



CITY OF
HAYWARD
HEART OF THE BAY

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DATE: November 5, 2009

TO: Planning Commission

FROM: Arlyne J. Camire, AICP, Associate Planner

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

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

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

RECOMMENDATION

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

SUMMARY

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

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

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

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

BACKGROUND

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

Project Description and Setting-

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

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

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

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

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

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

Applicant Experience –

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

DISCUSSION AND STAFF ANALYSIS

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

In addition, staff supports the proposed restaurant and night club, due to the ability to make all the required conditional use permit findings, as detailed in the following paragraphs. Staff has concluded that the proposed restaurant and night club use, as conditioned, is in conformance with the City's General Plan policies, the Zoning Ordinance as amended, and the policies and strategies within the Urban Design Objectives of the Downtown Core Area specified in the Downtown Hayward Design Plan, and will result in development that will be compatible with surrounding land uses and zoning. Most relevant is that a new, high-quality restaurant and entertainment venue would be introduced into the Downtown Entertainment Area.

Text Amendment -

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

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

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

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

Findings for Approval for the Text Amendment Application

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

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

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

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

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

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

The Core Area Plan states:

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

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

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

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

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

¹ *The Core Area Plan*, p. 28.

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

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

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

The Economic Development Policies and Strategies of the City's General Plan include:

Approve development opportunities that result in minimal impacts to the City's environment.⁴

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

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

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

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

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

Conditional Use Permit -

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

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

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

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

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

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

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

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

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

The applicant has submitted floor plans that indicate the addition of new restrooms at the front of the street-level space, effectively limiting visibility into the business. The Downtown Design Plan and the Downtown Hayward Historic Rehabilitation District Commercial design plan⁵ both require visibility into businesses to attract customers and foster a pedestrian-friendly street frontage. Furthermore, the Police Department requests a clear view into the restaurant to conduct safety checks while on their usual rounds; this open view would also provide a further sense of security for patrons. After meeting with staff, the applicant has agreed to install the restrooms on the west side of the building only. This would provide for views into the business to meet the intent of City policy. Correspondingly, staff proposes a condition of approval limiting the obstruction to the clear view to a maximum of 25 percent of the store front.

Findings for Approval of the Conditional Use Permit Application

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In the Downtown Area-
Continue to implement the Downtown Design Plan and the Core Area Specific Plan.⁸

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

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

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

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

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

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

Findings for an Alcoholic Beverage Outlet

The proposed restaurant and nightclub would help to encourage and enhance the vibrant atmosphere of downtown therefore; staff supports this determination and has included the necessary alcoholic beverage findings¹⁰ below:

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

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

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

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

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

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

⁹ *The Core Area Plan*, p. 28.

¹⁰ *Zoning Ordinance, Section 10-1.3425(b), Planning Commission Procedures*

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

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

POLICE DEPARTMENT REVIEW

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

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

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

ENVIRONMENTAL REVIEW

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

PUBLIC OUTREACH

On April 24, 2009, an Official Notice was sent to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. As a result of the notice, staff received a letter from COMMPRE (Attachment H) expressing concerns about: proximity to a public park, oversaturation of alcoholic beverage outlets, insufficient parking, adequate training of servers to assure minors would not have access to alcoholic beverages, and an inadequate security plan. In addition, they suggest that the City conduct a cost analysis to determine if the revenues received from this business would off-set the impact on City services. Staff met with Linda Pratt and Alfredo Coria of COMMPRE to discuss their concerns.

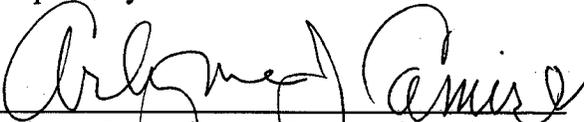
A security plan was submitted that addresses their security concerns on the interior and exterior of the establishment (Attachment G) and a condition of approval requires a revised security plan that addresses these concern as well as the concerns of the Police Department. Adequate parking is available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

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

SCHEDULE

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

Prepared by:



Arlyne J. Camire, AICP, Associate Planner

Recommended by:



Richard E. Patenaude, AICP, Planning Manager

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