

## **COUNCIL DOWNTOWN COMMITTEE**

**Monday, November 23, 2009  
7:00 p.m.**

**Room 2A - Hayward City Hall  
777 B Street  
Hayward, CA 94541**

Public Comments: (Note: For matters not otherwise listed on the agenda the Committee welcomes public comments under this section, but is prohibited by State Law from discussing items not listed on the agenda. Your item will be taken under consideration and referred to staff.)

1. Proposed New Business at 926 B Street – “Club Me”
2. Proposed City Center Project Update
3. Future Council Downtown Committee Agenda Topics

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CITY OF  
**HAYWARD**  
HEART OF THE BAY

**DATE:** November 23, 2009  
**TO:** Council Downtown Committee  
**FROM:** Maret Bartlett, Redevelopment Director  
**SUBJECT:** Proposed New Business at 926 B Street – “Club Me”

**RECOMMENDATION**

That the Council Downtown Committee reviews and comments on this report.

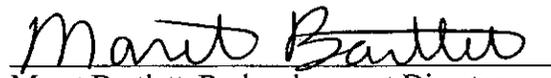
**DISCUSSION**

Starzz Management, Inc. has submitted an application to the City of Hayward for a Conditional Use Permit and Zoning Ordinance Text Amendment in order to operate a restaurant and night club at 926 B Street. Please refer to the attached report to the Planning Commission for more information about the proposed night club. Richard Patenaude, Planning Manager, will also provide a presentation regarding the application at the CDC meeting.

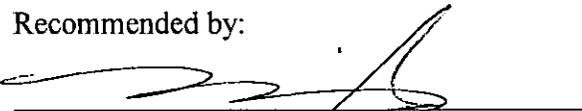
**PUBLIC COMMENT**

The Planning Commission considered this application on November 5, and again on November 19, 2009. This item is being presented in order to gain additional public input.

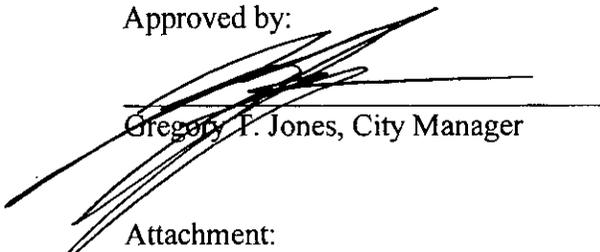
Prepared by:

  
Maret Bartlett, Redevelopment Director

Recommended by:

  
Fran David, Assistant City Manager

Approved by:

  
Gregory P. Jones, City Manager

Attachment:

November 5, 2009 Agenda Report to Planning Commission re: Text Amendment  
No. PL-2009-0454-Starzz Management Services, Inc.



CITY OF  
**HAYWARD**  
HEART OF THE BAY

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**DATE:** November 5, 2009

**TO:** Planning Commission

**FROM:** Arlynne J. Camire, AICP, Associate Planner

**SUBJECT:** **Text Amendment No. PL-2009-0454-Starzz Management Services, Inc. (Applicant) -Request to Amend Hayward Municipal Code Section 10-1.2735(b) to Delete the Restriction on On-Sale Alcohol-Related Commercial Activities on Properties which front B Street between Watkins Street and Foothill Boulevard, or Main Street between A and C Streets, in Respect to Proximity to any School, Public Park, Library, Playground, Recreational Center, Day Care Center, or Other Similar Use**

**Conditional Use Permit No. PL-2009-0201- Starzz Management Services, Inc. (Applicant)/Dinesh Shah (Owner) - Request to Operate a Restaurant and Night Club within the Downtown Entertainment Area**

The Property Is Located at 926 B Street in the Central City-Plaza (CC-P) and Central City-Commercial (CC-C) Zoning Subdistrict

## **RECOMMENDATION**

Staff recommends that the Planning Commission recommends to the City Council to approve the attached Negative Declaration for the text amendment and conditional use permit, approve the amendment to Hayward Municipal Code Section 10-1.2735 (b) subject to the attached findings and approve the Use Permit, subject to the attached findings and conditions of approval.

## **SUMMARY**

The applicant, Starzz Management, Inc., requests a Conditional Use Permit to operate Club ME Restaurant and Lounge, a restaurant and night club. A text amendment to the Zoning Ordinance is also required to allow a night club within 100 feet of Newman Park.

Club ME would operate mainly as a restaurant with a night club on Friday and Saturday nights for patrons 21 years of age and older. Lunch and dinner would be served on weekdays and brunch and dinner on the weekends. Family entertainment and televised sports would be provided on Sundays. The proposed high-quality restaurant and entertainment venue would enhance the vitality of the Downtown Entertainment Area.

COMMPRE is concerned that approval of the request to operate a night club would contribute to the availability of alcoholic beverages in an over-concentrated census tract, would impact Police Department resources, and would affect the availability of parking. In addition, they are opposed to the text amendment because Newman Park would not be protected as a sensitive use.

Staff has reviewed these concerns and is recommending approval since the conditions of approval that places stringent operating procedures on the business are require a security plan that is to be approved by the Police Chief prior to issuance of a building permit.

### **BACKGROUND**

The Planning Commission is required to review the proposed project because the operation of a night club requires the approval of a Conditional Use Permit. In addition, the text amendment to delete the 100-foot restriction for on-sale alcohol-related commercial activities on the CC-P Zoning District would have to be recommended for approval if approval of the accompanying Conditional Use Permit is to be considered.

### **Project Description and Setting-**

The 5,040-square-foot property is developed with a three-level masonry building containing a total of 10,700 square feet of floor area. Newman Park is immediately to the west, and commercially-developed properties are located to the east and across B Street to the south. Ample parking is located in Municipal Parking Lot 1 located to the rear of the property to the north and at the three-level Municipal Garage, 355 feet away, near the intersection of B Street and Mission Boulevard.

The property is located in the Downtown Entertainment Area that encourages a mix of businesses and activities which will enhance the economic vitality of the downtown area. Restaurants and nightclubs are among the uses encouraged within the Central City-Plaza and Central City-Commercial Subdistricts. A Retail Site Assessment, completed in March 2009 by Buxton Company, indicates that Downtown Hayward is underserved by full-service restaurants and drinking places.

The proposed project, Club ME Restaurant and Lounge, would be a family-oriented restaurant serving both lunch and dinner, but would also operate as a night club two nights a week. According to the applicant, the concept for Club ME Restaurant and Lounge is to cater to customers looking for a modern and relaxing atmosphere where they can socialize, enjoy an affordable meal, and listen to music with their families. In addition, Club ME Restaurant and Lounge would cater to those who work in downtown and want a quick lunch, those who want a meal prior or after a movie or local event and those who want to socialize after work. Furthermore, the night club would offer a hip hop and R&B venue for patrons 21 years and older.

The restaurant would operate Monday through Friday, 11:00 am to 8:30 pm and Saturday and Sunday, 12:00 pm to 9:00 pm. The night club would operate on Friday and Saturday nights and would be restricted to those 21 years of age and older after 9:00 pm. During night club hours, a full menu will be available. Free entertainment on Sunday from 7:00 pm to 9:00 pm would be

open to all and could include a community talent showcase, poetry readings, and televised sports. A Type 47 license from the Department of Alcoholic Beverage Control would allow a full bar and require the maintenance of a full-service restaurant.

Interior improvements are proposed in three phases. The first-phase street-level tenant improvements would include the dining room, a full bar, restrooms, a dance floor, coat check, kitchen and employee locker room. The first-phase mezzanine tenant improvements would include offices, a security office, and employee restrooms. The second-phase lower level tenant improvements would include a lounge with restrooms, a large-screen television, pool tables, kitchen support area, and employee locker room. The third-phase mezzanine tenant improvement would provide a VIP lounge room that would accommodate private parties and an elevator that would allow access to all three levels.

### **Applicant Experience –**

Starzz Management Services proposes to operate a restaurant and night club. Starzz is a Small Minority Women-Owned Business Enterprise founded in 1991 and was certified as a HUBZone company by the United States Small Business Administration in February 2006. Their services include administrative support services, project management, information technology services, security, transportation, engineering, warehouse and distribution services, and restaurant and club operations. Their customers include the Army Corps of Engineers, Navy, Air Force, Army and Marines, US Geological Survey, Department of Transportation, Department of the Interior, General Services Administration, and the Department of Energy.

### **DISCUSSION AND STAFF ANALYSIS**

Staff supports the proposed Text Amendment, due to the ability to make all of the required findings, as detailed in the paragraphs below. Most relevant is that the current 100-foot distance requirement is detrimental to the purposes of that district to promote entertainment-oriented uses. The text amendment would give the potential for alcohol-related commercial uses to only 10 additional parcels facing B Street, including the subject property. However, this amendment would not cause an increase in the number of such establishments as the restriction on alcohol-related commercial uses to two per block face would remain. Furthermore, the two permitted alcohol-related establishment could be separated further if the entire block face could be considered. The text amendment would have to be recommended for approval if approval of the accompanying Conditional Use Permit is to be considered.

In addition, staff supports the proposed restaurant and night club, due to the ability to make all the required conditional use permit findings, as detailed in the following paragraphs. Staff has concluded that the proposed restaurant and night club use, as conditioned, is in conformance with the City's General Plan policies, the Zoning Ordinance as amended, 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. Most relevant is that a new, high-quality restaurant and entertainment venue would be introduced into the Downtown Entertainment Area.

Text Amendment -

Within the Downtown Entertainment Area, located generally between A and D Streets, and between Second and Grand Streets, the Zoning Ordinance currently allows not more than two on-sale alcohol-related commercial activities per block side or face. A block side is each section of street between the two immediate cross streets; each side of the street section is considered a block face. Club ME Restaurant and Lounge would be the only establishment with nightclub activities on the north-side B Street block face between Mission Boulevard and Main Street. However, the Hayward Zoning Ordinance also prohibits on-sale alcohol-related commercial activity within 100 feet of any school, public park, library, playground, recreational center, day care center, or other similar use. The subject property is located next to Newman Park. This regulation prohibits the proposed use at this location.

The applicant has requested a text amendment to lift the prohibition of the 100-foot distance requirement of an on-sale alcohol-related commercial activity from Newman Park. Staff proposes a text amendment which would lift the distance restrictions within the CC-P Zoning Subdistrict. This Subdistrict includes the properties that front B Street between Watkins Street and Foothill Boulevard, and Main Street between A and C Streets.

Originally, the restriction was adopted to distance minors from adult activities. However, alcohol-related commercial activities, such as nightclubs, traditionally have different hours of operation than parks, schools, churches, day care centers and recreation centers. Removal of the restriction is not anticipated to negatively impact the uses and similar uses located within the downtown entertainment district. Furthermore, alcohol-related commercial uses require the approval of a conditional use permit in the Central City-Plaza Subdistrict. Therefore, conditions of approval regulating business operations would be required of each new business to ensure compatibility with adjacent uses.

The public park that would be affected by the text amendment, Newman Park, was once the site of a retail business that was destroyed by fire and was not available for new construction because it is within the Hayward Fault Zone. The Alquist-Priolo Special Studies Zone Act and the California Building Code prohibits new construction on and within 50 feet of an active earthquake fault. Therefore, the City took the opportunity to purchase the property and develop it with Newman Park as a community-serving alternative to a vacant lot.

Findings for Approval for the Text Amendment Application

Approving the text amendment would be in observance of City Council adopted Zoning Ordinance definitions and general plan policies. Staff is of the opinion that the following findings can be made.

- 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 for the opportunity for

additional entertainment facilities consistent with goals of the downtown entertainment area. Such uses would require a Conditional Use Permit and would be operated in conformance with adopted conditions of approval that are designed not to impose a burden on City services.

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

The proposed text amendment is in conformance with the strategies within the Downtown Core Area specified in the Downtown Hayward Design Plan and strategies and policies of the General Plan, and would result in development that will be compatible with surrounding land uses and zoning.

The Core Area Plan states:

The consumption of alcohol is a part of community life. As we look to the future of downtown Hayward, preventive planning to avoid alcohol-related problems must be recognized as an essential element in the revitalization process. It is important to manage alcohol availability in our downtown in a positive way that enhances the economic and social character of this vital area of our City. The successful revitalization of downtown will likely include new restaurants and entertainment facilities, many of which will sell alcoholic beverages and will hopefully become an asset to downtown. Policy makers should be afforded the opportunity to review and impose conditions of approval for certain alcohol related outlets to insure such uses are not a detriment to the downtown. The Police will set forth criteria and regulatory measures for the establishment and operation of certain alcohol related outlets. The Specific Plan Area would be subject to the ordinance. Additional programs, such as responsible server training for business outlets and event sponsors, may also be considered to ensure the effective management of the availability of alcohol.<sup>1</sup>

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

Maintain the Downtown as a focal point for the City so that it continues to express the City's history, provides a venue for cultural vitality, and retain its role as a center for social, political, and other civic functions.<sup>2</sup>

Recognize the importance of continuous retail frontage to pedestrian shopping areas by discouraging unwarranted intrusion of other uses that weaken the attractiveness of retail areas...<sup>3</sup>

The text amendment would create opportunities for additional entertainment facilities in the downtown entertainment area which would assist in revitalizing the downtown as a center of social functions. Club ME would be located near downtown commercial and

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<sup>1</sup> *The Core Area Plan*, p. 28.

<sup>2</sup> *City of Hayward General Plan, Land Use Element, Land Use Policies and Strategies, Downtown Area*, p. 2-18.

<sup>3</sup> *City of Hayward General Plan, Land Use Element, Land Use Policies and Strategies, Downtown Area*, p. 2-18.

residential uses within a downtown environment convenient to downtown residents, employees and visitors.

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.<sup>4</sup>

The proposed text amendment meets the strategies and policies of the Economic Development Section of the General Plan in that an environmental evaluation determined that text amendment would relax a restriction that has the potential to prohibit several sites within the downtown entertainment area from being developed as intended and the removal of the restriction would not have significant 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;**

Approval of Club ME Restaurant and Lounge would be served by existing sanitary sewer and water that serves existing downtown properties. The Off-Street Parking Regulations and the Central City-Plaza District does not require additional parking to be provided for existing buildings. Patrons would have access to several municipal parking lots within walking distance.

**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 removal of the restriction to distance from a public park and similar uses would allow additional properties to be developed with entertainment uses that could potentially attract more patrons to the downtown area, thereby increasing the potential for pedestrian and retail activity. A Retail Site Assessment, completed in March 2009 by Buxton Company, indicates that Downtown Hayward is underserved by full-service restaurants and drinking places.

**Conditional Use Permit -**

Club ME Restaurant and Lounge would operate as a full-service restaurant and a night club. The Zoning Ordinance allows, as a primary use, a full-service restaurant including a bar. In addition, the establishment is to maintain a minimum of 60 percent of its gross receipts from the sale of food. A Type 47 ABC license would allow the restaurant to serve patrons of all ages in conjunction with a night club for ages 18 years and older. To operate as a night club, a conditional use permit is required. The Zoning Ordinance defines a night club as an establishment that serves alcoholic beverages in conjunction with providing live entertainment or

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<sup>4</sup> *City of Hayward General Plan, Economic Development Element, Economic Development Policies and Strategies, Community Development, p. 4-17*

dancing between the hours of 6:00pm to 2:00am regardless of whether the establishment is simultaneously offering full restaurant meal service or charges an entry fee. Club ME Restaurant and Lounge would operate as a night club on Friday and Saturday nights after 9:00pm. However, without the approval of the proposed text amendment, the conditional use permit for the operation of the night club could not be considered.

The applicants are experienced at managing restaurants and clubs. Starzz Management, Inc. has operated several establishments for civilian customers and the armed services. Their experience includes managing a US Air Force restaurant and dining hall in San Antonio, Texas; the US Navy Officers Club in Pensacola, Florida; and the Trident Club at the Naval Postgraduate School in Monterey, California. Management of civilian clubs includes operation of Club V's in Atlanta, Georgia; and Club Diallo in Houston, Texas (Attachment F).

The applicants have proposed a security plan that focuses on regulating the serving of alcoholic beverages and monitoring patrons (Attachment G). When operating as a night club, minors are required to leave the premises. To ensure venue safety, door personnel would scan patrons with a metal detector. Both female and male personnel would be available to conduct searches. As a condition of approval, all bartenders and servers are required to receive the Department of Alcohol Beverage Control Licensee Education on Alcohol and Drugs Training.

Interior and exterior security personnel would monitor the behavior of the crowd; provide a minimum of one unarmed security guard on the premises daily from 5:00 pm until closing; provide a minimum of four unarmed security guards on the premises from 8:30 pm to closing on Friday and Saturday; assess security assignments for Sunday evening based on the scheduled entertainment; provide one male and one female security person for each anticipated 50 to 75 patrons during night club hours; be located at the back door, kitchen, in the bar area, throughout the establishment and on the exterior in front and in the rear in Municipal Parking Lot 1; be easily recognizable by their uniforms; maintain radio contact with management at all times; and monitor the interior and exterior of the establishment by a close circuit television camera system.

The State Department of Alcoholic Beverage Control (ABC) has determined that there is an over-concentration of off-sale liquor licenses within the census tract in which Club ME would operate. ABC records indicate that there are currently 32 active on-sale licenses where 6 would be allowed by its standards. ABC uses a ratio of residents in the area to determine the number of licenses that should be issued for each census tract. Being located downtown, there are fewer residents with the ABC's calculation resulting in fewer licenses. The number of on-sale licenses is due in part to the large number of restaurants downtown. The downtown area is the part of the City where eating establishments with on-sale licenses are encouraged. A Retail Site Assessment, completed in March 2009 by Buxton Company, indicates that Downtown Hayward is underserved by full-service restaurants and drinking places. The Downtown Design Plan recognizes that consumption of alcohol in the downtown is part of community life and policy makers have the opportunity to review and impose conditions of approval for certain alcohol related outlets to insure such uses are not a detriment to the downtown. The City can override the limitation by making the determination that the sale of alcoholic beverages is necessary for the public convenience or necessity and the Planning Director can issue such a statement for approved projects.

Club ME Restaurant and Lounge is located among commercial 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 an entertainment facility within an existing building which would have minimal impact on the surrounding area. It also promotes the smart growth principles of the downtown area that seek reduced dependence on the automobile and encourage walkable neighborhoods. It would be a new business attracting people into the downtown area contributing to the revitalization of downtown. Club ME meets this General Plan strategy by providing a dining choice and entertainment choice to Hayward residents and those who use BART and AC Transit to visit the downtown entertainment area.

Club ME is proposed to be open for lunch and dinner Monday through Friday 11:00 am to 8:30 pm and open for brunch and dinner from 12:00 pm to 9:00 pm Saturday and Sunday. The menu would be affordable American food featuring holiday specialties (see Attachment J). The 78-seat dining area is adjacent to the 867-square-foot dance floor which would be used for dancing on Friday and Saturday and for a stage on Sunday. The night club would operate from 9:00 pm to 2:00 am. Alcohol sales would cease at 1:30 pm and dancing would end at 2:00 am. The dining area is required to remain in place since a full menu will be served until closing. The bar, proposed at the back of the restaurant, would be physically separated by a hand rail designed to limit access to the bar by patrons under the age of 21.

The applicant has submitted floor plans that indicate the addition of new restrooms at the front of the street-level space, effectively limiting visibility into the business. The Downtown Design Plan and the Downtown Hayward Historic Rehabilitation District Commercial design plan<sup>5</sup> both require visibility into businesses to attract customers and foster a pedestrian-friendly street frontage. Furthermore, the Police Department requests a clear view into the restaurant to conduct safety checks while on their usual rounds; this open view would also provide a further sense of security for patrons. After meeting with staff, the applicant has agreed to install the restrooms on the west side of the building only. This would provide for views into the business to meet the intent of City policy. Correspondingly, staff proposes a condition of approval limiting the obstruction to the clear view to a maximum of 25 percent of the store front.

#### Findings for Approval of the Conditional Use Permit Application

Staff is of the opinion that the following conditional use permit findings can be made:

**a. The proposed use, as conditioned, is desirable for the public convenience or welfare;**

Club ME Restaurant and Lounge would offer local entertainment and dining opportunities which would be in proximity to downtown residential, employment, public transportation, and the municipal parking lots and which would help promote a lively, pedestrian-friendly atmosphere downtown.

**b. The proposed use will not impair the character and integrity of the zoning district and surrounding area in that the conditions imposed on the operation of the restaurant and night club will ensure safe and orderly conduct;**

<sup>5</sup> *Downtown Hayward Historic Rehabilitation District Commercial Design Manual, Display Windows, p.20.*

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

To establish a unique environment of retail and other complementary uses contributing to the pedestrian nature and quality of such streets as B Street.<sup>6</sup>

Club ME Restaurant and Lounge is proposed to be open for lunch and dinner, and serve affordable meals which would encourage pedestrian activity by offering an additional downtown lunchtime dining choice.

In addition, the purpose of the Central City-Commercial Subdistrict is met:

To establish a mix of business and other activities which will enhance the economic vitality of the downtown area. Permitted activities include, but not limited to retail, office, service, lodging, entertainment, education, and multi-family residential uses.<sup>7</sup>

Entertainment is an activity that is encouraged within this zoning district. Club ME would offer nightclub entertainment for two nights a week and offer family entertainment on Sundays.

- c. The proposed use, as conditioned, will not be detrimental to the public health, safety, or general welfare;**

Club ME Restaurant and Lounge is required to adhere to all of the operational requirements for establishments that are full services restaurants, full-service bars and nightclubs. The proposal meets the Zoning Ordinance separation requirements, as amended, for on-sale licenses.

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

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

In the Downtown Area-

Continue to implement the Downtown Design Plan and the Core Area Specific Plan.<sup>8</sup>

The Downtown Core Area Specific Plan recognizes that alcoholic outlets are part of community life and that allowing them with controls, is a component to the revitalization of downtown Hayward.

The consumption of alcohol is a part of community life. As we look to the future of downtown Hayward, preventive planning to avoid alcohol-related problems must be recognized as an essential element in the revitalization process. It is important to manage

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<sup>6</sup> Zoning Ordinance, Section 10-1.1540, Central City-Plaza Subdistrict (CC-P)

<sup>7</sup> Zoning Ordinance, Section 10-1.1520, Central City-Commercial Subdistrict (CC-C)

<sup>8</sup> City of Hayward General Plan, Land Use Element, Land Use Policies and Strategies, Downtown Area, p. 2-18

alcohol availability in our downtown in a positive way that enhances the economic and social character of this vital area of our City. The successful revitalization of downtown will likely include new restaurants and entertainment facilities, many of which will sell alcoholic beverages and will hopefully become an asset to downtown. Policy makers should be afforded the opportunity to review and impose conditions of approval for certain alcohol related outlets to insure such uses are not a detriment to the downtown. The Police will set forth criteria and regulatory measures for the establishment and operation of certain alcohol related outlets. The Specific Plan Area would be subject to the ordinance. Additional programs, such as responsible server training for business outlets and event sponsors, may also be considered to ensure the effective management of the availability of alcohol.<sup>9</sup>

#### Findings for an Alcoholic Beverage Outlet

The proposed restaurant and nightclub would help to encourage and enhance the vibrant atmosphere of downtown therefore; staff supports this determination and has included the necessary alcoholic beverage findings<sup>10</sup> below:

- a. **The proposed use will not result in an undue concentration in the area of establishments dispensing alcoholic beverages;**

There are no other on-sale establishments on the north block face between Mission Boulevard and Main Street. Furthermore, a Retail Site Assessment, completed in March 2009 by Buxton Company, indicates that Downtown Hayward is underserved by full-service restaurants and drinking places.

- b. **The proposed use, as conditioned, will not detrimentally affect the surrounding neighborhood;**

The Conditions of Approval regulating the service of alcoholic beverages would mitigate any anticipated impacts to the surrounding neighborhood by requiring Department of Alcohol Beverage Control training for all service staff and providing security staff to monitor customers and Newman Park.

- c. **There is not another alcohol beverage establishment on the block face and the text amendment would remove the requirement to be outside of a 100-foot radius from a public park.**

This finding is met with the removal of the distance requirement. Club ME Restaurant and Lounge would be the only alcoholic-related commercial use on the north side of B Street located between Mission Boulevard and Main Street.

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<sup>9</sup> *The Core Area Plan*, p. 28.

<sup>10</sup> *Zoning Ordinance, Section 10-1.3425(b), Planning Commission Procedures*

- d. Although, according to the State Department of Alcoholic Beverage Control the census tract has an over-concentration of on-sale and off-sale licenses, the proposed use is necessary for public convenience or necessity;**

Club ME Restaurant and Lounge is proposed to be a high-quality eating, drinking, and entertainment establishment in the Downtown. It would offer affordable family dining with lunch, dinner and weekend brunch menus that specialize in American food (Attachment J), a night club two nights a week, and family-oriented or sports entertainment on Sunday. The establishment is required to operate as a bona fide restaurant at all times and the conditions of approval are designed to regulate the service and consumption of alcoholic beverages. The Planning Director finds that the proposed use is necessary for the public convenience and necessity.

### **POLICE DEPARTMENT REVIEW**

The Police Department has concerns with allowing the applicant to operate a night club with a Type 47 ABC License, which allows a restaurant, open to all ages, to operate in conjunction with a full bar and night club activities for ages 21 years and older. A single-purpose nightclub would normally be operated under a Type 48 ABC License. The Police Department is concerned that allowing a night club two nights a week would further over-saturate the downtown with bars, which currently stretches Police Department resources. The applicant has applied for a Type 47 ABC License so they can operate as a full-service restaurant for all ages. A Type 48 ABC license would allow access only to those 21 years and older.

The Police Department is concerned about the proximity to Newman Park since patrons of the night club are likely to utilize the park before, during, and after the night club. A condition of approval would require Club ME security to patrol the park during the hours of the night club operation.

In response to their concerns, the Police Department met with the Planning Division and the applicant to develop conditions of approval that are designed to control operations of the restaurant and night club in order to minimize the establishment's impacts on public safety resources. The proposed conditions require reimbursement for excessive Police Department calls for service; submission of a security plan to be reviewed and approved by the Police Department; serving staff training in proper procedures for the serving of alcoholic beverages; and specific hours and days that live entertainment and dancing are allowed. In addition, the conditional use permit would be reviewed after one year of operation to assure that the business is operated in a conformance with the conditions of approval. If the Police Chief determines the use is detrimental to surrounding uses and the downtown, or the Police Department has received excessive service calls, then a revocation hearing before would be scheduled before the Planning Commission should the owner not cooperate in making appropriate changes to the operation of the establishment. Critical incidents could constitute grounds for revocation at an earlier time.

## **ENVIRONMENTAL REVIEW**

It has been determined that the text amendment, and the conditional use permit as conditioned, will not cause a significant impact on the environment as documented in the Initial Study. A Negative Declaration was prepared in accordance with the California Environmental Quality Act (CEQA) guidelines. The review period began October 13, 2009 and will end November 2, 2009. The City Council would certify the Negative Declaration at their meeting that is scheduled for December 1, 2009.

## **PUBLIC OUTREACH**

On April 24, 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 a letter from COMMPRE (Attachment H) expressing concerns about: proximity to a public park, oversaturation of alcoholic beverage outlets, insufficient parking, adequate training of servers to assure minors would not have access to alcoholic beverages, and an inadequate security plan. In addition, they suggest that the City conduct a cost analysis to determine if the revenues received from this business would off-set the impact on City services. Staff met with Linda Pratt and Alfredo Coria of COMMPRE to discuss their concerns.

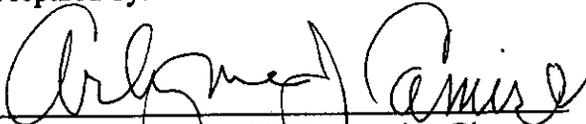
A security plan was submitted that addresses their security concerns on the interior and exterior of the establishment (Attachment G) and a condition of approval requires a revised security plan that addresses these concern as well as the concerns of the Police Department. Adequate parking is available at adjacent Municipal Lot 1 and at the City Hall Parking Garage. Public transportation is available after midnight on AC Transit Route 801, as are taxi cabs. In addition, the conditions of approval require a security plan which would provide more detail and require ABC LEAD Training for all of the servers and bartenders. Furthermore, review of establishment after one year of operation would allow the staff and the Planning Commission to revisit the conditions of approval or begin revocation proceedings if at that time it is found that the applicants are not operating the establishment in an appropriate manner and in accordance with the conditions of approval.

On October 13, 2009, a Notice of Public Hearing for the Planning Commission meeting and review of the negative declaration was published in the *Daily Review*. On October 26, 2009, a Notice of Public Hearing for the Planning Commission meeting and review of the negative declaration was mailed to every property owner and occupant within 500 feet of the subject site, as noted on the latest assessor's records, and to interested parties. Staff received an email from the property owner of 966 B Street in support of the project.

## **SCHEDULE**

At the regularly scheduled City Council meeting to be held on December 1, 2009, the City Council would review the recommendation of the Planning Commission. If the Text Amendment is approved, it would be final 30 days after approval. If the Conditional Use Permit is approved, the decision of the City Council would be final.

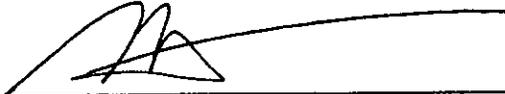
Prepared by:



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Arlynne J. Camire, AICP, Associate Planner

Recommended by:



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Richard E. Patenaude, AICP, Planning Manager

- Attachment A:** Area and Zoning Map
- Attachment B:** Proposed Text Amendment
- Attachment C:** Map of Parcels Affected by the Text Amendment
- Attachment D:** Findings for Approval for the Conditional Use Permit, Text Amendment, and Alcoholic Beverage Establishment
- Attachment E:** Conditions of Approval for the Conditional Use Permit
- Attachment F:** Statement of Experience
- Attachment G:** Security Plan
- Attachment H:** Letter from COMMPRE
- Attachment I:** ~~Negative Declaration and Initial Study for Text Amendment and Conditional Use Permit~~
- Attachment J:** Club ME Restaurant and Lounge Menu
- Attachment K:** ~~Required statements of criminal convictions~~
- Attachment L:** ~~Application Form~~  
~~Plans~~



## Area & Zoning Map

PL-2009-0201 CUP

Address: 926 B Street

Applicant: Traci & Monica Thompkins

Owner: Dinesh Shah

## Zoning Classifications

### CENTRAL CITY

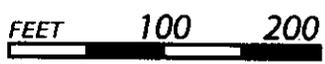
CC-C Central City - Commercial

CC-P Central City - Plaza

CC-R Central City - Residential

### OTHER

PD Planned Development

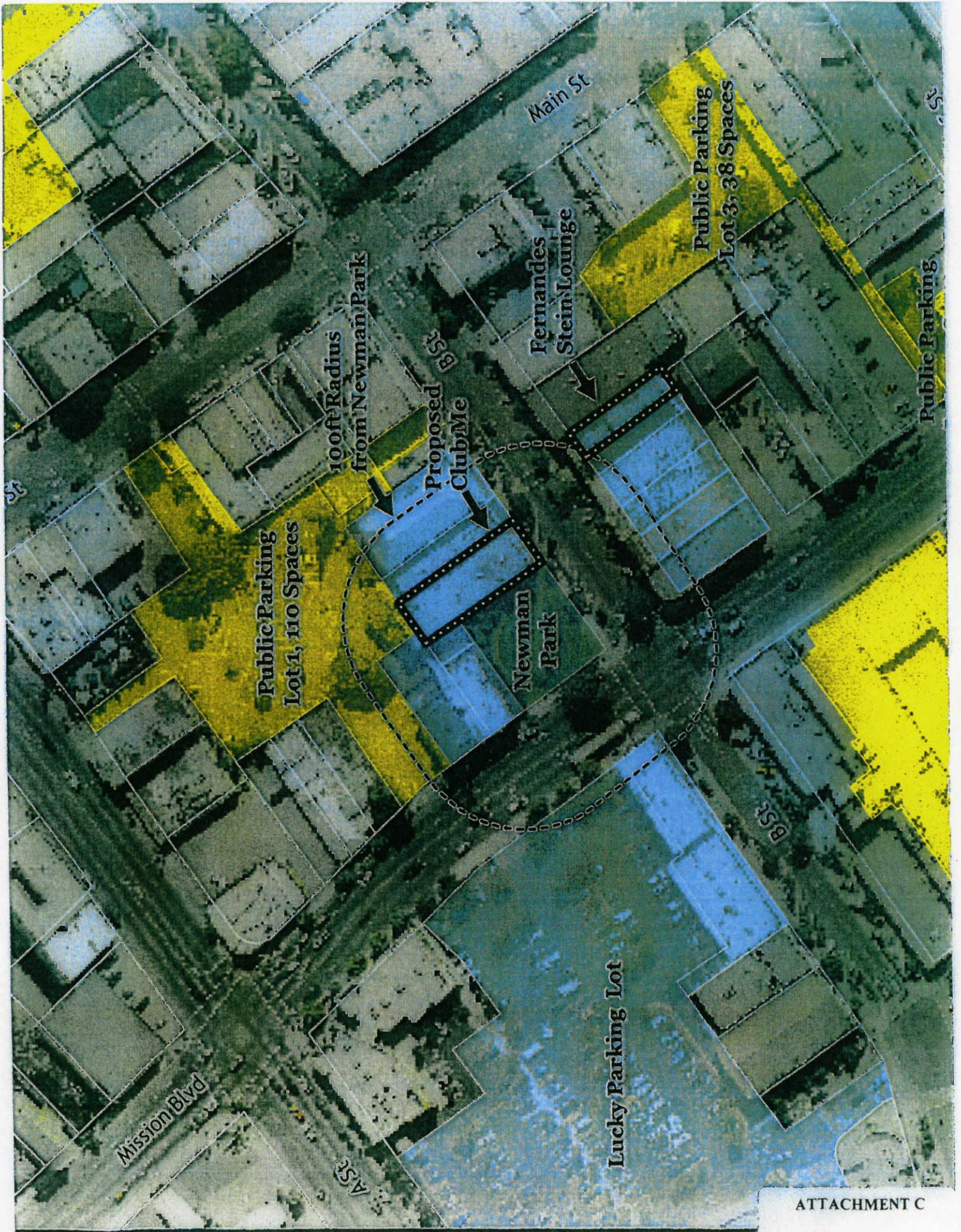


## SEC. 10-2735 SPECIAL STANDARDS AND CONDITIONS FOR CERTAIN USES

### b. Alcoholic Beverage Outlet Regulations

#### (7) Requirements For New On-Sale Alcohol-Related Commercial Activities.

- (a) With the exception of the downtown entertainment area, no new on-sale alcohol-related commercial activity shall be permitted within a radius of 500 feet of any other on-sale or off-sale alcohol-related commercial activity (with the exception of new or existing establishments which are exempted by subsection (3) above), or within 500 feet of any school, public park, library, playground, recreational center, day care center, or other similar use.
- (b) Notwithstanding the above:
  - (i) Outside the downtown entertainment area, the Planning Commission may recommend to the City Council a lesser alternative distance requirement in a particular instance, if it is found that the public convenience and necessity will be served by an alternate space requirement and that alternative measures to assure public health and safety are provided with respect to sale and use of alcoholic beverages.
  - (ii) Within the downtown entertainment area, no on-sale alcohol-related commercial activity shall be established or maintained within a radius of 100 feet of any off-sale alcohol-related commercial activity (with the exception of new or existing establishments which are exempted by subsection (3) above), or of any school, public park, library, playground, recreational center, day care center, or other similar use. **However, on-sale alcohol related commercial activities which front B Street between Watkins Street and Foothill Boulevard, or Main Street between A and C Streets, shall not be restricted with respect to proximity to any school, public park, library, playground, recreational center, day care center, or other similar use.**
  - (iii) Within the downtown entertainment area, no more than two on-sale alcohol-related commercial activities shall be permitted per block side or face, with the exception of new or existing establishments that are exempted by subsection (3) above. Determination of location on a block side or block face shall be made by referring to the street address of the on-sale alcohol-related commercial activity on a block between the two immediate cross streets.



**FINDINGS FOR APPROVAL**

**USE PERMIT APPLICATION NO. PL-2009-0201**

**TEXT AMENDMENT NO. PL-2009-0454**

**Starzz Management Services, Inc. (Applicant)**

**Dinesh Shah (Owner)**

**926 B Street**

**Request to Operate a Restaurant and Night Club with a Full Bar  
Club ME Restaurant and Lounge**

**General**

- A. Approval of Conditional Use Permit PL-2009-0201, as conditioned will not cause a significant impact on the environment as documented in the Initial Study. A Negative Declaration was prepared in accordance with the California Environmental Quality Act (CEQA) guidelines.

**Use Permit**

- B. The proposed use, as conditioned, is desirable for the public convenience or welfare;**

Club ME Restaurant and Lounge with conditions of approval to help ensure responsible operation, would offer local entertainment and dining opportunities which would be in proximity to downtown residential, employment, public transportation, and the municipal parking lots and which would help promote an actively vibrant, pedestrian-friendly atmosphere downtown.

- C. The proposed use will not impair the character and integrity of the zoning district and surrounding area in that the conditions imposed on the operation of the restaurant and night club will ensure safe and orderly conduct.**

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

*To establish a unique environment of retail and other complementary uses contributing to the pedestrian nature and quality of such streets as B Street.*

Club ME Restaurant and Lounge is proposed to be open for lunch and dinner, and serve affordable meals which would encourage pedestrian activity by offering an additional downtown lunchtime dining choice.

In addition, the purpose of the Central City-Commercial Subdistrict is met:

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

Entertainment is an activity that is encouraged within this zoning district. Club ME would offer nightclub entertainment for two nights a week and offer family entertainment on Sundays.

- D. The proposed use, as conditioned, will not be detrimental to the public health, safety, or general welfare.**

Club ME Restaurant and Lounge is required to adhere to all of the operational requirements for establishments that are full services restaurants, full-service bars and nightclubs. The proposal meets the Zoning Ordinance separation requirements, as amended, for on-sale licenses.

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

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

*In the Downtown Area-*

*Continue to implement the Downtown Design Plan and the Core Area Specific Plan.*

The Downtown Core Area Specific Plan recognizes that alcoholic outlets are part of community life and that allowing them with controls, is a component to the revitalization of downtown Hayward.

*The consumption of alcohol is a part of community life. As we look to the future of downtown Hayward, preventive planning to avoid alcohol-related problems must be recognized as an essential element in the revitalization process. It is important to manage alcohol availability in our downtown in a positive way that enhances the economic and social character of this vital area of our City. The successful revitalization of downtown will likely include new restaurants and entertainment facilities, many of which will sell alcoholic beverages and will hopefully become an asset to downtown. Policy makers should be afforded the opportunity to review and impose conditions of approval for certain alcohol related outlets to insure such uses are not a detriment to the downtown. The Police will set forth criteria and regulatory measures for the establishment and operation of certain alcohol related outlets. The Specific Plan Area would be subject to the ordinance. Additional programs, such as responsible server training for business outlets and event sponsors, may also be considered to ensure the effective management of the availability of alcohol.*

The proposed use, as conditioned, will not detrimentally affect the surrounding neighborhood.

#### **Text Amendment**

- F. The development will not have a significant impact pursuant to the California Environmental Quality Act.**

Approval of Text Amendment Application PL- PL-2009-0454, as conditioned will not cause a significant impact on the environment as documented in the Initial Study. A Negative Declaration was prepared in accordance with the California Environmental Quality Act (CEQA) guidelines.

**G. 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 for the opportunity for additional entertainment facilities consistent with goals of the downtown entertainment area. Such uses would require a Conditional Use Permit and would be operated in conformance with adopted conditions of approval that are designed not to impose a burden on City services.

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

The proposed text amendment is in conformance with the strategies within the Downtown Core Area specified in the Downtown Hayward Design Plan and strategies and policies of the General Plan, and would result in development that will be compatible with surrounding land uses and zoning.

The Core Area Plan states:

*The consumption of alcohol is a part of community life. As we look to the future of downtown Hayward, preventive planning to avoid alcohol-related problems must be recognized as an essential element in the revitalization process. It is important to manage alcohol availability in our downtown in a positive way that enhances the economic and social character of this vital area of our City. The successful revitalization of downtown will likely include new restaurants and entertainment facilities, many of which will sell alcoholic beverages and will hopefully become an asset to downtown. Policy makers should be afforded the opportunity to review and impose conditions of approval for certain alcohol related outlets to insure such uses are not a detriment to the downtown. The Police will set forth criteria and regulatory measures for the establishment and operation of certain alcohol related outlets. The Specific Plan Area would be subject to the ordinance. Additional programs, such as responsible server training for business outlets and event sponsors, may also be considered to ensure the effective management of the availability of alcohol.*

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

*Maintain the Downtown as a focal point for the City so that it continues to express the City's history, provides a venue for cultural vitality, and retain its role as a center for social, political, and other civic functions.*

*Recognize the importance of continuous retail frontage to pedestrian shopping areas by discouraging unwarranted intrusion of other uses that weaken the attractiveness of retail areas...*

The text amendment would create opportunities for additional entertainment facilities in the downtown entertainment area which would assist in revitalizing the downtown as a center of social functions. Club ME would be located near downtown commercial and residential uses within a downtown environment convenient to downtown residents, employees and visitors.

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 proposed text amendment meets the strategies and policies of the Economic Development Section of the General Plan in that an environmental evaluation determined that text amendment would relax a restriction that has the potential to prohibit several sites within the downtown entertainment area from being developed as intended and the removal of the restriction would not have significant negative impact the City's environment.

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

Approval of Club ME Restaurant and Lounge would be served by existing sanitary sewer and water that serves existing downtown properties. The Off-Street Parking Regulations and the Central City-Plaza District does not require additional parking to be provided for existing buildings. Patrons would have access to several municipal parking lots within walking distance.

**J. 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 removal of the restriction to distance from a public park and similar uses would allow additional properties to be developed with entertainment uses that could potentially attract more patrons to the downtown area, thereby increasing the potential for pedestrian and retail activity.

**Additional Findings for Alcoholic Beverage Establishments**

**K. The proposed use will not result in an undue concentration in the area of establishments dispensing alcoholic beverages**

There are no other on-sale establishments on the north block face between Mission Boulevard and Main Street.

- L. The proposed use will not result in an undue concentration in the area of establishments dispensing alcoholic beverages.**

Club ME Restaurant and Lounge would be the only alcoholic-related commercial use on the north side of B Street located between Mission Boulevard and Main Street.

- M. The proposed use, as conditioned, will not detrimentally affect the surrounding neighborhood.**

The text amendment would remove the 100-foot distance requirement in the areas of front B Street between Watkins Street and Foothill Boulevard, or Main Street between A and C Streets in respect to the proximity to any school, public park, library, playground, recreational center, day care center, or other similar use. Since the restriction was designed to minimize the effect on children, each conditional use permit approval would require operating conditions of approval that would minimize the effects of the aforementioned uses.

- N. There is not another alcohol beverage establishment on the block face and the text amendment would remove the requirement to be 100 feet from a public park.**

Night club activities which front B Street between Watkins Street and Foothill Boulevard, or Main Street between A and C Streets, shall not be restricted in respect to proximity to any school, public park, library, playground, recreational center, day care center, or other similar use therefore, distance requirements have been met and would be examined with each application.

- O. Although, according to the State Department of Alcoholic Beverage Control the census tract has an over-concentration of on-sale and off-sale licenses, the proposed use is necessary for public convenience or necessity.**

Club ME Restaurant and Lounge is proposed to be a high-quality eating, drinking, and entertainment establishment in the Downtown. It would offer affordable family dining with lunch, dinner and weekend brunch menus that specialize in American food, a night club two nights a week, and family-oriented or sports entertainment on Sunday. The establishment is required to operate as a bona fide restaurant at all times and the conditions of approval are designed to regulate the service and consumption of alcoholic beverages. The Planning Director has determined that an over-riding consideration for over-concentration of alcoholic beverage outlets can be made.

## **CONDITIONS OF APPROVAL**

### **USE PERMIT APPLICATION NO. PL-2009-0201**

**Starzz Management Services, Inc. dba Club ME Restaurant and Lounge (Applicant)  
Dinesh Shah (Owner)  
926 B Street**

### **Request to Operate a Restaurant and Night Club with a Full Bar**

Use Permit Application No. PL-2009-0201 is approved subject to the conditions listed below. This permit becomes void one year after the effective date of approval, unless prior to that time a building permit has been issued, or a time extension of this application is approved. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division 15 days prior to the above date.

If a building permit is issued for construction of improvements authorized by the use permit approval, said approval shall be void two years after issuance of the building permit, or three years after approval of the application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance upon the use permit approval.

#### **General**

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 it may readily be viewed by the general public.
3. At the expense of the applicant, the Planning Commission shall review the use permit and the facility's conformance with the conditions of approval after one-year of operation.
4. Night club shall mean any alcoholic beverage sales commercial activity in conjunction with providing live entertainment (including the playing of recorded music by a disc jockey) or dancing between the hours of 9:00 pm to 2:00 am regardless of whether the establishment is simultaneously offering full restaurant meal service or charges an entry fee or increases the sale price of beverages.
5. Violation of any of the conditions of approval of this conditional use permit may constitute grounds for revocation pursuant to Section 10-1.3260 of the Zoning Ordinance.

## **General Operations**

6. The exterior of the premises, including adjacent public sidewalks and all parking lots under control of licensee(s), shall be illuminated during all hours of darkness during which the premises are open for business in a manner so persons standing in those areas are identifiable by law enforcement personnel. The lighting shall meet Chapter Title 24 of the California Building Code.
7. The premises shall be kept in a clean, well-maintained condition. Paint and windows shall be kept clean and cracked or broken glass shall be replaced promptly. The licensee(s) shall be responsible for removing graffiti from the premises under the control of the licensee(s) within 48 hours. Public sidewalks adjacent to the establishment shall be cleaned daily. The management shall ensure that no trash or litter originating from the establishment is deposited on neighboring properties or the street.
8. There shall be no promotional signs of any kind affixed on the interior or exterior of the windows of the business, except for one information area with a maximum area of six square feet providing hours of operation, emergency contact information, etc. The storefront glass shall not be tinted.
9. No pay phones shall be permitted on the exterior of the building or premises. Pay telephone(s) maintained on the interior of the premises shall be limited to outgoing calls only.
10. Per the California Building Code and Fire Code, occupant load signage shall be installed on all levels of the establishment.
11. Except during night club activities, occupancy of all uses on all three floors shall be limited to a total of 514 per the California Building Code. The occupancy of each floor shall be clearly posted and enforced by the establishment staff. During night club hours, total occupancy is limited to 243 persons, or the maximum occupancy of the main level as established by the architect and approved by the City Building Official.

## **Police Department and Safety**

12. The occurrence of more than two critical incidents during nightclub hours within a one-year period may constitute grounds for revocation of this permit.
  - (a) "Critical Incident is defined as any event in the sole discretion of the Police Chief that results in a crime of violence or large unruly gathering necessitating a police response of five or more police officers. Crimes of violence may include but are not limited to discharge of firearms, robbery, physical assault or assault with a deadly weapon.
  - (b) "Premises or its adjoining grounds" will include within the structure of 926 B Street, the sidewalk where queuing for admission occurs, and the area to the rear of the building, including the parking lot within 50 feet of the building.

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

13. The Hayward Police Department will conduct periodic audits of all Police calls for service involving the restaurant and night club. If after reviewing the audit, the Hayward Police Chief determines that there has been an excessive number of calls for service involving the restaurant and night club's operation, the Police Chief or his designee will meet with the permittee to discuss the calls for service and allow the permittee to make changes in operations (i.e. genre of music, facility, marketing demographics) to reduce the number of calls for service. If the permittee is unwilling to make changes or refuses to make changes in restaurant and night club operations to reduce calls for service, the Police Chief may recommend revocation of this permit.
14. Commission of a criminal offense by the permittee or any employee of the permittee where it is determined that the establishment is the location the offense was committed and the Hayward Police Chief has determined that the committed offense is detrimental to the public health safety, or general welfare, shall be grounds for revocation of this permit.
15. The business operator shall be responsible to reimburse the Hayward Police Department for costs associated with a police response that fits the criteria of "Critical Incident," as defined above. Failure to pay costs within 30 days of billing for the Hayward Police Department response to a Critical Incident may constitute grounds for revocation of this use permit.
16. All employees and the permittee of the restaurant and night club shall work collaboratively with the Hayward Police Department, with the goal of maintaining a safe, secure facility. The permittee and employees will call the Hayward Police Department as needed to work with intoxicated, uncooperative, or disruptive patrons. The Facility Security Plan shall be implemented in response to disruptive incidents and patrons. If the permittee or employee of the facility, including security officers, are not able to resolve issues involving disruptive patrons they shall call the Hayward Police Department and request assistance. Failure to work collaboratively with the Hayward Police Department or to reasonably call for assistance, as needed, may result in revocation of this permit.
17. The permittee and the security staff shall be responsible for implementation of the security plan approved by the Hayward Police Chief and for the maintenance of the peace to ensure order on the property. The permittee shall take all necessary steps to ensure that permittee's patrons and visitors refrain from incidents of violence, intoxication, and/or loud or obnoxious behavior that adversely impact the safety and welfare of patrons in the facility and citizens in the surrounding area and the community.
18. Prior to operation of the restaurant and night club, a written security and safety plan shall be submitted for review and approval by the Police and Fire Departments to ensure maintenance of peace and safety on the subject property and in the surrounding area. The security and safety plan be maintained at all times and shall address, but not be limited to, the following:

- (a) The number, training, duties, means of identification and equipment of security personnel / bouncers;
- (b) Age verification procedures, weapon screening and customer access controls;
- (c) Prevention of loitering and alcohol consumption in the vicinity of the establishment and parking areas;
- (d) Prevention measures to be taken to ensure that patrons and visitors refrain from incidents of violence and/or intoxication that adversely impact the safety of the community;
- (e) Rules of acceptable conduct;
- (f) Protocol for contacting the Hayward Police Department for disturbances and acts of violence;
- (e) Compliance with the Alcoholic Beverage Control license requirements;
- (f) The written policies, procedures and practices of security personnel/ bouncers;
- (g) Fire prevention measures, fire alarm and suppression systems and fire exiting;
- (h) After-hours security;
- (i) Policies and procedures for graffiti, outside litter control and indoor pay phones;
- (j) Maintenance of maximum occupancy loads including an accurate system to keep head counts for Police Department and Fire Marshal reporting;
- (k) Cash handling procedures
- (j) Evacuation and procedure plan which addresses: fire, natural disaster, crime of violence and power failure;
- (l) Location of security staff, i.e. security personnel shall be assigned to rear parking area for the duration of the night club;
- (m) Protocol for dealing with a patron refusing to leave and citizen's arrest for trespassing;
- (n) Protocol and procedures for clearing patrons under the age of 21 from the facility by 9:00 pm on Friday and Saturday;
- (o) Night Club and restaurant occupancy compliance and patron removal;
- (p) Specifications and operating procedures for a Close Circuit Television System with a Digital Video Recorder covering the parking lot, entrances and exits, bar area and public assemblage areas on all floors.
- (q) The prohibition of "In and Out" privileges while operating the night club. If a patron leaves the building for any reason an admittance charge in-full is required to be paid prior to re-admittance.
- (r) During night club and entertainment facility operations, security staff will screen all guests for dangerous weapons. Magnetic wands will be used and all purses or other bags will be visibly checked to assure no weapons are allowed inside the building. Knives, clubs, chemical agents, tasers and other electroshock devises, firearms and replica firearms are strictly prohibited. All guests and patrons entering the facility will be screened, even if for the purpose of re-admittance.

19. The permittee shall discourage patrons and visitors from loitering and/or consuming alcoholic beverages in adjacent public rights-of-way, parking areas, and properties. Licensee(s) shall post and maintain on the premises and in the facility's parking lot notices or signs, no less than eighteen inches by twenty-four inches (18"x 24") in size, clearly visible to the patrons of the facility and parking lot and to persons on the public sidewalk stating in 2-inch block lettering the following:

**NO LOITERING OR OPEN ALCOHOLIC BEVERAGE CONTAINERS ARE  
ALLOWED ON OR IN FRONT OF THESE PREMISES**

20. Queuing for admission to the facility shall be formed at the B Street entrance. Stanchions and rope shall be used to delineate the queue, if needed, and placement shall allow a four-foot sidewalk right-of-way clearance. No congregation of patrons shall be permitted at the rear of the building. Queues are to be limited to areas that do not impede the entrances to adjacent businesses. Queued guests waiting in line to enter the night club shall be allowed to use the restaurant's restroom facilities. Security Staff shall verify that such guest is 21 years or older then escort the guest to the restroom and escort the guest back to the line.
21. The allowed maximum occupancy of the establishment on Friday and Saturday nights is 243 persons, or the maximum occupancy of the main level determined by the architect and approved by the City Building Official. A plan that specifies the steps that would be taken to enforce this restriction shall be submitted for review and approval by the Hayward Police Department as part of the above-referenced security plan.
22. Between the hours of 8:00 pm and 2:00 am of the following day every Friday and Saturday, the permittee/licensee shall provide at least four uniformed security guards licensed by the State of California who are employees of and acting under the direction of a Private Patrol Operator duly licensed as such by the State of California. The starting hour or the required number of licensed uniformed security guards may be adjusted at the discretion of the Chief of Police.
23. Interior illumination shall allow the unaided inspection of personal identification by members of the Hayward Police Department and Security Personnel while inside the premises. The applicant shall provide a uniform minimum of light level of at least one-foot-candle at the walking surface of level throughout the establishment.

#### **Alcohol and Food Sales Procedures**

24. Violation of Department of Alcohol Beverage Control regulations is grounds for revocation of this permit.
25. The sale of alcoholic beverages for consumption off the premises is strictly prohibited.
26. The sale, service and interior on-site consumption of alcoholic beverages shall be discontinued not later than by closing or 1:00 am each day of the week. Food service is

required to continue to the close of business each day of the week. A full menu must be made available during all business hours.

27. No person under 21 years of age shall be allowed in or on any portion of the premises under the control of the licensee after 9:00 pm on Friday and Saturday.
28. The establishment shall operate only as a License Type 47 per the state Department of Alcoholic Beverage Control regulations.
29. The applicant is required to bring the Alcoholic Beverage Control application to the Planning Division for review in consultation with Police Department staff. At that time, the conditions of approval will be attached to the application form to be submitted by the proponent to the Department of Alcoholic Beverage Control.
30. No minimum drink purchase or similar charge shall be imposed on or required of customers entering the establishment. An admission charge or cover charge is permitted.
31. The permittee, before operation begins, and all employees, within three months from the date of hire, who are engaged in the dispensing of alcoholic beverages shall attend the Department of Alcoholic Beverage Control's LEAD Training. Any employee hired after this permit is approved shall attend such Training within three months of his/her date of hire. As proof of attending the Training, the Department of Alcoholic Beverage Control certificate of completion shall be submitted by the permittee for each employee upon completion of such training to the Hayward Police Department. The applicant for each employee may contact the Hayward Police Department at 510-293-7272 for information regarding class scheduling.
32. No employee or agent shall solicit or accept any alcoholic or non-alcoholic beverage from any customer while in the premises.
33. The sale of alcoholic beverages for consumption OFF the premises is strictly prohibited.
34. Self-service of alcohol is prohibited, including refrigerated coolers or buckets of drinks in ice available prior to the customer's order of such.
35. The sales of alcoholic beverages shall not exceed 60 percent of the total sales of the restaurant/bar food sales as required for full-service restaurants by Hayward Municipal Code Section 10-1.2735(b)(2)(c). The licensee shall, at all times, keep records which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be sent to the Chief of Police on a quarterly basis beginning three months of operation of the business.
36. Tables in the main floor dining area shall remain in place on Friday and Saturday after 9:00 pm to facilitate the serving of full meals.

#### **Sound and Entertainment**

37. The front door(s) or any operable windows shall be kept closed at all times during times when amplified music or entertainment is occurring, except in the cases of typical ingress and egress, or emergency situations. Deliveries during such times shall be prohibited. Front door(s) may not include a screen or ventilated security door. Noise generated by the establishment or its patrons shall not exceed ambient noise levels beyond the area under the control of the licensee.
38. An admission charge is allowed only for the night club activities between the hours of 9:00 pm until 2:00 am on Friday and Saturday.
39. Live entertainment, community talent shows, and poetry readings, and similar entertainment as determined by the Planning Director, are permitted on Sunday up to 9:00 pm; an admission charge is not permitted for such events. Dancing is prohibited.
40. Background music shall be permitted anytime. Background music may be live or recorded and shall not utilize a stage nor involve dancing. Live music shall not be amplified except on Friday and Saturday during night club hours of 9:00 pm to 2:00 am, and Sunday live entertainment from 7:00 pm to 9:00 pm.
41. The permittee shall obtain and maintain a valid Dance Permit pursuant to Section 6-2.10 et seq of the Hayward Municipal Code at all times dancing is allowed inside the establishment and the permittee shall at all times conduct such dances in accordance with the regulations established in the Hayward Municipal Code. The Dance Rules & Regulations pursuant to Hayward Municipal Code Section 6-2.15 shall be observed and posted in a conspicuous place within the premises.
42. Earplugs shall be made available to all employees.
43. There shall be no more than two billiard tables in the facility. Coin operated games (other than billiard tables) shall be limited to four in number and shall be located in the basement lounge area.
44. There shall be no adult entertainment as defined by Zoning Ordinance Section 10-1.2735 (a). In addition, there shall be no fashion or lingerie shows.

#### **Pre-Operations**

45. Not more than 25 percent of the store front windows shall be obstructed to allow a clear view into the establishment. Floor plans shall be revised at the time of submittal of a Building Permit application to show relocation of the restrooms. The plans shall be approved by the Planning Director prior to submittal for a Building Permit for tenant improvements.
46. At the time of submission for a Building Permit for tenant improvements, a copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set. Final occupant loads shall be identified on the plans by the architect in accordance with applicable codes and shall reflect both a seating factor and a standing factor.

47. Prior to final inspection/occupancy, all improvements and conditions of approval shall be completed to the satisfaction of the Planning Director, Building Official, Police Chief, and Fire Chief.
48. The rear entrance is allowed to be used for restaurant entry and exit. The rear entrance is not permitted to be used as an entrance or exit, during night club hours on Friday and Saturday, 9:00 pm to 2:00 am, except as an emergency exit only. An audible alarm shall be installed on the rear door and shall be armed during times when the rear door is an emergency exit. Also, a security staff member shall be stationed at such exit during Friday and Saturday evenings to ensure patrons do not use such rear entrance. The hours that the rear entrance is available to customers shall be posted on the exterior and interior adjacent to the rear door.
49. All exterior signs shall require a separate Sign Permit and shall comply with the Sign Ordinance of the City of Hayward.
50. No mechanical equipment, solar collectors, television or satellite reception antennas may be placed on the roof unless it is adequately screened from view by the proposed roof structure. Prior to construction, documentation shall be provided that the roof-mounted mechanical equipment is adequately screened.
51. Any broken sidewalk along the property frontage that creates a tripping hazard shall be removed and replaced. Any work done in the right-of-way requires an encroachment permit from the City.

#### **Public Works, Utilities**

52. Prior to issuing a building permit, provide gallon per minute demand on plans to determine proper water meter size. Any modifications needed to the water service and/or water meter (upsized, downsized, relocate, etc.) must be performed by City Water Distribution Personnel at the applicants'/developer's expense.
53. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each domestic and irrigation water meter, per City Standard SD-202.
54. The applicant shall install a grease control device to control fat, oil and grease discharge from any food service establishment, unless this requirement is expressly waived by the Director of Public Works or designee. The type, size, and location of the device shall be approved by the Director of Public Works.
55. A separate water service line is required to supply the fire sprinkler system. All fire services shall have a Double-Detector Check and Trim/Fire meter installed by City Water Distribution Personnel at the applicant's/developer's expense, per City Standard SD-204. Minimum sizing shall be per Fire Department's requirements.

## **Solid Waste**

56. Adequate indoor and outdoor storage space for recyclables is required by state law. No materials of any kind may be stored outside the building and the frequency of trash and recyclable collection shall be sufficient to prevent overflow. The business owner shall participate in the Commercial Recycling and Organics Collections program. Please call Vera Dahle-Lacaze, Solid Waste Manager at (510) 583-4700 for more information.

## **Fire Department**

57. Install a fire sprinkler system consisting of a Light Hazard system to be installed in the seating area and an Ordinary Hazard Group 1 system to be installed in service areas. The system shall be installed per NFPA 13 Standards. This type of sprinkler system requires a dedicated underground fire service line to supply water to the automatic fire sprinkler system.
58. Install a manual fire alarm system throughout the building. Design and installation shall be per CFC, Article 10 and NFPA 72 Standards.
59. Fire protection is required for all commercial cooking equipment (hood and exhaust ducting). Fire protection systems shall meet NFPA 96 Standards for installation.
60. Provide portable fire extinguishers throughout the building with a minimum rating of 2A:10BC. The kitchen shall have Class K type fire extinguisher(s) within 30 feet of the cooking equipment. Portable fire extinguishers shall be installed in locations as approved by the Fire Department.
61. The door at the rear of the building labeled as "Exit." Exit plans shall be posted in appropriate locations as approved by the Fire Marshal.
62. Interior decorative materials shall be flame treated.
63. Building construction for A-2 occupancy shall meet the 2007 CBC and other applicable city standards and ordinances.
64. An annual permit for Place of Assembly shall be obtained. The initial permit shall be obtained prior to certificate of occupancy.
65. Prior to plan submittal contact the Hazardous Materials Office to verify that hazardous materials issues within the building or occupancy are cleared. (510) 583-4910. Limit cleaning products to ten gallons maximum.



To: Arlynn J. Camire, AICP  
Associate Planner  
City of Hayward  
(510) 583-4206

Ref: Experience

Starzz has operated several establishments for private customer and government agencies nationwide. Our experience in the restaurant area comes from managing an Air force restaurant /Dinning Hall in San Antonio TX, and the Navy Officer Club in Pensacola Florida. Our experience in managing Club comes from the operation of Club V's in Atlanta GA, management of the Trident Club at the NPS in Monterey CA, and management of Club Diallo in Houston Texas.

Our manager over this endeavor is Mr. Darrel Liner, Mr. Liner has over 27 years management experience with Red Lobster Corporation. His duties included new location startup, corporate head chef, and regional manager.

Security Management comes from Mr. Joe Thompkins serving 11 years in the U.S Navy on a special alert security team, managing 3 DOD security contracts, and 2 year experience in club security. Also Mr. Matt Hoffman who served 23 year in the U.S Marines in charge of the Department of Public Safety (DPS) and over 4 years experience in club security.

October 5, 2009

## Revised security plan

Our security plan includes daily standard operations to ensure prohibition of under-age drinking. During meal service, it will be the responsibility of the servers to physically check all customers' for a valid state issued driver's license or identification card when ordering alcoholic beverages. Management will perform quality assurance checks by randomly checking patron's identification. Security guards will be assigned as follows:

- a. One unarmed security guard on the premises at 5:00pm to closing – seven days a week
- b. Four unarmed security guards on the premises at 8:30pm to closing – Friday and Saturday
- c. Security assigned for Sundays will depend on scheduled entertainment

Management decides which customers it will attract based on the club's location, the atmosphere and music format it provides, plus its' advertising. In the marketing of the restaurant and lounge, we will use promotional ideas to set a tone to attract specific types of patrons. Management will, at any time, change that "tone" by changing the music, adding or changing the amount of (any) door cover charge, increasing or relaxing the dress code, changing décor and lighting, increasing visible "security," or taking other measures appropriate to our facility.

Club ME restaurant and lounge has assessed the risks to the establishment, including the crime history in their immediate based on the type of customers we want to attract, and their known or likely problems. Once the potential problems and risks are identified, counter-measures can be developed and our personnel will be trained to implement. Our security plan will be reviewed periodically to determine whether any changes or additions are necessary.

### **The Doorperson**

The first line of defense for this establishment is a doorperson. Stationed at the entry door(s), the doorperson (also known as a security person) checks IDs to ensure that people seeking entrance are of legal age. They also attempt to deny entry to persons who are obviously intoxicated, or who are known to have previously caused problems and been barred by management. Tact, good communication skills, and a sense of humor and fairness are traits that each doorperson will possess.

Security screening will be used – metal detector, which will take place immediately behind (inside) the doormen. A metal detector (hand-held) will be used, along with training in its calibration and proper use. A female security officer will be a part of the team to frisk females who set off the metal detector.

## **Bartenders and Servers**

Our second line of defense is the bartenders and servers. Each will be trained to identify patrons who are visibly becoming intoxicated, under aged, or becoming loud, obnoxious, or "looking for trouble." They will also be trained in basic non-confrontational methods to cut such people off from further drinking. Condoning the presence of visibly intoxicated persons, or turning them loose to drive on the streets is a recipe for disaster. Training for these personnel will also include low-key behavior modification techniques that can often defuse a problem before it escalates.

## **Security Personnel**

The next and final line of defense are the inside security personnel (floor person). A local certified Security Company will carry out this function. Their area of responsibility for the inside security personnel is to monitor the crowd to ensure that no one becomes unruly. *Deterrence and prevention first!* Patrons should be able to have a good time, but within established limits set by the club. To do this, security employees will be carefully screened for clear backgrounds along with maturity and good judgment, and should have specific written guidelines on exactly what action(s) management wants them to take or not take. They will then be trained in those duties, and their individual training documented. Their duties should be limited to "security" type duties so that they do not become distracted, or find themselves elsewhere performing other non-security duties when a problem arises.

We will have one floor man / floor woman for each anticipated fifty to seventy-five (50-75) patrons. Floor persons will be located at the following:

- Backdoor, kitchen and bar area
- Throughout the service area
- Building exterior

The floor persons will accomplish their jobs by first being highly visible to all present. They will wear a security uniform, a brightly colored red shirt or jacket. Shirts or jackets will bear the words "Staff" or "Security" on the front and back in large white or black letters. The highly visible presence of these floor persons as they circulate throughout the club reminds patrons that their conduct is being scrutinized. Security personnel will be in radio communication with each other, using radios with an earphone extension.

If establishment rules are being violated, floor persons or other employees should immediately discreetly explain the rule to the violator(s), then promptly enforce the rule. If possible, separate the violators from their friends so they won't become embarrassed. Don't wait, however, hoping the problem will go away. Usually this "warning" is all that is needed to effect compliance. Other security personnel, servers and management will be alerted to keep an eye on that particular person or party. Where an initial warning doesn't do the job, the patrons will be removed from the facility.

### **Removing Patrons**

Sometimes visible presence, rule enforcement and warnings aren't enough and, for the safety of staff and customers alike, an unruly patron must be ejected. Two or more security personnel will be present during the removal.

Escorting a patron out of a club involves first explaining why the person is being asked to leave, then verbally requesting that they comply. If the customer has previously been warned, they already know why they are being asked to leave, and, if treated courteously, many will leave without problem.

### **Outside the Club**

Security personnel will prohibit and control the loitering outside the establishment by monitoring the entrance area and parking lots during business hours starting at 5:00pm. As a situation occurs, security will address and handle immediately. Security personnel will monitor the exterior areas every hour starting after 10:00pm, and continuing until all patrons and employees have left. The exterior of the building, entrance and parking lots, will be monitored with one or more security officers and through the use of continuously monitored Closed Circuit Television (CCTV) cameras. The visible presence of security may deter incidents from happening, or, if not deterred, security is then in a position to call the police and intervene as appropriate.

### **Transition from dining to night club, Friday and Saturday**

Our standard operating procedures will include a transition plan for Friday and Saturday from dining to night club. The transition will be accomplished in a professional and smooth manner. Dinner service will conclude at 9:00pm. Diners entering the restaurant at 8:00pm or later will be informed upon being seated that the restaurant will be closing at 9:00pm.

For diners/customers already seated we will do the following:

- At 8:15pm, waiter/waitress will ensure that all food orders are served, no more food orders are accepted until 9:30pm
- Waiter/waitress will notify their customers of closing time
- At 8:45pm, an announcement will be made that customers under age 21 will be required to leave by 9:00pm.
- At 9:00pm, security staff will do a physical check of the facility and ensure all customers have vacated. The restaurant will be cleared entirely at 9:00pm for transition to night club.
- Night club will open at 9:30pm

Customers not dining will be required to wait outside until the club opens.

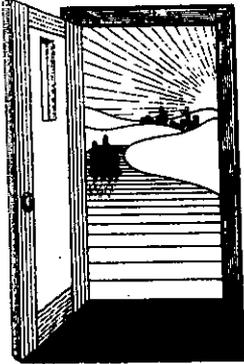
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OCT 29 2009

PLANNING DIVISION

October 26, 2009

COMMPRE



Arlyne Camire, AICP  
City of Hayward, Planning Division  
777 B Street  
Hayward, CA 94541

Re:

- (1) Text Amendment No. PL-2009-0454 – Starzz Management Services, Inc.
- (2) CUP Application No. PL-2009-0201 – Starzz Management Services, Inc.

Dear Ms. Camire:

1558 B Street, Suite 201  
Hayward, CA 94541  
(510) 885-8743  
(510) 885-1848 fax



A program of  
Horizon Services, Inc.

Text Amendment No. PL-2009-0454

We are opposed to amending Hayward Municipal Code Section 10-1.2700: (7) (b) (ii), which will delete the 100 feet radius requirement pertaining to the park. The primary reason for changing the code is to allow nightclub uses within 100 feet of the downtown park.

According to the Core Downtown Plan, *"the consumption of alcohol is a part of community life. As we look to the future of downtown Hayward, preventive planning to avoid alcohol-related problems must be recognized as an essential element in the revitalization process. It is important to manage alcohol availability in our downtown area in a positive way that enhances the economic and social character of this vial area of our city."*

The conditional use permit process was recently updated by the City to accommodate entertainment in the downtown. The original intention was to protect the park, as a sensitive use, from potential alcohol-related problems. In fact, the code was written as a 'preventive' tool that the City could use to prevent problems from occurring in the first place.

Balancing the public health and safety with the presence of alcohol serving nightclubs has historically not been very successful in that much of the burden has been put on the community and city services to monitor and enforce problems that typically occur at certain types of establishments – especially nightclubs.

It is possible to create more balance between public health and safety and alcohol establishments through the use of public policy. Unfortunately, the City of Hayward lacks modern alcohol policies that are used to mitigate and prevent alcohol-related problems often contributed to 'high risk' alcohol uses. For example, many cities and counties throughout California have: 'deemed approved' ordinances, which provide that *all existing* alcohol establishments abide by performance standards and provides an abatement process if they don't. Another preventive policy would require every alcohol establishment to pay a fee that recovers the costs for mandatory server

ATTACHMENT H

education, enforcement, including regular decoy operations to prevent sales to underage persons, and abatement if necessary.

Since these policies are not in place in Hayward, there already exists an environment where the sellers and servers are not required to have any education, there are very few decoy operations to prevent underage sales of alcohol and many alcohol establishments do not operate up to minimum performance standards. With a lack of preventive 'tools' in the code, and the current economic reality in which city maintenance services have been cut back, and police resources are already stretched, it is predictable that there will be additional alcohol-related problems in the downtown park if the code is changed to allow nightclub uses to exist next to the park.

Although the proposed plan is not in a high crime district, we urge you to not ignore the adjacent reporting districts, which have higher than average crime rates than the city as a whole. The adjacent district for example, is at 235%. Crime has no boundaries but a strong correlation with alcohol sales. Hayward is oversaturated with alcohol outlets. ABC law requires one alcohol outlet per 2,500 residents; Hayward has one alcohol outlet per 550 residents-nearly 300 outlets in total. It is not coincidental that the 2007 Hospital Council Report shows the city of Hayward as having the highest Alcohol Hospitalization Rates in Alameda County (including the unincorporated areas).

It doesn't make sense that by weakening the CUP ordinance to allow more high-risk alcohol establishments that the health and safety of Hayward residents will be better protected.

CUP Application No. PL-2009-0201 to open Club Me Restaurant & Lounge at 926 B Street in Hayward:

We thank the Planning Department for insuring that the applicant has provided a complete application and proper plans for the proposed business operation. After review of the application, we have concerns about the following:

- 1) The plan does not include a detailed description of the applicants' set of experience, skills, knowledge and track record of running successful nightclubs. It is important to obtain letters of reference and financial statements that would inform as to the ability to successfully manage this type of business.
- 2) The applicant states that the primary use of the establishment is as a full service restaurant and lounge. However, it does not state where the majority of sales are projected to come from, i.e. alcohol, food, nightclub entrance fees, etc.. The City should insure that at least 60% of revenue is derived from food sales.
- 3) The plan to clear the 'restaurant' at night of underage persons in order to operate a nightclub is not adequate. Minimally the applicant should institute a bracelet system to clearly identify what patrons are over 21. A metal bar

separating the restaurant from the bar area is not sufficient for preventing sales to underage persons.

- 4) The business plan does not adequately address the following important details:
- **Security:** The security plan is brief and does not include details of how security personnel will be hired, trained and certified. There is no discussion about patrolling the adjacent park. It has not been demonstrated how security will prevent patrons from leaving the club and using the park. How will security insure that patrons leaving the club do not go into the park and cause the following alcohol-related problems: public urination, public drinking, vomiting, loitering, fighting, etc....?
  - **Responsible Beverage Service:** There is not adequate discussion about how and by whom the servers would be trained in responsible beverage service (RBS), and how the club would protect minors (under the age of 21) from accessing alcohol. Security companies are not certified by the ABC to provide RBS training. What will their procedure be to insure that fake I.D. cards are not being used?
  - **Parking:** The proposed premises will have occupancy for 514 patrons. Where will 200-300 cars park in the downtown area? The closest lot is the Lucky shopping center, which is where most patrons would try to park. How will the applicants' prevent their patrons from using this lot? Public transportation will not be available to accommodate patrons after midnight.

If the City allows this use, minimally the following ABC approved restrictions should be placed on the license:

- The sale of alcoholic beverages for consumption off the premises is strictly prohibited. (If this is not stated, a Lic. 47 automatically allows off-sales of alcohol)
- All servers must have Responsible Beverage Service (RBS) training. Certificates of Completion must be kept on the premises for all servers.
- No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed.
- The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records which reflect separately the gross sale of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to HPD and ABC on demand.
- Between the hours of 9:00pm and 2:00am or at any time the premises are providing entertainment, the petitioner(s) shall provide <# of> licensed uniformed security guard(s) in and around the premises and shall maintain order therein and prevent any activity which would interfere with the quiet enjoyment of their property by nearby businesses, residences and adjacent park.
- Petitioner(s) shall police the area <time interval"> in an effort to prevent the loitering of persons around the premises.
- Loitering is prohibited on or around these premises and adjoining park area.
- The possession of alcoholic beverages in open containers and the consumption of alcoholic beverages is prohibited on or around these premises.

In conclusion, we believe that preventive ordinances should ideally be adopted PRIOR to amending the CUP ordinance to allow nightclubs around the park. This proposed amendment is akin to "putting the cart before the horse."

Also, prior to issuing a permit for this application, we think the City should conduct a cost analysis to determine if the revenues received from the business will in fact exceed the police and other city services used on behalf of the business. Perhaps the city could institute a fee for maintenance of the park, since city staff are working fewer hours, and therefore, having to clean the park more frequently would be a burden to the City's finances.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink that reads "Linda Pratt". The signature is written in a cursive, flowing style.

Linda A. Pratt, M.A.  
Program Director

**Appetizers**

Crispy Calamari (*with ME own marinara*)

Chicken Tenders (*with ranch, honey mustard or BBQ*)

Chicken Wings (*classic, mild, hot, flaming, lemon pepper*)

Shrimp Cocktail

Veggie Bowl (*with carrots, celery, and mushrooms*)

Potato wedges

Spinach Dip

Mozzarella Sticks

Nachos (*cheese, chili, supreme*)

Chips and Salsa

**Soups and Salads**

*Bowl*

*Cup*

*Cup w/any entree*

*Bowl w/ any entree*

Clam chowder

Broccoli and Cheese Soup

Steak and potato soup

Garden Salad

Caesar Salad

Make your own salad

**BURGERS**

**MUSHROOM-SWISS**

Sautéed mushrooms, Swiss cheese, mayo, shredded lettuce, tomatoes & pickles.

**BACON BURGER**

Smoked bacon, cheddar cheese, mayo, shredded lettuce, tomatoes & pickles.

**Same Ol' B**

Typical burger with mustard, shredded lettuce, tomatoes, onions & pickles

**AVOCADO BURGER**

Avocado, Swiss cheese, mayo, shredded lettuce, pickles & tomatoes

## **Dinner Entree's**

### **Grilled Pork Chops**

Center-Cut Chops Served with Housemade Apple Sauce, Mashed Potatoes and Fresh Spinach.

### **Beef Ribs**

Certified Angus Beef Ribs Slow Roasted until almost falling off the Bone, then Grilled and Glazed with Our B.B.Q. Sauce. Served with French Fries and Onion Strings.

### **Grilled Rib-Eye Steak**

Served with French Fries and Onion Strings. Also Available Cajun Style - Marinated for 36 Hours in Spices and Herbs.

### **Shrimp Scampi**

Paris Bistro-Style! Sautéed with Whole Cloves of Garlic, White Wine, Fresh Basil and Tomato. Served with Angel Hair Pasta.

### **Fresh Grilled Salmon**

Served with Potato and Vegetable

### **Steamed Snow Crab Legs**

Served with Baked Potato or Steamed Vegetables

## **Desert**

New York-Style Cheesecake with Strawberries

Warm Apple Crumble à la Mode

Hot fudge Brownie w/ Vanilla ice cream and Nuts

Shakes (Vanilla, Chocolate, Strawberry)

Jazzies Special Oreo Blizzard

## **Beverages**

Iced Tea

Soft Drinks

Juice (Apple and Orange)

Milk

Hot Tea

Hot Chocolate

# Club ME

## **Appetizers**

Crispy Calamari (*with ME own marinara*)

Chicken Tenders (*with ranch, honey mustard or BBQ*)

Chicken Wings (*classic, mild, hot, flaming, lemon pepper*)

Shrimp Cocktail

Veggie Bowl (*with carrots, celery, and mushrooms*)

Potato wedges

Spinach Dip

Egg Rolls

Mozzarella Sticks

Nachos (*cheese, chili, supreme*)

Chips and Salsa

## **Soups and Salads**

*Bowl*

*Cup*

*Cup w/any entree*

*Bowl w/ any entree*

Clam chowder

Broccoli and Cheese Soup

Steak and potato soup

Garden Salad

Caesar Salad

Make your own salad

## **Lunch Selections**

Hot Dogs (*regular or chili cheese dog*)

Fried Chicken and fries

Fish and Chips

## **Deli Sandwiches**

All sandwiches include...

Cheese, mayo, mustard, lettuce, tomato, pickles, onions,  
pepperoncinis, olive oil, vinegar, salt, pepper

**Please choose...**

### **1. Type of sandwich....**

Turkey, Roast Beef, Cheese, B.L.T, Ham, Tuna

### **2. Bread...**

Sourdough Roll, Sliced 9 Grain, Whole Wheat, Dutch  
Crunch, Ciabatta Roll

### **3. Cheese...**

Cheddar, Pepper Jack, American, Provolone, Mozzarella

### **4. Add ons...**

Extra Meat, Avocado, Extra Cheese, Bacon

## **BURGERS**

### **MUSHROOM-SWISS**

Sautéed mushrooms, Swiss cheese, mayo, shredded lettuce,  
tomatoes & pickles.

### **BACON BURGER**

Smoked bacon, cheddar cheese, mayo, shredded lettuce,  
tomatoes & pickles.

### **Same Ol' B**

Typical burger with mustard, shredded lettuce, tomatoes,  
onions & pickles

### **AVOCADO BURGER**

Avocado, Swiss cheese, mayo, shredded lettuce, pickles  
& tomatoes

## **Beverages**

Iced Tea  
Soft Drinks  
Juice (Apple and Orange)  
Milk  
Hot Tea  
Hot Chocolate



CITY OF  
**HAYWARD**  
HEART OF THE BAY

**DATE:** November 23, 2009  
**TO:** Council Downtown Committee  
**FROM:** Maret Bartlett, Redevelopment Director  
**SUBJECT:** City Center Project Update

**RECOMMENDATION**

That the Council Downtown Committee reviews and comments on this report.

**BACKGROUND & DISCUSSION**

In January 2008, The Agency Board authorized the Executive Director to enter into an Exclusive Negotiating Agreement (ENA) with MIKA Realty Group in order to evaluate the feasibility of various development options for the City Center site. At that time, MIKA was in contract to purchase the 11-story former City Hall building from another private party. In May 2008, the ENA was finalized and executed; and in June 2008, MIKA submitted a development application to remodel the 11-story building, construct a six-story hotel with 153 guestrooms and an approximately 18,000 square foot conference center on the site of Centennial Hall, and finally to build 162 units of housing above the City-owned parking structure. At that time, MIKA also closed escrow on the acquisition of the office building. During the summer of 2008, MIKA undertook various engineering and environmental studies needed for the project application, and obtained a project precertification from the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) program at the "gold" level.

In January 2009, the Agency Board extended the ENA with the Developer. Staff reported at the time that although the project was moving forward, it was proceeding more slowly than previously expected due to the economic downturn. The project Site Plan Review application had been deemed complete in its technical aspects by January, although there were a few significant outstanding design concerns, and the project had not yet been considered by the Planning Commission. By January, Hyatt Hotels had issued a preliminary commitment to provide a "Hyatt Place" brand franchise for the hotel, and had also taken the step to approve Crescent Hotels & Resorts as the operator of the hotel and conference facility. Hyatt Place is a mid-scale hotel chain catering to the business traveler, including a self-service café, fitness and swimming facilities, and computer workstations en-suite. The 7.5 month ENA extension was provided in order to allow the Agency and the Developer time to negotiate business terms for the sale of the City-owned Centennial Hall and garage properties, in the face of the changing economic climate.

The proposed business terms for the project were discussed with the City Council/Agency Board during a closed session held in July of this year. In general, the business terms include the transfer of the City-owned properties to the Agency, and the subsequent transfer of these properties to the Developer. In addition, the Developer agreed to allow the use of the conference facility for at least five civic events per year, with the City or sponsor paying only for the actual operating cost of the conference center for such events. Finally, there were provisions such that if project construction was abandoned or taking too long to complete, the Agency could elect to take back title to the Centennial Hall and garage property, and require that the office tower be demolished. Also during the past summer, the Developer submitted construction documents for the structural retrofit of the office building, and these plans are now virtually complete.

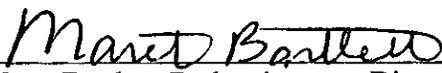
MIKA has also made major efforts over the past year to seek financing for the project. Financing for commercial development projects is currently very difficult to obtain, and the Developer has not yet been successful in this effort. When the Agency Board last received a report in July, it was hoped that the project would proceed to a public hearing for a Disposition and Development Agreement (DDA) in mid-October; however, due to the uncertainty in the financing neither the Developer nor staff believes that the project is ready for a DDA adoption. The ENA effectively expired as of the end of September, but staff believes that it is premature to take formal action to terminate the ENA at this time, and has continued to work with the developer to identify financing options for the project.

Although financing currently presents a serious challenge to the project, the fundamental economics of hotel/conference center and office uses appear to be sound. Moreover, the green building features of this project and the Developer's willingness to invest in quality architecture give it the potential to be a stand-out feature in downtown Hayward. Unfortunately, in reviewing the project economics, it is also clear that the costs of the residential portion of the project are not supported by its potential income at this time. As a result, MIKA wishes to proceed with project entitlements, with the caveat that the residential portion of the project would be subject to further review and approval when that portion of the project is considered feasible.

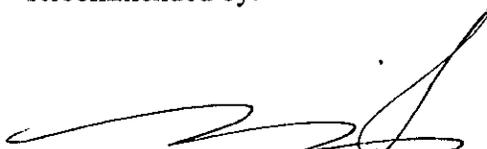
MIKA is continuing to explore a variety of financing options. These include going to alternative lending sources, such as pension funds as well as meeting with other potential investment partners. Recently, staff and the Developer met to explore the potential for partial financing by using the City's Recovery Zone bonds under the American Recovery and Reinvestment Act (ARRA). The City of Hayward has an allocation of approximately \$2.75 million in facilities bond funding, and some of this funding might be used to finance the deconstruction of Centennial Hall in order to help to prepare the site for future construction.

If the financing efforts for this project are successful within the next few months, staff will report to the Agency Board regarding these efforts, and present a DDA for the Agency Board's consideration. If financing is not secured, the ENA may be formally terminated by Agency Board action, and staff will present options for re-marketing the property for development. A decision should be made by the end of March, 2010.

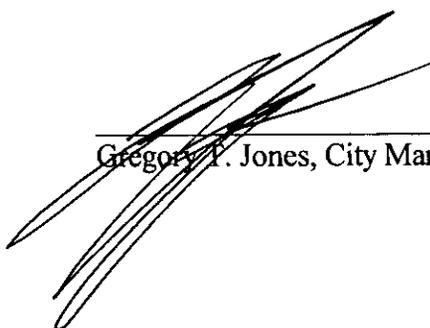
Prepared by:

  
Maret Bartlett, Redevelopment Director

Recommended by:

  
Fran David, Assistant City Manager

Approved by:

  
Gregory T. Jones, City Manager



CITY OF  
**HAYWARD**  
HEART OF THE BAY

**DATE:** November 23, 2009  
**TO:** Council Downtown Committee  
**FROM:** Maret Bartlett, Redevelopment Director  
**SUBJECT:** Future Council Downtown Committee Agenda Topics

### **RECOMMENDATION**

That the Council Downtown Committee reviews and comments on this report.

### **DISCUSSION**

During 2009, the Council Downtown Committee (CDC) has met six times, including this November meeting. Topics have included the following items:

- January – Joint Meeting with the Downtown Business Improvement Area (BIA) Advisory Board, regarding Downtown Events
- February – Cinema Place and Downtown Core – Leasing and Promotional Activities; and Proposed Downtown Electrical Transformers Project
- April – Farmers Market Relocation Plans; and Foothill/Maple Court Gateway Project Design
- June – Downtown Mural Program; and Buxton Retail Marketing Strategy
- August – Farmers Market Mid-Summer Report
- November - City Center Project Update; and Future Agenda Topics

The following are some ideas for future CDC meeting topics. Staff would appreciate any comments and ideas for future agenda topics. In addition, staff will list “future CDC agenda items” as a standing agenda topic in order to facilitate discussion as ideas surface at future meetings.

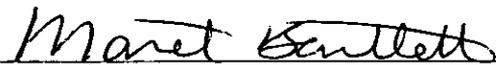
- January - Downtown Events Evaluation: Street Parties, Summer Jazz, Movies, Light Up the Season (possible joint meeting with the BIA Advisory Board)
- Other Potential Future CDC Agenda Topics:
  1. Downtown Safety; and Review of Safe and Clean Efforts
  2. Foothill Boulevard – Proposed Façade Improvement Designs
  3. Downtown Retail Attraction Program Update
  4. Proposed Future Library Update

5. Farmers Market One-Year Report (May)
6. Route 238 Corridor Update

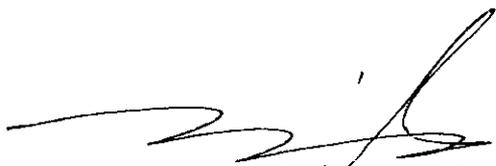
**PUBLIC COMMENT**

This item was last discussed by the CDC during its meeting of October 2008.

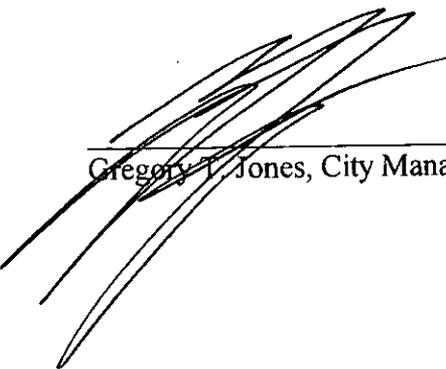
Prepared by:

  
Maret Bartlett, Redevelopment Director

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