOR HELP!

& nbsp;

SINCERELY; THE GAMEROS FAMILY

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 09-

Introduced by Council Member _____

RESOLUTION CERTIFYING THAT THE INITIAL STUDY AND NEGATIVE DECLARATION HAVE BEEN COMPLETED IN COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, APPROVING TEXT AMENDMENT NO. 2009-0188 AND CONDITIONALLY APPROVING MODIFICATION OF USE PERMIT NO. 2009-0190

nal
9/17/09

WHEREAS, Text Amendment No. 2009-0188, concerns a request by Palace Poker Casino LLC (Applicant/Owner), located at 22821 Mission Boulevard, to amend Hayward Municipal Code Section 4-3.18 to increase the number of card tables allowed in a single location from eight to 11; and

WHEREAS, the modification of Use Permit No. 2009-0190, concerns a request to modify the use permit for the Palace Poker Casino to increase the number of tables from eight to 11; and

WHEREAS, an Initial Study and Negative Declaration have been prepared and processed in accordance with City, and CEQA guidelines; and

WHEREAS, the Planning Commission held a public hearing on July 23, 2009, regarding the applications, in accordance with the procedures contained in the Hayward Zoning Ordinance, codified as Article 1, Chapter 10 of the Hayward Municipal Code, and recommended approval of the Initial Study and Negative Declaration, the proposed text amendment and the proposed modification of use permit; and

WHEREAS, the City Council of the City of Hayward has independently reviewed and considered the information contained in the Initial Study upon which the Negative Declaration is based; certifies that the Negative Declaration has been completed in compliance with the requirements of the California Environmental Quality Act; and finds that the Negative Declaration reflects the independent judgment of the City of Hayward.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAYWARD as follows:

1. The proposed text amendment and modifications to the use permit will not have a significant impact on the environment pursuant to the California Environmental Quality Act. Approval of Modification of Use Permit PL-2009-0190, as conditioned, will not cause a significant impact on the environment as documented in the Initial Study. A Negative Declaration has been prepared in accordance with the California Environmental Quality Act (CEQA) guidelines. The Initial Study and Negative Declaration reflect the independent judgment of the City of Hayward.

2. The proposal is desirable for the public convenience or welfare and is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City Policies in that additional conditions shall be imposed to ensure that the card club takes the necessary steps to assure the orderly conduct of employees, patrons, and visitors on the premises. In addition, a sign would be required to be prominently displayed inside the card club, advising customers where to park and encouraging the use of the shuttle program, and instructing patrons not to park in private property in the neighborhood. The card club management would also be responsible for maintaining the property and the sidewalk in front of the property in a manner free from litter and debris on a daily basis. The club is desirable for public convenience and the additional conditions will create a business that is in substantial harmony with the surrounding area.

3. The proposed increase in the number of card tables will not impair the character and integrity of the zoning district and surrounding area. The proposed expansion of the use will not impair the integrity of the zoning district as entertainment is an allowed use. The card club facility is a well-run facility in the downtown area. The expansion of three card tables will occur within the existing building, and with the proposed addition to the conditions of approval, would not create a significant impact on the surrounding area.

4. The proposed text amendment and modification to the use permit will not be detrimental to the public health, safety, or general welfare in that the card club facility is a well-run facility that has had very few incidents requiring police service calls. The service calls that have occurred are minor in nature and commensurate with any commercial establishment.

5. The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved in that the modification of the conditional use permit is in conformance with the City's General Plan policies and the policies and strategies within the Urban Design Objectives of the Downtown Core Area specified in the Downtown Hayward Design Plan, and will result in development that will not be incompatible with surrounding land uses and zoning. The card club is located among commercial and residential uses in a mixed-use downtown area. The proposal meets the strategies and policies of the Land Use Section of the General Plan in that it allows the expansion of an entertainment facility within an existing building, which would have minimal impact on the surrounding area.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAYWARD that, based on the findings noted above, that the text amendment and modification to the use permit are hereby approved, subject to the conditions of approval contained in Exhibit A attached hereto and incorporated as a part of this resolution, and the adoption of the companion ordinance amending the text of Section 4-3.18 of the Hayward Municipal Code.

IN COUNCIL, HAYWARD, CALIFORNIA September 22, 2009

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

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**Modification of Use Permit Application PL-2009-0190 - Palace Poker Casino LLC**

(Applicant/Owner): Request to Modify the Use Permit for the Palace Poker Casino to Increase the Number of Card Tables from eight to 11. Property is located at 22821 Mission Boulevard.

As approved by City Council on September 22, 2009

General:

Conditional Use Permit Application No. PL-2009-0190 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. 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 conditions of approval associated with the original Use Permit 91-114 remain in full force and effect.
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.

DRAFT

ORDINANCE NO. 09-_____

*real
9/17/09*

AN ORDINANCE AMENDING SECTION 4-3.18 OF THE
HAYWARD MUNICIPAL CODE RELATING TO CARD CLUB
REGULATIONS

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS
FOLLOWS:

Section 1. Section 4-3.18 of the Hayward Municipal Code, relating to Card Club Regulations, is hereby amended to read as follows:

“SEC. 4-3.18 LIMITATIONS ON NUMBER OF CARD TABLES. At no time shall there be issued and in effect card club permits for more than 11 tables at more than one location; provided, however, that if and when any existing permit is surrendered, revoked, or not renewed as required by these provisions, the maximum number of card table permits shall be reduced by that extent.”

Section 2. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 3. Effective Date. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward,
held the _____ day of _____, 2009, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held
the _____ day of _____, 2009, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward