



Community Development Department – Planning Division
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PLANNING COMMISSION STAFF REPORT

March 7, 2024

AGENDA ITEM 7.A File No. PL23-0150 **ACE & VINE CARD ROOM TABLE EXPANSION**

I. GENERAL INFORMATION

PROJECT SUMMARY: Amendment to Napa Municipal Code Section 5.16.140 to increase the number of card tables permitted to be in operation at one time in a card room from nine to 11; and a Use Permit to increase the number of card tables permitted to be in operation at one time from nine to 11 at the Ace & Vine Card Room.

LOCATION OF PROPERTY: 505 Lincoln Avenue
APN: 044-220-008

GENERAL PLAN: Hospitality Commercial

ZONING: Community Commercial Zoning District (CC)

APPLICANT: Polvora, Inc. d/b/a Ace & Vine Phone: (858) 382-8683
505 Lincoln Ave.
Napa, CA 94559

PROPERTY OWNER: 505 Lincoln Ave Napa, LLC
70 Syar Drive
Napa, CA 94559

STAFF PLANNER: Michael Allen, Senior Planner Phone: (707) 257-9530

ATTACHMENTS: ATCH 1 – Draft Ordinance
ATCH 2 – Draft Resolution
ATCH 3 – Applicant’s Project Description
ATCH 4 – Ace & Vine Card Room Use Permit – R2020-088
ATCH 5 – Ace & Vine 24 Hour Use Permit – R2021-085
ATCH 6 – Ace & Vine’s Approved Card Room Table Plan

II. RECOMMENDATION

Staff recommends the Planning Commission forward a recommendation to City Council to: (1) adopt an ordinance amending Napa Municipal Code (NMC) Section 5.16.140 (Limitations on Authorized Tables) to increase the number of card tables in operation at a card room at one time from nine to 11) and determining the actions authorized by this ordinance are exempt from CEQA.; and (2) adopt a resolution approving a Use Permit to increase the number of card tables in operation at one time from nine to 11 at the Ace & Vine Card Room at 505 Lincoln Avenue (the "Site") and determining the actions authorized by this resolution are exempt from CEQA.

III. EXECUTIVE SUMMARY

The Applicant, Polvora (operating as "Ace & Vine"), seeks approval of a Use Permit and an amendment to Napa Municipal Code (NMC) Section 5.16.140 (Limitations on Authorized Tables) to increase the number of card tables permitted to be in operation at one time from nine to 11 at Ace & Vine's card room, as further described in **Attachment 3**, at 505 Lincoln Avenue as shown in **Figure 1**. Ace & Vine's existing Use Permit (R2020-088) allows the Applicant to have a total of 12 tables with no more than nine tables in operation at any one time (see **Attachment 4**).

FIGURE 1
Location Map



The Applicant has submitted the request in accordance with Assembly Bill 341 (“AB 341”), which added Section 19961.07 to the California Business and Professions Code. Under Section 19961.07, effective January 1, 2024, a city may amend its card room ordinance to allow an existing card room with fewer than 20 tables to increase the number of card tables operated at the card room by up to two additional tables within the first year after the ordinance takes effect, and up to two additional tables every four years thereafter, not to exceed ten additional tables above the number of tables operated at the card room on January 1, 2023. The City’s current ordinance permits nine tables to be in operation at one time. Therefore, under AB 341, the City can amend its ordinance to increase the number of card tables operated at a card room to 11.

The expansion request would not change Ace & Vine’s overall table plan, as shown in **Attachment 6**, or otherwise increase the overall number of tables allowed in the card room; rather, the request would allow the number of tables in operation at any one time to increase from nine to 11. Consistent with Condition No. 28 of R2020-088, the applicant is offering to pay the Supplemental Table Fee of \$10,000 per table for the two additional tables.

IV. SITE CONTEXT AND HISTORY

The Site is a 1.76-acre property on the south side of Lincoln Avenue as shown above in **Figure 1, Location Map**. The property is improved with two (2) existing buildings, consisting of a principal building of 6,283 square feet and an accessory building of 624 square feet for a total square footage of 6,907 square feet. A total of 130 parking spaces are located at the Site. The Site features landscape improvements along the Lincoln Avenue frontage and within the parking lot. Surrounding land uses include Lincoln Avenue to the north, the Napa River to the east, Silverado Towing Company to the south, and Wall Street to the west, with North Bay Plywood on the opposite side of Wall Street.

In June 2020, the City Council adopted Ordinance No. O2020-009 amending the Napa Municipal Code to authorize a card room as a conditionally permitted use in the Community Commercial District, to allow an increase to the number of card tables from five to nine, an increase in the number of patrons per table from 10 to 15, and to allow alcohol to be consumed in the card room. The Council also adopted Resolution No. R2020-088 approving a Use Permit to operate a card room at the Site. A condition of the Use Permit required the Applicant to make an annual presentation to City Council during the first three years of operation to demonstrate compliance with the Use Permit (Condition No. 2 of Resolution R2020-088).

On August 17, 2021, the Council approved a Use Permit to expand the hours of operation of the card room to 24 hours a day (Resolution No. R2021-085). The Council conducted an annual review as part of this August 17, 2021, hearing and found no issues with Ace & Vine’s operations.

While a formal annual review was not performed in the summer of 2022 due to staffing shortages in the Planning Division, the City Council conducted an annual review last year, on September 9, 2023. For all reviews, Staff sought information regarding calls for service generated by the card room from the Police Department (PD).

Consistent with the 2021 review, PD staff reported that the number and type of calls were not any different than typical service calls for other Downtown businesses that provide an entertainment venue where alcohol is served and is open during the evening. Further, several of the calls attributed to the card room may be reported activities occurring in the vicinity of the card room and not directly related to the business. Overall, PD staff indicated that they do not have concerns with the card room's operation and do not believe the business causes any negative impacts to the community from a law enforcement perspective. Based on the feedback from PD staff and other stakeholders during the last annual review, the Council commended Ace & Vine's operations and indicated that no further annual reviews should be needed.

V. PROJECT DESCRIPTION

Pursuant to California Business and Professions Code Section 19961.07, the Applicant proposes an amendment to Napa Municipal Code Section 5.16.140 to increase the number of card tables permitted to be in operation at one time in a card room from nine to 11. Consistent with the Code Amendment, the Applicant also seeks to modify the existing Use Permit (R2020-088) to increase the number of card tables permitted to be in operation at one time from nine to 11 at Ace & Vine's card room.

Since the Use Permit allows for a total of 12 card tables with only nine tables in use at any one time (R2020-088, Condition No. 10), the Project will not change the card room's existing approved table layout. It will allow the card room to operate with two more tables that would ordinarily be covered, and not in use. As required by Condition No. 28 of R2020-088 **Attachment 4**, the Applicant offered to pay a Supplemental Table Fee of \$10,000 per table for the existing nine tables and would pay the fee for the two additional tables.

VI. ANALYSIS

A. General Plan

The Site has a Napa 2040 General Plan designation of Hospitality Commercial, which provides for commercial retail and service uses, including lodging, restaurants, and services oriented towards tourists and other visitors to the community. The request to increase the number of operational tables at any one time from nine to 11 would be consistent with the intent of this designation as Ace & Vine's card room is an entertainment use. The General Plan does not contain goals or policies regarding the number of operational card tables for card rooms.

B. Zoning

The property is located within the Community Commercial Zoning District (CC). The CC zoning designation allows a broad range of community-serving commercial uses including retail and service uses, restaurants, banks, entertainment, and offices.

The CC zoning district regulations do not limit the number of card tables in operation at one time. That limitation is established in NMC Chapter 5.16, which the Project Applicant is proposing to amend to increase the number of card tables permitted to be in operation at one time from nine to 11. The approved Use Permit (R2020-088) also limited the number of card tables in operation at one time to nine tables.

Accordingly, the Applicant also seeks a Use Permit to increase the number of card tables permitted to be in operation at one time from nine to 11. Except for hotel uses, Use Permits are typically reviewed and approved by the Planning Commission. However, because the Project also seeks an amendment to NMC Chapter 5.16, which requires Council approval, City Council is the decision-maker for the Use Permit, and the Planning Commission is the recommending body.

C. Amendment to NMC 5.16 (Card Rooms)

Pursuant to California Business and Professions Code Section 19961.07 , which permits cities to amend their card room ordinance to allow a card room which operates fewer than 20 tables to increase the number of tables in operation by 2 additional tables within the first year after the ordinance takes effect and up to 2 additional tables every subsequent 4 years (not to exceed 10 additional tables), the Applicant requests the following amendments to NMC Section 5.16.140 (deletions in with ~~strikethrough~~ and additions in **bold, double-underline**):

Chapter 5.16 CARD ROOMS

5.16.140 Limitations on authorized tables.

No more than ~~nine~~ **11** card tables shall be permitted to be in operation at any one time in a card room. No more than ~~nine~~ **11** card tables shall be permitted to be in operation at any one time in the City of Napa. Any card tables in excess of the maximum prescribed in this Section 5.16.140 shall be prominently labeled as being non-operational. The total number of card tables permitted on the premises shall be as approved by a use permit. No card table shall accommodate in excess of 15 patrons at one time.

D. Use Permit

The purpose of the Use Permit requirement in the CC district is to ensure compatibility with adjacent uses given this district's intent to provide a broad range of community-serving commercial uses including retail and service uses, restaurants, banks and entertainment uses. The card room provides a recreational and entertainment activity for locals and visitors. As the project's location is sited away from the street frontage, is adjacent to heavy commercial uses and the Napa River, a substantial distance from any residential uses, the proposed use is compatible with surrounding uses.

Based on the City's annual reviews, including input from Police Department Staff, the card room has not caused negative impacts to the community. Police records show a relatively low number of calls for service, and the calls for service are no different than calls for other Downtown businesses that provide an entertainment venue where alcohol

is served and open during the evening. The card room would continue to comply with the conditions set forth in R2020-088 which includes providing security in accordance with an approved security plan (Condition No. 14), 24-hour surveillance of card tables not in use (Condition No. 12), and covering and labeling card tables not in operation (Condition No. 11).

The increase in the number of tables in operation at one time to 11 tables would not adversely impact on-site parking availability. The Site provides 130 parking spaces, of which 41 spaces are allocated for the restaurant in accordance with NMC Section 17.54.040. While there is no parking demand ratio for a card room use, Staff originally assumed one parking space per one card table seat based on a 73-seat occupancy. This is a conservative assumption as card players frequently travel in groups of two to four, as opposed to individual vehicle trips. In addition, Ace & Vine offers free local pick-up and drop-off as an amenity to its players—significantly reducing the vehicle trips to the Site. Using the previous assumptions and considering the tables most frequently in use, the project would allow for an additional 5-player table and 7-player table, totaling 12 additional seats. As a result, the Site's 130 parking spaces will accommodate a new parking demand of no greater than 126 spaces.

VII. ENVIRONMENTAL REVIEW

Staff recommends that the Planning Commission recommend that Council determine that the potential environmental effects of the Recommended Action are exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Section 15301 of the CEQA Guidelines (Categorical Exemptions; Class 1), which exempts operations of existing private structures involving no or negligible expansion of existing or former use.

Staff further recommends that the Planning Commission recommend that Council determine that the exceptions to categorical exemptions identified in Section 15300.2 of the CEQA Guidelines are inapplicable because the land is in an urbanized area with no environmentally sensitive habitats or species of concern on the property, there has been no successive effort to intensify land uses in the area, and no unusual circumstances exist that would pose a reasonable possibility of having a significant effect on the environment. Based on this analysis, no significant environmental effects would result from this project and the exemptions are appropriate.

VIII. REQUIRED FINDINGS

There are no findings required for approval of the requested amendment to NMC Section 5.16.140.

Approval of the Use Permit for the Project is subject to the required findings established in NMC Section 17.60.070. These findings and criteria are provided in the draft resolution attached to this Staff Report (see **Attachment 2**), as well as below.

- 1. The proposed use is in accord with the General Plan, applicable specific plans, the objectives of the zoning ordinance and the purposes of the district and overlay district in which the site is located.**

The Site is located within the Hospitality Commercial General Plan Designation which provides for commercial retail and service establishments including entertainment uses. The increase in card tables permitted to be in operation at any one time from nine to 11 would be consistent with the intent of this designation as Ace & Vine's card room is an entertainment use. In addition, the General Plan does not contain goals or policies regarding the number of operational card tables for card rooms.

- 2. The proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the city.**

As conditioned in R2020-088, operation of the card room would not generate impacts that would be detrimental to the public health, safety, or welfare. The increase in card tables from nine to 11 would not alter the original findings that the card room use is appropriately located in a commercial area that is not directly proximate to residential or other sensitive uses. The card room is subject to State and Local oversight and an approved security plan to limit any impacts to public health and safety. Card room operations would remain confined to the interior of the building and any tables not in use would be clearly labeled as non-operational and be under 24-hour surveillance. Therefore, as conditioned, the Project would not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity or to the general welfare of the City.

- 3. The proposed use complies with each of the applicable provisions of the zoning ordinance.**

The increase in the number of tables in operation at one time from nine to 11 for the previously approved card room use would comply the Zoning Ordinance with approval of a Use Permit that increases the number of working tables from nine to 11. Staff has reviewed the application for compliance with other applicable provisions of the Zoning Ordinance and found that it meets all applicable regulations.

IX. PUBLIC NOTICE

Notice that this application was received was provided by the City on January 11, 2024, and notice of the scheduled public hearing was provided on February 23, 2024, by US Postal Service to all property owners within a 500-foot radius of the subject property. Notice of the public hearing was also published in the Napa Valley Register on February 24, 2024, and provided to people previously requesting notice on the matter at the same time notice was provided to the newspaper for publication.

X. PUBLIC COMMENT

As of the publication of this Report, no comments have been received.