



**DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
Planning Division**

INITIAL STUDY CHECKLIST FORM

Project Title: Text Amendment No. PL-2009-0454

Lead agency name and address: City of Hayward, 777 "B" Street, Hayward, CA 94541-5007

Contact person: Arlyne J, Camire, AICP, Associate Planner
(510) 583-4206 arlyne.camire@hayward-ca.gov

Project location: **B Street between Watkins Street and Foothill Boulevard, or Main Street between A and C Streets, Hayward, California**

Project sponsor's Name and address: Starzz Management Services, Inc.
8393 Capnell Drive, Suite 220, Oakland, CA 94621

General Plan: N/A

Zoning: N/A

Description of project: Text Amendment No. PL-2009-0454 -Request to amend Hayward Municipal Code Section 10-2735(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.

The text amendment would give the potential to apply for a conditional use permit to operate an alcohol-related commercial use to 14 parcels within 100 feet from Newman Park located at the northeastern corner of the intersection of B Street and Mission Boulevard. Not all of the properties could contain a night club or bar due to the Hayward Municipal Code restriction that does not permit more than two alcohol-related commercial activities per block face or side that is measured between the two immediate cross streets.

Surrounding land uses and setting: Downtown Hayward Entertainment Area

Other public agencies whose approval is required: None

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

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

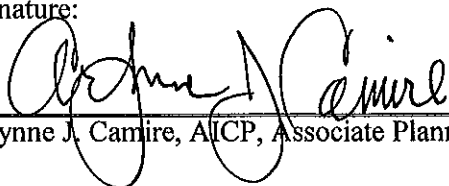
- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology /Soils |
| <input type="checkbox"/>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

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

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

Signature:



Arlyne J. Camire, AICP, Associate Planner, City of Hayward

Date: September 30, 2009

ENVIRONMENTAL ISSUES:

I. AESTHETICS -- Would the project:

- a) Have a substantial adverse effect on a scenic vista?
Comment: The text amendment would not result in any development that would have an effect on a 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 result in any development that would substantially damage scenic resources..
- c) Substantially degrade the existing visual character or quality of the site and its surroundings?
Comment: The text amendment would not result in any development that would substantially degrade the existing character or quality of the site and its surroundings.
- 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 result in any development that would create a new source of substantially light or glare which would adversely affect day or nighttime views in the area.

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 project:

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?
Comment: The text amendment would not result in any development that would affect farmland.
- b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?
Comment: Refer to 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: Refer to II.a) above.

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 project:

- a) Conflict with or obstruct implementation of the applicable air quality plan?
Comment: The text amendment would not obstruct implementation of the Bay Area Air Quality Management District's Clean Air Plan.

- b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?
- Comment:** *The text amendment would not violate any air quality standard or contribute substantially to existing or projected air quality violation.*
- c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?
- Comment:** *Refer to III.a).*
- d) Expose sensitive receptors to substantial pollutant concentrations?
- Comment:** *The text amendment would not result in any development that would expose sensitive receptors to substantial pollutant concentrations.*
- e) Create objectionable odors affecting a substantial number of people?
- Comment:** *The text amendment would not result in any development that would create objectionable odors affecting a substantial number of people.*

IV. BIOLOGICAL RESOURCES -- Would the project:

- a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?
- Comment:** *The text amendment would not result in any development that would have a substantial adverse effect on any fish or wildlife species or regional plans, policies, or regulations set forth by the California Department of Fish and Game or US Fish and Wildlife Service.*
- b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?
- Comment:** *Refer to IV.a) above.*
- 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:** *Refer to 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:** *Refer to IV.a) above.*
- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?
- Comment:** *Refer to 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:** *The text amendment would not result in any development that would conflict with any habitat conservation plans.*

V. CULTURAL RESOURCES -- Would the project:

- a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?
- Comment:** *The text amendment would not result in any development that would cause a substantial adverse change in the significance of a historical resource as defined in §15064.5.*
- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?
- Comment:** *The text amendment would not result in any development that would cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5.*
- c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?
- Comment:** *The text amendment would not result in any development that would directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.*
- d) Disturb any human remains, including those interred outside of formal cemeteries?
- Comment:** *The text amendment would not result in any development that would cause any human remains, including those interred outside of formal cemeteries to be disturbed.*

VI. GEOLOGY AND SOILS -- Would the project:

- a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
- i) Rupture of a known earthquake fault, as delineated on the most recent Hayward 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 result in any development that would expose people to any geological hazard.*
- ii) Strong seismic ground shaking?
- Comment:** *See VI.ai.*
- iii) Seismic-related ground failure, including liquefaction?
- Comment:** *See VI.ai.*
- iv) Landslides?
- Comment:** *See VI.ai.*
- b) Result in substantial soil erosion or the loss of topsoil?
- Comment:** *The text amendment would not result in any development that would result in substantial soil 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:** *See VI.ai.*
- d) Be located on expansive soil, as defined in the Uniform Building Code, creating substantial risks to life or property?
- Comment:** *See VI.ai.*

- 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:*** *The text amendment would not result in the construction of any structure that would create a need for septic tank or alternative wastewater disposal systems.*

VII. HAZARDS AND HAZARDOUS MATERIALS - Would the project:

- a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?
- Comment:*** *The text amendment would not result in any development that would create any hazard related to 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:*** *Refer to VI.ai.*
- 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:*** *Refer to VI.ai.*
- 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:*** *Refer to VI.ai.*
- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?
- Comment:*** *The text amendment would not result in any development that would have an affect or be affected by a public or private airport.*
- 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:*** *Refer to VI.ai.*
- g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?
- Comment:*** *The text amendment would not have an affect or interfere with any known emergency response plan or emergency evacuation plan.*
- h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?
- Comment:*** *The text amendment would not result in any development that would cause people to be exposed to wild land fires.*

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

- a) Violate any water quality standards or waste discharge requirements?
- Comment:*** *The text amendment would not result in any development that would cause a 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 any development that would affect ground water supplies or interfere substantially with ground water recharge.*
- 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 that would result in substantial erosion or siltation on- or off-site?
- Comment:*** *The text amendment would not result in any development that would affect on the existing drainage pattern.*
- 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:*** *Refer to VIII.c.*
- e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?
- Comment:*** *Refer to VIII.c.*
- f) Otherwise substantially degrade water quality?
- Comment:*** *The text amendment would not result in any development that would affect on the water quality.*
- 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:*** *There is no housing associated with this project.*
- h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?
- Comment:*** *There are no structures associated with the text amendment.*
- 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:*** *Refer to VIII.g.*
- j) Inundation by seiche, tsunami, or mudflow?
- Comment:*** *Refer to VIII.g.*

IX. LAND USE AND PLANNING - Would the project:

- a) Physically divide an established community?
- Comment:*** *The text amendment would not result in any development that would physically divide an established 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 would not be in conflict with the Zoning Ordinance or the General Plan.*

- c) Conflict with any applicable habitat conservation plan or natural community conservation plan?
- Comment:** *The text amendment would result in any development that would conflict with a habitat conservation plan or a 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 result in any development that would affect any mineral resource.*
- 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:** *Refer to 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 potential for more alcohol-related commercial uses could potentially result in an increase in ambient noise associated with each new establishment. Any new night club or bar would require a conditional use permit. Standard conditions of approval would require that the music could not be heard outside of any venue. The noise resulting from the any new bar or night club can be controlled with proper management.*
- b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?
- Comment:** *Refer to XI.a.*
- c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?
- Comment:** *Refer to 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:** *The text amendment would not result in any development that would have an affect or be affected by a public or private airport.*
- 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:** *Refer to XI.e.*

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 induce substantial population*

growth in any area of the City.

- b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

Comment: *The text amendment would not result in any development that would displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere*

- c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

Comment: *The text amendment would not result in any development that would displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.*

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: *No new fire protection facilities will be required as a result of the text amendment.*

- b) Police protection?

Comment: *The text amendment would give the potential to apply for a conditional use permit to operate an alcohol-related commercial use to 14 parcel, within 100 feet from Newman Park located at the northeastern corner of the intersection of B Street and Mission Boulevard. Not all of the properties could contain a night club or bar due to the Hayward Municipal Code restriction that does not permit more than two alcohol-related commercial activities per block face or side that is measured between the two immediate cross streets. Standard conditions of approval for any new establishment would require the business operator to be responsible to reimburse the City Police Department for calls for service in response to events that are determined to be a demand on police resources as determined by the Police Chief.*

- c) Schools?

Comment: *No new school facilities will be required as a result of the text amendment.*

- d) Parks?

Comment: *The text amendment will not generate additional use of the park systems in the area.*

- e) Other public facilities?

Comment: *No other public facilities will 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 not affect 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: Refer to XIV.a.

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 is not anticipated to create traffic that has not been analyzed or anticipated for the Downtown Entertainment Area. The affected parcels are located two blocks from the downtown Hayward BART and AC Transit Station.

- b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?

Comment: Refer to 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: Refer to 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: The text amendment would not include any construction that would modify a traffic or roadway design.

- e) Result in inadequate emergency access?

Comment: The text amendment would not include any construction that would result in inadequate emergency access.

- f) Result in inadequate parking capacity?

Comment: The affected parcels are located within the Downtown area adjacent to the City Hall Parking Garage with 507 spaces and Municipal Lot 1 with 110 spaces. Street parking is also available.

- 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, plans, or programs 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: Refer to VIII.a.

- 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: Refer to VIII.a.

- 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: Refer to VIII.a.

- 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 not result in any development that would affect on sufficient water supply.*
- e) Result in a determination by the wastewater treatment provider, which serves or may serve the project, that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?
- Comment:** *The text amendment would not result in any development that would affect on sufficient wastewater facilities.*
- 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 result in any development that would affect sufficient landfill capacity.*
- g) Comply with federal, state, and local statutes and regulations related to solid waste?
- Comment:** *The text amendment would not result in any development that would affect the ability to meet solid waste regulations.*

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?
- Comment:** *The text amendment would not result in any development that would 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 project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?
- Comments:** *The immediate impact of the text amendment would allow a new restaurant, Club ME Restaurant and Lounge, to operate as a night club the Hayward. The text amendment would have a cumulative effect nor a substantial negative environmental effect on the downtown or the environment since each new establishment requires review by the Planning Commission and approval of a conditional use permit. Mitigation of any potential impacts would be required of each new establishment.*
- c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?
- Comments:** *The Text Amendment would not have an adverse environmental effect on human beings.*