

VIA EMAIL

September 3, 2013

Planning Commission Chair Faria and Members Lamnin, Lavelle, Loché, Márquez, McDermott, and Trivedi  
City of Hayward  
777 B Street  
Hayward CA 94541-5007

Re: Hayward Area Historical Society  
Conditional Use Permit PL-2013-0121  
5 September 2013 Planning Commission Meeting  
Public Hearing: Item 1

Subject: Questions

Planning Commission Chair & Members:

I'm writing today in regards to the above-referenced matter. As a long-time property owner in the City of Hayward (City), I have a general interest in the conditional use permit (CUP) proposed here, given my experience with similar issues elsewhere.

In general, I believe the Hayward Area Historical Society's concept is very well-intentioned; it seems likely to be beneficial to the City and the general community. However, the draft CUP raises a fair number of questions and is in need, I believe, of revision.

My questions — listed by Section within the draft Conditions of Approval — are as follows:

1. Attachment VI: Section 14:
  - A. Is the licensee/permittee allowed to sub-license to a third-party?
  - B. Is HAHS's chosen caterer — Royal Raspberry Catering — the only vendor allowed to serve alcohol or may the licensee/permittee chose another vendor?
  - C. If the licensee/permittee chooses to provide live music or a DJ, will such live music or DJ service be provided through Royal Raspberry? Or may the licensee/permittee contract directly for such service?
  - D. If the licensee/permittee is allowed to contract directly for live music or DJ, may such music or DJ provider, in turn, sub-license or sub-permit such activity to another vendor?
  - E. Will the terms and conditions of the dance permit apply to the live music or DJ provider

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only?; or to the primary vendor (e.g., Royal Raspberry), the primary licensee/permittee and HAHS as well?

F. Should each contact or license — and each subcontract or sub-license, if any — include minimum insurance standards and hold harmless and waiver of claims provisions?

2. Attachment VI: Section 15:

A. Should a critical incident result in an automatic suspension of the CUP issued to HAHS for some period of time, say ninety (90) calendar days?

B. Should failure to pay the critical incident fee result in automatic revocation of the CUP?

C. Should a critical incident force a mandatory call-up of the CUP to Planning Commission, as such call-up is contemplated in Attachment VI, Section 13?

3. Attachment VI: Section 17:

A. Is such security company 'assist(ing)' — the verb used in such Section — with security or providing same?

B. Is the contract for security service between HAHS and the security company? Or between the licensee/permittee and the security company?

4. Attachment VI: Section 18:

A. As written, no security is required for any event with less than 'one hundred (100) persons expected to be in attendance'; such provision, however, conflicts with the staff report, which notes 'security guards shall be required at all events' (pg 6, item C) and '(t)wo security guards shall be required for the first two hundred patrons' (pg 5, near top of page).

B. What prevents the licensee/permittee from expecting less than 100 but inviting far more?

C. What prevents more than 100 from attending?

D. Lacking security, who monitors attendance?

E. At a live music or DJ event with 'less than 100 expected', who is watching attendance?

5. Attachment VI: Section 19:

A. Should there be minimum standards for a 'fully operational digitally recorded CCTV Security system that covers all points of entry, exists, exterior barriers of the property, banquet locations and/or all overall locations where alcoholic beverages can be consumed'?

B. Does the staff report imply such system may be just 'a digital security camera trained on that point of entry and exit' (page 5, near top of page)?

6. Attachment VI: Section 23: Why do the conditions allow, in theory, the consumption of alcohol on Municipal Parking Lot No. 11 here? Where is such consumption addressed elsewhere?

7. Attachment VI: Section 25: Why do the conditions allow the sale of 'bottled wine (750ml)'? How do such sales fit in to the anticipated use here?

8. Attachment VI: Section 27: What is the 'Daily General Permit' mentioned herein? Such term is not defined or used anywhere else in the conditions or the staff report.

9. Attachment VI: Section 28: Why do the conditions allow, in theory, encroachment of an event on to a municipal parking lot? Shouldn't such encroachment trigger separate specific conditions of approval?

10. Attachment VI: Section 30: Wouldn't it be wise to lower the threshold from 'two (2) critical incidents during business hours within in [sic] a one (1) year period' to 'one (1) critical incident at any time'?

11. Has the City Attorney reviewed the CUP? Would it be wise for the Planning Commission to require review of any and all draft CUPs by the City Attorney?

12. The following points — made in HCHY's 22 July 2013 letter — seem not addressed:

A. What are the limits on sub-leasing or sub-permitting? In other words, may the Society sublease the premises? May such sublessee, in turn, sublease?

B. What are the penalty(ies) for failure to adhere to one or more of the conditions of the CUP? Is revocation the only penalty? Could the City impose a financial penalty(ies) for such failure?

C. All key terms should be well-defined in the CUP.

D. Shouldn't security be tied to the event-type, too (not just to total occupant load)?

Thank you very much for your consideration of the foregoing.

Sincerely,



Richard C. Ersted

Cc: David Rizk, Director, Development Services, City of Hayward via email