



CITY OF HAYWARD
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(510) 583-4205 / www.hayward-ca.gov
LIVE BROADCAST – LOCAL CABLE CHANNEL 15

MEMBERS OF THE AUDIENCE WISHING TO ADDRESS THE PLANNING COMMISSION:

Obtain a speaker's identification card, fill in the requested information, and give the card to the Commission Secretary. The Secretary will give the card to the Commission Chair who will call on you when the item in which you are interested is being considered. When your name is called, walk to the rostrum, state your name and address for the record and proceed with your comments. Copies of staff reports for agenda items are available from the Commission Secretary and on the City's website the Friday before the meeting.

AGENDA
HAYWARD PLANNING COMMISSION
THURSDAY, MARCH 10, 2011, AT 7:00 PM
COUNCIL CHAMBERS

ROLL CALL

SALUTE TO FLAG

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

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

PUBLIC HEARINGS: For agenda item No. 1 the decision of the Planning Commission is final unless appealed. The appeal period is 10 days from the date of the decision. If appealed, a public hearing will be scheduled before the City Council for final decision.

1. Conditional Use Permit No. PL-2010-0046 - Modification of Use Permit No. 90-59 - Raj Chabra and Noam Garfinkel, Chalk It Up (Applicant) / Raj Chabra (Owner) - Request to Allow the Sale of Beer Within an Existing Billiard Parlor and to Raise the Maximum Occupancy From 100 to 250 Persons - The Project Is Located at 22540 Foothill Boulevard, Between A and B Streets

COMMISSION REPORTS:

2. Oral Report on Planning and Zoning Matters



Assistance will be provided to persons requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Persons needing accommodation should contact Debbie Summers 48 hours in advance of the meeting at (510) 583-4205, or by using the TDD line for those with speech and hearing disabilities at (510) 247-3340.

3. Commissioners' Announcements, Referrals

APPROVAL OF MINUTES

- 4. January 27, 2011
- 5. February 10, 2011

ADJOURNMENT

PUBLIC COMMENT RULES: The Chair may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens for organization. Speakers will be asked for their name and their address before speaking and are expected to honor the allotted time. A Speaker's Card must be completed by each speaker and is available from the City Clerk at the meeting.

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

NOTE: Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Permit Center, first floor at the above address.



CITY OF
HAYWARD
HEART OF THE BAY

1

DATE: March 10, 2011

TO: Planning Commission

FROM: Carl Emura, ASLA, Associate Planner

SUBJECT: **Conditional Use Permit No. PL-2010-0046 - Modification of Use Permit No. 90-59 - Raj Chabra & Noam Garfinkel, Chalk It Up (Applicant)/ Raj Chabra (Owner) - Request to Allow the Sale of Beer Within an Existing Billiard Parlor and to Raise the Maximum Occupancy From 100 to 250 Persons**

The Property Is Located at 22540 Foothill Boulevard, Between A and B Streets, in the Central City-Commercial (CC-C) Zoning Subdistrict

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) Guidelines, Section 15301, Class 1, Existing Facilities; and
2. Approve the request to remove the existing condition prohibiting sales of alcohol and to allow the sale of beer in an existing billiard parlor, subject to the attached Findings and Conditions of Approval; and
3. Approve modification of the existing condition to raise the maximum occupancy from 100 to 250 persons.

SUMMARY

The applicants, Raj Chabra and Noam Garfinkel request a modification of Use Permit No. 90-59 (*See Attachments IV & V*) to allow the sale of beer within an existing billiard parlor. The original approval of the billiard parlor prohibited the sale of alcohol. The applicants have applied for a Type 40 Alcohol license which allows the sale of beer for consumption on or off the premises and allows minors on the premise. Full meals are not required; however sandwiches or snacks must be available. Chalk It Up proposes to prohibit minors in the billiard parlor on Friday and Saturday, however minors would be allowed rest of the week. This would allow them to reach out to an older clientele while eliminating the risk of underage drinking on these two busiest nights of the week. The applicants believe permitting the sale of beer and raising the maximum occupancy to 250 persons would help expand their cliental. As conditioned, staff is supportive of the request as the increased pedestrian traffic would help activate that area of Foothill Boulevard. The attached

conditions place stringent operating procedures on the billiard parlor that minimizes impacts to the Downtown Entertainment Area and to the police and their resources.

BACKGROUND

The building, originally a JC Penney store, is one of two buildings that sit on this 25,940 square-foot parcel. Both buildings have been split into smaller commercial spaces and are connected by a covered breezeway. The former JC Penney store has 4 commercial spaces on the 1st floor, one of which is an electronic game store and the remaining three spaces are vacant. Behind these spaces are several smaller commercial spaces rented for office use. On the second floor, in the front is an office space and in the rear is "Ballroom and Beyond," an approximately 4000-square-foot ballroom/dance studio. Chalk It Up is located in the basement of this building. The adjacent building has two commercial spaces which are vacant. A small parking lot is located at the rear of the property which has 11 parking spaces. Off-site parking is available in the City's municipal parking lots located between B and C Street and between A Street and Russell Way, north of Foothill Boulevard. On street parking would be available on Foothill Boulevard fronting Chalk It Up.

The adjacent properties to the north contain Cycle Path and True Value Hardware. The properties to the south contain vacant tenant spaces, restaurants and personal services. The properties to the west, across Foothill Boulevard, contain CVS Pharmacy, The Daily Review, a nail shop, a restaurant, a document processing business and Copy Pacific. All properties are located in the Central City-Commercial (CC-C) Subdistrict.

In 1991, former tenant applied for a Conditional Use Permit to allow a family billiard parlor with an on-sale wine and beer license. Staff supported the on-sale wine and beer license as they considered that it no different than allowing a restaurant to serve beer and wine with a meal. However, the former tenant dropped the request to allow alcohol sales because several Board of Adjustment members opposed the alcohol license but was supportive of a family billiard parlor. The Board of Adjustment approved the billiard parlor believing that it would provide a family-oriented recreational use in the downtown core and placed a condition, Condition No. 16, that states:

"No alcoholic beverage shall be served to anyone on the premises in conjunction with this establishment." (See Attachment IV)

The Board of Adjustments decision was appealed by a building tenant who complained that the building owner had neglected maintenance of the building and was concerned that the billiard parlor would create a nuisance, but the City Council denied the appeal.

With the approval of the Conditional Use Permit, the former tenant opened up "Straight Shooter" in 1992. In 2004, Mr. Chabra, the building owner, bought the billiard parlor from his tenant and later changed the name to "Chalk It Up." In July 2009, he formed a partnership with Mr. Garfinkel who oversees the day-to-day operation of Chalk It Up and has handled the recent renovation of the interior of the billiard parlor. Mr. Chabra oversees the management of the billiard parlor.

The billiard parlor contains approximately 10,900 square feet and has 20 full-size billiard tables, one ping pong table, one foosball table, one bumper pool table and two dart boards. There is also a large selection of board games available for rent. The interior of the billiard parlor has been completely repainted and new carpet, tile and laminate flooring added. New furniture and billiard equipment and two 50-inch TVs and a high quality sound system have been added.

In addition Mr. Chabra has been working with the Redevelopment Agency to improve the façade of his buildings. The improvements would include new storefronts and other design work with a tentative budget of \$325,000. The improvements to the adjacent building on this parcel, with a tentative budget of around \$150,000, would include an upgrade to the breezeway. The Redevelopment Agency hopes to be able to make loans to the building owners for the façade improvements in the near future.

In addition to the façade improvement, as part of the 238 Corridor Improvement Project, the City is in the process of converting Foothill Boulevard from two directions to one. The sidewalk fronting Chalk It Up will be widened and new trees will be provided.

Chalk It Up is in the Downtown Entertainment Area which is the area generally between A and D Streets and between Second Street and Grand Street. The State Department of Alcoholic Beverage Control (ABC) indicated that this is a high crime district with an over-concentration of on-sale liquor licenses. ABC records indicate that there are currently 29 active on-sale licenses with 2 pending, where 6 would be allowed by its regulations. However, ABC will issue an on-sale liquor license if the City approves a Conditional Use Permit and determines that there is a "public necessity and convenience" for the sale of beer. The Planning Commission is required to review the proposal because the sale of beer requires the approval of a Conditional Use Permit.

Proposal - The applicants estimate that during the weekday the business has 50-100 customers and on the weekend 100-200. They believe they lose a fair amount of customers because they do not serve alcohol. Therefore they would like to modify the Use Permit to allow beer to be served on the premises. They have applied for an Alcoholic Beverage Control (ABC) Type 40 ON SALE BEER license which authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be sold or consumed on the premises and full meals are not required. However, sandwiches or snacks must be available. Minors are allowed on the premises. Their clientele includes a diverse cross section of the population including a fair number of minors.

The applicants propose to serve at least six beers on tap as well as a variety of bottled beers. Upon approval of this use permit, they would build a new bar area and buy all the necessary equipment to serve beer including refrigerators, kegorators and a high temperature dishwashing machine.

The facility currently offers a wide selection of soft drinks and snacks including pizzas and corn dogs. With the introduction of beer, the menu will expand to include a variety of hot panini sandwiches, appetizers and sweets. They will also add three more TVs and they will change the ceiling lighting from florescent lighting to perimeter track and cable lighting. They will add pendant fixtures and chandeliers for the lounge areas. In addition they will add Monday Night tournaments and Thursday Night Student discounts on all games and sandwiches. With these

improvements and the addition of beer, they expect to increase the number of customers by 25- 50 percent.

The billiard parlor will be open the follow times:

Monday through Thursday	6:00 pm to 1:30 am (minors allowed)
Friday and Saturday	6:00 pm to 2:00 am (minors <u>not</u> allowed)
Sunday	1:00 pm to 1:30 am (minors allowed)

There will be a minimum of two people working from opening to closing, one of which will be a security officer directly employed by Chalk It Up. On Friday and Saturday evenings a third co-worker will join them from 9 pm-1 am. On Friday and Saturday, a contract security guard will be stationed at the front door to screen for minors. Another contract security guard will join him from 9 pm until a half hour after closing. Their video system will be upgraded and expanded to cover the entrance, exits, safe, cash register, and building perimeter as well to provide full coverage of the customers throughout the billiard hall. When minors are allowed into the billiard parlor wristbands will be given to persons over twenty-one when they purchase a beer and the security guard and staff will make regular rounds to ensure that anybody drinking beer has a wristband. The number of days and security guards required maybe increased due the required security plan. (*See Condition No. 24 & 30*)

The applicants believe they need the on-sale beer license to thrive and that the addition of the bar would enhance the downtown community with an attractive destination. They noted that they did a survey of 17 full-sized pool rooms in the Bay Area and all of them serve alcohol. Staff confirmed that they all served alcohol and noted all but one are on street level. Lucky Shot, located in Sunnyvale, is a small upscale billiard parlor (11 tables) located in the basement of a building. Like Chalk It Up, it does not have a full kitchen. However, they have a beer and wine license and serve a limited selection of bottled alcohol beverages and food items.

The applicants also request that the following modifications be made Condition No. 7 of the original Conditions of Approval for the Use Permit for the billiard parlor. Condition No. 7 states:

“If the use cannot comply with the Uniform Building Code requirement of three exits, then the two existing exits shall be maintained and the maximum occupancy load shall not exceed 100 persons.”

There are two access points, the primary, off of Foothill Boulevard and the secondary is a stairwell which leads to the rear parking lot on the north side of the building. The applicants request that the maximum occupancy load be increased to 250 without providing a third exit. The Fire Marshall reviewed the request and determined that a fire sprinkler system should be installed for the entire building before the maximum occupancy load could be increased to 250 persons. (*See Condition No. 48*) Currently only the basement has a sprinkler system.

Applicant Experience - Neither of the applicants has experience managing a bar. Mr. Garfinkel has been a waiter and bar assistant at ‘Bucca di Beppo’ and has worked at ‘California Pizza Kitchen’ which had a full bar. In 1983, Mr. Chabra managed a Holiday Inn Hotel with a full restaurant and

bar. None of their current staff have experience working in a bar nor have received any Responsible Beverage Service training.

Because of their limited experience, the applicants propose to hire a management consultant, for no less than 3 months to train Mr. Garfinkel and staff until they are sufficiently competent in all aspects of bar operation and management. The consultant will be working Thursday through Sunday, the busier days of the week. The consultant currently manages 'Thalassa', a pool hall and bar in Berkeley, and has over a decade of restaurant and bar industry experience. Before the beer service begins, all staff will receive Responsible Beverage Service training.

Police Department Review - The Police Department has concerns about the proposal for the following reasons. First there's already a large concentration of drinking establishments in the Downtown Entertainment Area. Within two city blocks of the applicant address there are eight bars. The Police Department expects an increase level of service calls for any establishment that utilizes a bar with an on-sale liquor license. In addition, there is an over-concentration of on-sale liquor licenses within the census tract in which Chalk It Up would operate.

Secondly, though the Police Department has not had calls for service for alcohol related incidents on this block, there has been several calls for service in the past few years from several businesses on this property for armed robberies, burglaries, grand and petty thefts, battery, and assaults with a deadly weapon. In 2007, the Police Department had an assault with a deadly weapon investigation at Chalk It Up, where a suspected gang member utilized pool cues from the business to assault the victims.

Third, unlike most alcohol serving businesses in the Downtown Entertainment Area, the police cannot survey the billiard parlor from the street. Chalk It Up's basement location restricts visibility into the billiard parlor and would create an officer-safety problem as officers responding to calls wouldn't be able to survey the business interior and take protection measures when entering the establishment.

DISCUSSION

Chalk It Up is in the Downtown Entertainment Area which encourages a mix of businesses and activities which will enhance the economic vitality of the downtown area. A Retail Site Assessment, completed in March 2009 by Buxton Company, indicated that Downtown Hayward is underserved by full-service restaurants and drinking places inspite of Acoholic Beverage Control's over concentration determination.

The Downtown Hayward Design Plan recognizes that consumption of alcohol in the downtown is part of community life. It 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... ”

Within the Downtown Entertainment Area, no more than two on-sale alcohol related commercial activities (bars and night clubs) are permitted per block side or face and within a 100-foot radius of an off sale related commercial activity with the exception of new or existing establishments that are exempt, such as a full service Restaurant. Each proposed alcohol outlet must be reviewed for its merits and when desired, conditions are imposed to ensure such uses are not detrimental to the Downtown Entertainment Area.

In this case, staff believes the expansion of Chalk It Ups clientele is beneficial to the Downtown Hayward as it will increase pedestrian traffic along the east side of Foothill Boulevard between A and B Streets. While staff understands the Police Department's concerns, staff believes that the attached conditions will provide the framework for the business to be managed properly and to minimize alcohol related problems. Such conditions include, but are not limited to, requiring that all staff take a responsible beverage service classes prior to serving beer; that all alcohol sales terminate at 1 am; that two uniformed contract security guards be provided Friday and Saturday; that additional security cameras be provided to provide full coverage of the billiard parlor; and that the security plan be revised and approved by the Police and Fire Department. In addition, the applicants will hire a management consultant with bar and restaurant experience to train staff. Furthermore, they indicated that they will exclude minors from the billiard parlor if they have problems with underage drinking. If these safe guards do not work, after four calls for service the Police Chief may schedule the use permit for revocation.

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 sale of beer is desirable for the public convenience or welfare.

As conditioned the proposed sale of beer is desirable for the public convenience or welfare in that the sale of beer combined with the billiard parlor will provide another attraction that will help revitalize Downtown Hayward. In addition patrons of the billiard parlor would have the convenience of enjoying a glass of beer in the billiard parlor rather than going to another location for one.

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

As conditioned the proposed sale of beer will not impair the character and integrity of the zoning district in that it would enhance an existing entertainment/recreational venue that would in turn increase pedestrian traffic along the east side of Foothill Boulevard between A and B Streets and help revitalize Downtown Hayward.

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

As conditioned, the proposed sale of beer will not be detrimental to the public health, safety, or general welfare in that a security plan would be prepared and implemented which include requiring security guards and identifying prevention measures to be taken to ensure the patrons and visitors refrain from incidents of violence and/or intoxication that adversely impact the safety of Downtown Hayward.

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

As conditioned the proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved in that the purpose of the Central City – Commercial Sub district is to establish a mix of businesses and other activities which will enhance the economic vitality of Downtown Hayward. Allowing the sale of beer will enhance the billiard parlor and expand its customer base while complying with the stringent operating procedures imposed by the conditions of approval to avoid alcohol-related problems as addressed in “The Downtown Hayward Design Plan, Core Area 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 in a positive way that enhances the economic and social character of this vital area of our City...”

Staff recommends that the request for the sale of beer in an existing billiard parlor be approved subject to the attached conditions and the maximum occupancy be raised to 250 persons upon installation of a fire sprinkler system on all floors of the building.

ENVIRONMENTAL REVIEW

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301 Class 1 (a), Existing Facilities.

PUBLIC OUTREACH

On February 16, 2010, 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 (*See Attachment VII*) expressing concerns about overconcentration of alcoholic beverage outlets; adequate training of servers to assure minors would not have access to alcoholic beverages, and an inadequate security plan. COMMPRE (Community Prevention of Alcoholic Related Problems) a non-profit organization, whose focus is to reduce and prevent problems where alcohol is used, sold and/or promoted. COMMPRE is concerned that approval of the request to sale beer would contribute to the availability of alcoholic beverages in an over-concentrated census tract in a high crime area, which in turn would impact Police Department resources.

COMMPRE cites crime statistics provided in the Security Site Survey & Plan prepared by James C. Diaz & Associates dated July 15, 2010 (*See Attachment VII*) as reasons that the number of liquor licenses should be decreased rather than increased. According to the Crime Map and Statistics there were 299 calls for service for the first 6 months of 2010 in a .25 Mile Radius around Chalk It UP. Of these reports, 83 (*28% of all calls*) were to respond to 647 (*f*) *PC Drunk in Public* which is nearly 4 times higher than the second highest category, 242 *PC Assault Simple*, which had only 22 calls (*7% of all calls*).

Furthermore they are concerned about minors accessing alcohol since alcohol will be allowed on days minors are allowed into the billiard parlor. The physical layout of the facility creates natural breaks in the line of sight for any employee working behind the bar. The staircase blocks visibility to the front portion of the basement where the Dart boards and several other billiard tables are located making it difficult to monitor the activity behind the staircase. Just the size of the facility would make it difficult to monitor the alcohol consumption in the billiard parlor from the counter.

COMMPRE believes this application falls short of demonstrating a strong enough "public necessity or convenience" that would merit the addition of another bar and another bar would only create or add to the law enforcement problem.

Staff believes that the attached conditions provide the framework to minimize alcohol related problems. Some of the conditions include requiring uniformed contract security guards on Friday and Saturday, increasing the number of security cameras and revising their security plan to include handling of minors. If underage drinking becomes a problem, Chalk It Up is willing to exclude minors from the billiard parlor.

On February 28, 2011, a Notice of Public Hearing for the Planning Commission meeting was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records, and to interested parties.

Next Steps

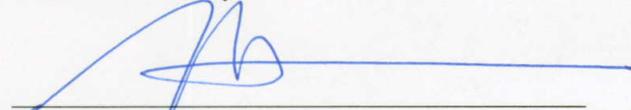
If the application is approved or denied, the Planning Commission's decision can be appealed to the City Council during the ten day appeal period that follows the Planning Commission decision. If appealed, the item would be scheduled for a City Council hearing in May, 2011. The decision of the City Council would be final.

Prepared by:



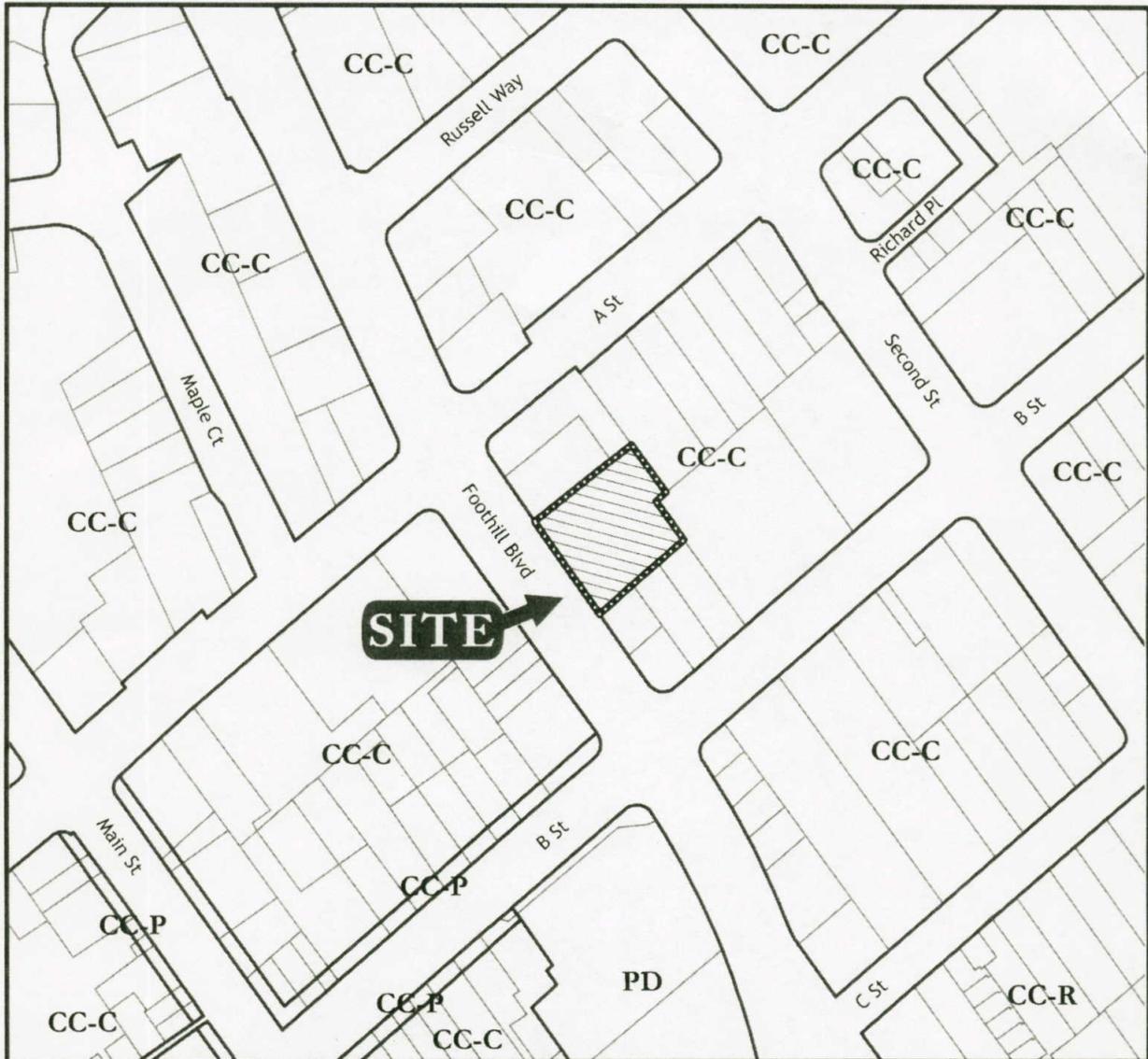
Carl Emura, ASLA, Associate Planner

Recommended by:



Richard E. Patenaude, AICP, Planning Manager

Attachment I:	Area and Zoning Map
Attachment II:	Findings for Approval
Attachment III:	Conditions of Approval
Attachment IV:	UP NO. 90-52 Staff Reports and Findings and Conditions of Approval
Attachment V:	UP NO. 90-52 Minutes/Resolution
Attachment VI:	Letter from COMMPRE dated September 3, 2010
Attachment VII:	Security Site Survey & Plan prepared by James C. Diaz dated July 15, 2010 Plans



Area & Zoning Map

PL-2010-0046 CUP

Address: 22540 Foothill Blvd, Suite C

Applicant: Raj Chabra &
Noam Garfinkel

Owner: Raj Chabra

Zoning Classifications

CENTRAL CITY

CC-C Central City - Commercial

CC-P Central City - Plaza

CC-R Central City - Residential



**CITY OF HAYWARD
PLANNING DIVISION
USE PERMIT APPLICATION NO. PL-2010-0046
March 10, 2011**

CONDITIONAL USE PERMIT NO. PL-2010-0046 –Raj Chabra and Noam Garfinkel (Applicant), Raj Chabra (Owner) – Request to Remove Existing Condition Prohibiting Alcohol Sales and to Allow the Sale of Beer within an Existing Billiard Parlor and to Raise the Maximum Occupancy from 100 to 250 Persons.

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

FINDINGS FOR APPROVAL

- A. Approval of Use Permit Application No.PL-2010-0246 to allow to use the property for the operation of a bar in an existing establishment in the Central City- Commercial District is exempt from the provisions of California Environmental Quality Act (CEQA) pursuant to project is Categorical Exempt from the California Environmental Quality Act (CEQA) Guidelines, Section 15301 Class 1 (a), Existing Facilities;
- B. The proposed sale of alcohol, as conditioned, is desirable for the public convenience or welfare in that it enhances an existing entertainment/recreational venue that would in turn increase pedestrian traffic along the east side of Foothill Boulevard between A and B Streets and revitalize Downtown Hayward.
- C. The proposed sale of alcohol, as conditioned, would not impair the character and integrity of the zoning district and surrounding area in that a security plan will be developed and implemented which include requiring security guards and identifying prevention measures to be taken to ensure the patrons and visitors refrain from incidents of violence and/or intoxication that adversely impact the safety of Downtown Hayward
- D. The proposed sale of alcohol, as conditioned, will not be detrimental to the public health, safety, or general welfare in that Security Plan will be prepared and implemented to avoid alcohol related problems and a fire sprinkler system would installed in the entire building if the occupancy exceed 100 persons improving the fire safety to all tenants and patrons of the building.
- E. The proposed use as condition is in harmony with applicable City policies and the intent and purpose of the zoning district involved in that the purpose of the Central City – Commercial Sub district is to establish a mix of businesses and other activities which will enhance the economic vitality of the downtown area. Allowing the sale of beer will enhance the billiard parlor and expand its customer base while it implements measures to avoid alcohol-related problems which is supported by “The Downtown Hayward Design Plan, Core Area Plan” which 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...”

CITY OF HAYWARD
CONDITIONS OF APPROVAL
USE PERMIT APPLICATION NO. PL-2010-0046
March 10, 2011

CONDITIONAL USE PERMIT NO. PL-2010-0046 –Raj Chabra and Noam Garfinkel (Applicant), Raj Chabra (Owner) – Request to Remove Existing Condition Prohibiting Alcohol Sales and to Allow the Sale of Beer within an Existing Billiard Parlor and to Raise the Maximum Occupancy from 100 to 250 Persons.

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

CONDITIONS OF APPROVAL

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

1. If a building permit is issued for construction of improvements authorized by the use permit approval, said approval shall be void two years after issuance of the building permit, or three years after approval of the application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance upon the use permit approval.
2. Any modification to the approved plans or conditions shall require review and approval by the Planning Director.
3. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
4. Prior to the sale of alcohol, all interior improvements (bar, lighting, additional security cameras, etc) shall be completed and new menu items shall be available to customers.
5. A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishment and posted in a place where it may readily be viewed by the general public.
6. At the expense of the applicant, the Planning Commission shall review the use permit and the facility's conformance with the conditions of approval after one-year of operation.
7. A covered trash enclosure shall be provided. Contact the City's Solid Waste Division in Public Works for requirements.

8. All illegal signs shall be removed from the building within one month of approval of this permit. All new exterior signs shall require a separate Sign Permit and shall comply with the Sign Ordinance of the City of Hayward.
9. Prior to final inspection/occupancy, all improvements and conditions of approval shall be completed to the satisfaction of the Planning Director, Building Official, Police Chief, and Fire Chief.
10. The exterior of the premises, including adjacent public sidewalks and all parking lots under control of licensee(s), shall be illuminated during all hours of darkness during, which the premises are open for business in a manner so persons standing in those areas are identifiable by law enforcement personnel. The lighting shall meet Chapter Title 24 of the California Building Code.
11. The premises shall be kept in a clean, well-maintained condition. Paint, doors and windows shall be kept clean and cracked or broken glass shall be replaced promptly. The licensee(s) shall be responsible for removing graffiti from the premises under the control of the licensee(s) within 48 hours. Public sidewalks adjacent to the establishment shall be cleaned daily. The management shall ensure that no trash or litter originating from the establishment is deposited on neighboring properties or the street.
12. There shall be no promotional signs of any kind affixed on the interior or exterior of the doors or windows of the business, except for one information area with a maximum area of 25% of the glass door providing name of business, hours of operation, emergency contact information, etc. The storefront glass doors or windows shall not be tinted.
13. No pay phones shall be permitted on the premises.
14. No mechanical equipment, 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.
15. Per the California Building Code and Fire Code, occupant load signage shall be installed within the billiard parlor.
16. Violation of any of the conditions of approval of this conditional use permit may constitute grounds for revocation pursuant to Section 10-1.3260 of the Zoning Ordinance.

Police Department

17. No more than four (4) confirmed calls for service to the Police Department shall occur annually, and if more than four confirmed calls occur, the Police Chief has the discretion to schedule the use permit for revocation. Nothing in this condition restricts the authority of the City to seek revocation of this permit for a single incident of extreme severity.
18. The Hayward Police Department will conduct periodic audits of all Police calls for service involving the billiard parlor. If after reviewing the audit, the Hayward Police Chief determines that there has been an excessive number of calls for service involving the billiard parlor's operation, the Police Chief or his designee will meet with the permittee to discuss the calls for service and allow the permittee to make changes in operations (i.e.

genre of music, facility, marketing demographics) to reduce the number of calls for service. If the permittee is unwilling to make changes or refuses to make changes in billiard parlor operations to reduce calls for service, the Police Chief may recommend revocation of this permit.

19. If an undue demand is put on police resources, as determined by the Chief of Police, then such determination would be grounds for revocation of the Conditional Use Permit.
20. Commission of a criminal offense by the permittee or any employee of the permittee of which the permitted establishment was the location where the offense was committed or where there is a direct correlation between the permittee's establishment and the criminal offense; and such criminal offense is found to be detrimental to public health, safety, or general welfare shall be independent grounds for revocation of this permit.
21. The business operator shall be responsible to reimburse the City Police Department for calls for service in response to events that are determined to be a demand on police resources as determined by the Chief of Police. Failure to pay costs within 30 days of billing for the Hayward Police Department response to the incident may constitute grounds for revocation of this use permit.
22. All employees and the permittee of the billiard parlor shall work collaboratively with the Hayward Police Department, with the goal of maintaining a safe, secure facility. The permittee and employees will call the Hayward Police Department as needed to work with intoxicated, uncooperative, or disruptive patrons. The Facility Security Plan shall be implemented in response to disruptive incidents and patrons. If the permittee or employee of the facility, including security officers, are not able to resolve issues involving disruptive patrons they shall call the Hayward Police Department and request assistance. Failure to work collaboratively with the Hayward Police Department or to reasonably call for assistance, as needed, may result in revocation of this permit.
23. The permittee and the security staff shall be responsible for implementation of the security plan approved by the Hayward Police Chief and for the maintenance of the peace to ensure order on the property. The permittee shall take all necessary steps to ensure that permittee's patrons and visitors refrain from incidents of violence, intoxication, and/or loud or obnoxious behavior that adversely impact the safety and welfare of patrons in the facility and citizens in the surrounding area and the community.
24. Prior to issuance of building permit, a revised written security plan shall be submitted for review and approval by the Police and Fire Departments to ensure maintenance of peace and safety on the subject property and in the surrounding area. The security plan be maintained at all times and shall address, but not be limited to, the following:
 - (a) The number, training, duties, means of identification and equipment of security personnel;
 - (b) Age verification procedures, weapon screening and customer access controls;
 - (c) Prevention of minors from drinking and loitering;
 - (d) Prevention of loitering and alcohol consumption in the vicinity of the establishment and parking areas;

- (e) Prevention measures to be taken to ensure that patrons and visitors refrain from incidents of violence and/or intoxication that adversely impact the safety of the community;
 - (f) Enforcing maximum occupancy;
 - (g) Rules of acceptable conduct;
 - (h) Protocol for contacting the Hayward Police Department for disturbances and acts of violence;
 - (e) Compliance with the Alcoholic Beverage Control license requirements;
 - (f) The written policies, procedures and practices of security personnel;
 - (g) Fire prevention measures, fire alarm and suppression systems and fire exiting;
 - (h) After-hours security;
 - (i) Policies and procedures for graffiti and outside litter control;
 - (j) Maintenance of maximum occupancy loads including an accurate system to keep head counts for Police Department and Fire Marshal reporting;
 - (k) Cash handling procedures
 - (j) Evacuation and procedure plan which addresses: fire, natural disaster, crime of violence and power failure;
 - (l) Location of security staff, i.e. security personnel shall be assigned to 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 preventing minor from drinking;
 - (o) Bar and Billiard Parlor occupancy compliance and patron removal;
 - (p) Specifications and operating procedures for a Close Circuit Television System with a Digital Video Recorder covering the parking lot, entrances and exits, bar area and public assemblage areas on all floors.
25. A fully enhanced operating/recording digital video surveillance system with retrievable memory and containing points of entry/exit, sales of food/beverages (cash registers), locations of cash/monies storage (Safes/Manager's Office), and overall locations of where alcoholic beverages may be consumed within the property. Recordings of this system shall be available to law enforcement upon demand and as a condition of operating.
 26. Permittee/Licensee is allowed an ABC Type 40 (On-Sale Beer Only).
 27. Violation of Department of Alcohol Beverage Control regulations is grounds for revocation of this permit.
 28. The applicant is required to bring the Alcoholic Beverage Control application to the Planning Division for review in consultation with Police Department staff. At that time, the conditions of approval will be attached to the application form to be submitted by the proponent to the Department of Alcoholic Beverage Control.

29. Hours of the sales of alcohol shall be limited from 10am to 1 am daily. The kitchen must be open and sandwiches and snacks must be available for sale whenever alcohol is served.
30. Every Thursday, Friday, and Saturday, from 9 pm until a half hour after closing, the permittee/licensee shall provide one uniformed contract security guard. Every Friday and Saturday, a second uniformed contract security guard shall be provided from 6 pm a half hour after closing. Uniformed contract security guard shall be licensed by the State of California and shall be employees of and acting under the direction of a Private Patrol operator duly licensed as such by the State of California. The hours and/or the required number of licensed uniformed security guards may be adjusted at the discretion of the Chief of Police.
31. Minors shall not be permitted in the billiard parlor on Friday and Saturday.
32. When minors are allowed into the billiard parlor wristbands shall be given to persons over twenty-one and their hands stamped when they purchase a beer and the security guard and staff shall make regular rounds (minimum every 30 minutes) to ensure that anybody drinking alcohol has a wristband and stamp. In addition beer may not be purchased for another individual to drink on days minors are present.
33. Interior illumination shall allow the unaided inspection of personal identification by members of the Hayward Police Department while inside premises.
34. No outside/promoter sponsored events are allowed on the premise.
35. No dancing, live bands, karaoke or pre-recorded music (DJ's) are permitted without proper permits issued by the City of Hayward.
36. No cover charge or admittance fees.
37. No minimum drink purchase or similar charge or minimum purchase shall be imposed on or required of customers entering the establishment.
38. No reduced priced or "Happy Hour" drink specials are permitted.
39. No sales of pitchers or buckets of beer shall be permitted.
40. The permittee and all employees engaged in the dispensing of alcoholic beverages shall attend the Department of Alcoholic Beverage Control's LEAD Training prior to opening of the bar. Any employee hired after this permit is approved shall attend such training within six months of his/her date of hire. As proof of attending the Training, the Department of Alcoholic Beverage Control certificate of completion shall be submitted by the permittee for each employee upon completion of such training to the Hayward Police Department. The applicant may contact Detective Ryan Cantrell at the Hayward Police Department at 510-293-7013 for information regarding class scheduling.
41. No employee or agent shall solicit or accept any alcoholic or non-alcoholic beverage from any customer while in the premises.
42. The sale of alcoholic beverages for consumption OFF the premise is strictly prohibited.
43. Consumption of alcoholic beverages outside the main building is strictly prohibited. Licensee shall post and maintain on the premises and at all points of exit, signage that is clearly visible to the public/customers exiting the location that state "NO OPEN

ALCOHOLIC BEVERAGE CONTAINERS ARE ALLOWED OUTSIDE THE BUSINESS.” These signs shall be no less that 18” x 24” and have 2 inch block lettering.

44. Self-service of alcoholic beverages is prohibited, included refrigerated coolers and buckets.
45. The permittee shall be responsible for the maintenance of the peace to ensure order on the permittee’s property. The permittee shall take all necessary steps to ensure that permittee’s patrons and visitors refrain from incidents of violence and/or intoxication that adversely impact the safety of the community and, therefore, become an increased burden on the limited resources of the Police Department.
46. The owner, manager, and employees shall make appropriate efforts to discourage loitering from the premises including calling the police to ask that they move loiters who refuse to leave. Persons hanging around the exterior of the establishment with no apparent business for more than ten minutes shall be asked to leave. Signage at the entrances and visible from the outside shall be posted that state “No Loitering.” These signs shall be no less that 18” x 24” and have 2 inch block lettering.
47. The exterior of the premises, including adjacent public sidewalks and all parking lots under the control of the licensee, shall be illuminated during all hours of darkness during, which the premises are open for business in a manner so persons standing in those areas are identifiable by law enforcement personnel, However, the position of such lighting shall not disturb the normal privacy and use of neighboring residences and are subject to approval by the City of Hayward.

Fire Department

48. Maximum Occupancy is limited to 100 persons. A fire sprinkler system shall be install in the entire building (1st, 2nd floors and basement) with full protection in accordance with NFPA 13 if the occupancy exceeds 100 persons. The installation of the sprinkler system shall allow the maximum occupancy in the billiard parlor to be lifted from 100 to 250 persons. A fire sprinkler permit is required for the installation of the sprinkler system.
49. An annual A-2 occupancy permit shall be obtained annually.
50. Panic hardware shall be required on all exit doors.
51. Exit illumination signage required as per Chapter 10 of the Uniform Building Code.
52. Aisle widths shall meet requirements of the Uniform Fire and Building Codes.
53. Occupant load signage shall be properly posted.
54. All decorative materials shall be flame treated.
55. Must provide an approved plan for exiting. The plan shall be posted in locations approved by the Fire Marshal.

Utilities

56. Prior to issuing a building permit, provide gallon per minute demand on plans to determine proper water meter size. Any modifications needed to the water service and/or water meter (upsized, downsized, relocate, etc.) must be performed by City Water Distribution Personnel at the applicants’/developer’s expense.

57. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each domestic and irrigation water meter, per City Standard SD-202.
58. A separate water service line is required to supply the fire sprinkler system. All fire services shall have a Double-Detector Check and Trim/Fire meter installed by City Water Distribution Personnel at the applicant's/developer's expense, per City Standard SD-204. Minimum sizing shall be per Fire Department's requirements.

PLANNING DEPARTMENT REPORT
Board of Adjustments
April 15, 1991

ITEM 2

USE PERMIT APPLICATION NO. 90-59 - DELORES A. MILLER (APPLICANT) -
INDER AND KRISNNA RAJ CHABRA (OWNERS) - Request to establish a family billiard parlor with on-sale beer and wine license within an 11,250-square-foot basement area of a larger multi-tenant building (Foothill Arcade).

Property is located at 22540-C Foothill Boulevard, easterly side, approximately 200 feet south of 'A' Street in the CC-C (Central City-Commercial) Subdistrict.

RECOMMENDATION

Approval of the request subject to the attached findings and conditions of approval.

MAJOR PLANNING ISSUES OR CONCERNS

Potential Police Department safety problem when officers are called to respond to disturbances because use is located in a basement area which lacks visibility from the street and entrance points.

The applicant wishes to sell alcoholic beverages; however, the Police Department indicates that the downtown area is already saturated with at least 32 other alcohol outlets which has already created a problem of alcohol-related crimes in the downtown.

BOARD ALTERNATIVES OR OPTIONS

Conditions as to the length of permit, on-site security, etc. have been included for the Board's consideration to mitigate certain issues raised in this report. The Board may add any conditions it believes would make the use more acceptable; e.g., deny alcohol beverage sales as requested by the Police Department. If, on the other hand, the Board concludes that even with conditions of approval that the use cannot satisfy required findings, then the use permit should be denied.

PROPOSAL

The applicant proposes the establishment of an upscale family-oriented billiard parlor within the basement area of the former J. C. Penney store. The use is classified as a commercial-amusement use and, therefore, a use permit is required per the regulations of the Central-Plaza Subdistrict. The parlor will operate between the hours of 11:00 a.m. to 2:00 a.m., seven days a week.

USE PERMIT APPLICATION A.O. 90-59

During the week, there will be two employees on site and on the weekends there will be four employees. In addition, the applicant or her on-site manager will be on the premises during business hours. The business will focus on providing entertainment for the entire family, as well as providing a facility for tournament professionals. Amateur weekly tournaments sanctioned by the United States Pool Players Association will be conducted. Quarterly Pro-Am tournaments will also be conducted as well as a Professional Billiards Association sanctioned tournament annually.

The major portion of the floor area is allocated to 27 billiard tables which will be rented out by the hour. Proposed rates will be \$4.00 for one player, \$6.00 for two players, \$8.00 for three players, and \$10.00 for four players per hour. A weekend cover charge is also proposed at \$2.00 per person. One of the 27 tables will be located in a rear, private room for special occasions such as birthdays, graduations, business meetings, etc.

In addition to billiards, deli-type sandwiches, on-sale beer and wine, and various non-alcoholic beverages will be offered. Also, a separate video arcade game room will be provided at the rear end of the basement. The provision of a game room may give the wrong impression as to the type or age of the patrons. The applicant indicates that it is solely an adjunct of the main use and will not be a "hang out" for youth. In fact, the business will require a dress code for patrons and also persons under 18 years of age will not be allowed on the premises at any time without the accompaniment of an adult.

PROPERTY DESCRIPTION

The area proposed for this use is an 11,250-square-foot (10,070 square feet net) basement, which is a portion of a larger commercial building located on a parcel of land comprising approximately 26,350 square feet. The parcel has 153 feet of frontage on Foothill Boulevard. A small portion of the site is paved with asphalt and is used for an employee parking lot, which is accessible from 'A' Street across the adjoining parcel. This parking lot contains 11 stalls, not all of which are on the subject property and which are shared with adjoining uses and properties.

The former J. C. Penney store and adjacent structure on the same parcel has been split into smaller retail areas with a covered breezeway running between the two sections of the building. The basement below the southerly structure has been given direct access to Foothill Boulevard without going through the ground level retail area. A secondary access point, but not intended as a public entry, is a stairwell which leads to the interior parking area at the north side of the building.

ADJACENT LAND USE AND ZONING

The use is surrounded by the Central City-Commercial and Plaza Subdistricts. The Central City-Plaza Subdistrict only applies to the

stores which are at grade with Foothill Boulevard. Likewise, the use is surrounded entirely by commercial uses. These uses vary between retail, restaurants, financial businesses, and a mortuary.

GENERAL PLAN

The General Policies Plan Map designation for the area is Commercial-Retail and Office. The proposed zoning and land use is compatible with this plan map designation.

ENVIRONMENTAL REVIEW

The project is exempt from environmental review (California Environmental Quality Act, Section 15301(a)).

PUBLIC HEARING NOTICE

On April 5, 1991, a Notice of Public Hearing was mailed to every property owner within 300 feet of the property as noted on the latest assessor's records as well as tenants adjacent to the property and within the buildings located on the site.

REFERRALS

Hayward Downtown Association - The association wishes to take no position at this time.

Redevelopment Agency - Although we have reservations about the proposed use, we recommend conditional approval. An "upscale" billiard parlor has been operating in Emeryville for about six months and in San Mateo for several years without problems. Although this use might generate some beneficial evening activity in the area, we are aware that the impact will be related to the clientele it attracts. We recommend approval of a temporary use permit for a one-to two-year period, subject to extension based on an evaluation of performance.

Police Department - A billiard parlor/arcade games and alcoholic beverages are not a good mix for this area. This facility, as planned, is not desirable for public safety for the following reasons:

- a. The applicant has had no experience or training in operating a billiard parlor/arcade.
2. There are now at least 32 alcohol outlets in the immediate area. There are studies to show that alcohol-related crime goes up with the number of outlets in a given area. There is a problem with alcohol-related crime in the downtown area now and this use would add to that problem.
3. This use would tend to encourage school-age youth to congregate; Bret Harte Intermediate School is nearby.

4. The billiard parlor and arcade is in a basement area and the sale of alcohol and related problems would require police to respond to disturbances--the location would create an officer-safety problem as officers responding to calls would be unable to protect themselves while entering, and after entry, could be easily trapped.

Building Inspection Division - Three exits are required by the Uniform Building Code. Exits must have panic hardware. If two exits are all that are available for this basement area, then the maximum occupant load should be limited to 100 persons (limit by condition).

DISCUSSION/COMMENTS

1. The project site is within the Central Parking District. Because the property is already developed, the parking requirements of one space for each 250 square feet of gross floor area (a total of 45 spaces) cannot be required for this use. If the building were to be used for retail, the parking requirement would remain the same. Billiard halls located elsewhere in the City have a parking requirement of two parking spaces for each table which, in this case, would require 54 spaces.

Patrons using the facility will have to depend on street parking as well as the public parking lots in the downtown. Lots #6 and #4 are the closest and are within 470 and 450 feet respectively. Lots #5 and #2, which are located west of Foothill Boulevard, are likewise fairly close (approximately 550 feet) to the site. Staff foresees that the greatest demand for parking for the use will be during the evening and weekends when stores and other nearby offices are closed or are less busy. Thus, while parking is not conveniently located on the same site, the parking demand will not affect other businesses in the area to any great extent.

2. The Police Department has expressed concern regarding the mix of the proposed use with the sale of alcohol beverages. They indicate that there are at least 32 outlets in the immediate area for alcohol. They further express that the facility, as planned, is not desirable for public safety since the applicant has had no experience or training in operating a billiard parlor/arcade and due to the fact that previous studies which show that alcohol-related crimes go up with the number of outlets in a given area. The Police Department points out that there is a current problem with alcohol-related crime in the downtown area and that this use would add to that problem.

The applicant believes that in order to have a viable business which is competitive with similar uses that they need to be able to sell beer and wine with their deli and amusement facility. They further point out that patrons come to play pool and not to use the facility as one might go to a bar or tavern.

While they can understand the Police Department's concern regarding a standard pool hall, they believe that their facility is far different from the "dark and dingy smoke-filled" pool rooms of yesterday, which has given the game a bad image. (Several newspaper articles and game profiles have been attached for the Board's review of this up-and-coming game.)

The applicant also points out that with the establishment of a restaurant in the downtown (which otherwise does not require a use permit) that they sell beer and wine with meals and the Police Department has not objected to those uses. The applicant does not see any difference with these uses and want to be treated in an equal manner.

3. Because the subject area is a basement, the Police Department also has concerns regarding the use being less visible for surveillance than a use located within a facility which is at street level. They feel that any crime-related problem would place their officers' safety in jeopardy.
4. The Building Division indicates that because the use is within a basement that either three exits be provided to meet building codes or that the number of patrons shall be limited to a maximum of 100 persons at any given time. The applicant has indicated that they can expect up to 300-400 patrons and spectators when they host a tournament at this facility. Obviously this requirement will not allow such a large gathering. The installation of a third exit could prove to be a costly item as well as its placement since the building is located to the property lines or lies beneath other leasable space.
5. The owner of the property has indicated to staff that he is only interested in granting a one-year lease to the applicant until they have established a track record in the operation of such a facility. The owner believes that with other tenants on the property, that he needs to protect the investment which has already been established on the site. If no problems occur in the first year, then he would be willing to extend the lease. The owner has had problems in leasing the basement area ever since the building has been renovated some two or three years ago. The floor area below grade does not lend itself to retail space because of poor exposure. The owner believes that the proposed public indoor recreational use may be an ideal solution for this basement area, which will provide an activity to draw people into the downtown area even at night.

REQUIRED FINDINGS FOR CONDITIONAL USE PERMITS

Section 10-1.614 of the Zoning Ordinance states that the Board of Adjustments may approve, conditionally approve, disapprove, or refer an application to the City Council, with or without a recommendation. Approvals and conditional approvals may be granted when the Board finds that:

USE PERMIT APPLICATION NO. 90-59

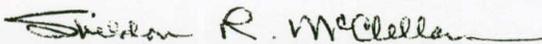
- a. The proposed use is desirable for the public convenience or welfare;
- b. The proposed use will not impair the character and integrity of the zoning district and surrounding area;
- c. The proposed use will not be detrimental to the public health, safety, or general welfare; and
- d. The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

CONCLUSIONS

The only experience Hayward has had with billiard parlors is an existing business operating at 24832 Mission Boulevard under the name "Golden Q Billiards" where the Police Department has had some police problems over the years. This business is somewhat different in that the age of patrons is not restricted. With the requirements of on-site security personnel and an age restriction of 18 or older unless accompanied by an adult, many of the problems or concerns are not anticipated.

The Police Department's concern regarding the allowance of concurrent sale of beer and wine is clearly understood by staff. The Planning Department, however, believes that where sales are ancillary to another main activity such as this and where a fee is being charged by the hour for the main use, that the proposed consumption of alcohol on site would not be much different than that of a restaurant. Likewise, as pointed out by the applicant, any restaurant locating in the downtown area does not require a use permit and would not be limited to the sale of alcoholic beverages other than restrictions imposed by the Alcohol Beverage Commission license. If the Board believes that the sale of alcohol would cause a problem, then the permit should be conditioned to prohibit the sale of alcohol.

Prepared by:



Sheldon R. McClellan, Senior Planner

ATTACHMENTS

Findings for Approval
Conditions of Approval
Area Map
Downtown Municipal Parking Lots
Development Site and Floor Plans
Material Packet from Applicant which includes newspaper and magazine articles, game profile, letters of reference
Letter from Computerland 10/19/90
Response letter from City Manager 10/26/90

AMENDED FINDINGS FOR APPROVAL

1. That the use is desirable for the public convenience or welfare by providing a family-oriented recreation use which is monitored by management personnel and security;
2. That the proposed use will not impair the character and integrity of the downtown Central City-Commercial Subdistrict and surrounding area since the use is to be established within an existing building and the surrounding area is all commercially zoned, and since the proposed use will target a less disruptive clientele than is typically associated with older pool halls;
3. That the proposed use, as conditioned, is in harmony with City Policy and the intent and purpose of the Central City-Commercial Subdistrict and Redevelopment Agency to encourage recreational uses and night life in the downtown and will not be detrimental to any adjacent properties; and
4. That the proposed use, as conditioned, will not be detrimental to the public safety, in that the facility's management will provide adequate policing of the facility, school-age patrons will not be permitted on the premises during school hours.

REVISED CONDITIONS OF APPROVAL

1. All improvements indicated on the approved floor plan and labeled Exhibit 'A', must be installed prior to occupancy and commencement of the use.
2. Copies of the facility's rules and regulations in addition to these conditions of approval shall be clearly displayed to the public at all times.
3. School-age patrons shall not be permitted on the premises during school hours in order to prevent truancy. Management shall monitor patron identification.
4. Deleted.
5. The facility shall comply with all requirements of the Fire Department including but not limited to:
 - a. Requirements for places of public assembly.
 - b. Fire sprinkler certification test or substantiating documentation for completion within last five years.
 - c. Fire extinguishers required.
 - d. Exit signs (illuminated) required.

- e. Panic hardware required on all exit doors.
 - f. Electrical panels to be marked.
 - g. Occupancy sign required per Uniform Fire Code/Uniform Building Code.
6. The facility shall comply with the following requirements of the Police Department:
- a. Building security standards shall apply as listed in the Uniform Building Code, Chapter 41, Section 4101 through 4109.
 - b. Deleted.
 - c. No gambling of any kind shall be permitted.
 - d. Signs shall be posted at each entrance with all conditions clearly and legibly spelled out.
 - e. Lighting shall be maintained at least one c/f at floor level minimum.
7. If the use cannot comply with the Uniform Building Code requirement of three exits, then the two existing exits shall be maintained and the maximum occupancy load shall not exceed 100 persons.
8. The operator shall supply supervisory personnel at all times during hours of business.
9. **A minimum of one non-uniformed, unarmed security guard shall be on site from 6 p.m. until 2 a.m. (closing time) during hours of business. A minimum of three (3) employees shall be on site at all times during hours of business; in addition, after 6 p.m., a full-time security guard shall be assigned with security as their sole responsibility. A video surveillance monitoring system shall be installed at each exit and shall also monitor activity within the rear parking area. The system shall be reviewed and approved by the Police Department.**
10. Violation of conditions is cause for revocation of permit after a public hearing before the duly authorized review body.
11. This permit becomes void on April 15, 1992, unless prior to that time a building permit authorizing construction of approved use is issued. This permit expires one year from the date of its approval. A request for a one-year extension(s), approval of which is not guaranteed, must be submitted to the Planning Director no later than March 15, 1992.

12. One year after occupancy, the use permit application shall be brought back to the Board of Adjustments for review at a public hearing where the Board will determine whether to extend the permit permanently for a set number of years or let the permit lapse. The Board of Adjustments shall render a decision to either continue the use permit with or without a specified time limit or let it lapse and become null and void.
13. The City reserves the opportunity of removing on-street parking on Foothill Boulevard fronting this site either for peak hours only or all day.
14. Any tournament conducted on the premises shall be held at night or on Sundays only to lessen the impact of parking demands during regular business or retail-commercial hours.
15. A uniform average maintained lighting level shall be no less than 50-foot candle measured at table height.
16. No alcoholic beverage shall be served to anyone on the premises in conjunction with this establishment.
17. The parking lot shall be repaired and restriped according to City standards and exterior lighting shall be enhanced and maintained in a safe condition.

PLANNING DEPARTMENT REPORT
Board of Adjustments
May 6, 1991

ITEM 1

USE PERMIT APPLICATION NO. 90-59 - DELORES A. MILLER (APPLICANT) -
INDER AND KRISHNA RAJ CHABRA (OWNERS) - Request to establish a family
billiard parlor with on-sale beer and wine license within an
11,250-square-foot basement area of a larger multi-tenant building
(Foothill Arcade).

Property is located at 22540-C Foothill Boulevard, easterly side,
approximately 200 feet south of 'A' Street in the CC-C (Central
City-Commercial) Subdistrict.

BACKGROUND

This application was reviewed by the Board of Adjustments on April
15, 1991. The Board voted 5:2 (Dowling, Spence) to defer the item to
the May 6, 1991 hearing in order to obtain additional information
from the applicant.

On Tuesday, April 30, 1991, at 4:00 p.m., the applicant submitted the
attached Revised Business Plan. The main point is that the applicant
has deleted the request to sell alcoholic beverages on site. They
have also requested to shorten the period when security personnel
will be present on the site. They believe this is justified due to
the dropping of the sale of alcohol. The Police Department has been
informed of this request but no response has been given because of
the late receiving of this revised business plan.

The recommended Conditions of Approval have not been changed by
staff. The Board should bring their previously issued copy of the
Conditions to the meeting.

ATTACHMENT

Revised Business Plan by Applicant

UP90-50X

City of Hayward
Planning Department
25151 Clawiter Road,
Hayward, CA 94545-2731

04-29-91

ATTN: Sheldon McClellan

REVISED BUSINESS PLAN:

I have decided to delete the on sale beer and wine; however, the original business plan will have to be altered as follows:

The cover charge will be deleted.

Table rates will be changed as follows:

\$5.00 per hour for one player;

\$8.00 per hour for two players;

\$10.00 per hour for three players and

\$12.00 per hour for four players.

Item #6-B under conditions of approval: Now that the alcohol has been dropped, I do not feel a need for security personnel during the daytime hours as business will be predominately slow. From 6:00 Pm until closing at 2 Am I would like to have non-uniformed security personnel on the premises as well as security monitoring systems at both exits.

Upscale means designating of or for people who are relatively affluent, educated, stylish, etc. An upscale billiard room would have the following characteristics:

A well lighted room; modern decor with wall to wall carpeting; newly painted throughout; brand new equipment with uniformed employees in black slacks with white shirts and black bow ties.

Employee training to insure business policies are enforced at all times. Organized activities such as leagues and tournaments, conducted by a tournament director. All of the above items collectively create an ambiance that is conducive of an upscale billiard room.

Respectfully,



Dee Miller

20	SMALLER THAN SPECIFIED		
21	APPLICABLE	YES	UBC 69 UBC 70 UPC 69 UPC 68 NEC 67
22	OCCUPANCY TYPE		A 2
23	TYPE OF CONSTRUCTION		II
24	BUILDING CYCLE	GROSS NET	11700 10070
25	AUTOMATIC FIRE SPRINKLER		YES

(E) TRASH ENCLOSURE

20' 24" x 6' 94"

PROPOSED
RECREATION CENTER
IN (E) BASEMENT

SEE EXHIBIT FOR PROPOSED RECREATION CENTER



(E) RECREATION

100 - 104

Condition 6 (f.) Modified to read:

Submit a detailed exterior lighting plan. All PG&E connections, including transformers, shall be screened, or located under ground. If a transformer is required and is located above ground, it shall not be located in any required yard set back along a street frontage.

2. USE PERMIT APPLICATION NO. 90-59 - DELORES A. MILLER (APPLICANT) - INDER AND KRISHNA RAJ CHABRA (OWNERS) - Request to establish a family billiard parlor with on-sale beer and wine license within an 11,250-square-foot basement area of a larger multi-tenant building.

Property is located at 22540-C Foothill Boulevard, easterly side, approximately 200 feet south of 'A' Street in a CC-C (Central City-Commercial) Subdistrict.

Senior Planner McClellan presented the Planning Department report dated April 15, 1991, aided by viewgraphs. The Planning Department recommended approval, however, Senior Planner McClellan outlined concerns expressed by the Police Department regarding potential safety hazards when officers are called to respond to disturbances, because the use is located in a basement.

Senior Planner McClellan also addressed the Police Department's concern regarding the sale of beer and wine. He pointed out that where sales are ancillary to another main activity, and where a fee is charged by the hour for the main use, that the consumption of alcohol would be similar to what is consumed in a restaurant. The Board has the option of conditioning the use permit to prohibit the sale of alcohol if they concluded that such sales would be detrimental.

Senior Planner McClellan said the City Attorney's Office informed him, subsequent to the writing of this report, that Condition 4, which reads: "No person under the age of 18 shall be permitted on the premises at any time unless accompanied by an adult.", was not proper as a condition of the use permit. The City can only limit the age of the clientele during school hours to prevent truancy. Condition 4, should be omitted from any final approval.

A letter from E. Stanley Hobbs, H.M.S. Associates distributed to the Board stated objection to the presence of a pool hall in the neighborhood.

Public Hearing was opened at 8:37 P.M.

John Campbell, 1834 Elwood Drive, Concord, proposed manager and partner, agreed with most of the conditions and then explained his concerns. He questioned the section from the Building Code used to set a limit of 100 people in the billiard parlor, noting that the City Building Department told the architect that the limit would be 500. When the architect checked the code himself he found the limit to be 300. The tournaments would be the only time they anticipated more than 100 people. Mr. Campbell requested permission to sell wine and beer based upon the fact that bowling alleys and pizza parlors have the same classification as billiard parlors. Only bottled beer will be sold, for better control. The applicant wished to promote billiards as a popular sporting event and operate a good business.

Mr. Campbell also pointed out their preference not to have a "uniformed" security guard, but to have standardized dress e.g. cardigan with business logo.

Responding the Boardmember Dowling's request for a definition of "upscale" billiard parlor, Mr. Campbell explained that the cost is higher to play the table and drink; there a dress code, modern facility design, no gambling and abusive language is permitted, right to refuse service, well lighted, and anyone under 18 required to be accompanied by adult.

Anthony C. Annigoni, 559 Fell Street, San Francisco, represented the applicant as a long-term consultant and reviewed his experience in the billiard parlor business. He thanked Senior Planner McClellan for his cooperation and excellent assistance. Mr. Annigoni supported Mr. Campbell's concern regarding uniformed security and suggested a video monitor as an alternative. Boardmember Spence asked Mr. Annigoni if his experience included opening a billiard parlor in the middle of a downtown, to which Mr. Annigoni replied he had opened one in San Francisco. Mr. Annigoni further explained at length his personal involvement with community groups and Police Departments in promoting upscale billiard parlors and assured the Board that he and the applicant would closely monitor the proposed establishment in Hayward.

Inder Chabra, 22540 Foothill Boulevard, Hayward, building owner, stated it would be an asset to the community to have an "up-scale" billiard parlor in the downtown. Boardmember Dowling asked Mr. Chabra if he had read the letter written by one of his tenants to the City Manager. Mr. Chabra replied no, but people are afraid of the unknown. He had tried very hard to find good tenants and would be happy to talk to the tenant about his concerns.

Richard Van Leer, 22540 Foothill Boulevard, Hayward, a lessee in the building for two years said he had requested the owner to resolve the existing parking problems. The owner did not respond even after repeated requests. Parking problems occur daily. The Police Department had been called; however, since the parking problems are on private property they did not intervene. Mr. Van Leer objected to comparing the billiard parlor to a restaurant because the players, are not drinking while eating. He believed the lighting was inadequate and the noise level will be detrimental to all the tenants.

Ann Nichols, 22540 'B' Foothill Boulevard, tenant/beauty shop owner in the subject building, expressed her concern about the billiard parlor being near her business because she serves families. She questioned that it would be an "up-scale" billiard parlor if they are going to charge the same as the Golden Billiards. She was also concerned about screening security guard candidates since it is her understanding that convicted felons can qualify, and she works from early morning to late at night.

Ron Custer, 26854 Gading Road, Hayward, appeared as a private citizen, stated what he believed a family recreation facility to be. While he believed a billiard establishment could solicit family business, he had the following concerns: the type and quality of food; sale of alcohol; noise level; hours of operation modified to accommodate families; arcade noise intruding on the large billiard room; and, questioned whether or not arcade equipment should be permitted.

Captain Richard Dettmer, gave the Hayward Police Department's perspective of this application including a report on the high crime rate in the subject area compared to the rest of the city. An additional outlet to sell alcoholic beverages would not improve the crime rate. He referred to a survey by COMPRI, (a subsidiary of Horizons) which revealed the nexus between alcohol and crime. Additional research had confirmed that nexus. The Police Department recommended that if the application is approved, the sale of alcohol be prohibited.

Captain Dettmer spoke of his concern about the difference between the amenities presented to the Police Department in their preliminary work with the applicant/owner and, what was presented tonight. It sounded like the applicant no longer planned to provide those same amenities.

Public Hearing Closed at 10:23 P.M.

Boardmember Minhas stated a business like a billiard parlor in the suggested location could be good. However, he wanted the applicant to be more positive regarding the following conditions before he could consider voting favorably for this project: no alcohol; sound proofed rooms; hours that accommodated families; security; and, adequate parking.

Boardmember Spence concurred and added that patrons of a billiard parlor would be single purpose patrons and she did not look for that to bring additional business to downtown Hayward. She also noted that allowing parking in the alleyway would provide a place for people to conduct activities "out of view" that would be monitored if conducted inside. Consistent security on the periphery would be necessary to find out what kind of activities are carried on outside.

Boardmember Spence did not veto alcohol sales inside, and stated if they do not occur inside, there will be an increase of alcohol related activities outside, which would be more detrimental. The 100 capacity limit would need to be monitored, as well as parking, gambling and, measures to take care of noise abatement. She related her concern about noise to the 27 pool tables rather than the arcade.

Boardmember Spence said she would like the opportunity to visit "up-scale" billiard rooms before she voted on this application.

Boardmember Riley wanted to see Hayward have more places for people to gather and liked the idea of having another public place for that reason. However, it would have to be a very special place. Nothing had convinced her that the operation would be up-scale, because the cost is the same as the one that has been in Hayward a long time, the dress code was not definitive; and, most security guards are minimum wage, therefore she would question their qualifications. She envisioned a place that could sell a variety of coffee e.g., cappuccino, and did not consider microwaved sandwiches upscale. She envisioned this being a nice place for people to learn a new activity, but did not envision that happening in Hayward at the present time, and in the way presented tonight. She spoke of her concern regarding the lack of in-depth management experience.

Boardmember Dowling said for sometime downtown Hayward had lacked positive places to go. Based on the background material provided, this project seemed to have the potential for positive night life. He was reluctant about approving this application, however, because of the lack of management experience with "up-scale" billiard parlors. He also wanted references checked in other cities from Police Departments and businesses surrounding the billiard parlors managed by the applicants.

Boardmember Gillis agreed with his colleagues that more information was needed. While the actual design building and appearance is always reviewed by the Board, there really is not a precedent for looking at how a business will be run. In this particular case how the business is run and how the money is spent will be the key factor. He was also concerned that the applicant did not know light levels; did not have a decor package, information about sound proofing was lacking; and, uncertainty about security guards was evident. He was not comfortable with the basement location and that two tenants were opposed to this application. He did not believe that denying the sale of alcohol in this facility would improve the downtown.

Boardmember Devane agreed that the downtown needed new life and shared her colleagues concerns, particularly the basement location and lack of parking. She also commented on the lack of information and that there needed to be such lengthy conversation regarding design. She was not in favor of the project as presented and did not believe the Board could make a judgment based on the information presented.

Chairperson Crain concurred with her colleagues that there was not sufficient detail in the application on which to base a decision. In addition she needed to know what the applicant/owner would be willing to do now that there had been a 100 person limit established and whether it would change the amount of money actually invested in the pool hall.

If alcohol was included in this application she would not support it because it is not necessary to serve alcohol at a recreational facility. Since the Board had clearly expressed that more information was needed prior to a decision, Chairperson Crain asked the applicant if they preferred the Board to vote now, or continue the application to a future date.

Mr. Campbell requested that the application be continued.

Boardmember Gillis called for a straw vote regarding the use of alcohol since it represented 35% of the revenue, and since opinions were varied on the sale of alcohol. The informal vote was 4:3 to permit alcohol if all the other issues are in order.

IT WAS MOVED BY BOARDMEMBER GILLIS, SECONDED BY BOARDMEMBER DEVANE THAT USE PERMIT APPLICATION NO. 90-59 BE DEFERRED TO THE MEETING OF MAY 6, 1991 FOR ADDITIONAL INFORMATION.

THE MOTION CARRIED BY THE FOLLOWING ROLL CALL VOTE:

Ayes: Devane, Gillis, Riley, Crain, Minhas
Noes: Dowling, Spence
Absent: None

The meeting was adjourned for a recess at 10:46 P.M. and reconvened at 10:57 P.M.

3. USE PERMIT APPLICATION NO. 91-1 - AMERICA WEST AUTO AUCTIONS (APPLICANT/OWNER) - Request to conduct public auction of cars on Saturdays to the general public and conduct regular car sales during the week.

The property is located at 730 and 750 'A' Street. Subject property has two zoning designations. On the 'A' Street frontage, it is CC-C (City Center-Commercial) and on the Smalley Avenue frontage, it is zoned RM (Medium-Density) Residential.

Senior Planner McClellan presented the Planning Department report dated April 15, 1991, using slides to orient the Board to the area. The Planning Department recommended approval with the findings and conditions presented in the written report.

The Planning Department received a phone call on April 12, 1991, from Mrs. Edward G. Leong, owner and resident of 724-736 Smalley Avenue, regarding all the parked cars on Smalley and the car alarms being a nuisance. Transportation Services requested that the gate be locked along Smalley during the auction days to prevent people from parking on Smalley and then walking through the rear portion of the property to get to the auction.

The regular meeting of the Board of Adjustments was called to order at 7:35 P.M. by Chairperson Crain followed by the Pledge of Allegiance.

ROLL CALL

Present:	BOARDMEMBERS	Devane, Gillis, Dowling, Rikley, Spence, Minhas
	CHAIRPERSON	Crain
Absent:	BOARDMEMBERS	None

Staff Members Present: McClellan, Koonze, Alvarez, Taylor

General Public Present: Approximately 35

PUBLIC COMMENT Non-agenda items

AGENDA

PUBLIC HEARINGS

Continued Items:

1. Use Permit Application No. 90-59 - Delores A. Miller (Applicant) Inder and Krishna Raj Chabra (Owners)
2. Use Permit Application No. 91-1 - America West Auto Auctions (Applicant/Owner)

New Items:

3. Use Permit Application No. 90-40 and Modification of Use Permit and Variance No. 84-140 - Al Hutchison (Applicant/Owner)
4. Use Permit and Variance Application No. 90-21 - Tait and Associates, Inc. (Applicants) - B. P. Oil Company (Owner)
5. Use Permit and Variance Application No. 91-19 - Katrina Steptore (Applicant/Owner)

Boardmember Devane noted that the meetings had been very late and it was not appropriate that citizens could not conduct their business within a more reasonable time frame. There was additional discussion at the conclusion of the meeting where the Boardmembers strongly concurred and requested that meeting agendas be shortened. They also agreed that the Board should meet on every scheduled night, even for only one item.

Chairperson Crain announced that the Board had been requested to postpone Item 2, Use Permit Application No. 91-1, to the next meeting. Mike Ahern, represented the applicant and confirmed the request. The Board unanimously agreed to continue the item to the meeting of May 20, 1991.

CONTINUED ITEMS

- 1. USE PERMIT APPLICATION NO. 90-50 - Delores A. Miller (Applicant) - Inder and Krishna Raj Chabra (Owners) - Request to establish a family billiard parlor with on-sale beer and wine license within an 11,250-square-foot basement area of a larger multi-tenant building.

Property is located at 22540-C Foothill Boulevard, easterly side, approximately 200 feet south of 'A' Street in the CC-C (Central City-Commercial) Subdistrict.

Application continued from April 15, 1991 hearing.

Senior Planner McClellan updated the staff report presented on April 15, 1991, and stated the applicant had subsequently submitted a written Revised Business Plan, the main point of which was to delete the request to sell alcoholic beverages on site. Since 35% of the revenue was anticipated from the sale of alcoholic beverages, and since they will not be selling alcoholic beverages, the applicant requested to shorten the period when security personnel would be present.

Captain Dettmer, in charge of Investigative Services in the Hayward Police Department, answered questions from the Boardmembers. He noted that dropping the cover charge would encourage people to loiter. He was pleased that the sale of alcohol was eliminated and said security should be less of a problem under those circumstances.

Public Hearing Opened at 7:47 P.M.

John Campbell, 1834 Elkwood Drive, Concord, speaking on behalf of the applicant, reviewed the Revised Business Plan and presented a new interior floor plan. He also distributed a letter he received from COMPRI acknowledging that the applicant would not be selling alcohol. Mr. Campbell noted that the applicant will do everything possible to create an "upscale" atmosphere.

Responding to questions from Boardmembers, Mr. Campbell said the food would be freshly made, deli sandwiches, yogurt and health drinks. There will be three employees present at all times. The applicant agreed to the occupancy maximum of 100 people, additional lighting, and monitoring security devices in the alleyway and parking lot.

Raj Chabra, 533 Corbett Avenue, San Francisco, owner, said the proposed use would be an improvement to security in the downtown. He noted that Hayward lacks entertainment and restaurants in the downtown and his proposal would bring entertainment. He believed the candle power proposed is sufficient because it was used by the previous tenant to retail computer software. After discussion with Boardmember Gillis, Mr. Chabra agreed to a condition requiring 50-candle-foot power measured over the tables.

Responding to questions from Boardmember Riley, Mr. Chabra explained the reasons for the parking problems and said they would be corrected.

Sharad Lal, 338 Camelback Road, Pleasant Hill, confirmed that adequate lighting would be provided in conformance to the building code. Responding to Boardmember Devane's concern about security to oversee table activity, Mr. Lal said nothing could be done architecturally to monitor that activity.

Florence L. Milton, 2627 Harold Street, Oakland, owner of Flora's Eelskin Store/Women's Accessories, near the proposed billiard parlor location, spoke in opposition of the billiard parlor. Ms. Milton registered complaints regarding the owners negligence in maintaining the building. She spoke of burglaries and panhandlers, emphasizing that the proposed business would not be an improvement; and was concerned that insurance rates would be raised due to the clientele that the proposed business would draw.

Ron Custer, 26854 Gading Road, Hayward, inquired about the number of employees on duty, video game machines, and prohibition of gambling. Mr. Custer then requested the Board to view this application favorably, with the conditions as described.

Public Hearing Closed at 8:32 P.M.

Boardmember Minhas was favorable toward the application if the following items were conditions of the use permit: sale of alcohol prohibited; sound proofing for protection of tenants; striping the parking lot behind the building; security monitoring cameras in the parking lot; and increased lighting in the alleyway and parking lot behind the building.

Boardmember Spence sympathized with the merchants displeasure. She believed, however, that the proposed use would enhance the businesses nearby rather than detract; was pleased that the applicant agreed to monitor the parking lot; and, wanted to see the "up-scale" billiard room succeed.

Boardmember Riley indicated some questions still remained and noted maintenance items the building owner had neglected. She would agree to approving the application with the condition that it would be reviewed in one year, and that the number of employees on duty during business hours would be stipulated in the conditions, e.g. 3 during the day hours and 6 during the night hours.

Boardmember Dowling recalled his opposition to the application at the April 15th meeting based upon the request to sell alcohol. However, the billiard parlor in Emeryville was so well done, that during his visit, Boardmember Dowling could see the potential for an up-scale parlor in Hayward. Eliminating the sale of alcohol and a well lighted operation would discourage loitering in this area. He was in favor of the application.

Boardmember Gillis noted his concern that the three business owners most immediately impacted were here to oppose the use. If change is to come in the Downtown there must be risks taken by the City and business. He was willing to see the application approved with conditions and a one year review.

Boardmember Devane was in favor of bringing business to the Downtown and was in favor of the application at the April 15th meeting. However, upon further investigation and conversations with serious billiard players, she had become leery of this proposal. She discovered that liquor is not served in real pool halls, and that it is absolutely necessary to have an overseer, or electronic surveillance, to monitor the tables to prevent gambling and passing drugs. Boardmember Devane said if the application is approved it would be encumbent upon the applicant to be a good neighbor.

Chairperson Crain favored the application because alcohol would not be sold. In addition, she echoed the requests of her colleagues to condition the application to require that the parking lot be repaired and restriped; a minimum of 3 employees until 6 P.M., and a minimum of 5 employees from 6 P.M. to 2 A.M.; and, that the application be brought back to the Board in one year for review. Sound proofing could be worked out between the applicant and staff and need not be a condition of the use permit. Boardmember Crain recalled that sound proofing had not been a condition required in the past.

IT WAS MOVED BY BOARDMEMBER GILLIS, SECONDED BY BOARDMEMBER MINHAS THAT USE PERMIT APPLICATION NO. 90-59 BE APPROVED BASED UPON THE FINDINGS AND CONDITIONS PREPARED BY THE PLANNING DEPARTMENT, AND MODIFIED AS FOLLOWS:

Condition 4 and 6 deleted.

Condition 9 amended to read: "A minimum of one non-uniformed, unarmed security guard shall be on site from 6 P.M. until 2 A.M. (closing time) during hours of business. A minimum of three (3) employees shall be on site at all times during hours of business; in addition, after 6 P.M., a full time security guard shall be assigned with security as their sole responsibility. A video surveillance monitoring system shall be installed at each exit and shall also monitor activity within the rear parking area. The system shall be reviewed and approved by the Police Department.

Add Condition 15: A uniform average maintained lighting level shall be no less than 50-foot candle measured at table height.

Add Condition 16: No alcoholic beverage shall be served to anyone on the premises in conjunction with this establishment.

Add Condition 17: The parking lot shall be repaired and restriped according to City standards and exterior lighting shall be enhanced and maintained in a safe condition.

The motion CARRIED by the following roll call vote:

AYES: Gillis, Dowling, Crain, Riley, Spence, Minhas
NOES: None
ABSENT: None
ABSTAINED: Devane

Chairperson Crain declared a recess at 8:50 P.M. and reconvened the meeting at 9:00 P.M.

2. Use Permit Application No. 91-1 - America West Auto Auctions (Applicant/Owner) was continued to May 20, 1991, at the request of the applicant, and with concurrence of the Board of Adjustments.

NEW ITEMS

3. USE PERMIT APPLICATION NO. 90-40 and MODIFICATION OF USE PERMIT AND VARIANCE NO. 84-140 - AL HUTCHISON (Applicant/Owner) - Request to construct an express auto lube in conjunction with an existing car wash.

Property is located at 1352-1368 'B' Street, north side, approximately 200 feet west of Fourth Street in a CB (Central Business) District. Car wash is located at 1367 'A' Street in a CB and CG (General Commercial) District.

Associate Planner Alvarez presented the Planning Department report dated May 6, 1991, and recommended, along with the Redevelopment Department, that the Board of Adjustments adopt the Negative Declaration and deny the use permit, based upon the land use conflict in the area. The Upper 'B' Street Task Force reviewed the application and were in support. Letters in support of the application were received after the Planning Department report was mailed, and copies were distributed at this meeting to the Board.

Boardmember Minhas queried Associate Planner Alvarez about the orientation of the buildings on the land and how it would affect the stacking lanes and traffic flow. He observed that a more efficient use of the land was possible than the one proposed. There was discussion regarding his observation with the Planning Department staff and architect during the public hearing.

HAYWARD CITY COUNCIL

RESOLUTION NO. 91-143

Introduced by Councilmember JIMENEZ

RECEIVED

APR 02 1992

PLANNING DEPT.

RESOLUTION APPROVING USE PERMIT APPLICATION
NO. 90-59 OF DELORES A. MILLER

WHEREAS, Use Permit Application No. 90-59 of Delores A. Miller concerns a request to operate a family billiard parlor within an 11,250 square foot basement area of a larger multi-tenant building (Foothill Arcade) located at 22540-C Foothill Boulevard, easterly side, approximately 200 feet south of A Street in the CC-C (Central City-Commercial) Subdistrict; and

WHEREAS, the Board of Adjustments conditionally approved Use Permit Application No. 90-59 and the matter has been appealed to the City Council in the time and manner required by law; and

WHEREAS, the project is categorically exempt from environmental review under the California Environmental Quality Act; and

WHEREAS, the City Council hereby finds and determines that:

- (1) The use is desirable for the public convenience or welfare by providing a family-oriented recreation use which is monitored by management and security personnel;
- (2) The proposed use will not impair the character and integrity of the downtown Central City-Commercial Subdistrict and surrounding area since the use is to be established within an existing building and the surrounding area is all commercially zoned, and since the proposed use will target a less disruptive clientele than is typically associated with other pool halls;
- (3) The proposed use as conditioned is in harmony with City policy, the intent and purpose of the Central City-Commercial Subdistrict, and the goal of the Redevelopment Agency to encourage recreational uses and night life in the downtown and will not be detrimental to any adjacent properties;

- (4) The proposed use as conditioned will not be detrimental to the public safety in that the facility's management will provide adequate policing of the facility and school-age patrons will not be permitted on the premises during school hours.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that based on the foregoing findings, Use Permit Application No. 90-59 is hereby approved subject to the attached conditions.

IN COUNCIL, HAYWARD, CALIFORNIA July 9, 1991

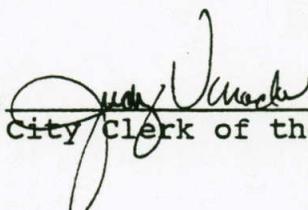
ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS Campbell, Cooper, Jimenez, Randall, Ward
MAYOR Sweeney

NOES: NONE

ABSENT: NONE

ATTEST:



City Clerk of the City of Hayward

APPROVED AS TO FORM:



City Attorney of the City of Hayward

Friday, September 03, 2010

RECEIVED
SEP 13 2010
PLANNING DIVISION

COMMPRE



Carl Emura, ASLA, Associate Planner
City of Hayward, Planning Division
777 B Street
Hayward, CA 94541

Re: PL-2010-0046 CUP, Raj Chabra (Owner & Applicant) & Noam Garfinkel (Applicant)

Dear Mr. Emura:

We have reviewed the revised application submitted for Chalk-It-Up Billiard's requesting an Alcoholic Beverage Control license Type 40 which:

“Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.”

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



A program of
Horizon Services, Inc.

We would first like to commend Mr. Chabra and Mr. Garfinkel for re-submitting a very thorough and comprehensive application addresses many of the issues raised in our previous letter.

First, the application now meets the requirements of Hayward's Zoning Ordinance, Section 10-1.2700: (6) (a), (b), or (c); which states the following information that is required in an application:

“(a) The type of Alcoholic Beverage Control license the applicant is seeking for the establishment; and”

“(b) The true and complete name and address of each lender or share holder with a 5 percent or more financial interest in the proposed business or any other person to whom a share or percentage of the income of the establishment is to be paid; and”

“(c) A statement by the applicant indicating whether or not such applicant has at any time been convicted of any crime other than minor traffic offenses and, if so, the nature of the crime for which the applicant was convicted and the date and jurisdiction of the conviction.”

Secondly, the business plan presented delineates the improvements and physical site enhancements currently underway at the establishment. It speaks also to the proposed hours of operation when beer would be sold “during all regular business hours except for the last 30 minutes of every

night”, as well as to the days/hours when minors would not be allowed on the premises (Fridays and Saturdays from 6:00 p.m. – 2:00 a.m.) to “reach out to an older audience, and to eliminate the risk of underage drinking.”

Finally, the Security Plan that was submitted alongside the application was thorough and included some recommendations that we agree would be absolutely necessary for the successful operation of this business with an alcohol license.

Alarm System: Enhancement of the alarm system on site to ensure that remote access by HPD and management is an excellent idea that would heighten security while simultaneously achieving stronger law enforcement cooperation in the area.

Video System: The video system on site should also explicitly cover the parking lot directly behind the establishment to ensure continuous vigilance by staff, management and all proprietary and contract security personnel of this high-risk area.

Physical Security: The designated employees of the establishment who will secure a Proprietary Security Officer (PSO) registration, as well as all staff who would be involved with alcohol service should also receive Responsible Beverage Service training regularly. During ALL hours of business operation, as it is indicated that beer would be served at all times the business would be open to the public, at least one of the employees who receive this PSO registration should be on duty and easily identifiable as security personnel. Additionally, there needs to be reference to the business’ plan to prevent patrons leaving the establishment and causing incidents outside, should this application be accepted.

Responsible Beverage Sales: While reference to the intent to ensure that enforcement of “local ordinances and procedures as well as Alcohol Beverage Control (ABC) regulations” is included, there is no discussion about how and by whom the servers would be trained or whether they plan to sell alcoholic beverages at reduced prices.

Youth Protection: There is no mention in the application material of how the business would ensure that minors would be monitored to ensure that they weren’t accessing alcohol. While the application mentions that on Friday and Saturday minors wouldn’t be allowed onto the premises, Sunday through Thursday they would be allowed and the application indicates the business’ desire to sell alcohol every day of the week. Furthermore, the physical layout of the facility creates natural breaks in the line of sight for any employ working behind the cash register alone, so would an additional employee always be on duty to monitor the entire floor space while minors were on the premises? There is no mention, should the constant presence of a “floater” employee be guaranteed, of any mechanisms or systems that the business would have in place to segregate and monitor adults vs. minor consumption once the alcohol has been purchased. It would be our strong recommendation, should the Planning Department decide to allow this application to move forward, that a condition be placed on the applicant that would restrict the days of alcohol sales to Friday and Saturday only, the indicated days of the week when minors would not be allowed access. This would guarantee that a tangible

barrier to minors accessing alcohol would be established through the business' planned mode of operations, as indicated in the application.

Parking: While estimates of patron counts and the anticipated increases to these counts is provided, the parking issue still remains. The fact that the business plan indicates that no ingress or egress from the establishment to the rear parking lot would be permitted, the question remains then where would this increased number of clientele park? Street side parking remains a tremendous issue along Foothill Blvd. and needs to be addressed by the applicant.

In regard to the addition of another alcohol license within census tract #4354, which encompasses Chalk-It Up Billiards, we stand in opposition to this request. There are currently 29 active on-sale and 6 active off-sale licenses operating within the tract. The reality is that the City of Hayward has an over concentration of alcohol licenses, and this census tract is no exception.

While the Planning Commission can make a determination to allow a new license to enter Hayward, despite the current over concentration, the rubric utilized to make this determination requires proof of the "public necessity or convenience" to be served by granting the request. The arguments presented in this application, including the anticipated 25 – 50% patronage increase with the granting of a CUP, fall short of demonstrating a strong enough "public necessity or convenience" that would merit the addition of another alcohol license in this already over concentrated census tract.

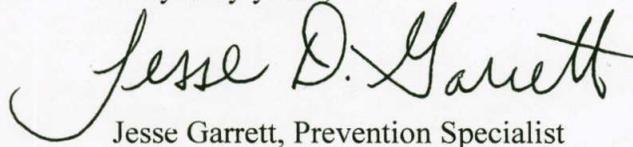
An ABC license Type 40 would allow for both on and off sales of beer. Essentially, a patron could purchase beer from this establishment and be permitted to leave the establishment with the product and be in compliance with the ABC's regulations. We find this to be extremely problematic as there are at least two establishments within walking distance of the applicant's business where off sales of alcohol are already permitted (Eden Liquor and CVS). In addition, public drinking in the downtown area is a serious issue. The question remains then, is it necessary for the public's convenience to allow for more off-sales of alcohol? We strongly feel that it is not.

Furthermore, the crime statistics provided in the Security Plan reinforce the fact that the number of active licenses should actually be reduced here in Hayward, not increased. According to the data provided by HPD for the plan, during the first six months of 2010 calls for service for the .25 mile radius around Chalk-It Up Billiards totaled 299. Of these reports, 83 were to respond to 647(f) PC Drunk in Public calls. This number is virtually four times higher than the second highest category, 242 PC Assault Simple, which had only 22 calls. This data shows that due to the over concentration within this census tract of places where alcohol can be obtained, vital police resources are being spent to deal with the affects of alcohol in our community.

The City of Hayward is interested in attracting more establishments that sell food. This proposed license is for a business use that does not provide food as its primary service. This will present a risk of patrons consuming only alcohol – which will increase the risk of intoxication.

Again, while we commend Mr. Chabra and Mr. Garfinkel for submitting a revised application, we cannot in good conscious support this application for the aforementioned reasons and thank you for the opportunity to respond. If you should have further questions, please don't hesitate to contact me directly.

Very truly yours,

A handwritten signature in cursive script that reads "Jesse D. Garrett". The signature is written in black ink and is positioned above the typed name.

Jesse D. Garrett, Prevention Specialist

CHALK IT UP BILLIARDS
SECURITY SITE SURVEY & PLAN

Prepared by:

James C. Diaz & Associates

July 15, 2010



CHALK IT UP BILLIARDS
SECURITY SITE SURVEY & PLAN

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EXECUTIVE SUMMARY

This report was requested by the Chalk It Up Billiards, here after referred to as "Billiards" , in order to provide a Security Assessment, and make Security Recommendations for Billiards, located at 22540 Foothill Blvd, Hayward, Ca 94541. The techniques used to establish the Risk and Vulnerability information for this security report are as follows:

- A site assessment of the physical security environment
- Interviews of key Management employees
- Interviews of other functional managers, and employees
- A demographic study of the property site and the surrounding area
- An evaluation of the security practices employed at the site
- An evaluation of the security electronic systems at the site

The objective of the Security Assessment is to evaluate the safety and security of the site, and the use of security practices in three areas:

- The ability to protect employees, customers and visitors at the site
- The ability to protect the assets contained at the site
- Evaluate the effectiveness of the security program, and the use and none use of security systems at the site. The low level of security and security awareness, became evident through the assessment process. Due to the nature of the Billiards site organization and the work and business environment, common security measures can be used to strengthen perimeter barriers and protect the site. As a result, there are physical and physiological barriers, and a security awareness that develop and achieve the protective results. Upgrading and building on the existing elements of the present security program will be a cost affective approach.

The recommendations to achieve a higher level of Security/Assets protection are as follows:

- Install and initiate the use of a Digital Video System on doors, Bar Area Cash Registers, Safe, & Billiard Area
- Maintaining and improving Control Procedures and Monitoring System on Cash Registers.
- Improve upon the existing security awareness program
- Review the current Criminal/Drug Background Checks & consider Increasing the scope of the checks.
- Have Security Guards on duty at all entrances/exits
- Maintain close ties to local law enforcement

The implementation of the recommendations herein will not only provide a secure environment, but will also provide an increased level of security that is consistent with industry standards, and will also reduce potential premise liability issues and employee theft.

CHALK IT UP BILLIARDS

SITE SURVEY

Following are the areas reviewed:

- **ALARM SYSTEM**

The site has an existing alarm system. It appears to be functional and operating.

- **VIDEO SYSTEM**

The site has an existing video system. The components include:

- Digital Video Recorder (DVR)
- Eight (8) video cameras

- **ACCESS CONTROL SYSTEM**

The Site does not have an access control system

- **LOCKS**

The Site has various door locks and entrance padlocks

- **PHYSICAL SECURITY**

The Site does not currently contract or employ security officers

- **LIGHTING**

The Site does not currently have adequate lighting

- **SURROUNDING AREA**

The Site is located in business area

- **SAFE**

A Safe exists on premises located in an interior office

- **FIRE SAFETY**

Sprinkler System exists and functioning. Fire Extinguishers are located on interior walls.

CHALK IT UP BILLIARDS

SECURITY PLAN and RECOMMENDATIONS

ALARM SYSTEM

The site has an existing alarm system. It appears to be functional and operating.

It is recommended that the door and window contacts be tested for connectivity to the alarm system and capable of being remotely accessible by Billiards management and the Hayward Police Department Dispatch Center.

VIDEO SYSTEM

The Site video system will be upgraded and expanded to cover the entrance, exits, safe, cash register, and building perimeter. The video system will also provide adequate viewing of the customers throughout the billiard hall.

ACCESS CONTROL SYSTEM/DOOR LOCKS

Billiards Management will provide upgraded access control and locks to prevent unauthorized access.

PHYSICAL SECURITY

Billiards Management will provide for adequate physical security through the use of the following types of security options:

- **Proprietary Security**

Designated employees of Billiards will secure a Proprietary Security Officer (PSO) registration per the State of California Business and Professions Code, Chapter 11.4, Sec. 7574 of the Proprietary Security Services Act. They will wear a distinctive shirt that designates them as security, to ensure customers meet age requirements, screen for weapons and proper behavior. In addition, the PSO(s) will be trained to enforce local ordinances and procedures as well as Alcohol Beverage Control (ABC) regulations.

- **Contract Security**

Billiards Management will also contract with a Private Patrol Operator (PPO) who is licensed under the State of California Business and Professions Code, Chapter 11.5, Sec. 7580 of the Private Security Services Act. Security Officers employed by the contracted PPO will wear a distinctive uniform, badge and patch that identifies them as Private Security Officers. Their duties will include verifying customers meet age requirements, screen for weapons and assure proper behavior. In addition, Security Officers will be trained to enforce local ordinances and procedures as well as Alcohol Beverage Control (ABC) regulations.

PPO will be used in conjunction with the Billiard's PSO's to provide exterior patrol service to discourage graffiti and enforce posted parking regulations.

LIGHTING

Billiards Management will upgrade the perimeter and parking lot lighting.

SURROUNDING AREA

Billiards Management will have the contracted private patrol Service check the perimeter to deter loitering around the site area.

SAFE

Billiards Management will secure the safe by bolting it to the office floor or wall. Management will also ensure that cash handling procedures to include the appropriate moving of cash from the register to the safe.

FIRE SAFETY

Billiards Management will ensure that the fire systems complies with local regulations and have properly posted illuminated exit signs. In addition, the No Smoking Policy will be enforced security personnel.

PHOTOS

PHOTOS

CHALK IT UP BILLIARDS

Front Exterior, Bar Area & Billiard Hall, Rear Interior & Exterior



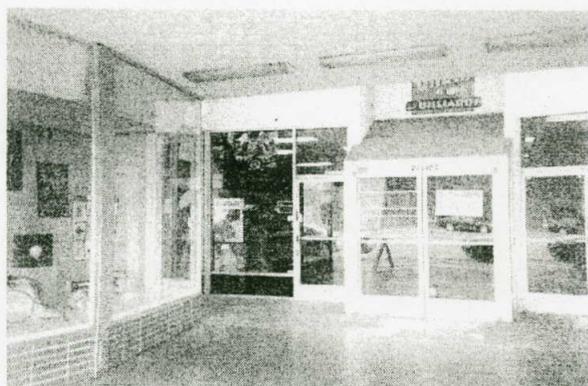
Front Exterior



Front Exterior



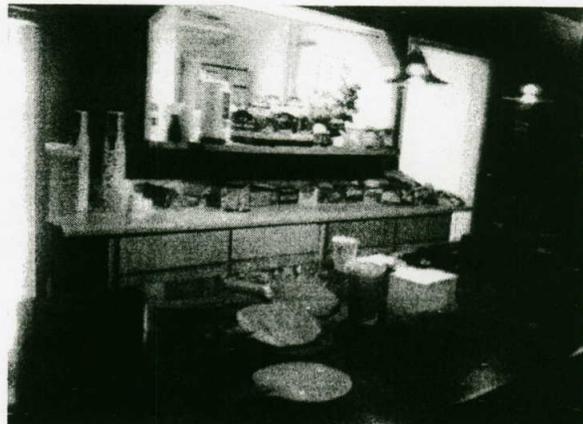
Front Entrance Exterior



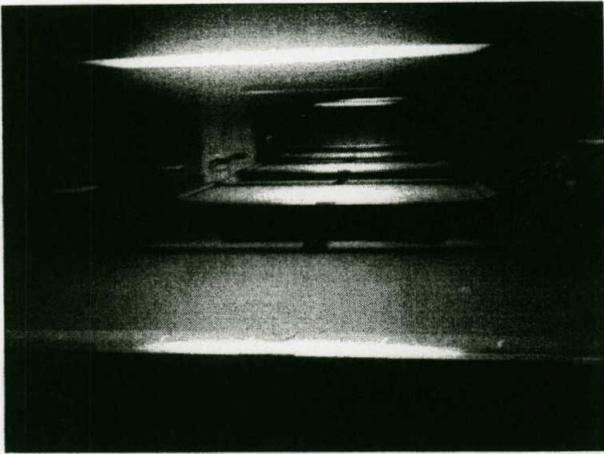
Front Entrance Exterior



Bar Area



Bar Area

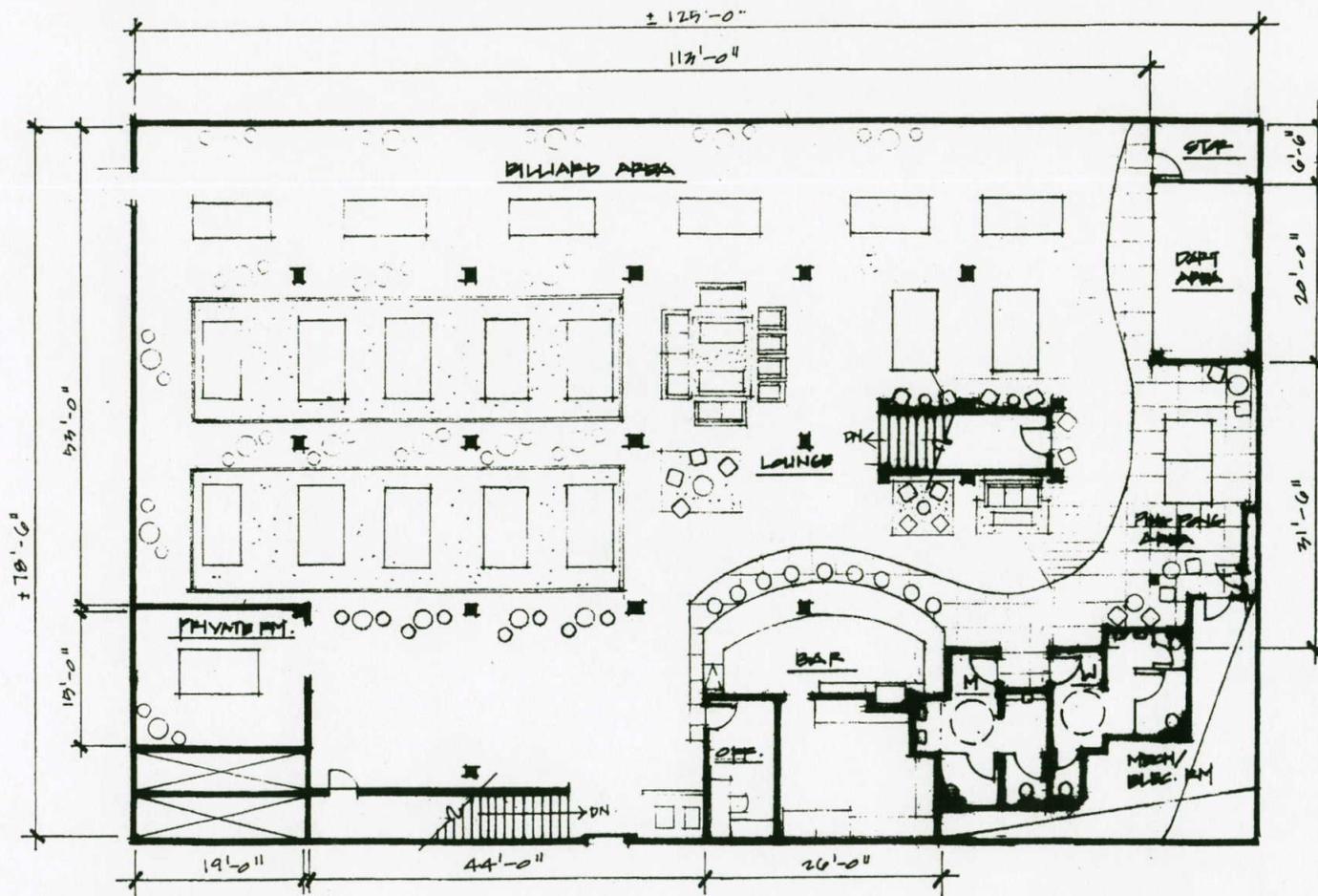


Billiard Hall



Billiard Hall

FLOOR PLAN

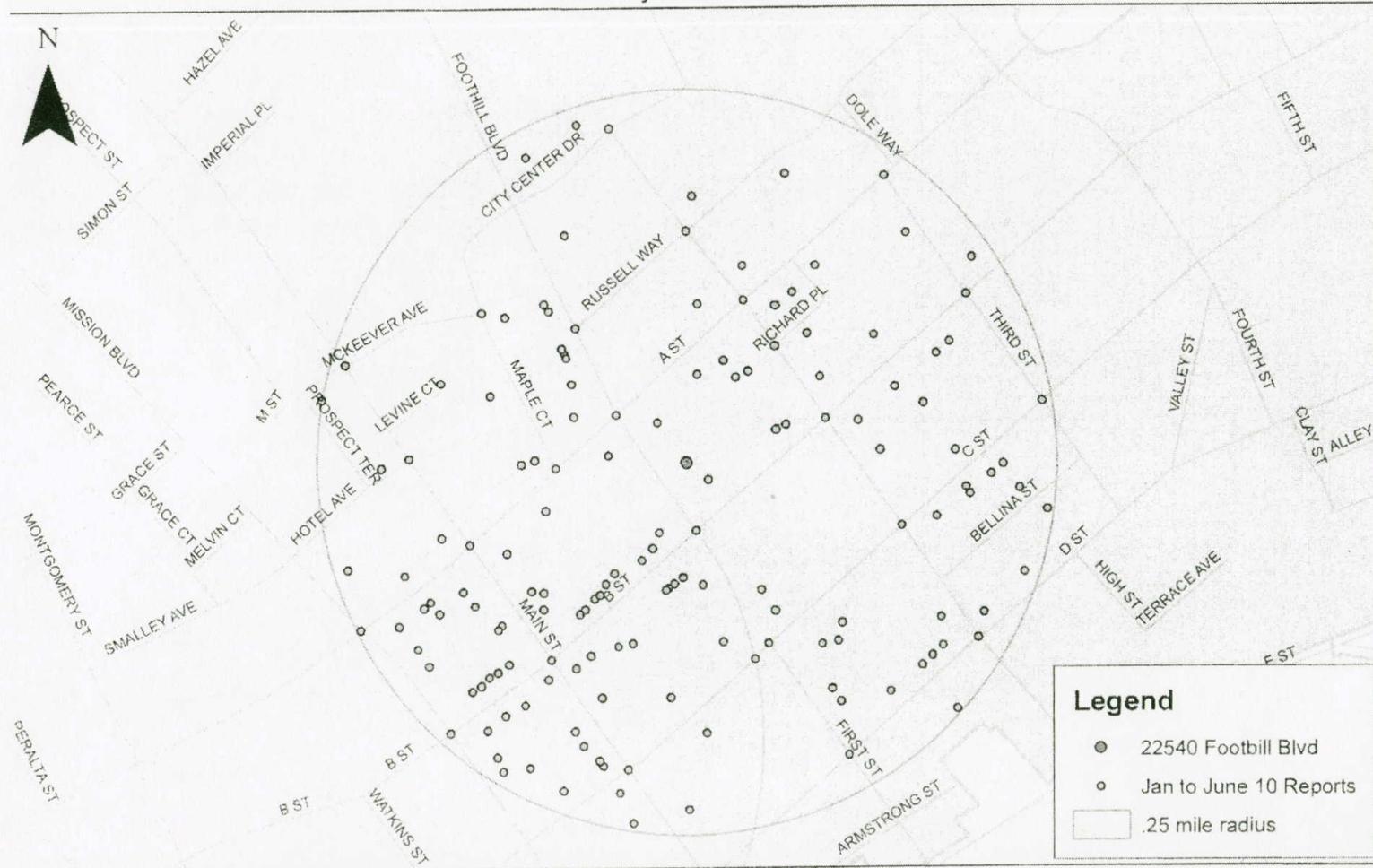


Chalk-It Up Billiard Hall
 Scale : 3/32" = 1' - 0"

22540 Foothill Blvd.
 Hayward, CA 94541

CRIME MAP & STATISTICS

Police Reports Taken
 .25 Mile Radius around 22450 Foothill Blvd
 January - June 2010



Legend

- 22540 Footbill Blvd
- Jan to June 10 Reports
- .25 mile radius

0 0.025 0.05 0.1 0.15 0.2
 Miles

Hayward PD Crime Analysis Unit
 July 13, 2010

January - June 2010

.25 Mile Radius around 22450 Foothill Blvd

Report Type	Count
647(f) PC Drunk in Public	83
242 PC Assault Simple	22
5150 WI Mental Danger Oneself/Others	19
CVC - Veh Code Violations/Vehicle Tow	17
1029F Warrant Service-Felony	15
459A PC Burglary Auto/Theft	15
459 PC Burglary - Force	12
10851 CVC Theft Automobile	11
484 PC Petty Theft	10
Lost/Stolen Property Report	10
470/484f PC Forgery-Not Access Cards	8
Found - Prop - Found Property	8
HMC - Hayward Municipal Code Violation	8
Info - Information Report	8
211 PC Robbery	7
594 PC Vandalism/Malicious Mischief	7
SC - Suspicious Circumstances	7
11364 HS Narc. Drug Paraphernalia	6
594 PC- Vandalism/Graffiti	6
243(e)(1) PC Battery Special Relationship	5
417 PC Brandishing	5
475(b)-(c)/476/476a PC Fraud Checks	5
487 PC Grand Theft	5

CONSULTANT BIOGRAPHIES

JAMES C. DIAZ and ASSOCIATES
DiCOR SECURITY & INVESTIGATIONS

P.O. Box 419
Walnut Creek, CA 94597-0419
(510) 444-0419 FAX (925) 672-0536
Email: DiCorEnterprises@pachell.net

James Diaz and Associates is an independent management and security consultancy group. The firm's areas of expertise include security and investigative laws and regulations, analysis of management and systems processes, and public and government relations. "Expert Witness" services are provided on the security, investigative and alarm industries.

DiCor Security and Investigations provided clients with Executive Protection, Civil & Criminal Background Services, and Commercial & Residential Intrusion and Fire Alarm Detection Services.

Mr. Diaz is a California State licensed Private Investigator, Private Security Provider and Alarm Company Operator, and a Training Facilities executive. He is a designate Certified Investigative Professional (C.I.P.) and, by the State of California, a Subject Matter Expert (SME) in Private Security, Investigative and Alarm Company Operation laws and regulations.

Mr. Diaz is the Chair of the Advisory Committee to the California State Bureau of Security and Investigative Services (BSIS). He was the lead industry professional of the BSIS select committee that re-wrote the Private Investigator, Private Security Operator and Alarm Company Qualified Manager License Examinations. He is also the Chair of the Advisory Board of the Certified Investigative Professionals, Inc. (C.I.P.I.), a Director of the California Association of Licensed Security Agencies, Guards and Associates (CALSAGA), and President of the Chief Special Agent's Association (CSAA).

Mr. Diaz served as the chief executive of the California State Bureau of Security and Investigative Services (BSIS) from 1991 to 1996, following his appointment by Governor Pete Wilson. This position oversees the state regulatory agency that governs the Private Security Industry in California.

Including his professional careers, Mr. Diaz has served in leadership roles with a variety of community and service organizations. He was elected to the Board of Directors of the United Way of the Bay Area in 1993 and served until June 2009. He currently is a member of the United Way's Finance Committee. Additionally, Jim is the Chair Emeritus of the Hispanic Community Foundation (HCF) of San Francisco.

A native of California, Mr. Diaz holds a Bachelor of Sciences Degree in Business Administration from the University of Redlands and a Graduate Certificate in Engineering Economics from Iowa State University.

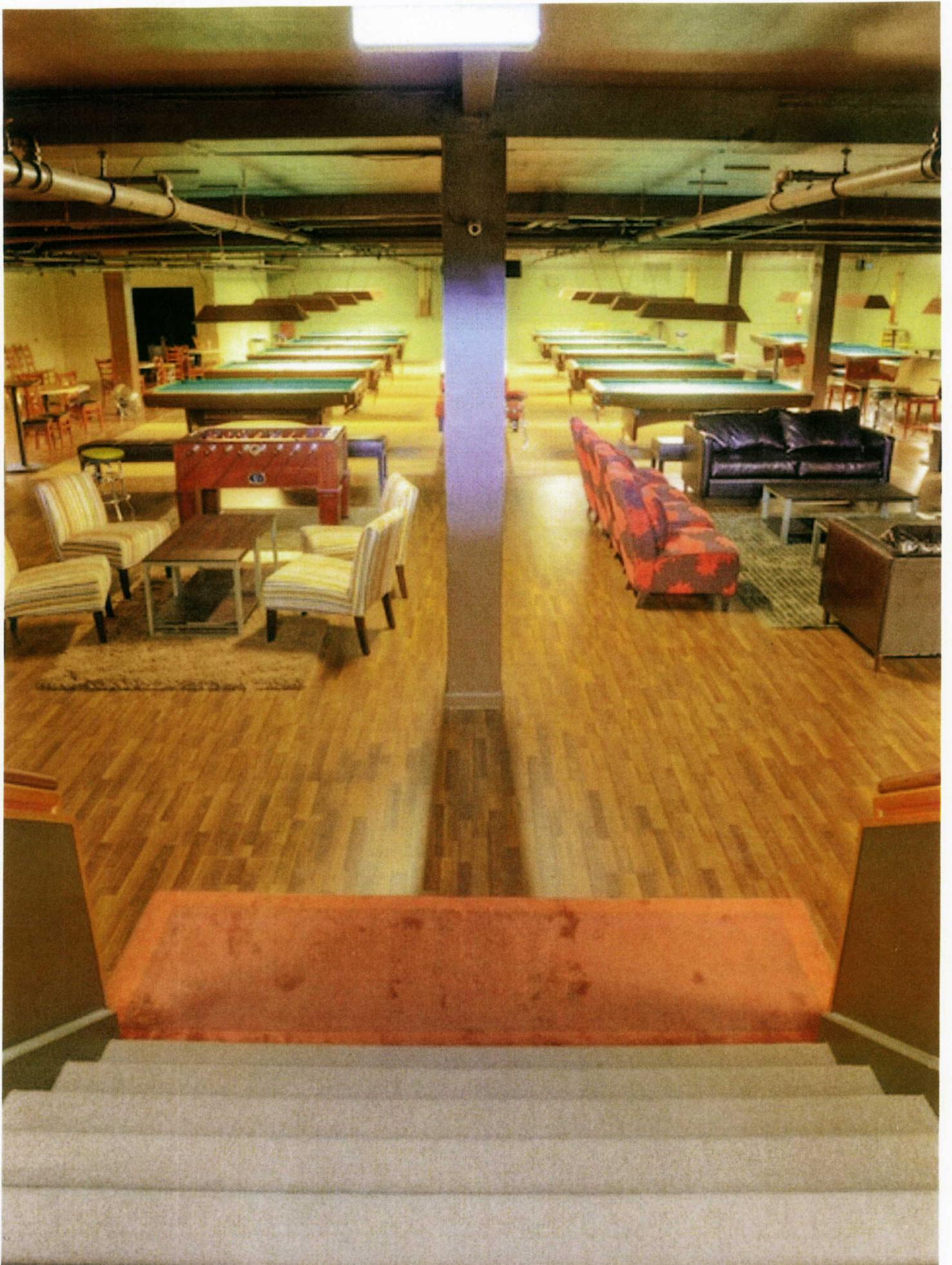
Louis "Skip" George

Career Experience

- MPA, MA - 30 years experience in security management and law enforcement.
- Federal Bureau of Investigation, 25 years supervisory Special Agent.
- Security Director Federal Reserve Bank - 12th District.
- Experience in state-of-the-art security systems, security surveys, technologies, and strategies for high profile institutions with thousands of employees and billions in assets.
- Investigative background in organized crime, white collar crime, fraud and money laundering. Past President Chief Special Agents Association San Francisco, Board of Directors of RSA.
- Current Western Regional Vice President, The Society of Former Agents of the FBI.
- Former President Retired Agents of the FBI - East Bay.
- Former Board of Directors of Infragard.
- Former U.S. Army Infantry Officer, 5th Special Forces Group, Vietnam - Counter Insurgency Training.
- California Licensed Private Investigator - PI No. 22090

Charitable Work

- Sentinels of Freedom.
- The Wheel Chair Foundation.
- American Heart Association.
- Boy Scouts of America.
- The One Hundred Club of Contra Costa County.
- Methodist Church.



RAJ CHABRA

ATTORNEY AT LAW

(925) 283-7088

(925) 283-5023 fax

July 22, 2010

Planning Department / Planning Commissioners
City of Hayward

Re: PL-2010-0046 Chalk It Up/22540 Foothill Boulevard

Dear Department Members and Commissioners:

Thank you for the opportunity to present our application for a license to serve beer at Chalk It Up.

Chalk It Up and its predecessor, Straight Shooter have been a part of the downtown Hayward business community for about 20 years. My family has owned the building during that entire time. I understand that obtaining an alcohol license in today's world necessitates careful evaluation and scrutiny.

I am convinced that we need this license not to make Chalk It Up viable—we are already that. We need that license to thrive and to become a magnet to attract other businesses to the third of a city block that my family has invested in for about 25 years and to enhance the downtown community with an attractive destination. We want to become, after the Century Theatres, the second best draw for downtown Hayward. It is with that in mind that I have actively worked with the Hayward Redevelopment Agency to not only work to bring tenants into the area, but to invest in improving the building facades that will attract people to downtown. Downtown Hayward will never thrive unless there are good restaurants and other successful entertainment venues to give people choices for before, after and instead of the movies. Chalk It Up is an important part of that choice. It is a reality that many people will not go to an entertainment business such as ours, or for that matter even to a restaurant, if they cannot enjoy an alcoholic beverage during that experience.

Our application has a lot of detail attached to it, which I know you will be reviewing. I would like to emphasize, however, two additional points:

We welcome input that would enhance our plan, and make us a better asset for downtown Hayward. We are as concerned about potential problems as anyone in the community. I would welcome the City to give us a provisional license for a year because frankly, we would pull the plug on serving alcohol before the City would if we experienced significant problems. We not only take our responsibility to the community seriously, but I also have responsibility to existing tenants and future tenants I hope to attract to create an environment that all these businesses are more successful.

We hope we can gain your support and trust for now and build on that support and trust in the future. Thank you for your consideration.

Sincerely,

Raj Chabra

CHALK IT UP MANAGEMENT PLAN

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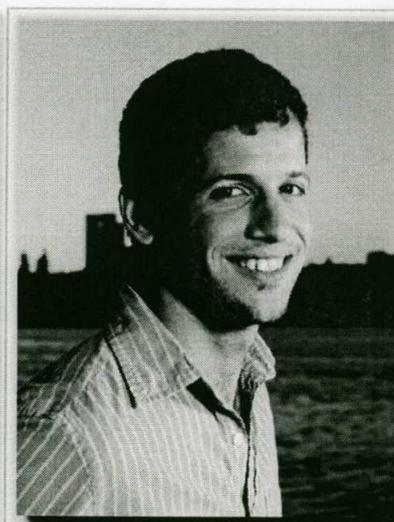
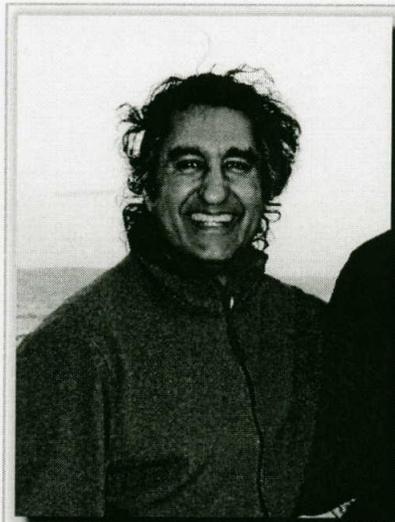
Management

Pool Halls in the Bay Area

Alcohol and Minors

Submitted by:

**Raj Chabra and
Noam Garfinkel**



Owners, Ownership structure, and Business History

Raj Chabra and his family have owned the approximately 40,000 square foot building that houses space for 10 businesses for over 20 years. The main building at 22540 Foothill Boulevard was originally a JC Penny's store. When Mr. Chabra purchased the building in 1986, the building housed a single tenant gym facility. When that tenant's business failed, Mr. Chabra decided to invest in subdividing the building into smaller tenant spaces that reflected a more marketable type of space at the time.

Seeing potential to bring productive use to a large 10,000+ square foot basement space, Mr. Chabra hired a San Francisco architect to carve in street access to the basement. He then, in 1990, negotiated with a tenant looking to open a billiard hall in Concord to instead locate in the Hayward space. The business, then known as Straight Shooter, operated successfully until 2004. When the Straight Shooter operator suffered from health problems, Mr. Chabra bought the business rather than let the operation close. He believed that the billiard business could, with additional investment, be an integral part of revitalizing the block and attracting other businesses to his building and others in the neighborhood. In July, 2009, Mr. Chabra attracted a young entrepreneur, Noam Garfinkel, who had recently graduated from the University of California, Davis to join him as Active On-Site Partner. Chalk it up is a corporation of which Mr. Chabra and Mr. Garfinkel each own 50%.

Mr. Garfinkel, since taking over an active day-to-day role in operating Chalk It Up has overseen renovation of the interior that has resulted in significant customer enthusiasm. Since Mr. Garfinkel took over day-to-day operations, revenues for Chalk It Up have increased by over 40%. He and Mr. Chabra retained a designer to create a more contemporary, upscale environment that aimed to attract a wider cross section of Hayward and other residents from nearby communities. The designer conceived many successful restaurants, including highly acclaimed Walnut Creek restaurant, Va de Vi. Since the first phase of interior renovations has occurred, Chalk It Up has received high praise from its customers for an atmosphere some customers have described as the best place to hang out in downtown Hayward.

Owners Duties:

Noam Garfinkel

Mr. Garfinkel is the Active Onsite Manager/Owner for Chalk It Up. He is in charge of everything that relates to the day-to-day oversight of the business including Operations, Personnel, Accounting and Marketing. In addition, with assistance from Mr. Chabra, Mr. Garfinkel is overseeing the renovation and improvement plan that the two have launched.

Noam's Background and Experience

Noam was Born in Sothern California and grew up in Israel. After moving back to the states, in 2001 Noam started working in the service industry. He was hired a as waiter and bar assistant at 'Buca di Beppo' and worked there for one year before subsequently leaving LA and moving to the Bay area. Noam worked for California Pizza Kitchen in Emeryville for two years where he trained new employees and got experience working all aspects of a fast paced service business with a full bar. He felt he had taken what he was able to from his jobs and decided to attend university.

Noam attended UC Davis and graduated in the spring of 2008 with a degree in Psychology, a minor in Philosophy, a 3.77 GPA, and having made the Dean's list 3 times. While in Davis, He worked for a government grant funded program called 'Davis Bridge' as a math and English tutor for 4th-6th graders who had fallen behind in school due to domestic and economic hardships. During the summers, Noam worked as a counselor for Teenagers at a two month long summer camp on the east coast. Following graduation, Noam obtained a real estate license, and was simultaneously contemplating the merits of starting a frozen yogurt store. Understanding that either path would necessitate a huge time commitment Noam decided to see the world before embarking on a career path. He traveled for 5 months to Australia, South East Asia, India and Nepal, and describes his experience as amazing. It was incredibly fun, and at the same time challenging and eye opening-as one is exposed to extreme poverty, pollution and other harsh living conditions.

Noam came back to America in April 2009 and immediately began working at Chalk It Up where he saw potential for a successful business and a significant addition to Hayward's downtown entertainment. Having known Raj for a year and seeing Chalk It Up's potential, Noam bought half of the business and has been managing the place since July 2009.

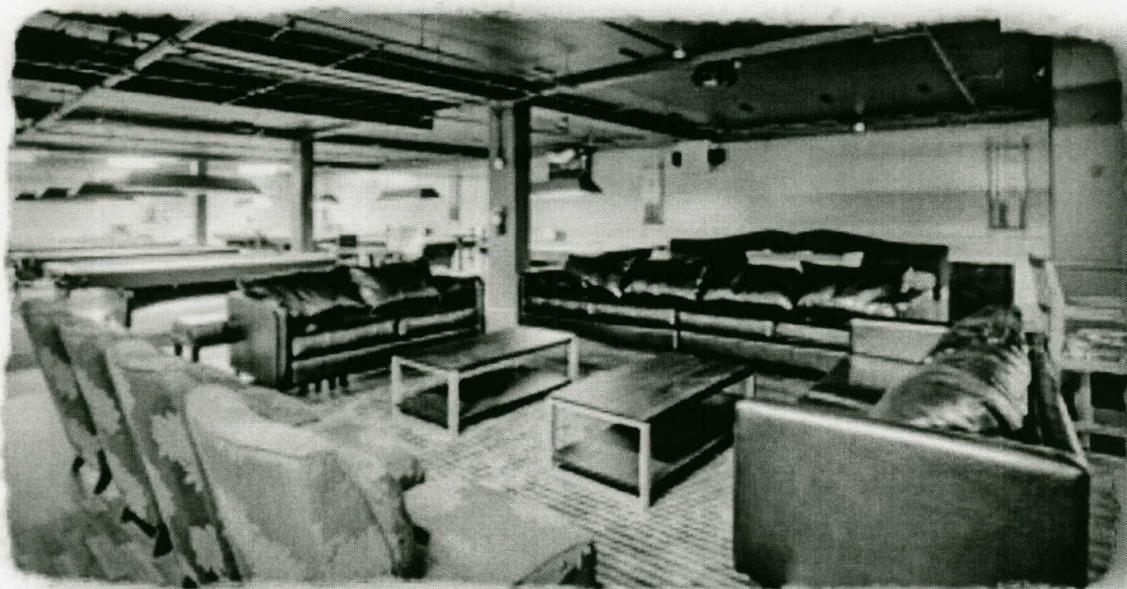
Raj Chabra:

Co-Owner, Raj Chabra works part time overseeing management and working on specific projects for Chalk It Up. In addition to his input on operations of the business, he is working on trying to bring other tenants to the Foothill Boulevard property Chalk It Up is part of. He proposed the architectural firm Hayward Redevelopment Agency has since retained to improve downtown building facades. He is working and meeting with other building owners to enhance the vibrancy of downtown Hayward businesses and has been working with the Redevelopment Agency to mobilize cooperation on the block.

Raj's Background and experience

Born and raised in the San Francisco Bay Area, Mr. Chabra graduated Phi Beta Kappa in 1979 from the University of California Berkeley Haas School of Business. He was awarded the Stanley J Thompson award as the top student from the Haas School of Business in Real Estate and Urban Land Economics. Mr. Chabra went on to study law at UCLA where he graduated in the top 10% of his class. He worked first as an associate for Lawler, Felix and Hall, one of Los Angeles' oldest law firms (later merged with San Francisco firm, Pillsbury, Madison and Sutro.) Mr. Chabra practiced real estate law and worked for clients on large real estate projects. He then was hired by Justice Leon Thompson to work as an attorney for the California State Court of Appeal in Los Angeles. Justice Thompson recommended Mr. Chabra to California Supreme Court Justice Allen Broussard who Mr. Chabra worked for upon returning to the Bay Area. After leaving his work on the court, Mr. Chabra worked privately as a management and legal consultant. Amongst the varied projects he:

- took over management responsibilities for a distressed 140 room hotel with restaurant and bar;
- was retained as part of a team with Economic and Planning Systems to develop revitalization strategies for downtown Belmont, California
- was hired by a then retired former Chief Justice Rose Elizabeth Bird of the California Supreme Court to coordinate op-ed pieces written by the Chief Justice for the Los Angeles Times.
- Mr. Chabra currently manages a portfolio of investments. He is President of the Concord Shopping Center Association and also serves on the Board of Directors of the KNL Foundation, a non-profit association that funds humanitarian projects around the world.



STAFF

Both Raj and Noam understand that the quality of the employees is the single most important element in running a successful, responsible business, and as such, Raj and Noam are quite serious and selective in choosing employees for Chalk it Up.

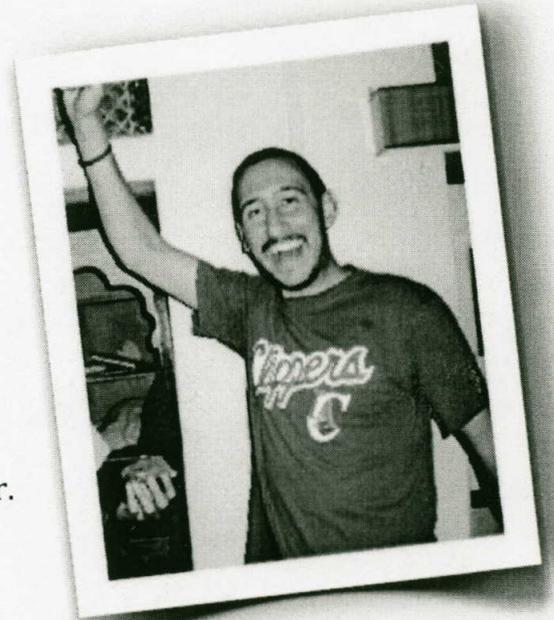
Chalk it up currently employs a group of six diverse, educated, and wonderfully unique individuals. Of the six employees, four have graduated from the UC system, and one is currently getting a teaching credential and Masters at Mills College.

Although the staff is very responsible and California does not require it, Raj and Noam will require anyone working at Chalk it Up to take a Serve Safe Class in serving alcohol responsibly.

Meet our Staff!

Sky Shachory, 24, Assistant manager:

Sky was born and raised in sunny Malibu. He attended college at UC Berkeley and graduated with a degree in English. Aside from working at chalk it up, Sky works as a companion for the elderly, volunteers at an elementary school in Berkeley, and loves playing basketball- and at 6'5" he's not half bad. Sky would ultimately like to become a public school English teacher.

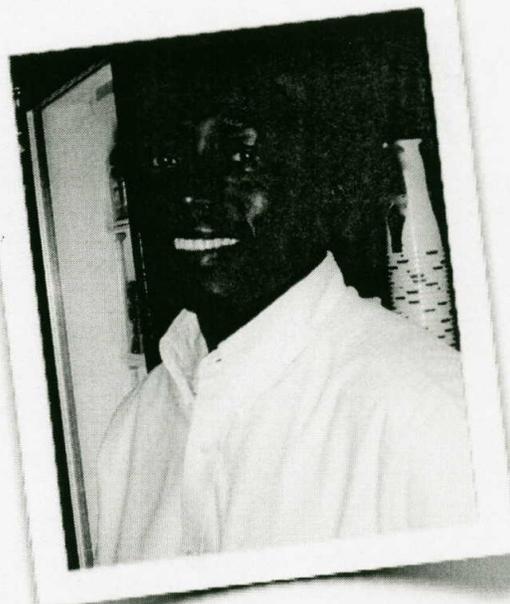


Christy Fox, 23, Assistant manager

Christy is originally from San Diego. She also attended UC Berkeley and graduated with a degree in History. Christy is currently doing a Post Bac program at San Francisco State, and hopes to go to Vet school at UC Davis when she is done. She loves animals and swimming but says she likes to keep the two separate 😊

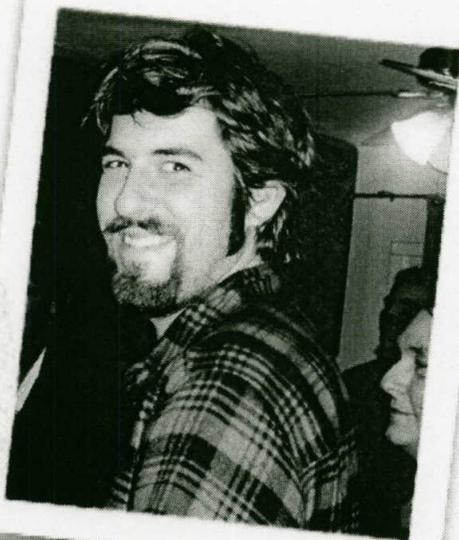
Boubacar Diatta

Bouba (Boo-Ba) was born and raised in Senegal, Africa and made his way to the states in the early 90's. He has been working at Chalk It Up for almost 4 years, longer than anyone else, and he is an exemplary worker-honest, responsible and warm. In his free time Bouba likes to read books and listen to music.



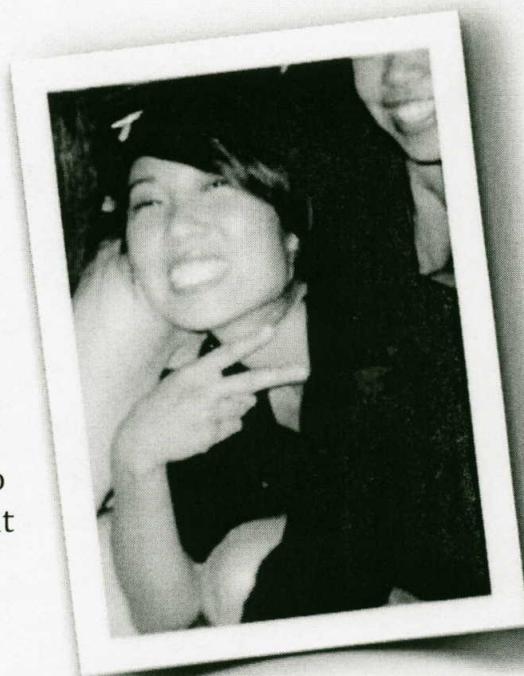
Timothy Romano-Pugh, 24

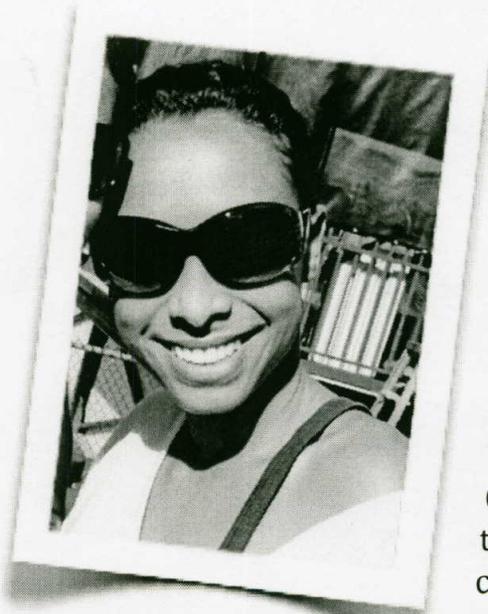
Tim was born and raised right here in Hayward. He holds a degree in Psychology from UC Santa Cruz. Tim works for a company that pairs young adults together with people who have autism, and finds it quite enjoyable and rewarding. Tim's main hobby and passion is the theatre. He has written, directed, and acted in plays that have been preformed at the Chabot College theatre. Tim would like to pursue a career in either clinical therapy or theatre.



Julia Fukuizumi, 25

Julia was born and raised in Hayward. She attended UCLA and holds a degree in Japanese and East Asian studies. She subsequently obtained an associates degree in textile design from the Fashion Institute in LA. Julia has been at Chalk It Up since July 2009 and also works for a company in Burlingame doing photo editing. She loves playing badminton and hanging out with friends. She hopes to continue to working and learning the field of graphic design.





Llessenia Bolorin, 29

Lles (Jess) is the newest addition to the Chalk It Up work force, and a great one at that. She brings a genuine charm to the place as well a strong work ethic. Lles was born in Fremont and raised in Hayward. After working for Oakland Packaging for several years she decided to go back to school and is currently getting her Masters and teaching credential at Mills College in Oakland-and all this while raising her two children, Kaleb and Alexis



FOOD SERVICE

Chalk it up currently has Pizzas and Corn Dogs available for purchase as well as a wide selection of soft drinks and snacks. With the introduction of beer, this menu will expand to include a variety of hot Panini sandwiches, and tasty side dishes. The selections have been designed and tested by Daniel Azarkman, a chef trained at the culinary program at the *Art Institute of California*

BEER SELECTION

There will be at least six beers on tap as well as a variety of bottled beers. The following is our selection for draft beer.

As with the food, we are aiming for taste, variety, and class.

PILSNER, *Trumer, Berkeley*

Crisp, clean, bitter with sweet malty middle

BLONDE ALE, *Speakeasy Brewing*, Golden, malty, smooth, crisp

PALE ALE, *Marin Brewing, Novato*

Balanced hops & malt, medium bodied, smooth

IPA, *Bear Republic, Healdsburg.*

Sweet, caramel malts, classic West Coast hops

PORTER, *Deschutes, Oregon*

Roasted coffee notes with dry, chocolately finish

BLUE MOON, *Molson Coors Brewing*

Sweet, hints of orange and coriander, crisp wheat finish.

This menu was created by Daniel Azarkman, a chef trained at the culinary program at the *Art Institute of California*

CHALK IT UP

MENU

Our breads are fresh baked by *black and white* and *ovino delices* bakeries right here in Hayward



Main dishes

Grilled Paninis - served on your choice of baguette, french roll, or sourdough ciabatta.

Mortadella Provalone - mortadella ham and melted provolone cheese	\$5
Tuna Kalamata - with green onions, kalamata & green olives, jack cheese	\$6
Turkey Pesto - with locally grown tomatoes and mozzarella cheese	\$6
Panini Especial - beef, ham, and turkey with fresh tomatoes, basil and mozzarella cheese	\$7
Caprese - Thick layers of fresh mozzarella, tomatoes, basil & a splash of olive oil	\$5



Lighter Side

Potato Wedges - seasoned lightly, and served with tomato and cream sauce	\$3
Mozzarella sticks - order of 5, served with a zesty marinara	\$3
Chicken wings - order of 6, choice of hickory BBQ, ranch or blue cheese sauce.	\$4
Fruit Bowl - selection of refreshing, pre-cut seasonal fruit. Add yogurt and granola for \$2	\$5



On the sweet side

Choco Banana Press - a generous helping of Nutella hazelnut spread and sliced bananas grilled on a french roll	\$4
Ice cream sundae - two scoops of ice cream drizzled with chocolate sauce and topped with whipped cream	\$4
Sundae Especial - crispy hot churros covered in cinnamon and sugar dipped in an ice cream sundae	\$5

ABC License Type and Implications

Raj and Noam are applying for a type 40, on-sale beer license. This license type allows a business to sell BEER ONLY and does not prohibit minors from entering the premises regardless of whether alcohol is being served. Raj and Noam had previously applied for a type 42, on sale beer and wine but withdrew the application and applied for a type 40 instead in order to allow entrance to families with children and to teenagers.

That said, on Fridays and Saturdays entrance will be restricted to people over twenty-one years of age. This is done both in order to reach out to an older audience, and to eliminate the risk of underage drinking.

Hours of Operation and Alcohol Service

The hours of operation upon approval of a CUP are as follows:

Monday-Thursday	6:00pm-1:30am
Friday-Saturday	6:00pm-2:00am 21+
Sunday	1:00pm-1:30am

Alcohol will be served during all regular business hours except for the last 30 minutes of every night.

Renovation & Remodeling

Completed work

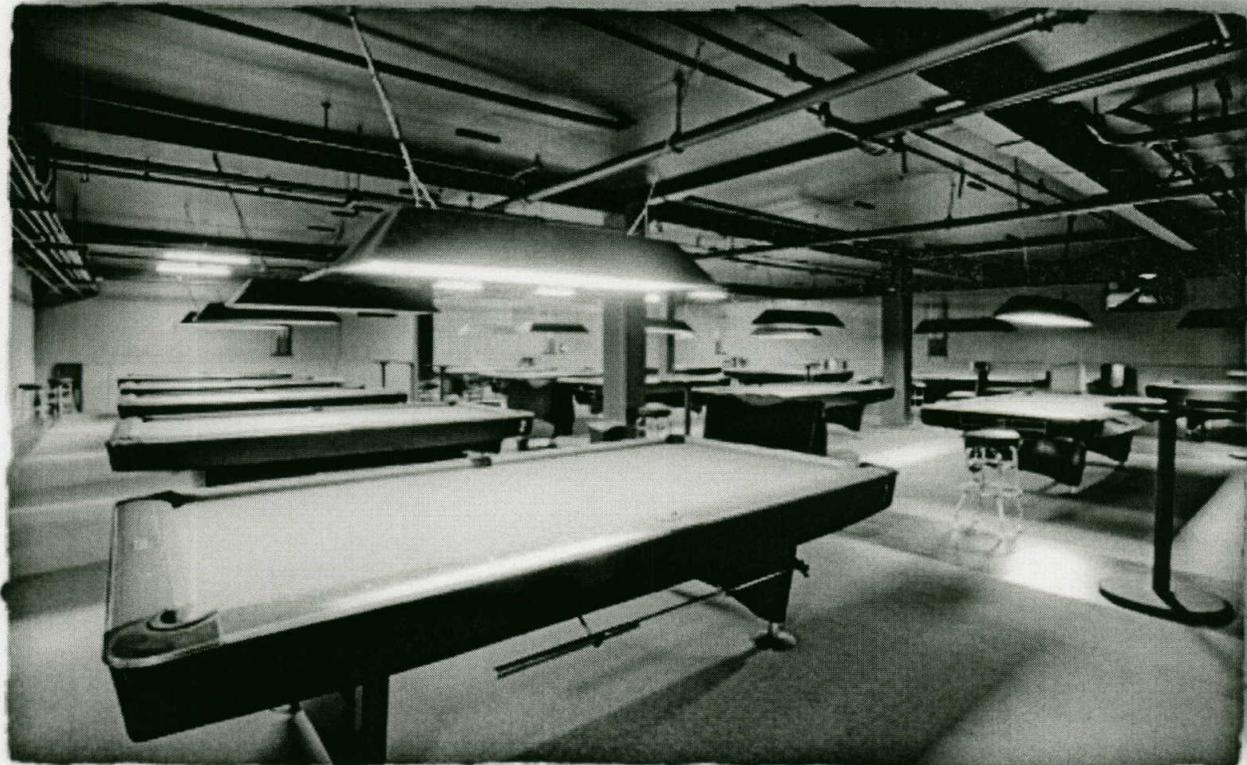
Raj and Noam have invested over \$60,000 over the last year in renovating the pool hall in order to improve the appearance of the interior.

This project involved painting the entire room, getting a combination of carpet, tile, and laminate flooring throughout, new furniture and pool equipment, two new 50" TV's and high quality sound system, and platform.

Pending Renovation

Upon approval of a use permit Raj and Noam will rebuild the bar area and buy all necessary equipment involved in serving beer- several refrigerators, high temp dish washing machine. They will purchase three more TV's and change the lighting scheme (which is now ceiling florescent lighting) to perimeter track and cable lighting, and pendant fixtures and chandeliers for lounge areas.

Raj Chabra is also planning to remodel and improve the building façade for the entire property including the portion of the property that houses Chalk It Up. The expected cost of this project is over **\$400,000**- See picture on next page.





Security

In reference to the enclosed security plan by James Diaz and Associates:

As recommended by the security consulting firm, Chalk it up will have various levels of security- a combination of Cameras, an alarm system, proprietary, and contract security.

Fridays and Saturdays

There will be contract security on Friday and Saturday nights. Security guards will be standing at the door, checking IDs, keeping things orderly, and making sure there is no loitering. There will be one security guard from 6P.M to 10 P.M, and an additional guard from 10 P.M onward when a higher traffic count is anticipated. They will patrol the parking lot area once every hour starting at 10 P.M once the second security guard arrives.

Chalk it up will hire one of several reputable security companies J.Diaz and Associates recommend.

All Other Days

Traffic count is anticipated to be significantly lower during the week compared to Fridays and Saturdays. Chalk it up will not employ contract security during these days. There will be in-house proprietary security as explained in the security plan. Chalk it up will hire new staff with security experience and have current employees trained and certified to act as security personnel. Raj and Noam will not hesitate to add contract security guards on weekdays if it is needed.

This plans meets the standards of James Diaz and Associates, and is deemed more than sufficient.

Issues/Questions raised by Staff and COMMPRE

Q: Do patrons enter from the parking lot? Have you had problems with people hanging out in the parking lot?

A: Patrons do NOT enter from the parking lot. The back door to Chalk it Up is to remain closed at all times except in the case of an emergency. Patrons must walk to the front and enter there. There have been no problems with people hanging out in the parking lot.

Q: Who is your “core” customer and what is your current, and anticipated traffic count?

A: Chalk It Up is open to anyone of any age, sex and ethnicity, and will continue to be. The clientele is very diverse and we like it that way. We are not looking for one type of customer, and are trying to cultivate an open and welcoming atmosphere.

As of now Chalk It Up sees on most weekdays somewhere between 50-100 people and 100-200 people on weekends. With the addition of beer and proper marketing we expect these numbers to increase by 25-50 percent.

Staffing

Chalk it up staff is trained for a variety of tasks, and employees rotate their positions on a regular basis. Everyone is trained on cash register, kitchen, bar, and cleaning duties.

There will be a minimum of two workers during all business hours, one of whom will be a proprietary security guard. The two will be joined by a third co-worker from 9 pm to 1am on weekdays and until 2am on weekends. In Addition to the propriety security, on Friday and Saturday, there will be a contract security guard at the door at all times who will, at 10pm be joined by a second contract security who will remain present until closing. The two remaining employees will close the business, clean up, and leave together.

Management

Chalk It Up has hired, on a contingent basis, a manager and management consultant for the pool hall. Upon approval of a use permit, Andrea I. de la Rosa will take on all bar management responsibilities. Andrea, originally from Indiana, has worked in the restaurant and bar industry for over a decade and has been managing for over five years. For the past year, Andrea has been managing a pool hall, Thalassa, in Berkeley. For the months following approval before beer is being served, Andrea will train Noam, and the rest of the staff on how to operate and maintain a bar.

When chalk it up begins to serve beer, Andrea will be working Thursday-Sunday i.e. the busier shifts. She will be taking one of the time slots listed in the staff section. Andrea will continue to manage for no less than three months, and until Noam and staff are sufficiently competent in ALL aspects of bar operation and management.

Pool Halls In the Bay Area

Pool is a game that, for better or worse, many people associate with, and enjoy playing while consuming an alcoholic beverage. On a very regular basis, potential customers who enter the business for the first time walk away disappointed and surprised at the prospect of a pool hall that does not serve alcohol.

We did some research on pool halls in the Bay Area and found that out of seventeen full size pool halls, not a single one is operating without a license to sell alcohol.

We believe that in order to keep the business viable, we must be allowed to serve beer.

Pool halls in the bay area

The following businesses have at least 10 full size pool tables and are not just bars with a few pool tables.

1. *Billiard Palacade*. 5179 Mission St SF, CA 94112 - **Beer and wine**
2. *Family Billiards* 2807 Geary Blvd SF, CA 94118 - **Beer and wine**
3. *Jillians* 101 4th St SF 94103- **Full Bar**
4. *Kimballs Carnival* 522 2nd st. Oakland, CA 94607 - **Full Bar**
5. *Thalassa* 2367 Shattuck Ave, Berkeley, CA 94704 - **Full Bar**
6. *The Broken Rack* 6005 Shellmound Street Emeryville, CA 94608 - **Full Bar**
7. *Town and Country Billiards* 1 San Pedro Rd Daly City, CA 94014- **Beer and wine**
8. *B St. Billiards* 164 S B St San Mateo, CA 94401 - **Beer and wine**
9. *The Great Entertainer* 2028 S El Camino San Mateo, CA 94403 - **Beer and wine**
10. *Crown Billiards* 2416 San Ramon Valley Blvd San Ramon, CA 94583 - **Full Bar**
11. *Cuetopia Billiard Cafe* 4700 Almaden Expy San Jose, CA 95118 - **Beer and wine**
12. *South first Billiards* 420 S 1st St San Jose, CA 95113 - **Full Bar**
13. *Lucky Shot Billiards* 189 S Murphy Ave Sunnyvale, CA 94086 - **Beer and wine**
14. *Edgie's Billiards* 235 S Milpitas Blvd Milpitas, CA 95035 - **Beer and wine**
15. *Shoreline Billiards* 1400 N Shoreline Blvd Mountain View, CA 94043 - **Beer and wine**
16. *California Billiard Club* 881 El Camino Real Mountain View, CA 94040 - **Full Bar**
17. *Santa Clara Billiards* 4525 Stevens Creek Blvd. Santa Clara, CA 95051 - **Beer and wine**

Alcohol and Minors

The type of license Chalk it Up is applying for allows for minors to enter the premises while beer is being served. We have already decided to restrict entry to people who are twenty-one and older on weekends- due to their busy nature. We would like for minors to be able to come and enjoy the facilities during the week, and will be taking certain measures to ensure that this is done safely and responsibly.

- Wristbands will be given to persons over twenty-one when they purchase a beer.
- There will be no pitchers, only individual glasses.
- The security guard and fellow staff will be making regular rounds to ensure that nobody without a wristband is anywhere near alcohol.

At this point, there are a fair number of minors who come play pool at Chalk it Up. Both for their sake, as well as for the business, we would like to do what we can to ensure they can still come and play. This is the reason we withdrew the beer and wine application and reapplied for beer only.

With that said, If at ANY point we believe that we cannot sufficiently control minors' access to alcohol we will close the doors to minors and become a 21+ business.

We would not oppose a condition prohibiting entry to minors at all times, but again we would really like to continue to provide a venue for younger people and believe that we can effectively do that.

Final Note

We would really like to get approved for the permit. We believe that the introduction of beer will enhance and compliment the business significantly. We are NOT, however, trying to rush into anything prematurely. Even if we are approved, it will likely be several months until we actually start serving beer. People need to be trained, additional staff needs to be hired, and there is more work to be done on the bar and on lighting. More than anyone else, we want to do this the right way since it is the business itself that is at stake.

Applicants' Legal Address

Noam Garfinkel:

94 Monte Cresta Ave.

Apartment C

Oakland, Ca 94611

Raj Chabra:

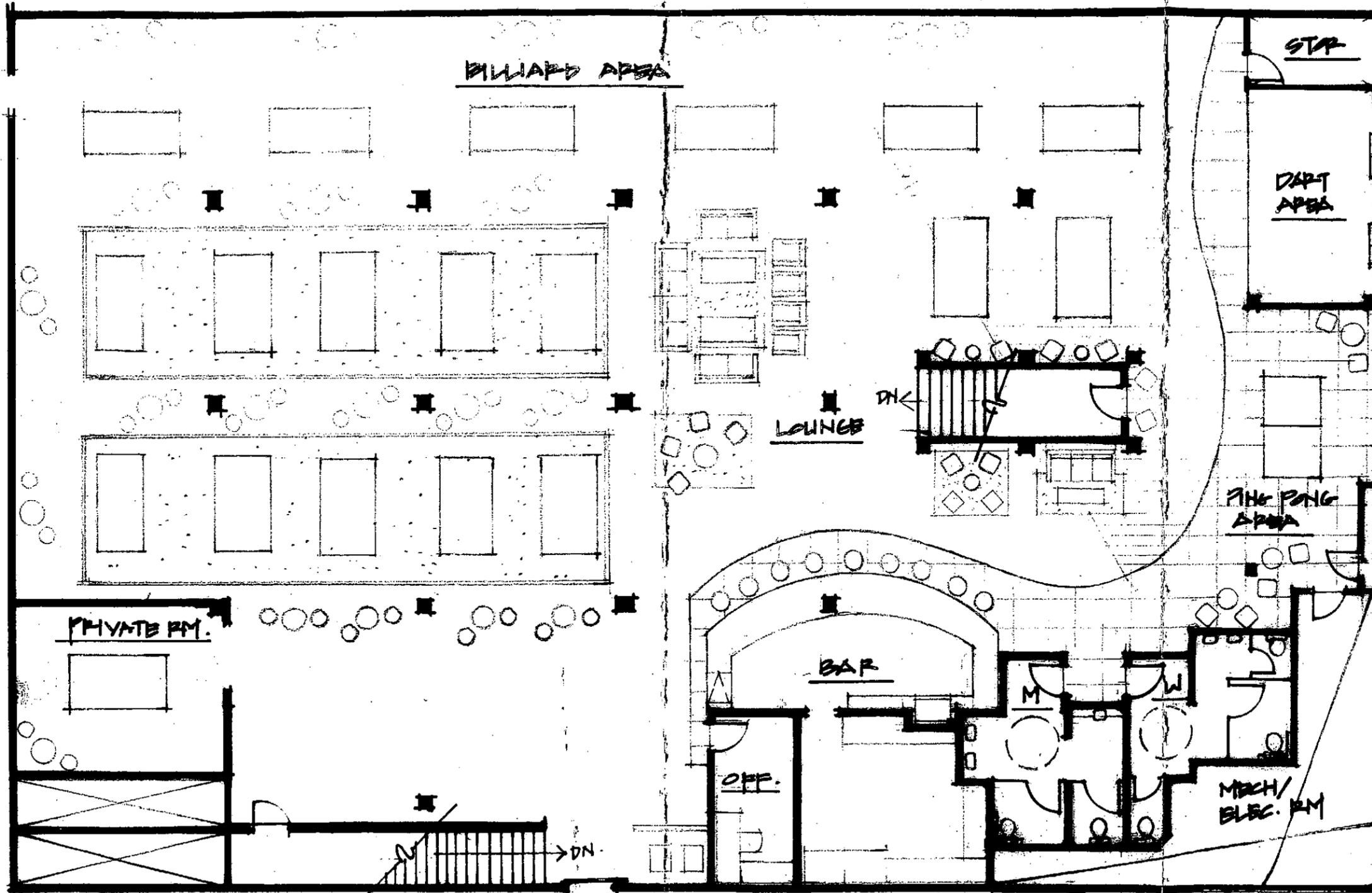
1482 Reliez Valley Rd.

Lafayette, Ca 94549

Criminal Background

I, Noam Garfinkel, have never been charged with, or convicted of any crime.

I, Raj Chabra, have never been charged with, or convicted of any crime.



Chalk-It Up Billiard Hall

Scale : 3/32" = 1' - 0"

22540 Foothill Blvd.
Hayward, CA 94541



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, January 27, 2011, 7:00 p.m.
777 B Street, Hayward, CA 94541**

MEETING

A regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair Loché.

ROLL CALL

Present: COMMISSIONERS: Faria, Mendall, Lamnin, McDermott
CHAIRPERSON: Loché
Absent: COMMISSIONER: Márquez, Lavelle

Commissioner Faria led in the Pledge of Allegiance.

Staff Members Present: Conneely, Patenaude, Pearson, Philis

General Public Present: 1

PUBLIC COMMENTS

None

WORK SESSION

1. Preparation of the Regional Sustainable Communities Strategy

Senior Planner Erik Pearson gave a brief synopsis of the report.

Commissioner Mendall said that while he was reading the report his reaction was, “We’re already doing that.” He said the City is already complying with greenhouse gas reduction targets and is already building near transit corridors, so he asked what the City could do differently based on this process. Senior Planner Pearson said the main differences will become apparent with the adoption of the next Housing Element when the City’s vision will become longer ranging. Mr. Pearson said what the City might receive from the Strategy is recognition at the regional level for current efforts and possible development assistance.

Commissioner Mendall then asked what the benefit will be for the City to adopt some of the proposed Sustainable strategies. Mr. Pearson gave the example of the Metropolitan Transportation Commission, which is offering planning grants for areas around transit, indicating that downtown could benefit from such a grant. Mr. Pearson said he’s hoping that actual assistance with infrastructure will follow because public transportation is getting cut all the time. Commissioner Mendall said he hopes the City finds a way to leverage the fact that it’s taking the lead in these types of projects and capture some early dollars. He used the example of the South Hayward BART project and said that buying land to create new streets, or using easements, requires paving and that could fall under construction costs. He

suggested that some of the transportation money be pursued for that, or the Mission Corridor project, which also supports a more sustainable community.

Commissioner Mendall then asked if the City could save money by using the proposed regional Environmental Impact Report (EIR) rather than conducting its own for new City projects. Mr. Pearson said he wasn't sure to what extent the City could tier off the regional report for local projects and suggested they wait and see how detailed it is.

Commission Lamnin said she appreciated the coordinated effort that the strategy represents. She asked if there is a mechanism that will identify challenges such as providing sufficient AC Transit services as the City encourages people to stop driving, the creation of new jobs people could walk to, and whether the City is designing and building spaces for manufacturing/production services. Mr. Pearson said the transportation needs will definitely be identified in the process and job creation is part of the economic development portion. Mr. Pearson said Council expressed concern about job creation and that the strategy not just focus on housing. Commissioner Lamnin said in regards to housing, she would like to see accessibility issues addressed so people "can age in place" and all levels of ability and income levels are accommodated.

She said she was intrigued by the support being pursued by the different regional groups including grants, revolving loans, and projects where ownership includes the community, not just the home. She pointed out that community gathering places, such as plazas, encourages a sense of community.

Commissioner Faria said she was also glad to see the consolidation efforts and the opportunity for the different groups to work together, share information, and maximize the limited funds available to be fiscally responsible.

Commissioner Mendall added that the issue is not just housing. He said the City has an unfortunate track record of creating wonderful plans that include housing and commercial and business, but they don't get built that way. The housing gets built, he said, but the commercial doesn't and then the developer comes back wanting to build more housing instead. He said he would like to see the City get better at building the whole neighborhood including the things that support a neighborhood to create a sense of place and a walkable community. He said it is incumbent upon the Planning Commissioners and City Council and staff to come up with better ways of ensuring all aspects of the project the City desires gets built. The private sector is clearly not doing on their own, he said, so the City needs to do more.

Commissioner McDermott indicated that in the report it said cities will discuss the distribution of housing needs at the county level to determine if they want to form a sub-regional RHNA (Regional Housing Need Allocation) group by March 2011. She asked staff if the creation of a subgroup would dilute the County's plan. Senior Planner Pearson said the Alameda County Planning Directors have discussed this idea and at this point nobody is interested in forming a subgroup. He said the allocation numbers from ABAG (Association of Bay Area Governments) were about the same as what San Mateo County came up with during the last cycle and the formation of subgroups may just create more work for the local jurisdictions. At this point they will go ahead with the ABAG approach, he said.



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Commissioner Lamnin said this was the second time this strategy was presented and she wondered if there should be a joint meeting with Council when the follow-up is presented in April. Senior Planner Pearson said he would discuss the idea with the City Manager.

Chair Loché had a question about the timeline included in the report. He asked if the Initial Vision Scenario from ABAG and MTC scheduled for release in March, followed by a conversation between local governments and regional agencies regarding the feasibility of achieving the scenario in early spring, with everything coming back for review by the Planning Commission in April, followed by the release of first round detailed scenarios in July, was really possible. He asked Mr. Pearson if he thought some of these deadlines might be pushed back. Mr. Pearson said the date for the Initial Vision Scenario has already been pushed to March 11, but ABAG is still looking at 2013 as the end of the process so they are trying to keep the rest of the components on schedule. Mr. Pearson said regarding the next step of presenting the scenario feasibility to Council and the Planning Commission, whether it happens in April or May, the City's input will still reach ABAG and MTC before they release the next version in July. He added that staff is continually communicating with ABAG to provide comments. Chair Loché concluded by saying that the key dates shouldn't be a problem and Mr. Pearson agreed.

Chair Loché agreed with Commissioner Mendall's comment about the disappointment of key parts of past projects not coming to fruition or not as they imagined. He said he hopes this process will help to alleviate that including the green building ordinance. Chair Loché said he is also appreciative of the collaborative effort and of the City's pro-active progress so far. He said the City can't solve the problem on its own and all Bay Area cities should do their part. He said he looks forward to seeing the fruition of these efforts.

Commissioner McDermott thanked Mr. Pearson for the report but respectfully requested that the acronyms be spelled out or that staff provide an index to make reading the report a little easier. Planning Manager Patenaude said that was a good suggestion and said staff will look into it.

ACTION ITEMS

2. None

COMMISSION REPORTS:

3. Oral Report on Planning and Zoning Matters

Planning Manager Patenaude asked Mr. Pearson to give the Commission an update on the Mission Boulevard Specific Plan. Mr. Pearson said a draft of the Specific Plan, which includes a chapter on form-based code, will be released early next week and will be discussed at a work session on February 10th. Mr. Patenaude indicated that at that same meeting there will be a Public Hearing to discuss Eden Housing's plan to expand the senior housing at C and Grand to B and Grand by adding an additional 22 units. Mr. Patenaude also indicated that due to some concerns expressed, a work session will be held on February 24th to discuss telecommunications facilities in Hayward.

Planning Manager Patenaude reminded the Commissioners that if they have any topics they would like to learn more about, a work session can be added to the schedule.

4. Commissioners' Announcements, Referrals

Commissioner Mendall said he had asked for the discussion regarding telecommunications facilities and he thanked Mr. Patenaude for putting it on the agenda. He then asked about some grading he saw off Industrial next to the BART tracks saying it seemed too early to be doing that type of work and he asked if it was a staging area. Mr. Patenaude said he would look into it and send a response via email.

Commissioner Mendall said he has heard rumors about the State's proposal to end redevelopment funding and he asked if staff could hold a discussion about the impact that would have on the pending South Hayward projects. Mr. Patenaude said that topic will probably be on the agenda soon.

Commissioner Mendall then gave a brief update of Sustainability Committee activities. He said a draft RECO (Residential Energy Conservation Ordinance) will be ready soon. Mr. Pearson confirmed the draft ordinance will be presented to the Committee in March and work sessions for both the Council and the Planning Commission will be held in May. Commissioner Mendall suggested a joint meeting. He then mentioned that an audit of City Hall and the police station revealed that a \$3,000 investment will save the City \$30,000 a year in energy costs. He concluded by mentioning three new programs that use "green" stimulus money: energy efficiency grants for large businesses, a non-profit program to assist with energy efficiency upgrades, and finally, an assistance program for homeowners to make energy efficiency upgrades.

Commissioner Lamnin said that she recently read a press release in the December 14, 2010, Tri-City Voice newspaper touting the accomplishments of the Planning Commission. She said she was disappointed to read that it was only for the City of Milpitas Planning Commission. She said Hayward should also promote the "great things the City is doing" including the Planning Commission and the other commissions and committees. She said she hoped a promotional tool could be found that had a low impact on staff time, and possibly include in that an exploration of what the Planning Commission does and how the Commissioners could help promote the City.

Commissioner McDermott announced that on March 25th, the Hayward Education Foundation will be holding their annual fundraiser. She said last night the Foundation handed out its teacher grants, but due to lack of funding were only able to response to 20 of the 104 requests they received. She said the fundraiser is going to be held at Cal State East Bay and a local winner of Survivor Marquesas will be giving a talk. McDermott encouraged the Commissioners to attend or make a donation.

APPROVAL OF MINUTES

5. Minutes from October 7, 2010 were approved with one minor correction.

ADJOURNMENT

Chair Loché adjourned the meeting at 7:48 p.m.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, January 27, 2011, 7:00 p.m.
777 B Street, Hayward, CA 94541**

APPROVED:

Mariellen Faria, Secretary
Planning Commissioner

ATTEST:

Suzanne Philis, Senior Secretary
Office of the City Clerk



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, February 10, 2011, 7:00 p.m.
777 B Street, Hayward, CA 94541**

MEETING

A regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair Loché.

ROLL CALL

Present: COMMISSIONERS: Faria, Mendall, Márquez, Lamnin, McDermott, Lavelle
CHAIRPERSON: Loché
Absent: COMMISSIONER: None

Commissioner Márquez led in the Pledge of Allegiance.

Staff Members Present: Buizer, Conneely, Patenaude, Pearson, Philis, Rizk

General Public Present: 14

PUBLIC COMMENTS

Jasmir Kaur, Union City resident, reading from a signed petition and speaking on behalf of businesses located on Mission Boulevard, said they would like to lodge a complaint against the on-going construction. She said store owners have been negatively-impacted by the construction which is wrecking havoc on their businesses. Ms. Kaur said they have lost a tremendous amount of business due to parking restrictions, reduced lanes, and discontinued U-turns. She pointed out that for most of the store owners, the business is their only source of income and if conditions continue they could be ruined financially. They asked the Planning Commission to look into the situation and find a solution. She said the businesses are open to discussions with the City and hope to find an amicable solution. She added that delivery trucks have been receiving parking tickets.

Commissioner McDermott asked Ms. Kaur where her business is located on Mission Boulevard and Ms. Kaur replied between Harder and Jackson. Commissioner Mendall asked her if she's spoken to anyone in Public Works and Ms. Kaur said no, they have only spoken to the contractors doing the work. Commissioner Mendall asked staff to contact Public Works to see if there is anything they can do.

WORK SESSION

1. Draft Mission Boulevard Corridor Specific Plan

Senior Planner Erik Pearson introduced consultants Laura Hall and Robert Alminana of Hall-Alminana, but directed Commissioners' attention to an e-mail received from Greg Jones, the president of the Prospect Hill Neighborhood Association (PHNA). The PHNA made three points they wanted the Commission to consider: extend the proposed landscape median at the north end of Mission

Boulevard through the intersections of Sunset and Simon Streets, and possibly Rose Street, to limit the turning movements into the neighborhood; that building heights included in the form-based code be expressed in feet rather than stories and that building heights be limited to three stories for the area west of Prospect Hill; and three, that the PHNA supports the expansion of the civic space or green space between the intersection of A and Mission and the “Big Mike” statue. Senior Planner Pearson then introduced Mr. Alminana who gave a brief update.

Senior Planner Pearson concluded the presentation with information regarding the process of preparing the Environmental Impact Report (EIR). He said the draft EIR is scheduled to be completed by the end of June 2011 at which time it will be presented to the Planning Commission and City Council in work sessions in July, and using comments from those, present the final EIR in the fall. He listed some of the issues that will be addressed in the draft EIR.

Regarding Variable 1, Option 3, Commissioner Mendall confirmed with Mr. Alminana that the 10-foot sidewalks would remain even with the three-foot median. He said he was pleased to see the slip lanes added at Harder Road and asked if they could continue along the length of Mission Boulevard. Mr. Alminana said the northern portion of Mission has existing viable car dealerships that stop the slip lane from continuing any further. Mr. Alminana also reminded Commissioner Mendall that the area between Pinedale Court and Sycamore Avenue was identified as an “opportunity site.” Senior Planner Pearson said north of A Street Mission Boulevard is narrower and has a lower speed limit, while in the southern area of the project one benefit of the slip lanes would be to provide a buffer for pedestrians. Commissioner Mendall said he’s only talking about the area south of Jackson and in planning for the long term asked if it would be better to indicate the preference of having the slip lane running the entire length of Mission even if it’s not possible to create it now.

Commissioner Mendall said the Planning Commission’s suggestion to have two height limits did not seem to be reflected in Variable 7, regarding the height overlay between Mission Boulevard, Dollar Street and the BART tracks. Mr. Pearson said he was correct and that there must have been a misunderstanding. Commissioner Mendall said a four-story building on the other side of the BART tracks from residential homes was too tall.

Commissioner Mendall said he agreed with the e-mail from the PHNA regarding building heights being reflected in feet rather than stories, but said he thought that was already the case. Mr. Alminana said it wasn’t, and explained that developers will try to squeeze in as many stories as possible when limits are set in feet. Mr. Alminana also pointed out that buildings can change uses more easily when expressed in stories rather than feet. Commissioner Mendall expressed concern that a developer could build a 60-foot, three-story building, but Senior Planner Pearson said there are a maximum number of feet per story in the configuration table for the form-based code.

Commissioner Lavelle thanked staff and the consultants for their work and said she was satisfied that many of the Commissioner’s comments were included. She said her only question was regarding a comment that the draft form-based code would allow auto dealerships by-right rather than by conditions stated under a conditional use permit (CUP). She asked why that would be changed, in particular, for used car sales. Senior Planner Pearson said the design of the dealership property was more important than distinguishing between whether they sell used or new cars. Any new dealership would be required to have the building and/or showroom at the front of the property, he explained, and the outdoor display area at the rear or side of the building; the primary presence at the street frontage



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would be a building. Commissioner Lavelle asked if that would allow for property improvements especially for existing used car dealerships. Mr. Pearson said the existing used car dealership could stay as is until they ask to make a change and then they would be subject to the new code. Commissioner Lavelle said the appendix that lists proposed retail uses needs to be closely adhered to as the plan is implemented. She said that retail uses that have not been pursued have a great opportunity to bring to great shopping to Hayward including stores like Trader Joe's or stores like that.

Commissioner Lamnin pointed out that this is the first time she was looking at the form-based code as a Planning Commissioner and asked why car dealerships are being asked to keep outdoor displays away from the street. Senior Planner Pearson said the main reason was to maintain an attractive, walkable streetscape. Mr. Alminana said car sales should be treated like any other retail business in terms of the impact the display has on the public realm. Commissioner Lamnin said if that is the plan, there appears to be room for the slip lane to continue. She then asked if bicycle lanes are part of the transportation plan and Mr. Alminana said the City has a bicycle plan, which goes around the Specific Plan area, and most streets, except Mission Boulevard, are bike-friendly.

Commissioner Lamnin said she appreciated the comments regarding green roofs and urban farms, but asked if the farms needed refrigeration/storage and if that had been considered under allowed uses. Mr. Pearson said staff can look whether or not that need can be accommodated. Commissioner Lamnin said she understood the reasoning behind spreading assembly places a half mile apart but felt that was too far and asked staff to reconsider the restriction. She also expressed interest in seeing uses that would support Cal State East Bay students' needs especially at the main Mission intersections of Carlos Bee and Harder including research/development spaces and services that students might need including 24-hour copy shop, internet access, and a bagel shop, for example.

Regarding auto dealerships, Planning Manager Richard Patenaude said there is one dealership property in the north portion of Mission that is historic, and although somewhat dated and not the best maintained, could serve as an example of how the form-based code would address car dealership building layout. A newer example, he said is the Honda dealership, which is a new building, and does not have a lot of parking out front.

Commissioner Mendall asked how the suggestion from Commissioners regarding green roofs for the Prospect Hill area is captured in the Specific Plan. Mr. Alminana said there is no language in the Plan and that means nothing would stop them from being built. Commissioner Mendall said that's true, but green roofs are expensive and if developers aren't held to it, they will choose not to use a green roof. He emphasized that he will not be voting for a building at the maximum height if it has an ugly roof. He said he would like to see language in the Plan stating that preference because it wouldn't be fair to not give developers fair warning. He said he liked the auto dealership set-back requirements and he felt the distance limit on assemblies was perfect.

Commissioner McDermott asked Planning Manager Patenaude if the building at Mission and Tennyson Road was an example of the type of building layout the City envisions for car dealerships even though it now has a different retail use. Mr. Patenaude said that building doesn't have the same relationship

with the street that the form-based code would require. Commissioner McDermott asked about the stakeholders noted in the report and asked why the Fire Department wasn't included. Mr. Alminana indicated that they were stakeholders, they just weren't included on the list.

Commissioner Márquez asked how slip lanes would impact the transportation system including AC Transit. Mr. Alminana said the system would not be impacted at all; the buses would still stop on the main street which would have a buffer, including a sidewalk, to provide room for stopping. She asked about pedestrian safety and Mr. Alminana said the slip lanes would have pedestrian crosswalks related to the bus stops. Commissioner Márquez asked to see some examples and Mr. Alminana said he will provide plans and images.

Regarding the e-mail from the PHNA president, Commissioner Lamnin asked if Point 1, regarding medians at Sunset and Simon Streets, was viable, and Mr. Pearson said input is needed from Public Works before that can be determined.

Chair Loché said it was a pleasure to see the input of the Commission reflected in the Specific Plan including requests for 10-foot sidewalks and extending the slip lane. Regarding Variable 4 and the rezoning to T5, he read some concerns from residents and asked Mr. Alminana to explain what those specific concerns were. Mr. Alminana said that the existing homes would be rezoned T3 for single family detached homes, and the area nearby to T5. The residents didn't want that much density that close to them, he said, but when it was pointed out that a T4 zone was in between as a buffer, a few indicated they could live with that. Residents also expressed doubt that people would walk from their neighborhood to BART because Jackson Street seemed like a barrier. Chair Loché confirmed that the T4 buffer alleviated some of the residents concerns and Mr. Alminana said yes.

PUBLIC HEARING

2. General Plan Amendment Application No. PL-2010-0368 and Zone Change Application No. PL-2010-0369 - Woody Karp of Eden Housing (Applicant); City of Hayward Redevelopment Agency (Owner) - Request to Change the General Plan Designation from Medium Density Residential to High Density Residential and to Change the Zoning from Medium Density Residential to Planned Development to Accommodate 22 Affordable Senior Housing Rental Units using Density Bonus Provisions.

The project is located on a 0.5-acre parcel at the southwest corner of B and Grand Streets, adjacent to the existing Eden Housing senior housing facility and across Grand Street from the Downtown Hayward BART station.

Senior Planner Sara Buizer gave a brief synopsis of the report.

Commissioner Márquez asked if the Inclusionary Housing Agreement is being fully met if the project is approved and Senior Planner Buizer said yes, these are very low income units that will satisfy that part of the agreement. Commissioner Márquez asked if any of the units are going to be two-bedroom and to describe the amenities including laundry facilities and Ms. Buizer asked her to defer those questions to the applicant. In response to Commissioner Márquez' question about the number of handicap parking spaces, Ms. Buizer said there would be one. Regarding visitor parking, Ms. Buizer said the parking spots are not designated for residents and noted there is sufficient street parking to



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accommodate guests. Commissioner Márquez asked what a reasonable timeline would be for the deferral of the undergrounding of utilities and Senior Planner Buizer explained there wasn't one in place yet because the City is trying to maintain the trees that run along B Street and there are issues relating to the tree roots. Ms. Buizer said that Public Works is looking at alternatives and said that although she wasn't sure of the timeline, Eden Housing would be required to pay their fair share regardless of when the undergrounding occurred.

Commissioner Faria asked if the setback will be the same for Phase II as is established by Phase I at C and Grand Streets. Senior Planner Buizer said the setback along Grand Street would be the same, but there was a portion of the building along B Street that would be a little closer. Commissioner Faria expressed concern about the number of parking spots, their reduced size, and the availability of storage area for scooters. Ms. Buizer deferred the question to the applicant because of his knowledge of the existing parking and storage facilities, but indicated that only some of the spots would be compact width and the handicap parking spot would be the required width. Commissioner Faria asked about the citizen concern noted in the report and Senior Planner Buizer explained that when the property had been owned by the Cannery Place developer market-rate townhomes were proposed for that location. The resident did not want more low-income housing coming into the City.

Commissioner Lavelle asked what kind of sign was envisioned that required condition of approval number six. Senior Planner Buizer explained that staff just wanted the opportunity to review any proposed sign and this condition allowed them to do so. Commissioner Lavelle asked if the sign would have to follow the street car style and Planning Manager Richard Patenaude said no, the sign would be subject to the multi-family housing sign regulations. Commissioner Lavelle asked if the list for condition of approval number 10, which was missing, was the same as the list for condition 11 and Ms. Buizer said yes. Commissioner Lavelle asked if condition of approval two, regarding individual water meters, could be removed since a single water meter was proposed for the project and that was addressed under condition number four and Senior Planner Buizer said yes, condition two could be removed.

Commissioner Mendall asked why the proposed units had to remain affordable for specifically 55 years under condition of approval 5A and the applicant indicated he would answer that question. Regarding condition of approval number eight, Commissioner Mendall asked why there were restrictions on the installment of solar collectors on the roof. He said he understood there is a communal benefit of having attractive buildings, but in terms of green elements there are societal benefits and the two cancel each other out. He said he would like to see the language regarding solar collectors removed from the condition. Commissioner Mendall asked staff to explain the benefits of deferring costs associated with the undergrounding of utilities if Eden Housing is still responsible for those costs. The applicant again indicated that he would address that question, but Planning Manager Patenaude interjected that the City is still determining the location of the undergrounding whether it would be under the sidewalk area via an easement or under the street to avoid tree roots. Commissioner Mendall said it made sense to underground the utilities all at once, but said he still didn't understand why the timing of the undergrounding could create a financial hardship for the applicant. He also asked the applicant to explain the financial benefits of a single hot water heater for the facility.

Regarding the undergrounding of utilities, Commissioner McDermott said that if the cost was deferred, she would like some kind of time frame in place because leaving it open-ended concerned her. She also said 11 parking spots for 22 units didn't appear to be sufficient and she asked if this was consistent with Phase I and if parking was a problem there. Planning Manager Patenaude explained that it is not unusual to not have a time frame for the undergrounding especially when the whole street will be impacted. Regarding parking he said the half parking space per unit is the standard for downtown senior facilities because of the availability of nearby transit options, but he asked the applicant to address the question during the public hearing.

Commissioner Lamnin asked if this project was consistent with the City's green building standards. Senior Planner Buizer said staff will make that assessment when precise plans are submitted, but suggested that the architect for the applicant address the question. Commissioner Lamnin asked if the City's emergency services had been impacted by Phase I or if the City has received any complaints about parking and staff said no. Commissioner Lamnin asked if the City's paratransit roundabout shuttle stopped near the facility. Ms. Buizer said she wasn't sure about paratransit, but mentioned that 13 or 14 different AC Transit routes had stops at the BART station across the street from the facility. Finally, Commissioner Lamnin asked if the 7 a.m. construction start time was standard and Senior Planner Buizer said yes.

Chair Loché asked if there would be any cost savings to underground the utilities later rather than now and Senior Planner Buizer said potentially, explaining that projects generally have a lot of up-front costs and by deferring the undergrounding Eden Housing could budget the cost into a later phase of development. Director of Development Services Rizk pointed out that there could be some economies of scale savings when the undergrounding of utilities is done by one contractor along the whole street. Chair Loché mentioned the construction noise next to the existing senior housing and asked if hours of construction should be modified. Ms. Buizer said staff could consider it, but noted that modifying construction hours could make the project take longer. Chair Loché then asked if the open space requirement was met for Phase I or if any concessions were given. Senior Planner Buizer said Phase I was 120 square feet short of the required amount.

Chair Loché opened the Public Hearing at 8:40 p.m.

Woody Karp, applicant, thanked staff, and in particular Senior Planner Buizer for her report, explaining that the project is a partnership between Eden Housing and the City of Hayward, and having the Phases located together will allow them to provide residents with better services. He pointed out that certain amenities will be offered at both locations such as laundry facilities and a community room with a fully operational kitchen if family and friends want to visit. There would be no charge for the use of the community room, he said, only a cleaning deposit. Mr. Karp said also included in the required community space would be a sitting area with a large screen TV, and a combination library/computer learning center. There would be a Manager's Office at both facilities but only one Service Coordinator Office in Phase I.

Because the property is limited in size, Mr. Karp said reducing the setback along B Street allowed them to increase the private community space to include a BBQ, planting beds and a seating area. Regarding a storage area for scooters and bikes, Mr. Karp said most residents store their scooters in their apartment, but there will be a small shed-like structure available in this same outdoor area.



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In response to earlier questions, Mr. Karp said most likely the sign envisioned for Phase II will be the name of the building recessed into a low cement wall at the corner of B and Grand. Regarding water, he said the exception from the individual water meter requirement in condition two was important because residents are not charged for water and the facility will use a central boiler at significant savings due to reduced piping. Regarding green building standards, Mr. Karp said Eden Housing recently completed a project in San Leandro that received a score of 184 on the green point rating program, which is the highest score received by any project to date, and Eden has an ongoing project in Fremont that could beat that score. He said that Eden Housing always tries to incorporate green building practices into their projects but cost is a huge factor. He said he appreciated Commissioner Mendall's earlier comments about solar panels. Mr. Karp stated that Eden Housing has received a grant and will be installing solar panels on Phase I buildings within the coming year. For Phase II, solar panels to heat water are already in the budget because of the significant operational cost savings, however, he said they will have to see if they can afford to also include solar panels to generate electricity.

Regarding deferral of undergrounding, Mr. Karp said Eden requested an exemption from that requirement and confirmed Commissioner's comments that deferral of costs to be included in operations would be a tremendous burden, even more so than in development. Mr. Karp explained that Eden Housing has no cash flow and said that the project is funded through HUD (Housing and Urban Development) which will cover the difference between what residents can pay and the cost to operate. He said if undergrounding is a cost Eden has to bear, they would have to budget it out of the development budget rather than operations. He said discussions will have to continue to come up with a dollar amount. Mr. Karp recognized the City as a significant partner by donating land and dollars to cover the gap funding, but he said Eden will be asking the City for more dollars to pay the City for a deferred expense.

Regarding an adequate number of parking spaces, Mr. Karp said Eden Housing has built many senior housing projects and have conducted studies on the impact and need of parking spaces. Using a recently completed project in San Leandro as an example, Mr. Karp said that project had 51 units and 26 parking spaces. At the city's request, he said, Eden was required to create a \$92,000 fund in reserve just in case more parking was needed. After a six month parking study that ended in December of 2010, he said he submitted a report that showed an average of 8-10 parking spaces available on the property and there has never been a complaint. Mr. Karp said he is confident parking in Hayward will be sufficient and if the number of parking spaces were increased, the size of the private courtyard would have to be sacrificed.

Chair Loché asked Mr. Karp if the project in San Leandro had a similar proximity to public transportation and Mr. Karp said access was great, but still not as good as Hayward.

Commissioner Mendall asked if 55-year limit was a HUD requirement and Mr. Karp said the number is based on a tax credit. He said the project is funded through both a HUD subsidy and through 4% tax credits and the tax credits require a 55 year regulatory period.

In response to Commissioner Márquez' question about unit size, Mr. Karp said there are 21 one-bedroom units and one two-bedroom manager or maintenance employee unit. Regarding age requirement, Mr. Karp said the HUD-mandated age restriction is 62 and above. Commissioner Márquez asked if any allowances are made for those younger than 62 that are wheelchair-dependent and Mr. Karp said no. Commissioner Márquez asked if residents in Phase I use East Bay and Hayward Paratransit services. Mr. Karp said he frequently sees the paratransit buses in front of the facility, and knows the services department works closely with residents to coordinate rides.

Commissioner Lavelle asked Mr. Karp who will be living in Phase II, to define what is meant by "very low" income, and if potential residents are Hayward residents. Mr. Karp explained that under the HUD 202 Program, "very low" income includes seniors at or below 50% of the area median income (ami). Since that is a pretty high threshold to meet, he said HUD will pay an operating subsidy which is the difference between what a resident can pay and the actual operating cost. Even seniors on SSI receiving less than 20% of median income levels will be covered, he said. The net result of that subsidy is Eden Housing has no surplus cash and it would be impossible to anticipate and pay any deferred fees through operations. Commissioner Lavelle pointed out that that's why the agency is called "non-profit." Regarding whether residents will come from Hayward, Mr. Karp said Phase I was different; residents were the parents of Hayward residents and the children agreed to underwrite the difference if their parents could not meet the 50% ami. For Phase II, HUD does not allow Eden Housing to give special treatment to Hayward residents, but Mr. Karp said outreach is primarily in this area. Mr. Karp confirmed that units will be assigned on a lottery basis as they anticipate receiving 10 applications per unit.

Mr. Karp introduced the project's architect, Gary Struthers, and said he was available to answer any questions.

In response to Commissioner McDermott's question regarding the length of the HUD contract, Mr. Karp said 40 years, after which they typically do a financial restructuring, but the regulatory restrictions extend to 55 years. Commissioner McDermott asked for the square footage of the units and Mr. Karp, after consulting with Mr. Struthers, said gross 600-650 square feet, net about 40 square feet less. Commissioner McDermott asked if the project was feasible if Eden had to pay the undergrounding fees and Mr. Karp said there needs to be a determination of what that cost is, but after speaking to PG&E representatives, Eden has budgeted \$70-80,000, but has increased their request to the Redevelopment Agency to cover any gaps. He pointed out that budgets based on schematic designs fluctuate and by the time they reach construction it will have changed. He said they are comfortable that they will be able to "figure it out."

Commissioner Lamnin asked if the units were one story within themselves and had wide doorways and Mr. Karp said yes. She asked if there was a feedback mechanism for residents and Mr. Karp said not formalized. Commissioner Lamnin suggested that parking spaces are prioritized for Phase II residents and Mr. Karp said he preferred to let the property managers handle that.

Chair Loché said the deferral of undergrounding fees seemed more like a problem than a solution and Mr. Karp agreed saying because they didn't know what the timeframe would be, they wouldn't know what round they would receive funding. He said that would still be preferable to having the project



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complete and operational and then being asked to come up with \$80,000.

Maria Alegria, South San Francisco resident, said she owns the property next to the new development. She said she bought property in 2006 and has concerns about the tree they want to preserve. She said the tree is old and located at the property line, next to a garage at the back of her property, and that it drops leaves and debris on the garage and into gutters. She said she's concerned that the tree will fall down onto the garage or house during a storm. She also wanted to know what kind of fence, and how high a fence, will run between the properties because it will run along the driveway of her property. She said she knows she doesn't have much say in the matter but she wanted the Commissioners to think about these concerns.

Project architect Struthers said the fence will be a standard good neighbor wood fence not taller than 6 feet. Mr. Karp added that they built a new redwood fence along the back of the property and it would be their proposal to extend that same kind of fencing.

Chair Loché closed the Public Hearing at 9:15 p.m.

Commissioner Lavelle said this will be a wonderful addition to downtown and many of them are aware of the quality projects Eden Housing has brought to the Bay Area, starting right here in Hayward. She said this is a great opportunity for a much-needed type of residential community located close to BART and AC transit lines. She said the exemptions requested made sense and thinks there are enough public transportation options that the number of parking spaces will be acceptable. This is a great way to encourage families to stay close to their adult children who will probably also participate in their transportation needs, she said.

Commissioner Lavelle made a motion per staff recommendation to recommend approval to the City Council. Regarding the Conditions of Approval she said it will be very important for Eden Housing to work with City staff to prepare a lighting plan that keeps light deflected away from neighboring properties but still protects the safety of the senior residents entering and exiting the facility. She said she looks forward to the Grand Opening.

Commissioner Mendall seconded the motion.

Commissioner Mendall said the number of parking spaces will be fine because it is senior housing located across the street from a BART station. He said he agreed with the incentives and waivers, but he wants clarity on the cost of undergrounding so the applicant can budget for it. He said he wants to make sure the undergrounding occurs and would support a price cap. Planning Manager Patenaude said staff could explore options when they are working through the precise plan.

Chair Loché asked if deferral details should be part of the motion and staff said no.

Commissioner Mendall said Eden Housing is one developer he is always glad to see; their projects are always outstanding, and they have been building "green" before it was required. Commissioner

Mendall concluded it is a good spot, a good development, a wonderful addition, and looks forward to it being completed.

Planning Manager Patenaude confirmed with Commissioner Mendall that the removal of language restricting solar panels was part of the motion.

Commissioner Lamnin said she supported the motion, but asked how vital redevelopment money was to the project due to the governor's proposal to cut California's redevelopment agencies. Mr. Patenaude explained that's why he suggested exploring that issue with all parties when the precise plan comes back to staff. Assistant City Attorney Maureen Conneely noted that the details of this proposal are still being negotiated and would be coming back to Council for both the land use entitlements and the disposition and development agreements. Commissioner Lamnin asked staff if the project could still happen if redevelopment funds were cut and staff said they didn't know. Commissioner Lamnin concluded by asking staff to consider Ms. Alegria's concerns about the tree.

Commissioner Márquez said she would be supporting the motion but encouraged future developments to include more 2-bedroom units. She pointed out that many seniors require live-in caregivers.

Chair Loché said he would also be supporting the motion and based on the location of the facility and that it is for seniors he was didn't see a problem with a greater number of units with a lower number of parking spaces. He said his concerns about open space were also addressed because of the proximity of other open space options. He concluded by asking Commissioner Lavelle to repeat the motion with any additions.

Commissioner Lavelle moved, seconded by Commissioner Mendall, and approved unanimously, that per staff recommendation the Planning Commission recommend approval to the City Council, including the adoption of the Negative Declaration, and approval of the General Plan Amendment and Zone Change to build 22 affordable senior housing rental units using density bonus provisions and related incentives and waivers, subject to the Findings and Conditions of Approval, with amendments to delete condition of approval number two, and remove language restricting installation of solar panels in condition of approval number eight.

COMMISSION REPORTS:

3. Oral Report on Planning and Zoning Matters

Planning Manager Patenaude announced a public meeting regarding the proposed 880/92 Reliever Route at Ochoa Elementary School next Thursday at 7 p.m.

Mr. Patenaude then gave an update on upcoming Commission meetings: March 10th, a Public Hearing for the Chalk It Up billiard hall, which would like to add a liquor license, and a work session on telecommunications facilities; April 14th, a work session on the regional sustainability community strategy; April 28th, a Public Hearing regarding the supplemental EIR for the South Hayward BART station project; May 26th, a Public Hearing on the South Hayward form-based code; June 9th, a work session on the Residential Energy Conservation Ordinance (RECO); June 23rd, a update of implementation of the Historic Preservation Program; and July 28th, a work session on the draft EIR for the project heard tonight.



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Commissioner Lamnin asked if there would be a second meeting in March and staff said nothing was scheduled yet, but something could come up.

4. Commissioners' Announcements, Referrals

Commissioner Mendall complemented Senior Planner Buizer on her presentation and mentioned that at the last Sustainability Committee meeting they worked on refining RECO to make it easier to understand and expect to have a draft ordinance ready in the next month or so.

Commissioner McDermott reminded the commissioners that the Hayward Educational Foundation fundraiser was coming up at Cal State East Bay featuring former CBS anchor John Kessler and the Survivor Marquesas million dollar winner who lives in Hayward. The Foundation supports teacher grants in the Hayward area and she said commissioners should call her if are interested in buying tickets.

Commissioner Lamnin suggested that as soon as the July date is confirmed that staff should start publicizing the work session that will discuss the draft EIR for the Mission Boulevard Corridor Specific Plan so the community can be educated on what the City is trying to do and make sure residents attend. Commissioner Lamnin also announced that the South Hayward Parish is working with the community to try to end panhandling in Hayward. The Parish is asking business owners to offer a small brochure that informs the public that panhandler activities are a scam, she said. Commissioner Lamnin explained that the brochure lists all the food, housing, and employment programs that are available so people who really need these services can access them and stops panhandling from being profitable.

APPROVAL OF MINUTES

5. Minutes from September 23, 2010 were approved with minor changes.

ADJOURNMENT

Chair Loché adjourned the meeting at 9:35 p.m.

APPROVED:

Mariellen Faria, Secretary
Planning Commissioner

ATTEST:

Suzanne Philis, Senior Secretary
Office of the City Clerk