



CITY OF
HAYWARD
HEART OF THE BAY

PLANNING COMMISSION

SEPTEMBER 5, 2013

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

AGENDA
HAYWARD PLANNING COMMISSION
THURSDAY, SEPTEMBER 05, 2013 , AT 7:00 PM
COUNCIL CHAMBERS

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

ROLL CALL

SALUTE TO FLAG

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

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

PUBLIC HEARINGS: For agenda item No. 1, the decision of the Planning Commission is final unless appealed. The appeal period is 10 days from the date of the decision. If appealed, a public hearing will be scheduled before the City Council for final decision. For agenda item No. 2, the Planning Commission may make a recommendation to the City Council.

1. Conditional Use Permit No. PL-2013-0121 – Request to operate a banquet hall where alcohol will be served at 22380 Foothill Boulevard, between Russell Way and San Lorenzo Creek, in the Central City–Commercial (CC-C) Zoning Subdistrict. The Proposed Project is Categorically Exempt from Environmental Review in Accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15301(e)(2), Existing Facilities - Dion Griffin for the Hayward Area Historical Society (Applicant/Owner). **(This item was continued from the July 25, 2013 Planning Commission meeting.)**

	<p>Assistance will be provided to persons requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Persons needing accommodation should contact Sonja Dal Bianco 48 hours in advance of the meeting at (510) 583-4204, or by using the TDD line for those with speech and hearing disabilities at (510) 247-3340.</p>
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[Staff Report](#)
[Attachment I Zoning Map](#)
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2. Proposed Revisions Related to Hayward's Alcohol Beverage Outlet Regulations and Proposed New Regulations for Cabarets and Dances to Replace Hayward's Public Dance Provisions, including Proposed New Fees (Text Amendment Application No. PL-2013-0175); the City has Prepared a Negative Declaration, Which Concludes That the Project Will Not Have a Significant Negative Impact on the Environment; Applicant: City of Hayward

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COMMISSION REPORTS:

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

APPROVAL OF MINUTES

5. [July 11, 2013](#)
[July 25, 2013](#)

ADJOURNMENT

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

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

DATE: September 5, 2013

TO: Planning Commission

FROM: Arlynn J. Camire, AICP, Associate Planner

SUBJECT: Conditional Use Permit No. PL-2013-0121 – Request to operate a banquet hall where alcohol will be served at 22380 Foothill Boulevard, between Russell Way and San Lorenzo Creek, in the Central City–Commercial (CC-C) Zoning Sub-district. The Proposed Project is Categorically Exempt from Environmental Review in Accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15301(e)(2), Existing Facilities - Dion Griffin for the Hayward Area Historical Society (Applicant/Owner)

RECOMMENDATION

That the Planning Commission finds that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) Guidelines, Section 15301(e)(2), Existing Facilities, and approves the Conditional Use Permit PL-2013-0121 for a banquet hall where alcohol will be served, subject to the attached findings and conditions of approval.

SUMMARY

The Hayward Area Historical Society (HAHS) proposes to operate a 2,400 square-foot banquet hall on the second floor of its building located at 22380 Foothill Boulevard. The proposed facility would accommodate 160 people (seated) or 275 people (standing). Other improvements to the HAHS building would include a 3,600 square-foot open-air rooftop patio garden, which will be used with the banquet hall for some events. The proposed banquet hall and open-air rooftop patio garden is an addition of 6,000-square-feet of usable floor area involving only minor alterations to an existing building. The project is located in an area where all public services and facilities are currently available to support the maximum development permissible under the General Plan.

Until funds are available to construct the second floor banquet facility and rooftop garden, HAHS proposes to hold banquet, mixer and meeting events in the 2,200-square-foot Foothill Gallery located on the ground floor of its building. The Foothill Gallery has a capacity of 150 people (seated) or 250 people (standing).

Staff supports the proposed project, including the interim arrangement of using the Foothill Gallery as a temporary space for banquets and events, because HAHS is a reputable organization, and the proposed banquet hall and rooftop garden would provide a much-needed public gathering space in

our community. Staff further affirms that the recommended conditions of approval, including those related to responsible alcohol service, adequate security and noise control will help ensure that operation of the proposed use does not result in negative impacts to nearby businesses or the surrounding neighborhood. Staff notes that with the closing of Centennial Hall, Holiday Bowl and other similar businesses, the City has limited banquet facilities and meeting spaces for larger groups.

BACKGROUND

At the request of the applicant, this item was continued from the July 25, 2013 Planning Commission meeting.

The proposed project is located in the Central City-Commercial (CC-C) Zoning Sub-district. The purpose of this subdistrict is to “establish a mix of business and other activities which will enhance the economic vitality of the downtown area. Permitted activities include, but are not limited to, retail, office, service, lodging, entertainment, education, and multi-family residential uses.” Under Section 10-1.1523(b) of the Zoning Ordinance, a banquet hall where alcohol is served is a conditionally permitted use in the CC-C Subdistrict.

In addition, Zoning Ordinance General Regulations, Section 10-1.2735(b), Alcoholic Beverage Outlet Regulations defines the use as an “On-sale Alcohol-related Commercial Activity” generally within the Downtown Entertainment Area. The applicant intends to use the services of a caterer that holds a Type 41 license from the Department of Alcoholic Beverage Control, which allows the sale of beer and wine. Section 10-1.2735(b)(7)(b) of the Zoning Ordinance requires that no on-sale liquor establishment shall be established or maintained within a radius of 100 feet of any off-sale liquor establishment, or of any school, public park, library, playground, recreational center, day care center, or other similar use, and requires that no more than two on-sale liquor establishments (excluding a bona fide restaurant) shall be permitted per block side or face. There are no on-sale liquor establishments within 100 feet of the site or on the same block face. There are also no schools, parks or other similar uses within 100 feet of the proposed banquet hall facility. Zoning Code General Regulations, Section 10-1.2735(b)(5), will also apply to this type of alcohol-related use. Those provisions require that additional findings be made, which are addressed in the Findings section later in this report (see Attachment IV).

The project site contains a 41,500-square-foot building that was constructed in 1958 and originally housed a J. Magnin department store. In 2003, the Planning Commission approved a Site Plan Review (SPR) application to renovate the exterior of the building, and a Conditional Use Permit (CUP) to operate a nightclub and bar in conjunction with a restaurant was subsequently approved at this location. Planning Commission approval of the CUP was appealed to the City Council, and the applicant withdrew the application prior to the City Council hearing.

In 2004, the Planning Commission approved another CUP at this location to operate a night club and bar in conjunction with a restaurant and bakery (Kumbala). Renovations were made to the façade and two windows were added to the first floor of the north side of the building allowing the San Lorenzo Creek to be visible from the interior of the building. Kumbala Restaurant and Bakery opened in 2005 and later closed in 2007. In 2010, the Hayward Area Historical Society purchased the property and is currently renovating the building with plans to transform it into retail/office

space and a museum/community center known as the Hayward Area Historical Society Center for History and Culture (the Center).

The following uses are located in the vicinity surrounding the HAHS building:

North: San Lorenzo Creek and De Anza Park;

East: Municipal Parking Lot No. 11, a Single-Family Home with a Home Occupation Business license for AAAA Generator Services; and Li'l Angel's Day Care at the corner of Russell Way and 2nd Street (approximately 187 feet from the HAHS property);

South: Commercial retail, including Chef's China Bistro, Realty World Neighbors, Copy Mat, and a proposed Big 5 Sporting Goods store;

West: Commercial retail along Foothill Boulevard between A Street and City Center Drive.

All of the above uses are located in the Central City-Commercial Zoning Subdistrict (see Attachment I). The HAHS property contains no on-site parking; however, Municipal Parking Lot No. 11 with fifty parking spaces is located adjacent to the HAHS building to the east. In addition, Municipal Parking Lot Nos. 5 and 6, with a total of 268 parking spaces, are within walking distance of the building (see Attachment III).

DISCUSSION AND STAFF ANALYSIS

Project Description – The Hayward Area Historical Society (HAHS) proposes to operate a 2,400 square-foot banquet hall on the second floor of its building located at 22380 Foothill Boulevard. The proposed facility would accommodate 160 people (seated) or 275 people (standing). Other improvements to the HAHS building would include a 3,600 square-foot open-air rooftop patio garden. According to HAHS, revenue derived from rental of its facilities, including the banquet hall and the enclosed rooftop garden, are critical to sustaining operations of the Center. The Center concept envisions a multi-purpose facility that can serve as meeting space for public or private functions and also provide leasing space to other non-profit organizations. Current building tenants include Mariner Health Services and the Hayward Arts Council.

Until funds are available to construct the second floor banquet facility and rooftop garden, HAHS proposes to hold banquet, mixer, and meeting events in the 2,200-square-foot Foothill Gallery located on the ground floor of its building. The Foothill Gallery has a capacity of 150 people (seated) or 250 people (standing).

The main entrance and first floor lobby of the HAHS facility are located on the east side of the building and are directly accessible from Municipal Parking Lot No. 11. Existing first-floor uses in the HAHS building include a Museum Gallery, a Children's Gallery, the Foothill Gallery, general offices, a museum café, restrooms and storage. The first floor also contains retail/office tenant spaces. The basement contains HAHS collections, storage, offices, restrooms and building mechanical systems.

Primary access to the second floor of the HAHS building is provided by an elevator and a stairway from the first floor lobby adjacent to the main entrance. HAHS uses on the second floor currently include the Archive and Research Center, executive offices, general offices, a copy room, a

volunteer area, a break room, restrooms and storage. A staircase on the north side of the building provides secondary access to this area.

The existing elevator and stairway into the second floor lobby would provide primary access to the proposed banquet hall. As noted above, future development plans also call for the creation of a 3,600 square foot rooftop garden adjacent to the proposed banquet hall. Other planned amenities include a bridal waiting/preparation area and bridal room. South of the banquet facility would be a separate 1,992-square-foot leasable tenant space with access from a stairway on the west side of the building (see Attachment II – Project Plans).

The banquet facility will be available for rent seven days a week with proposed hours of operation of 7:00 am to 10:00 pm (Mon.-Thurs. and Sun.) and 7:00 am to midnight (Fri.-Sat.) (see Attachment VI, Recommended Conditions of Approval - Condition No. 3).

The applicant also intends to hold outdoor events in Municipal Parking Lot No. 11. These events would require a separate non-profit temporary Alcoholic Beverage Control license and an approved Special Events permit from the City of Hayward (see Attachment IV – Condition No. 28).

Additional Information Regarding Alcohol Sales and Catering – HAHS plans to contract with Royal Raspberry Catering (www.royalraspberry.com) to operate the HAHS Museum Café (an in-house restaurant) and to provide catering (with or without alcoholic beverage service) for all events that will be held at the facility. This will include events to be held in the Foothill Gallery and eventually in the second floor banquet facility. Royal Raspberry Catering holds a Type 41 ABC license which will allow beer and wine only. Royal Raspberry Catering has twenty-two years of experience and is a Bay Area Green Business.

HAHS recognizes that proper management and adequate security will be essential for successful and safe events at their proposed banquet facility. The Hayward Police Department has approved a security plan for the proposed facility and is working with HAHS to clarify contract responsibilities. As a condition of approval, prior to any event, HAHS must enter into a signed contract with their patrons. The person who signs the contract must provide a valid driver's license and must attend the entire event. This will help ensure that reputable people are renting the space and, by attending the entire event, will be held accountable as to how that event is organized and managed. It will also ensure that the people renting the banquet facility and outdoor patio are aware of the conditions of operation, which include conformance with the noise thresholds of the City's Noise Ordinance.

Staff has also recommended as a condition of approval that the Hayward Area Historic Society assume responsibility for paying all costs incurred by the Hayward Police Department in responding to critical incidents. Such incidents are defined as “any event that, in the sole discretion of the Chief of Police, results in a crime of violence or large, unruly gathering necessitating a police response of five (5) or more police officers, directly or indirectly resulting from the operation of an alcoholic beverage sales establishment. Crimes of violence include but are not limited to discharge of firearms, robbery, physical assault or assault with a deadly weapon. Police response is the arrival of a police officer at the scene of a disturbance to render whatever service is reasonably required in order to protect public health, safety or welfare.”

In addition, the applicant will be responsible for ensuring that a reputable security company, approved by the Hayward Police, is hired to provide security for each event. Two security guards shall be required for the first two hundred patrons and one additional guard for every additional one hundred patrons. Only one point of entry and exit will be allowed for each event, and a guard must be stationed at that location in addition to having a digital security camera trained on that point of entry and exit. All doors would be used for egress in the case of an emergency. See Attachment VI – Conditions 16 through 20 – for conditions related to security.

The applicant would be required to maintain the area in front of the building, including removal of trash and litter, and another condition of approval requires that graffiti be removed within 48 hours after the applicant becomes aware of the occurrence (see Attachment VI, Conditions 8 and 9).

Regarding alcohol sales, the Census tract that includes Downtown Hayward is considered over-concentrated for both off-sale and on-sale establishments by the California Department of Alcohol Beverage Control (ABC) (see Attachment VII). However, staff notes that the project site is located at the northern boundary of such Census tract, and the adjacent Census tract located immediately to the north is not over-concentrated in either on-sale or off-sale establishments. The proposed banquet facility would be classified as an on-sale establishment.

Conditional Use Permit Findings - In order for the Conditional Use Permit to be approved, the following findings must be made. The last two findings relate to provisions in the Zoning Ordinance related to alcohol-serving establishments (Section 10-1.1235(b)(5)). Those provisions require the Planning Commission to consider “whether the proposed use will result in an undue concentration in the area of establishments dispensing alcoholic beverages” and “whether the proposed use will detrimentally affect the surrounding neighborhood after giving consideration to the distance of the proposed use from the following: Residential structures, churches, schools, public playgrounds, and parks, recreation centers, and other similar uses.”

Staff’s responses to the findings are below and in Attachment IV. In addition, the applicant submitted findings related to the Conditional Use Permit that are included as Attachment V and have partially been incorporated within the proposed findings below.

A. *The banquet facility with the serving of alcoholic beverages is desirable for the public convenience or welfare.*

With the closing of Centennial Hall, Holiday Bowl and other similar facilities, the City has very few venues to accommodate banquets, meetings, and other functions in the community, particularly in the Downtown area. Approval of this Conditional Use Permit will allow the development of an attractive indoor banquet hall and an adjacent rooftop patio that can be used for a variety of public and private functions. The proposed facility will allow for responsible service of alcoholic beverages as regulated through the Zoning Ordinance, Alcoholic Beverage Outlet Regulations, the Conditions of Approval and the Type 41 ABC License to be held by the caterer. In addition, rental proceeds from the banquet hall will partially fund the Hayward Area Historical Society Research Center, Archive and Research Center and Museum Galleries. The Hayward Area Historical Society is an important

community resource that that serves the entire Hayward community.

B. The banquet facility with the serving of alcoholic beverages will not impair the character and integrity of the surrounding neighborhood.

The proposed banquet facility will be an asset to the community and surrounding neighborhood. Nearby uses include commercial businesses and one single-family home. The proposed facility will have limited hours of operation from 7:00 am to 10:00 pm, Monday through Thursday and Sunday, and 7:00 am to 12 midnight on Friday and Saturday. Alcohol serviced prior to 10:00 am on any day will be strictly prohibited. The banquet facility and rooftop patio will also be required to comply with the City's Noise Ordinance, and music will not be permitted outdoors on the rooftop patio after 9:00 pm. In addition, all exterior doors of the banquet facility shall remain closed while events are being held, with the exception of the front door when used for normal ingress/egress. Appropriate efforts will also be implemented to discourage loitering around the premises. There is ample parking to accommodate banquet facility guests. Municipal Parking Lot No. 11, to the rear of the building, contains 50 parking spaces; Municipal Parking Lot No. 6, located across Russell Way, contains 98 parking spaces; and Municipal Parking Lot No. 5, located across Foothill Boulevard to the rear of the commercial strip, contains 170 parking spaces. Therefore, issues with guest parking will not impair the character and integrity of the surrounding neighborhood.

C. The banquet facility with the serving of alcoholic beverages will not be detrimental to the public health, safety, or general welfare.

The Hayward Police Department will approve a security plan proposed by the applicant as reflected in the Conditions of Approval. As part of the security plan, security guards shall be required at all events, and HAHS has agreed to install and maintain a security camera system on the premises at all times. In addition, as a Condition of Approval, the caterer who is contracted by HAHS to manage events at the proposed banquet facility where alcohol may be served shall maintain a Type 41 ABC license at all times. Staff is satisfied that HAHS has hired a reputable caterer to manage events at the proposed facility as well as an experienced security company to ensure that all events operate in a safe and secure manner. Compliance with these and all other Conditions of Approval will ensure that operation of the banquet facility will not be detrimental to the public health, safety or general welfare of the community.

D. The banquet facility with the serving of alcoholic beverages will be in harmony with applicable City policies as well as the intent and purpose of the zoning district involved.

The proposed use is consistent with the policies specified in the General Plan in that it "seeks to increase the number and availability of multi-purpose facilities in order to provide a variety of community services, recreational activities, and cultural amenities that are accessible to and benefit a cross-section of the community." The banquet hall and adjacent rooftop patio will provide a much needed facility for meetings and events in the Downtown area.

The proposed use is also consistent with the purpose of the Central City-Commercial Zoning Sub-district which “is to establish a mix of business and other activities which will enhance the economic vitality of the downtown area. Permitted activities include, but are not limited to retail, office, service, lodging, entertainment, education and multi-family residential uses”. The Hayward Area Historical Society building maintains retail and educational uses while the banquet facility will provide entertainment, food service, and meeting space.

Furthermore, as conditioned, the operation of the proposed facility will meet the Alcoholic Beverage Outlet Regulations of the Zoning Ordinance and the Noise Ordinance of the Hayward Municipal Code.

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

Although the California Department of Alcohol Beverage Control (ABC) considers the Census tract in which the proposed use is located to be over-concentrated with on-sale alcohol establishments, the intent of this ABC designation is to prevent the proliferation of bars or similar establishments that serve alcohol as their primary function. The proposed banquet hall will have a primary use as a gathering place for meetings and other events, and alcohol service will be a secondary function. The proposed banquet hall will be a unique facility that does not currently exist in Downtown Hayward.

In addition, the project site is located in the northernmost section of a Census tract that is considered to be over-concentrated, but the Census tract located immediately north of the project site is not over-concentrated with on-sale establishments. The Conditions of Approval will help ensure that alcohol-related issues are minimized; including Conditions related to adequate provision of security personnel and specialized training for all catering staff who serves alcohol. The only personnel authorized to dispense all alcoholic beverages shall be employees of the caterer and shall supervised by personnel who have completed a LEADS Class conducted by the California Department of Alcoholic Beverage Control.

F. The proposed use will not detrimentally affect the surrounding neighborhood after giving consideration to the distance of the proposed use from the following: Residential structures, churches, schools, public playgrounds, and parks, recreation centers, and other similar uses.

Consistent with applicable Zoning Ordinance regulations, the proposed use, as conditioned, will not detrimentally affect the surrounding commercial businesses or the single-family home located approximately 100 feet to the east of the site on the other side of Municipal Parking Lot No. 11. Operation of the proposed banquet hall and rooftop patio shall be required to comply with the City’s Noise regulations and with a Security Plan approved by the Hayward Police Chief.

Environmental Review - The proposed project is Categorical Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301 (e)(2), Existing Facilities.

PUBLIC OUTREACH

On April 16, 2013, an Official Notice of Receipt of Application was sent to every property owner and occupant within 500 feet of the subject site, as noted on the latest assessor’s records. Staff did not receive any responses as a result of the Notice.

On July 12, 2013, a Notice of Public Hearing was sent to every property owner and occupant within 500 feet of the subject site, as noted on the latest assessor’s records. Staff received a letter from Hayward Coalition for Healthy Youth (Attachment VIII). Their main concern is that the banquet hall could be rented by promoters who host large gatherings with young people consuming alcohol and drugs, which in the past has resulted in violent incidents that take significant police resources to handle. The conditions of approval described in this report, along with the ability to have the conditional use permit (if it is approved) revoked by the Planning Commission should violations of conditions or problems occur (Condition 13 in Attachment VI), will help minimize the chances such events occur. Also, the applicant has stated that the Hayward Area Historical Society would rent the facilities to individuals and organizations that conform to their mission statement and that they have the right of refusal to rent the banquet hall.

SCHEDULE

The Planning Commission decision begins a 10-day appeal period, during which the Commission’s action maybe appealed to the City Council (or called up to Council by a Council member), which would expire at 5:00 p.m. on September 16, 2013. If approved and there is no appeal filed within that time period, the applicant may proceed with efforts to open the business, including complying with conditions of approval. If denied and no appeal is filed, the decision of the Planning Commission would be final.

Prepared by: Arlynn J. Camire, AICP

Recommended by:



Ned Thomas, AICP
Planning Manager

Approved by:



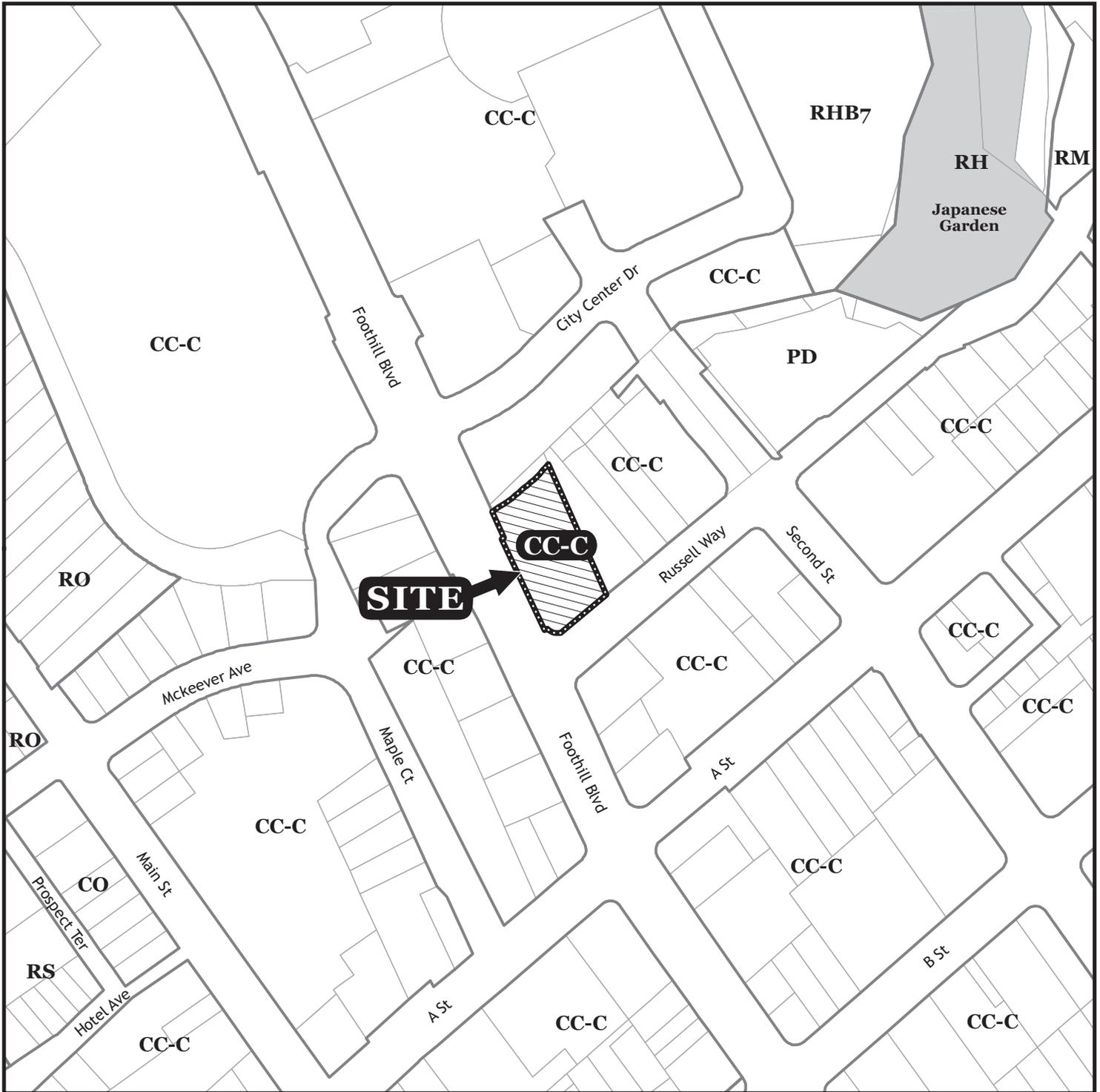
David Rizk, AICP
Development Services Director

Attachments:

Attachment I	Area and Zoning Map
Attachment II	Plans
Attachment III	Municipal Parking Lots
Attachment IV	Findings for Approval
Attachment V	Applicant's Findings for Approval
Attachment VI	Recommended Conditions of Approval
Attachment VII	Map Showing Over-concentrated Census Tracts Containing On-sale and Off-sale Alcohol Establishments
Attachment VIII	Letter from Hayward Coalition for Healthy Youth



Area & Zoning Map



PL-2013-0121 CUP

Address:
22380 Foothill Boulevard

Applicant:
Dion Griffin

Owner:
Hayward Area Historical Society

Zoning Classifications

RESIDENTIAL

- RH High Density Residential, min lot size 1250 sqft
- RM Medium Density Residential, min lot size 2500 sqft
- RS Single Family Residential, min lot size 5000 sqft

COMMERCIAL

- CO Commercial Office
- RO Residential Office

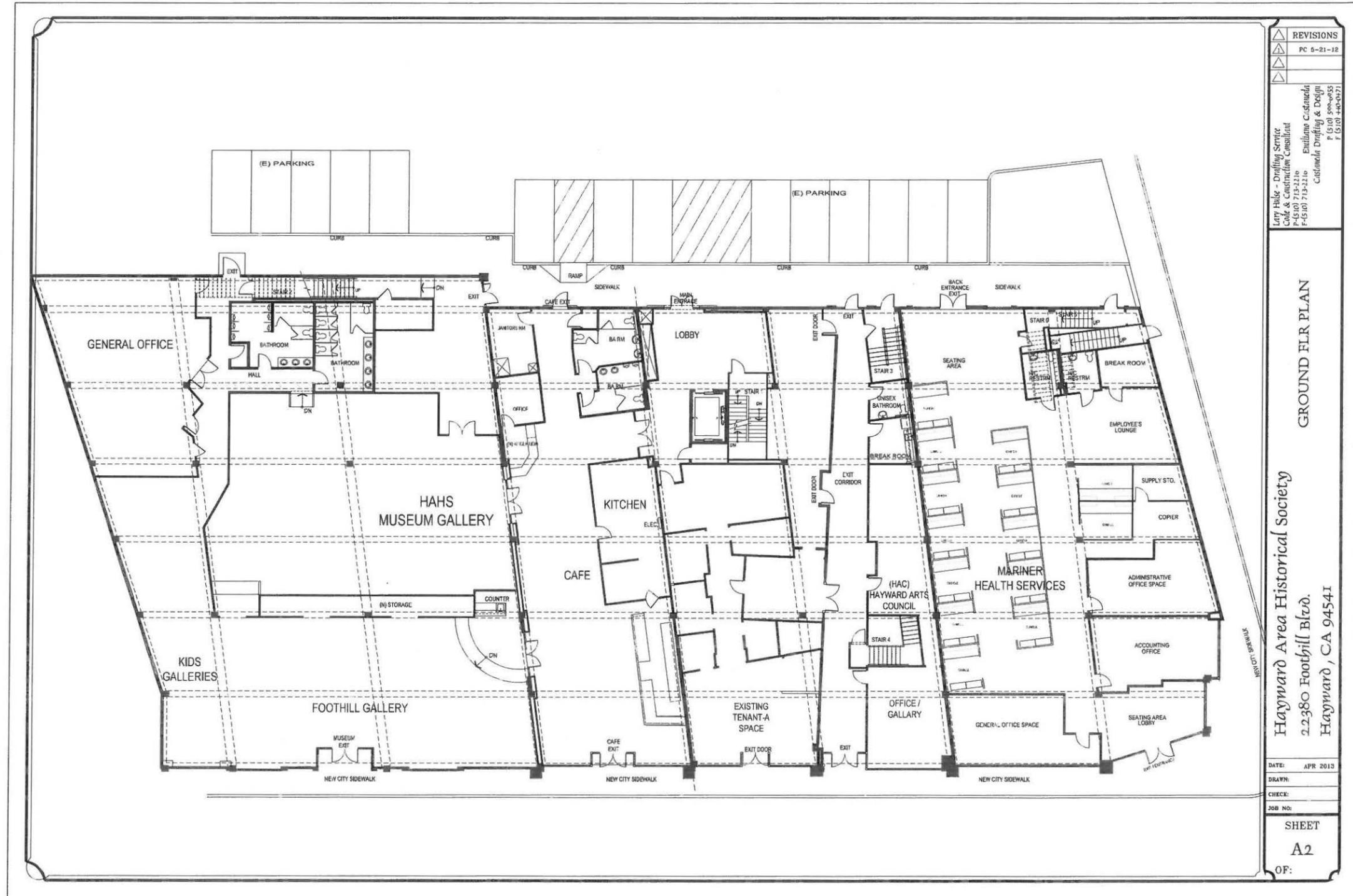
CENTRAL CITY

- CC-C Central City - Commercial

OTHER

- PD Planned Development





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 MAY 17 2013
 PLANNING DIVISION

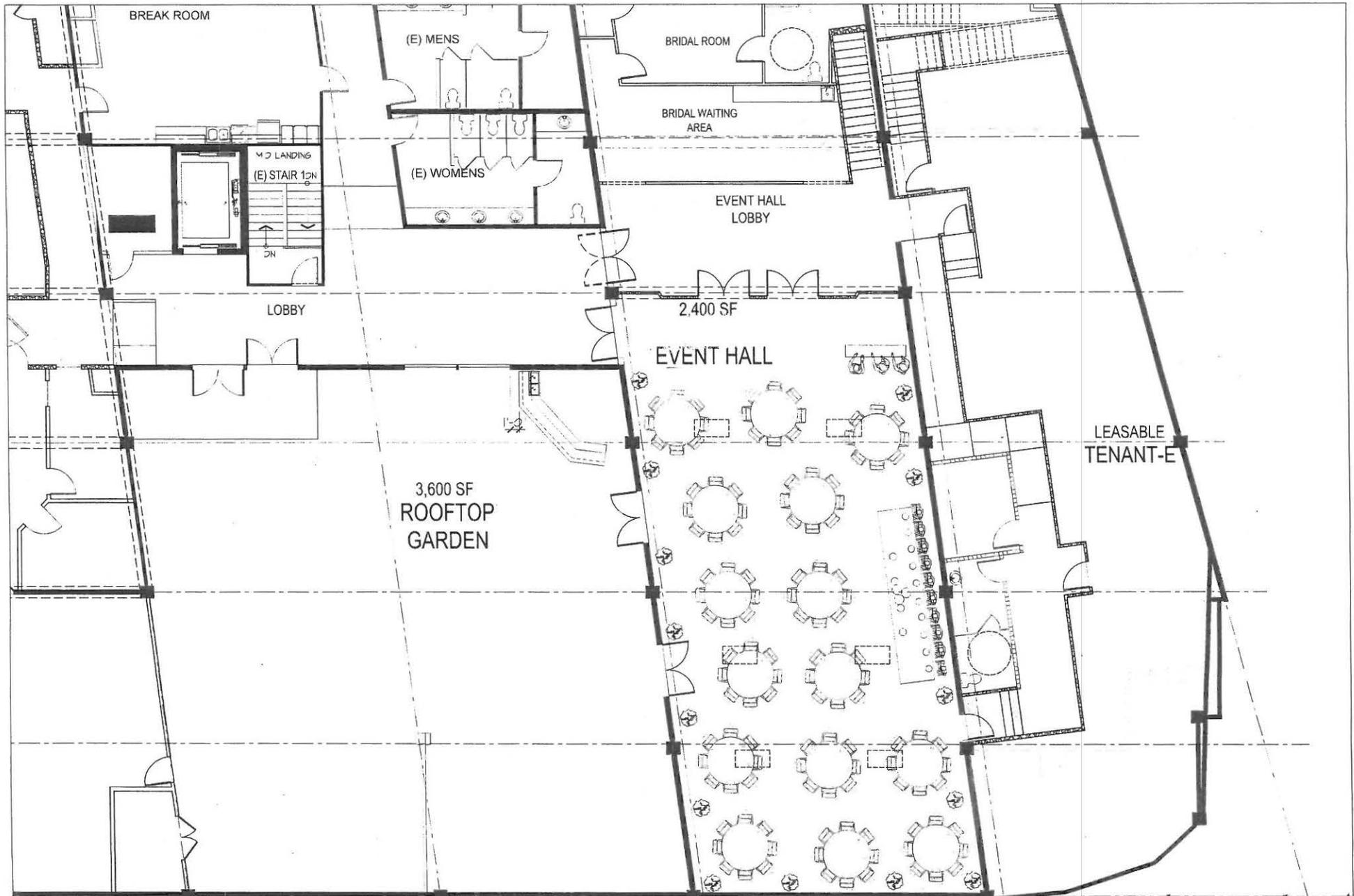


REVISIONS	
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Lory Halde - Drafting Service
 Civil & Construction Consultant
 P: 45 00 719-2216
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 E: lhalde@loryhalde.com
 10000 1st St, Suite 100
 Hayward, CA 94541

BASEMENT FLR PLAN
 Hayward Area Historical Society
 22380 Foothill Blvd.
 Hayward, CA 94541

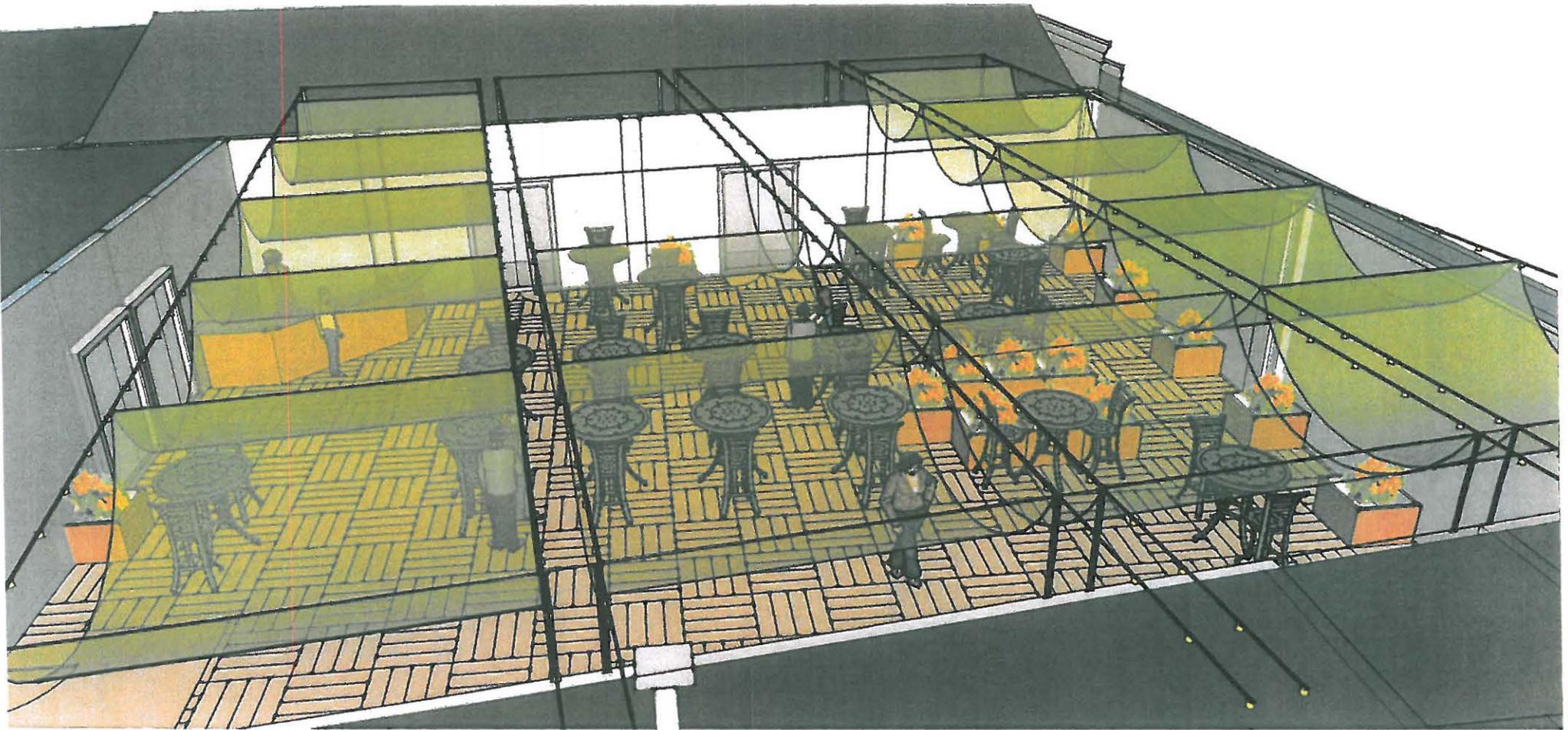
DATE:	APR 2013
DRAWN:	
CHECK:	
JOB NO:	
SHEET	
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OF:	



Lary Hulse - Drafting Service
Code & Construction Consultant
P-(510) 713-2216

**PARTIAL PLAN
PROPOSED EVENT SPACE**

Emiliano Castaneda
Castaneda Drafting & Design
P (510) 599-6955



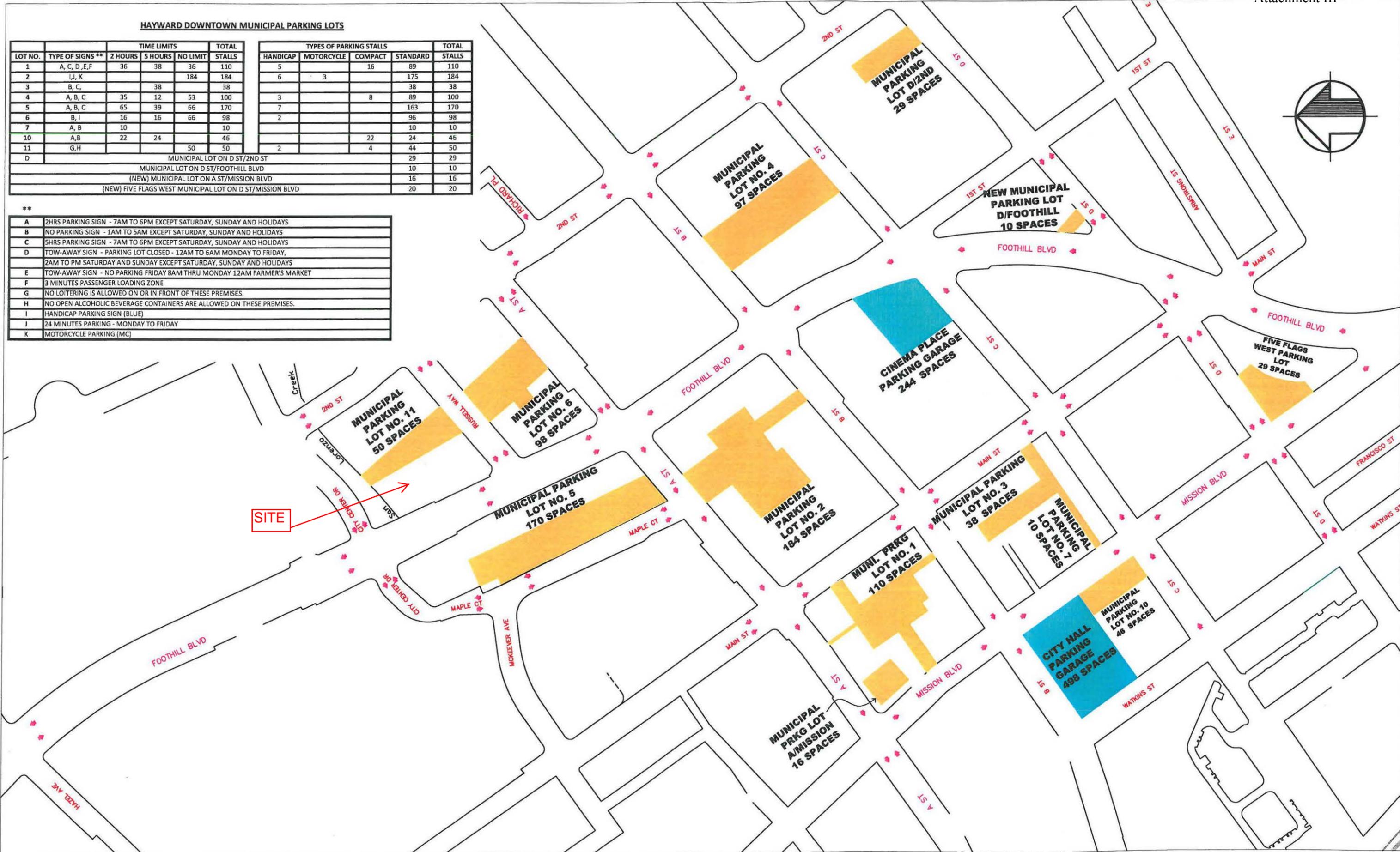
Rooftop Garden

HAYWARD DOWNTOWN MUNICIPAL PARKING LOTS

LOT NO.	TYPE OF SIGNS **	TIME LIMITS			TOTAL STALLS	TYPES OF PARKING STALLS				TOTAL STALLS
		2 HOURS	5 HOURS	NO LIMIT		HANDICAP	MOTORCYCLE	COMPACT	STANDARD	
1	A, C, D, E, F	36	38	36	110	5		16	89	110
2	I, J, K			184	184	6	3		175	184
3	B, C		38		38				38	38
4	A, B, C	35	12	53	100	3		8	89	100
5	A, B, C	65	39	66	170	7			163	170
6	B, I	16	16	66	98	2			96	98
7	A, B	10			10				10	10
10	A, B	22	24		46			22	24	46
11	G, H				50	2		4	44	50
MUNICIPAL LOT ON D ST/2ND ST					29					29
MUNICIPAL LOT ON D ST/FOOTHILL BLVD					10					10
(NEW) MUNICIPAL LOT ON A ST/MISSION BLVD					16					16
(NEW) FIVE FLAGS WEST MUNICIPAL LOT ON D ST/MISSION BLVD					20					20

**

A	2HRS PARKING SIGN - 7AM TO 6PM EXCEPT SATURDAY, SUNDAY AND HOLIDAYS
B	NO PARKING SIGN - 1AM TO 5AM EXCEPT SATURDAY, SUNDAY AND HOLIDAYS
C	5HRS PARKING SIGN - 7AM TO 6PM EXCEPT SATURDAY, SUNDAY AND HOLIDAYS
D	TOW-AWAY SIGN - PARKING LOT CLOSED - 12AM TO 6AM MONDAY TO FRIDAY, 2AM TO 5PM SATURDAY AND SUNDAY EXCEPT SATURDAY, SUNDAY AND HOLIDAYS
E	TOW-AWAY SIGN - NO PARKING FRIDAY 8AM THRU MONDAY 12AM FARMER'S MARKET
F	3 MINUTES PASSENGER LOADING ZONE
G	NO LOITERING IS ALLOWED ON OR IN FRONT OF THESE PREMISES.
H	NO OPEN ALCOHOLIC BEVERAGE CONTAINERS ARE ALLOWED ON THESE PREMISES.
I	HANDICAP PARKING SIGN (BLUE)
J	24 MINUTES PARKING - MONDAY TO FRIDAY
K	MOTORCYCLE PARKING (MC)



**CITY OF HAYWARD
PLANNING DIVISION**

**Conditional Use Permit Application No. PL-2013-0121
Dion Griffin For Hayward Area Historical Society (Applicant/Owner)
22380 Foothill Boulevard**

Request for a banquet facility allowing the serving of alcoholic beverages in conjunction with the Hayward Area Historical Society headquarters/museum.

FINDINGS FOR APPROVAL

- A. The approval of Conditional Use Permit No. 2013-0121, as conditioned will have no significant impact on the environment, cumulative or otherwise, and the project reflects the City's independent judgment and is exempt from CEQA under section 15301(e)(2), (Existing Facilities).
- B. *The banquet facility with the serving of alcoholic beverages is desirable for the public convenience or welfare.*

With the closing of Centennial Hall, Holiday Bowl and other similar facilities, the City has very few venues to accommodate banquets, meetings, and other functions in the community, particularly in the Downtown area. Approval of this Conditional Use Permit will allow the development of an attractive indoor banquet hall and an adjacent rooftop patio that can be used for a variety of public and private functions. The proposed facility will allow for responsible service of alcoholic beverages as regulated through the Zoning Ordinance, Alcoholic Beverage Outlet Regulations, the Conditions of Approval and the Type 41 ABC License to be held by the caterer. In addition, rental proceeds from the banquet hall will partially fund the Hayward Area Historical Society Research Center, Archive and Research Center and Museum Galleries. The Hayward Area Historical Society is an important community resource that that serves the entire Hayward community.

- C. *The banquet facility with the serving of alcoholic beverages will not impair the character and integrity of the surrounding neighborhood.*

The proposed banquet facility will be an asset to the community and surrounding neighborhood. Nearby uses include commercial businesses and one single-family home. The proposed facility will have limited hours of operation from 7:00 am to 10:00 pm, Monday through Thursday and Sunday, and 7:00 am to 12 midnight on Friday and Saturday. Alcohol served prior to 10:00 am on any day will be strictly prohibited. The banquet facility and rooftop patio will also be required to comply with the City's Noise Ordinance, and music will not be permitted outdoors on the rooftop patio after 9:00 pm. In addition, all exterior doors of the banquet facility shall remain closed while events are being held, with the

exception of the front door when used for normal ingress/egress. Appropriate efforts will also be implemented to discourage loitering around the premises. There is ample parking to accommodate banquet facility guests. Municipal Parking Lot No. 11, to the rear of the building, contains 50 parking spaces; Municipal Parking Lot No. 6, located across Russell Way, contains 98 parking spaces; and Municipal Parking Lot No. 5, located across Foothill Boulevard to the rear of the commercial strip, contains 170 parking spaces. Therefore, issues with guest parking will not impair the character and integrity of the surrounding neighborhood.

- D. *The banquet facility with the serving of alcoholic beverages will not be detrimental to the public health, safety, or general welfare.*

The Hayward Police Department will approve a security plan proposed by the applicant as reflected in the Conditions of Approval. As part of the security plan, security guards shall be required at all events, and HAHS has agreed to install and maintain a security camera system on the premises at all times. In addition, as a Condition of Approval, the caterer who is contracted by HAHS to manage events at the proposed banquet facility where alcohol may be served shall maintain a Type 41 ABC license at all times. Staff is satisfied that HAHS has hired a reputable caterer to manage events at the proposed facility as well as an experienced security company to ensure that all events operate in a safe and secure manner. Compliance with these and all other Conditions of Approval will ensure that operation of the banquet facility will not be detrimental to the public health, safety or general welfare of the community.

- E. *The banquet facility with the serving of alcoholic beverages will be in harmony with applicable City policies as well as the intent and purpose of the zoning district involved.*

The proposed use is consistent with the policies specified in the General Plan in that it “seeks to increase the number and availability of multi-purpose facilities in order to provide a variety of community services, recreational activities, and cultural amenities that are accessible to and benefit a cross-section of the community.” The banquet hall and adjacent rooftop patio will provide a much needed facility for meetings and events in the Downtown area.

The proposed use is also consistent with the purpose of the Central City-Commercial Zoning Sub-district which “is to establish a mix of business and other activities which will enhance the economic vitality of the downtown area. Permitted activities include, but are not limited to retail, office, service, lodging, entertainment, education and multi-family residential uses”. The Hayward Area Historical Society building maintains retail and educational uses while the banquet facility will provide entertainment, food service, and meeting space.

Furthermore, as conditioned, the operation of the proposed facility will meet the Alcoholic Beverage Outlet Regulations of the Zoning Ordinance and the Noise Ordinance of the Hayward Municipal Code.

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

Although the California Department of Alcohol Beverage Control (ABC) considers the Census tract in which the proposed use is located to be over-concentrated with on-sale alcohol establishments, the intent of this ABC designation is to prevent the proliferation of bars or similar establishments that serve alcohol as their primary function. The proposed banquet hall will have a primary use as a gathering place for meetings and other events, and alcohol service will be a secondary function. The proposed banquet hall will be a unique facility that does not currently exist in Downtown Hayward.

In addition, the project site is located in the northernmost section of a Census tract that is considered to be over-concentrated, but the Census tract located immediately north of the project site is not over-concentrated with on-sale establishments. The Conditions of Approval will help ensure that alcohol-related issues are minimized; including Conditions related to adequate provision of security personnel and specialized training for all catering staff who serves alcohol. The only personnel authorized to dispense all alcoholic beverages shall be employees of the caterer and shall supervised by personnel who have completed a LEADS Class conducted by the California Department of Alcoholic Beverage Control.

- G. *The proposed use will not detrimentally affect the surrounding neighborhood after giving consideration to the distance of the proposed use from the following: Residential structures, churches, schools, public playgrounds, and parks, recreation centers, and other similar uses.*

Consistent with applicable Zoning Ordinance regulations, the proposed use, as conditioned, will not detrimentally affect the surrounding commercial businesses or the single-family home located approximately 100 feet to the east of the site on the other side of Municipal Parking Lot No. 11. Operation of the proposed banquet hall and rooftop patio shall be required to comply with the City's Noise regulations and with a Security Plan approved by the Hayward Police Chief.

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**FINDINGS IN SUPPORT OF APPROVAL OF
A BANQUET FACILITY
AT 22380 MISSION BOULEVARD**

Required Findings, per City of Hayward Zoning Ordinance, SEC. 10-1.3225 FINDING

- 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.

- a. The proposed banquet facility is desirable for the public convenience or welfare in that it provides an indoor/outdoor entertainment venue in the building occupied by the Hayward Area Historical Society, which both (1) provides a banquet facility not otherwise available in the downtown area and (2) which contributes monetarily to the non-profit organization, the Hayward Area Historical Society, an organization of city-wide interest.
- b. The proposed banquet facility will not impair the character and integrity of the Central City - Commercial zoning district and surrounding area in that (1) the use is consistent with the purpose of the Central City - Commercial, which is to establish a mix of both business and other activities which enhance the economic vitality of the downtown area, including entertainment venues, and (2) surrounding uses are also commercial in nature and where there is sufficient parking available, both on site and within municipal parking lots, to accommodate banquet guests.
- c. The proposed banquet facility will not be detrimental to the public health, safety, or general welfare in that (1) the building is found to be physically sound and it meets the standards of the Americans With Disabilities Act, and (2) regulations established by the Hayward Area Historical Society in rental agreements for the use of the facility limit occupancy and hours of operation to ensure that the use will not be detrimental to the public health, safety or general welfare.
- d. The proposed banquet facility is in harmony with applicable City policies. Specifically, the City of Hayward General Plan, Land Use section, seeks to "maintain the Downtown as a focal point for the City, so that it continues to express the City's history, provides a venue for cultural vitality, and retains its role as a center for social, political and other civic functions." By providing for a banquet facility on the second floor and within a building wherein the Hayward Area Historic Society is located, the proposed use both supports cultural vitality and does not impinge upon the importance of providing a continuous retail frontage intended for pedestrian shopping. Further, social, political and other civic functions are able to make use of the facility.

CONDITIONS OF APPROVAL

**Conditional Use Permit Application No. PL-2013-0121
Dion Griffin For Hayward Area Historical Society(Applicant/Owner)
22380 Foothill Boulevard**

Request for a banquet facility allowing the serving of alcoholic beverages in conjunction with the Hayward Area Historical Society headquarters/museum.

Conditional Use Permit Application No. PL-2013-0121 is approved subject to the conditions listed below. This permit becomes void three years after the effective date of approval, unless the business has been established in accordance with these conditions of approval, or a time extension of this application is approved. All conditions shall be met prior occupancy of the building and prior to the issuance of a business license. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division 15 days prior to September 16, 2014.

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

General

1. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
2. A copy of the conditions of approval for the Conditional Use Permit must be kept on the premises of the establishment and posted in a place where it may readily be viewed by the general public.
3. Hours of operation shall be limited to 7:00 am to 10:00 pm Monday through Thursday and Sunday, and 7:00 am to midnight Friday and Saturday.
4. Banquet Hall and rooftop patio activities shall not create a noise level at any point outside of the property plane that exceeds seventy (70) dBA between the hours of 7:00 am and 9:00 pm or sixty (60) dBA between the hours of 9:00 pm and 7:00 am and shall conform to all other aspects of the City's Noise Ordinance. If the sound from banquet or rooftop patio activities is audible at neighboring residential properties to City of Hayward staff responding to a complaint, it is grounds for modification and/or revocation of the use permit and/or administrative citation under the City's Noise Ordinance. Music is not permitted in the rooftop patio beyond 9:00

pm, and the doors of the banquet facility to the rooftop garden shall be closed after 9:00 pm.

5. While banquets are being held, all banquet facility exterior doors are to remain closed with the exception of the front door when used for normal ingress/egress.
6. A representative from the management of the Hayward Area Historical Society shall be on the premises during the entire time that a banquet or other function is being held in the facility.
7. During and following an event, the exterior of the premises, including the adjacent sidewalk and Municipal Parking Lot No. 11 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 Title 24 of the California Building Code.
8. During and following an event, the exterior of the premises shall be kept clean and litter free including Foothill Boulevard and Russell Way frontages and Municipal Parking Lot No. 11 and landscape areas within the parking lot. The management shall ensure that no trash or litter originating from the establishment is deposited on neighboring properties or in the parking lot. Paint and windows shall be kept clean and cracked or broken glass must be replaced immediately.
9. The property owner shall be responsible for graffiti-free maintenance on all exterior elevations of the building. Graffiti shall be removed within 48 hours after the applicant or owner has become aware of the occurrence.
10. All caterers providing service to the banquet facility must have a City of Hayward business license for the banquet facility and the museum café.
11. No pay phones shall be permitted on the exterior of the building or premises. Pay telephone(s) maintained on the interior of the premises shall be limited to outgoing calls only.
12. Per the California Building Code and Fire Code, occupant load signage shall be installed on all levels of the establishment.
13. If it comes to the attention of the Planning Director that there are problems occurring as a result of the banquet operations, the Planning Director may call the use permit application up to the Planning Commission for consideration of imposing additional conditions or revocation. 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 and Safety*Contracts – Licensee/Permittee Responsibilities*

14. Prior to any event, the Hayward Area Historical Society shall maintain signed contracts for all events booked at the premise which clearly include the following at a minimum:
- a. Type of event (dinner, wedding, birthday party etc.).
 - b. Number of expected guests.
 - c. Alcoholic beverages service requested.
 - d. Live Music, Dee-Jay and/or Dancing (Licensee/Permittee shall maintain valid Dance Permit through City of Hayward).
 - e. Names, home addresses, and telephone numbers (home or business and mobile) of all event hosts/applicants - who must be in attendance at the event at all times.
 - f. Photocopies of a valid form of identification (California ID Card, Driver's License or Passport).
 - g. Notification by the Licensee/Permittee of any event in excess of two hundred and fifty (250) people shall be reported via written notification by mail, email or telephone, fourteen (14) days prior to the event to the Hayward Police Department Vice/Intelligence/ABC Unit. Notification shall include a copy of any and all contract information.
15. A critical incident response fee shall be imposed on the Hayward Area Historic Society whenever the Hayward Police Department responds to a critical incident at or directly or indirectly arising from the operation of the proposed establishment. No warning shall be required before the imposition of the critical incident response fee. The critical incident response fee shall be the actual cost of police services, including but not limited to personnel, equipment and mutual aid response costs. The Chief of Police shall provide the licensee with an itemized bill for the critical incident, which shall be due and payable in full within thirty (30) days of delivery.

“Critical Incident” shall be defined as any event that, in the sole discretion of the Chief of Police, results in a crime of violence or large, unruly gathering necessitating a police response of five (5) or more police officers, directly or indirectly resulting from the operation of an alcoholic beverage sales establishment. Crimes of violence include but are not limited to discharge of firearms, robbery, physical assault or assault with a deadly weapon. Police response is the arrival of a police officer at the scene of a disturbance to render whatever service is reasonably required in order to protect public health, safety or welfare.

Security Plan and Coordination

16. The Hayward Area Historical Society 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.

17. The Hayward Area Historical Society shall maintain a reputable security company or private patrol operator to assist with security services at large events, such as private parties and social gatherings, including, but not limited to, quinceaneras, retirement dinners, weddings, etc. The security/private patrol company shall be one in good standing with the California Department of Consumer Affairs and possess a valid California Security/Private Patrol Operator's License. The security/private patrol operator company selected shall maintain a written contract between said company and the Licensee/Permittee. The security/private patrol operator shall be approved by the Hayward Police Department prior to deployment and a copy of the contract between the company and the licensee/permittee shall be provided to the Hayward Police Department.

18. The following additional security/private patrol officer standards shall be maintained during each event when alcoholic beverages are served at the discretion of the Police Chief:
 - a. All individual security guards/private patrol operators shall possess valid California Guard Cards issued by the California Department of Consumer Affairs.
 - b. Event hosts shall not provide their own security guards/private patrol operators.
 - c. All security/private patrol guards shall be on site during the entire duration of the event, to include thirty (30) minutes after its conclusion.
 - d. All security/private patrol guards/operators shall not carry any firearms during the event.
 - e. All security/private patrol guards/operators shall wear visible "Uniforms" that clearly identify them as security personnel. Uniforms shall have the appropriate security company identification and include patches/insignias and security guard/private patrol operator badges.
 - f. All security/private patrol guards/operators shall not consume any drugs or alcohol the day of or during any scheduled event.
 - g. All security/private patrol guards/operators shall report any crimes or public safety issues to the Hayward Police Department without delay by calling 911 or the Hayward Police Department Communications Center at (510) 293-7000.
 - h. There shall be a minimum of two (2) security guards/private patrol operators at each event where one hundred persons (100) or more are in attendance.
 1. There shall be one (1) additional security guard/private patrol operator for each one-hundred (100) persons expected to be in attendance to the event and only up to the maximum capacity of the business.
 2. There shall be at minimum, one (1) security guard/private patrol operator at the main entrance of the business during these events. This location shall be the only point of entry and exit for the entire event.
 - i. All security/private patrol operators shall periodically conduct security checks of adjacent parking lots to discourage loitering, consuming alcoholic beverages and smoking outside the facility.

- j. At the conclusion of all events, security/private patrol operators shall assist in the dispersing of any crowds in the parking lots or loitering about the outside of the business.
 - k. All security/private patrol operators shall assist the Hayward Police Department with the investigation of any incidents that may occur during the duration of any event to personnel of the Hayward Police Department.
19. The Hayward Area Historical Society shall maintain a fully operational digitally recorded CCTV Security system that covers all points of entry, exits, exterior barriers of the property, banquet locations and/or all overall locations where alcoholic beverages can be consumed. This system must have remote access (via internet or wireless system) that has real-time viewing capabilities by the permittee/licensee and accessible to the Hayward Police Department during any emergency. The recording capabilities must be that of a system that can maintain storage of recordings for a minimum of thirty (30) days and be provided to the any peace officer upon request. The Hayward Area Historical Society shall coordinate with Hayward Police Department staff regarding the location of security cameras.
 20. The Hayward Area Historical Society shall obtain and maintain a valid Dance Permit pursuant to §6-2.10 et seq of the Hayward Municipal Code, or any successor legislation, at all times dancing is allowed inside the establishment and the permittee shall at all times conduct such dances in accordance with the regulations established in the Hayward Municipal Code. The Dance Rules & Regulations pursuant to Hayward Municipal Code §6-2.15 shall be observed and posted in a conspicuous place within the premises. The Hayward Area Historical Society shall also obtain a cabaret license, if required by the Hayward Municipal Code.

Alcoholic Beverage Control/Service

21. The Alcoholic Beverage Control licensee shall maintain a valid ABC Type 41 License and abide by all conditions imposed by the California Department of Alcoholic Beverage Control.
22. Alcoholic Beverages may only be served in the banquet facility from 10:00 am to 10:00 pm Monday through Thursday and Sunday and 10:00 am to midnight Friday and Saturday.
23. Alcoholic Beverages shall only be consumed inside the business, on the rooftop patio garden, and in Municipal Parking Lot No. 11 if a permit is granted by the City of Hayward to host an event in Municipal Parking Lot No. 11.
24. The Alcoholic Beverage Control licensee shall be the only personnel authorized to dispense all alcoholic beverages and shall be supervised by personnel who have obtained proper training in the dispersing of alcoholic beverages by a LEADS Class conducted by the California Department of Alcoholic Beverage Control. For more information contact the ABC District Office at (510) 622-4970.

25. There shall be no type of “Bottle Service” or sales of individual bottles of distilled spirits or sales of “Buckets of Beer.” The sales of bottled wine (750ml) are permitted.
26. Officers, employees, volunteers and representatives of the licensee/permittee shall not consume any alcoholic beverages on the premises during the event if responsible for event management.
27. Peace officers, as listed in section 830.1 of the California Penal Code, and the Director and other persons employed by the Department of Alcoholic Beverage Control for the administration and enforcement of the Alcoholic Beverage Control Act are hereby authorized to visit and inspect the premise, at any time the licensee is exercising the privileges authorized by the Daily General Permit on such premises.
28. An encroachment permit is required for any event hosted by the Hayward Area Historical Society on any municipal parking lot. Also, pursuant to Section 4-1.04 (Exemptions Authorized by Permit-Special Events on Public Property with noise produced by mechanical or amplifying equipment), the City Manager or his/her designee may approve a special outdoor parking lot event hosted by the Hayward Area Historical Society if the event is: Of interest to a substantial number of persons residing in the City; is open to all persons residing in the City, subject only to the payment of a reasonable fee, if any, by those persons attending the event; and is in compliance with the Noise Ordinance regulations.
29. 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 shall be asked to leave.

Calls For Service/Critical Incidents

30. The occurrence of more than two (2) “Critical Incidents” during business hours with in a one (1) year period may constitute grounds for revocation of this permit.
 - a. “Critical Incident” is defined in Condition #15.
 - b. “Premises or its adjoining grounds” will include with the structure of 22380 Foothill Boulevard, the sidewalk where queuing of admission occurs, the area to the rear of the business and including any parking lots within 50 feet of the building.
 - c. Nothing in this condition restricts the authority of the City or Chief of Police to seek revocation of this permit for a single incident of extreme severity.

Fire Department

31. When the occupant load exceeds 300 persons within the fire separation walls, a fire alarm system shall be installed in accordance with NFPA 72. The occupant load in the open-air patio should be included in the calculation.
32. Annual Permit for Place of Assembly is required.

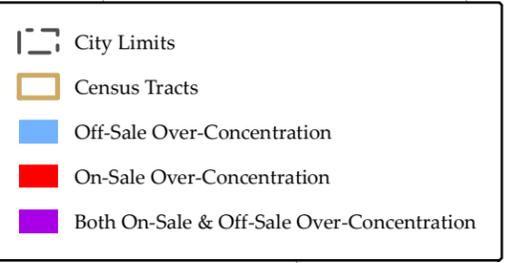
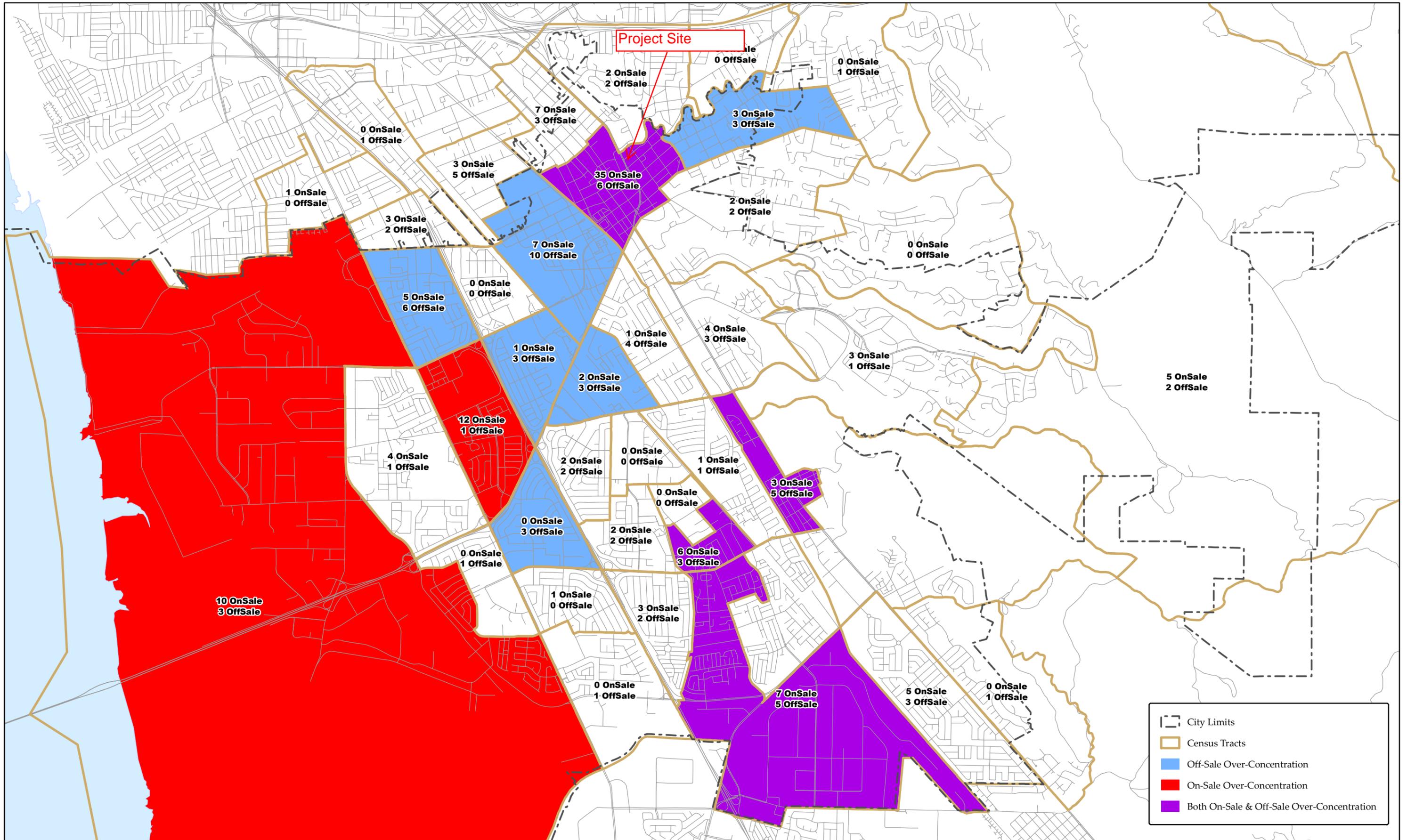
Solid Waste

33. All businesses must subscribe to at least weekly trash service with the City's franchisee. As of July 1, 2012, all businesses with 4 cubic yards or more of weekly trash service are required to arrange for weekly collection of mixed recyclables, e.g., paper; glass, metal and plastic food and beverage containers.
34. Adequate indoor and outdoor storage space for recyclables is required by state law (California Public Resources Code 42910-42912) and Hayward Municipal Code 5-1.27. For more information, please contact Paul Rosenbloom, Recycling Specialist at (510) 583-4724 or at paul.rosenbloom@hayward-ca.gov.
35. Pending completion of site renovations and full tenant move-in, expanded garbage and recycling service may be required. Please coordinate directly with Waste Management of Alameda County, (510) 537-5500.
36. The Hayward Area Historical Society is required to provide recycling collection containers, including organics collection when possible, at all events held in the banquet facility. Groups that rent the facility shall be provided with recycling options. Recyclable plastic containers marked 1-7 are acceptable.
37. Groups shall be advised of the City of Hayward's polystyrene ban. All food providers, including special events promoters must use paper, aluminum or recyclable plastic food containers. Food containers such as cups, plates, bowls and trays made of polystyrene foam are prohibited from use at any event. This requirement applies to:
 - a. Foods eaten at a business, packaged leftovers, or ordered "to go."
 - b. Foods offered within Hayward that can be eaten without further preparation (e.g. cooked chicken, sandwiches or sushi.)
38. Not subject to the polystyrene ban are the following:
 - a. Polystyrene foam containers for raw meat, fish, poultry, or eggs.
 - b. Foods packaged outside of Hayward and later sold within the Hayward.
 - c. Single-use straws, coffee stirrs, utensils, and hot cup lids.
39. The Hayward Area Historical Society shall inform all food and beverage vendors of recycling, food waste and polystyrene ban ordinances and shall direct them to the City of Hayward website and <http://www.hayward-ca.gov/FoamBan> for further information.

40. All food and beverage vendors shall be informed that acceptable containers are available at: Costco, Lucky, Safeway, Smart & Final, Target and others. Please direct vendors to City of Hayward's website (www.hayward-ca.gov) for additional distributors.



Areas of Over-Concentration of Alcohol Establishments in Hayward





July 22, 2013

Dear Planning Commissioners:

There has been a history of promoters renting these types of venues and then hosting very large gatherings with young people consuming alcohol and other drugs, which has resulted in violent incidents that take significant police resources to handle.

It is for that reason that HCHY is very concerned that this use could be an easy source for youth to access alcohol, an environment in which alcohol-fueled crimes occur and then be a drain on police services.

In reading over the application and proposed conditions, HCHY membership has a number of questions and recommendations for changes to the CUP:

Questions:

- 1) Serving alcohol consistently seems more like a bar or restaurant not a banquet hall. Since they have a caterer on site, it sounds more like it's a restaurant... Does Hayward need another alcohol outlet like this?
- 2) According to the conditions (see #16g) at least 399 people can assemble here - this is a very large number. Does this building meet all life-safety codes for gatherings of 300 or 400 people? In particular, what will the Society do to ensure adequate life-safety egress in the event of a fire?
- 3) Does the Society have discretion over the selection of applications for the rental? Could they deny certain groups?
- 4) What is the City of Hayward's experience with other banquet halls having an operational restaurant and staying open all day?
- 5) Nothing is stated about preventing youth access to alcohol. What are the restrictions with serving alcohol? How will the applicant monitor that underage minors aren't accessing alcohol?
- 6) Is there a cap for how long events can serve alcohol?
- 7) I don't see any mention of the applicant for the banquet hall having adequate liability insurance for the event. Should the applicant be required to provide proof of liability insurance?
- 8) Regarding layout of the business and accessibility: Is the second floor accessible by elevators? Are there bathrooms on the second floor?

Recommendations:

- The Friday and Saturday night hours should be limited to a 10 pm closing; a 12 midnight closing takes this CUP away from a Historical Society fundraising scheme to a large-scale, 400-strong nightclub venue for lease or rent;
- 10am seems way too early to serve alcohol – serving should start no earlier than 1pm;
- In provision 32, strike 'should', replacing with 'must';
- The CUP needs careful editing: for example:
 - In condition 6, are occupants permitted in the roof-top garden after 10 pm? It's not clear.
 - In conditions 6 and 7, does 'closed' mean 'closed and unlocked' or 'closed and locked'?
 - In condition 8, what is a 'representative from the management of the Society'? This term needs better, clearer definition.
 - What are the limits on sub-leasing or sub-permitting? In other words, may the Society sublease the premises? May such sublessee, in turn, sublease? This issue needs to be addressed directly in the CUP.
 - Condition 16 is too open-ended. For example, condition 16.g implies the Permit may be extended to more than 400 occupants by action -- or inaction -- of the Police Department.
 - Condition 17 must obligate approval of the security plan by the City, including the Police Department, prior to any banquet or related activity.
 - The second sentence of Condition 17 is poorly worded; this condition could be significantly tighter.
 - What are the penalty(ies) for failure to adhere to one or more of the conditions of the CUP? Is revocation the only penalty? Could the City impose a financial penalty(ies) for such failure?
 - Condition 19.b uses the term 'event hosts'. What are such hosts? The Permittee? A sub-permittee? All key terms should be well-defined in the CUP.
 - In condition 19.c, what if some occupants remain on premise more than 30 minutes after event conclusion?
 - In condition 19.h, what if just under 200 people attend a dance or other event serving alcohol? Shouldn't security be tied to the event-type, too (not just to total occupant load)?
 - In condition 22, who is 'Licensee'? Such term is not defined in the CUP.
 - Condition 23 conflicts with the days and hours of operation stated earlier in the CUP for Sunday through Thursday.
 - In the write-up, the Society proposes to contract with a caterer for alcohol-service; yet, Condition 24 implies only Permittee (the Society) or Licensee (an undefined term) may do so.
 - Condition 25 should prohibit the sale of growlers or growler service.
 - Condition 27 uses the lower-case term 'licensee'. Who or what is same? Again, the language should be tightened.
 - Condition 28 should reduce the threshold to one (1) Critical Incident.

Thank you for your careful consideration.

DATE: September 5, 2013

TO: Planning Commission

FROM: Director of Development Services

SUBJECT: **Proposed Revisions Related to Hayward’s Alcohol Beverage Outlet Regulations and Proposed New Regulations for Cabarets and Dances to Replace Hayward’s Public Dance Provisions, including Proposed New Fees (Text Amendment Application No. PL-2013-0175); the City has Prepared a Negative Declaration, which Concludes That the Project Will Not Have a Significant Negative Impact on the Environment; Applicant: City of Hayward**

RECOMMENDATION

Making the findings attached to this report (Attachment VI), that the Planning Commission recommends that the City Council adopts the attached Negative Declaration/Initial Study (Attachment VII) and approves the proposed revisions to the City’s Alcohol Beverage Outlet Regulations (Attachment I), Zoning Ordinance definitions (Attachment II), various Zoning District regulations related to land uses (Attachment III), new regulations related to Cabarets and Dances (Attachment IV), and related new fees (Attachment V).

SUMMARY

Staff from the Development Services Department, Police Department, and City Attorney’s Office have developed Code revisions in response to City Council direction that “well managed and responsible establishments should be given maximum flexibility to operate successfully and poorly managed businesses should be shut down.” The objectives below were presented to and supported by the City Council and Planning Commission in December of 2012:

1. Amend regulations in order to better promote and attract desirable alcohol-serving businesses, especially full-service restaurants and boutique specialty shops in the Downtown and other target areas.
2. Ensure future alcohol-serving uses will be operated in a safe and responsible manner and contribute positively to the Hayward community.
3. Develop more aggressive ways to proactively and immediately shut down undesirable businesses that serve alcohol that result in large or frequent events that demand significant responses from, and allocation of resources by, the Hayward Police Department.
4. Provide a funding structure to support City staff activity associated with enforcement of City regulations associated with alcohol establishments.

Specifically, staff is recommending new provisions for the Alcohol Beverage Outlet Regulations (Attachment I) and Zoning Ordinance definitions (Attachment II), found in Chapter 10, Article 1 of the Hayward Municipal Code, including:

- Revised definitions for alcohol beverage sales establishment and full-service restaurants (to allow happy hours and live or recorded music at restaurants); and new definitions for cabarets (see below), critical incidents, and wine shops;
- Eight new performance standards applicable to all alcohol beverage sales establishments, similar to the “Deemed Approved” standards (see below);
- Enhanced noticing requirements for use permits for alcohol establishments, increasing from 300 to 500 foot radius;
- Codification of language from City Council Resolution No. 06-005, which prevents the City from issuing a letter of public convenience or necessity for any proposed new liquor store or bar in any Census tract that has an undue overconcentration of off-sale establishments, as determined by ABC;
- New “Summary Suspension” provisions that allow the Chief of Police to shut down an establishment for up to 30 days if there is an urgent need to protect the public from serious bodily injury or death, or a condition that represents an imminent threat to the public health, safety or welfare;
- New regulations that allow the City to charge a responsible party and/or ABC licensee for the actual costs incurred to respond to a critical incident;
- New “Deemed Approved” provisions applicable to nonconforming uses that establish basic performance standards, notification provisions, and enforcement procedures for such establishments and their “Deemed Approved” status; and
- Enhanced remedies to address violators, including establishing new fees (see below).

Staff is also recommending revisions to various Zoning Districts’ regulations to allow new uses defined in Attachment III as conditional uses (administrative use for wine shops).

Also, staff is recommending that new regulations be established for live entertainment and dancing activity at establishments (Attachment IV), which will replace the current Public Dance provisions found in Chapter 6, Article 2 of the Hayward Municipal Code and include:

- New definitions, including for “cabarets” (essentially where live entertainment, including dancing, is provided);
- New procedures and requirements for obtaining and annually renewing a cabaret license through the Hayward Police Department, including a requirement to obtain a conditional use permit from the City;
- New procedures and requirements for obtaining a single event cabaret/public dance permit through the Hayward Police Department;
- New operating standards for all cabarets and public dances;
- New security standards, including a requirement that a minimum of one trained security personnel be present for every 50 people on site at an event;
- New “summary suspension” provisions similar to those in the new alcohol regulations, which would allow the City to immediately close an event or cabaret should conditions warrant such action; and
- New provisions establishing ability to issue administrative citations and related fines for violators of these provisions (\$100 for first violation; \$200 for second violation, and \$500 for third and each subsequent violation).

Finally, staff is recommending that new fees (Attachment V) be established to help ensure cost recovery associated with alcohol-serving establishments, to include:

- Annual \$280 (full-service restaurants, wine shops, and retail stores that devote no more than five percent of their floor area to alcohol sales, storage, and display) or \$1,120 Alcoholic Beverage Establishment

Retail License fee, primarily related to cost recovery for Hayward Police Department (estimated to be approximately \$110,000 annually);

- Critical Incident Response fee equal to actual costs for Hayward Police Department and the City to respond to violent incidents or events requiring a large public safety response;
- Fines for violations of the Alcohol Beverage Outlet Ordinance of \$750 for the first offense, \$1,500 for the second offense, and \$2,500 for the third and subsequent offenses; and
- Cabaret/Dance License fee (\$103 per year) and Cabaret/ Dance Permit fee (\$42 for single event), which are consistent with current Public Dance Permit fees.

A list of all California Department of Alcohol Beverage Control (ABC) licensees in Hayward (207 total) is included as Attachment XVII to this report.

BACKGROUND

There have been several meetings held over the last year and a half related to this project. As indicated by City Council during its meetings on January 24 and June 19 of 2012 (see discussion below), the City's Alcohol Beverage Outlet Regulations in the Zoning Ordinance need to be revised. Concerns have been expressed by the public and Council members in the past as to whether the regulations (1) encourage needed restaurants and other desirable retail and entertainment establishments in target areas of the City, particularly Downtown; (2) provide adequate guidance regarding approval of alcohol serving establishments that have the potential to generate negative impacts and usurp scarce public safety resources; and/or (3) provide law enforcement with the necessary tools to take effective action against problematic locations selling alcohol. Also, concerns have been expressed that some of the standards and regulations are not business-friendly for full-service restaurants and may prevent some of those restaurants, which can operate without benefit of a conditional use permit, from reaching maximum business potential. The various meetings are summarized below, and the staff reports with attachments are available at the links provided and the minutes from the meetings are attached to this report as indicated.

Various Meetings –

A [January 24, 2012 Joint City Council and Planning Commission Work Session](#) was held to discuss need and policy framework to revise the City's alcohol beverage outlet regulations, with most of the discussion related to happy hours for full-service restaurants (see meeting minutes, Attachment VIII).

A [June 19, 2012 City Council Meeting](#) resulted in the Council establishing a six-month Trial Program through December 26, 2012 to allow happy hours from 4:00 to 9:00 pm and live or recorded music until midnight at full-service restaurants (see meeting minutes, Attachment IX). Over half of all ABC licensed establishments in Hayward are considered restaurants, though some would not meet standards required to be considered "full-service" restaurants (see later discussion).

A [December 4, 2012 City Council Meeting](#) extended the Trial Program happy hours and music for full-service restaurants to June 26, 2013 (see meeting minutes, Attachment X).

A [December 4, 2012 City Council Work Session](#) was held to discuss initial recommendations to comprehensively revise the City's alcohol beverage outlet regulations (see meeting minutes, Attachment XI). Council members generally expressed support for proposed "deemed approved" and "summary suspension" provisions, for continuing to allow happy hours and music at full-service restaurants, and for better addressing how to shut down problematic establishments. Some concerns were expressed with allowing certain more desirable alcohol-serving establishments with an administrative, versus conditional, use permit.

A December 11, 2012 Community Meeting was held in Council chambers to share information and receive input from the public. Approximately 25 members of the public attended the meeting and staff sent out over 200 notices for the meeting to all ABC licensees and other interested parties. Attendees commented that deemed approved performance standards should apply to all establishments that serve alcohol, some expressed concern that restaurants were allowed to become bars and nightclubs where serving food was not the establishment's primary purpose, and some expressed concerns with allowing certain uses to only obtain an administrative use permit to operate.

A [December 13, 2012 Planning Commission Work Session](#) was also held to discuss initial recommendations to comprehensively revise the City's alcohol beverage outlet regulations (see meeting minutes, Attachment XII). As the minutes reflect, public comments and suggestions included having deemed approved operating standards apply to all alcohol-serving establishments (staff has made a recommendation reflecting this); developing provisions to not allow restaurants to morph into night clubs and bars; limiting exposure of youth to alcohol; thoughtfully addressing impacts of not having a public hearing for certain uses (administrative use permit); and ensuring cost recovery. Several speakers addressed the concern that businesses with ABC licenses to operate as a restaurant actually operate as a night club or bar, where food was not served/provided at all times the business was open or the required minimum 60 percent non-alcohol sales threshold was not met. The importance of ABC and the Hayward Police Department providing sufficient oversight, inspections, and enforcement was acknowledged, as was the limited resources of each agency.

A [June 18, 2013 City Council Meeting](#) was held when Council again extended the Trial Program for Full-Service Restaurants up to December 26, 2013 (see meeting minutes, Attachment XIII).

A July 29, 2013 Community Meeting to share information and receive feedback on recommended revisions to the alcohol beverage outlet regulations, Zoning Ordinance definitions, new cabaret and dance provisions, and related new fees. Approximately 15 public members attended the meeting and staff received the following comments (staff's responses to each comment is shown after each comment):

- Regarding the definition of "Critical Incident" and the related critical incident response fee, a public member recommended that clarity be provided so that such an incident only be considered to have occurred if the response by Hayward Police Department is actually needed.
 - Staff believes the definition already responds to the concern, given the language in the definition that includes, "...*necessitating* a polices response of five (5) or more officers...". No change is proposed to be made.

- Provide revised definitions to better distinguish between a nightclub and a cabaret.
 - Staff believes the definitions already adequately distinguish between cabarets and night clubs/bars. Generally, a night club exists primarily to serve alcohol and may or may not include live entertainment. A cabaret exists primarily to provide live entertainment and may or may not entail alcohol sales.
- Provide a better term than “cabaret”.
 - Dictionary.com defines “cabaret” as 1) a restaurant providing food, drink, music, a dance floor, and often a floor show; 2) a café that serves food and drink and offers entertainment often of an improvisatory, satirical, and topical nature; 3) a floor show consisting of such entertainment: *The cover charge includes dinner and a cabaret.*; 4) a form of theatrical entertainment, consisting mainly of political satire in the form of skits, songs, and improvisations: *an actress whose credits include cabaret, TV, and dinner theater.*; and 5) a decoratively painted porcelain coffee or tea service with tray, produced especially in the 18th century. Also, the City of Emeryville and other cities use the term “cabaret” in their recently adopted regulations. No changes are proposed in response; however, should the Commission recommend a change, staff would suggest the term “Entertainment Establishments”.
- Revise the performance standards for all alcohol beverage sales establishments, including those with “Deemed Approved” status, primarily related to standards (a) through (c). Some attendees felt the standards should be more specific and less vague, others wanted a better distinction between violent and nonviolent crimes, and others wanted the standards to remain as proposed.
 - Staff, including Hayward Police Department and City Attorney’s Office staff, recommend that no changes be made to the standards. They are taken from Oakland’s provisions, which have withstood legal challenges. Staff feels there is benefit in having flexibility in the application of the standards. Also, guidance is provided by proposed Section 10-1.2770(d) of the regulations related to enforcement of the “Deemed Approved” standards, which indicate the following may be considered: length of time violation(s) have existed, nature and impact of violations on the community, and reasonable steps the ABC licensee has taken to remedy the violation(s). Therefore, no changes are proposed.
- An attendee felt an ABC licensee or operator of an establishment should not be responsible for repaying the City for costs incurred responding to a “critical incident,” and that the person(s) responsible for such incident should pay such fees/reimbursement costs. Discussion ensued at the meeting, which involved some attendees stating that an operator/licensee did have a duty and responsibility for preventing such incidents.
 - In recognition of the responsibility by non-licensees for such incidents, staff has added the bolded words in the following sentence to Section 10-1.2766 of the proposed regulations: “In addition to all other fees imposed in accordance with these Alcoholic Beverage Outlet regulations, a critical incident response fee shall be imposed on the **party responsible for such incident and/or the licensee** of any alcoholic beverage sales establishment,....”

City Policies - Existing policies and strategies from the Hayward General Plan seek to strike a balance between promoting economic growth and business choices for the public, while minimizing

impacts to quality of life in residential and retail neighborhoods. For example, the Economic Development Chapter of the General Plan contains the following strategies:

- Preserve and enhance Hayward's assets and character, which make it attractive as a residential community and as an economic investment.
- Approve development opportunities that result in minimal adverse impacts to the City's environment.
- Work cooperatively with local business and industrial associations to improve the general business climate and to stimulate new business investment.
- Promote Hayward as a city that has a broad variety of occupations and family incomes, ethnic diversity, diverse lifestyles and housing accommodations, a broad range of commercial services, educational and job opportunities, and many recreational opportunities.
- Promote Hayward as a destination for nonresidents.

The Land Use Chapter of the General Plan contains the following applicable strategies:

- Emphasize making the downtown a focal point for the City within a pedestrian-friendly environment.
- Recognize the importance of continuous retail frontage to pedestrian shopping areas by discouraging unwarranted intrusion of other uses that weaken the attractiveness of retail areas; encourage residential and office uses to locate above retail uses.
- Encourage both commercial and residential development in the area surrounding the Downtown BART Station.
- Encourage residential development in the downtown area to increase market support for business and to extend the hours of downtown activity.

Additionally, the purpose of the Central City - Commercial (CC-C) Subdistrict is to, “establish a mix of business and other activities which will enhance the economic vitality of the downtown area. Permitted activities include, but are not limited to, retail, office, service, lodging, entertainment, education, and multi-family residential uses.”

Along with the fiscal reality of limited resources, such policy direction provides a framework within which to consider revisions to the City’s Alcohol Beverage Outlet regulations.

California Department of Alcohol Beverage Control - The California Department of Alcohol Beverage Control (ABC) has sole authority related to licensing alcohol sales. ABC issues a variety of licenses related to alcohol service. Two of the most common types of licenses issued by ABC for on-site sale of alcohol are Type 47 and Type 48 licenses. Type 47 licenses (On-Sale General for Bona Fide Public Eating Places) are typically associated with restaurants and require more than 50% of sales at an establishment to be related to non-alcohol sales. Generally, ABC defines such establishments as places that allow minors during business hours and which serve meals, and also sell beer, wine and distilled spirits. Type 48 licenses (On-Sale General for Public Premises) are typically associated with a bar or nightclub and entail the sale of beer, wine and distilled spirits for

consumption on the premise where sold. Minors are not allowed to enter or remain and food service is not required.

According to ABC staff, alcohol sales are taxed by the State Board of Equalization, which checks restaurant receipts. If there is more than 50 percent alcohol sales (in violation of the standard ABC Type 47 license for a restaurant), then the State Board of Equalization contacts ABC, which will open up an investigation. The Hayward Police Department is contacted when an establishment is under investigation by ABC. Typically, due to limited resources, Hayward Police Department does not check receipts, but will work with ABC if complaints are received about an establishment. The proposed new regulations and fees will provide funding and provisions to allow Hayward Police Department to conduct more compliance checks at alcohol-serving establishments.

History of City's Alcohol Beverage Outlet Regulations – The City's original Alcoholic Beverage Outlet regulations were adopted in 1993, and the stated purpose of those regulations was to stem the proliferation of establishments selling alcoholic beverages within the City, with the notion that they present problems which adversely impact residents, businesses, property owners, visitors, and workers of Hayward. The regulations were intended to address problems associated with establishments engaged in the sales of alcoholic beverages by restricting their locations in relation to one another and to their proximity to facilities primarily devoted to use by children and families with children. Such regulations entailed establishing a requirement for conditional use permits for new establishments engaged in the sale of alcoholic beverages, where conditions could be established to prevent the undesirable impacts on the community. Several changes to the original regulations were made, particularly related to the Downtown.

The City last comprehensively revised its alcohol beverage outlet regulations in 2006. According to the record, the City Council was interested in (1) pursuing changes to the regulations that focused on the Downtown, liquor stores, and bars; (2) the extent of alcoholic beverages permitted to be sold by physical volume (e.g., cubic feet) rather than percentage of floor area; and (3) re-examining the relevance of the current separation requirements between establishments involved in the sale of alcoholic beverages.

DISCUSSION

Staff has been working on developing comprehensive revisions to the City's alcohol beverage outlet and related regulations since the City Council in late September of 2011, when adopting the South Hayward BART Form-Based Code, directed staff to develop such revisions. Staff has reviewed the alcohol regulations from various cities, including the cities of Emeryville, Fremont, Pleasanton, San Francisco, San José, San Diego, Ventura, and Walnut Creek. Following is a discussion and staff's analysis in support of recommendations for revisions.

Overview of Proposed Revisions to Alcohol Beverage Outlet Regulations and Definitions (Attachments I and II) – Staff is recommending that the alcohol regulations be moved to a new stand-alone Section (10-1.2750 et seq) of the Zoning Ordinance. The purpose of the current regulations is stated at the beginning of the regulations (see Attachment I). The stated specific purpose of the regulations is “to provide for the orderly integration of alcohol-related uses, including the sale of wine and beer.”

New alcohol serving establishments in Hayward are required to operate via a conditional use permit approved by the Planning Commission (or City Council upon appeal) via a noticed public hearing. As reflected in Section 10-1.2754 of Attachment I, exceptions to such requirement include “full-service” restaurants (see subsequent discussion); retail stores having at least 10,000 square feet of floor area and which devote not more than 5 percent of such area to alcohol sales, display, and storage; and special event functions, such as neighborhood or community festivals (provided other required permits and licenses are obtained for such events). If establishments operating under a use permit become problematic or operate in conflict with their use permit conditions, the City can revoke such use permits and seek to shut down such establishments.

However, many establishments within Hayward have existed for years before the current regulations requiring a conditional use permit (called nonconforming uses). Hayward Police Department staff have indicated that alcohol-serving establishments that are the most problematic and entail high calls for service are nonconforming uses/businesses. Of the 207 existing ABC licensed establishments in Hayward, 26 operate via use permits, 24 are considered exempt from needing a use permit due to them being larger stores that devote less than five percent of their floor area to alcohol, and 92 businesses operate without conditional use permits as restaurants per their ABC licenses. Of course, not all ABC-licensed restaurants comply with the City’s standards to be considered “full-service” restaurants (see later discussion). However, assuming all restaurants in Hayward were “full-service” restaurants, of the 207 ABC- licensed establishments in Hayward, 65 establishments would be considered nonconforming; meaning, they would need a use permit if they were proposed to open today.

The bottom of page nine of the attached regulations (Attachment I, Section 10-1.2761) provides direction regarding nonconforming uses (also see related discussion regarding deemed approved provisions). Consistent with state law, those provisions indicate such businesses may operate without a use permit, unless a change to their liquor license occurs or there is a substantial change in the mode or character of operation of an establishment. Such change could include an expansion in the area devoted to alcohol sales/consumption or a pattern of conduct occurs in violation of other laws or regulations. If such occurs, a conditional use permit would be required for such establishments to continue to operate.

Full Service Restaurants (Section 10-1.2751(i) (pages four and five of Attachment I)) – These provisions define a “full service restaurant” and identify operating standards. Generally, such restaurants, which staff is recommending now include delicatessens, are allowed to serve alcohol without benefit of a conditional use permit, but are required to provide meal service at all times when they are open. In the past, such restaurants *were* prohibited from providing live or recorded entertainment, including music, except for background music as approved by the Chief of Police. However, consistent with a trial program that has existed since June of 2012, the proposed revisions would allow reduced price alcohol sales (happy hours) at full-service restaurants from 4:00 to 9:00 pm, provided reduced price appetizers and non-alcoholic drinks are offered, and would allow live or recorded music until midnight, provided such music was in compliance with the City’s noise standards. During the trial program, staff has received input from restaurant operators and Chamber of Commerce members indicating that such program has helped existing restaurants be more competitive and successful (up to thirty percent increase in sales). Hayward Police Department staff

have reported no noticeable increase in crime or calls for service at restaurants since the initiation of the program. Staff is not recommending that late night happy hours be allowed, given those hours typically occur after meal time and could encourage over-drinking.

Such provisions will help retain and attract new full-service restaurants, which a recent leakage analysis conducted in early 2013 for the City's Economic Development Strategic Plan showed that Hayward is underserved with such restaurants.

Performance standards (Section 10-1.2752 (page 5 of Attachment I)) – These eight basic operating standards will be required of all alcohol selling/serving establishments, including full-service restaurants, grocery stores, etc. The standards require that establishments not represent an adverse effect or jeopardize or endanger persons in the surrounding areas, not violate any federal, state, or local provisions (specifically including those of ABC and including not selling alcohol to minors), not create a public nuisance or adversely affect the livability of abutting properties and the surrounding neighborhood, and that employees that will serve or sell alcohol attend and complete a training class on responsible beverage service within 90 days of employment (employees of larger grocery stores excluded).

Public Convenience and Necessity (Section 10-1.2763 (page 10 of Attachment I)) – Although not previously recommended, but reflective of comments received in the past from the public and City Council members and Planning Commissioners, staff is recommending that provisions be added that would preclude letters of public convenience and necessity from being issued to ABC for proposed new liquor stores or bars in Census tracts that, per ABC, have an undue or over concentration of off-sale establishments¹. Such letters are required by ABC in order for it to issue licenses to establishments in overconcentrated areas. Essentially, these recommended provisions would preclude the City from processing and approving conditional use permits for new liquor stores or bars in such areas of the City. Attachment XV is a map that shows areas of the City where there is an overconcentration of off-sale establishments (blue and purple areas on the map, including the Downtown area). These new provisions would codify the policy established by City Council Resolution 06-005 (Attachment XIV).

¹ Business and Professions Code Section 23958.4:

(a) For purposes of Section **23958**, "undue concentration" means the case in which the applicant premises for an original or premises-to-premises transfer of any retail license are located in an area where any of the following conditions exist:

(1) The applicant premises are located in a crime reporting district that has a 20 percent greater number of reported crimes, as defined in subdivision (c), than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.

(2) As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.

(3) As to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

New “Summary Suspension” provisions (Section 10-1.2765 (pages 10 through 13 of Attachment I)) - These regulations would allow the Chief of Police or his/her designee, after consultation with the City Manager and City Attorney (or their designees) to shut down an establishment for up to 30 days if it is determined by the Chief, City Manager, or City Attorney or their representatives that there is an “imminent threat to public health, safety or welfare requiring immediate emergency action.” The procedures would allow the Police Chief to try to informally have the responsible party eliminate the imminent threat. However, should such informal action not result in elimination of the imminent threat, the Chief can issue a written notice of summary suspension of the establishment’s City-issued license or permit to operate. An aggrieved party may appeal the summary suspension by submitting an appeal in writing to the Chief of Police, City Manager and City Attorney (or their designees, collectively known as the “Summary Suspension Reviewing Officials”) within three business days of receiving a written notice of summary suspension. An administrative hearing to review the appeal shall be held within five business days of receipt of the written appeal. The appellant will be given opportunity at the hearing to provide evidence that “either rebuts the grounds for which the summary suspension was issued or demonstrates that the reason or reasons leading to the summary suspension have been mitigated or corrected.” A decision by the Reviewing Officials shall be issued within 24 hours of the hearing and in writing within three business days after the hearing. The decision of the Reviewing Officials is appealable to the Planning Commission, and the Planning Commission’s decision is appealable to the City Council, whose decision is final. The appellant shall be responsible for paying for the costs of hearings.

In summary, these provisions provide specific legal authority for the City to respond quickly and affirmatively in situations where an imminent threat to public health and safety exists, while also providing due process for involved persons/parties.

Critical Incident Response Fee (Section 10-1.2766 (page 13 of Attachment I)) – These provisions require that an ABC licensee and/or person(s) responsible for such incidents reimburse the City for the actual costs of police services, including but not limited to personnel, equipment and mutual aid response costs, incurred in responding to such incidents. A critical incident is defined as an incident that results in “a crime of violence or large, unruly gathering necessitating a police response of five (5) or more police officers”. Crimes of violence “include but are not limited to discharge of firearms, robbery, physical assault or assault with a deadly weapon.” Such fees are due in full within 30 days of the Chief of Police providing affected parties an itemized bill associated with the critical incident.

These provisions will allow responsible parties to reimburse the City for costs incurred in responding to such serious incidents, versus the general Hayward tax payer paying for those costs via the City’s General Fund.

“Deemed Approved” provisions (Sections 10-1.2767 through 10-1.2771 (pages 13 through 16 of Attachment I)) – These regulations would establish basic performance standards for nonconforming establishments that operate without use permit conditions. Such standards are similar to those standards required of all establishments (including conforming uses and large grocery stores and full-service restaurants (see previous discussion)). If approved, the provisions would require the City staff to send notice via certified mail to all operators of nonconforming establishments informing them of

their “Deemed Approved” status, including sending them the operating standards, and indicating they are required to operate in compliance with such standards and pay an annual fee (\$280 or \$1,120).

The new provisions also establish procedures and process for enforcing the “Deemed Approved” provisions. When the City Manager or his/her designee determine that an establishment is being operated in violation of the performance standards, a notice via certified mail will be sent to the establishment’s operator, identifying the violation(s) of the standards, action to be taken to correct or eliminate the violation(s), and a timeframe in which to do so. The notice shall also indicate that the “Deemed Approved” status may be revoked or provide notice of a Planning Commission public hearing. If a hearing is held before the Planning Commission, the Commission, after making findings that the establishment’s operation constitutes a public nuisance, may impose conditions as it deems appropriate to ensure compliance with the performance standards and to “protect the public health, safety and general welfare.” If the Commission determines the “Deemed Approved” status is to be revoked, it must find that imposition of additional conditions is not feasible. The Planning Commission’s action would be appealable to the City Council. Establishments who have their “Deemed Approved” status revoked shall be required to cease operations immediately after such revocation.

In summary, these provisions would ensure all nonconforming establishments (at least 65 of them in Hayward) operate and comply with basic public nuisance standards.

Miscellaneous Revisions –

- Revised “Liquor Store” definition (page 7 of Attachment II) – Defines liquor stores as an establishment primarily involving the sale of alcohol where beer, wine or distilled spirits are sold for off-sale consumption and where more than five (5) percent of the floor area of the establishment is devoted to the sale, display or storage of beer, wine or distilled spirits.
- New “Wine Shop” definition (page 12 of Attachment II) – Defines such uses as those existing primarily for the sale of wine and operated by a certified sommelier or oenologist (allowed as administrative uses in various zoning districts). Staff is recommending such provision to attract such shops to Hayward. An example of such an attractive use is “Doc’s Wine Shop”, which opened a few months ago on Foothill Boulevard in the downtown area. An Administrative Use Permit (AUP) is typically approved by staff and requires the same findings to be made as required for Conditional Use Permits (CUP), and entails the imposition of conditions to ensure such findings can be made. An initial notice for a wine shop would be sent to owners and residents within 500 feet of a proposed new wine shop, and staff has the ability to refer an AUP application to the Planning Commission for a public hearing. Staff would typically do so if the initial notice resulted in large number of protests from surrounding residents and property owners. Finally, a decision by staff to approve an AUP is appealable (\$257 appeal fee) to the Planning Commission.
- Enhanced noticing requirements (Section 10-1.2763 on page 10 of the Ordinance) – Requires notices to be sent to owners and residents within 500 (not 300) feet of a property proposed to have a new alcohol establishment requiring a conditional or administrative use permit.

- Cumulative Remedies (Section 10-1.2775 on page 17 of the Ordinance) – Establishes fines for violations of the alcohol regulations.

Proposed Revisions to Zoning Districts Allowed Land Uses – To reflect new definitions in the alcohol regulations, cabaret/dance provisions, and Zoning Ordinance definitions, staff is recommending the following, as reflected in Attachment III:

- Add “Wine Shop” as an allowed administrative use in the Central City Commercial (CC-C) subdistrict and in the General Commercial (CG) district;
- Add “Cabaret” as an allowed conditional use in the Central City Commercial (CC-C) subdistrict and in the General Commercial (CG) district;
- Add “Brewery” and “Distillery” as allowed conditional uses in the Central City Commercial (CC-C) subdistrict and in the General Commercial (CG) district.

Staff is proposing such revisions to encourage a greater variety of uses in the downtown and general commercial zoning district. Such uses would be subject to notification of property owners and residents within 500 feet of a proposed new facility, findings would be required for a conditional or administrative use permit, and a public hearing (except for a new wine shop - see previous discussion) would be required.

Overview of Proposed Cabaret and Dance Regulations (Attachment IV) – The proposed text in Attachment II would replace the current Public Dance regulations comprised of a page and a half found in [Chapter 6, Article 2 of the Hayward Municipal Code](#). Attachment IV states that activities at cabarets and dance events, “have the demonstrated potential for generating noise, crowd and traffic problems, interference with neighbors’ enjoyment and use of their property, disorderly conduct, vandalism and other nuisance activity.” Hayward Police Department have indicated such events, especially those involving large crowds that are not adequately maintained, can generate such negative impacts.

The following text summarizes the proposed new Code provisions:

New definitions, including for “Cabarets” (Section 6-2.11 on pages 2 and 3 of Attachment IV) – Cabarets are defined as establishments offering live entertainment, including singing, dancing, playing live music, performing comedy, etc. Public Dances are dances that differ from dancing at cabarets, in that they don’t entail live entertainment associated with the dancing.

Cabaret license application requirements and processing procedures (Sections 6-2.12 through 6-2.25 on pages 3 through 11 of Attachment IV) - Provides new procedures and requirements for obtaining and annually renewing a cabaret license through the Hayward Police Department, including a requirement to obtain a conditional use permit from the City.

The provisions identify the license application submittal requirements to the Hayward Police Department and establish an annual fee (recommended to be \$103 annually as currently required for public dance halls). The Chief of Police or his/her designee will conduct a background investigation and obtain criminal history information for each person required to be named on the application. The Chief shall render a decision on the application within 60 days of receipt of a complete application, and

shall issue the cabaret license, if approved, within 10 days of such decision. The Chief may deny the application, in which case such decision would be appealable to the Planning Commission. (Note the processing and issuance of a cabaret license could be done simultaneously and aligned with the processing of a conditional use permit application and associated decision by the Planning Commission.)

A cabaret license may be suspended or revoked by the City Manager if the establishment represents a threat or public nuisance; if it is operated in conflict with the cabaret license conditions or cabaret and dance provisions of the Code; if the associated conditional use permit has been suspended or revoked; or if the licensee fails to pay required fees. Such revocation or suspension shall be made only upon a hearing granted to the holder of the license, to be held before the City Manager after at least five (5) days' written notice to such licensee, stating generally the grounds of complaint against him/her and stating the time and place where such hearing will be held. After the hearing and designated "Hearing Officer", the Officer shall report findings to the City Manager within 30 days of the hearing, and the City Manager shall render a decision within 30 days of receipt of those findings, which shall be a final decision.

The provisions describe the process and information required to be submitted for annual license renewals. Licenses are not transferrable, unless such transfer is approved by the Chief of Police. Video and recordation systems and products are indicated as being required to be marked, dated and made available to police upon demand.

Single-event dance permits (Section 6-2.26 on pages 12 and 13 of Attachment IV) -

The procedures for submitting and processing a permit application for a single cabaret or dance event are stipulated. Such permits, to be approved by the Chief of Police, are not transferrable and are limited to no more than one per every three month period.

Operating standards for cabarets and dances (Section 6-2.27 on pages 13 and 14 of Attachment IV) - These establish standards for all cabarets and dance events, which prohibit any immoral, obscene, illegal conduct or behavior; prohibit youth under eighteen years of age unless accompanied by his/her parent or guardian, or if the Chief of Police approves such participants as part of an event planned specifically for youth; restrict dancing between 2:00 and 10:00 am; and require well lighted areas.

Security standards (Section 6-2.28 on pages 13 and 14 of Attachment IV) - These provisions establish new security standards for cabarets and dance/cabaret events, including a requirement that a minimum of one trained security personnel be present for every 50 people on site.

Text Amendment Findings - The following four findings are required to be made in order for a text amendment to be approved. Staff's responses to the findings are shown below and in Attachment VI.

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

The proposed text amendment will promote the public health, safety, convenience, and general welfare of the residents of Hayward by:

- a. allowing happy hours and music at full-service restaurants that will help existing Hayward restaurants be more competitive with restaurants in surrounding cities and will help attract new restaurants to Hayward, which is underserved with such restaurants;
- b. establishing performance standards for all alcohol beverage establishments that will help ensure such establishments are operated in a manner so as not to constitute a public nuisance;
- c. prohibiting more liquor stores or bars, which are typically establishments generating more calls for service for the Hayward Police Department, in areas of the City that have an overconcentration of such establishments, as defined by the State Department of Alcohol Beverage Control;
- d. establishing “Summary Suspension” provisions to allow the City to quickly and effectively shut down an establishment where an imminent threat to public health and safety exists;
- e. creating cost recovery mechanisms through new fees, including critical incident response fees, which will help ensure more oversight of alcohol establishments by the Hayward Police Department;
- f. establishing “Deemed Approved” performance standards for nonconforming uses, which typically generate more calls for service for the Hayward Police Department, which will help ensure such uses are operated in a manner so as not to create a public nuisance or negatively impact the public health, safety and welfare; and
- g. creating new operating standards for all cabarets and public dances, including security standards and “Summary Suspension” provisions to help ensure such businesses are operated responsibly with minimal impacts to the public, and to provide a process that allows the City to respond quickly to incidents at cabarets or dance events that represent an imminent threat to public health and safety.

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

The proposed text amendment is in conformance with city policies and plans. For example, the Economic Development Chapter of the General Plan contains the following strategies with which the amendment, as described in the preceding finding, is aligned:

- Preserve and enhance Hayward's assets and character, which make it attractive as a residential community and as an economic investment.
- Approve development opportunities that result in minimal adverse impacts to the City's environment.
- Work cooperatively with local business and industrial associations to improve the general business climate and to stimulate new business investment.
- Promote Hayward as a city that has a broad variety of occupations and family incomes, ethnic diversity, diverse lifestyles and housing accommodations, a broad range of commercial services, educational and job opportunities, and many recreational opportunities.
- Promote Hayward as a destination for nonresidents.

The Land Use Chapter of the General Plan contains the following applicable strategies:

- Emphasize making the downtown a focal point for the City within a pedestrian-friendly environment.
- Recognize the importance of continuous retail frontage to pedestrian shopping areas by discouraging unwarranted intrusion of other uses that weaken the attractiveness of retail areas; encourage residential and office uses to locate above retail uses.
- Encourage both commercial and residential development in the area surrounding the Downtown BART Station.
- Encourage residential development in the downtown area to increase market support for business and to extend the hours of downtown activity.

Additionally, the purpose of the Central City - Commercial (CC-C) Subdistrict is to establish a mix of business and other activities which will enhance the economic vitality of the downtown area. Permitted activities include, but are not limited to, retail, office, service, lodging, entertainment, education, and multi-family residential uses. The proposed text amendment will help attract new desirable uses and help ensure existing uses are operated in a responsible manner.

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

No properties are proposed to be reclassified. Any new alcohol establishments or cabarets or dance halls would be required to have adequate streets and facilities before operating, as currently required.

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

No properties are proposed to be reclassified. The proposed regulations and text amendment would provide additional standards to help ensure alcohol establishments and cabarets and dances are operated in a manner that would not generate impacts to surrounding properties and neighborhoods. In addition, the proposed text amendment would provide cost-recovery mechanisms that currently do not exist, which will allow for greater oversight of such establishments by the Hayward Police Department.

Environmental Impact Analysis – Staff prepared a Negative Declaration and Initial Study (Attachment VII), in accordance with the California Environmental Quality Act (CEQA), which concludes the proposed text amendment and new fees would not generate significant environmental impacts.

ECONOMIC IMPACT

With revisions to the City’s alcohol regulations that would provide more enforcement authority for problematic establishments and greater flexibility to attract desired alcohol-serving establishments,

there would be expected to be positive economic benefits through an enhanced and attractive Downtown and business environment. Establishments that demonstrate responsible alcohol service and sales contribute to the economic vitality and activity in entertainment areas of cities that seek to attract residents and visitors. The success of allowing happy hours and music at full-service restaurants as part of a trial program is a good example of how regulations can positively impact economic growth and assist retaining and attracting desirable businesses.

FISCAL IMPACT

In coordination with Hayward Police Department staff, the following fees are proposed to help ensure cost recovery:

- Annual \$240 Alcohol Establishment Retail License Level I fee (full-service restaurants, wine shops, and retail stores that devote no more than five percent of their floor area to alcohol sales, storage, and display) or annual \$1,120 Level II fee for all other ABC-licensed establishments. Such fees are primarily related to cost recovery for Hayward Police Department, and would generate an estimated approximately \$110,000 annually, sufficient to support about 0.5 FTE police officer. The fees above are based on a rough estimate of conducting a compliance check, which on average takes 90 minutes, at a cost of roughly \$280. Therefore, establishments with Level I fees would generally be subject to a compliance check once a year and Level II fee establishments four times a year. Attachment XVII identifies the recommended fee for each alcohol establishment.
- Critical Incident Response fee, to be equal to actual costs for Hayward Police Department and the City to respond to violent incidents or events requiring a response involving five or more police officers, is proposed to ensure recovery of costs related to response to incidents that represent an imminent threat to public health and safety.
- Fines for violations of the Alcohol Beverage Outlet Ordinance of \$750 for the first offense, \$1,500 for the second offense, and \$2,500 for the third and subsequent offenses are proposed to provide incentive for compliance and to assist with cost recovery in enforcing the regulations.
- Cabaret License fee (\$103 per year) and Cabaret/ Dance Permit fee (\$42 for single event), which are consistent with current Public Dance Permit fees, are proposed to help cost recovery associated with the Police Department's processing of annual cabaret licenses and single cabaret or dance events.
- New provisions allowing for administrative citations and assessment of fines for violators of the Cabaret and Dance provisions (\$100 for first violation; \$200 for second violation, and \$500 for third and each subsequent violation).

There will undoubtedly be demand from the General Fund primarily related to staff of the Finance and Development Services Departments, as well as the City Attorney's Office, in enforcing the recommended provisions, especially the "Deemed Approved" provisions that require noticing and annual collection and oversight of fees. It is difficult to estimate that cost, and will depend on the cooperation and response of operators to the "Deemed Approved" provisions and notices that will be sent out if the text amendment is approved. Future annual adjustments to fees may be needed in response to such demands and costs.

PUBLIC CONTACT

Significant outreach has occurred over the last two years for these proposed regulations, as described in the BACKGROUND section of this report. A notice of this hearing and the planned future City Council hearing was sent in mid-August to over 200 public members, including to all ABC licensees in Hayward and various interested parties (Hayward Chamber of Commerce President Kim Huggett, COMMPRE Program Director Linda Pratt, etc.). Also, a notice of this hearing and future planned Council hearing was published in *The Daily Review* on August 21, 2013. Staff has not received specific comments regarding those notices as of the date of finalization of this report.

NEXT STEPS

Staff will incorporate input from the Planning Commission and forward the Commission's recommendation to the City Council for a public hearing scheduled for September 24, 2013.

Prepared and Recommended by:



David Rizk, AICP, Development Services Director

Attachments

- Attachment I: Proposed Revisions to Alcohol Beverage Outlet Regulations (red-lined version) – new HMC Sections 10-1.2750 *et seq.*
- Attachment II: Proposed Revisions to the Zoning Ordinance Definitions (HMC Section 10-1.3500)
- Attachment III: Proposed Revisions to Various Zoning District Regulations
- Attachment IV: Proposed new Cabarets and Dances Regulations (Chapter 6, Article 2 of the Hayward Municipal Code)
- Attachment V: Proposed Revisions to the Master Fee Schedule
- Attachment VI: Findings
- Attachment VII: Negative Declaration/Initial Study
- Attachment VIII: January 24, 2012 Joint City Council/Planning Commission Work Session Minutes (partial)
- Attachment IX: June 19, 2012 City Council Meeting Minutes (partial)
- Attachment X: December 4, 2012 City Council Meeting Minutes (partial)
- Attachment XI: December 4, 2012 City Council Work Session Minutes (partial)
- Attachment XII: December 13, 2012 Planning Commission Work Session Minutes (partial)
- Attachment XIII: June 18, 2013 City Council Meeting Minutes (partial)
- Attachment XIV: City Council Resolution No. 006-05 (Letters of Public Convenience and Necessity)
- Attachment XV: Map Showing Census Tracts Overconcentrated with Alcohol Establishments
- Attachment XVI: Map Showing Locations and Types of ABC Licensees in Hayward
- Attachment XVII: List of ABC Licensees in Hayward

August 28, 2013

Note: Changes made since the July 29, 2013 meeting are highlighted in yellow.

ORDINANCE NO. __

ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE
HAYWARD MUNICIPAL CODE RELATING TO ALCOHOLIC
BEVERAGE OUTLETS

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

Section 1. Upon the adoption of this Ordinance, Sections 10-1.2735b(1)-(13) of the Hayward Municipal Code are hereby repealed and, in substitution thereof, Sections 10-1.2750 through 10-1.2775, entitled “Alcoholic Beverage Outlets”, are hereby enacted to read as follows. The City Clerk is hereby directed to renumber Sections 10-1.2735c through 10-1.2735k sequentially to reflect the repeal of Section 10-1-2735b.

“SECTION 10-1.2750 ALCOHOLIC BEVERAGE OUTLETS

Sections:

Section 10-1.2750	Purpose
Section 10-1.2751	Definitions
Section 10-1.2752	Performance Standards for Alcoholic Beverage Sales Establishments
Section 10-1.2753	Security Requirements for New On-Sale Alcohol-Related Establishments with Cabaret Licenses
Section 10-1.2754	Conditional Use Permits for New Alcoholic Beverage Sales Establishments
Section 10-1.2755	Posting of Conditions of Approval
Section 10-1.2756	Findings
Section 10-1.2757	Application for Conditional Use Permit
Section 10-1.2758	Requirements for New On-Sale Alcohol-Related Establishments
Section 10-1.2759	Requirements for New Off-Sale Alcohol-Related Establishments
Section 10-1.2760	Conditions of Approval
Section 10-1.2761	Existing Establishments Selling Alcoholic Beverages
Section 10-1.2762	Modifications Permitted in Alcoholic Beverage Sales Establishments
Section 10-1.2763	Notice
Section 10-1.2764	Letter of Public Convenience or Necessity
Section 10-1.2765	Emergency Action to Abate Imminent Threats to Public Health, Safety or Welfare; Summary Suspension Procedures
Section 10-1.2766	Critical Incident Response Fee for Alcoholic Beverage Sales Establishments
Section 10-1.2767	Legal Nonconforming Alcoholic Beverage Sales Establishments; Deemed Approved Status
Section 10-1.2768	Notification to Owners of Deemed Approved Status
Section 10-1.2769	Deemed Approved Performance Standards
Section 10-1.2770	Procedure for Enforcement of Deemed Approved Performance Standards
Section 10-1.2771	Revocation of Deemed Approved Status
Section 10-1.2772	Liability for Expenses
Section 10-1.2773	Inspection and Right of Entry

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Section 10-1.2774 Nuisance
 Section 10-1.2775 Cumulative Remedies

SEC. 10-1.2750 PURPOSE.

In addition to the general purposes listed in Section 10-1.110, General Provisions, the specific purpose of the Alcoholic Beverage Outlet regulations is to provide for the orderly integration of alcohol-related uses, including the sale of wine and beer, in a manner that will protect public safety and encourage business growth.

- a. In adopting these regulations, it is recognized that the proliferation of establishments selling alcoholic beverages within the City of Hayward presents problems that affect residents, businesses, property owners, visitors, and workers of Hayward. At the same time, it is also recognized that regulations that promote responsible alcohol sales and consumption can contribute to economic vitality, particularly in the downtown area of Hayward.
- b. Problems which can result include, but are not limited to, crime, littering, loitering, public intoxication, disturbance of the peace, discouragement of more desirable and needed commercial uses, and other similar problems connected primarily with the regular congregation of persons around establishments engaged in the sale of alcoholic beverages for consumption on or off the premises.
- c. It is also recognized that existence of such problems creates a serious impact on the peace, health, safety and welfare of residents of nearby areas including fear for the safety of children and visitors to the area, as well as contributing to the deterioration of neighborhoods and concomitant devaluation of property and destruction of community values and quality of life.
- d. These regulations are intended to ameliorate the types of problems identified above by restricting the location of establishments selling alcoholic beverages in relation to one another and their proximity to facilities primarily devoted to use by children and families with children.
- e. The use permit process is a means to review the effects of establishments selling alcoholic beverages on neighboring uses on a case by case basis, and to prevent the undue concentration of and undesirable impacts on the community stemming from such uses by the imposition of reasonable conditions upon the operation of such uses.

SEC. 10-1.2751 DEFINITIONS.

For the purpose of these regulations, certain terms and words shall have the following meaning:

- a. "Alcoholic Beverage Sales Establishment" shall mean an establishment involving the retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages. All alcoholic beverage sales establishments are required to obtain a license from the State of California Department of Alcoholic Beverage Control (ABC), and an annual alcohol beverage retail license and a conditional use permit from the City, unless otherwise indicated in these regulations. The fees for the annual alcoholic beverage retail

licenses shall be established by the City Council from time to time in the City's Master Fee Schedule, payable at the time the establishment obtains or renews its business license.

- i. "On-Sale Alcohol-Related Establishment" shall mean any business wherein alcoholic beverages are sold on the premises and are to be consumed on the premises including all related buildings, structures, open spaces and parking areas. This shall also include any facility, inclusive of a portion thereof, which is rented out for special event functions wherein alcoholic beverages are sold or given away on the premises and are to be consumed on the premises.
 - ii. "Off-Sale Alcohol-Related Establishment" shall mean any business that sells alcoholic beverages in original, unopened packages for consumption off of the premises where sold.
- b. "Cabaret" is defined in Chapter 6, Article 2 of this Code. ~~shall mean any establishment, event or place where live entertainment is provided by or for any patron or guest, including but not limited to singing, playing music, dancing, acting, conducting a fashion show, performing pantomime, performing comedy or other act or performance, either as the main purpose for such gathering or as an ancillary activity to some other purpose.~~ All cabarets must obtain a conditional use permit, unless the cabaret has deemed approved status as defined herein, and a cabaret license as required by Chapter 6, Article 2 of this code.
 - c. "Critical Incident" shall mean any event that, in the sole discretion of the Chief of Police, results in a crime of violence or large, unruly gathering necessitating a police response of five (5) or more police officers, directly or indirectly resulting from the operation of an alcoholic beverage sales establishment. Crimes of violence include but are not limited to discharge of firearms, robbery, physical assault or assault with a deadly weapon. Police response is the arrival of a police officer at the scene of a disturbance to render whatever service is reasonably required in order to protect public health, safety or welfare.
 - d. "Deemed Approved Alcoholic Beverage Establishments" shall mean those establishments identified in Section 10-1.2767.
 - e. "Downtown Entertainment Area" shall mean that area generally between A and D Streets and between Second Street and Grand Street.
 - f. "Licensee" shall mean the holder of an ABC license, an alcohol establishment retail license, a cabaret license and/or a use permit for the operation of an alcoholic beverage sales establishment.
 - g. "Liquor store" is defined in Section 10-1.3500 of this Ordinance ("Definitions"). All liquor stores must obtain a conditional use permit, unless the liquor store has deemed approved status as hereinafter provided. Liquor stores shall not be permitted in the Downtown Entertainment Area, until such time as ABC indicates that the census tract encompassing the Downtown Entertainment Area does not have an overconcentration of

off-sale ABC licenses.

- h. “Night Club” – **see definition of “Bar” as** defined in Section 10-1.3500 of this Ordinance (“Definitions”). All night clubs must obtain a conditional use permit, unless the night club has deemed approved status as hereinafter provided. Any night club that permits dancing or live entertainment on a regular basis must obtain a cabaret license as required by Chapter 6, Article 2 of this code, in addition to a conditional use permit.
- i. Restaurant - Full Service. A "full service restaurant" shall mean a sit-down alcoholic beverage sales establishment which is regularly used and kept open for the primary purpose of serving meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for such meals, and which may include an incidental bar, cocktail lounge, or other area designated primarily for the service of alcohol on the premises, which operates as part of the restaurant and is subservient to the primary function of the establishment, and which maintains a minimum of 60 percent of its gross receipts from the sale of meals. For purposes of these regulations, a full-service restaurant does not include fast food restaurants. For the purpose of verifying compliance with the foregoing sales requirement, the sales receipts, accounting ledgers, and any other business records pertaining to the sales of food and alcohol shall be open for inspection by the Chief of Police or his or her designee during regular business hours of the restaurant upon seventy-two (72) hours' prior written notice. Full-service restaurants may operate without a conditional use permit, provided that the restaurant observes the performance standards set forth in Section 10-1.2752 and meets the following criteria.
- (1) A full service restaurant shall serve meals to guests at all times the establishment is open for business. An establishment shall not be considered a full-service restaurant if it serves alcohol without meal service being provided.
 - (2) Any bar/lounge area cannot remain open when the dining area is closed. However, the dining area may be open while the bar/lounge area is closed.
 - (3) A full service restaurant may offer live or recorded music until midnight without a cabaret license or permit, provided the music is within the parameters established by the City's Noise Ordinance. Dancing or other form of live entertainment besides music is not allowed unless a conditional use permit and a cabaret license or permit is obtained, in accordance with Chapter 6, Article 2 of this code.
 - (4) A full service restaurant may offer reduced price alcoholic beverages served on the premises between the hours of 4:00 p.m. and 9:00 p.m., provided that such beverages are offered in conjunction with reduced price appetizers and reduced price non-alcoholic beverages.
- j. “Wine Shop” is defined in Section 10-1.3500 of this Ordinance (“Definitions”). All wine shops must obtain an administrative use permit, unless the wine shop has deemed

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approved status as hereinafter provided.

SEC. 10-1.2752 PERFORMANCE STANDARDS FOR ALCOHOLIC BEVERAGE SALES ESTABLISHMENTS.

All alcoholic beverage sales establishments shall abide by all of the following performance standards:

- a. The establishment does not result in adverse effects to the health, peace or safety of persons residing, visiting, or working in the surrounding area; and
- b. The establishment does not result in jeopardizing or endangering the public health or safety of persons residing, visiting, or working in the surrounding area; and
- c. The establishment does not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests; and
- d. The establishment does not result in violations to any applicable provision of any other city, state, or federal regulation, ordinance or statute; and
- e. The establishment's upkeep and operating characteristics are compatible with and do not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood; and
- f. The establishment's employees, except those employees with no customer contact, attend and successfully complete a training class on Responsible Beverage Service within ninety (90) days of being employed (exempting employees at retail stores having 10,000 square feet or more of floor area and which devote not more than five (5) percent of such floor area to the sale, display, and storage of alcoholic beverages); and
- g. The establishment complies with all of the Retail Operating Standards of the California Department of Alcoholic Beverage Control; and
- h. The establishment does not sell alcoholic beverages to minors.

SEC. 10-1.2753 SECURITY REQUIREMENTS FOR ON-SALE ALCOHOL-RELATED ESTABLISHMENTS WITH CABARET LICENSES.

All on-sale alcohol-related establishments that offer entertainment pursuant to a cabaret license or cabaret permit shall comply with the performance standards of Chapter 6, Article 2, "Cabarets and Dances",

SEC. 10-1.2754 CONDITIONAL USE PERMITS FOR NEW ALCOHOLIC BEVERAGE SALES ESTABLISHMENTS.

Except as otherwise provided herein, no new alcoholic beverage sales establishment may sell alcoholic beverages for either on-site or off-site consumption unless a conditional use permit has been approved for such establishment. A conditional use permit shall not be required if the establishment is one of the following:

- a. Retail stores having 10,000 square feet or more of floor area and which devote not more than five (5) percent of such floor area to the sale, display, and storage of alcoholic beverages;
- b. Full-service restaurants; or
- c. Special event functions such as neighborhood or community festivals, provided all of the following criteria are met:
 - (1) The person, group, business, or organization sponsoring the event secures all applicable permits from the City of Hayward;
 - (2) The person, group, business, or organization sponsoring the event obtains a temporary on-sale license from the State of California Department of Alcohol Beverage Control for each of the dates the event will be held; and
 - (3) The duration of the event does not exceed three (3) consecutive days or five (5) days in any single calendar year.

SEC. 10-1.2755 POSTING CONDITIONS OF APPROVAL.

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.

SEC. 10-1.2756 FINDINGS.

In making the findings required by Section 10-1.2815 governing conditional use permits, the Planning Director, or the Planning Commission on referral or appeal, shall consider whether the proposed use will result in an undue concentration in the area of establishments dispensing alcoholic beverages. The Planning Commission, or City Council on referral or appeal, shall also consider whether the proposed use will detrimentally affect the surrounding neighborhood after giving consideration to the distance of the proposed use from the following uses: Residential structures, churches, schools, public playgrounds and parks, recreation centers, and other similar uses.

SEC. 10-1.2757 APPLICATION FOR CONDITIONAL USE PERMIT.

In addition to the requirements set forth in Section 10-1.2815 and any other applicable City regulation, an application for a conditional use permit shall set forth and include the following:

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- 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 shareholder with a five (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.

SEC. 10-1.2758 REQUIREMENTS FOR NEW ON-SALE ALCOHOL-RELATED ESTABLISHMENTS.

- a. With the exception of the downtown entertainment area, no new on-sale alcohol-related establishment shall be permitted within a radius of five hundred (500) feet of any other on-sale or off-sale alcohol-related establishment (with the exception of new or existing establishments which are exempted under Section 10-1.2754), or within five hundred (500) feet of any school, public park, library, playground, recreational center, day care center, or other similar use.
- b. Notwithstanding the above:
 - (1) Outside the Downtown Entertainment Area, the Planning Commission may recommend to the City Council a lesser alternative distance requirement in a particular instance, if it is found that the public convenience and necessity will be served by an alternate space requirement and that alternative measures to assure public health and safety are provided with respect to sale and use of alcoholic beverages.
 - (2) Within the Downtown Entertainment Area, no on-sale alcohol-related establishment shall be established or maintained within a radius of one hundred (100) feet of any off-sale alcohol-related establishment (with the exception of new or existing establishments which are exempted under Section 10-1.2754), or of any school, public park, library, playground, recreational center, day care center, or other similar use. However, on-sale alcohol-related establishments that front B Street between Watkins Street and Foothill Boulevard, or Main Street between A and C Streets, shall not be restricted with respect to proximity to any school, public park, library, playground, recreational center, day care center, or other similar use.
 - (3) Within the Downtown Entertainment Area, no more than two (2) on-sale alcohol-related establishments shall be permitted per block side or face, with the exception of new or existing establishments that are exempted under Section 10-1.2754. Determination of location on a block side or block face shall be made by referring to the street address of the on-sale alcohol-related establishments on a block between the two immediate cross streets.

SEC. 10-1.2759 REQUIREMENTS FOR NEW OFF-SALE ALCOHOL-RELATED

ESTABLISHMENTS.

With the exception of the dDowntown eEntertainment aArea, nNo new off-sale alcohol-related establishment will be permitted within a radius of five hundred (500) feet of any other on-sale or off-sale alcohol-related establishment (with the exception of new or existing establishments which are exempted under Section 10-1.2754), or within five hundred (500) feet of any school, public park, library, playground, recreation center, day care center, or other similar use.

SEC. 10-1.2760 CONDITIONS OF APPROVAL.

To implement official City policy and to attain the purpose for requiring use permit approval, as stated in Section 10-1.3205 and Section 10-1.2750, as well as the findings listed in Section 10-1.3225, the Planning Commission, or the City Council on referral or appeal, may attach to approvals such conditions as it deems necessary. Violations of any of these conditions unless explicitly stated otherwise shall be independent grounds for permit revocation. These conditions may include, but are not limited to:

- a. Commission by the licensee or any employee of the licensee of a criminal offense for which:
 - 1) the licensed establishment was the location where the offense was committed or where there is a direct correlation between the licensee's establishment and the criminal offense; and
 - 2) such criminal offense is found to be detrimental to the public health, safety, or general welfare.
- b. Alcoholic beverage sales establishments shall provide exterior lighting that is adequate for the illumination and protection of the premises. Lighting shall be installed in such a manner that it does not shine into adjacent residential properties.
- c. Alcoholic beverage sales establishments with off-sale privileges shall prominently post a sign on the exterior of the premises stating that consumption of alcoholic beverages in public is prohibited by law pursuant Chapter 4 of the Hayward Municipal Code.
- d. Alcoholic beverage sales establishments shall discourage patrons and visitors from loitering in public rights-of-way, parking areas, and in front of adjacent properties.
- e. No beer or malt liquor shall be sold in bottles or containers larger than twelve (12) ounces for off-site consumption.
- f. Beer and malt liquor in containers of twelve (12) ounces or less shall not be sold in units of less than one six-pack for off-site consumption.
- g. Wine shall not be sold in bottles or containers smaller than seven hundred fifty (750) ml and wine coolers shall not be sold in containers smaller than twelve (12) ounces and in units of less than one four-pack for off-site consumption.
- h. Distilled spirits shall not be sold in bottles or containers smaller than seven hundred (750) ml for off-site consumption.

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- i. Consumption of alcoholic beverages shall not be permitted on any property adjacent to the licensed premises which is also under the control of the owner of the alcoholic beverage sales establishment.
- j. Alcoholic beverage sales establishments shall maintain trash and garbage storage areas that are enclosed by a solid fence or wall and screened from the view of abutting properties or the public right-of-way.

SEC. 10-1.2761 EXISTING ESTABLISHMENTS SELLING ALCOHOLIC BEVERAGES.

Any alcoholic beverage sales establishment lawfully operating prior to the effective date of these regulations and licensed by the State of California for the retail sale of alcoholic beverages for on-site or off-site consumption may continue such operations after the effective date of these regulations. Upon the occurrence of any of the following, however, operation of the establishment shall require approval of a conditional use permit:

- a. The alcoholic beverage sales establishment changes its type of liquor license within a license classification; or
- b. There is a substantial change in the mode or character of operation. As used herein, the phrase "substantial change of mode or character of operation" shall include, but not be limited to, expansion in the amount of area devoted to the sales or consumption of alcoholic beverages, a pattern of conduct in violation of other laws or regulations, or a cessation of use for a period of six (6) months or more.

SEC. 10-1.2762 MODIFICATIONS IN PERMITTED ALCOHOLIC BEVERAGE SALES ESTABLISHMENTS.

Any licensed alcoholic beverage sales establishment operating under either a conditional or an administrative use permit after the effective date of these regulations shall apply for a modification of its use permit pursuant to Section 10-1.3260 of the Hayward Municipal Code when either of the following occurs:

- a. The alcoholic beverage sales establishment changes its type of liquor license within a classification; or
- b. There is a substantial change in the mode or character of operations of the alcoholic beverage sales establishment as defined in Section 10-1.2761.

SEC. 10-1.2763 NOTICE.

In addition to the notice required by Section 10-1.2820, in the case of applications for conditional use permits or appeals of administrative use permits pursuant to these regulations, notice shall also be provided to occupants of buildings located on parcels within **five** hundred (**500**) feet of the

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perimeter of the subject property for which use permit approval is sought.

SEC. 10-1.2764 LETTER OF PUBLIC CONVENIENCE OR NECESSITY.

The Planning Director is authorized to issue letters of public convenience or necessity to the State Department of Alcoholic Beverage Control for alcoholic beverage establishments that have approved conditional or administrative use permits or where the establishment engaged in the sale of alcoholic beverages is exempt from a conditional use permit it. **No finding of public convenience or necessity shall be made to the State Department of Alcoholic Beverage Control in connection with the licensing of bars or liquor stores in any Census tract in which the ABC indicates that there is an over-concentration of ABC licenses.**

SEC. 10-1.2765 EMERGENCY ACTION TO ABATE IMMINENT THREATS TO PUBLIC HEALTH, SAFETY OR WELFARE; SUMMARY SUSPENSION PROCEDURES.

Whenever the Chief of Police, after consultation with the City Manager and the City Attorney, or their respective designees, determines that the operation of an alcoholic beverage sales establishment has caused an imminent threat to public health, safety or welfare requiring immediate emergency action, the following procedures will be implemented:

- a. **Informal Procedure.** The Chief of Police or designee will attempt to contact the licensee informally by telephone, by electronic communication, in-person meeting or by such other means of communication that the Chief reasonably determines will result in notice to the licensee of the imminent threat and the need for emergency action. The Chief will attempt to discuss with the licensee the circumstances resulting in the imminent threat to public health, safety or welfare and to obtain the licensee's consent to voluntary compliance measures that will, in the reasonable judgment of the Chief of Police, effectively abate the imminent threat to public health, safety or welfare. The informal procedure described in this subsection shall not prohibit the Chief of Police or designee from issuing a notice of suspension pursuant to subsection (b) below if:
 - (1) The attempt to contact the licensee fails; or
 - (2) The licensee fails or refuses to immediately implement the voluntary compliance measures that the Chief of Police deems will effectively abate the imminent threat; or
 - (3) The Chief of Police determines that the compliance measures that the licensee implements are insufficient to effectively abate the imminent threat and there are no reasonably feasible additional voluntary compliance measures that would abate the imminent threat; or
 - (4) The Chief of Police determines that the threat to the public health, safety or welfare is so urgent that compliance with the informal procedure set forth above will further jeopardize the public, health, safety or welfare.
- b. **Summary Suspension.** The Chief of Police, after consultation with the City Manager and the

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City Attorney, or their respective designees, may summarily suspend the alcoholic beverage sales establishment's City-issued license or permit to operate, for a period of time not to exceed thirty (30) days, if the Chief, the City Manager and the City Attorney, or their respective designees, determine that one or more of the following conditions exist:

- (1) There is an urgent need to take immediate action to protect the public from a substantial threat of serious bodily injury or death existing on or within one hundred (150) feet of the alcoholic beverage sales establishment; or
 - (2) There has been a violation of the alcoholic beverage sales establishment's license or permit or other state, local or federal law or regulation that creates an imminent threat to the public health, safety or welfare on or within one hundred fifty (150) feet of the licensed establishment; or
 - (3) The licensee has conducted the operation of the alcoholic beverage sales establishment in a manner that creates or results in a public nuisance as defined by Section 4-1.00 of this Code or California Civil Code Sections 3479 and 3480, and that the public nuisance creates an imminent threat to public health, safety or welfare on or within one hundred fifty (150) feet of the licensed establishment.
- c. Notice of Summary Suspension. The summary suspension shall take effect immediately on service of written notice to the licensee of the summary suspension. Written notice shall be provided by personal service on the licensee or, if personal service is not feasible, by U.S. mail and posting in a conspicuous place at the alcoholic beverages sales establishment. The written notice of summary suspension shall include the following information:
- (1) The effective date and the period of the summary suspension; and
 - (2) The grounds and reasons upon which the summary suspension is based; and
 - (3) The process and time deadline for requesting an administrative hearing before the Chief of Police, the City Manager and the City Attorney, or their respective designees (the "Summary Suspension Reviewing Officials") to appeal the summary suspension; and
 - (4) A copy of these Alcohol Beverage Outlet regulations governing summary suspensions.
- d. Duration of Summary Suspension. The summary suspension shall remain in effect until the earliest of the following occurs:
- (1) The Chief of Police amends the notice of summary suspension to shorten the time period the suspension remains in effect; or
 - (2) The Summary Suspension Reviewing Officials issue a decision after a conducting hearing that modifies or overrules the summary suspension; or
 - (3) Thirty (30) days have passed since the written notice of summary suspension was

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served.

e. Appeal of Summary Suspension.

- (1) If the licensee wishes to appeal the summary suspension, the licensee must file a written request for an administrative hearing before the Summary Suspension Reviewing Officials with the Chief of Police within three (3) business days of service of the notice of summary suspension. The written request shall set forth the grounds for challenging the summary suspension and contact information for the receipt of future notices from the City. If the Chief of Police does not receive a written request for a hearing within this time period, the notice of summary suspension shall become final.
- (2) The administrative hearing shall be conducted by the Summary Suspension Reviewing Officials within five (5) business days of receipt of the licensee's request for the hearing, unless the licensee requests an extension of time.
- (3) The Chief of Police shall serve written notice of the hearing on the licensee not later than two (2) business days after receipt of the written request for the hearing from the licensee. The notice of hearing shall contain the date, time and place where the hearing will be conducted. Service of the notice of hearing shall be made in accordance with the contact information provided by the licensee.
- (4) At the hearing, the licensee shall be given the opportunity to present evidence that either rebuts the grounds for which the summary suspension was issued or demonstrates that the reason or reasons leading to the summary suspension have been mitigated or corrected. The hearing will be conducted informally and technical rules of evidence shall not apply. All evidence that the Summary Suspension Reviewing Officials deem reliable, relevant and not unduly repetitious may be considered.
- (5) Following the conclusion of the hearing, the Summary Suspension Reviewing Officials shall issue a decision that affirms, modifies or overrules the summary suspension. If the summary suspension is modified or affirmed, additional conditions may be imposed on the license and/or use permit, provided those additional conditions were reviewed at the hearing and those additional conditions are intended to protect public health, safety and welfare or prevent the conduct or condition that gave rise to the summary suspension.
- (6) The Summary Suspension Reviewing Officials shall either issue an oral decision at the close of the hearing or the Chief of Police may communicate the decision by telephone within twenty-four (24) hours after the close of the hearing. In addition, the licensee shall be served with a written decision within three (3) business days after the close of the hearing. The Summary Suspension Reviewing Officials' decision shall be final on the tenth (10) after the written decision is served, unless appealed as set forth in this subsection.
- (7) The licensee may appeal the decision of the Summary Suspension Reviewing Officials

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- to the Planning Commission as provided in Section 10-1.2845. Decisions of the Planning Commission may be appealed by the licensee to the City Council as provided in Sections 10-1.2825(b) and 10-1.2845. Decisions of the City Council are final.
- (8) Costs of the administrative hearings authorized by this subsection may be established by the City Council from time to time in the Master Fee Schedule and shall be paid by the licensee.
- (9) The failure of any licensee to receive any notice required by this subsection shall not affect the validity of any proceeding hereunder.

SEC. 10-1.2766 CRITICAL INCIDENT RESPONSE FEE FOR ALCOHOLIC BEVERAGE SALES ESTABLISHMENTS.

In addition to all other fees imposed in accordance with these Alcoholic Beverage Outlet regulations, a critical incident response fee shall be imposed on the party responsible for such incident and/or the licensee of any alcoholic beverage sales establishment, including those with deemed approved status as hereinafter provided, whenever the police department responds to a critical incident at or directly or indirectly arising from the operation of an alcoholic beverage sales establishment. No warning shall be required before the imposition of the critical incident response fee. The critical incident response fee shall be the actual cost of police services, including but not limited to personnel, equipment and mutual aid response costs. The Chief of Police shall provide the licensee with an itemized bill for the critical incident, which shall be due and payable in full within thirty (30) days of delivery.

SEC 10-1.2767 LEGAL NONCONFORMING ALCOHOLIC BEVERAGE SALES ESTABLISHMENTS; DEEMED APPROVED STATUS.

All establishments engaged in on-sale or off-sale alcoholic beverage sales that were legal and nonconforming uses on the date these Alcoholic Beverage Outlet regulations became effective shall automatically be deemed approved uses as of the effective date of these Alcohol Beverage Outlet regulations and shall no longer be considered legal, nonconforming uses. Each such deemed approved use may continue to lawfully operate, provided that it does not change its type of retail ABC license or substantially change its mode of operation, as provided in Section 10-1.2761, and provided that it is operated and maintained in compliance with the “deemed approved performance standards” set forth in Section 10-1.2769.

SEC. 10-1.2768 NOTIFICATION TO OWNERS OF DEEMED APPROVED STATUS.

The Planning Manager or his or her designee shall notify the owner of each deemed approved alcoholic beverage sales establishment, and the property owner if not the same, of the establishment’s deemed approved status. Such notice shall be sent via certified mail return receipt requested and shall include a copy of the deemed approved performance standards, with the requirement that these standards be posted in a conspicuous and unobstructed place visible from the entrance of the establishment; that a fee is required and the amount of such fee; and that the establishment is required to comply with all aspects of the deemed approved regulations.

SEC. 10-1.2769 DEEMED APPROVED PERFORMANCE STANDARDS.

An alcoholic beverage sales establishment shall retain its deemed approved status only if it conforms to all of the following deemed approved performance standards:

- a. It does not result in adverse effects to the health, peace or safety of persons residing or working in the surrounding area;
- b. It does not result in jeopardizing or endangering the public health or safety of persons residing or working in the surrounding area;
- c. It does not result in repeated nuisance activities within the premises or in close proximity to the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests;
- d. It does not result in violations of any applicable provision of any other City, state, or federal regulation, ordinance or statute; and
- e. Its upkeep and operating characteristics are compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.
- f. The establishment's employees, except those employees with no customer contact, attend and successfully complete a training class on Responsible Beverage Service within ninety (90) days of being employed; and
- g. The establishment complies with all of the Retail Operating Standards of the California Department of Alcoholic Beverage Control; and
- h. The establishment does not sell alcoholic beverages to minors.

SEC. 10-1.2770 PROCEDURE FOR ENFORCEMENT OF DEEMED APPROVED PERFORMANCE STANDARDS.

- a. When the City Manager or his or her designee determines that a deemed approved alcoholic beverage sales establishment is operating in violation of the deemed approved performance standards, the City may issue a written notice of violation to the owner of the alcoholic beverage sales establishment and the property owner, if not the same. The notice of violation shall be sent by certified mail. Failure of any person to receive notice given pursuant to this section shall not affect the validity of any proceeding that may occur hereunder.
- b. Notice of violation shall describe the nature of the violation, the corrective action to be taken and the time within which the corrective action must be taken. A notice of violation shall also either:

- (1) Include a warning that a failure to correct the violation within the required time may result in the revocation of the establishment's deemed approved status and the imposition of penalties as provided in the City's Master Fee Schedule; or
 - (2) Provide notice that a public hearing before the Planning Commission will be scheduled, as provided in Section 10-1.2820, at which the Planning Commission shall determine whether the alcoholic beverage sales establishment as operated or maintained constitutes a nuisance and/or whether the establishment is in violation of any other applicable requirements.
- c. After such notice and public hearing the Planning Commission may modify or revoke the deemed approved status of the alcoholic beverage sales establishment. Any such action shall be supported by written findings that the establishment as operated or maintained constitutes a nuisance. As part of any modification, the Planning Commission may impose such conditions as the Planning Commission deems appropriate, including those necessary to obtain compliance with the deemed approved performance standards, to obtain compliance with other applicable laws and to protect the public health, safety and general welfare. If the Planning Commission determines that the establishment's deemed approved status should be revoked, the Planning Commission must find that the imposition of additional conditions on the alcoholic beverage sales establishment is not feasible.
- d. In deciding whether an alcoholic beverage sales establishment has violated the deemed approved performance standards, and/or in determining the appropriateness of modifying or revoking the deemed approved status, the Planning Commission may consider all of the evidence in the record, including, but not limited to the following:
- (1) The length of time the establishment has been in violation of the deemed approved performance standards;
 - (2) The nature and impact of the violation of the performance standards on the community;
 - (3) Reasonable steps that the ABC licensee has taken, pursuant to California Business and Professions Code section 24200 to remedy the violation. "Reasonable steps" to remedy a violation shall include but are not limited to calling the police department in a timely manner; requesting that the persons engaging in activities causing violations of the deemed approved performance standards cease such activities, unless the ABC licensee or his or her employees or agents reasonably believe that their personal safety would be threatened in making that request; and making improvements to the establishment's property or operations. Operators of deemed approved establishments are encouraged to call the police department to handle violations of the deemed approved performance standards. Accordingly, in order to avoid discouraging such calls for service, a violation of the deemed approved performance standards may not be based solely on the number of police calls for service that an establishment generates.
- e. The decision of the Planning Commission shall be final unless appealed to the City Council in accordance with Section 10-1.2825(b) and 10-1.2845. The decision of the City Council shall be

final.

- f. This section is not intended to restrict the powers and duties that may otherwise apply to deemed approved alcoholic beverage sales establishments and those persons or entities authorized to require conformance with applicable law. In the event of a conflict of law, the more restrictive provision controls.

SEC. 10-1.2771 REVOCATION OF DEEMED APPROVED STATUS.

An alcoholic beverage sales establishment that has been determined to be in noncompliance with the deemed approved performance standards and has had its deemed approved status revoked shall no longer be considered a legal use and shall cease operation immediately.

SEC. 10-1.2772 DEEMED APPROVED ALCOHOLIC BEVERAGE SALES ESTABLISHMENTS ANNUAL FEE; LIABILITY FOR EXPENSES.

The owner of a deemed approved alcoholic beverage sales establishment shall pay an annual fee, as shall be set by the City Council in the Master Fee Schedule, to cover the cost of administering the deemed approved regulations. Any person who is found to have violated the deemed approved Alcoholic Beverage Outlet regulations shall be liable for such costs, expenses and disbursements paid or incurred by the City or any of its contractors in the correction, abatement, prosecution of, or administrative hearing on, the violation. Reinspection fees to ascertain compliance with previously noticed violations shall be charged to the owner of the deemed approved establishment, as may be set by the City Council in the Master Fee Schedule.

SEC. 10-1.2773 INSPECTION AND RIGHT OF ENTRY.

To the extent permissible by law, the Chief of Police, the City Manager, the City Attorney, or their respective designees, shall have the right to enter and inspect any alcoholic beverage sales establishment for the purpose of ensuring compliance with the requirements of these regulations, provided that any such entry and inspection shall be conducted in a reasonable manner whenever there is reason to suspect a violation of any of the provisions of the Alcoholic Beverage Outlet regulations. If the licensee or his or her agents refuse permission to enter, inspect or investigate the alcoholic beverage sales establishment, the Chief of Police, the City Manager or the City Attorney, or their respective designees, may seek an inspection warrant pursuant to the provisions of California Code of Civil Procedure Sections 1822.50 *et seq.*, or any successor legislation thereto.

SEC. 10-1.2774 NUISANCE.

It shall constitute a nuisance for any person to operate an alcoholic beverage sales establishment, including deemed approved establishments, in violation of these Alcoholic Beverage Outlet regulations.

SEC. 10-2775 CUMULATIVE REMEDIES.

Any person who violates any provision of the Alcoholic Beverage Outlet regulations is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or

permitted. The remedies provided in these regulations shall be cumulative and may include administrative citation pursuant to Chapter 1, Article 7 of this Code, in addition to any other procedures provided in the Hayward Municipal Code or by state law, for the abatement of any violation of the Alcoholic Beverage Outlet regulations. Administrative action hereunder shall not prejudice or affect any other action, civil or criminal, for the maintenance of any such violation. The fines and penalties for violations of the Alcoholic Beverage Outlet regulations shall be established by the City Council in the Master Fee Schedule.”

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

Section 3. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ___ day of _____, 2013, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the ___ day of _____, 2013, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:
Mayor of the City of Hayward

DATE:

ATTEST:
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DRAFT

AUTOMOBILE REPAIR

- a. Automobile Repair - Minor. Minor automotive servicing and replacement of parts for passenger automobiles and/or motorcycles, usually in the same day. Services include, but are not limited to, engine tune-up, lubrication, and tire, muffler, brake, and electrical.
- b. Automobile Repair - Major. Repair garages and specialty establishments for motorcycles, and passenger automobiles and trucks of all sizes, such as machine, tire, body and fender, auto glass, radiator, transmission, motor tune-up, vehicle upholstery, and muffler shops. May also include repair of machinery and equipment.
- c. Home repair - minor adjustments or the replacement of vehicle parts where such adjustments or replacement may reasonably be expected to be accomplished within a forty-eight (48) hour period. No permit is required for such minor adjustments or replacement. Also see Section 10-1.2735.j. "Vehicle Parking, Repair, Display and Storage Requirements."

AUTOMOBILE SALES. An establishment engaged in the retail sales and services of new and used automobiles, trucks, trailers, motorcycles, mopeds, and recreation vehicles and supplies. May include farm or industrial equipment, machinery, and supplies.

AUTOMOBILE SERVICE STATION. A structure or area primarily designed and used for the retail sale of motor vehicle fuel and lubricants to the public by direct delivery into the user's vehicle and may include incidental motor vehicular services such as tire repair, battery charging, brake adjustment, motor tune-up and washing where no conveyor, blower or steam cleaning device is used. Sale of food, beverages and related items as determined by the Planning Director is permitted in conjunction with an automobile service station within commercial zoning districts.

AUTOMOBILE STORAGE FACILITY. An establishment engaged in the storage of new passenger automobiles, passenger trucks, motorcycles, or similar vehicles for the purposes of future retail sales at a separate location.

BANK. See "FINANCIAL INSTITUTION."

BANQUET HALL. An establishment engaged in periodic events such as weddings, dances, and potlucks. Typically is rented out to private parties and/or special interest groups. Usually includes food preparation and/or serving, and live entertainment or recorded music.

BAR, COCKTAIL LOUNGE. Any on-sale alcohol-related establishment that engages primarily in the sale of alcoholic beverages and where food service, if any, is subordinate or incidental to the sale of alcoholic beverages. Bars include night clubs, taverns, pubs, cocktail lounges and similar establishments. Please see Section 10-1.2750 "Alcoholic Beverage Outlets" for regulations.

BARBER, BEAUTY SHOP. An establishment where hair is washed, cut, dyed, and/or styled. May include ancillary services such as manicures or pedicures. Does not include massage or tanning services.

BATCH PLANTS. Any operation that involves sorting, crushing, reducing, refining, mixing,

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packaging or other processing of minerals for intermediate or final consumption.

BEDROOM. An enclosed space in a structure which is designed such that it could be used for sleeping purposes as determined by the Planning Director. A bedroom typically meets the room dimension requirements of the most recent edition of the Uniform Building Code, is not accessed directly from the garage, and has one or more windows.

BICYCLE SHOP. An establishment engaged in the retail sales and/or repair of bicycles. Does not include motorcycles or mopeds.

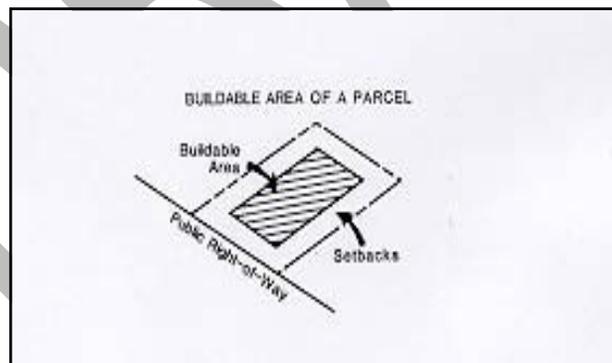
BOARDING HOME. A building where lodging or meals are provided for compensation for residents not functioning as a common household, usually for compensation.

BOOKSTORE. An establishment engaged in the retail sales of books, either used and/or new. May include a small area for coffee and bakery items (10 percent or less of floor area).

BREWERY. An establishment where malt liquors or wines are manufactured and stored. Also see "MICRO-BREWERY." Please see Section 10-1.2750 "Alcoholic Beverage Outlets" for regulations regarding alcohol.

BROADCASTING STUDIO. An establishment where sound or images are transmitted by radio or television to the public.

BUILDABLE AREA. The space remaining on a zoning plot within which a building may be erected after the minimum lot and yard requirements of this Ordinance have been satisfied, notwithstanding all other applicable guidelines and Subdivision Map Act requirements of steeply sloped or unstable areas.



BUILDING. Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure by space or by walls in which there are no communicating doors, windows or opening, and which is designed or intended for the shelter, enclosure or protection of persons, animals or property of any kind. Also defined as follows:

- a. "Completely enclosed building" means a building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or

- exit doors.
- b. "Detached or accessory building" means a building separated by at least six feet of space open to the sky from any other building on the same zoning plot.
 - c. "Existing building" means a building erected prior to the effective date of this title, or one for which a legal building permit has been issued.
 - d. "Primary building" means a building in which is conducted the primary use of the lot on which it is situated.
 - e. "Public building" means a building principally occupied by the federal, state, county, or city government, or any political subdivision agency, or instrumentally thereof.
 - f. "Temporary building" means a building not permanently attached to the ground by fixed foundation, piers or substructure.

BUILDING HEIGHT. The vertical distance at any point from the finished grade or existing grade, whichever is lower, to the highest point of the coping of a flat roof, to the top roof line of a mansard roof, or to the midpoint of the highest gable of a pitched or hip roof. Where unusual deviations occur on the existing grade, such as a small swale, the Planning Director may make minor adjustments in the building height envelope to permit reasonable building design consistent with the intent and purpose of the building height standard. Graded area entirely under a building and not visible from the exterior of the building, such as underground garages and basements, shall not be included for purposes of calculating height.

BUILDING MATERIALS (SALES). An establishment engaged in the retail and wholesale sales of building materials such as lumber, masonry products, rock, soil, tile, and other similar materials needed to construct a structure and/or accessory structures and uses (fences, paved areas, retaining walls).

BUSINESS PARK DISTRICT (BP). A land use zoning district intended to provide for establishment of high quality business office parks in a campus environment at key locations within the Industrial Corridor. See Section 10-1.1700.

CABARET. Any establishment, event or place where live entertainment is provided by or for any patron or guest, including but not limited to singing, playing music, dancing, acting, conducting a fashion show, performing pantomime, performing comedy or other act or performance, either as the main purpose for such gathering or as an ancillary activity to some other purpose. Please refer to Chapter 6, Article 2 of this Code for regulations regarding cabarets and to Section 10-1.2750 "Alcoholic Beverage Outlets" for regulations regarding alcohol.

CAMERA STORE. An establishment engaged in the retail sales of cameras and photographic supplies. May include ancillary repair.

CARD CLUB. Any building or structure, or any portion of a building or structure, wherein any person or persons are permitted to play a card game in return for a fee, charge, or other compensation. Refer to Chapter 4, Article 3 of the Hayward Municipal Code for regulations.

CARNIVAL. An establishment providing one or more non-coin-operated powered amusement rides, or providing two or more uses such as a tent, freak, or side show, a feat

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of daring, or an exhibition of two or more wild animals except within a public park or zoo, or providing other similar uses.

CARPET/DRAPERY STORE. An establishment engaged in the retail or wholesale sales of carpets and drapes. Does not include on-site manufacturing.

CARPORT. A permanent roofed structure not completely enclosed on the sides and used for vehicle parking.

CAR WASH. An establishment engaged in the washing of passenger vehicles for a fee.

CATERING FACILITY. An establishment engaged in the preparation of food to be served at an event held off-site, usually at a banquet hall or private facility.

CATERING TRUCK. A commercially licensed motor vehicle, approved by the Alameda County 111, Department of Environmental Health Services, and the City of Hayward Police Department, from which food and beverages are sold, distributed, or otherwise provided to consumers on private property and which travels from place to place to conduct its operation. Does not include a Food Vendor cart. See Section 10-1.2735.b. for regulations.

CENTRAL BUSINESS DISTRICT (CB). A land use zoning district within which commercial and retail land uses may develop which provide a principal downtown area of regional importance, and several outlying areas of more than neighborhood importance, where concentrations of comparison shopping facilities, financial and business services, and amusement or recreation may be found in quantity. See Section 10-1.1300.

CENTRAL CITY DISTRICT (CC). A land use zoning district in the center of the City, within which land uses may develop which promote the development of the downtown. These land uses include business, government, cultural, financial, residential, office, and entertainment uses. See Section 10-1.1500. This District includes the following Subdistricts:

- a. Central City - Commercial (CC-C).
- b. Central City - Residential (CC-R).
- c. Central City - Plaza (CC-P).

CHECK CASHING STORE. An establishment primarily engaged in the cashing of checks for customers who usually do not have a checking account at a bank or other financial institution. Is commonly found in areas with easy access and high visibility.

CHRISTMAS TREE AND PUMPKIN PATCH LOTS. Seasonal establishments engaged in the retail sales of Christmas trees and pumpkins. See Section 10-1.2735.c. for standards.

CITY COUNCIL. The City Council of the City of Hayward, California.

CLOTHING STORE ("APPAREL"). An establishment engaged in the retail sales of new clothing, such as shoes, hats, dresses, shirts, etc. For used clothing, see "THRIFT STORE."

COMMERCIAL AMUSEMENT FACILITY. A facility offering entertainment open to the public for a fee or by membership subscription, for example, ticket, door charge, amusement device fee. Said facility shall include, but not be limited to, theaters, arcades (place of business containing five or more amusement devices), billiard parlors, golf courses (including miniature golf), water slides, indoor soccer, batting cages, and bowling facilities. Four (4) or less manually or coin- or token- or slug-operated viewing or electronic or video game machines or other amusement devices (excluding jukeboxes) located in association with other permitted uses and activities such as, but not limited to, taverns, restaurants, book stores, grocery stores, motels, hobby shops or toy stores, music or stereo stores, laundromats, barber or beauty shops, or computer stores shall be considered accessory to the permitted use.

CONCESSION STAND. A small, ancillary retail use that provides food and beverages to a primary land use. May include light cooking and heating of food commodities.

COMMERCIAL OFFICE (CO). A land use zoning district within which administrative, professional, businesses and financial office land uses may exist, yet which are not detrimental to the residential use of adjacent properties. See Section 10-1.1100.

COMMERCIAL RETAIL DISTRICT (BP). A land use zoning district intended to provide for limited retail, service, and office commercial uses which serve the needs of workers within the Industrial Corridor. See Section 10-1.1400.

CONSIGNMENT STORE. A retail establishment that sells good quality merchandise (for example, clean, not damaged, stained or frayed) that has been provided to the proprietor on a consignment basis as well as new merchandise. Sale of donated or otherwise second-hand merchandise is prohibited.

CONVALESCENT HOME. An establishment in which nursing, dietary and other personal services are furnished twenty-four (24) hours a day to convalescents, invalids, or the aged who are unable to or no longer want to care for themselves in a more traditional setting. Also referred to as nursing homes or intermediate care facilities. Does not include institutions which care for persons suffering from a mental disorder or communicable disease, or which offers surgery, maternity or other primary treatments.

CONVENIENCE MARKET. A retail food market which is typically less than 2,500 square feet in gross floor area and which caters to customers who buy a small number of items, is typically part of a larger chain or franchise system, often with long hours of operation, and as determined by the Planning Director.

CONSTRUCTION TRAILER. A temporary trailer used as an office, or an office/quarters combination with quarters for one security guard in connection with ongoing construction work associated with new construction of industrial, commercial, or multi-family development. See Section 10-1.2735.b.

COPYING OR REPRODUCTION SERVICE. An establishment which provides printing services to customers. Typically includes blueprint machines, reproduction

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machines, paper goods, and binding services (spiral binding, glue binding, stapling, etc.) Also see "NEWSPAPER PRINTING FACILITY."

COURTYARD. The word "courtyard" shall mean an open unoccupied space bounded on two or more sides by the walls of a building. An inner courtyard is a court entirely within the exterior walls of a building. All other courts are outer courts.

CULTURAL FACILITY. Facilities maintained to develop, promote, or foster the arts or literature, as well as a clubhouse, lodge hall, and fraternal society meeting places, and ancillary activities as determined by the Planning Director, and whose other functions are not indicated elsewhere in this ordinance as administrative or conditional uses.

DANCE STUDIO. An establishment where dance classes and dance recitals are performed to recorded music.

DAY CARE CENTER. A facility which provides non-medical care to 15 or more children and/or adults in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. May include pre-schools, infant centers, and extended day care facilities.

DAY CARE HOME. A single family residence which is occupied and used as such and provides non-medical day care on less than a 24-hour basis to children and/or adults. Day care home must be State-licensed, and may be either one of the following:

- a. Small Day Care Home. The use of a single-family residence to provide day care to eight (8) or fewer persons, including any children under the age of 10 years who reside at the home.
- b. Large Day Care Home. The use of a single-family residence to provide day care to 8-14 persons, including any children under the age of 10 years who reside at the home.

DISTILLERY. An alcoholic beverage sales establishment where distilled spirits are made. Tasting distilled spirits may be included as an accessory use, but the distillery cannot operate as a bar. Please see Section 10-1.2750 "Alcoholic Beverage Outlets" for regulations regarding alcohol.

DISTRIBUTION FACILITY. An establishment which distributes, stores and warehouses commodities and goods for the purposes of marketing or merchandising at wholesale or retail.

DISTRICT. Means a zoning district established under the provisions of the Zoning Ordinance.

KENNEL. A lot, building, structure, enclosure or premises where one or more dogs, cats, or other household pets are kept for commercial purposes, including boarding, breeding of more than one litter per year and/or a litter every year, sale of goods or animals, or the rendering of services for profit. For the purposes hereof, the breeding and sale of the litter of animals kept and maintained as household pets and/or maintained by an animal fancier, shall not be deemed and considered a commercial kennel, provided they are less than one litter per year and litters do not occur every year.

KITCHEN. A definable area or room for food preparation, typically consisting of a permanent cooking appliance for use in food preparation, a refrigerator, cabinets, and a sink, usually in close proximity to one another.

LABORATORY. See "RESEARCH LABORATORY."

LANDSCAPING. An area devoted to or developed and maintained predominantly with native or exotic plant materials including lawn, groundcover, trees, shrubs, and other plant materials; and also including accessory decorative outdoor landscape elements such as pools, fountains, paved or decorated surfaces (excluding driveways, parking, loading, or storage areas), and sculptural elements.

LIGHT MANUFACTURING, PLANNING/RESEARCH AND DEVELOPMENT DISTRICT (LM). A land use zoning district intended to provide limited manufacturing and other light industrial uses within the Industrial Corridor which are compatible with business parks and adjacent residential areas. See Section 10-1.1800.

LIMITED ACCESS COMMERCIAL (CL). A land use zoning district within which commercial uses may develop which normally tend to locate apart from standard commercial areas or service industries, or uses on highways of major importance. See Section 10-1.1200.

LIQUOR STORE. "Liquor store" shall mean any alcoholic beverage sales establishment primarily involving the sale of alcohol where beer, wine or distilled spirits are sold for off-sale consumption and where more than five (5) percent of the floor area of the establishment is devoted to the sale, display or storage of beer, wine or distilled spirits. Please see Section 10-1.2750 "Alcoholic Beverage Outlets" for regulations regarding alcohol.

LIVESTOCK. Domesticated farm animals kept for use or profit (See Section 10-1.2735.e. for regulations of livestock) and further defined as follows:

- a. Large Livestock. Horses, cattle or similar large animals, as determined by the Planning Director.
- b. Medium Livestock. Sheep, goats, and pigs, or similar medium animals, as determined by the Planning Director.
- c. Small Livestock. Chickens, ducks, pigeons, five (5) or more rabbits, potbelly pigs, or similar small animals, as determined by the Planning Director.

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MAILING OR FACSIMILE SERVICE. An establishment which provides postal services and a facsimile machine available to the public for a fee. Typically includes packaging and weighing facilities, and may include related copy work or wrapping paper and greeting cards for sale at retail as an ancillary use.

MANUFACTURED HOME. A factory built or manufactured home including mobile homes, as permitted by State of California and Federal laws. A manufactured home is synonymous with the definition of a "single family dwelling."

MANUFACTURING. Repair, maintenance, preparation, compounding, processing, packing, treating, fabricating or assembling of items of any kind (i.e., electronics assembly.) May involve certain hazardous materials as defined herein (see "HAZARDOUS MATERIALS.")

MANUFACTURER'S REPRESENTATIVE OFFICE. An office from which a representative of a manufactured product sells that product at wholesale or retail via telephone, mail, and/or facsimile.

MARKET. See "SUPERMARKET."

MARTIAL ARTS STUDIO. An establishment where martial arts classes, private lessons, and demonstrations are provided to the public for a fee.

MASSAGE PARLOR. An establishment where body massage is provided to members of the public for a fee. Refer to Chapter 6, Article 10 of the Hayward Municipal Code for regulations.

MEDICAL/DENTAL LABORATORY. A facility which custom manufactures and distributes false teeth, dental crowns, braces, and other related dental equipment to dentists.

MEDIUM DENSITY RESIDENTIAL (RM). A land use zoning district which primarily allows the development of multiple-family dwellings at a set density and in a suitable environment for family life in areas where a compatible mingling of single-family and multiple-family dwellings is possible. See Section 10-1.400.

MICRO-BREWERY. A retail establishment where alcoholic beverages are produced and sold for consumption either on or off premises. Refer to Section 10-1.2750 "Alcoholic Beverage Outlets" for regulations.

MISSION BOULEVARD RESIDENTIAL DISTRICT (MBR).
Repealed by Ordinance 11-12, Adopted October 11, 2011

MOBILE HOME Same as "Manufactured Home," but subject to the National Manufactured Housing Construction and Safety Act of 1974.

MOBILE HOME PARK (MH). A land use zoning district designed for, used or intended to be used for the parking and occupancy of two or more mobile homes for dwelling or sleeping purposes. See Section 10-1.700.

MORTUARY. An establishment engaged in the preparation of human bodies and the arrangement and holding of funeral services prior to burial or final disposition. For the purposes of this Ordinance, a mortuary may include a crematory.

MOTEL. A group of attached or detached buildings containing individual sleeping or living units designed for or used temporarily by automobile tourists or transients, with garage attached or parking space conveniently located to each unit where a maximum continuous length of stay is no longer than that established for transiency pursuant to Chapter 8, Article 4 (Transient Occupancy Tax) of the City of Hayward Municipal Code.

MULTIPLE-FAMILY DWELLING. See "DWELLING, MULTIPLE-FAMILY."

MUSIC STORE. An establishment which sells musical instruments, sheet music, and related commodities to the public at retail. Typically includes repair of musical instruments.

MUSIC STUDIO. An establishment which provides music classes and private music lessons to the public for a fee. Typically involves piano lessons and/or guitar lessons, both acoustical and amplified, and includes occasional music recitals by the studio students.

NAIL SALON. An establishment which provides nail manicures and pedicures to the public at retail for a fee. Does not include massage or tanning services.

NEIGHBORHOOD COMMERCIAL DISTRICT (CN). A land use zoning district which is carefully located in areas throughout the City in relationship to other commercial districts and in relationship to nearby residential districts. Land uses created in the CN district are general commercial and retail uses which provide convenience goods and services purchased frequently, serving nearby residences. See Section 10-1.800.

NEIGHBORHOOD COMMERCIAL - RESIDENTIAL DISTRICT (CN-R). A land use zoning district with a mix of neighborhood serving businesses and residences along portions of certain arterials in order to provide options for housing with ready access to shops and transit. See Section 10-1.900.

NEWSPAPER PRINTING FACILITY. A facility which prepares, assembles, prints, and distributes a newspaper publication, typically on a daily basis. Typically includes offices from which publication articles are written and edited, and includes a printing press operation.

NIGHT CLUB. See definition for "Bar". ~~"Night Club" shall mean any alcoholic beverage sales establishment that provides dancing or live entertainment (including the playing of recorded music by a disc jockey) between the hours of 6:00 p.m. to 2:00 a.m., regardless of whether such establishment is simultaneously offering full restaurant meal service, or charges an entrance fee, or increases the sales price of beverages.~~ Any night club that permits dancing or live entertainment on a regular basis must obtain a cabaret license as required by Chapter 6, Article 2 of this Code. Please see Section 10-1.2750 "Alcoholic Beverage Outlets" for regulations regarding alcohol.

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PUBLIC FACILITIES DISTRICT (PF). A land use zoning district within which typical land uses include public government buildings, public libraries, public community centers, and public parking lots, whether a fee is charged or not. See Section 10-1.2300.

PUBLISHING FACILITY. A facility which prepares, assembles and distributes books and magazines. Typically includes offices where articles are written and edited, and includes printing press facilities.

QUARRY. Any premises from which any rock, sand, gravel, earth, or mineral is removed or excavated for the purpose of disposition away from the immediate premises, whether the disposition is immediate or in the future, and excepting excavations within public roads and highway rights-of-way.

RADIO TRANSMISSION TOWER. See "ANTENNA."

RAILROAD YARD. A facility where railroad cars and engines are stored, repaired, and transferred to different trains. Also includes a freight station where items carried by train are transported onto and/or from trucks for transport. Also see "PASSENGER TRANSPORTATION TERMINAL."

RECREATIONAL FACILITY. Those facilities maintained to provide a pastime, sport or exercise as a means to refresh one's body or mind, and ancillary activities as determined by the Planning Director, and whose other functions are not indicated elsewhere in this ordinance as administrative or conditional uses. May be a commercial or non-commercial facility.

RECREATIONAL VEHICLE. A vehicle primarily designed as temporary living quarters for recreational, camping, or travel use.

RECREATIONAL VEHICLE (RV) STORAGE FACILITY. A parcel or group of contiguous parcels upon which two or more recreational vehicles, camper trailers and boats may be stored for a fee when not in use.

RECYCLING CENTER. A facility for the collection of large quantities of recyclable materials such as metals, glass, plastic, and paper. Such a facility shall not do processing except limited bailing, batching and sorting of materials. Recycling facilities include: bins, boxes, cans, kiosk type structures, bulk reverse vending machines, trucks, trailers, or vans. See General Regulations Section 10-1.2735.i "Recycling Facilities" for regulations.

RECYCLING COLLECTION AREA. Any indoor or outdoor space allocated to collecting and loading recyclable materials to be transported to a recycling center. May include bins, boxes, cans, kiosk type structures, and reverse vending machines. See General Regulations Section 10-1.2735.i "Recycling Facilities" for regulations.

RELIGIOUS FACILITY. Those facilities maintained by a tax-exempt religious institution, a government agency, or other non-profit organization exempt from taxation under the Internal

SEC. 10-1.3500 DEFINITIONS

Revenue laws as an organized system of belief in or the worship of God or gods or an institutionalized system of religious attitudes, beliefs and practices, and ancillary activities as determined by the Planning Director, and whose other functions are not indicated elsewhere in this ordinance as administrative or conditional uses.

RESEARCH AND DEVELOPMENT. A facility where research and on-site product creation and development is done. May also include computer centers, involving record storage and retrieval systems, data processing, and microfilming.

RESEARCH LABORATORY. A facility where research in a laboratory environment is done. Typically, but not always, involves the use of chemicals and heating products.

RESIDENTIAL NATURAL PRESERVATION DISTRICT (RNP). A land use zoning district within which topographic configuration is a major consideration in determining the most appropriate physical development of the land. This district primarily allows the development of single-family homes only where they are subservient to and compatible with the preservation of major natural features of the land. See Section 10-1.300.

RESIDENTIAL-OFFICE (RO). A land use zoning district which allows the mix of office land uses with residential, the scale and form of which does not detract from adjacent or future residential land use in the same zone. See Section 10-1.600.

RESTAURANT Any establishment, other than a boarding house or dormitory, where food and beverages are provided for consumption on-premises or off-premises, and where typically, but not necessarily, there are tables, counters, benches, or other public seating facilities provided, or where food is taken off-premises, disposal containers are provided. Examples include a sit-down dining facility, fast-food restaurant (no drive-through window), donut shop, pizza shop, cafe, bakery, cafeteria, coffee shop, lunchroom, delicatessen, and ice cream parlor. The serving of alcoholic beverages is subject to the regulations in the "Alcohol Beverage Outlets" regulations, Section 10-1.2750 of this Ordinance.

RESTAURANT - DRIVE-THROUGH Any high-volume establishment serving food or beverages which utilizes a building design, site layout, or operating procedure whereby customers can drive onto the premises and remain in their vehicles while food or beverages are sold or dispensed. For regulations of drive-through restaurants see the "Drive-in Establishments-Special Standards and Conditions" contained in the Design and Performance Standards of various Sections of this Ordinance, including Sections 10-1.800 and 10-1.1000.

RETAIL. The sale of commodities or goods to ultimate consumers.

REVERSE VENDING MACHINES. A mechanical device which accepts one or more types of empty beverage containers, including aluminum cans, glass and plastic bottles, and cartons, and issues a cash refund or a redeemable credit slip. "Bulk reverse vending machines" are those machines which exceed 50 cubic feet in size or exceed 8 feet in height. See Section 10-1.2735.i. "RECYCLING FACILITIES."

SEC. 10-1.3500 DEFINITIONS

VEHICLE RENTAL. See "AUTOMOBILE RENTAL."

VEHICLE REPAIR. See "AUTOMOBILE REPAIR."

VEHICLE SALES. See "AUTOMOBILE SALES."

VEHICLE SERVICING. For vehicle servicing such as same-day lube, oil, and filter, see "Automobile Repair - Minor." For major vehicle repairs such as engine overhauls, vehicle upholstery, auto glass, mufflers, etc., see "Automobile Repair - Major."

VIDEO SALES AND RENTAL STORE. An establishment which sells at retail and/or rents video tapes to the public.

VOCATIONAL SCHOOL. An educational facility providing training in a skill or trade to be pursued as a career.

WAREHOUSE. A facility where goods are stored. Typically, items are stored and awaiting distribution to an off-site wholesale and/or retail facility. Does not include public storage facilities (also "DISTRIBUTION FACILITY.")

WHOLESALE ESTABLISHMENT. The sale of commodities and goods to an establishment for resale to the consumer.

WIND ENERGY CONVERSION SYSTEM. A machine that converts the kinetic energy in the wind into a usable form. A wind energy conversion system is commonly known as a windmill or wind turbine, and includes all parts of the system including the tower and the transmission equipment.

WINE SHOP. "Wine Shop" shall mean an alcoholic beverage sales establishment, managed by a certified sommelier or oenologist, primarily for the retail sales of wine from multiple wineries and distributors that involves no sales of liquor or distilled spirits. Wine tasting may be included as an accessory use, but the wine shop cannot operate as a bar.

YARD. The word "yard" shall mean an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward except as otherwise provided herein. A yard extends along a lot line or official plan line to a depth or width specified in the yard regulations for the District in which such lot is located.

SEC. 10-1.1520 CENTRAL CITY - COMMERCIAL SUBDISTRICT (CC-C)**SEC. 10-1.1521 CC-C PURPOSE.**

The purpose of the Central City - Commercial (CC-C) Subdistrict is to establish a mix of business and other activities which will enhance the economic vitality of the downtown area. Permitted activities include, but are not limited to, retail, office, service, lodging, entertainment, education, and multi-family residential uses.

SEC. 10-1.1522 CC-C PERMITTED USES.

- a. **Primary Uses.** The following uses, or uses determined to be similar by the Planning Director, are permitted in the CC-C District as primary uses.
- (1) **Administrative and Professional Offices/Services.**
 - (a) Accounting and financial offices. (Excluding check cashing stores)
 - (b) Architectural and engineering offices.
 - (c) Banks and financial institutions.
 - (d) Chiropractic and acupuncture offices.
 - (e) Insurance and real estate offices.
 - (f) Law offices.
 - (g) Medical and dental offices.
 - (h) Travel and airline agency offices.
 - (2) **Automobile Related Uses.**
Automobile parts store.
 - (3) **Personal Services.**
 - (a) Barber or beauty shop. (Excluding college)
 - (b) Dance studio.
 - (c) Dry cleaner/laundry.
 - (d) Health club.
 - (e) Martial arts studio.
 - (f) Music studio.
 - (g) Nail salon.
 - (h) Palm reading.
 - (i) Photography studio.
 - (j) Physical fitness studio.
 - (k) Shoe repair shop.
 - (l) Tailor/seamstress shop.
 - (4) **Residential Uses.**
 - (a) Residential dwelling unit(s). (Above first floor commercial uses only)
 - (b) Single-family dwelling. (Existing as of May 4, 1993, including accessory structures and uses)

- (5) Retail Commercial Uses.
- (a) Antique store.
 - (b) Appliance store.
 - (c) Art and art supplies store.
 - (d) Bicycle store.
 - (e) Bookstore.
 - (f) Camera store.
 - (g) Card shop.
 - (h) Carpet/drapery store.
 - (i) Clothing store.
 - (j) Consignment store.
 - (k) Fabric store.
 - (l) Floral shop.
 - (m) Furniture store.
 - (n) Garden supplies store.
 - (o) Gift shop.
 - (p) Grocer.
 - (q) Hardware store.
 - (r) Jewelry store.
 - (s) Locksmith shop.
 - (t) Music store.
 - (u) Paint/wallpaper store.
 - (v) Pet grooming shop.
 - (w) Pet store.
 - (x) Plumbing and heating store.
 - (y) Restaurant. (No bar)
 - (z) Sporting goods store.
 - (aa) Stationary store.
 - (bb) Supermarket.
 - (cc) Theater. (Small Motion Picture or Live Performance. Large Motion Picture Theater located between A and D Streets and Grand and Second Streets.)
 - (dd) Toy store.
 - (ee) Variety store.
 - (ff) Video sales and rental.
- (6) Service Commercial Uses.
- (a) Appliance repair shop.
 - (b) Copying or reproduction facility.
 - (c) Mailing or facsimile service.
 - (d) Reverse vending machines. (When located within a convenience zone.)
- (7) Other Uses.
- (a) Broadcasting studio.
 - (b) Christmas tree or pumpkin patch lot. (See General Regulations Section 10-1.2735#c. for standards)

 SEC. 10-1.1520 CENTRAL CITY-COMMERCIAL SUBDISTRICT (CC-C)

- (c) Day care home. (State-licensed, less than 24-hour care for children or adults, 14 or fewer persons, excluding staff. See definitions.)
- (d) Educational facilities. Small, generally less than 2,000 square feet and designed to augment the learning process of elementary and secondary students.
- (e) Public agency facilities.
- b. **Secondary Uses.** The following uses are permitted as secondary or subordinate uses to the uses permitted in the CC-C Subdistrict:
- (1) Accessory buildings and uses. (See Section 10.1.845a-d.)
- (2) Garage sales. (4 per year per dwelling. See General Regulations Section 10-1.2735ed.)
- (3) Home occupation. (See definitions)
- (4) Household pets.
- (5) Indoor storage. (clearly subordinate to a primary or conditional use that is open to the public and which conforms to the policies and goals of the Redevelopment Agency and the Central City-Commercial Subdistrict.)

SEC. 10-1.1523 CC-C CONDITIONALLY PERMITTED USES.

- a. **Administrative Uses.** The following uses are permitted in the CC-C Subdistrict, subject to approval of an administrative use permit:
- (1) **Administrative and Professional Offices/Services.**
None.
- (2) **Automobile Related Uses.**
Parking lot or parking structure.
- (3) **Personal Services.**
(a) Massage parlor (When ancillary to a primary use such as a beauty shop.)
(b) Suntan parlor.
- (4) **Residential Uses.**
None.
- (5) **Retail Commercial Uses.**

SEC. 10-1.1520 CENTRAL CITY-COMMERCIAL SUBDISTRICT (CC-C)

~~None.~~ (a) Wine Shop.

(See General Regulations Section 10-1.2750 et seq.

_____ for regulations of alcohol.)

- (6) Service Commercial Uses.
 - (a) Recycling collection area. (When located within a convenience zone)
 - (b) Upholstery shop. (Furniture only)

- (7) Other Uses.
 - (a) Ambulance service.
 - (b) Banquet hall. (Where no alcohol is served)
 - (c) Catering facility. (Where no alcohol is served)
 - (d) Day care center. (State-licensed, less than 24-hour care for children or adults, 15 or more persons, excluding staff. See definitions.)
 - (e) Educational facility.
 - (f) Farmer's market.
 - (g) Home occupation - expanded.
 - (h) Temporary use.
 - (i) Cultural facility.
 - (j) Commercial amusement facility.
 - (k) Educational facility.
 - (l) Hospital or convalescent home.
 - (m) Mortuary.
 - (n) Passenger transportation terminal.
 - (o) Recreational facility.
 - (p) Religious facility.
 - (q) Taxi company.

b. **Conditional Uses.** The following uses are, or uses determined to be similar by the Planning Director, are permitted in the CC-C Subdistrict subject to the approval of a conditional use permit: _____

- (1) Administrative and Professional Offices/Services.
Check cashing store.

- (2) Automobile Related Uses. (Refer to Section 10-1.1045h. for special requirements.)
 - (a) Automobile sales and rental.
 - (b) Automobile repair (minor and major).
 - (c) Automobile service station.
 - (d) Automobile storage facility. (See definitions)
 - (e) Car wash. Drive-in establishments.

- (3) Personal Services.
 Message parlor. (When not ancillary to a primary use, such as a beauty shop.)

- (4) Residential Uses.

 SEC. 10-1.1520 CENTRAL CITY-COMMERCIAL SUBDISTRICT (CC-C)

- Multiple-family dwelling. (With dwelling units on first floor)
- (5) Retail Commercial Uses. (See General Regulations Section 10-1.2750 et seq. for regulations of alcohol.)
- (a) Bar, cocktail lounge.
- (b) Brewery or Distillery
- (c) Cabaret (See Chapter 6, Article 2 for regulations.)
- (d) Convenience market.
- (e) Liquor store.
- (f) Pawn shop.
- (g) Theater, Large Motion Picture. (Located outside area between A and D Streets and Grand and Second Streets. See Sec. 10-1.1045 for special requirements.)
- (6) Service Commercial Uses.
Hotel or motel.
- (7) Other Uses.
- (a) Auctions.
- (b) Banquet hall. (Where alcohol is served. See General Regulations, Section 10-1.2735b.50 et seq for regulations of alcohol)
- (c) Card club. (Subject to Regulations in Chapter 4, Article 3 of the Hayward Municipal Code, "Card Club Regulations")
- (d) Catering facility. (Where alcohol is served. See General Regulations Section 10-1.2735b.50 et seq for regulations of alcohol)

SEC. 10-1.1524 CC-C LOT REQUIREMENTS.

- a. Minimum Lot Size: None.
- b. Maximum Residential Density: Densities shall be established in substantial compliance with the Downtown Hayward Design Plan and as indicated herein.

SEC. 10-1.1000 GENERAL COMMERCIAL DISTRICT (CG)

Sections:

- Section 10-1.1005 Purpose.
- Section 10-1.1010 Subdistricts.
- Section 10-1.1015 Uses Permitted.
- Section 10-1.1020 Conditionally Permitted Uses.
- Section 10-1.1025 Lot Requirements.
- Section 10-1.1030 Yard Requirements.
- Section 10-1.1035 Height Limit.
- Section 10-1.1040 Site Plan Review Required.
- Section 10-1.1045 Minimum Design and Performance Standards.

SEC. 10-1.1005 PURPOSE.

The CG District shall be subject to the following specific regulations in addition to the general regulations hereinafter contained in order to provide services for the support of primary business activities in the CB District or CC Districts.

SEC. 10-1.1010 SUBDISTRICTS.

Any combining B or SD District (See Sections 10-1.2400 and 10-1.2600).

SEC. 10-1.1015 USES PERMITTED.

- a. **Primary Uses.** The following uses, or uses determined to be similar by the Planning Director, are permitted in the CG District as primary uses.
- (1) **Administrative and Professional Offices/Services.**
 - (a) Accounting and financial offices. (Excluding check cashing stores)
 - (b) Architectural and engineering offices.
 - (c) Banks and financial institutions.
 - (d) Chiropractic and acupuncture offices.
 - (e) Insurance and real estate offices.
 - (f) Law offices.
 - (g) Medical and dental offices.
 - (h) Travel and airline agency offices.
 - (2) **Automobile Related Uses.**
 - (a) Automobile parts store.
 - (b) Automobile dealership. (Dealership selling primarily new vehicles, when all minimum design standards are met and when located along Mission Blvd.

between Highland/Sycamore and 700 feet south of Harder Road.)

- (3) Personal Services.
 - (a) Barber or beauty shop.
 - (b) Dance studio.
 - (c) Dry cleaner/laundry.
 - (d) Health club.
 - (e) Martial arts studio.
 - (f) Music studio.
 - (g) Nail salon.
 - (h) Palm reading service.
 - (i) Photography studio.
 - (j) Physical fitness studio.
 - (k) Shoe repair shop.
 - (l) Tailor/seamstress shop.

- (4) Residential Uses.
Residential dwelling unit(s).

(Above first floor commercial uses only)

- (5) Retail Commercial Uses.
 - (a) Antique store.
 - (b) Appliance store.
 - (c) Art and art supplies store.
 - (d) Bakery.
 - (e) Bicycle store.
 - (f) Bookstore.
 - (g) Camera store.
 - (h) Card shop.
 - (i) Carpet/drapery store.
 - (j) Clothing store.
 - (k) Consignment store.
 - (l) Coffee/Esspresso shop.
 - (m) Delicatessen.
 - (n) Fabric store.
 - (o) Floral shop.
 - (p) Furniture store.
 - (q) Gift shop.
 - (r) Hardware store.
 - (s) Jewelry store.
 - (t) Locksmith shop.
 - (u) Music store.
 - (v) Nursery (plant).
 - (w) Paint/wallpaper store.
 - (x) Pet grooming shop.
 - (y) Pet store.

SEC. 10-1.1000 GENERAL COMMERCIAL DISTRICT (CG)

- (z) Plumbing and heating store.
- (aa) Restaurant. (Where not abutting a residential district or property and with no bar)
- (bb) Sporting goods store.
- (cc) Stationary store.
- (dd) Supermarket.
- (ee) Theater (Small Motion Picture or Live Performance only.)
- (ff) Thrift shop.
- (gg) Toy store.
- (hh) Variety store.
- (ii) Video sales and rental store.
- (6) Service Commercial Uses
- (a) Appliance service and repair shop. (Not ancillary to a primary use)
- (b) Copying or reproduction facility.
- (c) Equipment rental.
- (d) Hotel or motel.
- (e) Mailing or facsimile service.
- (f) *Not Used*
- (g) Reverse vending machine(s). (When located within a convenience zone)
- (h) Upholstery shop (furniture).
- (7) Other Uses.
- (a) Broadcasting studio.
- (b) Banquet hall. (Where not abutting a residential district or property and where no alcohol is served)
- (c) Catering facility. (Where not abutting a residential district or property)
- (d) Christmas tree or pumpkin patch lot. (See General Regulations Section 10-1.2735d.c. for standards)
- (e) Day Care Home. (State-licensed, less than 24-hour care for children or adults, 14 or fewer persons, excluding staff. See definitions)
- (f) Educational facility. (Small, generally less than 2000 square feet, designed to augment the learning process of elementary and secondary school students.)
- (g) Public agency facilities.
- b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the uses permitted in the CG District:
- (1) Accessory buildings and uses. (See Section 10-1.1045)
- (2) Garage sales. (4 per year per dwelling. See General Regulations Section 10-1.2735e.b.)
- (3) Home Occupation. (See definitions)
- (4) Household pets.

SEC. 10-1.1000 GENERAL COMMERCIAL DISTRICT (CG)

SEC. 10-1.1020 CONDITIONALLY PERMITTED USES.

a. **Administrative Uses.** The following uses, or uses determined to be similar by Planning Director, are permitted in the CG District subject to approval of an administrative use permit:

- (1) **Administrative and Professional Office/Services.**
Medical/dental laboratory.
- (2) **Automobile Related Uses.**
 - (a) Automobile brokerage office. (See definitions)
 - (b) Automobile repair (minor and major). (See Section 10-1.1045h. for special requirements)
 - (c) Automobile service station. “ “
 - (d) Automobile storage facility. “ “
 - (e) Car wash. “ “
 - (f) Drive-in establishments. “ “
 - (g) Parking lot.
- (3) **Personal Services.**
 - (a) Suntan parlor.
- (4) **Residential Uses.**
None.
- (5) **Retail Commercial Uses.**
 - (a) Wine Shop
 - (b) Convenience market. See General Regulations Section 10-1.2725b.50 et seq for regulations of alcohol.)
 - (c) Restaurant. (Where abutting a residential district or property but with no bar)
- (6) **Service Commercial Uses.**
 - (a) Appliance service and repair shop. (Not ancillary to a primary use)
 - (b) Equipment rental.
 - (c) Hotel or motel. (Where abutting a residential district or property)
 - (d) Recycling collection area. (When located within a convenience zone)
 - (e) Sign shop.
- (7) **Other Uses.**
 - (a) Ambulance service.
 - (b) Animal grooming service.
 - (c) Animal hospital.
 - (d) Auction.

SEC. 10-1.1000 GENERAL COMMERCIAL DISTRICT (CG)

- (e) Banquet hall. (Where abutting a residential district or property but no where alcohol is served)
- (f) Carnival.
- (g) Catering facility. (Where abutting a residential district or property)
- (h) Commercial amusement facility.
- (i) Cultural facility.
- (j) Day care center. (state-licensed, less than 24-hour care for children or adults, 15 or more persons, excluding staff. See definitions)
- (k) Educational facility.
- (l) Flea market.
- (m) Kennel.
- (n) Mortuary.
- (o) Outdoor gathering. (Refer to General Regulations Section 10-1.2735.5g)
- (p) Passenger terminal.
- (q) Recreational facility.
- (r) Religious facility.
- (s) Sign shop.
- (t) Temporary use. (i.e., parking lot or tent sale)
- (u) Wind energy conversion system.
- b. **Conditional Uses.** The following uses, or uses determined to be similar by the Planning Director, are permitted in the CG District subject to approval of a conditional use permit:
- (1) Administrative and Professional Offices/Services.
- (a) Check cashing store.
- (b) Payday loan facilities.
- (2) Automobile Related Uses.
Automobile sales and rental. Except as provided for under Sec. 10-1.1015a.(2)(b)
- (3) Personal Services.
- (a) Massage parlor.
- (b) Tattoo parlor.
- (4) Residential Uses.
None.
- (5) Retail Commercial Uses. (See General Regulations Section 10-1.2735.b.50 et seq for regulations of alcohol.)
- (a) Bar, Cocktail lounge.
- (b) Brewery or Distillery
- (c) Cabaret (See Chapter 6, Article 2 for regulations)
- (d) Dance or night club.
- (e) Liquor store.

SEC. 10-1.1000 GENERAL COMMERCIAL DISTRICT (CG)

- (f) Theater, Large Motion Picture. (See Sec. 10-1.1045 for special requirements.)
- (6) Service Commercial Uses.
None.
- (7) Other Uses.
(a) Homeless shelter.
(b) Warehouse. (When located behind and ancillary to primary uses)
(c) Wholesale establishment.

SEC. 10-1.1025 LOT REQUIREMENTS.

- a. Minimum Lot Size: None.
- b. Minimum Lot Area per Dwelling Unit: Same as permitted in RM or RH Districts, whichever is consistent with the General Policies Plan Map and Neighborhood Plan.
- c. Minimum Lot Frontage: 35 feet.
- d. Minimum Average Lot Width: None.
- e. Maximum Lot Coverage: 90 percent.
- f. Minimum Lot Depth: None.
- g. Special Lot Requirements and Exceptions: See General Regulations Section 10-1.2720.

SEC. 10-1.1030 YARD REQUIREMENTS.

- a. Minimum Front Yard: 10 feet, unless building is located at the property line.
- b. Minimum Side Yard: None, unless abutting a R, A, MH, OS or residential PD District where the side yard shall be a minimum of 10 feet.
- c. Minimum Side Street Yard: 10 feet, unless building is located at the property line.
- d. Minimum Rear Yard: None, if abutting a CG district, otherwise the same as the required rear yard of the abutting District.
- e. Special Yard Requirements and Exceptions: See General Regulations Section 10-1.2725.

SEC. 10-1.1035 HEIGHT LIMIT.

- a. Maximum Building Height: No Limit.
- b. Maximum Accessory Building Height: 14 feet and one story.
- c. Maximum Height for Fences/hedges/walls:
(1) Front and Side Street Yard 4 feet
(2) Side and Rear Yard 6 feet

ORDINANCE NO. ____

ORDINANCE AMENDING CHAPTER 6, ARTICLE 2 OF THE
HAYWARD MUNICIPAL CODE RELATING TO CABARETS
AND DANCES

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

Section 1. Purpose and Intent. The operation of ongoing cabarets, as well as one-time cabaret and dance events, have the demonstrated potential for generating noise, crowd and traffic problems, interference with neighbors' enjoyment and use of their property, disorderly conduct, vandalism and other nuisance activity. Such uses thus require close coordination with the Development Services Department and the Hayward Police Department. Therefore, the City Council determines that the public health, safety and welfare of the residents and visitors to Hayward requires the establishment of regulations for the operation of ongoing cabarets, as well as for one-time cabaret and public dancing events. The City Council finds it necessary to regulate the persons who own and/or operate cabarets, as well as those person who may conduct occasional cabaret or public dance events; the location and operation of cabarets and public dances in the City, including noise, hours of operation and patron security and safety; and the issuance of permits and licenses, including limitations on transfer and assignment, for cabarets and public dances.

Section 2. Upon the adoption of this Ordinance, Sections 6-2.10 through 6-2.17, entitled "Public Dances," of the Hayward Municipal Code are hereby repealed and, in substitution thereof, Sections 6-2.10 through 6-2.35, entitled "Cabarets and Dances," are hereby enacted to read as follows:

SECTION 6-2.10 CABARETS AND DANCES

Sections:

Section 6-2.10	Title
Section 6-2.11	Definitions
Section 6-2.12	Cabaret License Required
Section 6-2.13	Exception to License or Permit Requirements for Certain Public Dances_
Section 6-2.14	Application for a License
Section 6-2.15	License Application Fee
Section 6-2.16	License Application, Acceptance, Referral, Investigation and Report
Section 6-2.17	License Issuance
Section 6-2.18	Suspension and Revocation of License
Section 6-2.19	Procedures for the Suspension and Revocation of Cabaret and Dance Licenses
Section 6-2.20	Expiration of Licenses
Section 6-2.21	Renewal Procedures and Fees for Licenses

Section 6-2.22	Licenses Non –Assignable
Section 6-2.23	Commencement of Operations
Section 6-2.24	Obligation to Inform of Certain Changes Concerning Licensees
Section 6-2.25	Record and Video Systems
Section 6-2.26	Permits for Single Cabaret or Public Dance Events
Section 6-2.27	Operating Regulations for all Cabarets and Dances
Section 6-2.28	Licensee/Permittee Responsible for Violations
Section 6-2.29	Violation of State and City Laws
Section 6-2.30	Patron Safety and Security
Section 6-2.31	Posting Operating Regulations
Section 6-2.32	Inspection for Enforcement; Summary Suspension
Section 6-2.33	Powers of Chief of Police and Officers
Section 6-2.34	Injunctive Relief; Administrative Citation
Section 6-2.35	Violations; Penalties

SEC. 6-2.10 TITLE. These provisions, relating to cabaret and dances as those terms are hereinafter defined, may be referred to as the “Cabarets and Dances Regulations.”

SEC. 6-2.11 DEFINITIONS. For the purposes of these regulations, unless otherwise apparent from the context, certain words and phrases are defined as follows:

- a. “Applicant” shall mean a living person, corporation, partnership or other business entity that applies for a license to establish, operate, manage or maintain a cabaret or public dance or applies for a permit for a specific, one-time cabaret or public dance event.
- b. “Application” shall mean the form submitted by the owner or operator that, when completed by the applicant, contains information requested by the City of Hayward upon which the Chief of Police or designee may base his or her approval or denial of such application.
- c. “Cabaret” shall mean any establishment, event, or place where live entertainment is provided by or for any patron or guest, including but not limited to: singing, playing music, dancing, acting, holding a fashion show, performing pantomime, performing comedy or other act or performance and to which admission:
 - (1) may be gained by the public generally with or without the payment of a fee or cover charge or the purchase or presentation of a ticket or token; or
 - (2) may be gained by a person without invitation or by anyone who cannot be identified at the time of the issuance of the invitation by the sender.
- d. “Day” shall mean a working day during which the City’s administrative departments are open and available to the general public.

- e. “Employee” shall mean any person employed by a licensee or permittee, with or without compensation, in a cabaret.
- f. “License” shall mean an annual license granted by the Chief of Police to an applicant to operate a cabaret in the City of Hayward.
- g. “Licensee” shall mean any person who holds a current, valid license, issued by the City of Hayward to operate an on-going cabaret.
- h. “Owner” shall mean any person, persons, corporation, partnership or any other business entity, or any combination of these, who has any interest, legal or equitable, in any cabaret or any one-time cabaret or public dance permit, excepting a bona fide lending institution licensed by the State of California or the federal government.
- i. “Permit” shall mean a permit granted by the Chief of Police to an applicant (“Permittee”) to hold a specific, one-time cabaret or public dance event in the City of Hayward.
- j. “Person” shall mean and include any individual, firm, association, partnership, joint venture or corporation (whether for-profit or nonprofit), or other business entity.
- k. “Premises” shall mean any structure or portion of a structure to be licensed or permitted, or for which a license or permit has been granted in accordance with the provisions of the Cabarets and Dances Regulations.
- l. “Public Dance” shall mean any event where guests, patrons or persons attending the event are permitted to dance, not including a licensed cabaret, and to which admission:
 - (1) may be gained by the public generally with or without the payment of a fee or cover charge or the purchase or presentation of a ticket or token; or
 - (2) may be gained by a person without invitation or by anyone who cannot be identified at the time of issuance of the invitation by the sender.
- m. “Revenue Division” shall mean the Revenue Division of the Finance Department for the City of Hayward.

SEC. 6-2.12 CABARET LICENSE REQUIRED. No person shall establish, maintain, manage or operate any cabaret or allow any cabaret to be established, maintained, managed or operated within any building or structure, or any portion of a building or structure, owned, occupied or controlled by him/her, unless such cabaret is maintained and operated pursuant to a valid, unexpired, unsuspended and unrevoked cabaret license issued pursuant to the provisions of

the Cabarets and Dances Regulations. The holder of any such license or his/her designated representative, which representative must have been disclosed in writing to the Chief of Police, shall be required to exercise personal control and direction over the operation of the cabaret and shall be available at reasonable times, during regular operating hours, to the Chief of Police or designee. The requirement for a cabaret license is in addition to any other license or permit required by the Hayward Municipal Code, including but not limited to a business license pursuant to Article 1 of Chapter 8 or any use permit or variance pursuant to Article 1 of Chapter 10.

SEC. 6-2.13 EXCEPTION TO LICENSE OR PERMIT REQUIREMENTS FOR CERTAIN PUBLIC DANCES. No cabaret permit or license shall be required for dances held by public recreational or educational agencies, or bona fide patriotic, religious, or fraternal associations or organizations, or for dances held in connection with patriotic, holiday, or school celebrations or festivals, where such dances are casual or for one such occasion only, and are not conducted more often than once a month.

SEC. 6-2.14 APPLICATION FOR A LICENSE. An application for a cabaret license shall be completed by the applicant and filed with the Police Department upon such form as may be furnished by that department. The Police Department shall forward copies of the application to the Director of the Finance Department and the Planning Manager of the Development Services Department. The application shall set forth and include the following:

- a. The location of the cabaret for which the license is required, including a specific description of the place, building, structure or portion of the building, structure or place, where the cabaret is to be situated. If the entire building, structure or place is proposed to be used as a cabaret, the application shall so state and shall request a license for the entire building, structure or place. If only a portion of the building, structure or place is proposed to be used as a cabaret, the applicant shall so state, shall describe such portion and shall request a license for only such portion. No license shall be deemed issued for any portion of any building, structure or place which the application fails to state is to be used for cabaret purposes or for which the application fails to specifically request a license.
- b. The true and complete name and address of each owner or owners of the building, structure or place within which the cabaret is proposed to be maintained.
- c. The true and complete name and address of the person or persons to whom it is requested that a cabaret license be issued as follows:
 - (1) If the proposed licensee is an individual, the application shall set forth the name, residence and business address of the individual;
 - (2) If the proposed licensee is a corporation, the application shall set forth the complete name of the corporation and the state within which it is incorporated, together with its home address and also its local address, as well as the names and addresses of the board of directors, the names and addresses of all of the corporate officers, and the name and addresses of

- each shareholder for a non-publicly traded corporation;
- (3) If the proposed licensee is a partnership, the application shall set forth the full names of all partners and the firm name under which the partnership operates, together with the addresses of all partners.
- d. A set of clearly identifiable fingerprints and photographs of each person to whom a license is to be granted; or in the case of a partnership, fingerprints and photograph of the managing partner; or in the case of a corporation, fingerprints and photograph of the president or chief executive officer. The fingerprints and photographs shall be in the form and manner and by an agency approved by the Chief of Police. Each person shall have paid to the Police Department the current fee set by the City of Hayward's Master Fee Schedule for receiving and processing fingerprints so taken.
- e. A statement as to whether or not any of the persons required to be named in the application have at any time been convicted of any crime or crimes and if so, the nature of the crime for which they were convicted, the date and jurisdiction of the conviction.
- f. A statement describing any previous permit or license, including conditional use permit, obtained by the applicant for the sale of alcohol or any entertainment or dancing activities with a statement as to whether any permit or license previously granted to the applicant has been denied, revoked or suspended, and also, the type of permit or license which was denied, suspended or revoked, the time of denial, revocation or suspension, the jurisdiction denying, suspending or revoking the permit or license and the reasons for such action;
- g. A statement that the applicant understands and agrees that the cabaret established or maintained under any license issued pursuant to the application filed shall be established, operated, managed and maintained in full conformity with all the laws of the State of California and the applicable laws and regulations of the City of Hayward, and that any violation of any such laws in or in connection with the cabaret shall render any license subject to immediate suspension or revocation and the ongoing operation of the cabaret a nuisance;
- h. A full and complete financial statement of the applicant (the individual, partnership, corporation or other business entity);
- i. A statement that the applicant understands and agrees that City representatives, including the Chief of Police or designee, shall have access to the proposed cabaret premises and to the business records of the applicant for the purpose of investigating compliance with the provisions of these regulations and all other applicable state and federal laws and regulations, and the applicant consents to any

such search and consequential seizure;

- j. A statement that the applicant understands and consents for itself and any individuals named in the application and thereby authorizes the Hayward Police Department to conduct background investigations and obtain criminal history information for each individual named in the application and further to include in any report to the City Manager and City Council any information, including but not limited to any criminal convictions, that the Chief of Police considers relevant and necessary concerning any person named in the application;
- k. A detailed description of the proposed activities to be conducted including whether an admission fee or cover charge will be charged or whether tickets will be issued and the identity of all on-site managers;
- l. A description of security measures the applicant has or will take or cause to be taken, including security personnel staffing, training and provision of security in and around off-street parking areas and whether security personnel will be armed. If the cabaret serves alcoholic beverages, such security measures shall be consistent with the provisions contained herein;
- m. A statement regarding the days and hours of operation to which the licensee will adhere;
- n. The building and floor plan of the premises, which shall have no hidden rooms or screens and which once the license is issued shall not be modified without the prior written approval of the City;
- o. A statement regarding whether alcohol will be served and whether the applicant has or will be applying for a license from the Department of Alcoholic Beverage Control;
- p. Such other information that the applicant or the City may consider pertinent; and
- q. The contents of the application shall be certified under penalty of perjury as follows:
 - (1) By the proposed licensee if an individual;
 - (2) By a general partner if the proposed licensee is a partnership; or
 - (3) By the president of the corporation if the proposed licensee is a corporation;
 - (4) By the controlling owner/manager/executive of any other business entity.

SEC. 6-2.15 LICENSE APPLICATION FEE. A nonrefundable application fee, the amount of which is set in the City of Hayward's Master Fee Schedule, shall accompany the application and shall be retained by the City for the cost of investigating and processing of the application, whether or not the application is approved. The application fee shall be paid to the Revenue Department before the application is submitted to the Police Department.

SEC. 6-2.16 LICENSE APPLICATION, ACCEPTANCE, REFERRAL, INVESTIGATION AND REPORT.

- a. Upon receipt of an application for a cabaret license, the Police Department shall examine it, and if it is determined that it fails to comply with the requirements of these regulations or does not contain all the information required by these regulations, the application shall be returned to the applicant for proper completion of the application, together with a statement indicating the deficiencies. If the application does comply, the Police Department shall refer copies to other City offices as needed, including the Planning Division of the Development Services Department.
- b. The Chief of Police shall investigate or cause to be investigated, the contents of the application. The Chief of Police, or designee, is hereby authorized to conduct background investigations and obtain criminal history information for each person required to be named in the application for determining whether any such person should be disqualified for any of the following reasons:
 - (1) Applicant has been convicted of any crime punishable as a felony or any misdemeanor involving dishonesty or moral turpitude or has entered a plea of nolo contendere to any lesser or included offense, including but not limited to crimes involving battery, assault, robbery, burglary, gambling, larceny, fraud, sale or possession for sale of a controlled substance, prostitution, pimping, pandering, or lewd conduct.
 - (2) Applicant has associated with criminal profiteering activity or organized crime, as defined by Section 186.2 of the Penal Code.

The Chief of Police, within sixty (60) days of receipt of a complete application, shall render a decision on the application, and shall give reasons for the decision.

SEC. 6-2.17 LICENSE ISSUANCE.

- a. Within ten (10) days of the decision by the Chief of Police, the license may be approved subject to such conditions, limitations and restrictions as may be deemed reasonably necessary. Each license approved by the Chief of Police shall be subject to the licensee's compliance with all applicable provisions of these regulations, in addition to such conditions, limitations and restrictions as the Development Services Department may deem reasonably necessary.

- b. No license shall be approved if it appears that any one (1) of the following facts exists:
- (1) The applicant for the license has not obtained approval of a conditional use permit for the cabaret, if required by Article 1 of Chapter 10 of the Hayward Municipal Code; or
 - (2) The operation of a cabaret at the proposed location will aggravate the crime problems in the area, or otherwise be detrimental to crime prevention or be detrimental to the public peace, health, welfare or safety in the area; or
 - (3) The Fire Chief, Building Official or Planning Director indicates that the license would result in a violation of the laws or regulations such officials administer; or
 - (4) That the applicant, or its owners, officers or employees, are unfit to operate a cabaret business. In making such determination, the Chief of Police may consider:
 - (i) The commission of any acts by the applicant, its owners, officers, or employees involving dishonesty, fraud or deceit with the intent to benefit substantially oneself or another, or substantially injure another; or
 - (ii) The license and permit history of the applicant, its owners, officers and employees, and whether such person in previously operating in this or another state under a license or permit has had such license or permit revoked, denied or suspended, the reasons for such action, and the resulting actions of such persons;
 - (iii) The applicant does not have, in the judgment of the Chief of Police, the financial capability or business experience to operate a cabaret in a manner that would protect its patrons and the citizens of the community.
 - (5) That the applicant has failed to comply with any of the provisions of the Hayward Municipal Code or other applicable laws applicable to the premises, equipment or operation of the business for which a permit is requested; or
 - (6) That the applicant has knowingly made false statements in the application.
- c. Upon the approval or conditional approval of a license by the Chief of Police, the license shall be issued to the applicant within ten (10) days of such approval,

pursuant to such conditions, limitations and restrictions required by the Chief of Police. In the case of a partnership, a license shall be issued in the name of all the partners.

- d. In the event an application is denied, the Chief of Police shall notify the applicant within ten (10) days of such denial and the reasons for the denial. The decision of the Chief of Police may be appealed to the Planning Commission in accordance with the provisions of Section 10-1.2845 of this Code.
- e. Under no circumstances shall any conditions attached to any license be construed to convert such license into any kind of transferable, conditional use permit.
- f. Every licensee under these regulations shall pay a business license tax as set forth in Article 1 of Chapter 8 of the Hayward Municipal Code.

SEC. 6-2.18 SUSPENSION AND REVOCATION OF LICENSE. All licenses authorized and issued under the provisions of the Cabarets and Dances regulations shall be subject to suspension or revocation by the Chief of Police under any of the following conditions:

- a. The licensee, or any employee or agent of such licensee has knowingly failed to comply with any of the provisions of these regulations; or
- b. The licensee, or any employee or agent of such licensee, has knowingly breached any term or condition upon which the cabaret license was issued; or
- c. Facts exist which would justify denial of an application for such license pursuant to these regulations; or
- d. The cabaret is conducted in such a manner as to constitute a nuisance, or to disturb the peace of persons in the vicinity or to be deleterious to the public peace, morals, health, safety or welfare; or
- e. The conditional use permit approved for the cabaret has been suspended or revoked; or
- f. The licensee has failed or refuses to pay such fees or taxes imposed under the Hayward Municipal Code when due and payable.

SEC. 6-2.19 PROCEDURES FOR THE SUSPENSION AND REVOCATION OF CABARET AND DANCE LICENSES. Cabaret and dance licenses or permits may be suspended or revoked pursuant to Article 1 of Chapter 6.

SEC. 6-2.20 EXPIRATION DATE OF LICENSES. All cabaret licenses issued pursuant to these regulations shall automatically expire one year after such license was issued or renewed.

SEC. 6-2.21 RENEWAL PROCEDURES AND FEES FOR LICENSES. A valid license issued pursuant to the provisions of these regulations, or its predecessor regulations, which has not been surrendered, suspended or revoked, may be renewed for respective periods of not longer than one (1) year upon the following terms and conditions:

- a. An application for renewal of any such license shall be filed sixty (60) days prior to the expiration of the existing license with the Police Department on forms provided by that Department.
- b. Applications for renewal shall indicate whether any information required by Section 6-2.14 herein has changed, and shall be accepted, referred, investigated, reported, issued and dated as provided in Sections 6-2.16 and 6-2.17 hereinabove. If the completed application for renewal is submitted in a timely manner as required under subsection (a) above, then pending the completion of such investigations and reports, the existing cabaret license shall not expire pursuant to Section 6-2.20.
- c. If such application for renewal is not filed, or the application fee is not paid within the time specified by subsection (a) above, the license shall be deemed surrendered at the expiration date of such license.
- d. Renewal fees for licenses shall be the same as those fees charged for new licenses.
- e. Any current cabaret licensee who desires to physically relocate their cabaret must file an application for renewal pursuant to Sections 6-2.14 through 6-2.17 hereinabove and obtain a conditional use permit for such new location, if same is required by Chapter 10, Article 1 of the Hayward Municipal Code.

SEC. 6-2.22 LICENSES NON-ASSIGNABLE.

- a. Except as otherwise provided for in these regulations, no cabaret license may be sold, transferred or assigned by the licensee, or by operation of law, to any person, persons or legal entity without the prior approval of the Chief of Police, which approval shall be conditioned upon the proposed transferee's compliance with the Cabarets and Dances regulations. Any sale, transfer or assignment, or attempted sale, transfer or assignment without such prior approval shall be deemed a voluntary surrender of such license, which license shall immediately be deemed terminated and void.
- b. A license issued to an individual who dies during the calendar year shall terminate one year after the license was issued, except that the personal representative of the estate of that individual may apply for renewal of the license for one (1) year providing the representative has complied with all requirements of these regulations.

- c. If the licensee is a partnership and one (1) or more of the partners dies, the surviving partners, or partner, may, with prior approval of the Chief of Police, acquire, by purchase or otherwise, the interest of the deceased partner, or partners, without affecting a surrender or termination of the license.
- d. Any change in the board of directors of a corporation which holds a license or in the managing partners of a partnership or the ownership of any other business entity that holds a license shall require the prior approval of the Chief of Police, which may condition such approval on any appropriate basis.
- e. Any change of legal status of a licensee (such as a change from individual to corporate status) not otherwise provided in this section, shall require the prior approval of the Chief of Police, who may condition such approval on any appropriate basis.

SEC. 6-2.23 COMMENCEMENT OF OPERATIONS.

- a. An applicant who has received approval for a cabaret or license and paid all appropriate fees must commence operation of the cabaret within ninety (90) days following issuance of the license.
- b. A license becomes void upon a ninety (90) day absence or suspension of operations allowed by it, regardless of the reasons for the absence or suspension of operations; except that the Chief of Police may, during the ninety (90) days, extend the time for an additional sixty (60) days, for good cause shown.

SEC. 6-2.24 OBLIGATION TO INFORM OF CERTAIN CHANGES CONCERNING LICENSEES.

- a. The licensee shall notify the Police Department in writing within fourteen (14) days of any change in the information required in an application for license issuance or renewal as provided in Section 6-2.14, except that no such change need be reported if such change occurs within thirty (30) days immediately preceding the expiration of such license. At the discretion of the City, a new or amended application for a license may be required.
- b. The Chief of Police shall promptly inform the relevant City departments of any notification received pursuant to the provisions of subsection (a) above.

SEC. 6-2.25 RECORD AND VIDEO SYSTEMS. The licensee shall keep and maintain all cabaret books, documents, records and accounts (whether in printed form or as electronic media) in accordance with recognized business accounting principles. Any and all video tape recordings made for security in the cabaret shall be marked with the date and time made and shall be kept, in an unaltered state, for a period of seven (7) days, unless longer or shorter periods of time

are ordered by the Chief of Police or designee. All tapes must be made available to any law enforcement agency for duplication upon demand.

SEC. 6-2.26 PERMITS FOR SINGLE CABARET OR PUBLIC DANCE EVENTS.

- a. A single cabaret event or public dance event may be conducted in the City of Hayward upon the issuance of a permit by the Chief of Police.
- b. An applicant shall file an application with the Chief of Police at least two weeks prior to the proposed event with the application fee set forth in the City's Master Fee Schedule. The application shall include:
 - (1) The location of the cabaret or public dance event.
 - (2) The true and complete name and address of the person or persons to whom it is requested that a cabaret permit be issued, as follows:
 - (i) If the proposed permit is an individual, the application shall set forth the name, residence and business address of the applicant;
 - (ii) If the proposed licensee is a corporation, the application shall set forth the complete name of the corporation and the state within which it is incorporated, together with its home address and also its local address, as well as the names and addresses of the board of directors, the names and addresses of all of the corporate officers, and the names and addresses of each shareholder; and
 - (iii) If the proposed licensee is a partnership or other business, the application shall set forth the full names of all partners, owners and managers and the firm name under which the partnership or other business entity operates, together with the addresses of all partners.
 - (3) The true and complete name and address of each owner or owners of the building, place or structure within which the cabaret or public dance is proposed to be conducted.
 - (4) A description of the event including date and times of the event, number of people expected to attend, and whether alcohol will be served and if so whether the appropriate approval has been received by the State Department of Alcoholic Beverage Control.
 - (5) A description of the security measures that will be taken, both at the event and in and around off-street parking areas. If alcohol will be served at the event, the security measures shall meet the requirements contained herein.
 - (6) Any further information the Chief of Police deems necessary in reviewing

the application.

- c. Any such permit for a single cabaret or public dance event shall only be approved if the event will occur in a zoning district that permits such an activity pursuant to the Zoning Ordinance set forth in Chapter 10 of the Hayward Municipal Code.
- d. In granting or denying such permit, the Chief of Police shall give consideration to the public health, safety and welfare, particularly for those persons living in the surrounding area.
- e. Only one permit for a single cabaret or public dance event will be issued for a particular applicant or for a particular location within a three (3) month period.
- f. Permits issued for a single cabaret event or a public dance event are nontransferable and non-assignable.
- g. If both cabaret and dance activities are intended, only one permit under this section will be required, depending on the primary activity to be conducted.

SEC. 6-2.27 OPERATING REGULATIONS FOR ALL CABARETS AND DANCES. It shall be unlawful for any person operating a cabaret or conducting a dance or entertainment event, or any agent, employee, or representative or such person, to permit any breach of the peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct or otherwise, or to violate or permit the violation of any of the following regulations:

- a. The area in which any dancing is being done shall be kept well lighted.
- b. No immoral, obscene or illegal conduct or behavior shall be permitted.
- c. No person under the age of eighteen (18) years shall be admitted unless accompanied by his parent, guardian or other person having the care and custody of such person. The Chief of Police may approve a permit to allow younger participants, if the event is planned specifically for youth.
- d. No dancing shall be permitted between the hours of 2:00 am and 10:00 am.
- e. All persons shall be fully clothed.
- f. No person under the influence of intoxicating liquor shall be admitted or permitted to remain in or upon the premises.

- g. At all times during the holding of any dance or event, all doors leading from or opening into the place where the dance is held, are to remain unlocked, unbarred, or unfastened.
- h. No return check shall be issued.

SEC. 6-2.28 LICENSEE/PERMITTEE RESPONSIBLE FOR VIOLATIONS.

The licensee of any cabaret or public dance or permittee for any cabaret or public dance event shall be responsible for all violations of the laws of the State of California, or of the ordinances, regulations and conditions of the City of Hayward, which occur within the cabaret, whether or not the violations occur within the licensee's/permittee's presence or with the licensee's/permittee's knowledge. The licensee/permittee agrees that allowing more patrons on the premises than that authorized by the Hayward Fire Marshal constitutes a violation of the license and may be enforced by the Police Department.

SEC. 6-2.29 VIOLATION OF STATE AND CITY LAWS. No licensee (or its agents or employees) nor permittee (or its agents or employees) shall engage in or permit any other person on such premises to engage in any act in violation of the laws of the State of California or of the ordinances, regulations and conditions of the City of Hayward.

SEC. 6-2.30 PATRON SAFETY AND SECURITY. The licensee/permittee shall be responsible for the security and safety of patrons in the cabaret in and around off-street parking areas. Security shall meet the following performance standards:

- a. There shall be a minimum of one security personnel on duty for the first fifty (50) patrons on site. Once the number of patrons exceeds fifty (50), there shall be one additional security personnel on duty for up to and including each additional fifty (50) patrons on site. "On-site" means all patrons within the establishment and waiting in line to enter the establishment.
- b. The security personnel shall be on duty when the entertainment begins or 9:00 p.m., whichever is earlier, and shall remain on duty for at least one-half hour after the establishment closes or until all patrons have vacated the area immediately surrounding the establishment and the parking sites used by the patrons.
- c. The security personnel shall provide security inside the establishment, along the outer perimeter of the establishment and parking sites immediately adjacent to the establishment and used by the patrons.
- d. The security personnel shall remove all illegal contraband that may be found on patrons, report the existence of the contraband to the Hayward Police Department, identify the person in possession of the contraband and immediately turn the contraband over to the proper law enforcement authorities.
- e. All security personnel shall be registered and maintain valid registration status with the State of California's Department of Consumer Affairs. All security personnel shall be registered at a

level that is equivalent to or greater than a proprietary private security officer. Proof of registration for all security personnel shall be maintained by the establishment's operator and shall consist of application forms, receipts for application fees and live scan fees and any other document showing evidence of valid registration.

- f. At closing time, the security personnel shall ensure that the establishment's patrons have been cleared from the sidewalk and street areas in front of the establishment, from other areas around the perimeter of the establishment and from areas within one hundred fifty (150) feet of the establishment.
- g. While on duty, all security personnel shall wear a nameplate containing the security personnel's full name and the word "Security" printed in bold, capital letters that are at least three-fourths of one inch high and in contrasting color. The nameplate shall be exhibited prominently on the clothing, at chest level, and shall be visible and easily read at all times. The nameplate shall be a minimum of two inches high and four inches wide. As an alternative to a nameplate, the security personnel's name and the word "Security" may be embroidered on the security personnel's outermost garment with the required information meeting the above specifications and located at chest level.
- h. The establishment's operator shall not allow any security personnel to, and no security personnel shall, sit at the bar, or consume alcoholic beverages or any controlled substance, be under the influence of alcoholic beverages or any controlled substance, or engage in any violations of the law while on duty.
- i. The establishment's operator shall not allow any security personnel to be, and no security personnel shall be, in possession of any firearm while on the establishment's premises without the security personnel having first obtained a license from the appropriate state or local agency authorizing the security personnel to be in possession of a firearm.
- j. If the establishment employs or otherwise engages security personnel who will be in possession of a firearm while on the establishment's premises, the security personnel shall provide the Chief of Police with the following documentation no less than fourteen (14) days prior to the date the security personnel will begin performing services at the establishment:
 - (1) A copy of the license issued to the security personnel authorizing the possession of such firearm;
 - (2) A copy of the security personnel's law enforcement identification if employed by a law enforcement agency; and
 - (3) A copy of the security personnel's California driver's license or California identification card.
- k. The establishment's operator shall at all times manage waiting lines outside the establishment to ensure that there are no impediments to pedestrian travel in the pedestrian walkway, no blockage of neighboring businesses, and no disturbance of the public peace.
- l. At least one person in possession of a valid cabaret license shall be present at the establishment

at all times when entertainment requiring a cabaret license is being provided. Said licensee shall cooperate fully with the Chief of Police, or any City official responsible for enforcing the Alcoholic Beverage Outlet regulations, with any inquiry, inspection reasonable request or investigation necessary to implement the requirements of these regulations or to enforce any other state, local or federal law.

SEC. 6-2.31 POSTING OPERATING REGULATIONS. A set of operating regulations in a form approved by the Chief of Police and containing the provisions of Sections 6-2.27 through 6-2.33 herein, as well as any relevant operating conditions that may be imposed by the Chief of Police, City Council or the Planning Commission, shall be prominently posted by licensee/permittee in at least one (1) conspicuous location within every cabaret, as determined by the Chief of Police.

SEC. 6-2.32 INSPECTION FOR ENFORCEMENT; SUMMARY SUSPENSION. All premises operating pursuant to the terms of these regulations may be inspected for violations of these regulations at any time during normal operating hours by the Chief of Police of the City of Hayward or designee. Any evidence of any violation of the terms of these regulations may be seized without warrant provided that such evidence shall be specifically identified and a receipt shall be given to the owner of such evidence and to the licensee of such premises or his agent. At all times, a designated manager or person in charge shall be on the premises and available to the Police Department. A violation of these Cabarets and Dances regulations may result in immediate closure by the Police Department, pursuant to the summary suspension provisions set forth in the Alcoholic Beverage Outlets regulations (Hayward Municipal Code Sections 10-1.2750 *et seq.*).

SEC. 6-2.33 POWERS OF CHIEF OF POLICE AND OFFICERS. The Chief of Police and his/her sworn officers shall have the power to stop any cabaret or public dance or close any public dance or cabaret premises, whether a license or permit is issued hereunder or not, for disturbing the peace, disorderly conduct, obscene or indecent behavior, or for violation of any law or ordinance.

SEC. 6-2.34 INJUNCTIVE RELIEF; ADMINISTRATIVE CITATION. In addition to the legal remedies provided for in this Code, the operation of any cabaret or public dance in violation of the provisions of these regulations or other applicable laws and regulations shall be deemed a public nuisance, and the City of Hayward may bring an action in any court of competent jurisdiction to enjoin such nuisance or issue an administrative citation pursuant to Chapter 1, Article 7 of this Code.

SEC. 6-2.35 VIOLATIONS; PENALTIES. Any person violating any provision of these regulations or knowingly or intentionally misrepresenting to any officer or employee of the City any material fact in procuring the license or permit shall be punishable as set forth in Article 3 of Chapter 1 of this Code.”

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

Section 3. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective thirty days after adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the _____ day of _____, 2013, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the _____ day of _____, 2013, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Finance

A. ASSESSMENT DISTRICT FEES

- | | | |
|----|---|------------------------------------|
| 1. | <u>Establishment Fee</u> (applicable to all districts petitioned or requested after September 9, 1988) | \$3,084.00 |
| 2. | <u>Annual Administration Fee</u> (applicable to all districts) | \$2,934.00 |
| 3. | <u>Bond Call Fee</u> (applicable to all districts) | \$302.00 |
| 4. | <u>Annual Adjustment</u> : The 3 fees listed above shall be adjusted annually. Each fee shall increase by the lesser of: (1) 5% or (2) the percentage of increase, if any, in the San Francisco Bay Area Consumer Price Index (CPI-U) or (3) the City's actual incremental cost. When the 3 fees are so adjusted, the adjusted fees shall become the new base. The CPI for the San Francisco Bay Area in effect at the time of each annual updating of the Master Fee Resolution shall be used in determining each set of annual adjustments. | Calculated
Adjustment |
| 5. | <u>Irrevocability of the Establishment Fee</u> : Whether or not a proposed local improvement district becomes legally established, the Establishment Fee applies as the City's charge for initiating the transaction. | Same as
amount paid
in A (1) |
| 6. | <u>Special Assessment Inquiries</u> | \$26.00 each |
| 7. | <u>Secondary Disclosure Reporting</u> | \$256.00/
District |

B. OPERATING PERMITS

- | | | |
|----|---|----------------------|
| 1. | <u>Bingo Permit</u> (Reference HMC 4-3) | |
| | a. Initial or renewal Fee | \$50.00 |
| 2. | <u>Card Club Permit</u> (Reference HMC 4-3) | |
| | a. Application Fee | \$40.00 |
| | b. Annual Table Fee | \$8,693.00 per table |
| 3. | <u>Closeout Sale Permit</u> (Reference HMC 6-4) | |
| | a. Initial Fee | \$76.00 |
| | b. Renewal | \$67.00 |
| 4. | <u>Cabarets and Dance Licenses and Permits</u> (Reference HMC 6-2) | |
| | a. Annual License (payable quarterly in advance) | \$103.00/year |
| | b. Single Event Permit | \$42.00 |
| 5. | <u>Preferential Parking Permit</u> (Reference Hayward Traffic Regulations Section 3.95 and Hayward Traffic Code 6.36) | |
| | a. Initial Fee and Biennial Renewal Fee (for up to two residential or visitor permits) | \$50.00 |
| | b. Each additional residential permit | \$25.00 |
| | c. Each additional visitor permit | \$25.00 |
| 6. | <u>Peep Show Permit</u> (Reference HMC 6-9) | |
| | a. Peep Show Device | Time & Material |
| | b. Investigation Fee | Time & Material |

C. MISCELLANEOUS FEES

- | | | |
|----|---|-----------------|
| 1. | Monthly Listing of New Hayward Based Businesses | \$5.50/month |
| 2. | Business Verification/Ownership Research | \$8.00/business |
| 3. | Parking Tax Offset Fee | \$2.50 |

Police Department

B. POLICE ADMINISTRATION

Any charges not specified below shall be established by State and/or Federal statutes.

1. Photocopying of Reports:
 - a. Traffic Accident Reports \$12.00 per report
 - b. Other Reports \$5.50 per report
2. Photographs Time & Motion
3. Fingerprinting \$23.00 each

(Fingerprint processing fees established by Federal or State agencies shall be additional charge.)
4. Traffic & Police Security Services
 - a. Traffic control and police security services for pre-planned, non-city sponsored events Time & Motion
 - b. Planned traffic control for contractors and utilities Time & Motion
5. Permit Processing
(Fees are for processing only, fingerprint and Department of Justice fees are not included)
 - a. Taxi Drivers
 - (1) Initial Permit \$260.00
 - (2) Annual renewal \$186.00
 - (3) Annual taxi operating sticker \$247.00
 - (4) Lost permit replacement \$91.00
 - b. Tow Permits
 - (1) Company 1st License \$297.00
 - (2) Company Annual Renewal \$297.00
 - (3) Driver 1st License \$297.00
 - (4) Driver Annual Renewal \$297.00
 - (5) Lost Permit Replacement \$74.00
 - c. Massage Establishment/technician permit
 - (1) Establishment permit
 - (a) one owner \$614.00
 - (b) two owners \$845.00
 - (c) three owners \$1,076.00
 - (2) Technician Permit
 - (a) Initial permit \$230.00
 - (b) Annual renewal \$76.00
 - (c) Lost permit replacement \$76.00

d.	Card clubs employee permit	
	(a) Initial permit	\$153.00
	(b) Annual renewal	\$153.00
	(c) Lost permit replacement	\$76.00
e.	Auto Sales/Repair Permit	\$175.00
f.	Background investigation	Time & Motion
g.	Firearm dealers annual permit	\$513.00
h.	Diversion program	Time & Motion
i.	Petty Theft Workshop	\$80.00/per participant
j.	Other permit processing	Time & Motion
		\$42.00
6.	<u>Alarm Permit Fee</u>	
	a. new and annual renewal:	\$32.00
	b. for Low income or persons in a temporary or permanent disabled status who:	\$15.00
	(1) meet the City income guidelines as defined in the All City Department section of the Master Fee Schedule and	
	(2) file with the Revenue Division of the Finance Department a discount application and adequate documentary evidence showing that the Permit applicant comes within the provision of subparagraph (a).	
7.	<u>False Alarm Fees</u> (for instances of false alarms within any one-year period):	
	a. First False Alarm Fee	No Charge
	b. Second False Alarm Fee	\$182.00
	c. Third False Alarm Fee	\$182.00
	Penalty	\$ 50.00
	d. Fourth False Alarm Fee	\$182.00
	Penalty	\$200.00
	e. Fifth and Each Fee	\$182.00
	Subsequent False Alarm Penalty	\$400.00
8.	<u>Vehicle Release Fee</u>	\$235.00
9.	<u>Vehicle Verification or Administrative Fee</u>	
	a. Onsite verification	\$43.00
	b. Offsite verification	\$175.00
	c. Sign off of citation not issued by Hayward P.D.	\$ 20.00
10.	<u>Communication Tapes</u>	\$103.00 per tape

11.	<u>Clearance Letters</u>	\$43.00 per letter
12.	<u>Vehicle Abatement</u>	\$263.00 per vehicle
13.	<u>Prisoner Booking Fee</u>	per prisoner
	a. Cite & Release	\$ 89.00
	b. Hold for Court	\$ 180.00
	c. Transfer to Santa Rita	\$ 199.00
14.	<u>Driving Under the Influence</u>	Time & Motion
	Recovery of the cost of the public safety response to a DUI violation using the fully burdened cost allocation rate.	
	The following is authorized by sec 4-11.20 HMC	
	a. First Violation	\$ 750.00
	b. Second Violation	\$ 1,500.00
	c. Third & Subsequent Violations	\$ 2,500.00
	The following is authorized by sec 4-11.25 HMC	
	d. Administrative Citation – recovery of the cost of the public safety response to a violation of this ordinance using the fully burdened cost allocation rate.	Time & Motion
15.	<u>Firearms Range Maintenance Fees</u> – apportions the upkeep of the firearms range among user law enforcement agencies over a <u>fiscal year</u> period:	\$ 750.00
16.	<u>Alcoholic Beverage Outlets Fees (HMC sec 10-1.2750)</u>	
	a. Level I - Alcoholic Beverage Establishment Retail License Fee - Full service restaurants, wine shops, and retail stores using no more than 5% of their floor area for alcohol sales, storage and display.	\$ 280.00
	b. Level II - Alcoholic Beverage Establishment Retail License Fee - All alcoholic beverage outlets other than Level I.	\$ 1,120.00
	c. Critical Incident Fee	Time & Motion
	d. Violation of Alcoholic Beverage Outlets Ordinance	
	(1) First offense	\$ 750.00
	(2) Second offense	\$ 1,500.00
	(3) Third and subsequent Offenses	\$ 2,500.00
	e. Reinspection Fee	Time & Motion
	f. Alcohol Sales – Special Event Permit	\$ 42.00

FINDINGS FOR APPROVAL

**Text Amendment No. PL-2013-0175
City of Hayward**

Amendment to Hayward Municipal Code Chapter 10, Article 1 (Zoning Ordinance) Related to Revisions to Alcohol Beverage Outlet Regulations and Definitions; and to Chapter 6, Article 2 of the Hayward Municipal Code Related to Cabarets and Dances

A Negative Declaration was prepared pursuant to the California Environmental Quality Act (CEQA). No significant environmental impacts are expected to result from the project.

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

The proposed text amendment will promote the public health, safety, convenience, and general welfare of the residents of Hayward by:

- a. allowing happy hours and music at full-service restaurants that will help existing Hayward restaurants be more competitive with restaurants in surrounding cities and will help attract new restaurants to Hayward, which is underserved with such restaurants;
- b. establishing performance standards for all alcohol beverage establishments that will help ensure such establishments are operated in a manner so as not to constitute a public nuisance;
- c. prohibiting more liquor stores or bars, which are typically establishments generating more calls for service for the Hayward Police Department, in areas of the City that have an overconcentration of such establishments, as defined by the State Department of Alcohol Beverage Control;
- d. establishing “Summary Suspension” provisions to allow the City to quickly and effectively shut down an establishment where an imminent threat to public health and safety exists;
- e. creating cost recovery mechanisms through new fees, including critical incident response fees, which will help ensure more oversight of alcohol establishments by the Hayward Police Department;
- f. establishing “Deemed Approved” performance standards for nonconforming uses, which typically generate more calls for service for the Hayward Police Department, which will help ensure such uses are operated in a manner so as not to create a public nuisance or negatively impact the public health, safety and welfare; and
- g. creating new operating standards for all cabarets and public dances, including security standards and “Summary Suspension” provisions to help ensure such businesses are operated responsibly with minimal impacts to the public, and to provide a process that allows the City to respond quickly to incidents at cabarets or dance events that represent an imminent threat to public health and safety.

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

The proposed text amendment is conformance with city policies and plans. For example, the Economic Development Chapter of the General Plan contains the following strategies with which the amendment, as described in the preceding finding, is aligned:

- Preserve and enhance Hayward's assets and character, which make it attractive as a residential community and as an economic investment.
- Approve development opportunities that result in minimal adverse impacts to the City's environment.
- Work cooperatively with local business and industrial associations to improve the general business climate and to stimulate new business investment.
- Promote Hayward as a city that has a broad variety of occupations and family incomes, ethnic diversity, diverse lifestyles and housing accommodations, a broad range of commercial services, educational and job opportunities, and many recreational opportunities.
- Promote Hayward as a destination for nonresidents.

The Land Use Chapter of the General Plan contains the following applicable strategies:

- Emphasize making the downtown a focal point for the City within a pedestrian-friendly environment.
- Recognize the importance of continuous retail frontage to pedestrian shopping areas by discouraging unwarranted intrusion of other uses that weaken the attractiveness of retail areas; encourage residential and office uses to locate above retail uses.
- Encourage both commercial and residential development in the area surrounding the Downtown BART Station.
- Encourage residential development in the downtown area to increase market support for business and to extend the hours of downtown activity.

Additionally, the purpose of the Central City - Commercial (CC-C) Subdistrict is to establish a mix of business and other activities which will enhance the economic vitality of the downtown area. Permitted activities include, but are not limited to, retail, office, service, lodging, entertainment, education, and multi-family residential uses. The proposed text amendment will help attract new desirable uses and help ensure existing uses are operated in a responsible manner.

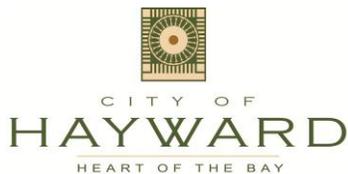
C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified.

No properties are proposed to be reclassified. Any new alcohol establishments or cabarets or dance halls would be required to have adequate streets and facilities before operating, as currently required.

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

No properties are proposed to be reclassified. The proposed regulations and text amendment would provide additional standards to help ensure alcohol establishments and

cabarets and dances are operated in a manner that would not generate impacts to surrounding properties and neighborhoods. In addition, the proposed text amendment would provide cost-recovery mechanisms that currently do not exist, which will allow for greater oversight of such establishments by the Hayward Police Department.



**DEPARTMENT OF
DEVELOPMENT SERVICES
Planning Division**

NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that the Project summarized below (and described in detail in the attached Initial Study) relates to establishing new regulatory standards and fees associated with alcohol beverage outlets and cabarets and public dances in the City of Hayward, and would not result in a significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, Public Resources Code Section 2100 *et seq.*

I. PROJECT DESCRIPTION:

Text Amendment Application No. PL-2013-0175:

1. Proposed revisions related to Hayward's alcohol beverage outlet regulations (<http://www.hayward-ca.gov/blogdocs/ds/2013/AlcoholBeverageOutletsOrdinance-red-lined-rev081413.doc>), to include:
 - Revisions to definitions (<http://www.hayward-ca.gov/blogdocs/ds/2013/DraftZODDefinitions.doc>);
 - New security requirements and standards for dancing or entertainment establishments;
 - New basic operating standards and procedures for nonconforming uses ("Deemed Approved" provisions);
 - New emergency action procedures to abate imminent threats to public health, safety or welfare ("Summary Suspension" regulations)
 - Codifying 'trial period' provisions to allow happy hours from 4 to 9 pm and live music until midnight at full-service restaurants;
 - Establishing new fees for cost recovery, including for critical incident responses (<http://www.hayward-ca.gov/blogdocs/ds/2013/ProposedNewFees.doc>); and
 - Enhanced cumulative remedy provisions.
2. Proposed new regulations for cabarets and dances in Hayward, to include new definitions, licensing procedures and process, and operating standards for establishments that normally allow regular dancing and/or live entertainment (<http://www.hayward-ca.gov/blogdocs/ds/2013/CabaretsAndDancesOrdinance.doc>).

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

The proposed project could not have a significant effect on the environment, as described below and in the attached Initial Study.

III. FINDINGS SUPPORTING DECLARATION:

1. The proposed Project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study has been prepared by City staff for the proposed project. The Initial Study indicates that the proposed project could not result in significant effects on the environment.
2. The Project will not adversely affect any scenic resources.
3. The Project will not have an adverse effect on agricultural land.
4. The Project will not have an adverse effect on air quality.
5. The Project will not generate impacts to biological resources such as wildlife and wetlands.
6. The Project will not have impacts to known cultural resources, including historical resources, archaeological resources, paleontological resources, and unique topography, or disturb human remains.
7. The Project would have no impacts related to geological hazards.
8. The Project would not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.
9. The Project would not create a significant hazard to the public or the environment through the routine transport, use, disposal, storage, release or handling of hazardous materials.
10. The Project would not affect water quality standards.
11. The Project does not conflict with the policies of the City of Hayward General Plan and Zoning Ordinance since the proposed regulations and fees are in line with the Zoning Ordinance's existing alcohol outlet regulations purposes and the City Council's priority of fiscal stability.
12. The Project would not result in a significant impact to mineral resources.
13. The Project would not result in population growth or the displacement of residents.
14. The Project would not result in significant noise impacts and proposed amendments would not conflict with the City's established noise standards and regulations.
15. The Project could not result in a significant impact to public services, and in fact, the proposed regulations will help ensure police department resources are not over-burdened.
16. The Project would not result in a significant impact to traffic or result in changes to traffic patterns or emergency vehicle access.

17. The Project would not result in a significant impact to utilities and city services.

IV. PERSON WHO PREPARED INITIAL STUDY:



Signature: _____
David Rizk, AICP, Associate Planner

Dated: August 16, 2013

V. COPY OF INITIAL STUDY IS ATTACHED

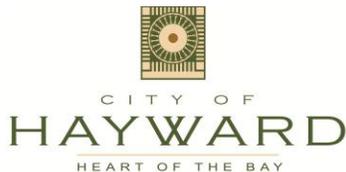
For additional information, please contact Arlyne Camire at the City of Hayward Planning Division, 777 B Street, Hayward, CA 94541-5007 or telephone (510) 583-4206.

DISTRIBUTION/POSTING

Provide copies to project applicants and all organizations and individuals requesting it in writing, including the Alameda County Airport Land Use Commission.

Provide copy to Alameda County Clerk's Office.

- Reference in all public hearing notices to be distributed at least 20 days in advance of initial public hearing and/or published once in *The Daily Review* newspaper at least 20 days prior to hearing.
- Project file.
- Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until after final action on the Project.



DEPARTMENT OF DEVELOPMENT SERVICES
Planning Division

INITIAL STUDY CHECKLIST

Project Title: Text Amendment Application No. PL-2013-0175: Proposed Revisions to Hayward's Alcohol Beverage Outlet and Cabaret/Public Dance Regulations

Lead agency name/address: City of Hayward, Development Services Department; 777 B Street, Hayward, CA 94541-5007

Contact person: David Rizk, AICP, Development Services Director
(510) 583-4004
David.rizk@hayward-ca.gov

Project location: Citywide

Project Sponsor's Name and Address: City of Hayward
777 B Street
Hayward, CA 94541

General Plan Designation: Various (no changes proposed)

Zoning Designation: Various (no changes proposed)

Project description:

Text Amendment Application No. PL-2013-0175:

1. Proposed revisions related to Hayward's alcohol beverage outlet regulations (<http://www.hayward-ca.gov/blogdocs/ds/2013/AlcoholBeverageOutletsOrdinance-red-lined-rev081413.doc>), to include:
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 - New security requirements and standards for dancing or entertainment establishments;
 - New basic operating standards and procedures for nonconforming uses ("Deemed Approved" provisions);
 - New emergency action procedures to abate imminent threats to public health, safety or welfare ("Summary Suspension" regulations)
 - Codifying 'trial period' provisions to allow happy hours from 4 to 9 pm and live music until midnight at full-service restaurants;
 - Establishing new fees for cost recovery, including for critical incident responses (<http://www.hayward-ca.gov/blogdocs/ds/2013/ProposedNewFees.doc>); and
 - Enhanced cumulative remedy provisions.
2. Proposed new regulations for cabarets and dances in Hayward, to include new definitions, licensing procedures and process, and operating standards for establishments that normally allow regular dancing and/or live entertainment (<http://www.hayward-ca.gov/blogdocs/ds/2013/CabaretsAndDancesOrdinance.doc>).

Surrounding land uses and setting:Regional Setting

The City of Hayward is known as the “Heart of the Bay” due to its central location in Alameda County along the east side of the San Francisco Bay, twenty-five miles southeast of San Francisco, fourteen miles south of Oakland, twenty-six miles north of San Jose, and ten miles west of the valley communities of San Ramon, Dublin, and Pleasanton. The City of Hayward lies along the southeastern shore of the San Francisco Bay, at the western end of the Diablo Mountain Range. Topography in the eastern portion of Hayward generally consists of moderately steep foothills descending from the Diablo Range, leveling into a valley before reaching the San Francisco Bay.

The Nimitz Freeway (US 880) passes through the City of Hayward on its path between the City of San Jose and the San Francisco-Oakland Bay Bridge. The Hayward-San Mateo Bridge, State Route 92, spans the San Francisco Bay between the cities of Hayward and Foster City. The City of Hayward borders the cities of San Leandro, Union City, Fremont and Pleasanton. The census-designated places bordering Hayward within Alameda County are Castro Valley, San Lorenzo, Cherryland, and Fairview.

City Setting

The City of Hayward is highly urbanized, with the shoreline and hillsides containing natural open space. Commercial development tends to be located along major arterial streets such as Mission Boulevard, Foothill Boulevard, Jackson Street, Tennyson Road, and Hesperian Boulevard. The western and southern portions of Hayward primarily consist of industrial land uses. To the east and north of the industrial corridor lie numerous tracts of residential development often centered upon public school sites.

Requested Local Approvals: The following actions by the Lead Agency are necessary to carry out the project:

- Text Amendment: The project would entail:
 - Revisions to the City of Hayward’s existing Alcohol Beverage Outlet regulations (repeal of Hayward Municipal Code Section 10-1.2735b(1)-(13) and creation of new Sections 10-1.2750 through 10-1.2775);
 - Revisions to the Definitions Section of the Zoning Ordinance (Hayward Municipal Code Section 10-1.3500);
 - Revisions to various Zoning District regulations to reflect recommended new definitions; and
 - An overhaul of the City’s existing Public Dance provisions (repeal of Hayward Municipal Code Sections 6-2.10 through 6-2.17 (Public Dances”), and creation of Sections 6-2.10 through 6-2.35 (“Cabarets and Dances”).
- New Fees: Amend the Hayward Master Fee Schedule for Fiscal Year 2014.

Other public agencies whose approval is required:

None.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

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

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

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

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

Signature

David Rizk

Printed Name

August 15, 2013

Date

EVALUATION OF ENVIRONMENTAL IMPACTS:

ENVIRONMENTAL ISSUES:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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II. AGRICULTURE AND FOREST

RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. -- Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? ***Comment:*** *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? ***Comment:*** *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? ***Comment:*** *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Result in the loss of forest land or conversion of forest land to non-forest use? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>III. AIR QUALITY -- Where applicable, the significance criteria established by the Bay Area Air Quality Management District (BAAQMD) is relied upon to make the following determinations. Would the project:</p>				
a) Conflict with or obstruct implementation of the applicable air quality plan? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? **Comment:** *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Expose sensitive receptors to substantial pollutant concentrations? **Comment:** *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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e) Create objectionable odors affecting a substantial number of people? **Comment:** *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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IV. BIOLOGICAL RESOURCES -- Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife Service or U.S. Fish and Wildlife Service? **Comment:** *The Project would establish new standards and regulations associated with alcohol beverage*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>				
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife Service or US Fish and Wildlife Service? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
V. CULTURAL RESOURCES -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in California Environmental Quality Act , Title 14; Chapter 3; Article 5; Section 15064.5? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?</p> <p>Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VII. GREENHOUSE GAS EMISSIONS --

Would the project:

<p>a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? <i>Comment:</i> <i>The Project would establish new standards and</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.

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

Comment: *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

Comment: *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Comment: *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? ***Comment:*** *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with*

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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

a) Violate any water quality standards or waste discharge requirements? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.

X. LAND USE AND PLANNING -- Would the project:

a) Physically divide an established community?

Comment: *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? ***Comment:*** *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

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c) Conflict with any applicable habitat conservation plan or natural community conservation plan? ***Comment:*** *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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XI. MINERAL RESOURCES -- Would the project:

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

Comment: *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? Comment: <i>There aren't mineral resources on the Project site; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XII. NOISE -- Would the project result in:

- a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?
Comment: *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development. Also, revisions would not entail changing the City's noise ordinance or standards; thus, no impact.*
- b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? **Comment:** *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*
- c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? **Comment:** *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development. Also, revisions would not entail changing the City's noise ordinance or standards; thus, no impact.*
- d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? **Comment:** *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed*

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development. Also, revisions would not entail changing the City's noise ordinance or standards; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development. Also, revisions would not entail changing the City's noise ordinance or standards; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

development. Also, revisions would not entail changing the City's noise ordinance or standards; thus, no impact.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? **Comment:** The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? **Comment:** The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.

XIII. POPULATION AND HOUSING -- Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? **Comment:** The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? **Comment:** The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? **Comment:** The Project would

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XIV. PUBLIC SERVICES --

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Fire protection? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Police protection? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities, to help ensure police resources are not over-burdened, and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Schools? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development or changes to separation from schools from such uses; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Parks? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development or changes to separation from parks from such uses; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Other public facilities? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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such activities and does not entail proposed development; thus, no impact.

XV. RECREATION --

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? ***Comment:*** *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

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b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? ***Comment:*** *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

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XVI. TRANSPORTATION/TRAFFIC --
Would the project:

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? ***Comment:*** *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

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b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? ***Comment:*** *The*

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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>				
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVII. UTILITIES AND SERVICE SYSTEMS

-- Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? Comment: <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>				
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the City of Hayward that it has adequate capacity to serve the project' s projected demand in addition to the provider' s existing commitments? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project' s solid waste disposal needs? <i>Comment:</i> <i>The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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such activities and does not entail proposed development; thus, no impact.

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

Comment: *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE --

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

Comment: *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

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

Comment: *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

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

Comment: *The Project would establish new standards and regulations associated with alcohol beverage outlet regulations and cabarets and dances/live entertainment, as well as new fees associated with such activities and does not entail proposed development; thus, no impact.*

Mr. Jesús Armas, with a business address on Main Street, invited all to the second annual "Fire and Salsa Game II," a basketball fundraising match between Los Chilonos de Hayward and Hayward Firefighters, Local 1909, on February 4, 2012, at noon at the Mateo Jimenez Gym. Mr. Armas noted that the proceeds would benefit the Hayward Youth Commission.

Mr. Doug Ligibel, Grand Terrace resident, relayed questions from Alcohol and Drugs Specialists (ADS) about the consideration of a "happy hour" at local restaurants. The questions related to happy hour and public safety, crime, nuisance, youth eating at restaurants, overconcentration of on-site alcohol outlets, and hours of service. Mr. Ligibel shared arrest records that reflected several driving under the influence offenses, and arrests that showed a problem with youth females drinking and driving. Mr. Ligibel was concerned about the 9:00 p.m. to close happy hour consideration and urged Council to pay attention to the 9:00 p.m. to 2:00 a.m., happy hour policies of some restaurants.

Mr. Kim Huggett, Chief Executive Officer of Hayward Chamber of Commerce, supported removing the prohibition against restaurants offering alcoholic beverages for a reduced price promotion because the prohibition placed Hayward restaurants at a competitive disadvantage, compared to neighboring communities, reduced restaurant income, impacted City sales tax, and jobs. He noted that the prohibition erroneously presumed that owners and managers of our restaurants did not know how to train their employees and how to responsibly serve alcoholic beverages. Lastly, on behalf of Buffalo Bills' owner, Geoff Harries, he relayed to Council Mr. Harries' support for removing the ban against restaurants offering discounted alcoholic beverages.

Ms. Julie McKillop, Neumanali Restaurant owner, stated that she was not aware of the City's ordinance banning discounted alcohol beverages. Ms. McKillop favored happy hour as a good marketing tool and not necessarily something that increased alcohol consumption. She disapproved seeing Hayward restaurants at a competitive disadvantage and asked for a compromise on this issue.

SPECIAL JOINT CITY COUNCIL/PLANNING COMMISSION WORK SESSION

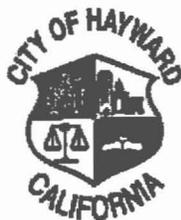
1. Revisions to the Alcohol Beverage Outlet Regulations in the Zoning Ordinance

Staff report submitted by Development Services Director Rizk and Police Chief Urban, dated January 24, 2012, was filed.

Mayor Sweeney invited Planning Commissioners to join Council at the dais. Development Services Director Rizk provided a synopsis of the report.

Mayor Sweeney said it seemed inappropriate to modify regulations for alcohol-serving establishments without having a tangible plan for enforcing the regulation of any undesirable uses that might drain limited City resources.

Council Member Henson noted that the purpose of revising the City's regulations on alcoholic beverage sales at full-service restaurants was an attempt to balance the economic needs of such restaurants with the need to eradicate problematic establishments.



**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, January 24, 2012, 7:00 p.m.**

Mr. Henson shared that other cities offered cabaret licenses and/or entertainment permits. Development Services Director Rizk noted that upon receiving direction from Council, staff could conduct research on the topic. In response to Council Member Henson's request to address the concerns raised by Mr. Ligibel, Director Rizk commented that full-service restaurants would have to adhere to regulations that required that 60% of restaurant sales come from food, and noted that, according to the Police Department, full-service restaurants were typically not a large source of calls for service. Council Member Henson pointed out there should be a clause in the City's ordinance addressing the actions that could be taken if things got out of hand.

Council Member Peixoto supported a compromise on the timing of happy hours, noting that the ordinance could be revised to restrict happy hours during the late night period.

Council Member Peixoto commented that the City's priorities were in place to develop a thriving downtown and believed that happy hours would encourage customers to stay at the full-service restaurant and have a meal. He agreed with Mayor Sweeney's concerns about potential safety issues that may arise from permitting happy hours after 9:00 p.m.

Planning Commissioner Lamnin favored instituting happy hours for full-service restaurants and suggested the following: that the revised ordinance require full-service restaurants to also offer low priced appetizers in addition to the discounted drinks; that the training provided to restaurant personnel be consistent for all of the full-service restaurants offering a happy hour; that the ordinance contain language for violations of the happy hour provision; and that full-service restaurants participate in crime prevention through environmental design standards. Commissioner Lamnin asked staff to look into whether or not dancing could be permissible at certain establishments. Due to concerns regarding the added costs resulting from the institution of a happy hour, Commissioner Lamnin shared that some cities had implemented an alcohol and tobacco retailer's license to assist in offsetting the cost of enforcement. She further stated that as a reward for businesses that were compliant with the City's regulations, a business might receive a discount in their permit fee.

Planning Commissioner Lavelle favored lifting the restriction on happy hours because it would allow local full-service restaurants to compete with other restaurants in the Bay Area. Commissioner Lavelle noted that the Elephant Bar in Hayward was the only Elephant Bar restaurant in Northern California lacking a happy hour. She expressed that having one early happy hour time would be adequate for restaurants and customers and added that discounted drinks being available late at night could contribute to driving under the influence. Ms. Lavelle supported Commissioner Lamnin's suggestion of discounted appetizers. Ms. Lavelle asked staff to explore the possibility of permitting music of a variety of sources at the full-service restaurants, and when permitted, would be in concurrence with the City's noise regulations. Ms. Lavelle noted that she did not read any references to Community Prevention of Alcohol-Related Problems (COMMPRE) and hoped that a representative would share their views regarding the proposed happy hour regulations.

In response to Planning Commissioner Mendall's question regarding situations that would necessitate changing back to the former regulation such as due to an increase in the number of service calls, Assistant City Attorney Conneely stated that staff could propose a trial period during which to test the revised regulation. Mr. Mendall asked if the City could place restrictions on problematic establishment. Development Services Director Rizk noted that the establishment would not be in compliance with the criteria of full-service restaurant and, therefore, would need to obtain a conditional use permit. Commissioner Mendall was supportive of revising the ordinance to allow happy hour for full-service restaurants, but only if regulating mechanisms were in place. He was amenable to a 3:00 p.m. to 7:00 p.m. happy hour timeframe, but was not comfortable with the late night happy hour. He added that the funding mechanism would need to be proportional to the size of the establishment or the amount of alcohol being served.

Planning Commissioner Faria pointed out that Applebee's restaurant had a conditional use permit, but was not on the list provided. Ms. Faria noted that in an effort to promote growth and business in the City, she would support lifting the prohibition of happy hour for full-service restaurants. She supported a funding mechanism for the oversight of the ordinance.

Planning Commissioner Márquez stated support of loosening the restrictions placed on full-service restaurants; however, she also believed that there needed to be additional research in terms of handling problematic businesses and maintaining compliance. In response to Commissioner Márquez' question of what intervening agency would respond to a problematic business, Police Chief Urban responded that it would be a shared responsibility between the Police Department and Alcohol and Beverage Control (ABC). Commissioner Márquez noted that the City needed to have fees associated with a revised ordinance and noted that a trial period made sense. She was in support of restricting happy hour from 3:00 p.m. to 7:00 p.m.

Planning Commission Chair Loché concurred with the comments made. Chair Loché noted that businesses that were poorly managed, whether they served alcohol or not, were the businesses that drained City services and he noted the importance of addressing that issue. In terms of a funding structure, he suggested cabaret fees. He added that a funding structure could help eliminate poorly run businesses and, on the same token, could help incentivize well run businesses.

Council Member Zermefio agreed with Planning Commission Chair Loché's comments regarding problematic businesses. Mr. Zermefio noted that he had been a proponent of eliminating the provision that prohibited happy hours, but disagreed that there needed to be more research for a funding structure to enforce regulations. He mentioned that the City was in need of economic vitality. For the time being, he agreed with the 3:00 p.m. to 7:00 p.m. happy hour timeframe. Furthermore, he mentioned that he wanted to see no limit to the number of restaurants that could be next to each other on a particular block.

Council Member Salinas stated that he was in agreement with the comments expressed by Council and Planning Commissioners. Mr. Salinas mentioned model businesses that were doing well. He liked the fact that bartenders were educated and skilled to identify and take care of problem customers. He added that full-service restaurants had a good opportunity to work with cab companies. He was supportive of lifting the provision that prohibits happy hour for full-service



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Tuesday, January 24, 2012, 7:00 p.m.**

restaurants, allows music in those restaurants up until 10:00 p.m., and allows staff to conduct further research on alcohol sales.

Council Member Halliday mentioned that the Elephant Bar, Mimi's Cafe, Olive Garden, and Applebee's restaurants were relatively new to the Southland Mall area and appreciated staff's efforts to bring them into conformity with other cities in the area. In response to Council Member Halliday's question, Director Rizk explained that the State Board of Equalization would notify the Department of Alcohol Beverage Control (ABC) if a full-service restaurant had exceeded 40% of alcohol sales, and ABC would then work with the Hayward Police Department to address the issue. She agreed that having happy hour extended later into the night could prove problematic and therefore she favored allowing the earlier times for happy hours at full-service restaurants and allowing music and use permits for dancing. She was supportive of proper training for employees and researching a funding structure to regulate uses.

Council Member Quirk agreed with his fellow Council Members and, in particular, with Council Member Zermeño about getting the happy hour started right away. Mr. Quirk asked staff to poll participants of the restaurant tour about the importance of late night happy hours. He mentioned that if there was no evidence of problems, then he would not have a reason to be concerned about late night happy hours.

Council Member Henson said he was in favor of going forward and exploring the funding to support public safety oversight of alcohol-serving establishments. Mr. Henson noted that during this economic environment it was appropriate to give restaurants the opportunity to be competitive.

Mayor Sweeney stated there was general consensus among the two bodies and asked staff to provide options when the item comes back to Council. Mayor Sweeney noted that there was consensus to restrict the hours of the happy hour, with the exception of Council Member Quirk's request that staff poll restaurants and conduct a survey of late night happy hours, and bring back findings. Mayor Sweeney mentioned the suggestion offered by Commissioner Mendall to have a trial period with restrictions and at the end of the trial there would be a recommendation to establish a happy hour or leave the ordinance as is. Mayor Sweeney brought up Commissioner Lamnin's suggestion to consider adding discounted appetizers to the happy hour of full-service restaurants. He also pointed out that an effective strategy needed to be developed to address problem businesses that drain Police resources. Lastly, Mayor Sweeney commented that a stronger strategy needed to be developed to improve Hayward's economy.

2. Presentation of the Alternative Scenarios for the Regional Sustainable Communities Strategy

Staff report submitted by Development Services Director Rizk, dated January 24, 2012, was filed.



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Resolution 12-104, "Providing Notice of Scheduled Adoption of Appropriations Limit for Fiscal Year 2013 Pursuant to Article XIII B of the Constitution of the State of California"

8. Extension of 72-Inch Effluent Pipeline Shoring at the Water Pollution Control Facility

Staff report submitted by Senior Utilities Engineer Clark, dated June 19, 2012, was filed.

It was moved by Council Member Zermeño, seconded by Council Member Henson, and carried unanimously, to adopt the following:

Resolution 12-105, "Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with McGuire and Hester to Extend 72 Inch Effluent Pipeline Shoring at the Water Pollution Control Facility"

LEGISLATIVE BUSINESS

9. Introduction of Ordinance to Amend the Hayward Municipal Code Section 11-3.255 Regarding Sewer Connection Fees to Allow for Longer Payment Terms – Continued to June 26, 2012

Staff report submitted by City Manager David, dated June 19, 2012, was filed.

Mayor Sweeney noted that staff was recommending continuation of the item to June 26, 2012.

There being no public comments, Mayor Sweeney opened and closed the public hearing at 7:55 p.m.

It was moved by Council Member Halliday, seconded by Council Member Henson, and carried unanimously, to continue the item to June 26, 2012.

10. Temporary Revisions to the Alcohol Beverage Outlet Regulations to Allow on a Trial Basis Happy Hours from 4:00 to 9:00 p.m. and Music until 10:00 p.m. at Full-Service Restaurants

Staff report submitted by Director of Development Services Rizk and Chief of Police Urban, dated June 19, 2012, was filed.

Development Services Director Rizk provided a synopsis of the report.

Council Member Zermeño asked about the prohibition of dancing during the trial period. Development Services Director Rizk noted that dancing could be allowed with a conditional use permit and he added that the recommendation was for music to be complementary to a full-service restaurant dining experience.

In response to Council Member Henson's inquiry related to dancing, Police Chief Urban said that music was secondary to the full-service dining experience and reiterated that dancing could be allowed by applying for a conditional use permit. Mr. Henson supported the proposed licensee education classes/trainings (LEADS) that the Hayward Police Department and the Department of Alcohol Beverage Control (ABC) plan to offer to ABC establishments.

In response to Council Member Halliday's inquiry related to the terms of Applebee's happy hour, Development Services Director Rizk noted that Applebee's Conditional Use Permit did not specify happy hour and he added that staff will look into an enforcement mechanism.

Mayor Sweeney opened the public hearing at 8:08 p.m.

Mr. Kim Huggett, President of the Hayward Chamber of Commerce, spoke on behalf of Hayward Chamber restaurant owners expressing support for the staff recommendation and noting that the current prohibition of reduced price alcohol sales places restaurant and chains at a disadvantage. Mr. Huggett added that musical entertainment improves the quality of life and would add to the success of local restaurants.

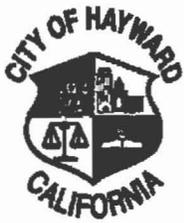
Ms. Francesca Lomotan, Second Street resident and representing the Hayward Coalition for Healthy Youth, spoke in support of allowing, on a trial basis, happy hours and musical entertainment at full service restaurants with three amendments: change happy hours from 5:00 to 7:00 p.m., remove "all you can drink" and "two for one" specials. Ms. Lomotan said the proposed amendments would reduce the possibility of binge drinking and over-consumption. Ms. Lomotan urged Council to support the Coalition's recommendations.

Mr. Ravai Bhatnagar, representing the Golden Peacock Banquet and Restaurant on Santa Clara Street, expressed support for the trial period in which happy hours and musical entertainment would be allowed. Mr. Bhatnagar also welcomed the licensee education classes/training. He added that dancing would allow Hayward restaurants to be competitive with other cities.

Mr. Tony Everfield, representing Mimi's Café on Hesperian Boulevard, mentioned that happy hour increased low volume sales, increased patronage, and allowed establishments to hire more employees. Mr. Everfield emphasized the importance of a good management team that would not allow underage drinking or binge drinking.

Mr. Ronald Gruel, Voyager Way resident, supported restricting happy hours from 5:00 to 7:00 p.m. Mr. Gruel urged Council to consider the current prohibitions carefully. He noted that dancing could cause negative situations and he mentioned there was a high density of liquor licenses in Hayward.

Mr. Richmond Apande, prospective B Street business owner, spoke in support of the staff recommendation. Mr. Apande noted that surrounding cities that offer happy hour promotions



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generate more business. He added that he would take proper measures to keep customers safe, bring entertainment, and provide appropriate training for his employees.

Mr. Aric Yererino, representing the Dirty Bird Lounge on Mission Boulevard, spoke in support of the staff recommendation. Mr. Yererino said he planned on opening a full service restaurant in downtown, but current regulations created roadblocks to open a successful downtown business. He mentioned Hayward needed to attract a younger population.

Ms. Monica Thompkins, Stonehaven Court resident and ME Restaurant owner, thanked Chief Urban for Police department support in providing the licensee education classes/training and asked Council to consider the staff recommendation. Ms. Thompkins mentioned that the happy hour promotion would generate revenue, walk-in-traffic, and needed jobs.

Mr. Ronnie Stewart, Executive Director of the Blues Society, spoke in support of the staff recommendation and, as a musician, commented that happy hours helped improve economic vitality and create a destination point. He also noted that the happy hour time frame could be extended.

Mr. Jason Jago, Elephant Bar Restaurant District Manager, noted that the Hayward location was the only restaurant that did not have a happy hour and added that through social media, Yelp being one, he received complaints from customers. Mr. Jago mentioned that Elephant Bar Restaurants provide alcohol awareness training for its employees and said that staff was responsible for alerting management if there were any alcohol-related issues.

Mayor Sweeney closed the public hearing at 8:39 p.m.

Council Member Salinas indicated he was in support of the staff recommendation noting the City needed to develop strategies for businesses to generate revenue. Mr. Salinas mentioned he frequents downtown establishments in order to patronize local businesses, along with other young urban professionals, and he had not witnessed any problems. Mr. Salinas noted that college students relayed to him that there was nothing to do in the downtown. Mr. Salinas supported the staff recommendation with an amendment to extend live or recorded musical entertainment from 10:00 p.m. to midnight.

Council Member Quirk seconded the motion. In response to Council Member Quirk's inquiry about the Police Department foreseeing any problems with extending musical entertainment until midnight, Police Chief Urban said the trial period would be a great opportunity to evaluate all concerns. Development Services Director Rizk noted that music must be in compliance with the Noise Ordinance.

Council Member Zermefio said he was in support of the staff recommendation and the amendment to extend musical entertainment until midnight. Mr. Zermefio pointed out that there would be consequences if businesses did not abide by the regulations and commented that the

recommendations offered by Ms. Lomotan were unnecessary. In response to Mr. Zermeño's inquiry, Development Services Director Rizk indicated that if an establishment wanted to allow dancing, it would need to apply for a Conditional Use Permit which would go to the Planning Commission and noticed as a public hearing.

Council Member Peixoto was in support of the staff report. Mr. Peixoto indicated that one of Council's priorities was to revitalize downtown and he noted that by allowing, on a trial basis, happy hours, more restaurants would come into downtown and generate needed revenue. He noted that effective management was a significant factor for problematic alcohol-serving establishments.

Council Member Henson was strongly in favor of allowing, on a trial basis, happy hours, noting it would help revitalize downtown and other areas where full-service restaurants were in operation. Mr. Henson added that the temporary revisions would make the City competitive, and if missteps happened during the trial period, he suggested allowing them to work it out through training. He was in favor of allowing dancing during the trial period.

Council Member Halliday supported the staff recommendation noting that happy hours would create equity for Hayward's full-service restaurants with other cities. Ms. Halliday mentioned downtown was a good place for entertainment, and noted that establishments that provide music and dancing in other residential areas of the City needed to use common sense and comply with the Noise Ordinance. She said she was in support of the motion because this was a trial period that would provide an opportunity to see how it worked while staff developed more permanent regulations.

Council Member Quirk offered an amendment to the motion directing staff to assess a suitable regulation to allow dancing after the trial period without disrupting the restaurant business. Council Member Salinas was amenable to the motion.

Mayor Sweeney noted that he was going to vote against the motion because of his concern with happy hours. Mr. Sweeney noted that "two for one" and "all you can drink" specials did not encourage patrons to reduce the amount of drinks. He added that drinking and encouraging drinking often leads to tragedy. He noted that Council's first priority was to protect the public. He did not agree that extending happy hour opportunities would improve economic activity.

It was moved by Council Member Salinas, seconded by Council Member Quirk, and carried with Mayor Sweeney voting against, to adopt the staff recommendation with an amendment to allow until midnight, during a six-month trial period, recorded or live musical entertainment without dancing at full service restaurants, and to direct staff to assess the possibility of allowing dancing after the trial period.

Resolution 12-106, "Resolution Allowing Reduced Price Alcohol Sales from 4:00 P.M. to 9:00 P.M. and Musical Entertainment without Dancing until Midnight at Full Service Restaurants During a Six-Month Trial Period"



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Staff report submitted by Landscape Architect Koo, dated December 4, 2012, was filed.

It was moved by Council Member Zermeño, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent, to adopt the following:

Resolution 12-183, "Resolution Approving Request of Hayward Area Recreation and Park District for Allocation of Park Dedication In-Lieu Fees for the Purpose of Rebuilding Hayward Senior Center Kitchen in Compliance with the Americans with Disabilities Act and California Health Department Codes, Building a New Dog Park at Eden Greenway, and Installing a New Pre-Fabricated Restroom Building in Compliance with the Americans with Disabilities Act at Ruus Park"

7. Acceptance and Appropriation of Gang Resistance Grant Award

Staff report submitted by Administrative Analyst III Davis, dated December 4, 2012, was filed.

It was moved by Council Member Zermeño, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent, to adopt the following:

Resolution 12-184, "Resolution Authorizing the City Manager to Execute an Agreement with the Bureau of State and Community Corrections to Implement the 2012/14 California Gang Reduction, Intervention and Prevention Program Grant (CAL-GRIP) Award"

8. Extension up to June 26, 2013, of Temporary Revisions to the Alcohol Beverage Outlet Regulations to Allow on a Trial Basis at Full-Service Restaurants Happy Hours from 4:00 to 9:00 pm and Music until Midnight

Staff report submitted by Director of Development Services Rizk and Chief of Police Urban, dated December 4, 2012, was filed.

It was moved by Council Member Zermeño, seconded by Council Member Jones, and carried with the following vote:

AYES: Council Members Zermeño, Jones, Halliday,
 Peixoto, Salinas
 NOES: MAYOR Sweeney
 ABSENT: Council Member Mendall
 ABSTAINED: None

the school community and contact Cal State East Bay and Chabot College to publicize notices in their newspapers. Mr. Salinas suggested that the educational community and its role and contribution to the City be a topic of discussion.

Council Member Zermeño suggested the topic “Rising Sea Level and Flooding” be a part of “Disaster Preparation and Response” topic and replace “Rising Sea Level and Flooding” with “Growth.” Mr. Zermeño requested adding “Education” as a topic because Hayward is a university town. Mayor Sweeney recommended maintaining “Rising Sea Level and Flooding” as a separate topic.

Council Member Halliday suggested presenting the topics of “Climate Action Plan” and “Rising Sea Levels and Flooding” in one session, and adding a session on the topic of “Health.” Ms. Halliday commented that items under the “Economic Development” topic should be land use, vision for downtown, and businesses geared toward young people. It was noted that discussion related to the City’s appearance: building heights, density, and corridors would be addressed during the “Draft Vision and Guiding Principles” session.

Council Member Jones suggested that the Task Force would benefit from being informed on the following topics: understanding how the California State University system implements land use planning; the value of creating a healthy business environment for commercial and industrial sectors; and the importance of jobs creation. Mr. Jones noted that areas that should also be included were transit-oriented development; arts and culture; and transportation alternatives such as cycling and pedestrian-friendly options.

Mayor Sweeney spoke about the importance of protecting the industrial corridors on the west and south sides of the City.

2. Recommended Revisions to Hayward’s Alcohol Beverage Outlet Regulations

Staff report submitted by Development Service Director Rizk, dated December 4, 2012, was filed.

Development Services Director Rizk provided a synopsis of the report. Mr. Rizk noted that staff received an email from Ms. Linda Pratt and a letter from Mr. Richard C. Ersted after the packet was published.

Council Member Zermeño favored having live music and dancing at full-service restaurants, provided all the standards were in place. In response to what Mimi’s Café would need to do to be able to provide dancing, Police Chief Urban said a dance permit and noted the Hayward Police Department would make sure that appropriate security and accountability were in place. Mr. Zermeño supported the four objectives of the proposed revisions: attract desirable alcohol-serving businesses; ensure alcohol-serving businesses operated in a safe and responsible manner; shut down undesirable businesses; and provide a funding structure to support City staff with enforcement.

Council Member Halliday appreciated staff responding to concerns raised by Council and acknowledged COMMPRE’s input. Ms. Halliday noted the City’s on-going support for responsible



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establishments while it continued to tackle grandfathered-in establishments that did not have to comply with the same requirements. Ms. Halliday expressed concern that by allowing certain alcohol uses with an administrative use permit, the public would need to appeal the Planning Director's decision in order to provide input. It was noted that dance permits were renewed on an annual basis.

Council Member Jones supported the four objectives outlined in the staff report and cautioned staff to be cognizant of fees and not discourage new establishments from coming to Hayward. Mr. Jones said well managed and responsible establishments should be given maximum flexibility to operate successfully and poorly managed businesses should be shut down. Mr. Jones said the "Deemed Approved" process was a creative method to help businesses that were below par to meet basic standards.

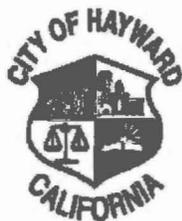
Council Member Salinas supported the four objectives outlined in the staff report and relayed the positive comments he had received about the trial period of "happy hour" alcohol sales, and was glad that there had not been an increase in police incidents due to "happy hour." Mr. Salinas favored allowing full-service restaurants to have live or recorded music until 1:00 a.m., liked that dance permits were renewed on an annual basis, and encouraged staff to view new businesses in an optimistic light. Mr. Salinas did not agree with Mr. Ersted that one member of the executive team should have the power to make a determination that there was an imminent threat to the public health, safety or welfare, but a decision should remain by the consensus of the group. There was discussion regarding nonconforming establishments and "Deemed Approved" regulations.

Council Member Peixoto expressed concern that the shift from a conditional use permit to an administrative use permit process would reduce the opportunity for public hearing input in exchange for making the process simpler for applicants. Mr. Peixoto said he mostly favored the entertainment component but looked forward to public input; wanted the regulations defined for full-service restaurant and nightclubs; and wanted to ensure that the City was capable of enforcing the proposed regulations.

Mayor Sweeney said Council members voiced valid concerns and agreed with Council Members Halliday and Peixoto about the importance of the public having the opportunity to comment on the proposed regulations. Mayor Sweeney noted that proposed regulations needed to be strengthened in terms of presentation and provide adequate public review, and funding for the enforcement needed to be identified and owned. He supported the Summary Suspension concept, but remarked that some standards were vague and suggested staff review Mr. Ersted's suggestions. Mayor Sweeney agreed with Council Member Jones that well managed, responsible and accountable business should be supported and poor managed businesses shut down.

CONSENT

Consent Item No. 8 was removed for separate vote.



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Chair Márquez asked how residents would be informed of these upcoming events and Planning Manager Patenaude said staff would work with Stonebrae to develop the most effective method to get the word out to surrounding residents.

Chair Márquez closed the Public Hearing at 8:27 p.m.

Commissioner McDermott moved the staff recommendation adding that she knew firsthand how hard hit the building industry had been and she said this action was the only appropriate step. Commissioner Loché seconded the motion.

Commissioner Lamnin asked staff if, when the neighborhood group convened, the undergrounding of utilities, the roundabout, and other traffic control measures were still needed, they would be part of the next phase of construction, and Planning Manager Patenaude said yes. He added that those topics would be what the working group looked at that year for the 2014 construction. Commissioner Lamnin asked if the Stonebrae PTA could be part of that community group and staff said yes.

The motion to recommend to City Council that it approve the Development Agreement amendment to extend the term for five years, subject to the required findings that such an amendment was consistent with the General Plan, was approved 5:0:2

AYES: Commissioners Lamnin, Loché, McDermott, Trivedi
Chair Márquez
NOES:
ABSENT: Commissioner Faria, Lavelle
ABSTAINED:

WORK SESSION

3. Recommended Revisions to Hayward's Alcohol Beverage Outlet Regulations

Development Services Director Rizk gave the report noting letters received were either attached to the staff report or distributed at the start of the meeting. Chair Márquez confirmed Mr. Rizk had received a letter distributed that evening from the Chamber of Commerce and Mr. Rizk was provided with a copy.

Chair Márquez conferred with staff regarding the appropriate time to allow public comments.

Chair Márquez opened public comments at 8:50 p.m.

Doug Ligibel, Mesa Street resident and member of the Hayward Coalition for Healthy Youth and the Downtown Leadership Group and a nationally certified rehabilitation counselor, noted that many downtown restaurants /bars either couldn't afford or couldn't get a Type 48 license from the California Department of Alcohol Beverage Control (ABC), so they operated under a Type 47 license. He noted that the City's ordinance stated that sixty of receipts must be from food for establishments operating under the Type 47 license, but pointed out that the City didn't have the resources to monitor food sales and establishments were morphing into nightclubs. He challenged the Commissioners to go downtown

on a Friday or Saturday between 10-11 p.m. and see if these establishments were operating as restaurant/bars. Mr. Ligibel noted that Club ME was recently cited for having an open bar from 10 p.m. to midnight. He said that was problematic. He added that with a Type 48 license patrons had to be 21 and over only, but with Type 47 licenses, minors were allowed, and he asked how the minors would be removed from these establishments at 10 p.m. when they morphed into a nightclub. Mr. Ligibel asked, as leaders, what did the City wanted to happen in the downtown area: Did the City want nightclubs or were they trying to promote restaurant/bars?

Linda Pratt, Program Director of COMMPRE with business address on Second Street, brought Commissioners' attention to the letter she submitted and said she wanted to focus on the "Deemed Approved" ordinance. Ms. Pratt said the Deemed Approved ordinance was a land use tool that COMMPRE (Community Prevention of Alcohol-Related Problems) had worked with the City for many years to get approved and could be used by the City to take action when an establishment becomes problematic. Ms. Pratt pointed out that her letter listed the five performance standards, which had to do with making sure each business upheld local and state laws and didn't become a nuisance. She said that any person running a responsible business would agree to follow the performance standards and that was why no legal non-conforming use should be exempt from the standards including grocery stores and restaurants. Ms. Pratt recommended that these standards apply to all businesses and that the ordinance be considered before anything else, including the extension of the Happy Hour trial or allowing establishments to add entertainment, which were higher and more intensive uses. Ms. Pratt noted that the City had "chipped away" at its alcohol regulations and that it needed this ordinance to give police extra tools. Ms. Pratt explained that a Type 41 license allowed establishments to sell beer and wine and that the Type 47 license was problematic because restaurants could easily turn into bar or nightclub atmospheres. She said her biggest issue with that was how the youth were being protected. Ms. Pratt asked how the City would protect youth when these establishments were turning into bars and nightclubs and concluded by suggesting adding provisions to an ordinance that would protect youth.

Commissioner Lamnin asked Ms. Pratt how often an establishment with a Type 47 license had acted like a nightclub. Ms. Pratt mentioned Kumbala and noted for all of Council's discussion prior to opening, sales to minors still occurred and other law enforcement issues, which were never satisfactorily resolved. Ms. Pratt pointed out that if the City allowed entertainment in restaurants with a Type 47 license, this matter would be an on-going issue.

Commissioner Loché asked for clarification that Ms. Pratt wanted the Deemed Approved ordinance put in place now and she said yes; as a tool for police, the ordinance needed to be in place to deal with existing problematic establishments and should include a cost recovery structure.

Kim Huggett, President of Hayward Chamber of Commerce with business address on Main Street, said he was representing 30 Chamber establishments and noted this was the fifth time he had spoken on the issue. Mr. Huggett said Chamber members liked the staff report and the full-service restaurants were particularly appreciative of the Happy Hour provisions that allowed them to be competitive with neighboring communities. He said as they approach the end of the six months, the trial had been immensely successful with virtually no negative impacts involving law enforcement or social issues. Mr. Huggett pointed out that because of the Happy Hour trial period, Elephant Bar had added 12 new employees and moved from 23 in the nation to number 2. Mimi's Café had tripled its business on Wednesday nights and he said that was because of the provision that allowed full-service restaurants to have music. He asked the Commission what was so threatening if someone was allowed to play his violin at Buon Appetito. He said a rave wouldn't break out and there would not be any gun play; instead it allowed local businesses to demonstrate that Hayward could have entertainment and cuisine among its amenities.



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Chair Márquez closed public comments at 9:03pm

Commissioner Lamnin asked staff if the time Hayward establishments were allowed to sell alcohol was taken into consideration when analyzing reported cases of public drunkenness. Director of Development Services Rizk asked Commissioner Lamnin if she was asking about restaurants or alcohol establishments in general and she confirmed establishments in general. Mr. Rizk said yes, the hours of operation were considered. In terms of full-service restaurants, Mr. Rizk explained that all were permitted as primary uses with a non-discretionary issuance of a business license. Mr. Rizk suggested Officer Cantrell speak on whether ABC considers hours when approving and issuing a license.

Officer Cantrell said ABC takes everything into consideration when adding conditions to licenses and he commented that there were quite a few establishments in Hayward that could only serve alcohol at certain times. He added that Hayward also had quite a few non-conforming uses that were not held to any conditions or times because they had been around for such a long time.

Commissioner Lamnin said she appreciated the thought and thoroughness of the report, the City's efforts to gather community input, and the Deemed Approved ordinance to address existing problematic establishments. She said she didn't see the danger in dancing and was confused about why a permit for dancing was required. Commissioner Lamnin pointed out that it appeared to come down to food; if the intent was to sit and eat it was a restaurant, if the intent was to drink it was a nightclub. At a nightclub, the sale of food was not required and therefore the environment was different and the impact of the alcohol was different, she said. Director of Development Services Rizk commented that was open to interpretation. He pointed out that an establishment could offer food, but hold an event or activity at which no one orders food. Mr. Rizk reiterated that the main concern was that restaurants would drift into becoming nightclubs where the main activity was drinking and entertainment. Commissioner Lamnin asked how that would happen and Mr. Rizk said either through violation of restrictions or having allowances for activities that were not consistent with a restaurant.

In terms of feedback, Commissioner Lamnin said youth should be protected and if an establishment was operating as a restaurant it should stay a restaurant. She said she agreed with prioritizing the Deemed Approved ordinance and adding in some cost recovery to pay for enforcement. She said that might be what was needed to prevent the establishment's mission from drifting.

Commissioner McDermott said the letters received had some valid concerns and said the biggest problem was addressing COMMPRE's concern. She commented that there seemed to be no way to monitor that sixty percent of sales were from food or there seemed to be no mechanism in place where sales were reviewed. Director of Development Services Rizk said monitoring could be done through ABC and the State Board of Equalization, but agreed it was a matter of resources and staffing. Commissioner McDermott asked for confirmation that businesses were supposed to submit receipts to the State that showed that food sales were at sixty percent. Mr. Rizk explained that the sixty percent threshold was set by Hayward; ABC's threshold was fifty-one percent. Officer Cantrell said any plan moving forward would include how that monitoring would take place. He added that ABC didn't conduct spot checks unless it was part of another investigation or a Hayward staff person had requested one. Office Cantrell said that the State Board of Equalization also monitored alcohol sales and tax revenues.

Commissioner McDermott asked for confirmation that most problem establishments were legal non-conforming and Officer Cantrell said that was correct; typically calls for service and critical incidences occurred at establishments that had no conditions and therefore the City had no "teeth" to shut them down. Commissioner McDermott asked if the proposed steps would address those issues and Director of Development Services said it would help and that was why the Deemed Approved status was included. He explained that the Deemed Approved status would place provisions and basic operating standards on non-conforming uses. Mr. Rizk added that the process would include administrative citations and fines; misdemeanors instead of infractions for repeated offenses; and through the City Attorney's Office, if necessary, injunctions and court orders. Mr. Rizk concluded by reiterating that the Deemed Approved ordinance would let non-conforming businesses, potentially including restaurants and grocery stores, know that there were expectations for operation and that the City could require them to get a conditional use permit with more comprehensive conditions and restrictions in order to continue operating.

Chair Márquez asked roughly how many problematic non-conforming establishments there were and Officer Cantrell said it depended on the year, but less than a dozen. He noted that because the businesses were non-conforming, they had no ABC restrictions and that created problems for police.

Commissioner Loché said he liked the proposed ideas and thought they would solve a lot of the problems the City had been dealing with. That said, Commissioner Loché said he agreed with Ms. Pratt's letter that the "certain uses" acceptable under an Administrative Use Permit, in lieu of a conditional use permit (CUP), needed to be specifically defined. He said a public hearing was always beneficial, but also agreed there could be uses that would not require a CUP. Director of Development Services Rizk said if the City could find an acceptable definition, it would be presented in the spring.

Commissioner Loché asked if the Deemed Approved ordinance could be approved separately because it was a significant undertaking on its own. Mr. Rizk said all changes were being brought forward as comprehensive revisions and that Council didn't mention processing it separately, but he said that could be considered. He mentioned that in terms of cost recovery, staff envisioned the Deemed Approved regulations in place before other ordinances were approved. Mr. Rizk noted that Deemed Approved wouldn't solve all the problems, there would still be more work to do, and that some businesses may object and appeal the determination to the Planning Commission. Mr. Rizk also commented that the summary suspension provisions might be more important because they would get to the heart of the problematic uses that pose an eminent threat to health and safety. He said that the Deemed Approved provisions could take a while depending on how many businesses objected to the status. Mr. Rizk noted that the Chief of Police strongly supported the summary suspension provisions.

Commissioner Loché asked how many full-service restaurants were problematic and asked for confirmation that restaurants would be exempt from the Deemed Approved. Director of Development Services Rizk said that was the initial recommendation, but staff was considering having full-service restaurants subject to the Deemed Approved status. Officer Cantrell said any ABC establishment could be determined as problematic, and he mentioned Kumbala, but he also pointed out that staff thought ME Restaurant and Lounge could be a big risk and they hadn't had any problems because of lots of conditions and oversight. Officer Cantrell said any place could be a problem without any conditions in place that allowed the City to take immediate action.

Commissioner Loché said he didn't want any establishment exempted from the Deemed Approved process. He agreed with Commissioner Lamnin that dancing should be allowed as the City moved forward saying he didn't see it as an issue. Commissioner Loché said the sale of alcohol in itself was not the main issue; the main issue was whether or not the management was quality or poor. Citing a recent



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complaint by a resident regarding a local dry cleaner, Commissioner Loché said it didn't matter if alcohol was sold or not; a problem business was a problem business. He said the City should give businesses every opportunity to be successful and he said in terms of the staff report, it looked like the City was working toward doing that. Director of Development Services Rizk agreed that proper training and good management of a business made all the difference.

Commissioner Trivedi agreed that the proposed guidelines were thoughtful and a great starting point. He said he was very much in favor of Hayward having nice dining and entertainment options, noting there weren't a lot in the surrounding communities, and that the City could benefit by having attractions that brought people to Hayward and to the downtown area, which was so convenient and accessible by public transportation.

Commissioner Trivedi said he appreciated the feedback from the community, agreed the Deemed Approved status should apply to all ABC establishments, and asked if discussion could continue regarding Type 47 license restaurants morphing into nightclubs. Commissioner Trivedi said he had no problem with restaurants doing this and suggested issuing wristbands to patrons over 21 starting at 10:00 p.m. Regarding the percentage of sales from food versus alcohol, he said the exact percentage didn't matter, but noted the City could use the percentage as a mechanism to trigger review if an establishment became problematic. He asked staff what could trigger a review. Officer Cantrell responded that ABC would confirm a business was in compliance but only in association with another complaint they were investigating. He noted that the City had a good rapport with ABC and didn't think it would be a problem to ask ABC to check compliance, but noted the plan was to have ABC monitor compliance independently. Commissioner Trivedi said the final revisions should have a robust process by which the community and stakeholders had the ability to ask the City to review and revoke permits. Director of Development Services Rizk said that of the two regulatory bodies, the City and ABC, the City had no special permits for full-service restaurants, only business licenses, so any regulation would come from the ABC. He added that if the Council approved the Deemed Approved process, that would provide the City with a process to subject any ABC establishment to review, possible suspension and ultimately the revocation of the ABC license by ABC.

Chair Márquez commended staff and commented that she was glad that the City conducted the Happy Hour trial and that the results were positive based on comments from the Chamber of Commerce representative. She asked staff and police to confirm there were no problems associated with the Happy Hour trial. Officer Cantrell said there was no increase in the number of calls for service from locations known for frequent calls. Chair Márquez asked when the Happy Hour trial extension would end and Director of Development Services Rizk said the trial period was extended to June 26, 2013, and staff hoped to have the new regulations in place by the time the trial period ends.

Chair Márquez said she was in support of the proposed Executive Team, indicating the team could work with ABC and help with monitoring for compliance. She was also in support of on-going education being part of the ordinance and collaborating with the Chamber and any other interest parties. Chair Márquez said she shared the concerns of COMMPRE and wanted to minimize contact with youth in some of the establishments. She was in support of the dance permit because a lot of young people loved dancing and the activity drew a larger crowd; allowing the Chief of Police to decide on what businesses could have a permit would be a safeguard against problematic establishment holding a dance event.

Commissioner Lamnin asked if the square footage of an establishment could be the mitigating factor for dancing and Director of Development Services said the City was looking at that and also the number of people. Regarding full-service restaurants versus nightclubs, Commissioner Lamnin suggested making sure the kitchen remained open during business hours. She said she wasn't sure if an entertainment establishment definition was necessary, but "nightclub" should be clarified and it should be clear what the difference was between a nightclub and a restaurant. Commissioner Lamnin said she appreciated the acknowledgment that there was an over concentration of alcohol outlets in Hayward and that the City was taking steps to address that. She said she also supported the team and suspension approach. She supported including restaurants, and possibly grocery stores, under the Deemed Approved provisions. She noted that the State was tasking non-profits that benefited financially from the tobacco settlement agreement with checking if liquor stores that claimed they also sold groceries actually did so. Lastly, Commissioner Lamnin said that if the Deemed Approved recommendations moved forward, public hearings should be held to gather community input.

Chair Márquez agreed with Commissioner Lamnin's comments and suggested an oversight committee for the Task Force, but noted she understood that businesses had the right to appeal any fines or negative impacts. Director of Development Service Rizk said all provisions would have due process. Chair Márquez said that one of the letters mentioned listing problematic businesses on the City's website and she said would be important to highlight a link the public could use to notify staff of any issues they witness. Mr. Rizk told the audience and those watching that the City welcomed that input already.

COMMISSION REPORTS

4. Oral Report on Planning and Zoning Matters

Planning Manager Patenaude reminded Commissioners that the meeting schedule switched to the 2nd and 4th Thursday in January and that both meetings were currently scheduled. He also reminded Commissioners to respond for the holiday party and wished everyone happy holidays.

Director of Development Services Rizk mentioned that Mr. Patenaude was retiring and that this meeting was his last official meeting. He thanked Richard for his hard work and years of service to his home town and explained that Mr. Patenaude would stick around for several months in 2013 while the City recruited a replacement. Commissioner McDermott also thanked him and congratulated Mr. Patenaude. Chair Márquez said the announcement was a surprise but was very happy for him. She said it had been a pleasure working with him.

Chair Márquez confirmed with staff that the December 20th meeting was cancelled.

5. Commissioners' Announcements, Referrals

Commissioner Trivedi also thanked Planning Manager Patenaude and wished him the best. Commissioner Trivedi wished everyone a happy and joyous holidays and a great New Year.

APPROVAL OF MINUTES

6. Minutes from November 15, 2012, approved with Commissioner McDermott abstaining and Commissioners Faria and Lavelle absent.



**MINUTES OF THE SPECIAL JOINT CITY COUNCIL/REDEVELOPMENT
SUCCESSOR AGENCY/HOUSING AUTHORITY MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, June 18, 2013, 7:00 p.m.**

5. B Street Pavement Repair: Award of Contract

Staff report submitted by Assistant City Engineer Owusu, dated June 18, 2013, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Zermefio, and unanimously carried to adopt the following:

Resolution 13-083, "Resolution Increasing the Administrative Change Order Amount for the B Street Pavement Repair Project, Project No. 5107, and Awarding the Contract to Fonseca/McElroy Grinding Co., Inc."

6. For Full-Service Restaurants, Additional Extension up to December 26, 2013 of Temporary Revisions to the Alcohol Beverage Outlet Regulations to Allow on a Trial Basis Happy Hours from 4:00 to 9:00 pm and Music until Midnight

Staff report submitted by Director of Development Services Rizk, dated June 18, 2013, was filed.

It was moved by Council Member Zermefio, seconded by Council Member Salinas, and carried with Mayor Sweeney voting no to adopt the following:

Resolution 13-088, "Resolution Extending Until December 26, 2013 a Happy Hour Trial Program Allowing Reduced Price Alcohol Sales and Musical Entertainment During Specified Times at Full Service Restaurants"

7. Hayward Executive Airport Administration Building Project: Approval of Addendum, Award of Contract, Transfer of Funds, and Appropriation of Additional Funds

Staff report submitted by Assistant City Engineer Owusu, dated June 18, 2013, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Zermefio, and unanimously carried to adopt the following:

Resolution 13-084, "Resolution Approving Addendum No. 1 for the Hayward Executive Airport Administration Building Project, Project No. 6815, and Awarding the Contract to SW Allen Construction, Inc."

Resolution 13-085, "Resolution Amending Resolution 12-121, As Amended, the Budget Resolution for Capital Improvement Projects for Fiscal Year 2013, for a Transfer of Funds from the Airport Real Estate Fund (Fund 633) to the Airport Capital Improvement Fund

HAYWARD CITY COUNCIL

RESOLUTION NO. 06-005

Introduced by Council Member Quirk

RESOLUTION REGARDING LETTERS OF PUBLIC
CONVENIENCE AND NECESSITY TO THE CALIFORNIA
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

WHEREAS, the California Department of Alcoholic Beverage Control requires cities to make a finding that the sale of alcoholic beverages would serve the public convenience and necessity when the maximum number of alcoholic beverage licenses considered acceptable by ABC standards has been exceeded within a census tract; and

WHEREAS, data establishes that there are a sufficient number of bars and liquor stores, as those terms are defined in the Hayward Zoning Ordinance, to serve the public in the City of Hayward in census tracts where an over-concentration of ABC licenses exists.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that no finding of public convenience or necessity shall be made to the Department of Alcoholic Beverage Control in connection with the licensing of bars or liquor stores in any census tract in which the ABC indicates that there is an over-concentration of ABC licenses.

IN COUNCIL, HAYWARD, CALIFORNIA January 17, 2006

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS: Jimnez, Quirk, Ward, Dowling
MAYOR: Cooper

NOES: COUNCIL MEMBERS: Halliday, Henson

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ATTEST: Angela Reyes
City Clerk of the City of Hayward

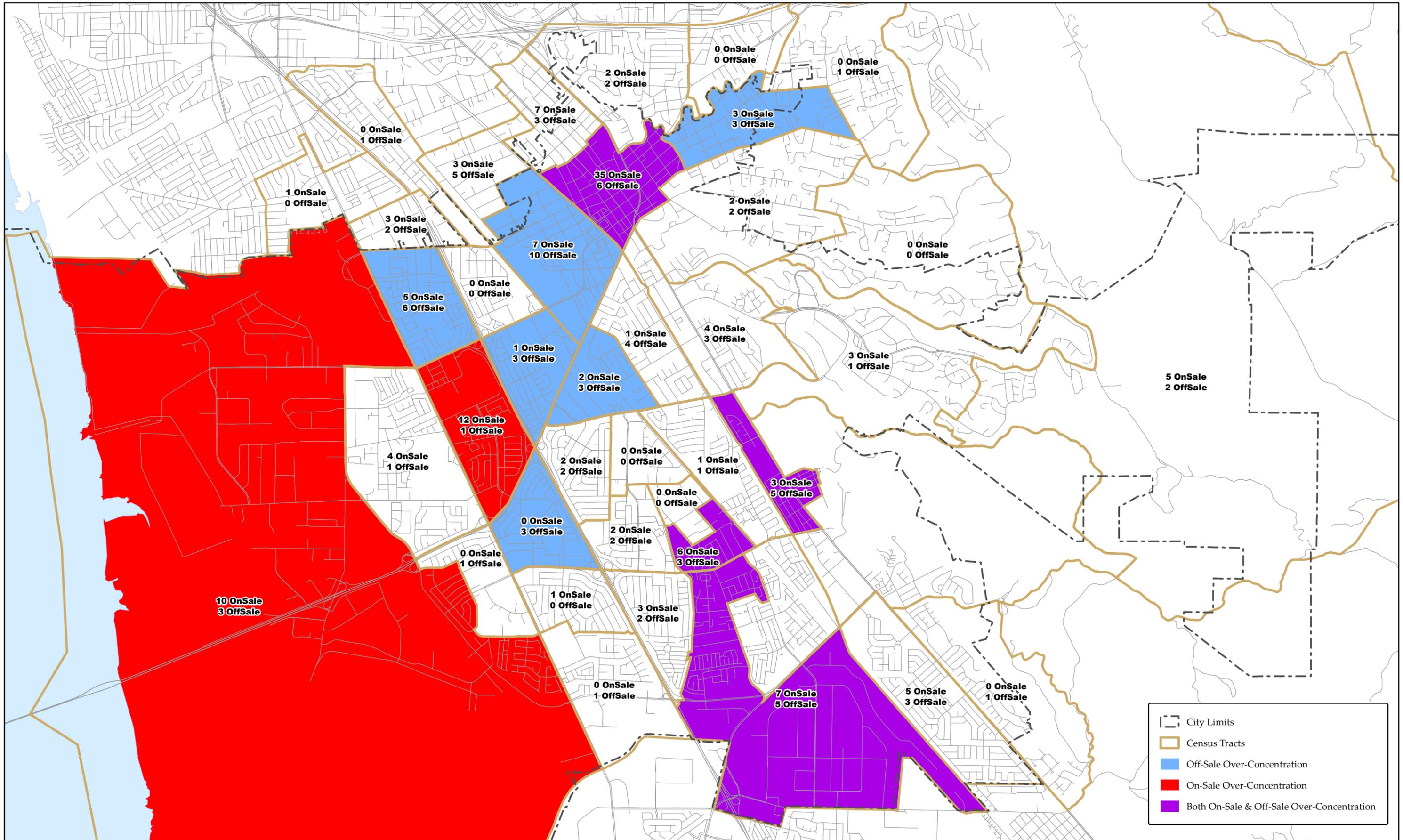
APPROVED AS TO FORM:

M. O. [Signature]
City Attorney of the City of Hayward



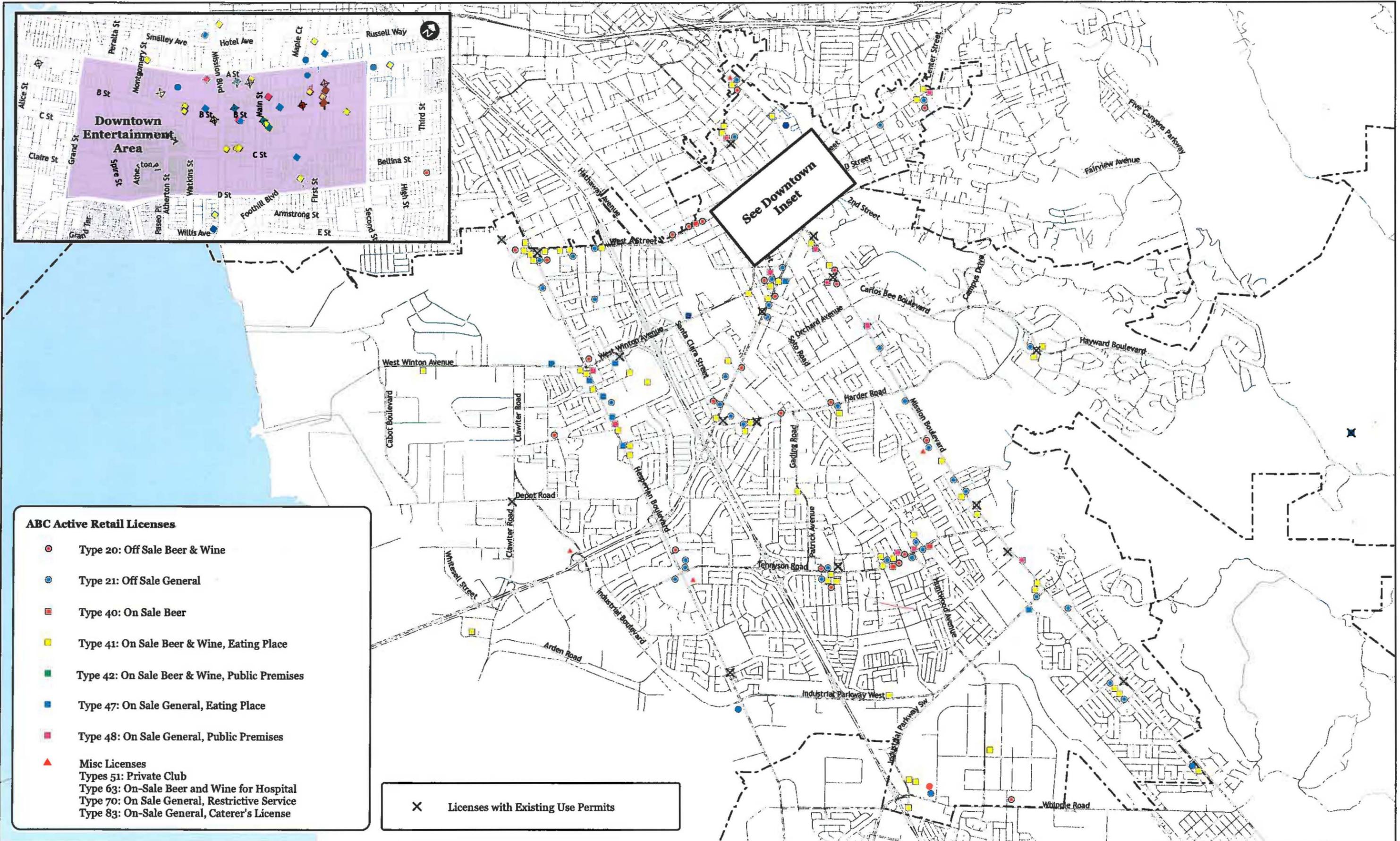
Areas of Over-Concentration of Alcohol Establishments in Hayward

0 0.25 0.5 1 Miles





ABC Retail Licenses in Hayward



License Type	Business Name	Premises Address	Recommended annual fee of \$280 (Level I) or \$1,120 (Level II)	Conditioniional Use Permit (CUP) or Administrative Use Permit (AUP) Numbers	Greater than 10,000 sf? (exempt from needing a CUP provided ≤5% of floor area is devoted to alcohol sales, storage and display)	Totals
20	7 ELEVEN 2231 18177A	130 HARDER RD	\$ 1,120			
20	7 ELEVEN 2232 14175	24883 SANTA CLARA ST	\$ 1,120			
20	7 ELEVEN 2234 14186	375 W TENNYSON RD	\$ 1,120			
20	7 ELEVEN 2234 18825G	339 JACKSON ST	\$ 1,120			
20	7 ELEVEN STORE #2366-18348D	24476 MISSION BLVD	\$ 1,120			
20	7 ELEVEN STORE 2234 14182G	2175 ALDENGATE WY	\$ 1,120			
20	BUFFALO BILLS BREWERY	1082 B ST	\$ 280	CUP 95-170-01		
20	CHAVEZ SUPERMARKET	1157 W TENNYSON RD	\$ 280		YES	
20	CHAVEZ SUPERMARKET	24601 MISSION BLVD	\$ 280		YES	
20	CORE MARK	31300 MEDALLION DR	\$ 280		YES	
20	CROSSROADS WORLD MARKET	230 JACKSON ST	\$ 280	CUP 2004-0176		
20	DOC'S WINE SHOP	22570 FOOTHILL BLVD	\$ 280	CUP 2012-0174		
20	DOLLAR TREE 1264	20800 HESPERIAN BLVD	\$ 280		YES	
20	EL CHARRO MARKET	480 W TENNYSON RD	\$ 1,120			
20	FRESH & EASY NEIGHBORHOOD MARKET STORE 1307	19691 HESPERIAN BLVD	\$ 280		YES	
20	GROCERY OUTLET	22660 VERMONT AVE	\$ 280		YES	
20	HARDER ROAD BEACON	392 W HARDER RD	\$ 1,120	CUP 2003-0497		
20	HAYWARD PRODUCE MARKET	370 WINTON AVE	\$ 280		YES	
20	LA ESPERANZA TRI COLOR	340 A ST	\$ 280			
20	LA GRANDE MARKET	22766 3RD ST	\$ 1,120			
20	LA MEXICANA TORTILLA FACTORY INC	236 A ST	\$ 1,120			
20	LA RAZA DELI MARKET	24495 MOHR DR	\$ 1,120			
20	LA TIENDITA MARKET	112 A ST	\$ 1,120			
20	MI PUEBLO FOOD CENTER 11	187 W HARDER RD	\$ 280		YES	
20	QUIK STOP MARKET 127	505 A ST	\$ 1,120	CUP 83-116		
20	TARGET T1472	2499 WHIPPLE RD	\$ 280		YES	
20	WALGREENS 02306	1138 W TENNYSON RD	\$ 280			
20	WALGREENS 02401	21463 FOOTHILL BLVD	\$ 280			
20	WALGREENS 04659	164 W JACKSON ST	\$ 280			
20	WALGREENS 05310	26781 MISSION BLVD	\$ 280			
20	WALGREENS 06502	23958 HESPERIAN BLVD	\$ 280			31

ABC License Type 20: OFF SALE BEER & WINE - (Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.

License Type	Business Name	Premises Address	Recommended annual fee of \$280 (Level I) or \$1,120 (Level II)	Conditioniional Use Permit (CUP) or Administrative Use Permit (AUP) Numbers	Greater than 10,000 sf? (exempt from needing a CUP provided \leq 5% of floor area is devoted to alcohol sales, storage and display)	Totals
21	7 STAR FOOD & LIQUOR	29633 MISSION BLVD	\$ 1,120			
21	B ST LIQUOR	1681 B ST	\$ 1,120			
21	BOBBY DISCOUNT LIQUORS	24895 SANTA CLARA ST	\$ 1,120			
21	BONFARE MARKET 23	26775 HAYWARD BLVD	\$ 1,120	CUP 93-179		
21	BRUNETTE LIQUORS	25516 MISSION BLVD	\$ 1,120			
21	COSTCO WHOLESALE 1061	28505 HESPERIAN BLVD	\$ 280		YES	
21	COUNTRY LIQUORS	201 JACKSON ST	\$ 1,120			
21	CVS PHARMACY STORE 816	22501 FOOTHILL BLVD	\$ 280		YES	
21	CVS PHARMACY STORE 9622	243 W JACKSON ST	\$ 280		YES	
21	EDENS LIQUOR & DELI	1086 A ST	\$ 1,120			
21	FOOD MAXX 406	27300 HESPERIAN BLVD	\$ 280		YES	
21	FOOD SOURCE 710	26905 MISSION BLVD, STE D	\$ 280		YES	
21	FOOTHILL FOOD & LIQUOR	21460 FOOTHILL BLVD	\$ 1,120			
21	FRESH & EASY	31049 MISSION BLVD	\$ 280		YES	
21	GNG FOOD & LIQUORS	583 W TENNYSON RD	\$ 1,120			
21	GROCERY OUTLET	426 W HARDER RD	\$ 280		YES	
21	HAYWARD FOOD & LIQUOR	28260 HESPERIAN BLVD	\$ 1,120	CUP 93-88		
21	HAYWARD LIQUOR & GROCERIES	849 SYCAMORE AVE	\$ 1,120			
21	HAYWARD SUPER MARKET	22624 BLACKWOOD AVE	\$ 1,120			
21	JACKSON LIQUOR	566 JACKSON ST	\$ 1,120			
21	JOES MODEL LIQUOR 1	430 W A ST	\$ 1,120			
21	KARAVAN LIQOURS	27445 HESPERIAN BLVD	\$ 1,120			
21	KMART 4457	26231 MISSION BLVD	\$ 280		YES	
21	L & M LIQUOR STORE THE	22610 VERMONT ST	\$ 1,120			
21	LUCKYS 715	22555 MISSION BLVD	\$ 280		YES	
21	LUCKYS 716	25151 SANTA CLARA ST	\$ 280		YES	
21	MAC D LIQUORS	153 W HARDER RD	\$ 1,120			
21	MEXICO SUPER	32575 MISSION BLVD	\$ 280		YES	
21	MI PUEBLO FOOD CENTER	20812 HESPERIAN BLVD	\$ 280		YES	
21	NSB LIQUOR & GROCERY	27826 MISSION BLVD	\$ 1,120			
21	PERRYS LIQUORS	27220 HESPERIAN BLVD	\$ 1,120			
21	R & H LIQUORS	1201 A ST	\$ 1,120			
21	RITE AID STORE 5920	31091 MISSION BLVD	\$ 280		YES	
21	RITE AID STORE 5921	24536 HESPERIAN BLVD	\$ 280		YES	
21	SAFEWAY INC 797	271 JACKSON ST	\$ 280		YES	
21	SAFEWAY INC 971	22280 FOOTHILL BLVD	\$ 280		YES	
21	SHAMROCK LIQUORS	396 WINTON AVE	\$ 1,120			
21	SHOP N SAVE	21400 ROYAL AVE	\$ 1,120			
21	SMART & FINAL STORES	1094 SUEIRRO ST	\$ 280		YES	
21	STEVES LIQUORS	1145 W TENNYSON RD	\$ 1,120			
21	STOP BY MARKET & LIQUOR	21995 MISSION BLVD	\$ 1,120	CUP 98-160-19		
21	STOP N SAVE 106	338 W TENNYSON RD	\$ 1,120			

License Type	Business Name	Premises Address	Recommended annual fee of \$280 (Level I) or \$1,120 (Level II)	Conditioniional Use Permit (CUP) or Administrative Use Permit (AUP) Numbers	Greater than 10,000 sf? (exempt from needing a CUP provided \leq 5% of floor area is devoted to alcohol sales, storage and display)	Totals
21	SUPER STOP	551 GARIN AVE	\$ 1,120			
21	SUPERWAY MARKET	121 W TENNYSON RD	\$ 1,120			
21	T N T LIQUOR	27575 MISSION BLVD	\$ 1,120			
21	TARGET T1472	2499 WHIPPLE RD	See License Type 20		YES	
21	TENNYSON LIQUOR & DELI	1190 W TENNYSON RD	\$ 1,120			
21	ZACKS MARKET	50 W TENNYSON RD	\$ 1,120			48

ABC License Type 21: OFF SALE GENERAL - (Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.

40	CHALK IT UP	22540 FOOTHILL BLVD	\$ 1,120	CUP 2010-0046		
40	LA CASITA RESTAURANT	320 A ST	\$ 1,120			
40	NORAEBANG BAR	21995 MISSION BLVD	\$ 1,120			
40	SUPERWAY KITCHEN	44 W TENNYSON RD	\$ 1,120			
40	TAQUERIA ARANDAS	512 W TENNYSON RD	\$ 1,120			5

ABC License Type 40: ON SALE BEER - (Bar, Tavern) 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.**

41		948 C ST	\$ 280			
41	AKAIHANA JAPANESE RESTAURANT	22560 FOOTHILL BLVD	\$ 280			
41	ANNAS COFFEE SHOP	444 JACKSON ST	\$ 280			
41	BAY CITY BISTRO	3979 TRUST WAY	\$ 280			
41	BRONCO BILLS PIZZA PALACE	26775 HAYWARD BLVD	\$ 280			
41	BUDDYS BITES AND BREWS	24297 HESPERIAN BLVD	\$ 280			
41	CAFE VASALIKI	25202 HESPERIAN BLVD	\$ 280			
41	CAFFE CARIBE	26775 HAYWARD BLVD	\$ 280			
41	CARMEN & FAMILY	692 W A ST	\$ 280			
41	CHINA BEST RESTAURANT	26775 HAYWARD BLVD	\$ 280			
41	CHUCK E CHEESES 363	24039 HESPERIAN BLVD	\$ 280			
41	CITY BISTRO	30162 INDUSTRIAL PKWY SW	\$ 280			
41	COCOS 1116	20413 HESPERIAN BLVD	\$ 280			
41	D & K RESTAURANT	320 JACKSON ST	\$ 280			
41	EL DORADO RESTAURANT	384-386 WINTON AVE	\$ 280			
41	EL TAQUITO RESTAURANT	22354 MISSION BLVD	\$ 280			
41	EL TAQUITO RESTAURANT 2	215 W WINTON AVE	\$ 280			
41	EMIL VILLAS	24047 MISSION BLVD	\$ 280			
41	FAVORITE INDIAN RESTAURANT	1235 A ST	\$ 280			
41	FAVORITE INDIAN RESTAURANT	24052 MISSION BLVD	\$ 280	CUP 83-157		
41	FU ZHOU KITCHEN	1687 INDUSTRIAL PARKWAY	\$ 280			
41	GRAND TAIPEI	25036 HESPERIAN BLVD	\$ 280			
41	GREAT RIVER RESTAURANT	22218 FOOTHILL BLVD	\$ 280			
41	HANFORD HOTELS	20777 HESPERIAN BLVD	\$ 280			
41	HONG KONG SEAFOOD RESTAURANT	661 W TENNYSON RD	\$ 280			
41	JAYS FISH & CHIPS	21439 FOOTHILL BLVD	\$ 280			
41	JULIANS BBQ BEER & WINE	22532 FOOTHILL BLVD	\$ 280			

License Type	Business Name	Premises Address	Recommended annual fee of \$280 (Level I) or \$1,120 (Level II)	Conditioniional Use Permit (CUP) or Administrative Use Permit (AUP) Numbers	Greater than 10,000 sf? (exempt from needing a CUP provided \leq 5% of floor area is devoted to alcohol sales, storage and display)	Totals
41	KOREA HOUSE	702 A ST	\$ 280			
41	LA PINATA 1	904 ROSE ST	\$ 280			
41	LOS COMPADRES RESTAURANT	944 C ST	\$ 280			
41	LOS DOS HERMANOS	28257 MISSION BLVD	\$ 280			
41	LOS PERICOS GRILLED	792 B ST	\$ 280			
41	LOS PLANES DE RENDEROS	22841 MISSION BLVD	\$ 280			
41	MANILA GARDEN RESTAURANT	20500 HESPERIAN BLVD	\$ 280	CUP 2004-0225		
41	MARIAS RESTAURANT	27973 LEIDIG CT	\$ 280			
41	MIA PIZZA & TAQUERIA	26712 GADING RD, STE A & B	\$ 280			
41	MOUNTAIN MIKE PIZZA	31083 MISSION BLVD	\$ 280			
41	MOUNTAIN MIKES PIZZA	410 W HARDER RD	\$ 280			
41	NAKED FISH JAPANESE CUISINE	24703 AMADOR ST	\$ 280			
41	NEUMANALI WINES INC	742 B ST	\$ 280	CUP 2002-0106		
41	NEW YORK PIZZA	665 W TENNYSON RD	\$ 280			
41	PAYATHAI RESTAURANT	1149 B ST	\$ 280			
41	PEPES TAQUERIA II	27915 MISSION BLVD	\$ 280			
41	PIZZA HUT	1199 WEST A ST	\$ 280			
41	PIZZA ONE STOP	1108 W TENNYSON RD	\$ 280			
41	POPS DELI & GRILL	30982 HUNTWOOD AVE	\$ 280			
41	PUPUSERIA Y TAQUERIA LOS COCOS	29617 MISSION BLVD	\$ 280			
41	RAY'S SUSHI	888 WEST A ST	\$ 280			
41	RED CHILI	29583 MISSION BLVD	\$ 280			
41	RIBS N THINGS BBQ & SOUL FOOD	22616 VERMONT ST	\$ 280			
41	RIGATONIS RESTAURANT	20501 HESPERIAN BLVD	\$ 280			
41	ROUND TABLE	22457 FOOTHILL BLVD	\$ 280			
41	ROUND TABLE PIZZA	157 W HARDER RD	\$ 280			
41	SAN MARCOS TAQUERIA	436 W HARDER RD	\$ 280			
41	SAPPORO RESTAURANT	22507 MAIN ST	\$ 280			
41	SHARK SHACK	871 B ST	\$ 280			
41	SIAM PALACE THAI CUISINE	22545 FOOTHILL BLVD	\$ 280			
41	SISTERS HOUSE THE	21851 MISSION BLVD	\$ 280			
41	SIZZLER 316	24107 HESPERIAN BLVD	\$ 280			
41	SMILING JACK PIZZA & WINGS	32681 MISSION BLVD	\$ 280			
41	STRAW HAT PIZZA	24748 HESPERIAN BLVD	\$ 280			
41	STRAW HAT PIZZA	1653 INDUSTRIAL PKWY W	\$ 280			
41	SUSHI ICHIMOTO	888 W A ST	\$ 280			
41	TANDOOR RESTAURANT	27167 MISSION BLVD	\$ 280			
41	TAQUERIA EDUARDO 2	1104 W TENNYSON RD	\$ 280			
41	TAQUERIA EL PASTORCITO	507 W TENNYSON RD	\$ 280			
41	TAQUERIA LA ESMERALDA 2	2010 B ST	\$ 280			
41	TAQUERIA LA PLACITA INC	27548 TAMPA AVE	\$ 280	CUP 89-72		
41	TAQUERIA LOS GALLOS	31081 MISSION BLVD	\$ 280			

License Type	Business Name	Premises Address	Recommended annual fee of \$280 (Level I) or \$1,120 (Level II)	Conditioniional Use Permit (CUP) or Administrative Use Permit (AUP) Numbers	Greater than 10,000 sf? (exempt from needing a CUP provided ≤5% of floor area is devoted to alcohol sales, storage and display)	Totals
41	TAQUERIA LOS PERICOS	24369 SOUTHLAND DR	\$ 280			
41	TAQUERIA LOS PORTALES 2	30200 INDUSTRIAL PKWY SW	\$ 280			
41	TAQUERIA MAR Y TIERRA	754 W A ST	\$ 280			
41	VUA PHO	410 W A ST	\$ 280			
41	WAKAMATSU	22724 FOOTHILL BLVD	\$ 280			
41	WING FIESTA	790 B ST	\$ 280			
41	WING STOP	2490 WHIPPLE RD	\$ 280			
41	WINTON DELI	2042 W WINTON AVE	\$ 280			
41	YUKI HANA SUSHI	920 C ST	\$ 280			
41	YUMMY RESTAURANT	1160 W TENNYSON RD	\$ 280			79
<p>ABC License Type 41: ON SALE BEER & WINE – EATING PLACE - (Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.</p>						
42	VINTAGE CELLARS WINE BAR	1001 B ST	\$ 280	CUP 95-5		1
<p>ABC License Type 42: ON SALE BEER & WINE – PUBLIC PREMISES - (Bar, Tavern) Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.</p>						
47	APPLEBEES NEIGHBORHOOD GRILL & BAR	24041 SOUTHLAND DR	\$ 280	CUP 94-115		
47	B ST BAR & GRILL	846 B ST	\$ 280	AUP 98-81		
47	BIJOU RESTAURANT & BAR	1034-1036 B ST	\$ 280			
47	BUON APPETITO	917-919 A STREET	\$ 280	CUP 2004-0581		
47	CELIAS MEXICAN RESTAURANT	25010 HESPERIAN BLVD	\$ 280			
47	CHEERS TAVERN	22626 MAIN ST	\$ 280			
47	CHEFS EXPERIENCE CHINESE RESTAURANT & BAR	22436 FOOTHILL BLVD	\$ 280			
47	ELEPHANT BAR RESTAURANT	24177 SOUTHLAND DR	\$ 280			
47	ELITE CAFE OF MISSION HILLS OF HAYWARD	275 INDUSTRIAL PKWY	\$ 280			
47	FAMOUS DAVE'S BBQ	790 W WINTON AVE	\$ 280			
47	FIESTA MEXICANA RESTAURANT	225 W WINTON AVE, STE 100	\$ 280			
47	GOLDEN PEACOCK BANQUETS & RESTAURANT	24989 SANTA CLARA ST	\$ 280	AUP 2011-0031		
47	HAN YANG BBQ RESTAURANT	22365 MISSION BLVD	\$ 280			
47	HAYWARD FISHERY RESTAURANT THE	22701 FOOTHILL BLVD	\$ 280			
47	HAYWARD RANCH	22877 MISSION BLVD	\$ 280			
47	KUPE STUDIO	943 B ST	\$ 280			
47	ME RESTAURANT & LOUNGE	926 B ST	\$ 280	CUP 2011-0334		
47	MI COCINA & CANTINA	467 JACKSON ST	\$ 280			
47	MIMIS CAFE	24542 HESPERIAN BLVD	\$ 280			
47	MISSION PARADISE INC	31113 MISSION BLVD	\$ 280	CUP 96-160-17		
47	OLIVE GARDEN ITALIAN RESTAURANT THE 1382	24688 HESPERIAN BLVD	\$ 280			
47	PARAISO	29097 MISSION BLVD	\$ 280	CUP 79-43		
47	RAJA INDIAN CUISINE & BAR	1275 W WINTON AVE	\$ 280			
47	RUSSELL CITY SPORTS BAR & GRILL	25037 CLAWITER RD	\$ 280	CUP 87-44		
47	SKYWEST RESTAURANT	1401 GOLF COURSE RD	\$ 280	CUP 2010-0222		

License Type	Business Name	Premises Address	Recommended annual fee of \$280 (Level I) or \$1,120 (Level II)	Conditional Use Permit (CUP) or Administrative Use Permit (AUP) Numbers	Greater than 10,000 sf? (exempt from needing a CUP provided ≤5% of floor area is devoted to alcohol sales, storage and display)	Totals
47	STONEBRAE COUNTRY CLUB	222 COUNTRY CLUB DR	\$ 280	AUP 2009-0034		
47	TOMODACHI SUSHI BISTRO	24123 HESPERIAN BLVD	\$ 280			27
<p>ABC License Type 47: ON SALE GENERAL – EATING PLACE - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.</p>						
48	BIG JORGES HOLLOW LEG	24740 HESPERIAN BLVD	\$ 1,120			
48	BLUE BIRD II COCKTAILS	390 WINTON AVE	\$ 1,120			
48	BOTTOMS UP CLUB	27935 MANON AVE	\$ 1,120			
48	CURLYS PLACE	2059 B ST	\$ 1,120			
48	DARK HORSE LOUNGE	24018 HESPERIAN BLVD	\$ 1,120			
48	DIRTY BIRD LOUNGE THE	29308 MISSION BLVD	\$ 1,120			
48	EL POTRO CLUB	871 W A ST	\$ 1,120			
48	FERNANDES STEIN LOUNGE	939 B ST	\$ 1,120			
48	FOXES COCKTAIL LOUNGE	171 W TENNYSON RD	\$ 1,120			
48	FUNKY MONKEY THE	22554 MAIN ST	\$ 1,120			
48	LA TABERNA NIGHTCLUB	24061 MISSION BLVD	\$ 1,120			
48	RAINBOW ROOM	21859 MISSION BLVD	\$ 1,120			
48	SHAR ADE COCKTAILS	25144 MISSION BLVD	\$ 1,120			
48	TURF CLUB	25519 MAIN ST	\$ 1,120	CUP 2000-160-15		14
<p>ABC License Type 48: ON SALE GENERAL – PUBLIC PREMISES - (Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.</p>						
51	FRATERNAL ORDER OF EAGLES 1139	21406 FOOTHILL BLVD	\$ 280			
63	KAISER	27400 HESPERIAN BLVD	\$ 280			
70	QUALITY INN & SUITES	25921 INDUSTRIAL BLVD	\$ 280			3
<p>ABC License Type 51: CLUB - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. No off-sale privileges. Food service is not required. Minors are allowed on the premises. ABC License Type 63: ON SALE BEER AND WINE FOR HOSPITAL. ABC License Type 70: ON SALE GENERAL – RESTRICTIVE SERVICE - Authorizes the sale or furnishing of beer, wine and distilled spirits for consumption on the premises to the establishment’s overnight transient occupancy guests or their invitees. This license is normally issued to “suite-type” hotels and motels, which exercise the license privileges for guests’ “complimentary” happy hour. Minors are allowed on the premises.</p>						
86	DOC’S WINE SHOP	22570 FOOTHILL BLVD	See License Type 20	CUP 2012-0174		
86	FOOD SOURCE 710	26905 MISSION BLVD	See License Type 21		YES	2
<p>ABC License Type 86: INSTRUCTIONAL TASTING LICENSE – Issued to the holder of and premises of a Type 20 or Type 21 licensee, authorizes the tasting of alcoholic beverages as authorized to be sold from the off-sale premises, on a limited basis. Requires physical separation from the off-sale premises while tasting is taking place and generally requires the participation of a specifically-authorized manufacturer or wholesaler licensee.</p>						
GRAND TOTALS			\$ 110,040			210
			(\$280x145)+(\$1,120x62)		Note: Three establishments have two different ABC license types	(207 establishments).



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Council Chambers
Thursday, July 11, 2013, 7:00 p.m.
777 B Street, Hayward, CA94541**

MEETING

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

ROLL CALL

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

Commissioner Trivedi led in the Pledge of Allegiance

Staff Members Present: Camire, Conneely, Cruz, Frascinella, Golubics, Thomas

General Public Present: 24

PUBLIC COMMENTS

None

PUBLIC HEARING

1. Conditional Use Permit No. PL-2013-0133 – The proposed project is categorically exempt from environmental review in accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15301, Existing Facilities - Tony Ancheta for Revere Tattoo (Applicant) / Kwok Low (Owner) - Request to operate a Tattoo Studio at 214 Harder Road, Unit D, in the Neighborhood Commercial (CN) Zoning District.

Assistant City Attorney Maureen Conneely announced that because there were only five Planning Commissioners present the applicant was given the option, and had accepted, to continue the item to the July 25, 2013, meeting to gather the four votes necessary to either approve or deny the application. She also announced that no further notice would be provided.

2. Site Plan Review Application PL-2013-0168 - The proposed project is categorically exempt from environmental review in accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15332, Infill Development. Meta Housing Corporation, Aaron Mandel (Applicant) / Sean Sullivan (Owner) – Request to build 60 units of Senior Housing and approximately 6,000 square feet of ground floor retail and office space on a vacant property. The project site includes four parcels at 808 A Street, located on the north side of the street midblock between Mission Boulevard and Montgomery Street and is located in the Central City Commercial (CC-C) Zoning District.

Planning Manager Ned Thomas introduced Senior Planner Damon Golubics who provided a synopsis of the report noting that a project like this would usually be administratively approved, but comments received about possible traffic impacts in response to the public notice prompted the Development Services Director to present the application to the Commission for its recommendation.

Commissioner Loché disclosed that he met with Aaron Mandel of Meta Housing to discuss the project. He said the .5 parking spaces per unit jumped out at him, and he asked what the required number of parking spaces would have been if the complex was not for seniors 55 and older. Senior Planner Golubics said one covered space per unit and half a space uncovered. Commissioner Loché commented that was a pretty big difference.

Commissioner Loché noted the parcel was zoned Central City Commercial, which allowed for entertainment uses, and he asked if there were any uses that were not allowed because the retail was located below senior residential. Senior Planner Golubics said the way he read the zoning regulations there would be no restrictions on specific uses that might be a disturbance to seniors including a mini nightclub. Mr. Golubics said the Commission could add a condition that could limit uses.

Commissioner Loché asked if the traffic study cited in the report took into consideration the change in traffic flow due to the mini-loop. Senior Planner Golubics said the study was conducted while the loop was being implemented.

Commissioner Lamnin noted the report mentioned the loss of four parking spaces and she asked the location of the spaces. Senior Planner Golubics directed her attention to the proposed secondary driveway onto Smalley Avenue. Commissioner Lamnin disclosed she had also met with the applicant.

Commissioner Lamnin asked if parking would be provided for bicycles and the cars generated by the proposed retail. Senior Planner Golubics explained that the parking for the complex would be for both the retail and the residents.

Commissioner Lamnin asked if the Hayward Police Department (HPD) had any concerns about the project or the area in general. Mr. Golubics said the project was referred to HPD for comment and nothing was returned with regards to crime, traffic, or in general. Commissioner Lamnin asked if Senior Planner Golubics had any sense of the number of PD reports generated from that area and Mr. Golubics said no.

Commissioner Lamnin said she understood the area was in flux until the construction of the mini-loop was complete, but she expressed concern that people would use alternative routes to avoid traffic signals and there might be an impact to Smalley Avenue which was a fairly narrow street. She asked staff if any thought had been given to that possibility. Senior Planner Golubics said the traffic study was completely focused on the intersection of A Street and the Lucky parking lot and impacts were limited and acceptable; no major impacts were found.

Transportation Manager Don Frascinella reiterated the findings cited by Mr. Golubics and noted because impacts were minimal to the A Street intersection, it was concluded that the impact to Smalley Avenue would be even less or no impact at all. Commissioner Lamnin asked if staff thought people might try to cut through the complex and Mr. Frascinella said speed lumps would be installed on the road going through the complex and he noted on public streets people went out of their way to avoid speed lumps.



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Regarding the public notice for the project, Commissioner McDermott commented that not only did the public have problems with their emailed comments bouncing back and with phoning in comments, others said they received the notice late. Commissioner McDermott noted that in response to these problems staff had produced a second notice and she asked if the method of communication was publishing another legal ad in the newspaper. When staff indicated yes, Commissioner McDermott said that concerned her because very few people subscribed to the paper and there might be people interested in the project that they were not hearing from.

Commissioner McDermott said she was unclear if everyone in the complex had to be 55 years old or older. She asked if a senior tenant could have someone residing with them under the age of 55 years and Senior Planner Golubics said no, a deed restriction on the building would require that all residents be 55 or older.

Commissioner McDermott asked how the project would “promote housing along with supportive services for households with special needs, including seniors, persons with disabilities, single-parents, and the homeless,” per the site plan review findings included in the staff report. Senior Planner Golubics explained that that specific language was taken from the City’s General Plan and he pointed out that “including seniors” was shown in bold in the report because that was the portion that was applicable to the project.

Commissioner McDermott asked if the units would be affordable. She pointed out that the Commission had discussed ways of maintaining affordable senior housing in the past. Senior Planner Golubics said staff had asked the same question and he explained that there was no official designated component as part of the project, but he said he spoke with the applicant who had indicated that one component would be affordable. Mr. Golubics said the applicant could respond to the question during their presentation. Commissioner McDermott confirmed with staff that most units were one-bedroom and that the cost could be controlled by the rent amount.

Commissioner McDermott said she agreed with Commissioner Loché that the amount of available parking was a concern because with only 49 parking spots for the 60-unit complex, the assumption had been made that not everyone would be driving a car and she didn’t think that assumption was correct. She also pointed out that the total number of bike rack spots was five for the residents and perhaps three more for the retail. Commissioner McDermott reiterated that parking was a concern for her as well as the impact on Smalley Avenue residents because the street was narrow.

Commissioner Trivedi said he was glad someone wanted to develop the site noting the lot had been empty for a long time and contributed to blight. Although a lot of work had gone into the project so far, he said, he also had some concerns. Commissioner Trivedi said that depending on the nature of the proposed retail, the amount of parking may not be adequate. He acknowledged that the lot was small and there wasn’t room for more, but because the senior residents might use the bulk of the spots available, parking might be challenge.

Commissioner Trivedi said he read the traffic study and saw that impacts were low at the intersection of A Street and the Lucky parking lot, but he asked staff to address his concern that the impact might be

greater on a smaller auxiliary street like Smalley Avenue. He asked Senior Planner Golubics to speak to the scope of the traffic study and Mr. Golubics deferred to the Transportation Manager.

Transportation Manager Frascinella said the scope of the study was to look at the primary ingress and egress into the proposed project site. He explained that while the signalized intersection of A Street and the Lucky drive-in needed a lot of improvement, staff would only consider the project as having a significant impact if traffic levels moved down to an E or an F (A being the best) and they had not. Mr. Frascinella reiterated that because that intersection was the primary access point for the project, and impacts were not significant, he could conclude that the impact to Smalley Avenue would be even less.

Transportation Manager Frascinella noted that the project would only add a total of one hundred and twelve p.m. peak hour trips to traffic counts at that intersection, or, in other words, two additional cars per minute. He said over the course of an hour that was very few trips being added and even less would be on Smalley.

Commissioner Trivedi confirmed that the p.m. peak hour had the highest level of traffic and Mr. Frascinella said yes. Commissioner Trivedi asked staff if they had considered the potential impact to the Lucky parking lot if residents found there wasn't a sufficient amount of parking onsite. Commissioner Trivedi noted the Lucky parking lot was already tight and traffic sometimes backed up almost across the entire width of the lot while waiting for the signal at A Street. He said that made the lack of parking at the proposed project a more pressing concern.

Transportation Manager Frascinella explained that in terms of enforcement, because the Lucky parking lot was private it was up to them to determine how to deter or stop people from parking there. He noted that signs could be installed that stated that parking was for Lucky shoppers only.

Commissioner Trivedi asked if parking on Smalley Avenue was by permit or open to everyone and Transportation Manager Frascinella said it was open parking. Commissioner Trivedi asked if parking was timed and Mr. Frascinella said he didn't think so. Commissioner Trivedi said maybe that was something the City could consider.

Commissioner Trivedi asked staff if there were any concerns with a gas station being located next to residential. Senior Planner Golubics acknowledged it was unique situation, and explained that noise was a potential concern, but noted noise could be mitigated with heavier insulation and thicker windows on the units that interfaced with the gas station. Mr. Golubics commented that other similar projects had gone forward and there hadn't been any problems. Commissioner Trivedi confirmed that those mitigation measures were not part of the current plan, but could be, and staff said that was correct.

Chair Faria asked staff to confirm that the 49 parking spaces would be shared by the residents and the retailers and staff said yes. Chair Faria commented that the City must not be expecting a whole lot of business at those shops and Senior Planner Golubics said that conclusion could be made with 6,000 square feet of retail.

Chair Faria also noted that existing businesses on Smalley Avenue used most of the parking available in the area and she asked if that was taken into consideration. Senior Planner Golubics said he didn't think that was taken into consideration as part of the applicant's analysis. Chair Faria said the project would be a great addition to the area, but she did have some concerns about parking.

Chair Faria opened the Public Hearing at 8:05 p.m.



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Aaron Mandel with Meta Housing Corporation in Los Angeles, said noise concerns could be addressed in the conditions of approval for the project. Regarding traffic on Smalley Avenue, Mr. Mandel said they would be happy to put bollards at the back driveway or a gate to limit access to emergency vehicles only, noted it would be better for the City to have through access, but indicated they would defer to the preference of the community and City. Regarding affordability, Mr. Mandel explained that Meta Housing was a mission-oriented, for-profit business, but 20% of units were set aside for affordable housing. He said they were still deciding on the number of units that would be affordable, but he said it would be at least 12 units. Regarding notice to the surrounding businesses and residents, Mr. Mandel said he didn't know the exact process, but noted an extra week had been provided for comments.

Regarding parking, Mr. Mandel pointed out that the number of parking spots was per City code for both the retail and residential and he added that Meta Housing had not requested a reduction in the number of spots in exchange for affordability or anything else. He noted that Meta Housing had developed an extensive amount of senior housing projects in urban infill areas, very similar to this application, both pure residential and mixed use, and he said the project was adequately parked. Mr. Mandel said one of the intents of the project was to promote the use of public transit, in this case BART and the bus system. Mr. Mandel also clarified that the parking was shared, which meant parking was set aside for the businesses during the day, and then opened for residential during the evening hours. He said that was close to .8 parking spots per unit and for a senior housing project in an urban location they expected extra parking to be available outside of business hours.

Regarding the proposed retail, Mr. Mandel said they didn't expect the retail space to remain empty and Meta Housing felt the proposed parking was adequate. He mentioned that the retail should complement the neighborhood.

Mr. Mandel asked if there were any questions and noted the architect for the project was present as was a representative from the third-party property management company that would provide onsite management for the complex.

Commissioner Lamnin asked Mr. Mandel if he knew the approximate range that would be charged for rent and he said the high side would be between \$1,800 to \$2,000, and considerably less for the affordable rents. He pointed out that the costs could change in the two years it would take to complete the project.

Commissioner Lamnin asked about the proposed solar and Mr. Mandel asked his architect, Matthew Baran, to come up.

Matthew Baran, architect with Philip Banta & Associates Architecture located in Emeryville, said the Commission's idea to incorporate the solar addition onto the roof was preferable because that location made it more visible and they were trying to promote the sustainable characteristics of the project. Other sustainable characteristics, he said, included the landscaping, the living wall and the solar orientation, and that all tied into the limited parking and the location being next to a BART station.

Commissioner Lamnin asked if any provision would be made for caregivers under the age of 55 or a tenant who was raising a grandchild. Mr. Baran introduced Property Manager Jeff Passadore.

Jeff Passadore, Cambridge Real Estate Services in Portland, Oregon, explained that generally speaking those that provide care to a resident do not necessarily need to conform with all occupancy guidelines

and age was one exception; they would not need to conform with age restrictions that applied to the property. Commissioner Lamnin asked about grandchildren and Mr. Passadore explained each situation was case specific and involved whether or not the resident had formal custody of the child versus temporary custody. He said it would be considered on a case-by-case basis. Commissioner Lamnin pointed out that Hayward had a fairly high number of kinship families.

Commissioner Lamnin asked Mr. Passadore if he managed any other properties in California and he said Cambridge managed approximately 40 apartment communities in Northern California.

Commissioner Trivedi asked Mr. Mandel if Meta Housing specialized in senior-oriented communities and Mr. Mandel explained that the owner of the company got his start by exclusively managing senior housing, but had eventually expanded to include general occupancy. He said two-thirds of the properties managed were specifically for seniors and he noted they had an expertise in the design issues that came along with senior housing as well as the management style. Mr. Mandel explained that the differences that came with senior housing included smaller units, providing more common space, and engaging seniors with activities by working with the non-profit agency Engage. Mr. Mandel pointed out that the activities provided by Engage were free of charge to residents.

Commissioner Trivedi asked if the apartments were designed with any features specifically geared towards seniors and Mr. Mandel said beside certain surfaces and grab-bars, not really. Mr. Mandel noted that active seniors were targeted, 55 not being that old, he said, with the goal to provide safe, quality housing for residents to age in place. Mr. Mandel did note that the project would include a fitness center, something not always provided for in the family units. He also emphasized the community room and noted it would include a library.

Commissioner Trivedi asked Mr. Mandel what was envisioned for the retail space and what the timeframe would be with the development of the rest of the project. Mr. Mandel explained that they planned for neighborhood retail that would complement the Lucky center and some of the retail down the street. Mr. Mandel said they didn't have specific types of retail in mind and wouldn't have a broker take a look until the project was under construction; recruiting retail tenants was at least a couple years down the road. Mr. Mandel commented that the project was designed to break into three pieces of approximately 2,000 square feet each. Commissioner Trivedi asked if the residential and retail would be developed concurrently and Mr. Mandel said yes, but noted it was impossible to rent out retail without having the space available to view.

Commissioner McDermott asked if classes would be offered at the onsite gym and Mr. Mandel said absolutely, a variety of classes including art, writing, yoga, movie nights and bingo would be available. He said the wellness classes offered by Engage were part of the non-profit's mission statement to improve people's lives.

Commissioner McDermott asked what amenities would be provided for each of the units such as a refrigerator, washer and dryer, and dual-pane windows. Mr. Mandel said all kitchen appliances would be standard including microwave and dishwasher, but washers and dryers would be part of a community laundry room. Mr. Baran confirmed the laundry room would be on the second floor and said dual-pane windows were standard. Under LEED guidelines, Mr. Baran pointed out, developers were required to



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meet or exceed Title 24 Energy Standards. Commissioner McDermott commented that dual-pane windows would also help with noise concerns.

Commissioner McDermott asked what the cost per square foot would be and Mr. Mandel said he didn't have that in his figures, but concurred with Ms. McDermott that it would be whatever the market could bear or approximately \$1.75-\$2.00 per foot per month.

Commissioner McDermott suggested a restaurant for the retail space because of the built-in clientele and because the City was looking for additional restaurant choices. Mr. Mandel said they would love to get a restaurant in there.

Noting the proposed project was in the downtown entertainment area, Commissioner Loché asked Mr. Mandel to describe what security measures would be taken. Mr. Mandel explained that all the Meta Housing communities had a full security camera system covering all ingress and egress into the complex. He said residents would have to use key cards to get into the residential areas. Parking areas would be accessible to non-residents, Mr. Mandel said, but everything else would be locked and tracked via key card. Commissioner Loché confirmed parking areas would also be under camera surveillance and Mr. Mandel said absolutely; parking areas, elevators, hallways, and the computer center would all have security cameras.

Commissioner Loché asked Mr. Mandel to show him the different parking that would be available for both the residential and the retail, which Mr. Mandel did on one of the presentation slides. Mr. Mandel also pointed out that parking was often improved by good signage and good management and Meta Housing intended to provide both.

Mark Ebner, with address in Lafayette, said he was speaking in favor of the project and said it was well designed and well crafted. Mr. Ebner said he was a big fan of Meta Housing's operations and projects, and having them in Hayward would be wonderful.

Commissioner Lamnin asked Mr. Ebner what his history was with Meta Housing and Mr. Ebner explained that he was a general contractor and had tried to solicit their work for many years. He said they had both had projects in Hollywood and as he watched their project he saw it was very well built and very well managed.

Derek Wu, Champlain Street resident, said building a project that ran from A Street to Smalley Avenue would create a lot of traffic on Smalley and he said people would use the drive to cut through the property. Mr. Wu said the entrance of his business was located on Smalley right across from the proposed driveway and the additional traffic would cause a danger to his customers. He also commented that several parking spots on Smalley would be lost because of the driveway and because residents would need additional places to park. He also cautioned that, if open, the back area of the project would be used for drug activity and he suggested a fence and/or locked gate for emergency use only.

Ray Baker, with property address on A Street next to the proposed development, said he was very concerned about the features and impacts of the project. Mr. Baker said the solar design bothered him because of the height of the building and he said something that massive should be at a different location

with better accessibility to public transit. He said noise was already a factor, as was traffic on A Street. Mr. Baker noted he'd been at the location for many years, taking over a piece of property that originally served as a hospital. He pointed out there was no traffic control or management on A Street and he'd brought that to the attention of Mr. Frascinella numerous times. In the last couple of years, Mr. Baker

said he'd contacted the HPD about traffic concerns and they had turned a deaf ear. During a public meeting a month ago, he said, HPD officers said they had no plans for traffic enforcement on A Street. Mr. Baker said there was already a hazard for pedestrians trying to cross A Street and he asked the Commission to imagine elderly and disabled people trying to maneuver the intersection. He said he wasn't opposed to senior housing; the project was unworkable at that location. Mr. Baker noted that the traffic study submitted by the Planning Department was provided by the developer, and up until that night, the City's traffic division had nothing to say about the potential impacts. Mr. Baker said it was an imposition on the public to be told at the last minute that there wasn't a traffic problem on Smalley Avenue and he disagreed; there was a problem at Smalley and Montgomery and a problem ten times worse at Smalley and Mission Boulevard. He concluded by saying Planning staff should have met with residents and business owners in the area and given people more time to respond.

Kim Huggett, President of the Hayward Chamber of Commerce with business address on Main Street, said it was unusual for him to represent members on both sides of the issue. He said concerns expressed in letters included with the report discussed both the traffic and parking issues, but it appeared both could be addressed by the developer. Speaking for members in the downtown core, Mr. Huggett said they were very excited about this and another major development to be heard by the Commission that could potentially rejuvenate the downtown area by bringing in residents who would be using downtown retailers, restaurants and services. Noting there was already six downtown galleries, Mr. Huggett said he could see the Hayward Art Council using an element of the facility, and although he hadn't discussed that with the developer, he saw a lot of potential at the site. Mr. Huggett also commented that the Chamber had six to eight members who dealt with senior housing and although the elements of each situation weren't exactly the same, he noted that limited parking did not limit access to the facilities. Mr. Huggett pointed out that the Chamber was a downtown business, was aware of traffic on A Street, but was confident the Traffic Engineer's analysis was accurate. He welcomed Meta Housing to downtown.

Lori Juarez, with business address on Smalley Avenue, said she worked for Bay 1 Auto Collision, which was located right next to the proposed development. Ms. Juarez said they were pleased that some sort of development was coming in because the lot had been empty for a long time, and although the proposed development looked nice, they had serious concerns about traffic and parking on Smalley. She pointed out that the traffic study had only looked at A Street and then City staff had inferred the impact to Smalley. She said she didn't think that was fair to the businesses on Smalley. Ms. Juarez said every day the available parking on Smalley was filled by the current residents, businesses on the street, and by workers who parked on Smalley and then walked to businesses on Mission. She emphasized Smalley was a very narrow street and having a driveway that exited to Smalley and losing the parking spaces would have an impact to businesses and she asked the Commission to take that into consideration and not just look at impacts to A Street. Regarding parking, Ms. Juarez said she heard two different things: that there would be specific spots for residents; and that parking during the day would be limited to retail. Ms. Juarez reiterated that the concern was parking and traffic on a narrow street like Smalley.

Commissioner Lamnin asked Ms. Juarez how she heard about the development and the Planning Commission meeting and Ms. Juarez said she was told by a friend who lived in Brentwood and saw it in the Contra Costa Times. Ms. Juarez said Bay 1 really didn't receive timely notification and they were worried. Commissioner Lamnin asked if she had seen a blue notice card and Ms. Juarez said no.



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Commissioner McDermott asked what type of business she was representing and Ms. Juarez said auto body repair. Commissioner McDermott asked her why the parking spaces were important and Ms.

Juarez said parking was used by employees, customers coming in for estimates, and she noted that when customers of other businesses parked on Smalley, even pulling cars into Bay 1's garage could be a challenge. Ms. Juarez said other businesses were having problems too because during the day, Smalley Avenue was packed.

Commissioner McDermott asked if placing time limits of one to two hours on parking would help and Ms. Juarez said no because the time limits would impact employees and make an already difficult situation even more challenging. Ms. Juarez pointed out that limited parking times would impact residents parking in front of their homes.

Mr. Mandel pointed out that any development coming into that site would need to eliminate the four parking spots on Smalley Avenue to have two points of ingress and egress for fire and safety. As property owners, Mr. Mandel said they would support some sort of restriction on parking including one or two hour time limits and some exempt passes for owners and employees.

Chair Faria asked Mr. Mandel to confirm that he was amenable to having a gate at Smalley for emergency purposes only and Mr. Mandel said yes, but noted parking would still be eliminated for the driveway. Mr. Mandel also pointed out that traffic would then funnel onto A Street and the turnaround in the project would be tight. He reiterated that having the street go through would be better, but that he would do whatever the community wanted.

Chair Faria asked if closing the gate would eliminate any internal parking at the complex and Mr. Mandel said no. Mr. Baran added that the project was designed as two-way access so closing one side would not be an issue.

Commissioner Trivedi asked Mr. Baran if he had any concerns about how tight parking was and Mr. Baran said he followed the City's parking standard. Mr. Mandel said Meta Housing had developed around 40 projects similar to this, with 3,500 units, of which 3,000 were senior, so they had a pretty good feel for parking and felt the lot was adequate. Commissioner Trivedi asked if the lot conformed to the standards applied at the other projects and Mr. Mandel said absolutely and noted that this project, unlike most of the others, was within a quarter mile of a major transit stop. He said the project fit a lot of the green standards and met government initiatives to promote housing near transit hubs. Mr. Mandel said having limited parking would promote not driving so much.

Commissioner Trivedi clarified that he was talking about the layout of the parking, not the number of spots. Mr. Mandel said the two-way driveway was 26 feet wide and the parking spots were standard, not compact.

Chair Faria closed the Public Hearing at 8:24 p.m.

Commissioner Trivedi asked staff for details about proposed improvements to the pedestrian crossing at A Street. Senior Planner Golubics said the crosswalk would be straightened, additional signal

improvements with signal heads facing the development, and a left turn lane coming into the project. Mr. Golubics added that the time to cross the intersection would be reevaluated when the improvements were made. Commissioner Trivedi asked for confirmation that the population of the development would be taken into account and signal would also have audible cues.

Commissioner Trivedi said a lot of the concerns of the Commission could be addressed either by the developer or via the conditions of approval for the project including noise mitigation and the parking

situation on Smalley Avenue. He said he wanted to give credence to the folks who live and work in that area and if they were concerned about traffic impacts then he thought it was advisable to close the driveway at Smalley to only allow emergency vehicles. Commissioner Trivedi said he also appreciated that losing the four parking spots was a downside for the existing businesses but pointed out any new development would probably eliminate the spots. He said he was ready to develop conditions so the Commission could approve the project.

Commissioner Loché asked staff if the Commission could create a condition that would set the number of low income units and Assistant City Attorney Conneely said no. Unless the City was offering some subsidies, she said, the project would not be subject to the City's inclusionary housing ordinance. Ms. Conneely pointed out that the developer had indicated that setting aside some units for low income was normally part of their projects so if the developer had no objection, a percentage could be included in the conditions of approval.

Commissioner Loché asked the developer if they would be opposed to including the 20% mentioned earlier as a condition of approval. Mr. Mandel said they would prefer not to in order to preserve flexibility with their financing, and he noted some lenders didn't like the restrictions in the case of foreclosure. Mr. Mandel said Meta Housing liked to provide more (than 20%) if they could and if the City had subsidies or fee deferrals or waivers available they could increase the affordability of the complex.

Commissioner Loché said he liked that the solar panels were visible and he noted that the entrance on Smalley could be closed after the project was completed if there was more traffic than anticipated. Assistant City Attorney Conneely suggested a gate at Smalley Avenue be included in the conditions of approval that evening. She pointed out that it would be difficult to bring the project back and add a condition after the Site Plan Review process had taken place. Commissioner Loché asked if anything could be done after Site Plan Review, even by the developer, and Ms. Conneely explained that adding a condition of approval would give staff the latitude to evaluate traffic impacts six months after occupancy and close the entrance to emergency vehicles only if needed.

Ms. Conneely expressed concern that adding complexity to the conditions of approval might be cause to continue the item and direct staff to conduct further work with the developer. Commissioner Loché said he would like to see the option to close the Smalley entrance in the conditions, however, he would prefer that the development begin with the driveway open.

Regarding parking, Commissioner Loché said the location was so close to BART and downtown public transportation hubs that this was one place limited parking could work.

Commissioner Loché concluded that the project was attractive, nobody wanted the vacant lot, and if the City wanted "substantial development," there was no place in downtown to put it where there wouldn't be an impact on traffic. He said the plan was to mitigate traffic impacts the best as possible, and



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reiterated he wanted something in the conditions that allowed the City to address any impacts to Smalley Avenue.

Commissioner Lamnin mentioned that the Commission had discussed the need to create developments where residents could age in place and the Meta Housing application had a base age of 55 rather than the usual 62. She said she also appreciated the developer's commitment to affordability and encouraged the City to find ways to expedite, defer, or waive development costs to increase the potential for affordability. Commissioner Lamnin encouraged the developer to consider a partnership for provided services to reduce overhead and noted there were 700 non-profit agencies in Hayward, many of which focused on affordability and/or seniors.

Commissioner Lamnin commented that the conditions of approval were a little less specific than past projects and she asked staff if phrases like "will consider" and "should evaluate" would make the conditions more difficult to enforce. Senior Planner Golubics said staff worked carefully and closely with the development team to craft conditions that were acceptable to have the project move forward. He agreed that some conditions weren't as strong worded, but that was at the request of the applicant for a variety of reasons including being able to secure financing. Mr. Golubics encouraged the Commissioners to tighten language where they felt it was needed.

Commissioner Lamnin moved the staff recommendation with an amendment to condition of approval number 62 to change the phrase "Modifications may" to "Modifications will" include an evaluation; and she asked that a new condition, and she suggested numbering it Condition 62a, be added, to require an evaluation of traffic on Smalley Avenue, with a provision to add a gate or other mitigation measures, if needed. Senior Planner Golubics suggested adding a timeline for the evaluation. When Commissioner Lamnin changed her mind from three months after occupancy to before occupancy, Commissioner Trivedi pointed out that she wasn't really adding a condition to close the entrance at Smalley to emergency vehicles only if she was requiring an impact study. The impact should be negligible, he said, if there was a gate, and a new study not needed. Commissioner Lamnin said she wasn't convinced closing the entrance was the right answer for the community and said she had safety concerns about not having another access point and thought there might be advantage to the flow of traffic to keep it open.

Senior Planner Golubics asked if the traffic impact study was to be completed by staff, the applicant or as a joint effort. Commissioner Lamnin said the study should be completed by the applicant, but in collaboration with the City's traffic department.

Commissioner Loché seconded the motion.

Commissioner McDermott agreed with Commissioner Trivedi that the entrance should be closed at Smalley Avenue and said she wouldn't be able to support the motion.

Commissioner Trivedi commented that there was no thoroughfare now, the developer was willing to close the thoroughfare, and the residents didn't want a thoroughfare, therefore he felt the easiest solution was to close the project to through traffic. That said, Commissioner Trivedi said if the only way to move the project forward was to keep the thoroughfare open and conduct a study three months later to make a final determination, he would support that, but it wouldn't be his preference.

Commissioner Loché said by having the road closed from the beginning the Commission was assuming that it would not have worked with it open. He said it made more sense to start with it open, as staff suggested, have it evaluated, and see what was best. Commissioner Loché said assuming it wouldn't work would be a mistake.

Chair Faria said she was in favor of closing the gate from the beginning based on the concerns expressed by residents and businesses on Smalley. She said the proposal was good and the City needed the senior housing and the driveway was not being closed off in a permanent manner. Chair Faria said she would support the motion.

Commissioner Lamnin agreed with Commissioner Loché's comment that the City won't know what worked until a study was conducted, but she pointed out that problems on Smalley Avenue already existed so a study might be useful. She suggested amending her motion to have the Neighborhood Partnership Program hold a meeting to get community input.

Commissioner Trivedi asked her to repeat the motion and asked if the decision on the gate would be pending the Neighborhood Partnership meeting and Commissioner Lamnin said no and clarified that rather than a traffic study she was suggesting having a gate and separately, gathering input from the community for all the issues on Smalley. Commissioner Trivedi said the motion needed four votes to pass, so he said he would second the friendly amendment to the motion.

Commissioner Trivedi asked if the Commission would be able to review the retail development later and Senior Planner Golubics said that as conditioned, there was nothing that needed to come before the Commission for review. Assistant City Attorney Conneely added unless the retailer required a conditional use permit to operate.

Planning Manager Thomas said three other things to consider were one, if the driveway was left open the residents would most likely complain if it was later closed; if the driveway was closed from the beginning the impacts to the A Street intersection would be greater; and finally, even if the driveway was blocked with a gate that could be opened, the parking would still be lost on Smalley.

Commissioner McDermott said the developer was agreeable and having the gate closed from the start was a compromise with the existing Smalley Avenue residents and businesses.

Commissioner Trivedi agreed with Planning Manager Thomas' comment that new residents would complain if the gate was closed after initially being open, and pointed out the traffic impact to the A Street intersection was only two additional vehicles per hour. Chair Faria pointed out that with the gate closed on Smalley, the impact to A Street would be three cars an hour more.

Chair Faria asked Commissioner Lamnin to restate her motion. Commissioner Lamnin added she also liked the solar panels being visible, and the size and boxiness of the project had been mitigated. She said marketing would be the key to attracting residents who didn't have multiple cars or recreational vehicles and hoped the retail would also be geared toward businesses that didn't draw a lot of cars.

Commissioner Lamnin moved the staff recommendation with an amendment to language in Condition of Approval number 62, and added a condition of approval that required the gate remain closed at Smalley Avenue to only emergency vehicles, and with an evaluation of traffic impacts to ensure there was minimal impact from construction to the existing neighborhood. Commissioner Trivedi seconded the motion.



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The motion to find that the project was categorically exempt from the California Environmental Quality Act and approve the Site Plan Review application for 60 units of Senior Housing and approximately 6,000 square feet of ground floor retail/office space on a vacant, 0.97-acre property, pursuant to the findings and conditions of approval, with two amendments to: 1. Amend language in Condition of Approval No. 62 from “Modifications may” to “Modifications will” and, 2. Add a condition of approval requiring the installation and closure of a gate at the Smalley Avenue entrance to only allow emergency vehicles to pass, and to conduct an evaluation on traffic impacts to ensure minimal impacts from construction to the existing neighborhood, was approved 5:0:2.

AYES: Commissioners Loché, Trivedi, McDermott, Lamnin
Chair Faria
NOES:
ABSENT: Commissioners Márquez, Lavelle
ABSTAINED:

COMMISSION REPORTS

3. Oral Report on Planning and Zoning Matters

Planning Manager Thomas gave the Commission an update of future topics.

4. Commissioners’ Announcements, Referrals

Commissioner Lamnin requested that staff work with Neighborhood Services Manager David Korth to meet with residents on Smalley Avenue and, in addition, look at the City’s Public Hearing noticing process and look for ways to increase communication to interested parties.

APPROVAL OF MINUTES

5. April 25, 2013 – Unanimously approved with Commissioners Lavelle and Márquez absent

May 9, 2013 – Unanimously approved with Commissioners Lavelle and Márquez absent

May 23, 2013 – Unanimously approved with one minor change, Commissioners Lavelle and Márquez absent, and Commissioner Trivedi abstaining

ADJOURNMENT

Chair Faria adjourned the meeting at 8:59 p.m.

APPROVED:

Dianne McDermott, Secretary
Planning Commission

ATTEST:

Yolanda Cruz, Deputy City Clerk
Office of the City Clerk



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MEETING

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

ROLL CALL

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

Commissioner Márquez led in the Pledge of Allegiance.

Staff Members Present: Camire, Conneely, Cruz, Irizarry, Madhukansh-Singh, Thomas

General Public Present: 22

PUBLIC COMMENTS

None

PUBLIC HEARING

1. Conditional Use Permit No. PL-2013-0133 – The proposed project is categorically exempt from environmental review in accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15301, Existing Facilities - Tony Ancheta for Revere Tattoo (Applicant) / Kwok Low (Owner) - Request to operate a Tattoo Studio at 214 Harder Road, Unit D, in the Neighborhood Commercial (CN) Zoning District.

Associate Planner Arlynn Camire provided a synopsis of the report. She noted that according to the Hayward Police Department, tattoo studios are highly regulated by the Alameda County Department of Environmental Health and also commented that Mr. Ancheta and his staff are registered as Body Art Practitioners with Alameda County. Staff noted that the Police Department does not receive many calls for service for existing tattoo studios in Hayward and also that there is no evidence that tattoo studios attract gang members. Furthermore, the proposed tattoo studio does not condone the tattooing of minors; nor does the business condone the tattooing of racist and/or other gang related work.

Associate Planner Camire reported that staff received one phone call and three emails in opposition to the approval of the Conditional Use Permit. Those opposed to the application expressed concerns about the potential negative influence on local children, the type of individuals that would be attracted to a tattoo parlor, safety of the neighborhood, and loitering. Staff received one phone call from a neighborhood resident on Franklin Street who supported the approval of the tattoo parlor because there will be No Loitering signs posted and there will be security cameras in the parking lot. Additionally, staff received twenty-one letters of support for the proposed tattoo studio from the applicant's clients,

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Hayward residents, associates of the applicant, and also owners of adjacent businesses. Associate Planner Camire stated staff's recommendation that the Planning Commission find the proposed project Categorically Exempt from environmental review in accordance with CEQA guidelines and approve the Conditional Use Permit subject to the attached Findings and Conditions of Approval.

Commissioner Márquez thanked staff for providing the Planning Commission with a thorough report and also commended staff on obtaining input from the Hayward Police Department. In response to a question from Commissioner Márquez, Associate Planner Camire confirmed that the tattoo studio will not be offering piercing services. Commissioner Márquez asked if the other four tattoo parlors located in Hayward were licensed through Alameda County. Associate Planner Camire stated that she did not have any information on the licensing status of the other tattoo parlors.

Commissioner Márquez asked how often the tattoo artists have to renew their license with the Alameda County Department of Environmental Health. Associate Planner Camire indicated that she was not aware of how often this has to be renewed and suggested that the applicant could address this question.

Commissioner Márquez noted that the hours of operation are identified in the Conditions of Approval; however, in order to ensure that the tattoo studio is not open beyond the permitted business hours, she asked if it would be possible to include language that would specify what time the last appointment could be scheduled. Associate Planner Camire responded that the conditions of approval could be modified to include this additional information.

Commissioner Márquez shared the concerns from some community members regarding the proximity of the proposed tattoo studio to Harder Elementary School and the possible impact on students walking by the business site. She asked if the business will be displaying signage on the window such as neon signs that read the word "tattoo." Associate Planner Camire responded that the applicant could answer this question. She added that the tattooing will be done behind partitions so that no tattoo work would be visible from the street.

Commissioner Márquez stated that she visited the proposed location and noticed that there is a side door that leads from the building premises to the parking lot. She asked if this door will remain locked during business hours and/or if customers will be allowed to enter from this side door. Associate Planner Camire confirmed that the customers will only be allowed to enter through the front door of the business.

Commissioner Lamnin asked staff if there have been any concerns with the tattoo establishment which the Planning Commission recently approved. Detective Irizarry reported that there have not been any significant issues or calls for service to the Police Department for any of the tattoo parlors that currently operate in Hayward.

Commissioner Trivedi asked how staff determined that 80% of the customers visiting the tattoo studio would have scheduled appointments versus the 20% of customers that would be walk-ins. Associate Planner Camire commented that per the applicant, 80% of the tattoo work that is done is by appointment only and thus staff decided to make this a recommended condition of approval. Staff also felt that this would reduce the concerns that the neighborhood may have about individuals loitering in the area. She added that it is common practice for tattoo artists to do a majority of their tattoos by appointment only.

With regard to the issue of loitering, Commissioner Trivedi added that there will be No Loitering signs posted on the building, cameras will monitor the surrounding premises, and no children will be allowed inside. Associate Planner Camire confirmed that the business will post a sign which states that no person



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under the age of 18 years will be permitted inside the tattoo studio. She also added that the individual managing the tattoo studio will be responsible for ensuring that loitering does not occur in front of the building.

Commissioner McDermott asked staff if there is a limitation on how many tattoo parlors are permitted to operate in Hayward. Associate Planner Camire stated that there are no limitations as to how many tattoo parlors are allowed in the City; however, new tattoo parlors are prohibited from locating in Downtown Hayward. She added that if an existing tattoo studio located in the downtown area was to go out of business and no new tattoo studio was opened in the same location within a six month period, then no new tattoo studios could be established in Downtown Hayward thereafter.

Commissioner McDermott asked if staff has had a discussion about placing a limitation sometime in the future on the number of tattoo parlors that will be allowed to operate in Hayward. Associate Planner Camire responded that there has not been any discussion on this topic, and staff has not been directed to consider such a limitation. She also noted that members of the public have not raised this issue with staff. Based on Associate Planner Camire's experience in Hayward, only two other tattoo studios have gone through the approval process and were approved; however, both of these businesses are no longer in operation. Associate Planner Camire confirmed for Commissioner McDermott that, if approved, the proposed tattoo studio being considered would be the fifth tattoo parlor in Hayward.

Planning Manager Ned Thomas added that staff recently received another application for a tattoo studio in the Fairway Park Shopping Center, but this application was withdrawn by the applicant due to opposition from the neighborhood. Associate Planner Camire shared that staff is currently reviewing another application for a tattoo studio near Chabot College, but staff has not moved forward with this application yet.

Planning Manager Thomas shared that it was brought to his attention that the Planning Commission is interested in holding a work session on vice uses, which includes tattoo studios. He stated that staff could work on organizing a work session for the Planning Commission that would include a discussion on appropriate regulations for specific types of uses within the City.

Commissioner Loché asked if the hours of operation for the proposed tattoo studio are consistent with the hours of operation of the other tattoo studios already operating in the City. Associate Planner Camire noted that two of the currently existing tattoo studios in Hayward have hours of operation until 10:00 p.m.

Detective Irizarry confirmed for Commissioner Loché that the Police Department has not experienced any problems with loitering on the premises of the existing tattoo parlors. She added that No Loitering signs are posted at all of the existing locations.

Commissioner Lavelle asked staff if there is a condition of approval that restricts smoking outside the premises of a tattoo parlor. Associate Planner Camire responded that there is no specific language within this condition of approval which prohibits smoking; however, such language could be added if the Planning Commission preferred this. She added that the City does have a Smoking Pollution Control Ordinance which can be enforced. Commissioner Lavelle commented that the major problems which

she foresees are family members and friends hanging around and smoking outside of the business while they are waiting for someone to get a tattoo. She noted that enforcing the smoking ordinance would further discourage loitering in the area.

Chair Faria opened the Public Hearing at 7:23 p.m.

Tony Ancheta, applicant and business owner of Revere Tattoo, stated that his business seeks to elevate the tattoo experience of customers in Hayward by offering high quality tattoo work that is customized for each client. He described that the business will have an upscale, spa-like atmosphere. He noted that the establishment will have a staff of four tattoo artists and that the relationship among the staff is like a family.

To address the concerns of some community members about the tattoo studio being located close to an elementary school, the applicant shared his observation that children walking by his business have not shown any interest in the tattoo studio thus far. He added that only adults seem to take notice of the tattoo studio and some have taken a peek inside the business or waved hello to staff while walking by. Mr. Ancheta noted that he and his staff have kids of their own, and that they too would not want their kids to be near an environment that is not safe for them. Mr. Ancheta thanked the Planning Commission for the opportunity to speak before the body and also welcomed any questions that the Commissioners had.

In response to Commissioner Lamnin's question on who will manage the tattoo studio, Mr. Ancheta said that all of the tattoo artists will help to monitor the front area of the studio. He added that there will be a temporary member of his staff who will assist with taking care of the front counter.

Commissioner Lamnin asked if staff will also walk around the perimeter of the building to ensure that the area outside is safe and clean. Mr. Ancheta mentioned that he is already watchful of what is happening outside of the building and he indicated that he also helps the landlord in keeping the premises clean.

Commissioner Lamnin questioned if Mr. Ancheta's former clients will continue to be his customers at Revere Tattoo. Mr. Ancheta mentioned that he has a huge following of customers and typically his schedule gets booked two months in advance. He stated that a majority of his customers are from the East Bay and that approximately 30-40% of his customers are specifically from Hayward alone.

In response to a question asked by Commissioner Márquez regarding piercing services, Mr. Ancheta indicated that at present, the establishment will only provide tattoo services. He noted that if piercing services are provided in the future, these will be done towards the rear of the building in order to satisfy health and safety standards per the Alameda County Department of Environmental Health.

Commissioner Márquez commented that Inkies Tattoo Studio is a successful business in Fremont and asked Mr. Ancheta what practices he would bring to Hayward to make his business successful. Mr. Ancheta responded that because the tattoo artists who will work at Revere Tattoo were the first four staff members at Inkies, they will bring the same work product, level of customer service and cleanliness to Hayward. Mr. Ancheta confirmed for Commissioner Márquez that he would be amenable to modifying the condition of approval so that it is inclusive of the Smoking Pollution Control Ordinance. He also pointed out that he has to renew his licensing annually for the tattoo studio.

Commissioner Loché asked the applicant what time the last tattoo appointment would be finished by at the end of each business day. Mr. Ancheta commented that although the business hours are from



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9:00 a.m. to 9:00 p.m., the preference would be to schedule tattoo appointments at the start of the day so that the last appointment of the day could be scheduled for 6:00 p.m. in order to ensure that the tattoo artist is done by 9:00 p.m.

Commissioner Loché inquired what the business proposes to do in order to discourage loitering. Mr. Ancheta stated that the business will minimize loitering by instructing their clients ahead of time that the process of applying a tattoo takes a few hours and that the number of guests accompanying the client is limited to one individual. The applicant also stated that staff at the tattoo studio will be proactive in kindly requesting people loitering in front of the business to leave.

Mr. Ancheta confirmed for Commissioner Loché that the images included in the Staff Report are of Inkie's Tattoo Studio and that the proposed tattoo studio in Hayward is envisioned to look similar to Inkie's. Commissioner Loché inquired if the windows at the front of the business will be blacked out. Mr. Ancheta stated that the windows would not be blacked out and that the business would display one neon sign in the window which would indicate if the business is open. Mr. Ancheta also confirmed for Commissioner Loché that the waiting area would have appropriate and tasteful pieces of artwork on display.

Commissioner Loché expressed his concern that due to the costliness of tattoos, it is likely that the business might be handling large amounts of cash. He asked Mr. Ancheta how the business would ensure that there was a safe process in place to handle large amounts of cash. Mr. Ancheta described that the business will attempt to do most transactions via debit or credit card. Oliver Ocampo, one of Revere's staff members, commented that customers may not pay for a tattoo in one lump sum and instead, they may pay per tattoo session. Mr. Ocampo noted that some tattoos are like projects that can take up to twenty hours to complete and therefore, the tattoo has to be done in multiple sessions.

Commissioner McDermott commended Mr. Ancheta for leaving employment as a mechanical engineer in order to pursue his passion as a tattoo artist. Commissioner McDermott asked the applicant why he selected the City of Hayward as the business location. Mr. Ancheta responded that after obtaining input from his clients, he knew that he wanted to open his business in the Heart of the Bay as it is a very central and accessible location. When the applicant visited potential locations for opening up a tattoo studio, he was lured to Hayward because he liked the night life in downtown Hayward and he also learned of the many events that Hayward organizes throughout the year.

Mr. Ancheta clarified for Commissioner McDermott that although his specialty is in doing Polynesian tattoos, the studio will not be limited to just this style. He elaborated that his team of tattoo artists also specialize in other areas ranging from sailor jerry, Americana, and Japanese style tattoos, to name a few.

Commissioner Trivedi questioned the applicant about the setup of the waiting area. Mr. Ancheta stated that the front portion of the business will be setup as a small lobby area which will have a sofa, some chairs, and a table. The business portfolio will be available for viewing in the lobby and this will contain the profiles of each tattoo artist at Revere Tattoo.

Mr. Ancheta clarified for Commissioner Trivedi that Kwok Lo is the name of the landlord. He indicated that currently, there are no plans to rent out any stations at the studio to other tattoo artists.

Commissioner Trivedi asked the applicant to describe who his clientele would be. Mr. Ancheta indicated that a majority of his clientele are individuals of Polynesian or Asian descent; however, his recent experience has been that people of different races have been coming to him to get Polynesian style tattoos. Mr. Ancheta described that when applying tattoos, his work is like a story being tattooed on the client.

Commissioner Trivedi asked the applicant to address the issue of a client requesting an inappropriate or offensive type of tattoo. Mr. Ancheta stated that if a client requests a tattoo which might be inappropriate, such as a gang affiliated tattoo, he would inform the client that doing such tattoos is against their store rules. Mr. Ancheta added that tattoos nowadays symbolize a form of art and self-expression rather than violence.

Commissioner McDermott recommended that the business should establish a set of business practices to be incorporated into the business portfolio which would explicitly state the types of tattoos the studio will not do.

Chair Faria asked the applicant if the tattoo studio will provide consultation services to clients where they advise clients about what tattoos to get or not to get. Mr. Ancheta indicated that current practice is that each tattoo artist will consult the client on the design of their customized tattoo and will also offer advice on what not to get. Commissioner Faria questioned how the tattoo studio will deal with clients coming in to get a tattoo while being under the influence. Mr. Ancheta responded that the tattoo artists always check to see if the client appears to be under the influence of alcohol or drugs, if this is the case, then the tattoo artist will reschedule the appointment. He added that the goal is to make the tattoo experience safe for both the client and staff.

Mr. Don Le-Sparks, a Fremont resident, stated that he works in the IT field at Stanford University, and although he does not fit the mold of someone you would expect to have tattoos, he is a client at Inkies. He pointed out that some people have preconceived ideas that tattoos imply gang affiliation however this is inaccurate. He added that people who are gang-affiliated would not go to a high-end studio to get a tattoo. Mr. Le-Sparks said that safety was the most important factor to him in getting his tattoo, and Inkies Tattoo Studio fulfilled this requirement because Inkies operates like a salon. He addressed that loitering would not exist at the business site because the tattoo work that artists like Tony Ancheta do is not quick work, and therefore, people would not be hanging around. Mr. Le-Sparks emphasized that Tony Ancheta and his team conduct themselves very professionally at the tattoo studio.

Paulo Luis, a tattoo artist at Inkies Tattoo Studio, commented that Mr. Ancheta has been considering opening a tattoo parlor of his own for a while now, and some of the tattoo artists from Inkies will be following him to his new business. He indicated that all of the tattoo artists who will be working at Revere Tattoo are very much dedicated to the art. He noted that the proposed operation opening up in Hayward will run similar to Inkies in Fremont. Mr. Luis emphasized that all of the tattoo artists are family oriented and also noted that the artists have a large client following. He indicated that the connection and chemistry that staff has with the clients is very apparent.

Josh Kaleikau, resident of Alameda and a tattoo artist who will be working at Revere, discussed that one way loitering will be prevented is due to adherence to California Assembly Bill AB 300 of the Health and Safety Code pertaining to the Safe Body Art Act which outlines the guidelines for tattoo studio operations. He shared that per AB 300, individuals who are not getting a tattoo cannot be on the tattoo studio floor watching someone else receive a tattoo. Mr. Kaleikau has noticed that since the passage of this Assembly Bill, the number of people waiting for a client to get their tattoo done has decreased. Mr. Kaleikau commented that he has not witnessed any clients coming into the studio to get gang tattoos



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done. He reiterated that the tattoo artists strive to foster a family-like environment in their tattoo studio and they also try to create a unique vibe in the tattoo studio by not sectioning off the different tattoo stations and instead, they try to preserve more openness in the studio. He added that their business will not have blackened windows but they may put up blinds. Mr. Kaleikau emphasized that because he loves his job, working as a tattoo artist doesn't feel like work to him.

Ferdinand Zumel, a resident of Santa Clara and a client of Tony Ancheta, shared a story about the applicant whom he has known for a number of years. He commented that in addition to being a tattoo artist, Mr. Ancheta is a family man.

Oliver Ocampo, a resident of Alameda and a tattoo artist at Inkies Tattoo Studio, commented that when transitioning from his professional career in Information Technology to becoming a tattoo artist, he was concerned about the level of professionalism in the tattoo community. He stated that in working with Tony Ancheta at Inkies, he found the same level of professionalism, work ethics, and respect at the tattoo studio. Mr. Ocampo shared that the level of professionalism offered at Inkies has attracted more clients from professional backgrounds to the tattoo studio and also pointed out that the tattoo studio will be a positive and safe place for clients to get body art done at. Mr. Ocampo highlighted that Revere Tattoo Studio and their clientele will bring a steady flow of consumer spending to the studio's surrounding areas in Hayward. He mentioned that the tattoo artists enjoy giving back to the community by participating in fundraisers. For example, the artists may donate time for tattoo work to be given away as raffle prizes.

Bonnie Randall, a resident from Fremont and a customer of Tony Ancheta at Inkies, indicated that she is the Chief Financial Officer at her company. Having been a customer of Inkies since its inception, her observation of Inkies is that the environment is clean, the staff is professional, and that there is minimal loitering inside the studio. Ms. Randall pointed out that she helps coach a soccer team for teenage girls. She shared that she always advises the girls on her team to hold off on getting a tattoo until later in life when they are old enough and have had time to think about what type of tattoo they want done. Ms. Randall emphasized that Revere Tattoo will be the best tattoo studio that Hayward has seen.

Ken Jamaca, a resident of Fremont and a client of tattoo artist Josh Kaleikau, indicated that he represents the corporate professional clients of Inkies. He shared that Revere will offer a fun and exciting atmosphere for clients. Mr. Jamaca added that the tattoo artists customize each tattoo to match each client's life. He underscored that the tattoo artists care about their customers.

Chaiyos Siripoke, a resident of San Jose and a customer of Tony Ancheta, noted that he is a business owner in the South Bay. He stated that from an entrepreneurial standpoint, the tattoo studio will be of huge value to the Hayward community. He also shared that his children go to the same school with the Mr. Ancheta's children. Mr. Siripoke mentioned that Mr. Ancheta contributes to the community by participating in fundraisers.

Werner Seele, a resident of Tracy, showed his support for Mr. Ancheta stating that he has known the applicant for twenty years. He spoke highly of the applicant stating that he is a generous individual and a man of great character. He also pointed out that Mr. Ancheta is a family man and a football coach. Mr. Seele noted that since he is of Hawaiian descent, he would like Mr. Ancheta to be his tattoo artist since

he specializes in Polynesian style tattoos. Mr. Seele also pointed out that there is a large Pacific Islander population in Hayward, thereby making this City the ideal location for Revere Tattoo as a place for people seeking to get Polynesian style tattoos.

Chair Faria closed the Public Hearing at 8:20 p.m.

Commissioner Trivedi expressed his support for the Approval of the Conditional Use Permit. He shared that he was impressed with the applicant and his supporters and noted that there were many letters submitted to the City on behalf of Revere Tattoo opening in Hayward. He also indicated that Revere may impact other tattoo parlors in town positively by raising the standards at the competing tattoo parlors in Hayward. Commissioner Trivedi stated that the concerns held by the public about loitering at the business and the impact the tattoo studio may have on children were addressed at this Planning Commission meeting. He reiterated that children will not be allowed inside the tattoo studio and that the business has agreed to enforce no loitering.

Commissioner Márquez moved the staff recommendation with an amendment to the Conditions of Approval to include compliance with the City's Smoking Pollution Control Ordinance.

Assistant City Attorney Conneely indicated that all businesses in Hayward are subject to the City's Smoking Pollution Control Ordinance. She noted that the area surrounding the business location which includes the parking lot and the sidewalk is public right of way where smoking is prohibited. Additionally, smoking is not permitted in the interior of the premises. Assistant City Attorney Conneely indicated that the City's existing Smoking Pollution Control Ordinance encompasses all of the areas referenced above and that staff could include a condition of approval specifically stating that the applicant will observe all of the requirements of the City's smoking ordinance if the Planning Commission instructed staff to do so. Commissioner Márquez confirmed for staff that she would be comfortable with including this language in the conditional of approval.

Commissioner Lamnin seconded the motion.

Commissioner Lamnin thanked Mr. Ancheta for bringing his passion to Hayward. She highlighted that staff has put in a lot of effort to research the community's concerns and noted that she had no further concerns about the business location. Commissioner Lamnin suggested that the City should explore the idea of having a tattoo festival in Hayward sometime in the future. She recommended that the applicant contact the Chamber of Commerce and that he also try to make connections with local businesses so they could work collaboratively in referring customers to one another.

Commissioner Lavelle showed support for the motion and agreed that the proposed site for the business is appropriate for this use. She appreciated staff providing the Planning Commission with a map displaying where the other tattoo businesses are located in Hayward. She commented that at Planning Commission meetings in the past, there was concern about overcrowding of tattoo studios in the downtown area. She noted that unfortunately the Planning Commission no longer has the opportunity to review Conditional Use Permit (CUP) requests for massage parlor establishments due to changes in State regulations. She expressed that this change in the review of CUP requests is not healthy for the City because the Planning Commission no longer has the opportunity to thoughtfully discuss the nature of a business establishment and/or the type of clientele this business may bring in to the City. Commissioner Lavelle indicated that there are many businesses in Hayward that continue to have the darkened windows and the lighted signs.



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, July 25, 2013, 7:00 p.m.
777 B Street, Hayward, CA94541**

Commissioner Lavelle appreciated the support of everyone who attended the meeting and was also thankful for the letters that were submitted. She indicated that although there are a couple of remarks in the Findings and Conditions of Approval that she does not thoroughly agree with, she is still supportive of the motion. She did not agree with the condition in the staff report which states that the tattoo establishment has to be desirable for public convenience so that the residents can have more varied choice. Commissioner Lavelle indicated that the situation is not that the business is desirable to the City of Hayward to have, but that the applicant has selected Hayward as the location to operate his business. Furthermore, she stated that since the tattoo studio operates primarily on an appointment basis, the business is not likely to attract many walk-in customers and that instead, customers will travel to Hayward in order to utilize the services that this business provides.

Commissioner Lavelle stated that she appreciated the comments made by Commissioner Márquez regarding the smoking ordinance but Commissioner Lavelle noted that it is her belief that the City's current Smoking Pollution Control Ordinance will meet the concerns of Commissioner Márquez.

Commissioner Lavelle shared two articles from the San Francisco Chronicle which referenced the subject matter of tattoos. The first article quoted the famous tattoo artist Ed Hardy who stated in the article that tattoos are not for everyone and that the tattoo business is a niche business. Commissioner Lavelle spoke highly about Chair Faria's involvement with the tattoo removal program where one of the main goals of the program was to try to help individuals with the tattoo removal process that had tattoos from gang affiliations. The second article talked about a tattoo removal program offered by another City which would help people with the tattoo removal process because tattoos are described as being a barrier to employment by career experts. Commissioner Lavelle added that tattoos being a barrier to employment would be for individuals who had a tattoo in a visible location, however based upon the Planning Commission meeting, she observed the opposite impression from some of the speakers who indicated that having a tattoo does not interfere with them being professionals in their work environment.

Commissioner Márquez commended staff on preparing an excellent presentation and also thanked the Police Department for their help and input as well. She noted that the applicant was very candid and open in sharing the details of the business operation. She also appreciated that the applicant is willing to address concerns regarding the children at Harder Elementary School walking by the tattoo studio. Commissioner Márquez indicated that she is confident that Revere Tattoo will make the front appearance of the business appealing to the public. She added that she has visited the business site and that her observation is that the business is a safe and clean place.

Commissioner Faria indicated her support for the motion. She noted that Mr. Ancheta is very passionate and committed to his business and she stated that Revere Tattoo will be a very positive addition to the Hayward community.

Commissioner Márquez moved the staff recommendation with an amendment to the Conditional Use Permit requiring the applicant to observe the requirements of the Smoking Pollution Control Ordinance. Commissioner Lamnin seconded the motion.

The motion to find that 1) the proposed project was categorically exempt from the California Environmental Quality Act (CEQA) Guidelines, Section 15301, Existing Facilities, and 2) approve the

Conditional Use Permit in order to operate a Tattoo Studio at 214 Harder Road, Unit D, requiring the applicant to observe the requirements of the Smoking Pollution Control Ordinance, was approved 7:0:0.

AYES: Commissioners Loché, Trivedi, McDermott, Lamnin, Márquez, Lavelle,
Chair Faria

NOES:

ABSENT:

ABSTAINED:

2. Conditional Use Permit No. PL-2013-0121 – Request to operate a banquet hall where alcohol will be served at 22380 Foothill Boulevard, between Russell Way and San Lorenzo Creek, in the Central City–Commercial (CC-C) zoning sub-district. The Proposed Project is Categorically Exempt from Environmental Review in Accordance with the California Environmental Quality Act (CEQA) Guidelines, Section 15301(e)(2), Existing Facilities - Dion Griffin for the Hayward Area Historical Society (Applicant/Owner).

Chair Faria announced that Public Hearing Item No. 2 has been moved to the Planning Commission meeting scheduled to be held on September 5, 2013. Planning Manager Ned Thomas announced that because Hearing Item No. 2 was being moved to a specific date, no additional notice would be provided. He noted that this item is being continued at the request of the applicant because the applicant will be making changes to the initial request. The changes to the request include being able to have outdoor events in conjunction with the banquet hall and what the permitted hours of operation will be for the outdoor area. There are also some issues with the security plan that need to be coordinated with the Hayward Police Department.

3. Mission Boulevard Corridor Specific Plan

Chair Faria announced that Public Hearing Item No. 3 has been moved to the Planning Commission meeting scheduled to be held on September 19, 2013. Planning Manager Ned Thomas announced that this item will be re-noticed.

Planning Manager Ned Thomas commented that this project is long and the report contains many documents. He added that there are still lots of developers coming forward right now. He stated that the Environmental Impact Report (EIR) is complete, but is still in the editing stages. Staff wants to ensure that they are thorough in preparing the report and once staff is done editing the report, staff would like to give the Planning Commission sufficient time to review all of the documents. Planning Manager Thomas indicated that the report will be available mid-September.

COMMISSION REPORTS

4. Oral Report on Planning and Zoning Matters

Planning Manager Ned Thomas spoke about the Integral Project which is proposed to take place at the former Mervyn's headquarters site. He stated that this project has been continued to an unspecified date and may be coming to the Planning Commission as early as September. Planning Manager Thomas said that the Integral Project is a large project and that staff will be mindful of this before placing the item on the September agenda. He noted that there were some changes made to the proposed project which were in response to concerns raised by the neighborhood.



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Thursday, July 25, 2013, 7:00 p.m.
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Planning Manager Thomas shared that the Site Plan Review application for sixty units of Senior Housing to be located at project site 808 A Street, which the Planning Commission approved on July 11, 2013, had been called up by a member of the City Council and would be heard at the City Council Meeting on September 17, 2013.

Planning Manager Thomas stated that staff is working on the General Plan Update for which the draft document will be ready for review in a couple of months. Staff would like to give the Planning Commission and the City Council an opportunity to revise the draft document and also provide feedback before the General Plan Update is approved and is made public, which would be towards the end of November.

Planning Manager Thomas gave the Planning Commission the option to hold a Special Meeting on October 24, 2013 which would be in the form of a work session. In response to Commissioner Lamnin's question about holding a joint session meeting with the Planning Commission and the City Council, Planning Manager Thomas stated that in order to get substantial comments from both bodies, staff preferred to have two separate meetings.

Planning Manager Ned Thomas shared that staff would like to hold a work session sometime in the future to discuss the topic of vice uses. He commented that there will be an overhaul of alcohol and tobacco sales regulations occurring in the fall. He informed Chair Faria that there will be an opportunity to discuss the happy hour provision during the alcohol outlet regulations overhaul and also during the vice uses work session.

Planning Manager Ned Thomas shared with the Planning Commission that there will be a Community Meeting on Monday, July 29, 2013 in Room 2A which will address Alcohol Outlet Regulations.

Commissioner Márquez suggested that staff limit the number of items on the Planning Commission meeting's agenda to two or three items per meeting. She also requested that staff try to get the Planning Commission Agenda Reports to the Planning Commissioners sooner so that the Commissioners have enough time to review the material prior to the meeting. She asked if it would be possible for staff to send Planning Commissioners an electronic link of the Agenda Reports so that they can view the materials online until they get the hardcopy.

Planning Manager Ned Thomas apologized for the delay in sending the Agenda Reports to the Planning Commissioners and he reassured the Commissioners that staff will work on improving this.

Planning Manager Ned Thomas stated that he received an inquiry about a notice which was sent out for the Mission Paradise Mixed-Use Project. He commented that the City granted an extension for the Site Plan Review for the Mixed-Use Project located near the South Hayward BART Station. He added that the applicant and the applicant's architect informed staff that they expect to apply for building permits within the next three to six months.

5. Commissioners' Announcements, Referrals

Commissioner Lavelle shared that there will be a Movie On The Plaza event which will be featuring “Brave” on Friday, July 26th at 8:15 p.m. at the City Hall Plaza. She also stated that the Passeio do Vinho event will be held on Saturday, July 27th at the City Hall Rotunda from 3:00-6:00 p.m.

Commissioner Márquez announced that from Friday, September 13th until Sunday, September, 15th, the All Saints Catholic Church will be hosting its annual All Saints School Fiesta to be held at the All Saints School.

Commissioner Lamnin asked staff when the street signs will be up along Mission Boulevard for all of the newly replaced traffic lights. Planning Manager Ned Thomas responded that he will inquire with the Public Works department regarding the street signs.

APPROVAL OF MINUTES

6. None

ADJOURNMENT

Chair Faria adjourned the meeting at 8:48 p.m.

APPROVED:

Dianne McDermott, Secretary
Planning Commission

ATTEST:

Avinta Madhukansh-Singh, Senior Secretary
Office of the City Clerk