CITY OF HAYWARD

AGENDA REPORT

AGENDA DATE 12/15/05

AGENDA ITEM 4

WORK SESSION ITEM

TO: **Planning Commission**

FROM: **Dyana Anderly, AICP, Project Planner**

SUBJECT: **Text Change of Alcoholic Beverage Outlet Regulations, Initiated by the Planning Director**

RECOMMENDATION:

It is recommended that the Planning Commission recommend that the City Council adopt the Negative Declaration and the attached Ordinance amending the Alcoholic Beverage Outlet Regulations, subject to the attached findings.

DISCUSSION:

In a work session held on October 24, 2004, the City Council considered issues relating to the Alcoholic Beverage Outlet Regulations based on their discussion of the information provided within this report. Through their discourse, it was apparent that they were interested in pursuing changes to the Regulations that focus on the downtown, liquor stores and bars, the extent of alcoholic beverages permitted to be sold by physical volume (e.g., cubic feet) rather than percentage of floor area, and in re-examining the relevance of the current separation requirements between establishments involved in the sale of alcoholic beverages.

The current Alcoholic Beverage Outlet regulations were adopted in 1993 (ATTACHMENT A), and the stated purpose was to stem the proliferation of establishments selling alcoholic beverages within the City, with the notion that they present problems which affect residents, businesses, property owners, visitors, and workers of Hayward. The regulations were intended to ameliorate 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. And, with the establishment of the requirement for conditional use permits for new establishments engaged in the sale of alcoholic beverages, conditions could be established to prevent the undesirable impacts on the community. There have been many changes in the 12 years since adoption of the ordinance, particularly in the downtown. Also, the passage of time has provided an opportunity to examine the effectiveness of the ordinance in reducing problems associated with the sales of alcoholic beverages.

Staff has made the following observations with regard to the implementation of the current Alcoholic Beverage Outlet Regulations, and, generally, this information was provided to the City Council at their 2004 work session.

- There are no data available to demonstrate to what extent these regulations have affected efforts to attract favorable business or ward off unfavorable businesses seeking sales of alcoholic beverages. In the past decade, the Alcoholic Beverage Outlet Regulations, and particularly the separation requirements, have served as a tool to deter businesses engaged in the sales of alcoholic beverages from locating in Hayward. This has been true for small retail stores selling alcoholic beverages, service stations, and restaurants with a separate bar area.

- There has been only one instance when the use permit of an establishment engaged in the sale of alcoholic beverages was revoked (El Tapitio Nite Club) since the adoption of the Alcoholic Beverages Outlet Regulations. It should be pointed out, however, that this action coincided with the ABC's revocation of their ABC license to engage in the sales of alcoholic beverages, so the effectiveness of the use permit as a tool for eliminating an incompatible use in that instance was negligible.

- Since 1993, use permits have been issued for only six new establishments selling alcoholic beverages. These are Applebee's in Southland Mall, Neumanali wine bar on B Street, Crossroad's World Market on Jackson Street, Kumbala Night Club on Foothill, Olive Grove Night Club on West Winton Avenue (never constructed), and Cinema Place on B Street. Of these six, three are operational at this time. This may be compared to the approximately 216 ABC licenses issued to businesses in Hayward, some of which are inactive. Only about 8 percent of the businesses with ABC licenses have a use permit. There have been 18 use permits granted and, as indicated above, only one use permit revoked. Eleven of the use permits were issued for establishments that were already engaged in the sale of alcoholic beverages. (*When the regulations were adopted, a provision was made to require use permits for a change of the character of an existing operation and as changes of ownership of the establishments occurred. Since that time, a requirement for a use permit for changes in ownership has since been disallowed by case law*).

- Many of the problems stemming from the sales of alcoholic beverages are associated with establishments that do not have use permits. As a result, the City must depend on ABC to achieve compliance with ABC regulations and the Hayward Police Department is charged with the responsibility of maintaining order. The City's power to eliminate the root of the problem, which is typically the management of the business, is limited.

- When the ownership of an establishment selling alcoholic beverages changes hands and an ABC license is transferred, the Police Department consults with ABC in crafting appropriate conditions of the ABC license. Due to the relatively frequent turnover of the ABC licenses, this mechanism is more effective in establishing conditions under which alcoholic beverages are sold than the use permit process, which does not apply in instances of change of ownership.

- When a business applies for a new ABC license, the process is more cumbersome to effect conditions on an ABC license. The Police Department must persuade the prospective licensee of the merits to applying conditions to the ABC license, as opposed to contending with a challenge to the entire ABC license.

- The City is limited in terms of the conditions of approval that can be applied to use permits for businesses engaged in the sale of alcoholic beverages. For example, if a business has an ABC license to sell beer and wine, the City cannot limit the type or brand of beverage. Also, because of the independent authority of the ABC to attach conditions to the ABC license, their conditions may differ from, and may supersede, those established by the City under the use permit process.

- With respect to many of the existing restaurants with separate bars, it has been staff's experience that there have been no significant police problems associated with many of the restaurants with separate bars as compared to restaurants engaged in the sales of alcoholic beverages *without* a separate bar. However, some restaurants have modified their businesses to the extent that they operate more like nightclubs than restaurants and have become police problems.

- The ability to enforce all conditions of approval of use permits for alcoholic beverage sales depends to a great extent on staffing and work load priorities. For example, a typical condition of approval requires servers of alcoholic beverages to complete responsible beverage service training. Because of the employee turnover in these establishments, it is not feasible for City staff to regularly check to make sure that each server has completed this training. Nonetheless, the Police Department sponsored three ABC training sessions, which provided ABC license holders and their employees a four-hour course on how to run a successful liquor establishment.

- In the past few years, the success of reducing police calls for service to businesses engaged in the sales of alcoholic beverages can be attributed the members of the Hayward Police Department working closely with ABC. The Police Department has been successful in obtaining grants from the ABC to help fund their efforts, and Hayward has been cited by ABC throughout California as a City to emulate in achieving the objectives of the grant. From July 2003 to July 2004, the Hayward Police Department made over 150 arrests for ABC violations. Their success, however, has resulted in the inability to continue to qualify for ABC grants.

- For general ABC liquor licenses for on-site consumption, the number of premises is limited to one for each 2,000 inhabitants in Alameda County. (For Hayward's population of approximately 146,000, Hayward's proportionate share would be 73 ABC licenses for on-site consumption.) For general ABC liquor licenses and for wine and beer licenses for off-site consumption, the number is limited to one for each 2500 inhabitants of the city in which the establishment is located. (Hayward's proportionate share would be 58 ABC licenses for off-site consumption, and Hayward has 89 off-sale establishments.) And the number of premises for which off-sale beer and wine licenses is issued in a city, in

combination with the number of general off-sale liquor sales, is limited to one for each 1,250 inhabitants. (Hayward's proportionate share would be 117 ABC licenses for both on- and off-site consumption, and Hayward has 216 ABC licenses.) These criteria are broken down further to the number of licenses within a census tract, for what appears to be an equal distribution of ABC licenses per population regardless of the nature of the census tract (commercial, industrial or residential). Regardless of these limitations, ABC can issue a license for off-sale beer and wine if it can be shown that the establishment is not in a high-crime area and the public convenience or necessity would be served by the issuance of the license.

- Staff has discovered that the information supplied by ABC is not consistently reliable with regard to over-concentration. In checking data supplied by ABC, there is almost a 30 percent error rate in identifying census tracts in which ABC-licensed establishments are located. Staff has learned that this misinformation is not limited to Hayward.

- The Department of Alcoholic Beverage Control (ABC) requires cities to make the finding that the sale of alcoholic beverages would serve the public convenience or necessity when the maximum number of licenses considered acceptable per ABC's standards within a census tract is exceeded. There have been no criteria established for Hayward upon which to make a determination that the sale of alcoholic beverages in areas considered "over-concentrated" would serve the public convenience or necessity, although it has been generally conceded that sales of alcoholic beverages are acceptable in the downtown, which is looked upon as an entertainment center.

Considering the above information and the direction provided by the City Council in their work session on the alcoholic beverage regulations, staff recommends the following changes to the Alcoholic Beverage Outlet Regulations, which are also found in the attached proposed amended Alcohol Beverage Establishment Regulations (ATTACHMENT D).

1. Restaurants

Presently, the Alcoholic Beverage Outlet Regulations distinguish between restaurants that serve alcoholic beverages at the table and those that provide a separate bar area, with approval of a conditional use permit required for restaurants with separate bar areas. With the indication that many of the sit-down restaurants with separate, incidental bars have operated in accordance with city policies and provide a popular dining experience in Hayward, it is recommended that the Regulations be amended to allow sit-down restaurants with separate, incidental bars as a primary use (no use permit required) as long as specific performance standards are met and to eliminate the separation requirement for them. Language in the proposed ordinance is crafted to limit the sales of alcoholic beverages to no more than 40 percent of the gross sales and to institute minimum performance standards for them. This change would apply city-wide. If a restaurant were to change its operation to the extent that it no longer met the minimum performance standards for a full service restaurant (e.g., began to operate as a night club), steps could be taken to require that it attain compliance with the Zoning Ordinance. The operator could also seek to obtain approval of a conditional use permit for a night club, which would then be considered on its own merits at a

public hearing. For existing restaurants, the Police Department can request that the ABC attach the operating conditions to ABC licenses when they are transferred.

2. Separation Requirements

Currently, uses subject to a separation requirement are primarily bars, liquor stores, retail stores of less than 10,000 square feet requesting sale of alcoholic beverages, service stations requesting sale of alcoholic beverages, and restaurants with separate bars that do not meet specific performance standards. These uses all currently require approval of a conditional use permit. As indicated above, if the recommended amendments are approved, restaurants with separate bar areas would no longer be subject to a conditional use permit.

In the downtown area, up to two bars per block face are permitted as long as they are not within 100 feet of an off-sale establishment (liquor store) or park or library and a conditional use permit is approved for them. Staff is not suggesting any changes to distance requirements for those uses requiring a use permit in the downtown. (See further discussion on bars and liquor stores under "Public Convenience or Necessity.")

For the remainder of the City outside the downtown, there is a 500-foot separation requirement for uses engaged in the sale of alcoholic beverages which are subject to a conditional use permit. Staff is recommending amending the Regulations to retain the 500-foot separation requirement but to apply the separation requirement to only alcohol-related uses on the same side of the street.

Public Convenience or Necessity

ABC considers a census tract "over-concentrated" when the ratio of the number of ABC licensees to the population of the census tract in which the business is located exceeds ABC standards. ABC's system does not take into account whether or not the census tract is zoned primarily for commercial, industrial or residential development. For example, the ratio of ABC licensees to the resident population in a downtown is typically greater than in other areas, but is considered desirable considering its character as an employment, shopping and entertainment center and its daytime population. Notwithstanding the over-concentration provision, a license may be issued when *"the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines that public convenience would be served by the issuance."*

Staff recommends that the Planning Director be given the authority to make the finding of public convenience or necessity in cases where the use is allowed by right. Currently the Planning Director has the authority to prepare such letters when the Planning Commission or the City Council has approved a use permit or Planned Development zoning that allows for the sales. For example, since a large grocery store, such as Albertson's, is a primary use in commercial districts and a use permit is not required for the sale of alcoholic beverages in a store of that size, then the Planning Director would have the authority to make the findings of public convenience or necessity. This approach acknowledges that the sale of alcoholic beverages in establishments that are exempt from obtaining a conditional use permit serves the public convenience or necessity.

Staff recommends the adoption of a resolution precluding the issuance of "public convenience or necessity" letter for bars and liquor stores in census tracts in which ABC indicates there is an over-concentration of ABC licenses. Data show that there are already an adequate number of these facilities to serve the public convenience or necessity to the extent that no more findings should be made in support of them. In fact, there has been very little interest in establishing either new liquor stores or bars in Hayward in recent years. If the Planning Director declines to prepare a finding that the public convenience or necessity would be served by an additional stand-alone bar or liquor store, this position could be appealed to the Planning Commission and ultimately to the City Council in accordance with standard appeal procedures.

Retail Area Devoted to Sale of Alcoholic Beverages

One of the issues raised during the Council's work session was how the amount of area devoted to the sales and storage of alcoholic beverages is calculated. The current Alcoholic Beverage Outlet Regulations exempt *"Retail stores having 10,000 square feet or more of floor area and which devote not more than 5 percent of such floor area to the sale, display, and storage of alcoholic beverages."* For example, when applied to a major grocery store of 60,000 square feet, up to 3,000 square feet of floor area could be devoted to the sale, display and storage of alcoholic beverages and there would be no limitation on how high the alcoholic beverages could be stored. For a 20,000 square-foot Cost Plus World Market-type store, up to 1000 square feet could be used for that purpose. While this amount of area might be considered generous, the Police Department reports that it has not found this to be problematic, and it has been staff's observation that alcoholic beverages are not usually stacked any higher than other merchandise. Therefore, staff is not recommending a change in the methodology used to determine the amount of alcoholic beverages that may be sold.

Consultation With CommPre

Staff met with CommPre to discuss amendments to the Alcoholic Beverage Outlet Regulations and focused primarily on the separation requirements. Linda A. Pratt, Program Director for CommPre, followed up with an e-mail, which is ATTACHMENT E. Ms Pratt is supportive of instituting an "entertainment zone" such as the downtown, where there would be defined boundaries and in which there would be no separation requirement. She also urged the imposition of performance standards and a stipulation that there be a finite number of ABC licenses within that zone. For areas outside the "entertainment zone," Ms. Pratt indicates that there should be an even greater separation requirement (at least 600 feet and more likely 1,000 feet) in many instances. It should be pointed out that the downtown (generally between A and D Streets and Second and Grand Streets) has already been recognized as an entertainment zone when the cinema project was being considered. The proposed changes to the Alcoholic Beverage Outlet Regulations would allow restaurants with separate, incidental bars by right in the downtown and throughout the city. Although the proposed changes to the Regulations do not increase the separation requirements between uses that require conditional use permits, they do discourage additional bars and liquor stores through the "public convenience or necessity" process.

With regard to ABC's requirement that there be a finding of public convenience or necessity for requests for ABC licenses in areas of over-concentration of ABC licenses, Ms. Pratt asks that this

matter be considered during a public hearing so that the public would have input. Staff does not agree with this approach since the appropriateness of a use requiring a conditional use permit is already established during the public hearing process; otherwise, the uses are primary uses considered appropriate in each case.

Ms. Pratt suggests that large retail outlets intending to engage in the sale of alcoholic beverages be subject to a conditional use permit, which would provide for public input and an opportunity to impose conditions should it be approved. She cites the Target store in South Hayward as an example of a use that she believes should have been subject to public scrutiny and discretionary action on the sale of alcoholic beverages. Staff does not support this proposal because a determination has been made that a large retail store over 10,000 square feet which devotes no more than 5 percent of its floor space to the storage and sale of alcoholic beverages is an appropriate use in Hayward. It should be pointed out that there is an opportunity to add conditions to an ABC license even when there is no use permit required and there are civil remedies if a use becomes a public nuisance.

Prepared by:

Dyana Anderly

Dyana Anderly, AICP

Attachments:
A. Existing Alcoholic Beverage Outlet Regulations
B. Draft Negative Declaration
C. Findings
D. Proposed Alcoholic Beverage Establishment Regulations
E. E-Mail from Linda A. Pratt of CommPre

b. Alcoholic Beverage Outlet Regulations.

(1) Purpose.

(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.

(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.

(2) Definitions.

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

(a) Establishment. 'Establishment' shall mean either an on-sale or off-sale liquor establishment.

(i) 'On-sale liquor establishment' shall mean any business wherein alcoholic beverages are sold on the premises and are to be consumed on the premises including, but not limited to, any business which has obtained or intends to obtain a California Department of Alcoholic Beverage Control License type 40, 41, 42, 47, 48, 61, or 63. 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 liquor establishment' shall mean any business that sells alcoholic beverages in original, unopened packages for consumption off of the premises where sold including, but not limited to, any

facility which has obtained or intends to obtain a California Department of Alcoholic Beverage Control License type 20 or 21.

(b) Bona Fide Restaurant. 'Bona fide restaurant' shall mean a place which is regularly used and kept open for the primary purpose of serving meals to guests for compensation and does not have a bar, cocktail lounge, or other area designated primarily for the service of alcohol on the premises, and which is further outlined in section 23038 of the State of California Alcoholic Beverage Control Act, and which maintains a minimum of 51 percent of its gross receipts from the sale of meals. 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 72 hours' prior written notice.

(c) Night Club. 'Night club' shall mean any establishment which engages in the sale of alcoholic beverages in conjunction with providing live entertainment (including the playing of recorded music by a disc jockey) or dancing 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.

(3) Conditional Use Permit for New Establishments.

Except as otherwise provided herein, no new on-sale or off-sale liquor 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 5 percent of such floor area to the sale, display, and storage of alcoholic beverages;

(b) Bona fide restaurants excluding such restaurants that operate as night clubs; or

(c) Special event functions such as neighborhood or community festivals, provided all of the following criteria are met:

(i) The person, group, business, or organization sponsoring the event secures all applicable permits from the City of Hayward;

(ii) 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

(iii) The duration of the event does not exceed three consecutive days or five days in any single calendar year.

(4) Posting of 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.

(5) Findings.
(a) In making the findings required by Section 10-1.3225 governing conditional use permits, the Planning Commission, or the City Council on referral or appeal, shall consider whether the proposed use will result in an undue concentration in the area of establishments dispensing alcoholic beverages.
(b) 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: Residential structures, churches, schools, public playgrounds and parks, recreation centers, and other similar uses.

(6) 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:
(a) The type of Alcoholic Beverage Control license the applicant is seeking for the establishment;
(b) The true and complete name and address of each lender or share holder with a 5 percent or more financial interest in the proposed business or any other person to whom a share or percentage of the income of the establishment is to be paid; and
(c) A statement by the applicant indicating whether or not such applicant has at any time been convicted of any crime other than minor traffic offenses and, if so, the nature of the crime for which the applicant was convicted and the date and jurisdiction of the conviction.

(7) Requirements For New On-Sale Liquor Establishments.
(a) No new on-sale liquor establishments shall be permitted within a radius of 500 feet of any other on-sale or off-sale liquor establishment (with the exception of new or existing establishments which are exempted by subsection (3) above), or of any school, public park, library, playground, recreational center, day care center, or other similar use.
(b) Notwithstanding the above:
(i) Outside of the Central City Zoning District, the Planning Commission may recommend to the City Council a lesser alternative distance requirement in a particular instance, if the following is found: that the public convenience and necessity will be served by an alternate space requirement and that alternative measures to assure public health and safety are provided with respect to sale and use of alcoholic beverages;

(ii) Within the Central City Zoning District no on-sale liquor establishment shall be established or maintained within a radius of 100 feet of any off-sale liquor establishment (with the exception of new or existing establishments which are exempted by subsection (3) above), or of any school, public park, library, playground, recreational center, day care center, or other similar use; and

(iii) Within the Central City Zoning District, no more than two on-sale liquor establishments shall be permitted per block side or face, with the exception of new or existing establishments that are exempted by subsection (3) above. Determination of location on a block side or block face shall be made by referring to the street address of the on-sale liquor establishment on a block between the two immediate cross streets.

(8) Requirements For New Off-Sale Liquor Establishments.
No new off-sale liquor establishments will be permitted within a radius of 500 feet of any other on-sale or off-sale liquor establishment (with the exception of new or existing establishments which are exempted by subsection (3) above), or of any school, public park, library, playground, recreation center, day care center, or other similar use.

(9) Conditions.
To implement official City policy and to attain the purpose for requiring use permit approval, as stated in Section 10-1.3205 and in subsection (1) above, 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 permittee or any employee of the permittee of a criminal offense for which 1) the permitted establishment was the location where the offense was committed or where there is a direct correlation between the permittee's establishment and the criminal offense; and 2) Such criminal offense is found to be detrimental to the public health, safety, or general welfare.

(b) 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) 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.

(d) 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.

(e) Establishments shall discourage patrons and visitors from loitering in public rights-of-way, parking areas, and in front of adjacent properties.

(10) Minimum Conditions for Establishments in the Central City District.
In addition to the minimum conditions for on-sale and off-sale liquor establishments outlined in subsections (7) and (8) above, the following conditions shall apply in the Central City District, the violation of any of which shall constitute independent grounds for permit revocation:

(a) No beer or malt liquor shall be sold in bottles or containers larger than 12 ounces for off-site consumption;
(b) Beer and malt liquor in containers of 12 ounces or less shall not be sold in units of less than one six-pack for off-site consumption;
(c) Wine shall not be sold in bottles or containers smaller than 750 ml and wine coolers shall not be sold in containers smaller than 12 ounces and in units of less than one four-pack for off-site consumption;
(d) Distilled spirits shall not be sold in bottles or containers smaller than 750 ml for off-site consumption; and
(e) 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 liquor establishment.

(11) Existing Establishments Selling Alcoholic Beverages.
Any 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 this ordinance. Upon the occurrence of either of the following, however, operation of the establishment shall require approval of a conditional use permit:

(a) The 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 months or more.

(12) Modifications in Permitted Establishments Selling Alcoholic Beverages.
Any permitted 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 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 establishment as defined in subsection (11) above.

(13) 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 this section, notice shall also be provided to occupants of buildings located on parcels within 300 feet of the perimeter of the subject property for which use permit approval is sought.

CITY OF HAYWARD
NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that this project could not have a significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. PROJECT DESCRIPTION:

Text Amendment No. PL-2005-0623 - Initiated by the Planning Director – An amendment to the City of Hayward Zoning Ordinance, Section 10-2.2735 b. "Alcoholic Beverage Outlet Regulations" to consider revising certain sections in order to further alleviate negative impacts of the sale of alcoholic beverages in environments that are not conducive to such activities; to consider focusing on the downtown area as an entertainment venue; to not distinguish between restaurants serving alcoholic beverages at the table and restaurants that also serve alcoholic beverages at a separate bar; to establish expand performance standards for uses engaged in the sale of alcoholic beverages, to authorize the Planning Director to prepare letters of public convenience or necessity; and to expand criteria under which exceptions may be considered.

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

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

FINDINGS SUPPORTING DECLARATION:

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project could not result in significant effects on the environment.

2. The project would not adversely affect any scenic resources or critical habitat as the text amendment would not directly lead to any development. In the case of the construction of a project in concert with the amended alcoholic beverages regulations, impacts to the environment would be evaluated.

3. The project would not result in significant impacts related to changes in air quality as the project would not directly lead to any development. In the case of the construction of a project in concert with this text amendment, impacts to air quality would be evaluated.

4. The project would not result in significant impacts to biological resources such as wildlife and wetlands since this the text amendment would not directly lead to any development. In the case of the construction of a project in concert with this text amendment, impacts to biological resources would be evaluated.

5. The project will not result in significant impacts to cultural resources including historical resources, archaeological resources, paleonotological resources, unique topography or disturb human remains since this the text amendment would not directly lead to any development. In the case of the construction of a project in concert with this text amendment, these impacts would be evaluated.

6. The project would not result in a significant impact in regard to seismic hazards as the project would not directly lead to any development.

7. The project is not inconsistent with the General Plan policies of the City of Hayward.

8. The project would not result in a significant impact to recreational facilities and parks as the project would not directly lead to any development. In the case of the construction of a project in concert with this text amendment, impacts to air quality would be evaluated.

9. The project would not result in a significant impact to public services as the intent of the text amendment is to create a healthier environment in which alcoholic beverages may be permitted in conjunction with new development.

III. PERSON WHO PREPARED INITIAL STUDY:

Dyana Anderly

Dyana Anderly, AICP
Dated: October 11, 2005

IV. COPY OF INITIAL STUDY (ENVIRONMENTAL CHECKLIST) IS ATTACHED

For additional information, please contact the City of Hayward, Planning Division, 777 B Street, Hayward, CA 94541-5007, telephone (510) 583-4213 or e-mail richard.patenaude@hayward-ca.gov.

DISTRIBUTION/POSTING

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

Environmental Checklist Form

1. Project title: **Text Amendment No. PL-2005-0623**

2. Lead agency name and address:
   City of Hayward, 777 B Street, Hayward, CA 94541

3. Contact person:
   Dyana Anderly, AICP, Planner, (510) 583-4214, dyana.anderly@hayward-ca.gov

5. Project sponsor: Planning Director, City of Hayward

6. General plan Designation: N/A 7. Zoning: N/A

8. Description of project: An amendment to the City of Hayward Zoning Ordinance, Section 10-2.2735 b. "Alcoholic Beverage Outlet Regulations" to consider revising certain sections in order to further alleviate negative impacts of the sale of alcoholic beverages in environments that are not conducive to such activities; to consider focusing on the downtown area as an entertainment venue; to not distinguish between restaurants serving alcoholic beverages at the table and restaurants that also serve alcoholic beverages at a separate bar; to establish expand performance standards for uses engaged in the sale of alcoholic beverages, to authorize the Planning Director to prepare letters of public convenience or necessity; and to expand criteria under which exceptions may be considered.

9. Surrounding land uses and setting: City-wide.

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.) 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.

☐ Aesthetics	☐ Agriculture Resources	☐ Air Quality
☐ Biological Resources	☐ Cultural Resources	☐ Geology /Soils
☐ Hazards & Hazardous Materials	☐ Hydrology / Water Quality	☐ Land Use / Planning
☐ Mineral Resources	☐ Noise	☐ Population / Housing
☐ Public Services	☐ Recreation	☐ Transportation/Traffic
☐ Utilities / Service Systems	☐ Mandatory Findings of Significance	

DETERMINATION: 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.

Dyana Anderly

Signature

Date: October 11, 2005

Dyana Anderly, AICP
Printed Name

City of Hayward
Agency

ENVIRONMENTAL ISSUES:

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
I. **AESTHETICS** -- Would the project:				
a) Have a substantial adverse effect on a scenic vista? ***Comment:*** *The text amendment would not affect any scenic vista.*	☐	☐	☐	☒
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? ***Comment:*** *The text amendment would not damage scenic resources.*	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings? ***Comment:*** *The text amendment will not detrimentally affect the visual character or quality of any project site in the City of Hayward.*	☐	☐	☐	☒
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? ***Comment:*** *The text amendment would not create a substantial source of light or glare.*	☐	☐	☐	☒
II. **AGRICULTURE RESOURCES**: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the text amendment:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? **Comment:** *The text amendment would not affect farmland.*	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? ***Comment:*** *See II.a) above.*	☐	☐	☐	☒
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? ***Comment:*** *See II.a) above.*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
III. **AIR QUALITY** -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the text amendment:				
a) Conflict with or obstruct implementation of the applicable air quality plan? ***Comment:*** *The text amendment would not obstruct the implementation of any air quality plan.*	☐	☐	☐	☒
b) Violate any air quality standard or contribute substantially to an existing or text amendment air quality violation? ***Comments:*** *The text amendment would not negatively affect air quality.*	☐	☐	☐	☒
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the text amendment 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:*** *See III.b) above.*	☐	☐	☐	☒
d) Expose sensitive receptors to substantial pollutant concentrations? ***Comment:*** *See III.b) above.*	☐	☐	☐	☒
e) Create objectionable odors affecting a substantial number of people? ***Comment:*** *The See III.b) above.*	☐	☐	☐	☒
IV. **BIOLOGICAL RESOURCES** -- Would the text amendment:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? ***Comment:*** *The text amendment would not adversely affect biological resources.*	☐	☐	☐	☒
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 Game or US Fish and Wildlife Service? ***Comment:*** *See IV.a) above.*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
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:*** *See IV.a) above.*	☐	☐	☐	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? ***Comment:*** *See IV.a) above.*	☐	☐	☐	☒
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? ***Comment:*** *See IV.a) above.*	☐	☐	☐	☒
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan? ***Comment:*** *See IV.a) above.*	☐	☐	☐	☒
V. **CULTURAL RESOURCES** -- Would the text amendment:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? ***Comment:*** *The text amendment will not adversely affect historical resources.*	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? **Comment:** *See V.a) above.*	☐	☐	☐	☒
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? ***Comment:*** *See V.a) above.*	☐	☐	☐	☒
d) Disturb any human remains, including those interred outside of formal cemeteries? ***Comment:*** *See V.a) above.*	☐	☐	☐	☒
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:	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
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? Refer to Division of Mines and Geology Special Publication 42. ***Comment:*** *The text amendment would not in itself expose people or structures to potential adverse effects of fault rupture.*	☐	☐	☐	☒
ii) Strong seismic ground shaking? ***Comment:*** *The text amendment would not in itself expose people or structures to potential adverse effects of seismic ground shaking.*	☐	☐	☐	☒
iii) Seismic-related ground failure, including liquefaction? ***Comment:*** *The text amendment would not in itself expose people or structures to potential adverse effects of liquefaction.*	☐	☐	☐	☒
iv) Landslides? ***Comment:*** *The text amendment would not in itself expose people or structures to potential adverse effects of landslides.*	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil? ***Comment:*** *The text amendment would not in itself result in substantial erosion or the loss of topsoil.*	☐	☐	☐	☒
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? ***Comment:*** *The text amendment would not in itself affect sites on unstable soils or geologic units.*	☐	☐	☐	☒
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: The text amendment would not in itself affect sites on unstable soils or geologic units.*	☐	☐	☐	☒
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? ***Comment:*** *There is a sewer and stormwater system in place in the City of Hayward. Septic tanks or alternative wastewater disposal systems are not necessary.*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
VII. **HAZARDS AND HAZARDOUS MATERIALS** - Would the text amendment:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? ***Comment:*** *The text amendment would not create a need for the transport, use or disposal of hazardous materials.*	☐	☐	☐	☒
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? ***Comment:*** *See VII. a).*	☐	☐	☐	☒
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? ***Comment:*** *See VII. a).*	☐	☐	☐	☒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? ***Comment:*** *The text amendment would not in itself involve any site included on a list of hazardous materials sites.*	☐	☐	☐	☒
e) For a text amendment 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:*** *This text amendment would not in itself involve any site located within an airport plan area or within two-miles of the Hayward Air Terminal.*	☐	☐	☐	☒
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:*** *See VII. e).*	☐	☐	☐	☒
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? ***Comment:*** *The text amendment would not interfere with any adopted emergency response or evacuation plan.*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
g) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? ***Comment:*** *The text amendment in itself would not affect any wildland site.*	☐	☐	☐	☒
VIII. **HYDROLOGY AND WATER QUALITY** -- Would the text amendment:				
a) Violate any water quality standards or waste discharge requirements? ***Comment:*** *The text amendment would not lead to violation of any water quality standards or waste discharge requirements.*	☐	☐	☐	☒
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? ***Comment:*** *The text amendment would not result in the depletion of ground water supplies.*	☐	☐	☐	☒
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? ***Comment:*** *The text amendment would not result in substantial erosion or siltation on-or off-site.*	☐	☐	☐	☒
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? ***Comment:*** *The text amendment would not affect drainage patterns and would not cause flooding.*	☐	☐	☐	☒
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? ***Comment:*** *The text amendment would not have any affect on stormwater drainage.*	☐	☐	☐	☒
f) Otherwise substantially degrade water quality? ***Comment:*** *See VIII. a).*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? ***Comment:*** *The text amendment would not create housing or any structures.*	☐	☐	☐	☒
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? ***Comment:*** *See VIII. g).*	☐	☐	☐	☒
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? ***Comment:*** *See VIII. g).*	☐	☐	☐	☒
j) Inundation by seiche, tsunami, or mudflow? ***Comment:*** *The text amendment does not involve a specific location.*	☐	☐	☐	☒
IX. **LAND USE AND PLANNING** - Would the project;				
a) Physically divide an established community? ***Comment:*** *The text amendment would not result in any barriers that would divide a community.*	☐	☐	☐	☒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? ***Comment:*** *The text amendment is consistent with the General Plan, which seeks to "employ sound planning principles to promote a balance of land uses and achieve a vibrant urban development pattern that enhances the character of the city."*	☐	☐	☐	☒
c) Conflict with any applicable habitat conservation plan or natural community conservation plan? ***Comment:*** *The text amendment would not result in a physical development that would conflict with any applicable habitat conservation plan or natural community conservation plan.*	☐	☐	☐	☒
X. **MINERAL RESOURCES** – Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? ***Comment:*** *The text amendment would not affect mineral resources.*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*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:*** *See X. a).*	☐	☐	☐	☒
XI. **NOISE** - Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? **Comment:** *The text amendment would produce no noise.*	☐	☐	☐	☒
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? ***Comment:*** *The text amendment would not cause the exposure of persons to noise or vibration.*	☐	☐	☐	☒
c) A substantial permanent increase in ambient noise levels in the text amendment vicinity above levels existing without the project? ***Comment:*** *See XI. a).*	☐	☐	☐	☒
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? ***Comment:*** *See XI. a).*	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? ***Comment:*** *See XI.a). The project does not involve a specific site.*	☐	☐	☐	☒
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:*** *See XI.a). The project does not involve a specific site.*	☐	☐	☐	☒
XII. **POPULATION AND HOUSING** – Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? ***Comment:*** *The text amendment would not result in specific development.*	☐	☐	☐	☒
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? ***Comment:*** *See XII. a).*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
b) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? ***Comment:*** *See XII. a).*	☐	☐	☐	☒

XIII. **PUBLIC SERVICES**

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

a) Fire protection? **Comment:** *The proposed text amendment will have no effect upon, government services, including fire and police protection, maintenance of public facilities, including roads, and in other government services.*	☐	☐	☐	☒
b) Police protection? ***Comment:*** *The text amendment is intended to enable the Police Department and other City enforcement staff to better manage the oversight of establishments engaged in the sale of alcoholic beverages, especially the type of establishments known historically to have increased the demand for police services.*	☐	☐	☐	☒
c) Schools? ***Comment:*** *See XIII. a).*	☐	☐	☐	☒
d) Parks? **Comment:** *See XIII. a).*	☐	☐	☐	☒
e) Other public facilities? ***Comment:*** *No other public facilities would be significantly impacted.*	☐	☐	☐	☒

XIV. **RECREATION --**

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? ***Comment:*** *The text amendment would have no negative effect on parks or recreational facilities.*	☐	☐	☐	☒
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? ***Comment:*** *See XIV. a).*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
XV. **TRANSPORTATION/TRAFFIC** -- Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? ***Comment:*** *The text amendment would have no affect on traffic of any kind.*	☐	☐	☐	☒
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? ***Comment:*** *See XV. a).*	☐	☐	☐	☒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? ***Comment:*** *See XV. a).*	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? ***Comment:*** *See XV. a).*	☐	☐	☐	☒
e) Result in inadequate emergency access? ***Comment:*** *The text amendment would not affect emergency access.*	☐	☐	☐	☒
f) Result in inadequate parking capacity? ***Comment:*** *The text amendment would not affect parking.*	☐	☐	☐	☒
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? ***Comment:*** *The text amendment would not conflict with adopted policies supporting alternative transportation.*	☐	☐	☐	☒
XVI. **UTILITIES AND SERVICE SYSTEMS** - Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? ***Comment:*** *The text amendment would not create wastewater.*	☐	☐	☐	☒
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? ***Comment:*** *See XVI. a).*	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? ***Comment:*** *The text amendment would not affect storm water drainage.*	☐	☐	☐	☒
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? ***Comment:*** *The text amendment would have no effect on water supplies.*	☐	☐	☐	☒
e) Result in a determination by the wastewater treatment provider, which serves or may serve the text amendment that it has adequate capacity to serve the project's demand in addition to the provider's existing commitments? ***Comment:*** *See XVI. a).*	☐	☐	☐	☒
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? ***Comment:*** *The text amendment would not create solid waste.*	☐	☐	☐	☒
g) Comply with federal, state, and local statutes and regulations related to solid waste? ***Comment:*** *See XVI.f).*	☐	☐	☐	☒
XVII. **MANDATORY FINDINGS OF SIGNIFICANCE --**				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☒
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a text amendment are considerable when viewed in connection with the effects of past text amendments, the effects of other current text amendments, and the effects of probable future text amendments)?	☐	☐	☐	☒
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒

FINDINGS IN SUPPORT OF
TEXT AMENDMENT PROPERTY LINE – 2005-0623

A. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward in that the amendments to the Alcoholic Beverage Outlet Regulations are intended to provide for the orderly integration of alcohol-related uses, including the sale of wine and beer and distilled spirits, into the commercial framework of Hayward and in recognition that restaurants engaged in the sales of alcoholic beverages have provided a popular and beneficial activity in commercial zones when regulated by performance standards and that additional performance standards are proposed as part of this text amendment;

B. The proposed change is in conformance with the purposes of this Ordinance and all applicable, officially adopted policies and plans in that the General Plan supports economic growth, supports maintaining a healthy balance between economic growth and environmental quality, supports providing support to businesses, and encourages the elimination of cumbersome and unnecessary regulations;

C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when property is reclassified in that this ordinance does not directly impact new construction; and

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 in that the permitting process will be streamlined for restaurants engaged in the sale of alcoholic beverages that meet minimum performance standards as well as for businesses requiring a letter of public convenience or necessity to the Department of Alcoholic Beverage Control.

SEC. 10-1.2700 GENERAL REGULATIONS

SEC. 10-1.2715 CERTAIN USES PERMITTED.

SEC. 10-1.2735 SPECIAL STANDARDS AND CONDITIONS FOR CERTAIN USES.

Special standards and conditions as set forth below are applicable to uses enumerated in this Section and listed in the individual districts. Departure or variation from these standards is permitted only when it can be established by the applicant that the intent and purpose of the district or the necessary findings for permit approval, as specified in this ordinance, are not compromised. Where warranted by ordinance regulations or to implement official City policy, standards of development may be required that exceed those listed in this Section.

b. **Alcoholic Beverage Outlet Regulations.**

(1) Purpose.

In addition to the general purposes listed in SEC. 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.

(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.
(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.

(2) Definitions.
For the purpose of these regulations, certain terms and words shall

(a) Alcoholic Beverage Sales Commercial Activity. "Alcoholic Beverage Sales Commercial Activity" means the retail sale, for on- or off-premises consumption, of liquor, beer, wine, or other alcoholic beverages, excluding Full-Service Restaurants that comply with the below-listed definition of Full Service Restaurant.

~~(b) Establishment. 'Establishment' shall mean either an on-sale or off-sale liquor establishment.~~

(i) 'On-sale ~~liquor~~ alcohol-related commercial activity ~~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. ~~, but not limited to, any business which has obtained or intends to obtain a California Department of Alcoholic Beverage Control License type 40, 41, 42, 47, 48, 61, or 63.~~ 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. This section shall be interpreted to include bars, exclusive of night clubs.

(ii) 'Off-sale ~~liquor establishment~~ alcohol-related commercial activity' shall mean any business that sells alcoholic beverages in original, unopened packages for consumption off of the premises where sold including~~, but not limited to, any facility which has obtained or intends to obtain a California Department of Alcoholic Beverage Control License type 20 or 21~~.

(iii) 'Liquor store shall mean any business of less than 10,000 square feet (gross) where distilled spirits are sold for off-sale consumption.

(c) 'Downtown Entertainment Area' shall mean that area generally between A and D Streets and between Second and Grand Street.

(d) ~~Bona Fide~~ Restaurant – Full Service. '~~Bona fide~~ A "full service restaurant" shall mean a sit-down establishment ~~place~~ 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 ~~does not have~~ 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, ~~which is further outlined in section 23038 of the State of California Alcoholic Beverage Control Act,~~ and which maintains a minimum of ~~51~~ 60 percent of its gross receipts from the sale of meals. For purposes of this ordinance, a bona fide restaurant does not include fast food restaurants or delicatessens. 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 72 hours' prior written notice. To be considered a Full Service Restaurant, the establishment must meet the criteria listed below. Restaurants that fail to meet these criteria must apply for a conditional use permit. In the event that the establishment fails to obtain a conditional use permit, the establishment shall be in violation of these regulations and subject to the penalties and enforcement provisions set forth in Section 10-1.2850 of the Zoning Ordinance.

(i) 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.

(ii) 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.

(iii) A full service restaurant shall not offer or permit any form of live or recorded entertainment; including by way of example and not limitation the playing of recorded music by a disc jockey, karaoke, dancing, video or mechanical games. Background music complementary to a dining experience may be provided as determined by the Chief of Police.

(iv) A full service restaurant shall not offer any type of reduced price promotion for alcoholic beverages served on the premises.

(v) A full service restaurant is one that abides by all of the performance standards established for same as follows:

(a) That it does not result in jeopardizing or endangering the public health or safety of persons residing, visiting, or working in the surrounding area;

(b) That it 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;

(c) That it does not result in violations to any applicable provision of any other city, state, or federal regulation, ordinance or statute;

(d) That 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;

(e) That all its employees, except those employees with no customer contact, attend and successfully complete a training class on Responsible Beverage Service within 90 days of being employed; and

(f) That it complies with all of the Retail Operating Standards of the California Department of Alcoholic Beverage Control.

(e) Night Club. 'Night club' shall mean any establishment which engages in the sale of alcoholic beverages in conjunction with providing live entertainment (including the playing of recorded music by a disc jockey) or dancing 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 entry fee or increases the sale price of beverages.

(3) Conditional Use Permit for New Establishments.

Except as otherwise provided herein, no new on-sale or off-sale liquor 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 5 percent of such floor area to the sale, display, and storage of alcoholic beverages;

(b) Full-Service Restaurants ~~Bona fide restaurants, excluding such restaurants that operate as night clubs~~; or

(c) Special event functions such as neighborhood or community festivals, provided all of the following criteria are met:

(i) The person, group, business, or organization sponsoring the event secures all applicable permits from the City of Hayward;
(ii) 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
(iii) The duration of the event does not exceed three consecutive days or five days in any single calendar year.

(4) Posting of 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.

(5) Findings.

(a) In making the findings required by Section 10-1.3225 governing conditional use permits, the Planning ~~Commission~~ Director, or the ~~City Council~~ 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.

(b) 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: Residential structures, churches, schools, public playgrounds and parks, recreation centers, and other similar uses.

(6) 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:

(a) The type of Alcoholic Beverage Control license the applicant is seeking for the establishment;
(b) The true and complete name and address of each lender or share holder with a 5 percent or more financial interest in the proposed business or any other person to whom a share or percentage of the income of the establishment is to be paid; and
(c) A statement by the applicant indicating whether or not such applicant has at any time been convicted of any crime other than minor traffic offenses and, if so, the nature of the crime for which the applicant was convicted and the date and jurisdiction of the conviction.

(7) Requirements For New On-Sale Liquor Establishments.

(a) With the exception of the downtown entertainment area, no new on-sale alcohol-related commercial activity ~~liquor establishments~~ shall be permitted within a radius of 500 feet of any other on-sale or off-sale liquor establishment on the same side of the street (with the exception of new or existing establishments which are exempted by subsection (3) above), or within 500 feet of any school, public park, library, playground, recreational center, day care center, or other similar use.

(b) Notwithstanding the above:

(i) Outside ~~of the Central City Zoning District,~~ the downtown entertainment area, the Planning Commission may recommend to the City Council a lesser alternative distance requirement in a particular instance, if the following is found: that the public convenience and necessity will be served by an alternate space requirement and that alternative measures to assure public health and safety are provided with respect to sale and use of alcoholic beverages;

(ii) Within the ~~Central City Zoning District~~ downtown entertainment area, no on-sale liquor establishment shall be established or maintained within a radius of 100 feet of any off-sale liquor establishment (with the exception of new or existing establishments which are exempted by subsection (3) above), or of any school, public park, library, playground, recreational center, day care center, or other similar use; and

(iii) Within the ~~Central City Zoning District~~ downtown entertainment area, no more than two on-sale liquor establishments shall be permitted per block side or face, with the exception of new or existing establishments that are exempted by subsection (3) above. Determination of location on a block side or block face shall be made by referring to the street address of the on-sale liquor establishment on a block between the two immediate cross streets.

(8) Requirements For New Off-Sale Liquor Establishments.

With the exception of the downtown entertainment area, no new off-sale liquor establishments will be permitted within a radius of 500 feet on the same side of the street of any other on-sale or off-sale liquor establishment (with the exception of new or existing establishments which are exempted by subsection (3) above), or within 500 feet of any school, public park, library, playground, recreation center, day care center, or other similar use on the same side of the street.

(9) Conditions.

To implement official City policy and to attain the purpose for requiring use permit approval, as stated in Section 10-1.3205 and in subsection (1) above, 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 permittee or any employee of the permittee of a criminal offense for which 1) the permitted establishment was the location where the offense was committed or where there is a direct correlation between the permittee's establishment and the criminal offense; and 2) Such criminal offense is found to be detrimental to the public health, safety, or general welfare.

(b) 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) 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.

(d) 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.

(e) Establishments shall discourage patrons and visitors from loitering in public rights-of-way, parking areas, and in front of adjacent properties.

~~(10) Minimum Conditions for Establishments in the Central City District.~~
~~In addition to the minimum conditions for on-sale and off-sale liquor establishments outlined in subsections (7) and (8) above, the following conditions shall apply in the Central City District, the violation of any of which shall constitute independent grounds for permit revocation:~~

(f) No beer or malt liquor shall be sold in bottles or containers larger than 12 ounces or off-site consumption;

(g)Beer and malt liquor in containers of 12 ounces or less shall not be sold in units of less than one six-pack for off-site consumption;

(h) Wine shall not be sold in bottles or containers smaller than 750 ml and wine coolers shall not be sold in containers smaller than 12 ounces and in units of less than one four-pack for off-site consumption;

(i) Distilled spirits shall not be sold in bottles or containers smaller than 750 ml for off-site consumption; and

(j) 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 liquor establishment.

(11) Existing Establishments Selling Alcoholic Beverages.
Any 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 this ordinance. Upon the occurrence of either of the following, however, operation of the establishment shall require approval of a conditional use permit:

(a) The 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 months or more.

(12) Modifications in Permitted Establishments Selling Alcoholic Beverages.
Any permitted 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:
(f) The establishment changes its type of liquor license within a classification; or
(g)There is a substantial change in the mode or character of operations of the establishment as defined in subsection (11) above.

(13) 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 this section, notice shall also be provided to occupants of buildings located on parcels within 300 feet of the perimeter of the subject property for which use permit approval is sought.

(14) 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 Sales Commercial Activities 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.

Dyana Anderly

From: Linda Pratt [lindapratt@horizonservices.org]
Sent: Wednesday, October 19, 2005 6:38 PM
To: Dyana Anderly
Cc: Robert Weldon
Subject: CUP

Hi Diana,

Thank you for coming to our office last week to discuss aspects of the CUP for alcohol outlets. I've been thinking about our discussion, and I'd like to offer some suggestions:

Distance Requirements

Since the City has expressed the desire to have a central "entertainment zone", I am inclined to think of this 'zone' as separate and distinct from the remaining land within the City of Hayward. If there is agreement to make this distinction, then I would make these suggestions:

First, the City should define the exact geographical boundaries of an "entertainment zone", and further describe the specific desired uses. This type of planning would insure a purposeful process, so that decision-makers can make decisions based on a Plan and vision for the area. It encourages discussion about all of the desired uses, and hopefully lead to planning efforts that draw a mix of uses.

In terms of uses that would allow for alcohol, define the types that would be allowed, and how many would be desirable. For example, how many license types 20 and 21 (off-sale consumption) would be ideal, and how many restaurant type 41, restaurant and bar type 47, and bars type 48 would be ideal. If a specific number of alcohol establishments are denoted, City staff and the decision-makers will be able to base recommendations and decisions on these desired and previously determined goals, rather than haphazardly without any conscious awareness of how many is too many.

Provided that there are specific goals set for the number and types of alcohol establishments, we (CommPre) would agree to forego the distance requirement in this designated "entertainment zone", however only if certain minimum conditions are placed on establishments that sell and/or serve alcohol. Several other jurisdictions have learned the hard way that there are increased police, fire and other social costs that result from the proliferation of alcohol establishments – no matter what license types there are. Therefore these are examples of minimum conditions that we would recommend:

- No sales of alcohol for off-site consumption allowed at on-site alcohol outlets, i.e. restaurants and bars (license types 41, 47 & 48)
- No beer or malt liquor shall be sold in bottles or containers larger than 12 ounces at off-site sales establishments
- Beer and malt liquor in containers of 12 ounces or less cannot be sold in less then a six-pack at off-sales establishments
- Wine cannot be sold in containers less than 750 ml, & wine coolers cannot be sold in containers less than 12 ounces, & cannot be sold in less than a four-pack at off-site sales establishments
- Distilled spirits (hard alcohol) cannot be sold in bottles smaller than 750 ml. at off-site sales establishments
- Consuming alcohol beverages is not allowed on any property adjacent to the licensed premises, which is under the control of the owner of the liquor establishment.
- Other conditions to be added to the permit in order to mitigate land use impacts associated with the sales of alcohol.

The City of Vallejo's ordinance contains the restriction of "not selling alcohol for off-site consumption" for all on-site alcohol outlets, (16.82.060 (Q.4.)) no matter where they are located.

Further, the City of Walnut Creek recently enacted a Conditional Use Permit for all restaurant and bar applications. Their ordinance (Section 10-2.2.602) states that a CUP shall be granted only if the proposed use will not cause adverse noise, litter, crowd control or parking impacts. The Planning Commission shall also consider whether the current conditions in the zoning district are requiring the diversion of police resources to the detriment of residential areas of the City, or whether the permitting of additional premises selling alcoholic beverages will cause such diversion. Their public process allows other conditions to be added to the permit in order to mitigate land use impacts associated with the sales of alcohol.

With respect to the remainder of the City (outside the "entertainment zone"), we strongly oppose any weakening or removal of the distance requirement. In fact, 500 feet is antiquated. Most jurisdictions have a distance requirement of at least 600 feet, and more likely to have a 1,000 distance requirement (from other alcohol outlets and sensitive uses such as

schools, parks, churches and drug and alcohol treatment facilities).

Each city has crafted their ordinance based on problems that they have traditionally encountered. For example, Oakland's ordinance states that license type 41's (restaurant) on problematic streets require CUPs (17.134.020 (A.2.a.viii.)). It is also designed to prevent restaurants from stopping selling food after certain times to essentially become bars.

Large retail outlets

In regard to large stores, defined as 10,000 sq. feet and more, we would agree to a lessening of the distance requirement provided that a CUP is required. Both Vallejo & Oakland require that all alcohol licenses must obtain a CUP, including large stores, Oakland (17.156.070 (definition of "Alcoholic Beverage Sales Commercial Activity") and Vallejo (16.82.060 (R.)). Oakland's theory behind having all off-sales outlets obtain a CUP is to put everyone on a par, and follow similar requirements/standards. The CUP requirement has not prevented these stores from making applications in Oakland and Vallejo. Both cities have several new large stores, such as Target, Cost Plus, Wal Mart, Safeway super stores, etc...

In Vallejo, although the large stores do go through the CUP process, large stores are exempt from 1,000-foot distance requirements.

Public Convenience & Necessity (PC & N)

The City of Oakland handles PC & N in the following manner: When a letter from the ABC necessitates a PC&N approval by the City, the Planning Commission hears it. Plus, a community meeting is heard before hand. Several requirements must be met by the applicant before the Planning Commission can find in the positive for PC&N, including community need, and mitigation of negative impacts of the additional alcohol in an over-concentrated area. (17.102.210 (B.3.))

I hope these suggestions are helpful. I strongly encourage the City of Hayward to look to other jurisdictions that have modernized their alcohol policies. They have done so in order to prevent and/or reduce the problems that occur where there is a proliferation of alcohol establishments. The trend is that cities are becoming more aware of the adverse impacts that they often cause, and are requiring them to pay for the costs to control the problems.

-Linda

Linda A. Pratt, M.A.
Program Director
CommPre, a program of
Horizon Services, Inc.