

FINDINGS FOR APPROVAL

USE PERMIT APPLICATION NO. PL-2009-0201

TEXT AMENDMENT NO. PL-2009-0454

Starzz Management Services, Inc. (Applicant)

Dinesh Shah (Owner)

926 B Street

**Request to Operate a Restaurant and Night Club with a Full Bar
Club ME Restaurant and Lounge**

General

- A. Approval of Conditional Use Permit PL-2009-0201, 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.

Use Permit

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

Club ME Restaurant and Lounge with conditions of approval to help ensure responsible operation, 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 an actively vibrant, pedestrian-friendly atmosphere downtown.

- C. 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.**

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.

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.

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.

- D. 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.

- E. 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.*

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 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.

The proposed use, as conditioned, will not detrimentally affect the surrounding neighborhood.

Text Amendment

- F. The development will not have a significant impact pursuant to the California Environmental Quality Act.**

Approval of Text Amendment Application PL- PL-2009-0454, 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.

G. 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.

H. 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.

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.

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...

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 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.

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.

I. 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.

J. 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.

Additional Findings for Alcoholic Beverage Establishments

K. 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.

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

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.

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

The text amendment would remove the 100-foot distance requirement in the areas of front B Street between Watkins Street and Foothill Boulevard, or Main Street between A and C Streets in respect to the proximity to any school, public park, library, playground, recreational center, day care center, or other similar use. Since the restriction was designed to minimize the effect on children, each conditional use permit approval would require operating conditions of approval that would minimize the effects of the aforementioned uses.

- N. There is not another alcohol beverage establishment on the block face and the text amendment would remove the requirement to be 100 feet from a public park.**

Night club activities which front B Street between Watkins Street and Foothill Boulevard, or Main Street between A and C Streets, shall not be restricted in respect to proximity to any school, public park, library, playground, recreational center, day care center, or other similar use therefore, distance requirements have been met and would be examined with each application.

- O. 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, 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 has determined that an over-riding consideration for over-concentration of alcoholic beverage outlets can be made.