



**APPLICATIONS:**

**APPEAL APPLICATION**

Instructions and Checklist

**Related Code Section:** Refer to the City Planning case determination to identify the Zone Code section for the entitlement and the appeal procedure.

**Purpose:** This application is for the appeal of Department of City Planning determinations authorized by the Los Angeles Municipal Code (LAMC).

**A. APPELLATE BODY/CASE INFORMATION**

**1. APPELLATE BODY**

- Area Planning Commission     City Planning Commission     City Council     Director of Planning
- Zoning Administrator

Regarding Case Number: DIR-2021-1463-RV

Project Address: 923-925 South Broxton Avenue Los Angeles, CA 90024

Final Date to Appeal: 10/21/2021

**2. APPELLANT**

**Appellant Identity:**  
(check all that apply)

- Representative                       Property Owner
- Applicant                                 Operator of the Use/Site
- Person, other than the Applicant, Owner or Operator claiming to be aggrieved

Person affected by the determination made by the **Department of Building and Safety**

- Representative                       Owner                                       Aggrieved Party
- Applicant                                 Operator

**3. APPELLANT INFORMATION**

Appellant's Name: Jan Fathi

Company/Organization: Habibi Cafe

Mailing Address: 923-925 South Broxton Avenue

City: Los Angeles                      State: California                      Zip: 90024

Telephone: (424) 321-9163                      E-mail: sharialafaber@gmail.com

a. Is the appeal being filed on your behalf or on behalf of another party, organization or company?  
 Self     Other: \_\_\_\_\_

b. Is the appeal being filed to support the original applicant's position?     Yes     No

**4. REPRESENTATIVE/AGENT INFORMATION**

Representative/Agent name (if applicable): Martin S. Wolf, Esq.

Company: MSW Law Firm

Mailing Address: 2419 South Vermont Avnue

City: Los Angeles State: California Zip: 90007

Telephone: (323) 881-1978 E-mail: vermontlawoffice@yahoo.com

**5. JUSTIFICATION/REASON FOR APPEAL**

a. Is the entire decision, or only parts of it being appealed?  Entire  Part

b. Are specific conditions of approval being appealed?  Yes  No

If Yes, list the condition number(s) here: \_\_\_\_\_

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- The reason for the appeal  How you are aggrieved by the decision
- Specifically the points at issue  Why you believe the decision-maker erred or abused their discretion

**6. APPLICANT'S AFFIDAVIT**

I certify that the statements contained in this application are complete and true:

Appellant Signature: Martin S. Wolf Attorney Date: October 18, 2021

**GENERAL APPEAL FILING REQUIREMENTS**

**B. ALL CASES REQUIRE THE FOLLOWING ITEMS - SEE THE ADDITIONAL INSTRUCTIONS FOR SPECIFIC CASE TYPES**

**1. Appeal Documents**

a. **Three (3) sets** - The following documents are required for each appeal filed (1 original and 2 duplicates) Each case being appealed is required to provide three (3) sets of the listed documents.

- Appeal Application (form CP-7769)
- Justification/Reason for Appeal
- Copies of Original Determination Letter

**b. Electronic Copy**

Provide an electronic copy of your appeal documents on a flash drive (planning staff will upload materials during filing and return the flash drive to you) or a CD (which will remain in the file). The following items must be saved as individual PDFs and labeled accordingly (e.g. "Appeal Form.pdf", "Justification/Reason Statement.pdf", or "Original Determination Letter.pdf" etc.). No file should exceed 9.8 MB in size.

**c. Appeal Fee**

- Original Applicant - A fee equal to 85% of the original application fee, provide a copy of the original application receipt(s) to calculate the fee per LAMC Section 19.01B 1.
- Aggrieved Party - The fee charged shall be in accordance with the LAMC Section 19.01B 1.

**d. Notice Requirement**

- Mailing List - All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC
- Mailing Fee - The appeal notice mailing fee is paid by the project applicant, payment is made to the City Planning's mailing contractor (BTC), a copy of the receipt must be submitted as proof of payment.

**SPECIFIC CASE TYPES - APPEAL FILING INFORMATION**

**C. DENSITY BONUS / TRANSIT ORIENTED COMMUNITES (TOC)**

**1. Density Bonus/TOC**

Appeal procedures for Density Bonus/TOC per LAMC Section 12.22.A 25 (g) f.

**NOTE:**

- Density Bonus/TOC cases, only the *on menu or additional incentives* items can be appealed.
- Appeals of Density Bonus/TOC cases can only be filed by adjacent owners or tenants (must have documentation), and always only appealable to the Citywide Planning Commission.

- Provide documentation to confirm adjacent owner or tenant status, i.e., a lease agreement, rent receipt, utility bill, property tax bill, ZIMAS, drivers license, bill statement etc.

**D. WAIVER OF DEDICATION AND OR IMPROVEMENT**

Appeal procedure for Waiver of Dedication or Improvement per LAMC Section 12.37 I.

**NOTE:**

- Waivers for By-Right Projects, can only be appealed by the owner.
- When a Waiver is on appeal and is part of a master land use application request or subdivider's statement for a project, the applicant may appeal pursuant to the procedures that governs the entitlement.

**E. TENTATIVE TRACT/VESTING**

**1. Tentative Tract/Vesting** - Appeal procedure for Tentative Tract / Vesting application per LAMC Section 17.54 A.

NOTE: Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the Area or City Planning Commission must be filed within 10 days of the date of the written determination of said Commission.

- Provide a copy of the written determination letter from Commission.

**F. BUILDING AND SAFETY DETERMINATION**

- 1.** Appeal of the *Department of Building and Safety* determination, per LAMC 12.26 K 1, an appellant is considered the **Original Applicant** and must provide noticing and pay mailing fees.

**a. Appeal Fee**

- Original Applicant - The fee charged shall be in accordance with LAMC Section 19.01B 2, as stated in the Building and Safety determination letter, plus all surcharges. (the fee specified in Table 4-A, Section 98.0403.2 of the City of Los Angeles Building Code)

**b. Notice Requirement**

- Mailing Fee - The applicant must pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt as proof of payment.

- 2.** Appeal of the *Director of City Planning* determination per LAMC Section 12.26 K 6, an applicant or any other aggrieved person may file an appeal, and is appealable to the Area Planning Commission or Citywide Planning Commission as noted in the determination.

**a. Appeal Fee**

- Original Applicant - The fee charged shall be in accordance with the LAMC Section 19.01 B 1 a.

**b. Notice Requirement**

- Mailing List - The appeal notification requirements per LAMC Section 12.26 K 7 apply.
- Mailing Fees - The appeal notice mailing fee is made to City Planning's mailing contractor (BTC), a copy of receipt must be submitted as proof of payment.

**G. NUISANCE ABATEMENT**

**1. Nuisance Abatement** - Appeal procedure for Nuisance Abatement per LAMC Section 12.27.1 C 4

NOTE:

- Nuisance Abatement is only appealable to the City Council.

**a. Appeal Fee**

Aggrieved Party the fee charged shall be in accordance with the LAMC Section 19.01 B 1.

**2. Plan Approval/Compliance Review**

Appeal procedure for Nuisance Abatement Plan Approval/Compliance Review per LAMC Section 12.27.1 C 4.

**a. Appeal Fee**

Compliance Review - The fee charged shall be in accordance with the LAMC Section 19.01 B.

Modification - The fee shall be in accordance with the LAMC Section 19.01 B.

**NOTES**

*A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.*

**Please note** that the appellate body must act on your appeal within a time period specified in the Section(s) of the Los Angeles Municipal Code (LAMC) pertaining to the type of appeal being filed. The Department of City Planning will make its best efforts to have appeals scheduled prior to the appellate body's last day to act in order to provide due process to the appellant. If the appellate body is unable to come to a consensus or is unable to hear and consider the appeal prior to the last day to act, the appeal is automatically deemed denied, and the original decision will stand. The last day to act as defined in the LAMC may only be extended if formally agreed upon by the applicant.

This Section for City Planning Staff Use Only		
Base Fee:	Reviewed & Accepted by (DSC Planner):	Date:
Receipt No:	Deemed Complete by (Project Planner):	Date:
<input type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

## DECLARATION OF JAN FATHI

I, Jan Fathi, declare:

1. I am one of the owners of the Habibi Cafe, have personal knowledge of the facts alleged herein, except as to those matters alleged on information and belief, and as to those facts, I believe them to be true, could and would competently testify thereto, if called upon to do so.

2. After a review of the conditions contained in the Decision of the Department of Zoning Administration, some of the conditions being imposed are arbitrary and capricious. There is substantial evidence that the City of Attorney for the City of Los Angeles has taken the position that the use of flavored tobacco in the City of Los Angeles should be entirely banned. Appellant contends that the conditions set forth in the October 6, 2021, Decision set forth by the Administrator for the Department of Zoning Administration (hereinafter "Department") is a pretext to creating conditions in which no hookah lounge could be financially viable. Additionally, Appellant contends that the "investigation fee" is excessive, no basis in fact was offered by the Department to support how the "investigative fee" was determined and

facially appears to be an unlawful tax. A true and correct copy of the stated opinion of Michael Feuer, City Attorney supports Appellant's contention that the Decision which was rendered by the Department is a pretext to closing all hookah lounges in the City of Los Angeles, by arbitrarily and capriciously creating conditions intended to put all hookah lounges out of business.

3. Appellant contends that the Department lacks an understanding why persons of Middle Eastern and Indian Heritage smoke flavored tobacco in a hookah, in the first instance. The smoking of a hookah is only incidental to the fact that historically, persons gathered to smoke the hookah, as a form of Constitutionally protected speech and association, by and through, deep personal expression, and of peaceful assembly and a means of finding common ground (and when there are personal or business related conflicts, as is modernly seen as a mediation process.) Historically, persons came together to resolve their differences, while smoking the hookah.

4. For persons who smoke the hookah at lounges, the process of hookah is cherished by persons of Middle Eastern heritage, persons whether they are Jewish or Muslim by religion, or Persian, Egyptian,

Turkish, or any of the other countries in the Middle Eastern region. Getting together with family, friends, business associates, business competitors and others to smoke the hookah is historically a manner of assembly to discuss religion, politics, social customs and the resolution of family and business issues.

5. Appellant contends that the conditions set forth in the Department's Decision of October 6, 2021, are pretextual given the stated position of Michael Feuer, the City of Attorney of the City of Los Angeles to create conditions in which no hookah lounge can financially survive. A true and correct copy of the published statement of the City Attorney is attached hereto as Exhibit "1" and is incorporated by this reference.

6. Appellant contends that the custom of hookah is not a health issue to be prohibited, but rather a Constitutionally protected rights to assembly and speech. In order to understand the foregoing customs, it is necessary to understand when the use of the hookah began and how it has developed over the centuries.

7. Hookah, also known as Shisha, involves adults smoking flavored tobacco from a water pipe in which they pass a hose and take a

puff among family or friends. It centers around conversations and promotes a more connectedness among those participating.

8. Hookah is deeply rooted in a cultural and personal tradition that has been present throughout generations among Indian, Persian, Turkish, Egyptian, and other Middle Eastern families. Its gesture is more than an entertaining social activity or means to relax, it's a Constitutionally protected way that families, relatives, friends, and business associates in these cultures provide hospitality and strengthen bonds with one another, which is modernly recognized with religious counsels in our modern society.

9. I am informed and believe and thereupon allege that the first hookah dates back to 16th century India. In an attempt to purify smoke through water in a glass base called a "Shisha", the Hookah was invented. Hookah soon cemented itself as a way initially for noblemen to show their high social status.

10. I am informed and believe and thereupon allege that in the 17th century, Hookah became a part of Persian culture where strong, dark leaf tobacco called Ajami was used. For the first time, Hookah became accessible to everyone.

11. I am informed and believe and thereupon allege that the Hookah migrated into Turkish culture and during the 18th century, it continued to blossom through means of more innovation. The hookah was was smoked after royal dinners and at diplomatic meetings. Offering a hookah to a guest became an important sign of trust and withholding it could be taken as a serious insult, which again supports Appellant's contention that smoking the hookah, constitutes Constitutionally protected speech. To this day, offering a hookah to an adversary is still considered synonymous as handing an olive branch of peace between adversaries.

12. The Hookah tradition spread into the Middle East throughout the 19th century. Hookah integrated into society so deeply in these parts that hookah cafes were built to house the ever-growing popularity. Hookah promoted a community amongst the patrons, uniting all classes, races, and genders alike. It was used as a way for people to relax, socialize, strengthen bonds with one another and resolve their personal differences.

13. Throughout the 20th Century, hookah traditions continued to deepen in cultures throughout India, Persia, Turkey, the Middle

East, and in neighboring countries such as Israel, Armenia, and Pakistan.

14. At the Habibi Cafe, hookah is not simply smoking flavored tobacco from a water pipe. Today, family members, close friends, and new acquaintances come together and deepen ties over a hookah in the same way it has been done for centuries.

15. Hookah is a part of an extensive community that brings people together despite social class, religion, or political beliefs. Smoking the hookah remains deeply rooted in tradition. And for many people spanning numerous nationalities, hookah is a cultural and social expression.

16. As to the Conditions set forth in the Department's October 6, 2021, Decision I have the following contentions:

(1) Appellant contends that this Condition substantially interferes with Appellant's Constitutionally protected right of free speech, right of free assembly pursuant to the California Constitution Article 1, Section 3. Limiting the hours of operation as set forth in the Decision, after every

other hookah lounge in the City of Los Angeles has after hours from: 1:00 am to 5:00 am. The condition will render the Habibi Cafe and financially unable to meet its obligations. The condition is a pretext, based on the stated position of Michael Feuer, City Attorney for the City of Los Angeles, to prohibit the sale of flavored tobacco in the City of Los Angeles. The foregoing determination is arbitrary and capricious because no evidence supports the imposition of such a condition. The Habibi Cafe has been allowed to operate for over 20 years. The police reports submitted in support of the conditions are not particularized to the Habibi Cafe and occur at all times of the day and evening. The condition is utilizing a different standard of review as to the Habibi Cafe, when compared to other food restaurants in Westwood who open earlier and close later. This limits a business owner's rights and income. This condition constitutes inverse condemnation and is an uncompensated governmental taking. Further, the Condition would place the Habibi Cafe as a temporary business on a probationary

period and allow the public and several departments to dictate how Habibi is structured, operated, and limit the possibilities for business, freely available to other businesses not subject to this discriminatory treatment.

- (2) Appellant agrees with this Condition, provided the Habibi Cafe is not more restricted than any other similar business.
- (3) Appellant agrees to this Condition.
- (4) Appellant agrees to this Condition, with the provision that the period to cover graffiti is increased to 72 hours. A business should not be subject to a criminal conviction in the event that illegal graffiti cannot be removed within 24 hours.
- (5) Appellant does not agree to this Condition. There appears to be no legal authority to compel the recordation of such Conditions.
- (6) Appellant agrees to this Condition, assuming a new building permit should be issued, all current permits shall stay as they are.
- (7) Appellant agrees to this Condition.
- (8) Appellant agrees to this Condition.

- (9) Appellant agrees to this Condition.
- (10) Appellant contends that this Condition substantially interferes with Appellant's Constitutionally protected right of free speech, right of free assembly pursuant to the California Constitution Article 1, Section 3. Limiting the hours of operation as set forth in the Decision, after every other hookah lounge in the City of Los Angeles has after hours from: 1:00 am to 5:00 am. The condition will render the Habibi Cafe and financially unable to meet its obligations. The condition is a pretext, based on the stated position of Michael Feuer, City Attorney for the City of Los Angeles, to prohibit the sale of flavored tobacco in the City of Los Angeles. The foregoing determination is arbitrary and capricious because no evidence supports the imposition of such a condition. The Habibi Cafe has been allowed to operate for over 20 years. The police reports submitted in support of the conditions are not particularized to the Habibi Cafe and occur at all times of the day and evening. The condition is utilizing a different standard of review as to the

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- (11) Appellant agrees to this Condition.
- (12) Appellant agrees to this Condition.
- (13) Appellant agrees to this Condition.
- (14) Appellant agrees to this Condition.
- (15) Appellant agrees to this Condition.
- (16) Appellant agrees to this Condition.
- (17) Appellant agrees to this Condition.
- (18) Appellant agrees to this Condition.
- (19) Appellant contends that this Condition substantially interferes with Appellant's Constitutionally protected right of free speech, right of free assembly pursuant to the California Constitution Article 1, Section 3. Limiting the hours of operation as set forth in the Decision, after every other hookah lounge in the City of Los Angeles has after

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- (20) Appellant contends that this Condition substantially interferes with Appellant's Constitutionally protected right

of free speech, right of free assembly pursuant to the California Constitution Article 1, Section 3. Limiting the hours of operation as set forth in the Decision, after every other hookah lounge in the City of Los Angeles has after hours from: 1:00 am to 5:00 am. The condition will render the Habibi Cafe and financially unable to meet its obligations. The condition is a pretext, based on the stated position of Michael Feuer, City Attorney for the City of Los Angeles, to prohibit the sale of flavored tobacco in the City of Los Angeles. The foregoing determination is arbitrary and capricious because no evidence supports the imposition of such a condition. The Habibi Cafe has been allowed to operate for over 20 years. The police reports submitted in support of the conditions are not particularized to the Habibi Cafe and occur at all times of the day and evening. The condition is utilizing a different standard of review as to the Habibi Cafe, when compared to other food restaurants in Westwood who open earlier and close later. This limits a

business owner's rights and income. This condition constitutes inverse condemnation and is an uncompensated governmental taking.

- (21) Appellant agrees to this Condition.
- (22) Appellant agrees to this Condition.
- (23) Appellant agrees to this Condition.
- (24) Appellant contends that this Condition substantially interferes with Appellant's Constitutionally protected right of free speech, right of free assembly pursuant to the California Constitution Article 1, Section 3. Limiting the hours of operation as set forth in the Decision, after every other hookah lounge in the City of Los Angeles has after hours from: 1:00 am to 5:00 am. The condition will render the Habibi Cafe and financially unable to meet its obligations. The condition is a pretext, based on the stated position of Michael Feuer, City Attorney for the City of Los Angeles, to prohibit the sale of flavored tobacco in the City of Los Angeles. The foregoing determination is arbitrary and capricious because no evidence supports the imposition

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- (25) Appellant agrees to this Condition.
- (26) Appellant agrees to this Condition.
- (27) Appellant agrees to this Condition.
- (28) Appellant agrees to this Condition.
- (29) Appellant agrees to this Condition.
- (30) Appellant agrees to this Condition.
- (31) Appellant agrees to this Condition.
- (32) Appellant agrees to this Condition.
- (33) Appellant agrees to this Condition.

- (34) Appellant agrees to this Condition.
- (35) Appellant agrees to this Condition.
- (36) Appellant agrees to this Condition.
- (37) Appellant agrees to this Condition.
- (38) Appellant agrees to this Condition.
- (39) Appellant agrees to this Condition.
- (40) Appellant agrees to this Condition.
- (41) Appellant agrees to this Condition.
- (42) Appellant agrees to this Condition.
- (43) Appellant agrees to this Condition.
- (44) Appellant agrees to this Condition.
- (45) Appellant contends that this Condition substantially interferes with Appellant's Constitutionally protected right of free speech, right of free assembly pursuant to the California Constitution Article 1, Section 3. Limiting the hours of operation as set forth in the Decision, after every other hookah lounge in the City of Los Angeles has after hours from: 1:00 am to 5:00 am. The condition will render the Habibi Cafe and financially unable to meet its

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- (46) Appellant contends that this Condition substantially interferes with Appellant's Constitutionally protected right

of free speech, right of free assembly pursuant to the California Constitution Article 1, Section 3. Limiting the hours of operation as set forth in the Decision, after every other hookah lounge in the City of Los Angeles has after hours from: 1:00 am to 5:00 am. The condition will render the Habibi Cafe and financially unable to meet its obligations. The condition is a pretext, based on the stated position of Michael Feuer, City Attorney for the City of Los Angeles, to prohibit the sale of flavored tobacco in the City of Los Angeles. The foregoing determination is arbitrary and capricious because no evidence supports the imposition of such a condition. The Habibi Cafe has been allowed to operate for over 20 years. The police reports submitted in support of the conditions are not particularized to the Habibi Cafe and occur at all times of the day and evening. The condition is utilizing a different standard of review as to the Habibi Cafe, when compared to other food restaurants in Westwood who open earlier and close later. This limits a

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- (47) Appellant contends that this Condition substantially interferes with Appellant's Constitutionally protected right of free speech, right of free assembly pursuant to the California Constitution Article 1, Section 3. Limiting the hours of operation as set forth in the Decision, after every other hookah lounge in the City of Los Angeles has after hours from: 1:00 am to 5:00 am. The condition will render the Habibi Cafe and financially unable to meet its obligations. The condition is a pretext, based on the stated position of Michael Feuer, City Attorney for the City of Los Angeles, to prohibit the sale of flavored tobacco in the City of Los Angeles. The foregoing determination is arbitrary and capricious because no evidence supports the imposition of such a condition. The Habibi Cafe has been allowed to operate for over 20 years. The police reports submitted in support of the conditions are not particularized to the Habibi

Cafe and occur at all times of the day and evening. The condition is utilizing a different standard of review as to the Habibi Cafe, when compared to other food restaurants in Westwood who open earlier and close later. This limits a business owner's rights and income. Many of these investigations were unwarranted. Some of the investigations were handled in a discriminatory manner which caused us problems at the cafe and disturbed our customers resulting in losses for our business. Many investigations conducted resulted in no indictment or misdemeanor therefore, we should not be responsible for payment of a large fee and in such a short time frame. More particularly, where as here, no evidence is offered how the amount was determined and has no basis or evidence in support thereof. This condition constitutes inverse condemnation and is an uncompensated governmental taking.

- (48) Appellant contends that this Condition substantially interferes with Appellant's Constitutionally protected right

of free speech, right of free assembly pursuant to the California Constitution Article 1, Section 3. Limiting the hours of operation as set forth in the Decision, after every other hookah lounge in the City of Los Angeles has after hours from: 1:00 am to 5:00 am. The condition will render the Habibi Cafe and financially unable to meet its obligations. The condition is a pretext, based on the stated position of Michael Feuer, City Attorney for the City of Los Angeles, to prohibit the sale of flavored tobacco in the City of Los Angeles. The foregoing determination is arbitrary and capricious because no evidence supports the imposition of such a condition. The Habibi Cafe has been allowed to operate for over 20 years. The police reports submitted in support of the conditions are not particularized to the Habibi Cafe and occur at all times of the day and evening. The condition is utilizing a different standard of review as to the Habibi Cafe, when compared to other food restaurants in Westwood who open earlier and close later. This limits a business owner's rights and income. Many of these

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17. As the owner of the Habibi Cafe, I understand that all business are subject to some level of Conditions imposed by the local Municipality. To that extent, of the 48 Conditions demanded in the Decision, Appellant agrees to 38 of the Conditions. However, Conditions 1, 5, 10, 19, 20, 24, 45, 46, 47 and 48, are interfering with Appellant's Constitutionally protected right of free speech, right of free assembly pursuant to the California Constitution Article 1, Section 3.

Limiting the hours of operation as set forth in the Decision, after every other hookah lounge in the City of Los Angeles has after hours from: 1:00 am to 5:00 am. The Condition will render the Habibi Cafe and financially unable to meet its obligations. The condition is a pretext, based on the stated position of Michael Feuer, City Attorney for the City of Los Angeles, to prohibit the sale of flavored tobacco in the City of Los Angeles. The foregoing determination is arbitrary and capricious because no evidence supports the imposition of such a condition. The Habibi Cafe has been allowed to operate for over 20 years. The police reports submitted in support of the conditions are not particularized to the Habibi Cafe and occur at all times of the day and evening. The condition is utilizing a different standard of review as to the Habibi Cafe, when compared to other food restaurants in Westwood who open earlier and close later. This limits a business owner's rights and income. Many of these investigations were unwarranted. Some of the investigations were handled in a discriminatory manner which caused us

problems at the cafe and disturbed our customers resulting in losses for our business. Many investigations conducted resulted in no indictment or misdemeanor therefore, we should not be responsible for payment of a large fee and in such a short time frame. More particularly, where as here, no evidence is offered how the amount was determined and has no basis or evidence in support thereof. This condition constitutes inverse condemnation and is an uncompensated governmental taking.

I make the foregoing declaration under penalty of perjury and execute my signature pursuant to the laws of the State of California in Los Angeles, California

*Jan Fathi*

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Jan Fathi

**EXHIBIT "1"**



LOS ANGELES CITY ATTORNEY

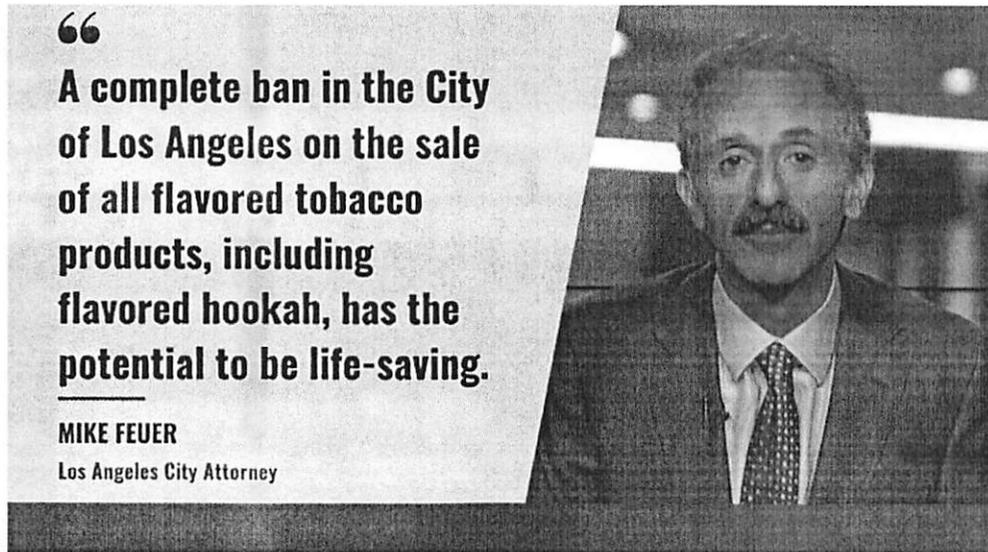
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Sep 23 5 min read

## CITY ATTORNEY FEUER RENEWS CALLS FOR COMPREHENSIVE BAN ON THE SALE OF ALL FLAVORED TOBACCO PRODUCTS



Los Angeles—Today City Attorney Mike Feuer renewed his call for the City Council to implement a comprehensive ban on the sale of all flavored tobacco products in the City of Los Angeles, including flavored hookah. This week Feuer’s Office transmitted a new proposed ordinance which bans the sale of flavored tobacco products, including e-cigarettes. Because the City Council majority requested an ordinance that includes an exemption for flavored hookah, however, the proposed ordinance reflects that exemption. Feuer is seeking to have this exemption removed.

"A complete ban in the City of Los Angeles on the sale of all flavored tobacco products, including flavored hookah, has the potential to be life-saving," said Feuer. "3.6-million kids across the nation are vaping, using e-cigarettes, a gateway to regular cigarettes. Kid-friendly flavors are driving this youth vaping epidemic. Hookah also comes in a variety of sweet flavors to entice kids, and I’m calling on the City Council to include sales of flavored



LOS ANGELES CITY ATTORNEY FEUER

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Director, Primo Castro. "That is why it's so important for Los Angeles to end the sale of flavored tobacco products that threaten to addict a new generation, and halt the decades of discriminatory and deceitful marketing of menthol cigarettes that bring death and disease to Black and countless other underrepresented communities. While this is a starting point for drafting a strong ordinance we urge the City Council to quickly approve and adopt a comprehensive ordinance that ends the sale of all flavored tobacco products, including e-cigarettes, cigars, menthol cigarettes and flavored shisha products."

"Big Tobacco uses fruit and candy flavors like bubblegum and passionfruit and "iced" mentholated flavors, like "Lush Ice" in addition to minty menthol, to hook generations of young people on harmful and highly addictive nicotine. In the absence of federal legislation, it is essential that Los Angeles act quickly to take those products off the shelves" said Suraya Fadel, a volunteer with Parents Against Vaping e-Cigarettes. "We are grateful to the LA City Attorney for drafting an ordinance that will protect our kids from the Tobacco industry's predatory behavior. Our strong coalition of parents, community leaders and public health organizations will continue urging the City Council to pass this ordinance to keep our kids safe and healthy."

"The strong ordinance drafted by the Los Angeles City Attorney will protect children, LGBTQ+ young people and all the diverse communities to which we belong from the candy-flavored tobacco and minty-menthol cigarettes Big Tobacco uses to hook people for life," said Shannon Kozlovich, PhD., Program Manager for EQCA. "Study after study shows that the reason why most young people start using e-cigarettes – and why they get hooked – is because these tobacco products are sold in the candy flavors that directly appeal to youth. As the tobacco industry tries to overturn a life-saving California law that ends the sale of candy-flavored e-cigarettes and minty-menthol cigarettes, we urge the City Council to pass this ordinance now to keep our kids safe from Big Tobacco's confection-flavored deception."

"Today, Los Angeles is taking one step closer to ending generations of Big Tobacco preying on Black neighborhoods, hooking our kids on menthol cigarettes and profiting off disease, addiction, and death" said Reverend John E. Cager III, Ward A.M.E. Church. "Some 40,000 Black people die every year from smoking-related diseases, many of them trapped from a young age in a lifelong addiction to nicotine. Now that the City Attorney has drafted the language for this life-saving ordinance, in the coming weeks we will continue to call on the LA City Council to double down on keeping



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lounges and the sale of flavored hookah by these lounges for offsite consumption. Banning flavored tobacco sales everywhere else, while allowing onsite sale and consumption of flavored hookah at hookah lounges, could drive adults to hookah lounges—and studies show long-term hookah use is linked to cancer and heart disease. In addition, allowing sales for offsite consumption undermines the ordinance by making it much more likely that kids will be able to use flavored hookah.

In California, over 9 percent of high school students report having tried or being a current user of hookah, which is also often the starting point for roughly 25 percent of college students who have used nicotine products. It is no coincidence that hookah lounges are often located close to college campuses.

According to the Centers for Disease Control and Prevention (CDC), although many users think it is less harmful, hookah smoke contains many of the same dangerous toxins found in cigarette smoke including nicotine, tar and carbon monoxide. In fact, in a typical one-hour hookah session, users may inhale 100–200 times the amount of smoke they would inhale from a single cigarette. In a single water pipe session, users are exposed to up to 9 times the carbon monoxide and 1.7 times the nicotine of a single cigarette.

As requested by the Los Angeles City Council, while the proposed new ordinance bans the sale of flavored tobacco products, including the thousands of flavors associated with e-cigarettes, it allows for the sale of flavored hookah at permitted hookah lounges.

According to the U.S Food and Drug Administration, seven out of ten middle school e-cigarette users use flavors. A recent study found that over 73% of public schools are within 1,000 feet of a store that sells such tobacco products. The new proposed ordinance will stop these flavored products from being sold in the City of Los Angeles.

Feuer's Office has long been on the front lines of protecting youth from the harmful effects of tobacco. It was successful in lawsuits against three vaping companies for allegedly selling vape products online without proper age verification and for marketing their products to kids. The Office secured stiff penalties and an array of strict regulations to ensure they will not advertise or sell vape products to minors.

Feuer's Office was also behind the award-winning, bi-lingual "Disobey Vape" campaign, which presented the truth about the harmful impacts of vaping to

Case No. DIR-2021-1463-RV

**CITY OF LOS ANGELES**  
**OFFICE OF ZONING ADMINISTRATION**

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HABIBI CAFE,

Appellant,

vs.

CITY OF LOS ANGELES, an incorporated municipality,  
OFFICE OF ZONING ADMINISTRATION,

Respondent.

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**APPEAL FROM THE DECISION TO IMPOSE**  
**CONDITIONS ON THE HABIBI CAFE BY THE CITY OF**  
**LOS ANGELES, OFFICE OF ZONING ADMINISTRATION**  
**DATED: OCTOBER 6, 2021 CASE NO. DIR-2021-1463-RV**

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## TABLE OF CONTENTS

<i>Appellant's Contentions</i>	<i>Pages</i>
<b>I. INTRODUCTION &amp; HISTORICAL PERSPECTIVE.</b>	<b>1</b>
<b>II. THE HABIBI CAFE IS EXEMPTED FROM CEQA.</b>	<b>2</b>
<b>III. THE OPERATING HOURS ORDERED BY THE DECISION ARE INTENDED TO CLOSE THE HABIBI CAFE.</b>	<b>3</b>
<b>IV. PARAGRAPH 11 SEEKS TO LIMIT THE USE OF TOBACCO WHERE EMPLOYEES ARE WORKING.</b>	<b>5</b>
<b>V. THE DEPARTMENTS' DECISION IS ARBITRARY AND CAPRICIOUS AND CONSTITUTES AN UNCOMPENSATED GOVERNMENTAL TAKING BASED ON INVIDIOUS ANIMUS AND SOCIAL, RELIGIOUS DISCRIMINATION.</b>	<b>7</b>
<b>VI. GATHERING TO SMOKE FLAVORED TOBACCO FROM A HOOKAH FOR MIDDLE EASTERN PERSONS IS A FORM OF PROTECTED SPEECH AND THE RIGHT OF ASSOCIATION TO ENJOY THEIR HISTORICAL CUSTOM.</b>	<b>9</b>
<b>CONCLUSION</b>	<b>19</b>

## TABLE OF AUTHORITIES

<i>Cases Cited:</i>	<i>Pages:</i>
<i>Associated Builders Contractors, Inc. v. San Francisco Airports Com.</i> (1999) 21 Cal.4th 352, 361.	8
<i>Bright Development v. City of Tracy</i> (1993) 20 Cal.App.4th 783, 795.	8
<i>Brown v. Merlo</i> (1973) 8 Cal.3d 855, 861.	16
<i>California Native Plant Society v. City of Rancho Cordova</i> (2009) 172 Cal.App.4th 603, 637.	14
<i>City of Cleburne v. Cleburne Living Center, Inc.</i> (1985) 473 U.S. 432, 439, 105 S.Ct. 3249, 3254, 87 L.Ed.2d 313, 320 (Cleburne).	16
<i>Khan v. Los Angeles City Employee's Retirement System</i> (2010) 187 Cal.App.4th 98, 106.	8
<i>O'Connell v. City of Stockton</i> (2007) 41 Cal.4th 1061, 1067 ( <i>O'Connell</i> ).	6
<i>Parr v. Municipal Court</i> (1971) 3 Cal.3d 861, 864–868.	17
<i>People ex Rel. Gallo v. Acuna</i> (1997) 14 Cal.4th 1090, 1110-11.	9
<i>Pulaski v. Occupational Safety Health Stds. Bd.</i> (1999) 75 Cal.App.4th 1315, 1331.	8

## TABLE OF AUTHORITIES CONTINUED

<b><i>Cases Cited:</i></b>	<b><i>Pages:</i></b>
<i>Redwood City Co. of Jehovah's Witnesses v. City of Menlo Park</i> (1959) 167 Cal.App.2d 686.	9
<i>Roberts v. United States Jaycees</i> (1984) 468 U.S. 609, 622, 104 S.Ct. at p. 3252.	9
<i>U.S. Dept. of Agriculture v. Moreno</i> (1973) 413 U.S. 528, 534–535, 93 S.Ct. 2821, 2825–2826, 37 L.Ed.2d 782, 788.	17
<b><i>California Statutes Cited:</i></b>	
California Civil Code section 3480	14, 15
California Constitution Article XI, Section 7.	6
California Environmental Quality Act California Code of Regulations section 15300.2.	2
California Environmental Quality Act California Code of Regulations section 15321.	2
California Labor Code section 6404.5(e)(2).	5,6
<b><i>Los Angeles Municipal Code Cited:</i></b>	
City of Los Angeles Municipal Code section 12.27.1	11,12, 13
<b><i>Learned Treatises:</i></b>	
8 McQuillin, <u>Municipal Corporations</u> , 3d rev. ed., p. 137, § 25.62.)	8

## **APPELLANT'S CONTENTIONS**

### **I. INTRODUCTION AND HISTORICAL PERSPECTIVE**

On or about, July 21, 1986, Appellant Habibi Cafe opened as a hookah lounge in the Westwood area. Hookah lounges unlike almost any other lounge or social gathering place, are a longstanding traditional place where persons principally of Middle Eastern and Indian heritage congregate to socialize, smoke fruit based tobacco in hookah pipes and engage in social, religious and political discussions. Hookah has also been instrumental as providing a mechanism for persons who have personal and business disagreements, to come together, assemble and try and resolve their differences while smoking fruit flavored tobacco.

It should be noted that historically, hookah lounges primarily are doing their greatest business in the early morning hours, typically after midnight and closing at 4:00 AM. For reasons best understood by its patrons, persons of Middle Eastern and Indian communities are more comfortable socializing in the early morning hours. It is entirely possible because of the abject discrimination being faced by these minorities in a less than understanding society.

In particular, the Habibi Cafe is patronized by celebrity sports figures and sophisticated business persons who prefer arriving after midnight. Also, it is important to note that the Habibi Cafe in its 20 years of business has never served alcohol. Indeed, many of its customers would not patronize the Habibi Cafe if it did serve alcohol, because it is abhorrent to their religion beliefs as Muslims. A hookah lounge is a place where persons suffering from racial and religious discrimination can find a safe place to gather.

## **II. THE HABIBI CAFE IS EXEMPTED FROM CEQA.**

First and foremost, the Habibi Cafe should be excepted from regulation under the California Environmental Quality Act California Code of Regulations 15300.2 and section 15321 et seq. The Habibi Cafe has virtually no footprint in the community. The Habibi Cafe is one small business like other small businesses and does not contribute to the environment.

### **III. THE OPERATING HOURS ORDERED BY THE DECISION ARE INTENDED TO CLOSE THE HABIBI CAFE.**

A review of the operating hours of several other hookah lounges located in the City of Los Angeles, clearly shows that the rare hookah lounge closes at 1:00 AM, some at 5:00 AM and typically, closing at 4:00 AM. See the Declaration of Jan Fathi. By way of example, The Bab Al-Hara hookah lounge at 10821 Venice Blvd., Los Angeles is open until 3:00 a.m. 6 days a week; Ellen Hookah Catering 736 Levering Avenue Los Angeles is 24 hours a day, seven days a week; Blue Moon Hookah Lounge at 1053 South Hill Street Los Angeles is open until 2:00 a.m. and 4:00 a.m. three days a week; Sunset Rooftop 6097 West Sunset Blvd. Los Angeles open until 2:00 a.m. seven days a week; Social Hookah Lounge located at 5409 West Pico Blvd. Los Angeles open until 2:00 a.m. seven days a week; and the Blow Hookah Bar 1964 Westwood Blvd. Los Angeles open until 1:45 a.m. seven days a week. See the Declaration of Jan Fathi at Paragraph 16(10).

Appellant Habibi Cafe is one of the oldest hookah lounges in Los Angeles and attracts celebrity sports figures and others patrons of significance. Appellant Habibi Cafe contends that the conditions which have been imposed under the Decision of the Department of Zoning

Administration are arbitrary, capricious and founded in part on invidious animus based discrimination as against persons of Middle Eastern and Indian decent.

Simply stated, if the conditions are fully imposed as set forth in the Decision of the Department of Zoning Administration is affirmed, the Habibi Cafe cannot continue to operate. The closing of the Habibi Cafe will however be in concert with the openly stated position of the City Attorney to prohibit the sale of fruit flavored tobacco in the City of Los Angeles.

More particularly, the Decision commands at Paragraph 10, that "The hours of operation shall be limited to 11:00 am to 12:00 am Sunday through Thursday, and 11:00 am to 12:00 am, midnight on Friday and Saturday. No after-hour use is permitted, except routine clean-up. This includes but is not limited to private or promotional events, special events, excluding any activities which are issued film permits by the City." Have no basis in fact or law. The Habibi Cafe is not a center of illegal activities as suggested by the Los Angeles Police Department in its 20 year study. As such, Paragraph 10 should be amended as to hours.

of operation to include after hours, as is enjoyed by virtually every other hookah lounge in the City of Los Angeles.

#### **IV. PARAGRAPH 11 SEEKS TO LIMIT THE USE OF TOBACCO WHERE EMPLOYEES ARE WORKING.**

Paragraph 11 seeks to limit the use of tobacco where employees are working, however, hookah lounges are exempt from the limitations of Labor Code section 6404.5(e)(2). Rather, Paragraph 11 provides, "The owner or the operator shall comply with California Labor Code 6404.5 which prohibits the smoking of tobacco or any non-tobacco substance, including from electronic smoking devices or hookah pipes, within any enclosed place of employment."

However, California Labor Code 6404.5 specifically excludes private smokers' lounges at subdivision (e)(2) which provides:

"(e) For purposes of this section, "place of employment" does not include any of the following:

"(2) Retail or wholesale tobacco shops and private smokers' lounges. For purposes of this paragraph: (A) "Private smokers' lounge" means any enclosed area in or attached to a retail or wholesale tobacco shop that is

dedicated to the use of tobacco products, including, but not limited to, cigars and pipes."

The principles governing state law preemption of local ordinances are as follows: Under article XI, section 7 of the California Constitution, a city may make and enforce within its limits all local ordinances not in conflict with general state laws. (*O'Connell v. City of Stockton* (2007) 41 Cal.4th 1061, 1067 (*O'Connell*)). A conflict exists if the local ordinance ""duplicates, contradicts, or enters an area fully occupied by general law, either expressly or by legislative implication."" (O'Connell, at p. 1067, italics omitted.)

There is a clear conflict between the General Law of California at Labor Code section 6404.5(e)(2) and the stated intention of Paragraph 11, which is suggesting that hookah tobacco cannot be smoked in the presence of employees, which is contrary to the express terms of section 6404.5(e)(2), which exempts hookah lounges. As such, Paragraph 11 should be stricken entirely. Language contained in the Decision that is not consistent with the General Law of California is unfounded and here constitutes nothing but surplusage. Paragraph 11 should be stricken.

**V. THE DEPARTMENTS' DECISION IS ARBITRARY AND CAPRICIOUS AND CONSTITUTES AN UNCOMPENSATED GOVERNMENTAL TAKING BASED ON INVIDIOUS ANIMUS AND SOCIAL, RELIGIOUS DISCRIMINATION.**

Appellant contends that Paragraphs 1, 5, 10, 19, 20, 24, 45, 46, 47 and 48 are arbitrary and capricious and will result in an uncompensated governmental taking based on invidious animus and social, religious based discrimination.

By way of example, children under 21 have never been allowed in the Habibi Cafe. Alcohol has never been served by the Habibi Cafe. There is no evidence whatsoever that the Habibi Cafe has allowed children under 21 to patronize the business, nor is there any evidence that alcohol was ever served by the Habibi Cafe. It is the bane of any business that serves food that patrons may seek private, small bottles of alcohol to consume, without the knowledge of the Habibi Cafe.

By way of example, if the Habibi Cafe was serving alcohol the Department could have served a search warrant to determine whether such evidence even existed. The Department did not avail itself of direct evidence but, rather based its Conditions on hearsay, indirect evidence,

and supposition. It appears patently that the Department was not interested in direct admissible evidence, because such does not exist.

"We consider the record to determine whether LACERS abused its discretion, namely, whether its decision was arbitrary, capricious, entirely lacking in evidentiary support, unlawful, or procedurally unfair. ( *Bright Development v. City of Tracy* (1993) 20 Cal.App.4th 783, 795; see also *Associated Builders Contractors, Inc. v. San Francisco Airports Com.* (1999) 21 Cal.4th 352, 361, such nonadjudicatory acts "are accorded the most deferential level of judicial scrutiny." ( *Pulaski v. Occupational Safety Health Stds. Bd.* (1999) 75 Cal.App.4th 1315, 1331. *Khan v. Los Angeles City Employee's Retirement System*, (2010) 187 Cal.App.4th 98, 106.

"McQuillin lays it down as a fundamental rule in zoning as well as other matters that an ordinance must establish a standard to operate uniformly and govern its administration and enforcement in all cases, and that an ordinance is invalid where it leaves its interpretation, administration or enforcement to the ungoverned discretion of the administrative agency. (8 McQuillin, Municipal Corporations, 3d rev.

ed., p. 137, § 25.62.) *Redwood City Co. of Jehovah's Witnesses v. City of Menlo Park* (1959)167 Cal.App.2d 686.

**VI. GATHERING TO SMOKE FLAVORED TOBACCO FROM A HOOKAH FOR MIDDLE EASTERN PERSONS IS A FORM OF PROTECTED SPEECH AND THE RIGHT OF ASSOCIATION TO ENJOY THEIR HISTORICAL CUSTOM.**

Appellants content that gathering to smoke a hookah pipe to persons of Middle Eastern heritage is a form of Constitutionally protected speech. "The second kind of association that merits First Amendment protection is composed of groups whose members join together for the purpose of pursuing "a wide variety of political, social , economic, educational, religious, and cultural ends." *Roberts v. United States Jaycees* 468 U.S. 609, 622, 104 S.Ct. at p. 3252. This instrumental right of protected association is directly related to the "individual's freedom to speak, to worship, and to petition the government for the redress of grievances" because without it these liberties themselves could scarcely exist, much less thrive. (Ibid.) *People ex Rel. Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1110-11.

After reviewing all of the materials being provided by the Department in support of the possible imposition of conditions to abate

the alleged nuisance or to revocation of the business permits, I have the following input:

The reports begin in 2004 and set forth little detail about some type of occurrence in distant past. No attempt was made in that report, other than signage, to connect this information to the operation of the Habibi Cafe. There are stories about traffic accidents, shootings, graffiti, and other occurrences, wholly unrelated to the operation of the Habibi Cafe.

Indeed, one question that should be considered is why would the Department seek to close a business in operation for twenty years, without a serious violation. It appears from the report that any problems that may exist with signage, customers bringing in their own food and sneaking their personal alcohol into the outside area is controllable by the Cafe.

The restrictions being proposed would severely affect the financial state of the business, making it virtually impossible to remain in business. The Habibi Cafe is ready, willing and able to work and find a meaningful solution, with all concerned entities.

The Habibi Cafe has proposed a plan which includes and accepts the many of the measures suggested and it will continue to make changes to its business as needed.

The Habibi Cafe wants to comply with all reasonable terms and conditions being advanced by the city attorney's office. Those terms would assist to relieve some of the pressure the LAPD has endured and avoid the city zoning and planning from expending additional resources regarding inspections and violations. City of Los Angeles Municipal Code section 12.27.1 provides in pertinent part:

B. Authority. Notwithstanding any other provision of this Code to the contrary, the Director may require the modification, discontinuance or revocation of any land use or discretionary zoning approval if it is found that the land use or discretionary zoning approval as operated or maintained:

1. Jeopardizes or adversely affects the public health, peace, or safety of persons residing or working on the premises or in the surrounding area; or
2. Constitutes a public nuisance; or

3. Has resulted in repeated nuisance activities, including, but not limited to, disturbances 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, loitering, excessive littering, 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; or

4. Adversely impacts nearby uses; or

As to each relevant subdivision in City of Los Angeles Municipal Code 12.27.1, the Habibi Cafe has the following comments:

(1) "Jeopardizes or adversely affects the public health, peace, or safety of persons residing or working on the premises or in the surrounding area;"

The report by the Los Angeles Police Department sets forth incidents beginning in 2003 and coming forward, show no connection to the Habibi Cafe whatsoever. On the contrary, the

inability of the report to make a factual connection to the Habibi Cafe, actually supports the lack of jeopardy or an adverse effect upon the public health, peace or safety of persons residing or working on the premises or in the surrounding area.

Clearly, if a traffic accident occurred and a shooting resulted, a robbery occurred year ago, respectfully what factual connection does that have to the operation of the Habibi Cafe. In the absence of factual evidence that the operation of the Habibi Cafe is factually jeopardizing or adversely affecting the public health, peace, or safety of persons residing or working on the premises or in the surrounding area, any determination would be arbitrary and capricious. It should be noted that no evidence has been presented that any of the actual customers of the Habibi Cafe have been detrimentally effected by the operation of the business.

The Habibi Cafe doesn't contend that Los Angeles Municipal Code 12.27.1 is facially unconstitutional. Rather, if a determination regarding a public nuisance is not based in fact as it relates to the actual operation of the Habibi Cafe, such finding would be arbitrary and capricious. But, we shouldn't have to go

that far. The Habibi Cafe is offering to meet all rationally related conditions, in order to continue its present operation.

The standard used to review factual findings under the arbitrary and capricious standard is applicable when a quasi-legislative act is reviewed by ordinary mandamus; accordingly, the question for us is the same under either formulation: were the District's findings reasonable based on the evidence in the record? *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 637.

2. Constitutes a public nuisance, together with Sections (3) and (4):

Here, the Habibi Cafe contends that it is not a public nuisance pursuant to California Civil Code 3480, et seq. and that no relevant evidence has been presented creating a factual nexus between distant unconnected events and the operation of the Habibi Cafe, a hookah lounge.

California Civil Code 3480 defines a public nuisance, "A public nuisance is one which affects at the same time an entire

community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal."

Although the definition of a public nuisance in Los Angeles Municipal Code 12.27.1 is more expansive than Civil Code section 3480, there does not appear to be a factual nexus in support of a finding that the continued operation of the Habibi Cafe affects anyone in a manner constituting a nuisance. On the contrary, a financially and Ordinance compliant business which is not a nuisance is a benefit to the surrounding community.

It is patent that the Habibi Cafe has a very limited scope of the customers who are typically, (1) people of Middle Eastern and Indian decent, (2) people who like to congregate and smoke Turkish tobacco out of a hookah, (3) hookahs are typically smoked out of doors, or in an open patio, given the smoke, and (4) the Habibi Cafe does not provide food to areas where outside hookah smoking is allowed.

Human beings however are fraught to find ways to exceed the rules and not get caught by management. To the extent that

customers brought their own food from catering trucks parked on the street, or secreted their own alcohol for consumption on the premises, the Habibi Cafe pledges to ramp-up customer education, enforcement and update any necessary signage.

To be certain, if the findings contrary to the use permit regarding the Habibi Cafe are based on the ethnic origin of the customers, such enforcement would be unlawful discrimination.

Here, the Habibi Cafe is concerned that the Ordinance, Section 12.27.1 et seq., as applied to them, may be violating their right to equal protection of the laws and to be free from class-based discrimination.

Equal protection under the federal and California Constitutions requires equal treatment of persons similarly situated. *City of Cleburne v. Cleburne Living Center, Inc.* (1985) 473 U.S. 432, 439, 105 S.Ct. 3249, 3254, 87 L.Ed.2d 313, 320 (Cleburne); *Brown v. Merlo* (1973) 8 Cal.3d 855, 861, 106 Cal.Rptr. 388, 506 P.2d 212.)

Of course, no governmental employee is going to openly announce that their limited enforcement of the Habibi Cafe is based on the fact that it is primarily patronized by persons of Middle Eastern or Indian descent, who also like to smoke Turkish tobacco from a hookah. "Even when a law is nondiscriminatory on its face, equal protection is violated if the law is applied in a manner that discriminates against a particular group." *U.S. Dept. of Agriculture v. Moreno* (1973) 413 U.S. 528, 534–535, 93 S.Ct. 2821, 2825–2826, 37 L.Ed.2d 782, 788.

“If the constitutional conception of ‘equal protection of the laws’ means anything, it must at the very least mean that a loungee ... desire to harm a politically unpopular group cannot constitute a legitimate governmental interest.” *U.S. Dept. of Agriculture v. Moreno, supra*, 413 U.S. at pp. 534–535, 93 S.Ct. at pp. 2825–2826, 37 L.Ed.2d at p. 788, italics omitted; *Parr v. Municipal Court*, (1971) 3 Cal.3d 861, 864–868, (equal protection clause requires statutory classifications to be related to permissible purposes.) Even under the more lenient rational relationship test, discriminatory animus toward a group is not a

valid state objective. (*Cleburne, supra*, 473 U.S. at pp. 446–447 at pp. 3257–3258, 87 L.Ed.2d at p. 325 (irrational prejudice against the “mentally retarded”); *U.S. Dept. of Agriculture v. Moreno, supra*, 413 U.S. at pp. 534–535, 93 S.Ct. at pp. 2825–2826, 37 L.Ed.2d at p. 788 discrimination against “hippies”).)

By way of example, the Department is not contending that BJ's Restaurant and Brewhouse located at: 939 Broxton Avenue Los Angeles, California (just around the corner) is the source of the "incidents" going back to 2003 forward. The apparent enforcement appears "limited" to the Habibi Cafe for every possible traffic accident, robbery, graffiti, homeless person, shooting and/or fight, notwithstanding its lack of connection to the business. Given the lack of factual nexus between the historical incidents and the operation of the Habibi Cafe, concern exists that the enforcement of Los Angeles Municipal Code section 12.27.1 is being unequally enforced and for grounds which may suggest invidious animus against the ethnic groups patronizing the business.

## CONCLUSION

It is the hope of the Habibi Cafe that it can reach some rational concessions between the Department and the business, so that a 20 year business can continue to provide a place for persons who like to smoke hookahs and congregate. The Habibi Cafe is ready, willing and able to meet and confer in the hope that they can return to a state of full compliance with all relevant and lawfully based Conditions.

Respectfully submitted,

**MSW LAW FIRM**

Date: October 18, 2021

  
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October 6, 2021

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921-929 Broxton Ave LLC  
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Marina Del Rey, CA 90292

Jan Fathi (Op)  
11520 Washington Place  
Los Angeles, CA 90066

Saad Fathi (Op)  
Habibi Café  
923-925 South Broxton Avenue  
Los Angeles, CA 90024

Habibi Cafe  
923-925 South Broxton Avenue  
Los Angeles, CA 90024

CASE NO. DIR-2021-1463-RV  
IMPOSITION OF CONDITIONS  
923-925 South Broxton Avenue  
Westwood Planning Area  
Zone : C4-2D-O  
D. M. : 135B149  
C. D. : 5 – Koretz  
CEQA: ENV-2021-1464-CE  
Legal Description: Lot 10, Tract 9650

Pursuant to CEQA Guidelines Section 15061, I hereby DETERMINE:

Based on the whole of the administrative record as supported by the justification prepared and found in the environmental case file, the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15321, of the State's CEQA Guidelines for enforcement actions by regulatory agencies and there is no substantial evidence demonstrating that any exceptions contained in Section 15300.2 of the State CEQA guidelines regarding location, cumulative impacts, significant effects or unusual circumstances, scenic highways or hazardous waste sites, or historical resources applies; and,

Pursuant to Section 12.27.1 of the Los Angeles Municipal Code, I hereby REQUIRE:

the modification of the operation of an existing approximately 3,356 square-foot restaurant/retail use, currently known as the Habibi Café, located at 923-925 South Broxton Avenue, by the imposition of corrective conditions in order to mitigate adverse public nuisance impacts caused by said use, as follows:

Upon the following additional terms and conditions:

1. **No earlier than 12 months and no later than 18 months from the effective date of this determination**, the business owner/operator of the subject premises and/or the property owner of the land shall file a Plan Approval with the Office of Zoning Administration together with a filing fee and a mailing list of owners and occupants within 500 feet of the premises to determine the effectiveness of compliance with the Conditions herein, and to determine whether additional and more restrictive Conditions, or fewer Conditions need to be considered for the operation of the facility, or whether revocation is appropriate. The matter shall be set for a public hearing. The operator shall submit with the application a Condition Compliance Report, including documentation of how compliance with each Condition has been attained, as well as the security logs completed by the security guards working on the premises.
2. All other use, height and area regulations of the Municipal Code and all other applicable government / regulatory agencies shall be strictly complied with in the development and use of the Property, except as such regulations are herein specifically varied or required.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. **Within 30 days of the effective date of this determination**, the property owner shall record a covenant acknowledging and agreeing to comply with all the terms and conditions established herein in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Zoning Administrator for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

6. A copy of the first page of this determination and all Conditions and / or any subsequent appeal of this determination and its resultant Conditions and / or letters of clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
7. The business operator shall comply with the conditions associated with Case No. DIR-2004-2253-DRB-SPP-1A.
8. Authorized herein is a restaurant and eating place use with an approximately 3,356 square-foot, the floor plan shall be in substantial conformance with Case No. DIR-2004-2253-DRB-SPP-1A, Approved Plans dated April 4, 2005. Outdoor seating shall be in full compliance with the Bureau of Engineering Revocable Permit R-0585-0029 dated March 29, 2005, and R-0385-0028, dated July 16, 2013, for a total of 10 outdoor dining table and 24 seats encroaching a maximum of 2-feet in the public right of way at 923 and 925 Broxton Avenue.
9. The establishment shall be maintained as a bona fide eating place (restaurant) in conformance with section 23038 of the California Business and Professional Code, with an operational kitchen, in accordance with the definition of such in the LAMC Section 91.0403, and shall provide a full menu containing an assortment of foods normally offered in such restaurants. Food service shall be available at all times during operation hours.
10. The hours of operation shall be limited to 11:00 a.m. to 10:00 p.m. Sunday through Thursday, and 11:00 a.m. to 12:00 a.m., midnight on Friday and Saturday. No after-hour use is permitted, except routine clean-up. This includes but is not limited to private or promotional events, special events, excluding any activities which are issued film permits by the City.
11. The owner or the operator shall comply with California Labor Code 6404.5 which prohibits the smoking of tobacco or any non-tobacco substance, including from electronic smoking devices or hookah pipes, within any enclosed place of employment.
12. Smoking tobacco or any non-tobacco substance, including from electronic smoking devices, is prohibited in or within 10 feet of the outdoor areas in accordance with Los Angeles Municipal Code Section 41.50 B 2 C. This prohibition applies to all outdoor areas of the establishment if the outdoor area is used in conjunction with food service and/or the consumption, dispensing or sale of alcoholic or non-alcoholic beverages.
13. The sale and dispensing of alcoholic beverages for on- and off-site consumption is prohibited without a State of California license and a City of Los Angeles permit.
14. The operator shall host no karaoke, disc jockey, topless entertainment, belly dancers, male or female performers or fashion shows within the restaurant facility or lease any mobile strip show truck service to occur along Broxton Avenue.

15. No portion of the restaurant shall be deemed to be “private”.
16. There shall be no Adult Entertainment of any type pursuant to LAMC Section 12.70.
17. No video game or coin-operated game machines, or pool or billiard tables shall be maintained upon the premises at any time.
18. No pay phone shall be maintained on the exterior and inside of the premises.
19. This establishment is restricted from having private events at the location without prior approval from Los Angeles Police Department (LAPD), West Los Angeles Division Vice Unit. Any use of the property for private events, including corporate events, birthday parties, anniversary parties, weddings or other private events which are not open to the general public shall be subject to the same provision and hours of operation unless further restricted LAPD.
20. Any use of the restaurant for private events, including corporate events, birthday parties, anniversary parties, weddings or other private events, shall be subject to all the same provisions and house of operation stated herein.
21. The restaurant shall not be used for private parties in which the general public is excluded, nor the operator subleases the premises to promoters or music groups or similar entities for nightclub or concert activity at any time. At no time will the premises host a dance club, or other similar events. There shall be no admission or cover charge at any time.
22. There shall be at least one (1) private, state-licensed security guards on duty on a daily basis from Sunday through Thursday between the hours of 8:00 p.m. and one-half hour past the close of business. There shall be at least two (2) private, state-licensed security guards on duty on Friday, Saturday, and holidays between the hours of 8:00 p.m. and one-half hour past the close of business. Security guards shall be provided with clear instructions to enforce the Conditions of this determination and to uphold the law.
  - a. Security personnel shall wear clothing or uniforms that are easily identifiable. The security guards must be certified by the State Department Bureau of Consumer Affairs, Bureau and Security and Investigative Services. A copy of the security guard credentials and contracts shall be provided to the Department of City Planning, Nuisance Abatement and Revocations Section for inclusion in the case file within 30 days of the effective date of this action.
  - b. The security guards shall regularly patrol the area under the control of the establishment, including the adjacent sidewalks, to prevent loitering and any other undesirable activities by persons around the premises. The security guards shall not impede, obstruct, or delay any law enforcement personnel conducting inspections or official business on the premises.

- c. Security personnel shall maintain weekly patrol logs indicating any nuisance behaviors, criminal activities, and violations to these Conditions. The log shall contain the names of the guards, check-in and check-out times of the guards, and the dates, times, and places of occurrence and descriptions of the nuisance/criminal activities, law enforcement incidents, and other violations. The patrol log shall be provided upon request by the Los Angeles Police Department, the Zoning Administrator, or any Federal, State, or City agency, and shall be included with subsequent applications for Plan Approval for inclusion in the case file.
23. The operator shall prepare a security plan for review and approval by the LAPD. The operator shall meet with LAPD West Los Angeles Vice on a quarterly basis to determine the effectiveness of the security plan. A copy of the security shall be submitted to the case file.
24. All exterior portions of the site shall be adequately illuminated in the evening so as to make discernible the faces and clothing of persons utilizing the space. Lighting shall installed in all areas within the business to the satisfaction of the Los Angeles Police Department.
25. A camera surveillance system shall be maintained at all times to monitor the common areas of the business, high-risk areas, sidewalk areas, and entrances or exits. Recordings shall be maintained for a minimum period of 30 days and are intended for use by the Los Angeles Police Department.
26. No booth or group seating shall be installed that completely prohibits observation of the occupants and patrons.
27. Only the front door(s) or entryway(s) shall be used for patron access. All other doors shall be equipped on the inside with an automatic locking devise and shall be kept closed at all times other than to permit temporary access for delivery of supplies and trash removal. These doors shall not consist solely of a screen or ventilated security door, but shall be solid.
28. Loitering is prohibited on or around these premises or the area under the control of the applicant. "No Loitering " signs shall be posted outside of the subject facility. The applicant shall be responsible for ensuring persons are dissuaded from loitering on or immediately around the subject premises.
29. The front and rear of the business and alley under the applicant's control, shall be patrolled by employees of the restaurant and security personnel for the purpose of monitoring loitering and to keep noise at a minimum. Any problems associated with the restaurant operation shall be reported to the restaurant manager.
30. The operator, owner and on-site manager(s) shall comply with all applicable laws and conditions and shall properly manage the facility to discourage illegal and criminal activity on the subject premises and any accessory parking areas over which they exercise control.

31. At least one on-duty manager with authority over the activities within the facility shall be on the premises at all times that the facility is open for business. The on-duty manager's responsibilities shall include the monitoring of the premises to ensure compliance with all applicable State laws, Municipal Code requirements and the conditions imposed herein. Every effort shall be undertaken in managing the facility to discourage illegal and criminal activity on the subject premises and any exterior area over which the building owner exercises control, in effort to ensure that no activities associated with such problems as narcotics sales, use or possession, gambling, prostitution, loitering, theft, vandalism and truancy occur.
32. The applicant shall be responsible for monitoring both patron and employee conduct on the premises and within the parking areas under his/her control to assure behavior that does not adversely affect or detract from the quality of life for adjoining residents, property owners, and businesses.
33. No employee or agent shall be permitted to solicit or accept money or any other thing of value from a customer for the purpose of sitting or otherwise spending time with customers while in the premises, nor shall the licensee provide, permit, or make available, either gratuitously or for compensation, male or female patrons who act as escorts, companions, or guests of and for the customer.
34. The manager and all employees shall be knowledgeable of the Conditions herein. **Within 30 days of the effective date of this determination**, the manager of the restaurant/retail use shall be made aware of these Conditions and shall inform his/her employees of the same. A statement with the signature, printed name, position, and date signed by the manager, his/her employees, and all private security personnel, shall be provided to the Department of City Planning, Nuisance Abatement and Revocations Section for inclusion in the case file. The statement shall state,

*"We, the undersigned, have read and understood the Conditions imposed on the operation of the Habibi Cafe, located at 923-925 South Broxton Avenue, Case No. DIR 2021-1463-RV, and we agree to comply with said Conditions."*

A copy of this determination shall be retained on the premises at all times, shall be posted in an area visible to employees, and shall be produced upon request by the Police Department and other Federal, State, or City agencies.

35. The establishment shall make an effort to control any unnecessary noise made by restaurant staff or any employees contracted by the restaurant, or any noise associated with the operation of the establishment, or equipment of the restaurant.
36. The business operator/manager shall be responsible for mitigating the potential negative impacts of its operation on surrounding uses, especially noise derived from patrons during entry and exiting at late nights.

37. The business operator/manager shall place legible signs on the exterior walls of the subject property and at the rear of the building alerting patrons and employees to keep noise to a minimum, and to be respectful of the adjacent properties at the rear.
38. Any background music or other recorded ambient music shall not be audible beyond the area under the control of the applicant. Any music, sound or noise including amplified or acoustic music which is under control of the applicant shall not constitute a violation of Sections 112.06 or 116.01 of the Los Angeles Municipal Code (Citywide Noise Ordinance). At any time, a City inspector may visit the site during operating hours to measure the noise levels. If, upon inspection, it is found that the noise level exceeds those allowed by the citywide noise regulation, the owner/operator will be notified and will be required to modify or, eliminate the source of the noise or retain an acoustical engineer to recommend, design and implement noise control measures within property such as, noise barriers, sound absorbers or buffer zones.
39. The owner/restaurant operator shall at all times maintain the abutting public access ways free of obstruction as well as maintaining the premises and adjoining sidewalk free of debris or litter.
40. Any outside trash and recycling bins shall be locked. Trash deposit in dumpsters will be carried out quietly and the restaurant staff will be respectful to neighbors.
41. **Within 30 days of the effective date of this determination**, a telephone number and email address shall be provided for complaints or concerns from the community regarding the operation. The phone number and email address shall be posted at the entry, customer service desk, and front desk or near the hostess station visible to the public.
42. Complaints shall be responded to within 24-hours. The applicant shall maintain a log of all calls and emails, detailing: (1) date complaint received; (2) nature of complaint, and (3) the manner in which the complaint was resolved. This log shall be made available to LAPD, law enforcement, and Department of City Planning upon request and presented as part of the application if and when a new application for a condition compliance review of the operation is submitted to the Department of City Planning.
43. These conditions of approval as well as a copy of any Business permit, insurance information, security and any emergency contact phone numbers shall be maintained in the office at all times and produced immediately upon request of the Police Department, the Zoning Administrator, the Department of Building and Safety or other enforcement agency.
44. A copy of the conditions of this letter of determination shall be retained on the premises at all times and produced upon request by the Police Department, the Department of Building and Safety, or the Department of City Planning.

45. Should there be a change in the ownership and/or the operator of the business, the property owner, business owner, or operator shall provide the prospective new property owner and the business owner/operator with a copy of the conditions of this action prior to the legal acquisition of the property and/or the business. Evidence that a copy of this determination including the conditions required herewith has been provided to the prospective owner/operator shall be submitted to the Department of City Planning in a letter from the new operator indicating the date that the new operator/management began and attesting to the receipt of this approval and its conditions. The new operator shall submit this letter to the Department of City Planning within 30-days of the beginning day of his/her new operation of the establishment along with any proposed modifications to the existing the floor plan, seating arrangement or number of seats of the new operation.
46. The Zoning Administrator reserves the right to require that the new owner or operator file a Plan Approval application, if it is determined that the new operation is not in substantial conformance with the approved floor plan, or the operation has changed in mode or character from the original approval, or if documented evidence be submitted showing a continued violation(s) of any condition(s) of this determination resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties. The application, in association with the appropriate fees, and a 500-foot notification radius, shall be submitted to the Department of City Planning within 30 days of the date of legal acquisition by the new owner or operator. The purpose of the plan approval will be to review the operation of the premise and establish conditions applicable to the use as conducted by the new owner or operator, consistent with the intent of the Conditions of this determination. Upon this review, the Zoning Administrator may modify, add or delete conditions, and if warranted, reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.
47. **Within 30 days of the effective date of this determination**, the business owner and/or the property owner shall reimburse the City for the costs required to conduct and process the subject nuisance abatement action pursuant to Section 19.01-N of the Los Angeles Municipal Code. Payment shall be made to the City of Los Angeles with confirmation of payment forwarded to the Department of City Planning, Nuisance Abatement and Revocations Section within this same time period.
48. **INDEMNIFICATION AND REIMBURSEMENT OF LITIGATION COSTS**  
Applicant shall do all of the following:
- i. Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.

- ii. Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- iii. Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- iv. Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- v. If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the Applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the Applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the Applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate

at its own expense in the defense of any action, but such participation shall not relieve the Applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

“Action” shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.

### **TRANSFERABILITY**

This action runs with the land. In the event the property is to be sold, leased, rented, or occupied by any person or corporation other than the current owner, it is incumbent that the owner advises them regarding the Conditions of this action.

### **VIOLATIONS OF THESE CONDITIONS IS A MISDEMEANOR**

It shall be unlawful to violate or fail to comply with any requirement or Condition imposed by final action of the Zoning Administrator, Board, or Council. Such violation or failure to comply shall constitute a violation of Chapter 1 of the Municipal Code and shall be subject to the same penalties as any other violation of such Chapter. (Section 12.27.1 of the Municipal Code)

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. (Section 11.00-M of the Municipal Code)

### **APPEAL PERIOD - EFFECTIVE DATE**

The Zoning Administrator's determination in this matter will become effective after **OCTOBER 21, 2021** unless an appeal therefrom is filed with the City Planning Department. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Any appeal must be filed on the prescribed forms, accompanied by the required fee, a copy of the Zoning Administrator's action, and received and receipted at a public office of the Department of City Planning on or before the above date or the appeal will not be accepted. **Forms are available on-line at <http://planning.lacity.org>.** Public offices are located at:

**Downtown**  
 Figueroa Plaza  
 201 North Figueroa Street, 4th Floor  
 Los Angeles, CA 90012  
(213) 482-7077

**San Fernando Valley**  
 Marvin Braude  
 Constituent Service Center  
 6262 Van Nuys Boulevard, Rm 251  
 Van Nuys, CA 91401  
(818) 374-5050

**West Los Angeles**  
 Services Center  
 1828 Sawtelle Boulevard, 2nd Floor  
 Los Angeles, CA 90025  
(310) 231-2598

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must

be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

### NOTICE

The applicant is further advised that all subsequent contact with this office regarding this determination must be with the staff member assigned to this case. This would include clarification, verification of Condition compliance, submittal of all required evidence as required in this determination, and plans or building permit applications, etc., and shall be accomplished **BY APPOINTMENT ONLY**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

### FINDINGS OF FACT

After thorough consideration of the statements and correspondence contained in the file, the report of the Staff Investigator thereon, the statements made at the public hearing before the Zoning Administrator on May 19, 2021, all of which are by reference made a part hereof, as well as knowledge of the property and the surrounding district, I find that there is cause for imposition of corrective Conditions based upon the provisions of Section 12.27.1 of the Municipal Code which has been established by the following facts:

#### **NUISANCE ABATEMENT AUTHORITY - SECTION 12.27.1 OF THE LOS ANGELES MUNICIPAL CODE**

The Zoning Administrator, on behalf of the Director of Planning, has the authority to investigate and initiate corrective actions against any use which constitutes a public nuisance, adversely affects the safety of persons residing or working in the surrounding area, and does so on a repeated basis, pursuant to the provisions of Section 12.27.1 of the Los Angeles Municipal Code, established under Ordinance No. 171,740 on October 27, 1997. This Ordinance amended earlier nuisance abatement authority established May 25, 1989, under Ordinance No. 164,749.

It has been the City's practice and policy to impose corrective Conditions when a property is initially determined to be a nuisance location and to give any owner/operator an opportunity to correct the problems before any possible revocation.

Prior to an action by the Zoning Administrator requiring that a use be discontinued, it must be found that prior governmental efforts to eliminate the problems associated with the use have failed and the owner or lessee has failed to demonstrate to the satisfaction of the Zoning Administrator a willingness and ability to eliminate the problems associated with the use.

**BACKGROUND**

On August 12, 2004, the Director of Planning approved a Design Review and Project Permit Compliance (Case No. DIR-2004-2253-DRB-SPP) for the following: installation of an awning 923 and 925 Broxton Avenue; the remodel of front façade at 925 Broxton Avenue to include an outside patio area; certain existing exterior signage to remain, as well as the addition of minor signage at 923 and 925 Broxton Avenue; and a change of use at 925 Broxton Avenue (expansion of the existing restaurant at 923 Broxton Avenue). A member of the public appealed the decision and on November 14, 2004 the West Los Angeles Area Planning Commission denied the appeal and modified the Conditions of Approval and Findings (Case No. DIR-2004-2253-DRB-SPP-1A).

The restaurant/retail operations, have generated consistent police enforcement, as evidenced by Los Angeles Police Department documentation including arrest reports, investigative reports, and crime analysis documentation relating to an attempted murder, shootings, a stabbing, numerous batteries and assault with deadly weapon, criminal threats, robberies and thefts, vandalism.

It was decided that the operation may jeopardize and adversely affect the public health, peace, and safety of persons residing and working on the premises and in the surrounding area, thus constituting a public nuisance. As a result, the City responded with a public hearing for possible imposition of Conditions to abate nuisance or to revoke said use.

The Westwood Community Plan Map designates the property for Community Commercial (C4) land uses with Height District No. 2D. The property is within the West Los Angeles Transportation and Mitigation Specific Plan, Westwood Community Design Review Board, Westwood Village Specific Plan Area, and in a Transit Priority Area. The subject site is in a Methane Zone, Special Grading Area and is in a Special Flood Risk Area (Watercourse permit). The subject property is in the Fire District No. 1 area, Liquefaction Area, Westwood Business Improvement District, and within the Santa Monica Fault Zone.

The property is located in the Los Angeles Police Department West Bureau of the West Los Angeles Division in Reporting District 817.

The subject property, consisting of a relatively flat, regular-shaped, approximately 3,360 square-foot parcel of land with a 60-foot frontage on the west side of Broxton Avenue. A 20-foot-wide alley separates the subject site to the north from the adjacent commercial uses. The property is developed with a one-story, 3,861 square-foot commercial building containing the subject restaurant/retail store ("Habibi Cafe"). The City of Los Angeles Office of Finance LATAX Report shows that Habibi Café (Account 399210) started on February 21, 2001 at the subject property. According to the Certificate of Occupancy, there are 16 required parking spaces, with 10 off-site parking spaces at 960 Gayley Avenue. A Covenant and Agreement for Maintenance of Off-Site Parking Space (Instrument No. 20100098266) that was recorded with the Los Angeles County Recorder's Office on January 22, 2010, for 10 off-site parking spaces at 1300 Westwood Boulevard.

At the time of the site visit conducted on March 19, 2021, the restaurant/retail store had no hours of operation posting.

### **Streets**

Broxton Avenue, adjoining the subject property to the east, is designated by the Mobility Plan as a Local Street - Standard, with a 60-foot right-of-way and improved with curb, gutter and sidewalk.

Alley, adjoining the property to the north, is approximately 20 feet wide.

### **Surrounding Land Uses**

Surrounding properties are within the C4-2D-O Zone and are characterized by relatively flat lots and fully improved streets. The north, east, west and south adjoining properties are developed with one- and two-story commercial uses, ranging from restaurant/retail uses.

### **On-Site Cases, Affidavits, Permits, and Orders**

Building and Safety Order to Comply A-5400820 – Effective November 9, 2020, Building and Safety issued an order to comply for tenant improvements constructed without the required permits, unapproved occupancy or use of the warehouse as retail, dining tables and chairs placed along the sidewalk that do not provide a minimum of 10-foot pedestrian walkway.

Bureau of Engineering Revocable Permit R-0385-0028 – On July 16, 2013, the Bureau of Engineering issued a revocable permit for 6 tables and 16 chairs encroaching a maximum of 2 feet in the public right of way at 923 Broxton Avenue.

Building and Safety Permit No. 10016-20000-18127 – On October 5, 2010, Department of Building and Safety issued a permit to remove a 40-foot wall between 923 and 925 Broxton Avenue; add glass wall, door at the cashier and kitchen area.

Covenant and Agreement for Maintenance of Off-Site Parking Space – On January 22, 2010, a Covenant and Agreement for Maintenance of Off-Site Parking Space (Instrument No. 20100098266) was recorded with the Los Angeles County Recorder's Office for 10 off-site parking spaces at 1300 Westwood Boulevard.

Building and Safety Permit No. 06041-20000-31057 – On April 13, 2007, a permit was issued to replace a 200 AMP service and subpanel.

Building and Safety Permit No. 04016-20000-04637 – On May 6, 2005, a permit was issued for the change of use from a retail to a restaurant and outdoor eating area.

Building and Safety Permit No. 02016-20000-06753 – On April 12, 2005 a permit was issued to add an awning over the outdoor dining area in the front of the building which complied with Order to Comply No. 248351.

Bureau of Engineering Revocable Permit R-0585-0029 – On March 29, 2005, the Bureau of Engineering issued a revocable permit for 4 tables and 8 chairs encroaching a maximum of 2 feet in the public right of way at 925 Broxton Avenue.

Case No. DIR-2014-2253-DRB-SPP – On August 12, 2004 the City Planning Department issued a Design Review and Project Permit Compliance determination that the proposed project is in substantial compliance. The project consisted of installation of an awning; the remodel of front façade; existing signage to remain; and a change of use at 925 Broxton Avenue. A community member appealed the determination and on November 17, 2004, the West Los Angeles Area Planning Commission denied the appeal and modified the conditions of approval and findings.

Certificate of Occupancy Permit No. 94VN46837 – On November 25, 1998, Building and Safety issued a Certificate of Occupancy to convert a 36-foot by 36-foot portion of an existing one-story, Type III-N, 36-foot by 66-foot retail building to a restaurant/retail. There is a total of 16 parking spaces, with 10 required off-site parking spaces located at 960 Gayley Avenue.

Certificate of Occupancy Permit No. WLA60832 – On July 21, 1986, Building and Safety issued a Certificate of Occupancy for a one-story, type V, 14-foot by 54-foot restaurant, change of use from retail to a restaurant, with no change in parking.

### **Surrounding Cases, Affidavits, Permits, and Orders**

#### **Within 1,000 feet:**

Case No. ZA-2002-4668-RV-PA1 – On May 14, 2004, the Associate Zoning Administrator determined that the restaurant/bar, known as Wiggums Roadhouse (FKA Madison's Neighborhood Grill) substantially complied with the corrective conditions, located at 1037 Broxton Avenue.

Case No. ZA-2002-4668-RV – On March 28, 2003, the Associate Zoning Administrator deemed the restaurant/bar, known as Madison's Neighborhood Grill a nuisance and imposed 11 corrective conditions, located at 1037 Broxton Avenue.

### **NUISANCE INVESTIGATION**

The nuisance investigation includes an assessment of Condition compliance with respect to the Modified Director of Planning Conditions of Approval approved by the West Los Angeles Area Planning Commission, Case No. DIR-2004-2253-DRB-SPP-1A. Planning staff conducted a field analysis as part of the nuisance investigation on March 19, 2021 at approximately 1:30 p.m., accompanied by two Los Angeles Police Department officers. All photos included were taken on said date and time. At the time of the investigation, the restaurant/retail was open to the public. The Conditions are set forth below, followed by comments by the staff investigator as to whether compliance was achieved.

## Conditions of Approval:

1. Except as detailed in Condition Number 3 below, all existing signs, exterior lights, light fixtures and other appurtenances shall be removed. The result shall be a clean, finished exterior that does not show evidence of removed items. Removal shall take place so that no portion of the existing items remain, and so there are no exposed conduits or electrical equipment.
  - a. "Exhibit C", stamped and dated June 2, 2004, indicates existing site conditions and details the elements to be removed. Exhibit C is located in the subject case file DIR 2004-2253 DRB-SPP-A1 .
  - b. Lettering on awnings (painted signs) shall be covered with sections of new canvas, or shall be removed by exchanging swatches of canvas, to match existing awning material. Existing awning signs are primarily shown on Exhibit C, pages 1, 2, 10, 15, and 18. For the front awning, as an alternative to covering the lettering, the awning may be entirely replaced with a new awning so long as the new awning is identical in design (but containing no writing or graphics). For the rear awning, as an alternative to covering the lettering, the rear awning may be entirely removed.
  - c. Existing signs painted directly on the building's exterior walls shall be painted over in a color identical to the remainder of the painted building facade. The North-facing side alley wall shall be entirely re-painted (on the portions of the wall with existing white paint, and excluding the portion with unpainted brick). The result shall be a consistent white coat of paint, through which no previous lettering or graphics are visible. The portion of this facade with exposed, unpainted brick shall remain unpainted. The West-facing rear facade need not be entirely painted, only the portion in which there is currently the large sign reading "Habibi Cafe & Lounge" (See subsection "d" below). Existing painted wall signs are primarily shown on Exhibit C, pages 16, 17, and 19.
  - d. The rear facade of subject property shall have no signage. The large painted sign reading "Habibi Cafe & Lounge" and the awning sign reading "Habibi Cafe ... 923" shall removed.
  - e. Portable signs (e.g. Sandwich signs) shall not be placed upon the sidewalk.

Staff Investigator's Comment: Partial Compliance. During the site visit, staff observed that the operator removed the following: neon signage, the American flag, hookah signage, wires, string lights, painted signs, rear wall sign and replaced the awning. The rear sign was painted over in white color. However, the heaters, speakers, and lantern lights remain.

2. Existing signage and other exterior items as enumerated above in Condition Number 1, shall be removed prior to clearance from the Department of City Planning. (Refer to "Exhibit C", stamped and dated June 2, 2004, located in the subject case file DIR 2004-2253 DRB-SPP-A1). Planning staff shall verify appropriate removal of said items in person, at the site location, and shall document site conditions by photographs that will become part of the subject case file.

Staff Investigator's Comment: Partial compliance. Staff reviewed Case No. DIR-2004-2253-DRB-SPP-1A and found pictures submitted by the applicant to the case file on March 31, 2005 and April 4, 2005 showing that the sign was removed. Although a majority of the exterior items were removed, the heaters, speakers, and lantern lights remain.

3. The only permitted remaining signs shall be as follows:
  - a. 923 Broxton Avenue's front elevation wall sign (facing Broxton Ave.) reading "Habibi Cafe" as shown in Exhibit A page 6 (proposed materials) and Exhibit C, page 1 may remain. The sign's neon light portion (accent with wavy line), as shown on Exhibit C, page 1, shall be removed.
  - b. 923 Broxton Avenue's side alley elevation wall sign (on building's Northern facade, sign is not painted on wall) reading "Habibi Cafe" as shown on Exhibits C, page 1 may remain. The sign's neon light portion (accent with wavy line), as shown on Exhibit C, page 1 shall be removed.
  - c. A maximum of 3 small signs (measuring not more than 1-square foot each) that indicate the subject addresses may be added to the wall, so long as details regarding such signage are included in final plans and approved by staff at time of Planning Department Clearance.
  - d. Window signage amounting to no more than 4 square feet may remain if such items are documented and approved by Staff prior to Planning Department Clearance. Window signs may include the existing American Flag, as shown on Exhibit C page 7, or "smoking/no-smoking" signs.
  - e. A store hour sign may be placed in each of the two front doors of the premise, so long as the total for both signs is no more than 64 square inches.
  - f. A "parking information" sign measuring 12-inches by 6-inches, as shown on Exhibit A, page 6 and Exhibit C, page 6 may remain.

Staff Investigator's Comment: Partial Compliance. Exhibit A page 6 identifies that the awning color is in black color. However, during the site visit it was red color. The side alley elevation wall sign remains. The sign's neon light portion was removed. Two wall signs were observed during the site visit, which is below the maximum of 3 signs. Staff did not observe posted hours of operation.

4. Prior to clearance from the Department of City Planning, Applicant shall produce plans for the screening of rooftop equipment, the design of which shall be to the satisfaction of the Westwood Community Design Review Board Architect and shall be included in the final plans submitted to the Departments of City Planning and Building and Safety.

Staff Investigator's Comment: In compliance. Staff reviewed Case No. DIR-2004-2253-DRB-SPP-1A and the applicant submitted pictures during the sign off of the roof top equipment.

5. The Applicant shall screen the rear dumpster / trash receptacle associated with the subject tenant space, or use other commercially reasonable efforts to minimize the visual impact of the trash area. Applicant shall make a good faith effort in this endeavor, to coordinate with the adjacent business owners responsible for the

other two dumpsters at the rear of the site. Applicant shall maintain rear trash area in a tidy and sanitary manner, the condition of which shall be ensured by a Covenant and Agreement (Condition of Approval No. 13).

Staff Investigator's Comment: Partial compliance. During the staff visit, staff observed that the trash receptacles were not screened and it seems the operator has not attempted to minimize the visual impact of the trash area. However, the trash area was in general clean with no adjacent empty boxes.

6. Subject approval is for change of use to restaurant only. Alcoholic beverages may not be served nor shall dancing or live entertainment (e.g. nightclub use) take place at this location (923 and/or 925 Broxton Avenue), unless or until a Conditional Use Permit is approved by the Department of City Planning, as per Sections 5.8.2 and 5.B.16 of the Westwood Village Specific Plan.

Staff Investigator's Comment: In compliance. During the staff visit, staff did not observe any dancing or live entertainment.

7. A change of use at the subject property shall be permitted so long as the tenant space at 923 Broxton Ave. and the tenant space at 925 Broxton Ave. remain under single ownership as "Habibi Cafe." Additional tenant improvements other than those detailed in "Exhibit A (located in the subject case file DIR 2004-2253 DRB-SPP) shall not be permitted without review by the Department of City Planning for compliance with the Westwood Village Specific Plan.

Staff Investigator's Comment: Undetermined. Staff could not find a final Certificate of Occupancy after the issuance of Case No. DIR-2004-2253-DRB-SPP-1A. However, on May 6, 2005, Building and Safety issued Permit No. 04016-20000-04637 for the change of use from a retail to a restaurant with an outdoor eating area at 921 Broxton Avenue. On November 25, 1998, Building and Safety issued Certificate of Occupancy Permit No. 94VN46837 to convert a portion of the building to a restaurant/retail at 923 Broxton Avenue.

8. The Applicant shall provide a minimum of two security personnel on the premise on Friday and Saturday nights from 7pm to closing, to assist in crowd and noise control. The presence of security shall be ensured by a Covenant and Agreement (Condition of Approval No. 13).

Staff Investigator's Comment: Undetermined. Staff did not observe security at the subject business as the site visit was conducted earlier in the day, not during the time security personnel is required to be on the premises.

9. The proposed remodel at 925 Broxton Ave., as shown on Exhibit A, pages 8 through 11, and Exhibit B (located in the subject case file DIR 2004-2253 DRB-SPP), shall result in a glass storefront wall to be recessed a distance 9 feet from the front facade, to accommodate an outside dining patio and which includes a proposed guardrail.

Staff Investigator's Comment: In compliance. During the site visit, staff observed that a glass storefront wall recessed approximately 9 feet from the front façade, with a guardrail.

10. Dining tables and chairs may be placed on the sidewalk (in compliance with the requirements of the Department of Public Works) provided that a minimum of 10 feet of sidewalk width remain for pedestrian circulation along Broxton Ave. At the time of final approval by Department of City Planning, Applicant shall submit an outdoor dining layout plan showing the placement of tables and chairs in compliance with this requirement. The number and location of tables and chairs which the tenant may place upon the sidewalk shall be limited to that depicted on the outdoor area dining layout plan and shall be ensured by a Covenant and Agreement (Condition of Approval No. 13).

Staff Investigator's Comment: Not in compliance. Although the Bureau of Engineering issued revocable permits (Permit Nos. R-0585-0029 and R-03850028) for a total of 10 tables and 24 chairs, on November 9, 2020, the Department of Building and Safety issued Order to Comply A-5400820 stating the operator violated the minimum setback of 10 feet from the dining tables and chairs to the sidewalk width for pedestrian circulation along Broxton Avenue.

11. Rear windows as shown on Exhibit C, page 19, may be replaced per the specifications of Exhibit A, page 12 (both Exhibits are located in the subject case file DIR 2004-2253-DRB-SPP-A1).

Staff Investigator's Comment: In compliance. During the site visit, staff observed that the rear door was replaced with a solid door.

12. Parking requirements associated with the expansion of the restaurant use shall be determined by the Department of Building and Safety prior to the issuance of Building Permits. At the time of approval of final approval by Department of City Planning, Applicant shall provide information on parking associated with the use.

Staff Investigator's Comment: In compliance. Staff reviewed Case No. DIR-2004-2253-DRB-SPP-1A and the applicant submitted an executed parking use contract dated January 20, 2004 for 16 parking spaces at 960 Gayley Avenue, Los Angeles, CA 90024. The operator submitted a Covenant and Agreement for Maintenance of Off-Site Parking Space (Instrument No. 20100098266) that was recorded with the Los Angeles County Recorder's Office on January 22, 2010 for 10 off-site parking spaces at 1300 Westwood Boulevard.

13. The Applicant shall sign and record a Covenant and Agreement, prior to issuance of any building permit, which addresses the following:
  - a. Condition of Dumpster/Trash receptacle. This document shall include language stating that the Applicant/tenant shall maintain the rear trash area, in compliance with Condition of Approval No. 5.

- b. Restaurant Use. This document shall include language stating that a change of use shall be in compliance with Condition of Approval No. 7. 923 and 925 Broxton may not operate as separate restaurants unless and until such time that a Project Permit Compliance is approved by the Department of City Planning.
- c. Security Personnel. This document shall include language stating that the Applicant/tenant is responsible for providing security personnel,, in compliance with Condition of Approval No. 8.
- d. Outdoor Dining Area. This document shall include language stating that the Applicant/tenant is responsible for maintaining the outdoor dining area in compliance with Condition of Approval No. 10. A copy of the outdoor dining area layout plan (as required per Condition of Approval No. 10), shall be included with the Covenant and Agreement.
- e. The Agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assigns, until such time when a new or subsequent Project Permit Compliance is issued, granting a change in use for the site.
- f. This document shall be recorded in the Los Angeles County Recorder's Office. The Master Covenant and Agreement form shall be used (General Form CP-6770), available at the Department of City Planning Public Counter (or online at <http://cityplanning.lacity.org/Forms~Procedures/6770.pdf>). The agreement must first be submitted to the Department of City Planning for approval before being recorded. After recordation, the original copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.

Staff Investigator's Comment: In compliance. Staff reviewed Case No. DIR-2004-2253-DRB-SPP-1A and Covenant and Agreement (Instrument No. 05 0710024) was recorded on March 28, 2005.

14. Exhibits relevant to this matter are as follows: "Exhibit A," pages 1 through 13, showing proposed project submitted by applicant, stamped and dated June 2, 2003; "Exhibit B" (photo of the proposed guardrail at 925 Broxton Ave) stamped and dated June 2, 2003; and "Exhibit C", pages 1 through 21, indicating existing site conditions and the elements to be removed, stamped and dated June 2, 2004. All referenced Exhibits are located in the subject case file DIR 2004-2253 DRB-SPP-A1 (and are attached to this appeal staff report). Any proposed changes in project design from aforementioned Exhibits, or as modified by this action via Conditions of Approval, must be approved by the Director of Planning. Each change shall be identified and justified in writing. Minor deviations may be allowed in order to comply with the provisions of the Los Angeles Municipal Code, the project conditions, or the project permit authorization.

Staff Investigator's Comment: In compliance. Staff found in the case file Exhibit A consisting of 13 pages, dated June 2, 2004; Exhibit B consisting of the proposed

guardrail, dated June 2, 2004; and Exhibit C consisting of 21 pages, dated June 2, 2004. A full-size set of plans was received by the City Planning Department, date stamped on April 4, 2005.

15. Prior to final approval of plans by the Department of Building and Safety, the applicant shall submit a minimum of three (3) sets of working drawings/building plans, to be approved by Department of City Planning staff for compliance with this Director's Determination letter. (One set of plans shall be provided to Department of City Planning and attached to subject file).

Staff Investigator's Comment: In compliance. Staff found in the case file a full-size set of plans that was received by the City Planning Department, date stamped on April 4, 2005.

16. The following statement shall be imprinted on the cover sheet of plans submitted to the Departments of City Planning and Building and Safety.

NOTE TO APPLICANT, PLAN CHECK ENGINEER(S) AND BUILDING INSPECTOR(S) - These plans, including conditions of approval, shall be complied with and the height, size, shape, location, texture, color, or material shall not differ from what the Director of Planning has approved under DIR 2004-2253 DRB-SPP-1A. Any subsequent change to the project shall require review by the Director of Planning and referral by the Design Review Board. To propose any change to the terms or conditions of the Director's Determination, the applicant shall submit an application for modification to the Department of City Planning and include a specific notation of the modification(s) requested. Should any change be required by a public agency then such requirement shall be documented in writing.

Staff Investigator's Comment: In compliance. The cover sheet of the full-size plans were received by City Planning Staff on April 4, 2005 and have the following:

NOTE TO APPLICANT, PLAN CHECK ENGINEER(S) AND BUILDING INSPECTOR(S) - These plans, including conditions of approval, shall be complied with and the height, size, shape, location, texture, color, or material shall not differ from what the Director of Planning has approved under DIR 2004-2253 DRB-SPP-1A. Any subsequent change to the project shall require review by the Director of Planning and referral by the Design Review Board. To propose any change to the terms or conditions of the Director's Determination, the applicant shall submit an application for modification to the Department of City Planning and include a specific notation of the modification(s) requested. Should any change be required by a public agency then such requirement shall be documented in writing.

17. Furthermore, this entire determination letter, including all the conditions of approval, shall be printed on the building plans submitted to the Departments of City Planning and Building and Safety.

Staff Investigator's Comment: In compliance. The full-size plans have the West Los Angeles Area Planning Commission determination, mailing dated January 25, 2005 that includes the action to deny the appeal, approve the Director's Determination for Design Review and Project Permit Compliance, and modified Conditions of Approval and Findings.

18. Department of Building and Safety. The granting of this determination by the Director of Planning does not in any way indicate compliance with applicable provisions of the Los Angeles Municipal Code Chapter IX (Building Code). Any corrections and/or modifications to plans made subsequent to this determination by a Department of Building and Safety Plan Check Engineer that affect any part of the exterior design or appearance of the project as approved by the Director, and which are deemed necessary by the Department of Building and Safety for Building Code compliance, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.

Staff Investigator's Comment: Undetermined. No communication was found in the case file explaining that there were corrections and/or modifications to the proposed plans.

19. Expiration. As specified in Los Angeles Municipal Code Section 16.50 E4, the term of this Determination is valid for a period of two (2) years, so long as all necessary building permits are obtained within that two years. In the event a building permit is obtained in a timely manner but subsequently expires, the Director's decision (or Area Planning Commission's decision on appeal) shall expire with the building permit.

Staff Investigator's Comment: In compliance. Per the action of the West Los Angeles Area Planning Commission, the operator had until January 25, 2007 to complete all of the proposed improvements. In 2007, the operator received the following permits: (Permit No. 02016-20000-06753) to add an awning that is 6 feet wide and 35 feet long over the outdoor dining area and (Permit No. 06041-20000-31057) to replace a 200 AMP service and subpanel. In the Case No. DIR-2004-2253-DRB-SPP-1A file, the proposed expansion plans identified a new bar area on the ground level, proposed office and proposed dining at the mezzanine floor. However, during the site visit, staff did not see a bar area on the ground level or an office and dining room on the mezzanine floor.

20. Approval, Verification and Submittals. Copies of any approvals, guarantees or verification of consultations, review of approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning prior to approval, for placement in the subject file.

Staff Investigator's Comment: Undetermined. Staff did not observe any changes to the full-size set of plans date stamped April 4, 2005.

21. Code Compliance. Project must comply with all area, height, and use regulations of the zone code classification for the subject property.

Staff Investigator's Comment: In compliance. The subject property has not increased in size and the restaurant/retail use is allowed in the C4-2D-O Zone and Westwood Village Specific Plan.

22. Definition. Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public officials, legislation or their successors, designees, or amendment to any legislation.

Staff Investigator's Comment: Undetermined. This is a standard condition explaining the agencies, public officials or legislation.

23. Enforcement. Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendment thereto.

Staff Investigator's Comment: Partial compliance. Based on a review of the conditions, it seems that the applicant is not complying with the following: Condition No. 10 and partially complies with Condition Nos. 1, 2, 3, and 5.

## **WRITTEN COMMUNICATIONS RECEIVED PRIOR TO HEARING**

### **The Los Angeles Police Department submitted the following reports:**

#### **On-Site:**

Arrest and Investigative Reports: There were 51 investigative reports, notices to appear or arrest reports submitted for the subject property (923 Broxton Avenue) between April 1, 2001 and September 25, 2020.

1. April 1, 2001, 4:00 a.m. – Investigative and Arrest Reports – Robbery – Suspect removed victim's purse by force and fled on foot to vehicle.
2. September 18, 2001, 9:45 p.m. – Investigative Report – Battery – Suspect struck victim (supervisor of Habibi Café) on face and fled in an unknown direction.
3. March 22, 2002, 2:00 a.m. – Investigative Report – Robbery – Suspect stole victim's phone and demanded victim's money; suspect was armed.
4. April 4, 2002, 1:00 p.m. – Investigative Report – Criminal Threats – Suspect (transient) made verbal criminal threats to victim.
5. April 20, 2002, 10:50 p.m. – Investigative Report – Battery – Dispute between suspect and victim; suspect pushed victim.
6. April 29, 2002, 3:00 a.m. – Investigative Report – Assault with Deadly Weapon - Verbal dispute; suspect struck and kicked victim.
7. October 27, 2002, 2:30 a.m. – Investigative Report – Criminal Threat - Suspect(s) threatened victim with bodily harm.

8. November 30, 2002, 3:45 a.m. – Investigative Report – Battery - Suspect (security guard at Habibi Café) grabbed and pulled victim.
9. July 14, 2003, 1:00 p.m.- Investigative Report – Battery - Verbal dispute; suspect struck victim's (identified himself as owner of business) arm and fled south bound on Broxton Avenue.
10. July 19, 2003, 4:00 a.m. – Investigative Report – Assault with Deadly Weapon – Verbal dispute; suspect hit victim on head; suspect(s) hit victim with tables and chairs.
11. September 15, 2003, 11:20 p.m. – Investigative Report – Assault with Deadly Weapon - Suspect (transient) placed hands around victim's neck, strangled victim and made verbal threats.
12. December 25, 2005, 1:40 a.m. – Homicide - Decedent shot one time in head with .45 cal bullet (GSW to the head); expired January 27, 2007.
13. December 27, 2005 – Follow-up Investigation - Follow-up report to original December 25, 2005 report.
14. January 10, 2006 - Follow-up Investigation - Follow-up report to original December 25, 2005 report.
15. February 16, 2006 – Follow-up Investigation - Follow-up report to original December 25, 2005 report.
16. August 5, 2007, 3:00 a.m. – Investigative Report – Battery - Suspect punched victim in face.
17. January 23, 2010, 2:00 a.m. – Investigative Report – Assault with Deadly Weapon – Suspect(s) stabbed victim with sharp objects and fled in an unknown direction.
18. September 2, 2010, 3:10 a.m. – Investigative Report – Battery - Suspect punched victim in face.
19. October 11, 2010, 8:50 p.m. - Arrest Report – Criminal Threats – Suspect threatened to kill victims, burn business, and shoot everyone at subject location.
20. March 17, 2011, 5:00 a.m. – Investigative Report – Battery - Verbal dispute; suspect strangled victim around her neck.
21. September 18, 2011, 4:00 a.m. – Investigative Report – Battery - Suspect punched victim and fled (café not equipped w/ video cameras when crime occurred).
22. August 16, 2012, 12:35 a.m. – Investigative Report – Battery - Disputes between victim and suspect(s) (Habibi Café manager and employee) regarding unpaid bill; victim stated suspect(s) chased him down, poked him with stick, and punched him in face.
23. September 22, 2012, 1:10 a.m. - Property Report - Café allowed smoking inside restaurant and sold single packs of cigarette (counterfeit product); VIP room had DJ; patrons dancing; business served food and allowed patrons to smoke cigarettes inside location.
24. November 11, 2012, 1:30 a.m. - Property Report - Alcohol (vodka contained in clear sample bottle) recovered at location.
25. July 7, 2013, 4:15 a.m. – Investigative Report – Felony Vandalism - Suspect(s) damaged victims' vehicles with sharp object and fled.
26. October 21, 2013 – Follow-up Investigation - (follow up report to original July 7, 2013 report regarding vandalism).

27. July 31, 2015, 10:30 p.m. – Complaint Application - Simultaneous inspections for tobacco compliance check: Gypsy Café (940 Broxton) & Habibi Café (923 Broxton). Violations at Habibi Café: illegal indoor smoking in work place, illegal smoking by patron in outdoor dining area, customers consuming food while smoking hookah.
28. March 18, 2016, 1:00 a.m. – Investigative Report – Battery - Suspect (transient) walked up to victim (waiter for Habibi Café) and slapped victim on face.
29. April 19, 2017, 2:30 a.m. Investigative Report – Grand Theft - Suspect stole victim's cell phone and cash.
30. December 3, 2017, 4:40 a.m. – Investigative Report – Defrauding an Innkeeper - Suspects fled without paying bill (food and hookah purchases).
31. May 1, 2018, 12:01 a.m. – Investigative Report – Lost Property - Victim lost pocket knife.
32. November 2, 2018, 8:00 p.m. Arrest Report – Violation of Protective Order – Suspect violated restraining order by arriving at victim's work.
33. November 17, 2018, 4:30 a.m. Investigative Report – Battery - Suspect headbutted the victim.
34. February 23, 2019, 3:30 a.m. – Investigative Report – Battery – Suspects approached victim from behind and began to assault him. The suspects fled in an unknown direction.
35. February 24, 2019, 3:30 a.m. – Investigative Report – Battery - Suspect(s) assaulted victim and fled.
36. March 29, 2019, 10:30 a.m. – Investigative Report – Vandalism – Suspect attempted to punch a customer and yelled at the suspect. Suspect became enraged and smashed the glass table with an ash tray.
37. June 9, 2019, 2:00 a.m. – Investigative Report – Battery – Suspect and victim were in a verbal argument. The suspect punched the victim in the face and fled south bound on Broxton in a vehicle.
38. July 27, 2019, 3:35 a.m. – Investigative Report – Battery – Verbal dispute; suspect slapped victim and fled.
39. July 28, 2019, 4:40 a.m. – Investigative Report – Battery - Verbal dispute; suspect punched victim in mouth.
40. January 20, 2020, 1:45 a.m. – Investigative Report – Battery - Suspect punched victim in face.
41. February 2, 2020, 3:00 a.m. – Investigative Report – Robbery – Victim and her friend met the suspects at Habibi Café and two unknown females wanted to fight them. The females walked across the street to the parking lot and a fight broke out. A suspect fired shots and the victim attempted to flee in a car with an unknown individual. The victim escaped but a suspect grabbed the victim and the other suspect used force to take her keys.
42. February 4, 2020 – Follow-up Investigation and Property Report – Robbery – Follow up report to original February 2, 2020 report.
43. July 20, 2020 – Follow-up Investigation – Robbery – Follow up report to original February 2, 2020 report.
44. August 11, 2020, 12:40 a.m. – Investigative Report – Vandalism - Suspect fired two rounds at victim's vehicle causing damage.

45. August 22, 2020, 3:39 a.m. – Investigate Report – Assault with Deadly Weapon – Suspects and victim had a verbal altercation. Suspects shot the victim causing the suspects to flee to an unknown location.
46. August 28, 2020, 7:30 p.m. – Compliant Application/Notice to Appear – Violations related to: Los Angeles Administrative Code 8.77 Violation of Local Emergency Order; Los Angeles Municipal Code Section 41.50 (B)(2)(C) Smoking in outdoor dining area; Los Angeles Municipal Code Section 41.50C.1 failure to post “No Smoking” signs in outdoor dining area; Los Angeles Municipal Code 56.08 property owner obstructing sidewalk; Los Angeles Municipal Code 41.18(a) obstructing sidewalk with less than 3 feet of clearance; and Los Angeles Municipal Code 116.01 loud, unnecessary and unusual noise anytime.
47. September 4, 2020, 12:55 a.m. – Compliant Application – Violations related to: Los Angeles Municipal Code Section 41.50C.1 failure to post “No Smoking” signs in Outdoor Dining Area and Los Angeles Municipal Code Section 41.50(B)(2)(C) Smoking in Outdoor Dining Area.
48. September 10, 2020, 11:25 p.m. – Compliant Application – Violations related to: Los Angeles Administrative Code 8.77 Violation of Local Emergency Order; Los Angeles Municipal Code Section 41.50C.1 failure to post “No Smoking” signs in Outdoor Dining Area and Los Angeles Municipal Code Section 41.50(B)(2)(C) Smoking in Outdoor Dining Area.
49. September 18, 2020, 12:20 a.m. – Compliant Application – Violations related to: Los Angeles Administrative Code 8.77 Violation of Local Emergency Order; Los Angeles Municipal Code Section 41.50C.1 failure to post “No Smoking” signs in Outdoor Dining Area and Los Angeles Municipal Code Section 41.50(B)(2)(C) Smoking in Outdoor Dining Area.
50. September 25, 2020, 12:00 a.m. – Compliant Application - Violations related to: Los Angeles Administrative Code 8.77 Violation of Local Emergency Order; Los Angeles Municipal Code Section 41.50C.1 failure to post “No Smoking” signs in Outdoor Dining Area and Los Angeles Municipal Code Section 41.50(B)(2)(C) Smoking in Outdoor Dining Area.
51. April 20, 2021, 5:00 p.m. – Officer Declaration – Officer Garcia conducted four site investigations at the subject property on: August 27, 2020, September 3, 2020, September 10, 2020, and September 18, 2020 and found violations related to the Mayor’s Stay at Home COVID-19 Order, servicing alcohol without an ABC license, tables blocking sidewalk and parking spaces, not enforcing social distancing, security guard not wearing masks, amplified music, and serving food and hookah (LAMC 41.50(B)(2)(c) violation).

Calls for Service: There were 190 calls for service submitted for the property located at 923 Broxton Avenue, between February 22, 2003 and October 10, 2020.

No.	Date	Time	DESCRIPTION
1	02/22/03	11:33 PM	DISTURBANCE
2	12/30/03	11:36 PM	DISTURBANCE
3	12/31/04	9:11 PM	DISTURBANCE
4	07/29/05	11:57 PM	BATTERY
5	12/22/10	2:48 AM	THEFT

6	01/01/11	9:40 AM	DEATH AMBULANCE ER INVESTIGATE
7	01/04/11	10:34 PM	OFFICER REPORTING
8	01/14/11	12:15 PM	BURGLAR ALARM
9	02/24/11	1:01 PM	MENTAL ILLNESS DISTURBANCE
10	03/23/11	4:39 AM	ASSAULT WITH DEADLY WEAPON
11	05/10/11	7:35 AM	THEFT
12	05/11/11	11:03 AM	OTHERS
13	07/24/11	3:46 AM	ASSAULT WITH DEADLY WEAPON
14	08/04/11	11:51 PM	DISTURBANCE
15	09/18/11	4:17 AM	BATTERY
16	10/09/11	10:15 PM	OTHERS
17	10/09/11	10:15 PM	DISPUTE BUSINESS
18	10/10/11	12:23 AM	PROWLER TRESPASSING
19	10/27/11	9:49 PM	VANDALISM
20	10/30/11	4:34 AM	DISPUTE BUSINESS
21	12/05/11	11:32 PM	BATTERY
22	03/25/12	4:12 AM	DISTURBANCE / FIGHT
23	06/11/12	11:58 PM	DISTURBANCE
24	06/12/12	3:21 AM	DISPUTE BUSINESS
25	06/13/12	2:14 AM	DISTURBANCE
26	06/14/12	2:22 AM	DISTURBANCE
27	07/12/12	10:20 PM	BURGLAR ALARM
28	08/16/12	3:45 AM	OTHERS
29	09/09/12	9:04 PM	NARCOTICS
30	09/29/12	4:19 AM	DISTURBANCE GROUP
31	10/03/12	7:00 PM	ASSAULT WITH DEADLY WEAPON
32	11/10/12	11:18 PM	OFFICER REPORTING
33	12/09/12	3:43 AM	ASSAULT WITH DEADLY WEAPON
34	12/09/12	3:45 AM	DISTURBANCE GROUP / FIGHT
35	12/13/12	11:08 PM	OFFICER REPORTING
36	02/18/13	2:09 AM	THEFT
37	03/03/13	4:07 AM	PROWLER
38	05/26/13	3:34 AM	THEFT
39	06/22/13	1:06 AM	DISTURBANCE
40	07/02/13	11:00 PM	DISTURBANCE
41	07/07/13	4:38 AM	VANDALISM
42	07/21/13	12:51 AM	CHILD ALONE
43	08/25/13	2:32 AM	THEFT
44	08/27/13	7:20 PM	DISTURBANCE
45	09/06/13	11:08 PM	DISTURBANCE
46	09/08/13	3:44 AM	THEFT
47	09/11/13	9:57 PM	DISTURBANCE
48	10/29/13	9:36 PM	DISTURBANCE
49	11/09/13	2:41 AM	DISPUTE BUSINESS
50	11/09/13	2:26 AM	DISPUTE BUSINESS

51	11/23/13	2:49 AM	DISPUTE BUSINESS
52	12/14/13	1:18 AM	ASSAULT WITH DEADLY WEAPON
53	02/10/14	9:00 PM	DISTURBANCE
54	03/29/14	4:23 AM	DISPUTE BUSINESS
55	06/04/14	8:21 AM	BURGLAR ALARM
56	06/13/14	10:43 PM	INTOXICATION IN VEHICLE
57	06/20/14	1:23 AM	VANDALISM
58	07/13/14	2:20 AM	DISTURBANCE
59	08/29/14	1:09 PM	BURGLAR ALARM
60	10/11/14	12:07 AM	OFFICER REPORTING
61	04/03/15	2:19 AM	DISPUTE BUSINESS
62	04/22/15	12:36 AM	ASSAULT WITH DEADLY WEAPON
63	06/05/15	1:21 AM	DISPUTE BUSINESS
64	07/31/15	5:18 AM	DISTURBANCE
65	08/12/15	8:45 PM	BATTERY
66	08/16/15	4:19 AM	DISTURBANCE GROUP FIGHT
67	08/19/15	2:10 AM	BATTERY
68	10/03/15	2:41 AM	ASSAULT WITH DEADLY WEAPON
69	12/20/15	2:30 AM	THEFT
70	01/13/16	3:14 AM	DISTURBANCE / FIGHT
71	01/19/16	1:12 AM	DISTURBANCE
72	02/19/16	1:08 PM	BURGLAR ALARM
73	03/13/16	10:19 AM	DISTURBANCE
74	03/18/16	1:06 AM	BATTERY
75	03/20/16	4:48 AM	ASSAULT WITH DEADLY WEAPON
76	03/20/16	5:58 AM	ASSAULT WITH DEADLY WEAPON
77	03/28/16	6:20 PM	DISPUTE BUSINESS
78	04/03/16	5:02 AM	DISTURBANCE / FIGHT
79	04/16/16	4:42 AM	ASSAULT WITH DEADLY WEAPON
80	07/09/16	1:23 AM	THEFT
81	07/16/16	4:21 AM	BATTERY
82	07/19/16	12:01 PM	DISTURBANCE
83	07/19/16	5:00 PM	VANDALISM
84	08/01/16	2:50 AM	DISTURBANCE
85	09/25/16	7:37 AM	DISTURBANCE
86	12/29/16	12:49 AM	DISTURBANCE
87	12/30/16	1:38 AM	VANDALISM
88	01/07/17	3:15 AM	DISTURBANCE
89	01/14/17	12:22 AM	DISTURBANCE
90	03/09/17	6:51 PM	DISTURBANCE
91	04/15/17	3:19 AM	ASSAULT WITH DEADLY WEAPON
92	04/19/17	2:38 AM	DISPUTE
93	06/11/17	2:57 AM	DISTURBANCE / GROUP / FIGHT
94	06/11/17	7:17 PM	DISTURBANCE
95	06/11/17	7:14 PM	DISTURBANCE

96	08/20/17	3:08 AM	THEFT
97	09/10/17	8:13 PM	BURGLAR ALARM
98	10/23/17	4:17 AM	BATTERY
99	11/19/17	3:14 AM	BURGLAR ALARM
100	12/03/17	4:45 AM	THEFT
101	02/22/18	11:47 PM	ASSAULT WITH DEADLY WEAPON
102	03/05/18	3:39 AM	THEFT
103	03/09/18	3:14 AM	DISTURBANCE
104	03/16/18	3:48 AM	DISTURBANCE
105	03/28/18	10:53 PM	DISTURBANCE
106	05/03/18	2:26 AM	DISTURBANCE
107	06/11/18	11:15 PM	THEFT
108	06/14/18	3:17 AM	DISTURBANCE GROUP
109	07/04/18	12:48 AM	INJURY AMBULANCE E/R
110	07/04/18	11:39 PM	DISTURBANCE
111	07/18/18	8:55 PM	DISTURBANCE
112	07/20/18	10:32 PM	BATTERY
113	07/21/18	5:28 AM	NARCOTICS
114	07/26/18	3:43 PM	DISTURBANCE
115	07/26/18	11:03 PM	PROWLER TRESPASSING
116	07/26/18	11:06 PM	PROWLER TRESPASSING
117	08/28/18	6:15 AM	BATTERY
118	09/15/18	3:35 AM	BOMB THREAT
119	09/15/18	4:24 AM	DISPUTE BUSINESS
120	09/27/18	12:13 PM	BURGLAR ALARM
121	09/28/18	1:02 AM	ASSAULT WITH DEADLY WEAPON
122	09/28/18	1:02 AM	DISTURBANCE GROUP
123	09/29/18	4:11 PM	BURGLAR ALARM
124	11/02/18	6:07 PM	DISPUTE BUSINESS
125	11/02/18	6:42 PM	DISPUTE BUSINESS
126	12/13/18	3:31 AM	MEET FIRE DEPT
127	12/18/18	1:58 AM	DISTURBANCE
128	12/20/18	12:46 AM	PROWLER TRESPASSING
129	01/19/19	4:40 AM	BATTERY
130	02/06/19	11:21 PM	DISTURBANCE
131	03/02/19	7:58 AM	BURGLAR ALARM
132	03/05/19	11:48 PM	ASSAULT WITH DEADLY WEAPON
133	03/29/19	5:56 AM	INTOXICATION IN VEHICLE
134	03/29/19	10:21 AM	VANDALISM
135	04/21/19	4:30 AM	OFFICER REPORTING
136	04/23/19	2:56 PM	BURGLAR ALARM
137	05/15/19	5:54 PM	DISTURBANCE
138	06/06/19	3:01 PM	BURGLAR ALARM
139	06/23/19	1:57 AM	ASSAULT WITH DEADLY WEAPON
140	07/27/19	3:57 AM	BATTERY

141	07/28/19	4:29 AM	DISTURBANCE / GROUP
142	09/29/19	5:52 PM	BATTERY
143	10/20/19	3:05 AM	DISTURBANCE GROUP FIGHT
144	11/10/19	3:36 PM	DISTURBANCE
145	11/11/19	11:23 PM	ASSAULT WITH DEADLY WEAPON
146	11/12/19	6:28 PM	DISTURBANCE
147	11/17/19	10:56 PM	BATTERY
148	11/21/19	1:28 AM	BURGLAR ALARM
149	01/17/20	6:56 PM	BATTERY
150	01/18/20	1:54 AM	BATTERY
151	01/25/20	8:13 PM	DISTURBANCE
152	01/31/20	12:29 AM	DISTURBANCE
153	02/02/20	3:21 AM	ASSAULT WITH DEADLY WEAPON
154	02/03/20	10:56 PM	OFFICER REPORTING
155	02/09/20	1:04 AM	IMPERSONATING OFFICER
156	02/10/20	9:04 PM	DISTURBANCE
157	02/15/20	3:38 AM	ASSAULT WITH DEADLY WEAPON
158	02/23/20	7:18 AM	DISTURBANCE
159	02/23/20	8:56 AM	DISTURBANCE
160	05/05/20	10:37 AM	DISTURBANCE
161	05/19/20	6:23 AM	ASSAULT WITH DEADLY WEAPON
162	05/20/20	11:58 AM	BATTERY
163	05/21/20	8:38 AM	BATTERY
164	05/29/20	5:52 PM	PROWLER TRESPASSING
165	06/17/20	1:29 AM	OFFICER REPORTING
166	06/20/20	2:12 AM	DISPUTE BUSINESS
167	06/27/20	2:53 AM	DISTURBANCE GROUP
168	06/27/20	4:50 AM	ROBBERY
169	07/01/20	3:54 AM	ASSAULT WITH DEADLY WEAPON
170	08/10/20	2:51 AM	ASSAULT WITH DEADLY WEAPON
171	08/12/20	7:44 PM	OFFICER REPORTING
172	08/22/20	3:39 AM	ASSAULT WITH DEADLY WEAPON
173	08/22/20	3:42 AM	ASSAULT WITH DEADLY WEAPON
174	08/22/20	7:57 PM	OFFICER REPORTING
175	08/22/20	3:40 AM	SHOTS FIRED HEARD ONLY
176	08/22/20	3:43 AM	ASSAULT WITH DEADLY WEAPON
177	08/27/20	10:38 PM	OFFICER REPORTING
178	08/28/20	5:22 AM	OFFICER REPORTING
179	08/28/20	7:44 PM	OFFICER REPORTING
180	09/02/20	12:41 AM	OFFICER REPORTING
181	09/07/20	3:47 AM	OFFICER REPORTING
182	09/08/20	8:15 PM	OFFICER REPORTING
183	09/13/20	11:49 PM	OFFICER REPORTING
184	09/14/20	8:50 PM	OFFICER REPORTING
185	09/14/20	11:36 PM	OFFICER REPORTING

186	09/15/20	3:10 AM	OFFICER REPORTING
187	09/17/20	1:57 PM	BATTERY
188	09/17/20	11:33 PM	OFFICER REPORTING
189	09/17/20	11:33 PM	OFFICER REPORTING
190	10/10/20	1:04 AM	OFFICER REPORTING

University of California at Los Angeles Police Department submitted the following reports:

On-Site:

Incident/Investigation Reports: There were 6 incident/investigation reports, submitted for the subject property (923 Broxton Avenue) between June 5, 2018 and April 26, 2021.

1. June 5, 2018, 12:14 p.m. – Incident/Investigation Report – Battery – The victim was sitting in front of the subject business. Suspect punched the victim several times and wrapped his arm around the victim.
2. June 23, 2019, 1:58 a.m. – Incident/Investigation Report – Criminal Threat – Suspect threatened business owner with a gun and told him he was going to kill him. The suspect was charged with two counts of criminal threats.
3. February 2, 2020, 3:07 a.m. – Incident/Investigation Report – Assault with Deadly Weapon – Gunshots were fired outside of the subject business.
4. August 10, 2020, 1:00 p.m. – Incident/Investigation Report – Obstruction of Peace – A traffic accident occurred after shots were fired.
5. September 12, 2020, 12:24 a.m. – Incident/Investigation Report – Driving Under the Influence – Suspect was arrested on driving under the influence.
6. April 26, 2021, 7:49 a.m. – Incident/Investigation Report – Driving Under the Influence – Suspect had a drink with dinner at the subject business.

Event Reports: There were 8 event reports submitted for the subject property (923 Broxton Avenue) between January 26, 2018 and September 17, 2020 related to disturbing the peace, assault with deadly weapon, possession of firearm, fight, suspicious circumstances.

Comments from the Public

On May 12, 2021, a representative from the Westwood Neighborhood Council submitted a motion that was unanimously passed requesting to terminate and revoke the subject use in Westwood Village. The issues discussed were: safety, security, hours of operation, music, entertainment, chairs and tables occupying the sidewalk, and gas heaters in the alley.

On May 12, 2021, a letter was submitted from the Westwood Village identified the following issues related to the subject business: graffiti, paint damage, windows, vehicle parking, mobile strip club, litter, public drinking, smoking, urine, tables and chairs beyond the premises, and verbal and physical altercations.

### Comments from the Operator's Manager and Operator's Representative

On May 11, 2021, the Habibi Café submitted a letter with pictures responding to the Los Angeles Police Department Calls for Service and police reports (Arrests/Investigative Reports) and offered measures to address the violations, security, and tobacco food laws.

On May 12, 2021, the Habibi Café Representative requested to keep the record open for at least 30 days.

### **PUBLIC HEARING**

In response to the allegations of nuisance impacts, the Office of Zoning Administration initiated proceedings to conduct a public hearing in order to obtain testimony from the owner/operator of the facility and interested or affected persons regarding the operation of Habibi Café. The hearing was noticed and mailed to the business operator of the facility and to the property owner of the premises and to owners and occupants of nearby properties within 500 feet, in compliance with Municipal Code requirements.

A public hearing was held by a Zoning Administrator on May 19, 2021 at 10:00 a.m. remotely in conformity with the Governor's Executive Order N-29-20 (March 17, 2020). In attendance and testifying were members of the Los Angeles Police Department, a Planning Deputy for Councilmember Paul Koretz, 5th District, representative of the business owner, business manager, and members of the community.

The purpose of the hearing was to obtain testimony from the owner/operator of the subject facility and from any other affected or interested parties regarding the operation of the retail/restaurant to determine whether the use constitutes a public nuisance or has resulted in repeated nuisance activities, and to determine whether Conditions should be imposed on the operation of the premises. The Director of Planning has the authority under Section 12.27.1 of the Municipal Code to impose Conditions on the operation of an existing business to mitigate any land use impacts caused by the operations of such use.

Prior to opening the hearing to public testimony, the Department of City Planning staff investigator presented a summary of background information and the staff investigation regarding the subject site. The presentation was a summary of the staff report, which is included in the case file.

The following is a summary of the remaining testimony provided at the public hearing:

#### Martin Wolf – Operator's Representative

- The LAPD Police Report October 20, 2020, summary shows one call per month generated, small number of violations based on their opening and put it into context. The Zoning Administrator responded that he acknowledges that some of the crime data in the report does not have relevance. For example, a Driving Under the Influence charge should not be related since the subject business does not serve alcohol.

- I made two requests to continue the hearing based on availability and conduct additional investigation and was denied. I'm requesting at least an additional 30 days to submit . The Zoning Administrator granted 60 days after the hearing.
- Based on summary of the calls are unrelated to the business.
- You will have similar crime at other similar business
- Things take place and can be political involvement with for example of Floyd shooting.
- Habibi Café is one of few businesses that have survived during the pandemic.
- The violations are small.
- There have been changes regarding law enforcement where LAPD budgets have been diminished.
- There should be reasonable time for compliance as the operator wants to comply fully.
- Habibi Café serves the UCLA and UCLA Medical Center community.
- There is a homeless problem in Westwood. The operator called LAPD to work with the law enforcement to create a partnership and ensure public safety in Westwood.
- There should be a security zone, paid by UCLA in Westwood similar to the area around University of Southern California consisting of security guards patrolling the area.
- This business is being singled out because of the national origin or the type of customers.
- The night before, at Sushi Fumi, 359 North La Cienega Boulevard, there were politically motivated individuals and a fight ensued.
- The Zoning Administrator explained that he wants to hear from the representative or operator about the mode and character because based on the pictures with hookah smoking, entertainment it is creating a club-like atmosphere. Please provide comments regarding the security, live entertainment, smoking feature, hours of operation improvements to address the nuisances.
- Mr. Wolf explained that while the atmosphere may create a club-like atmosphere, hookah smoking, belly dancers is part of a Middle Eastern Culture.
- Sahi Fathi: in business for over 20 years and attracts professional athletes, musicians, and political leaders from around the world. The other businesses in Westwood benefit because Habibi Café customers patronize the adjacent businesses. I will bring the business into compliance
- A lot of the LAPD police reports are related to the homeless issue. I've tried to be proactive about reporting the crime.
- I feel that my business is a target of concern. Overall, crime has increased.
- I have the proper permits to serve hookah on the premises. There is no strip-club or belly dancing at my business.
- I have tried hard to build my business and there are over 70 percent of the stores are vacant in Westwood.
- I own three other businesses on the same block. I've allowed other people to bring their food.
- Business operation hours on Friday and Saturday are from 10:00 a.m. to 4:00 a.m. and Sunday through Thursday 10:00 a.m. to 3:00 a.m.

- Two security guards are on-site during the weekday, from 9:00 p.m. to 3:00 a.m. and four security guards are on-site during the weekend, from 9:00 p.m. to 4:00 a.m.
- The Zoning Administrator clarified to Mr. Fathi that the City of Los Angeles is not singling out the subject business, but wants to verify that hookah smoking is allowed. Therefore, Mr. Fathi will submit a copy of the hookah smoking permit to the Project Planner. It should be noted that Mr. Fathi did not submit a hookah smoking permit to Planning Staff.

Los Angeles Police Department Vice – Hugo Velazco

- An officer for nine years and assigned to the Los Angeles Police Department West Los Angeles Vice Unit.
- My duties include criminal investigations, Los Angeles Municipal Code violations, ABC investigations, tobacco enforcement, and other quality of life issues.
- I've received formal training related to alcohol related issues such as over-serving of alcohol and liquor violations.
- The West Los Angeles Vice Unit initiated a formal investigation of the Habibi Café based on the following incidents:
  - On August 22, 2020, 0330 hours, two males were in a verbal dispute in the subject premises and returned with a handgun, firing multiple rounds, striking the victim in the abdomen. After the incident, officers met with the manager to discuss the security plan and customer safety. Officers conducted undercover operations related to underage drinking, tobacco sales to minor, and tobacco permit inspections. Officers wanted to also ascertain if the subject operations was a gang hangout.
  - On August 27, 2020, 2200 hours, an undercover operations was conducted and observed 150 patrons waiting outside the business and observed three security guards, which they did not ask the patrons to socially distance. Also, the patrons were seated with tables blocking the sidewalk and the security guards directed people to walk on the street. Loud music was playing from the subject operations and can be heard in excess of 300 feet away. The patrons were being served food and hookah. LAPD Officers confirmed with Los Angeles Department of Transportation that the subject business did not have a valid Al Fresco dining permit. LAPD issued a citation for the following violations: Mayor's Executive Order, smoking in outdoor area, no smoking signs in outdoor area, property owner obstructing sidewalk, obstructing of sidewalk without three feet clearance, and loud music.
  - On August 30, 2020, 1930 hours, Los Angeles Police Department conducted an investigation of the operations to determine if they had a valid Al Fresco Permit. The business owner, Mr. Fathi failed to produce an Al Fresco Permit and also stated that he owns another café across the street, 940 Broxton Avenue.
  - On September 3, 2020, 2345 hours, Los Angeles Police Department conducted an undercover investigation and the officers were served food and hookah outside. The officers did not see posted "No Smoking" signs in the dining area. LAPD issued a compliant for smoking in the outdoor area and no smoking posted signs in the outdoor dining area.

- On September 10, 2020, 2320 hours, Los Angeles Police Department conducted an undercover investigation and saw that the security guards were not wearing their masks. The officers as well as other patrons were served simultaneously food and hookah. LAPD issued a complaint for smoking in the outdoor area, no smoking posted signs in the outdoor dining area, and violation of Mayor's Executive Order.
- On September 18, 2020, 0020 hours, Los Angeles Police Department conducted an undercover investigation and observed 30 patrons sitting outside with eight patrons (unmasked) waiting for a table. Officers and other patrons were served food and hookah simultaneously. Officers observed that patrons were served alcohol (two bottles of vodka). A complaint was generated for smoking in the outdoor dining area, no smoking posted signs, and violation of Mayor's Executive Order.
- On September 24, 2020, 2330 hours, Los Angeles Police Department conducted an undercover investigation and observed an intoxicated female with a clear plastic cup which appeared to be alcohol. Officers and customers were served with food and hookah simultaneously. A complaint was generated for smoking in the outdoor dining area, no smoking posted signs, and violation of Mayor's Executive Order.
- On October 9, 2020, 2200 hours, Los Angeles Police Department conducted an undercover investigation and served simultaneously food and hookah. Building and Safety issued an Order to Comply for various building compliance issues and the security guard did not have a security guard card.
- During our investigations, officers observed patrons bringing in alcohol beverages into the subject business. Officers also observed intoxicated individuals drinking in the adjacent parking lot and entering into Habibi Café.
- Although the operator stated that he does not have belly dancing at his business, the officer showed pictures of belly dancers from the Habibi Café social media account.

#### Los Angeles Police Department Vice Detective Dana Harris

- Assigned to the Gang and Narcotics Citywide Nuisance Abatement Unit. He oversees narcotics and nuisance investigations citywide and ensures that there is a partnership between officers and the business as well as the community.
- Habibi Café according to citizens, has been a problematic location for years resulting in complaints to the West Los Angeles Police Division.
- On August 22, 2020, 0340 hours, two males were in a verbal dispute that spilled into the street and the suspect fired a gun, striking the victim twice in the torso and listed in critical condition. This incident as well as other complaints led to the attention of West Los Angeles Police Command Staff, City Planning, Building and Safety and Alcohol Beverage Control.
- As part of the investigation is to review the calls for service and Habibi management contacted the Los Angeles Police Department regarding crime. However, there is a high number of calls for service associated with Habibi Café, since this is considered a restaurant.

- West Los Angeles Police Command Staff, Vice Unit, and Senior Lead Officers have met and spoke with Habibi Café management and identified deficiencies in their operation and remain uncompliant.
- In reviewing the 47 Calls for Service, in 2001, from 10:00 p.m. to 6:00 a.m., there were 20 Calls for Service that include: robbery, battery, criminal threats, assault with a deadly weapon, murder, and grand theft.
- This location is in desperate need to attention.
- The hours of operation as stated is open until 4:00 a.m. and Denny's is the only restaurant that is open that late. Recommend that they open Sunday through Thursday, from 11:00 a.m. to 10:00 p.m. and Friday and Saturday, from 11:00 a.m. to 12:00 a.m. (midnight), with no afterhours use other than routine cleanup. No alcohol should be allowed or maintained on the premises and adjacent parking lot. If they bring alcohol on the premises, management should curtail this activity and advise them they are no longer welcome. Any private events should be subject to the same hours of operation. No employee while working at this establishment shall accept compensation for the purpose of spending time with patrons. No booth or group seating shall be installed that hinders observation of the occupants. Age verification devices for the sale of tobacco shall be installed. All security shall be state licensed and registered with the Los Angeles Police Commission as well as maintain an active red cross first-aid card. Security personnel should be in uniform and readily identifiable to patrons and law enforcement. The applicant shall prepare a security plan for review by the Los Angeles Police Department. All security personnel shall maintain order and prevent activity that would interfere with the enjoyment of the property. Security personnel shall have patron exit of the eastbound door only and monitor the crowd forming at the venue. Security shall prevent loitering and provide staff assistance escorts when business is closed. There shall be no tobacco sales on the sidewalk. The alleyway is prohibited from entry to the venue and the front door should be used. I've observed patrons using the side door that spilled out to the alleyway creating a nuisance for the community. Trash on the premises shall be removed immediately. The business should adhere to the Westwood Specific Plan. For live entertainment or special event, a request shall be made through the Los Angeles Police Department Commission Investigation as well as other appropriate permits. There shall be no amplified music from this business and noise shall comply with the Los Angeles Municipal Code.
- We are here because of public safety issues attributed by the subject business.

Los Angeles Police Department Sergeant – Scott Alpert

- In charge of the West Los Angeles Police Department Community Relations Office.
- The Habibi Café has been an on-going problem for the community as we have received e-mails and phone calls from citizens. Previously we focused on radio (phone) calls, but we have received the same number of e-mails. There is a fear of retaliation among citizens contacting the police about the subject business.

Los Angeles Police Department Senior Lead Officer – Pete Ojeda

- Been in the West Los Angeles Division for 17 years and one year in the Westwood area.

- In reaching out to the community, was unable to get an impact statement because they feared retaliation.

#### Los Angeles Police Department Captain – Jonathan Tom

- Captain for 5 years and 25 years with Los Angeles Police Department.
- We received conversations, texts, e-mails, phone calls from the community regarding this location.
- As mentioned earlier by other Los Angeles Police Department speakers, there is a variety of calls from this location that results in police officers not responding to another location (increase in response time).
- From what I've heard, the clientele can be dangerous, community is scared, businesses in the area have closed because of the issues that were raised.
- Not looking to shut this business down. We're looking for reasonable imposed conditions on the business to help operate in a safe manner, reduce police responses associated with the operation, and keep the community safe.

#### University of California Police Department Sergeant - Andrew Ikeda

- Assigned to the Detective unit the last four years and have been at UC Police Department for 25 years
- In reviewing UC Police Department Calls for Service over three years, we responded to 12 calls for service that ranged from assault with a deadly weapon, criminal threats, peace disturbance, driving under the influence, and shots fired. Just as Detective Harris stated earlier, there are a number of reports of peace disturbances and physical conflicts as late as 3 or 4 a.m.
- In regards to shots fired in the area, on February 2, 2020, 3:06 a.m. a UCLA PD officer was on Gayley and Le Conte and heard six shots. He immediately went to Habibi Café since that is the only business open that late. Witnesses were pointing across the street at the parking lot and smelled the discharge of a firearm. He encountered two suspects that were pepper sprayed and pointed towards Haibibi Café. Six females were also pepper sprayed by male individuals. Officers located 9 millimeter casings and stolen handgun. The next day, we responded to someone from the Bank of America, located at 924 Westwood Boulevard as they found a bullet hole on the fifth floor.
- Another shots fired incident was on August 10, 2020 that occurred on Gayley and Young Drive South near the UCLA Medical Center as officers heard a traffic collision. The suspects attempted to evade the officers and threw the gun in the bush. The suspects claim they were coming from the Habibi Café.
- In regards to the driving under the influence, the driver reported that he came from the Habibi Café.

#### City Attorney Office Tobacco Enforcement Supervisor – Celina Porras

- There is no hookah permit, but the city has a tobacco retailers permit that allows for the sale of tobacco that includes hookah. It does not allow for consumption in unlawful areas such as a restaurant. If you are a cigar or smokers lounge, smoking would be permissible as you are not violating state law. However, a restaurant that serves food (food facility) cannot be a smokers lounge under State law. Additionally, outdoor smoking is regulated by the Los Angeles Municipal Code that prohibits smoking at outdoor dining areas.

- In this case, this restaurant is selling hookah and purports to be a smoking lounge. Therefore, it is illegal under state law.
- The Zoning Administrator explained that there are smoking lounges throughout the City. There are hookah lounges that do not have a permit or used as a private members club and several hookah lounges are illegal.
- Any hookah lounge that does not serve food or alcohol is permissible.
- The Zoning Administrator stated that we could not find any smoking permits at this location and the hookah smoking is therefore illegal.

#### Westwood Neighborhood Council Vice-President – Sandy Brown

- A motion was made by the Westwood Neighborhood Council voted to terminate and revoke the use.

#### Holmby Westwood Neighborhood Properties Association President – Sandy Brown

- Requests to discontinue the Habibi Café as a retail/restaurant establishment.
- Observed gas heaters on the sidewalk and blocking of side alley.
- We are shocked at all the arrests and calls for service.
- The restaurant has been given multiple warnings and have not responded to them.

#### Block by Block Program Manager - Michael Gonzalez

- Block by Block is contracted by the Westwood Village Business Improvement District.
- Submitted a letter to City Planning summarizing his observations: high frequency of graffiti, paint used by Habibi, windows of adjacent businesses are broken often, a lot of broken alcohol bottles are nearby, double parking, vehicles driving recklessly, bad behavior such as drinking in public and smoking, verbal and physical fights, and a mobile strip club parked in front.

#### Westwood Homeowners Association President and Westwood Neighborhood Council – Stephen Resnick

- Habibi Café issues have been known for years.
- There were 190 Calls for Service; 49 arrests/investigative reports.
- There is a history of non-compliance and possible resolution is revoke any permits they have.

#### Westwood Community Council President – Steve Sands

- Lived in Westwood most of his teenage and adult life.
- Businesses on this block are afraid of the operator for fear of retaliation.
- Within the first couple of months of Habibi Café opening, the adjacent owner of the beauty salon complained of noise.
- There are issues of violence associated with Habibi Cafe.
- In 2001, this business took over the sidewalk and alley with tables and chairs which violated the Westwood Village Specific Plan. I've also seen tables and chairs in the gutter and street.
- Observed belly dancers and live music as well as patrons dancing at Habibi Café.
- Opposed to businesses that do not have the proper permits.
- In 2005 and 2020, there was a shooting at Habibi Café.

- In regards to their hours of operation, they've operated almost 24 hours a day.

#### The Beta Institute of Los Angeles Facility Specialist – Zach White

- Based on my observations, within the last 3-5 months, there is a lot more trash (broken bottles) and abuts the subject property.
- There should be more security in the Westwood Village area.

#### Operator Rebuttal – Sharia Shaw

- Worked for 9 years.
- Business has been here for over 20 years and over time made improvements.
- Wants to work with individuals to fix the operations.
- The police reports are not directly related to the subject café. A large part of the crime associated with the business is the transient issue homeless issue and general activity when you have a fun restaurant.
- In regards to City Attorney and City Planning, if it's a matter of a smokers lounge, we are willing to bring everything up to code.
- All of the service calls do not indicate any violent crimes associated with the property.

#### Operator Rebuttal – Saad Fathi

- Tried to correct the issues over the years and bringing in business outside from clients that live outside of the Westwood area.
- Will comply with what the City wants him to do.

#### Representative Rebuttal – Martin Wolf

- Operator has a desire to continue to operate and form a partnership.

At the end of the hearing, the Zoning Administrator will take the case under advisement for 60 days. The mode and character of the subject business is club-like atmosphere and is in violation of the use. There is an abuse of the outdoor dining space and go beyond the building alcove. There are online pictures of a live DJ.

### **WRITTEN COMMUNICATIONS SUBSEQUENT TO PUBLIC HEARING**

#### **Comments from the Operator's Representative**

On July 9, 2021, Martin Wolf, the operator's representative requested an additional 30 days for reasons that he is a sole practitioner and time spent in trial with an existing court case. The operator also wanted to submit additional information. The request was denied and on July 15, 2021 the operator's representative submitted a response explaining that the reports provide little detail and do not connect it with the subject operation. The operator proposed a plan that includes and accepts many of the measures and continue to make changes as needed.

On August 10, 2021 (after the administrative record ended), the operator's manager sent an e-mail explaining that a trash enclosure is infeasible due to the narrow access point and that if an enclosure was constructed, it would hinder the gas meter. She further stated that not every dumpster in Westwood is contained in a trash enclosure.

**Comments from the Los Angeles Police Department**

On August 11, 2021, Los Angeles Police Department sent a letter dated October 20, 2020 recommending to impose 46 operating Conditions.

**Comments from the Los Angeles Office of the City Attorney**

On August 18, 2021 (after the administrative record ended), the Los Angeles Office of the City Attorney submitted an e-mail forwarding the Department of Public Health Environmental Health Specialist site inspection that was conducted on August 17, 2021, and he observed food being served with hookah as well as hookah smoked in the indoor dining area. A copy of the Los Angeles County Retail Food Official Inspection Report was submitted explaining a "critical" violation occurred regarding hands clean and properly washed and gloves used properly.

**FINDINGS AND DISCUSSION**

The subject business, known as Habibi Cafe, consisting of a 3,861 square-foot one-story commercial retail/restaurant, was approved a Design Review and Project Permit Compliance (Case No. DIR-2004-2253-DRB-SPP-1A) for the following: installation of an awning 923 and 925 Broxton Avenue; the remodel of front façade at 925 Broxton Avenue to include an outside patio area; certain existing exterior signage to remain, as well as the addition of minor signage at 923 and 925 Broxton Avenue; and a change of use at 925 Broxton Avenue (expansion of the existing restaurant at 923 Broxton Avenue). A member of the public appealed the decision and on November 14, 2004, however, the West Los Angeles Area Planning Commission denied the appeal and modified the Conditions of Approval and Findings for the operation of Habibi Cafe.

Subsequently, the operation of Habibi Café violated Zoning regulation for unpermitted on-site smoking and alcohol services, and most importantly, over several years the restaurant has generated attempted murder, shootings, homicide, fights, disturbances, stabbing, batteries, assault with deadly weapon, grand theft, trespassing, business disputes, criminal threats, robberies, thefts, and vandalism. Finally, the Los Angeles Police Department submitted investigative, notices to appear, and arrest reports for 51 incidents at 923-925 Broxton Avenue between April 1, 2001, and April 20, 2021. LAPD also documented 190 calls for service submitted for 923-925 Broxton Avenue between February 22, 2003, and October 10, 2020. The amount of crime is extensive, 41 (80 percent) incidents of arrests/investigative reports occurred mostly during the evening/early morning hours from 7:30 p.m. to 5:00 a.m.

In reviewing the Los Angeles Police Department 190 Calls for Service, 100 incidents (52 percent), more than half of the documented crime was related to disturbances/group disturbances (including fights), assault with a deadly weapon, and battery. Of the 100 incidents, more than half were attributed to disturbances/group disturbances (including fights). The LAPD information provided that the operation has an issue related to disturbances and conditions are to be imposed in this determination should address that.

Of the serious incidents that took place at the subject retail/restaurant, on December 25, 2005, there was an argument between Habibi Café customers, which led to a homicide. Two additional gun related incidents occurred on August 11, 2020 and August 22, 2020 which garnered more attention from LAPD, Office of the City Attorney, Council Office, and the public.

During the hearing and in the document submitted July 15, 2021, the representative explained that the nature of smoking hookah is related to Middle Eastern culture. The Los Angeles Municipal Code permits smoking, when the establishment complies with the regulation standards and obtains all proper licenses and permits while conforming to the permitted uses with the underlying zone of the property. However, the operator has failed to produce the proper documentation allowing for hookah smoking for on-site consumption. In addition, the restaurant use in all Zones is not permitted to furnish any ancillary smoking service, therefore, hookah smoking service operated within Habibi Case is a violation of Los Angeles Municipal Code 41.50, Smoking Prohibited in Designated Areas.

At the public hearing, the City Attorney testified that a restaurant that serves food cannot be a smokers' lounge under State law, and that smoking is prohibited in outdoor dining areas. The Los Angeles Police Department reports show that the subject business has repeatedly served food with hookah as far back as September 12, 2012. More recently, Los Angeles Police Department Officer Velazco testified that during undercover investigations they observed that the operator served food with hookah on six occasions within a 45-day period (August 27, 2020 – October 9, 2020). Lastly, on August 18, 2021 (after the administrative record ended), the Los Angeles Office of the City Attorney submitted an e-mail forwarding the Department of Public Health Environmental Health Specialist site inspection conducted on August 17, 2021, and he observed food being served with hookah at the facility as well as hookah smoked in the indoor dining area. The history shows the operator repeatedly violating California and Los Angeles Municipal Code violations and the operator shall not allow customers to smoke any tobacco related products that includes hookah on the premises and the conditions imposed should address this issue.

Based on the evidence on record, it is further determined that the impacts caused by the operator constitute a public nuisance and have led to the subject hearing for nuisance abatement. Accordingly, Conditions have been imposed under this action which address typical operational requirements of a retail/restaurant in order to abate nuisance activities at the site.

The purpose and typical first step in any nuisance abatement proceeding is to establish corrective Conditions to address and curtail those issues which fostered the original nuisance activities. Most of these are related to the nature of the nuisance and to that extent those have been incorporated in this action. A 12- to 18-month review period with a public hearing is established by this action to allow for a future assessment of the retail/restaurant and of compliance with the imposed Conditions. At such time, the nature of the operation and the implementation and effectiveness of the Conditions can be evaluated at a public hearing based on a record that can be documented. The City, the

community, the Habibi Cafe operator, and the property owner will have an opportunity to be vigilant and document compliance as well as non-compliance with the imposed Conditions, and whether the premises continues to be operated in a manner that creates a nuisance to the surrounding community. Any lack of response from the property owner or business owner that results in the continued operation of the retail/restaurant in a manner that adversely impacts the community may result in the revocation of the use of the property as a retail/restaurant at the next public hearing and review. Any efforts to sell the property do not absolve the current ownership from responsibility and accountability.

As presented in the information documented herein through correspondence and public testimony by affected parties, it is determined that the operation of the retail/restaurant known as Habibi Cafe has created nuisance impacts at the site. The Zoning Administrator, on behalf of the Director, finds that the business as operated in the following manner:

1. **Jeopardizes or adversely affects the public health, peace or safety of persons residing or working on the premises or in the surrounding area.**

A Design Review and Project Permit Compliance was originally approved on, the subject property in 2004 under Case No. DIR-2004-2253-DRB-SPP-1A, which allowed for installation of an awning 923 and 925 Broxton Avenue; the remodel of front façade at 925 Broxton Avenue to include an outside patio area; certain existing exterior signage to remain, as well as the addition of minor signage at 923 and 925 Broxton Avenue; and a change of use at 925 Broxton Avenue (expansion of the existing restaurant at 923 Broxton Avenue).

The Habibi Café is located in a 3,861 square-foot one-story commercial retail/restaurant, at 923-925 Broxton Avenue and within the Westwood Planning Area and Westwood Village Specific Plan. The subject business has been associated with the use and the site since February 21, 2001.

Correspondence dated October 20, 2020 from Los Angeles Police Department Detective Support and Vice Division, was received by the City Planning Department Nuisance Abatement/Revocations Unit and indicated as follows:

*Habibi Café is registered as a market and lounge which does not have the provision of selling alcohol on the premises. The lounge is designated as a restaurant and lounge for food service, coupled with the retail sale and smoking of tobacco products (hookah) on premises.*

*Nuisance activity at this particular location consists of persons being reported as "inebriated" on or near the premises. There is also an issue with parking in the alley way which limits the ingress/egress access of response vehicles through the alley.*

*Community complaints for this location have been addressed to both LAPD, the Los Angeles City Attorney's Office and Los Angeles City Council District 11 (signed Declarations pending).*

*Not only are the nuisance related crimes associated with this establishment problematic, but more importantly, there is an element of violence that has now emanated from the nuisance crimes and create a public safety concern for the community.*

*The following crime stats for the location covers a two year period for 923 S. Broxton Ave*

- *ADW Shots Fired*
- *415 Man*
- *Ambulance ADW*
- *Battery Suspects*
- *Robbery Suspects There Now*
- *Domestic Violence*

*Most troubling is the incident from August of 2020, in which patrons from Habibi Lounge became embroiled in a dispute that spilled outside of the restaurant. One male pointed a 9mm pistol at the other, fired the weapon and struck the victim twice in the upper torso.*

*Investigative efforts at this location have revealed that there are sensitive sites near the intersection of Broxton Avenue and Weyburn. These locations are:*

- *University of California at Los Angeles (UCLA)*
- *Veterans Memorial and Hospital*
- *UCLA Medical Center*

*Investigations:*

- *On August 22, 2020, at approximately 0330 hours, two patrons from Habibi's Café engaged in verbal dispute. As the argument became heated, the argument spilled directly outside the restaurant. One of the combatants was obviously intoxicated. The suspect in this incident produced a 09mm semi-automatic pistol and fired twice at the victim (confidential), striking him twice in the upper torso. Victim transported to UCLA Medical Center.*

*Management on premises was explained and provided detail instruction by Sergeant Anthony Choi, Serial No. 35676, regarding violations and the need to rectify situation.*

- *On August 27, 2020, West LA Vice conducted field operation at Habibi's Café. Officers observed numerous Covid-19 violations,*

*including not enforcing social distancing, operating outdoor dining without temporary permit and blocking sidewalk without three feet of clearance. Compliant Application completed.*

- *On September 3, 2020, West LA investigators and Operations-South Bureau Human Trafficking units completed investigation at Habibi's Café. Officers ordered food and hookah while sitting in an outdoor area in violation of 41.50.*
- *On September 17, 2020, West LA investigators completed investigation at Habibi's Café. Officers ordered food and hookah while sitting in outdoor area in violation of 41.50 (b) LAMC. An unknown patron was observed drinking alcohol from a plastic cup while sitting in the restaurant lounge area. NO detention due to undercover operation.*
- *On October 10, 2020, officers conducted investigation and ordered food and hookah while seated in the confines of the restaurant in violation of 41.50 (b) LAMC. The Department of Building and Safety present and conducted inspection as well, authoring Order to Comply for unpermitted construction at establishment.*

*In an over two-year period of time, there have been over 23 Calls for Service and incidents which have required police response to this particular location. West LA supervision and Command Staff, the Los Angeles City Attorney's Office as well as Gang and Narcotics Division personnel have attempted to educate Business Ownership regarding best practices for public safety and concerns that have risen.*

Correspondence dated October 30, 2020, from the Los Angeles City Attorney's Office Citywide Nuisance Abatement Program, was received by the City Planning Department Nuisance Abatement/Revocations Unit and indicated as follows:

*The West Los Angeles Division of LAPD has identified the property located at 923 Broxton Ave., Los Angeles, CA 90024 (the Property), dba Habibi Café, as a nuisance location with associated public safety issues. Habibi Café is a restaurant that serves alcohol and a hookah lounge that is open 24 hours a day. LAPD has requested assistance in addressing the criminal and nuisance activity occurring at and emanating from the Property. LAPD reports that, from at least April of 2001 to the present, there have been an abounding number of incidents at and connected to the Property, particularly during late night and early morning hours, including but not limited to, an attempt murder, shootings, a stabbing, numerous batteries and assault with deadly weapon, criminal threats, robberies and thefts, vandalism, violations of the Los Angeles Municipal Code, and violations of the Mayor's emergency order.*

*I am requesting that you review this Property for nuisance revocation proceedings.*

The subject case was opened by the Office of Zoning Administration and a public hearing was held on May 19, 2021, virtually via Zoom. In attendance at the hearing and testifying were Los Angeles Police Department, City Attorney Office Tobacco Enforcement, a Planning Deputy for Councilmember Koretz, Fifth District, representatives of the business owner, Habibi Café owner and business manager, and members of the community. A summary of the testimony offered at the public hearing is contained in this Determination.

There are LAPD crime reports in the file as well as testimony which indicate that activities at the subject location have resulted in impacts to the community at large. These impacts have been associated with the operation of the premises as a retail/restaurant and a lack of sufficient oversight of those at the premises, as evidenced by arrest reports regarding have generated attempted murder, shootings, homicide, fights, disturbances, stabbing, batteries, assault with deadly weapon, grand theft, trespassing, business disputes, criminal threats, robberies, thefts, and vandalism on public safety. Violations of Case No. DIR-2004-2253-DRB-SPP-1A, Condition No. 10 are also documented for incompliance to the Bureau of Engineering revocable permit on outdoor dining seating plan while expanding into the non-permitted public sidewalk areas. In conclusion, the activities taking place at the Habibi Cafe have deprived residents and other community members of their rightful ability to enjoy their neighborhood.

2. **Constitutes a public nuisance and has resulted in repeated nuisance activities including but not limited to criminal activities, including attempted murder, shootings, homicide, fights, disturbances, stabbing, batteries, assault with deadly weapon, grand theft, trespassing, business disputes, criminal threats, robberies, thefts, and vandalism.**

Los Angeles Police Department Calls for Service reports indicate that 190 Calls for Service were associated with the site between February 22, 2003 and October 10, 2020. These reports identify a pattern of attempted murder, shootings, homicide, fights, disturbances, stabbing, batteries, assault with deadly weapon, grand theft, trespassing, business disputes, criminal threats, robberies, thefts, and vandalism shown to be associated with the subject restaurant/retail which directly affected adjacent commercial uses, the safety of customers and employees at the Habibi Cafe, and law enforcement resources.

The Los Angeles Police Department submitted Arrest, Investigative, Property Reports, and Notice to Appear for 51 incidents at the subject property (923-925 Broxton Avenue) between April 1, 2001, and September 25, 2020.

1. April 1, 2001, 4:00 a.m. – Investigative and Arrest Reports – Robbery – Suspect removed victim’s purse by force and fled on foot to vehicle.

2. September 18, 2001, 9:45 p.m. – Investigative Report – Battery – Suspect struck victim (supervisor of Habibi Café) on face and fled in an unknown direction.
3. March 22, 2002, 2:00 a.m. – Investigative Report – Robbery – Suspect stole victim's phone and demanded victim's money; suspect was armed.
4. April 4, 2002, 1:00 p.m. – Investigative Report – Criminal Threats – Suspect (transient) made verbal criminal threats to victim.
5. April 20, 2002, 10:50 p.m. – Investigative Report – Battery – Dispute between suspect and victim; suspect pushed victim.
6. April 29, 2002, 3:00 a.m. – Investigative Report – Assault with Deadly Weapon - Verbal dispute; suspect struck and kicked victim.
7. October 27, 2002, 2:30 a.m. – Investigative Report – Criminal Threat - Suspect(s) threatened victim with bodily harm.
8. November 30, 2002, 3:45 a.m. – Investigative Report – Battery - Suspect (security guard at Habibi Café) grabbed and pulled victim.
9. July 14, 2003, 1:00 p.m.- Investigative Report – Battery - Verbal dispute; suspect struck victim's (identified himself as owner of business) arm and fled south bound on Broxton Avenue.
10. July 19, 2003, 4:00 a.m. – Investigative Report – Assault with Deadly Weapon – Verbal dispute; suspect hit victim on head; suspect(s) hit victim with tables and chairs.
11. September 15, 2003, 11:20 p.m. – Investigative Report – Assault with Deadly Weapon - Suspect (transient) placed hands around victim's neck, strangled victim and made verbal threats.
12. December 25, 2005, 1:40 a.m. – Homicide - Decedent shot one time in head with .45 cal bullet (GSW to the head); expired January 27, 2007.
13. December 27, 2005 – Follow-up Investigation - Follow-up report to original December 25, 2005 report.
14. January 10, 2006 - Follow-up Investigation - Follow-up report to original December 25, 2005 report.
15. February 16, 2006 – Follow-up Investigation - Follow-up report to original December 25, 2005 report.
16. August 5, 2007, 3:00 a.m. – Investigative Report – Battery - Suspect punched victim in face.
17. January 23, 2010, 2:00 a.m. – Investigative Report – Assault with Deadly Weapon – Suspect(s) stabbed victim with sharp objects and fled in an unknown direction.
18. September 2, 2010, 3:10 a.m. – Investigative Report – Battery - Suspect punched victim in face.
19. October 11, 2010, 8:50 p.m. - Arrest Report – Criminal Threats – Suspect threatened to kill victims, burn business and shoot everyone at subject location.
20. March 17, 2011, 5:00 a.m. – Investigative Report – Battery - Verbal dispute; suspect strangled victim around her neck.
21. September 18, 2011, 4:00 a.m. – Investigative Report – Battery - Suspect punched victim and fled (café not equipped w/ video cameras when crime occurred).

22. August 16, 2012, 12:35 a.m. – Investigative Report – Battery - Disputes between victim and suspect(s) (Habibi Café manager and employee) regarding unpaid bill; victim stated suspect(s) chased him down, poked him with stick, and punched him in face.
23. September 22, 2012, 1:10 a.m. - Property Report - Café allowed smoking inside restaurant and sold single packs of cigarette (counterfeit product); VIP room had DJ; patrons dancing; business served food and allowed patrons to smoke cigarettes inside location.
24. November 11, 2012, 1:30 a.m. - Property Report - Alcohol (vodka contained in clear sample bottle) recovered at location.
25. July 7, 2013, 4:15 a.m. – Investigative Report – Felony Vandalism - Suspect(s) damaged victims' vehicles with sharp object and fled.
26. October 21, 2013 – Follow-up Investigation - (follow up report to original July 7, 2013 report regarding vandalism).
27. July 31, 2015, 10:30 p.m. – Complaint Application - Simultaneous inspections for tobacco compliance check: Gypsy Café (940 Broxton) & Habibi Café (923 Broxton). Violations at Habibi Café: illegal indoor smoking in work place, illegal smoking by patron in outdoor dining area, customers consuming food while smoking hookah.
28. March 18, 2016, 1:00 a.m. – Investigative Report – Battery - Suspect (transient) walked up to victim (waiter for Habibi Café) and slapped victim on face.
29. April 19, 2017, 2:30 a.m. Investigative Report – Grand Theft - Suspect stole victim's cell phone and cash.
30. December 3, 2017, 4:40 a.m. – Investigative Report – Defrauding an Innkeeper - Suspects fled without paying bill (food and hookah purchases).
31. May 1, 2018, 12:01 a.m. – Investigative Report – Lost Property - Victim lost pocket knife.
32. November 2, 2018, 8:00 p.m. Arrest Report – Violation of Protective Order – Suspect violated restraining order by arriving at victim's work.
33. November 17, 2018, 4:30 a.m. Investigative Report – Battery - Suspect headbutted the victim.
34. February 23, 2019, 3:30 a.m. – Investigative Report – Battery – Suspects approached victim from behind and began to assault him. The suspects fled in an unknown direction.
35. February 24, 2019, 3:30 a.m. – Investigative Report – Battery - Suspect(s) assaulted victim and fled.
36. March 29, 2019, 10:30 a.m. – Investigative Report – Vandalism – Suspect attempted to punch a customer and yelled at the suspect. Suspect became enraged and smashed the glass table with an ash tray.
37. June 9, 2019, 2:00 a.m. – Investigative Report – Battery – Suspect and victim were in a verbal argument. The suspect punched the victim in the face and fled south bound on Broxton in a vehicle.
38. July 27, 2019, 3:35 a.m. – Investigative Report – Battery – Verbal dispute; suspect slapped victim and fled.
39. July 28, 2019, 4:40 a.m. – Investigative Report – Battery - Verbal dispute; suspect punched victim in mouth.

40. January 20, 2020, 1:45 a.m. – Investigative Report – Battery - Suspect punched victim in face.
41. February 2, 2020, 3:00 a.m. – Investigative Report – Robbery – Victim and her friend met the suspects at Habibi Café and two unknown females wanted to fight them. The females walked across the street to the parking lot and a fight broke out. A suspect fired shots and the victim attempted to flee in a car with an unknown individual. The victim escaped but a suspect grabbed the victim and the other suspect used force to take her keys.
42. February 4, 2020 – Follow-up Investigation and Property Report – Robbery – Follow up report to original February 2, 2020 report.
43. July 20, 2020 – Follow-up Investigation – Robbery – Follow up report to original February 2, 2020 report.
44. August 11, 2020, 12:40 a.m. – Investigative Report – Vandalism - Suspect fired two rounds at victim's vehicle causing damage.
45. August 22, 2020, 3:39 a.m. – Investigate Report – Assault with Deadly Weapon – Suspects and victim had a verbal altercation. Suspects shot the victim causing the suspects to flee to an unknown location.
46. August 28, 2020, 7:30 p.m. – Compliant Application/Notice to Appear – Violations related to: Los Angeles Administrative Code 8.77 Violation of Local Emergency Order; Los Angeles Municipal Code Section 41.50 (B)(2)(C) Smoking in outdoor dining area; Los Angeles Municipal Code Section 41.50C.1 failure to post “No Smoking” signs in outdoor dining area; Los Angeles Municipal Code 56.08 property owner obstructing sidewalk; Los Angeles Municipal Code 41.18(a) obstructing sidewalk with less than 3 feet of clearance; and Los Angeles Municipal Code 116.01 loud, unnecessary and unusual noise anytime.
47. September 4, 2020, 12:55 a.m. – Compliant Application – Violations related to: Los Angeles Municipal Code Section 41.50C.1 failure to post “No Smoking” signs in Outdoor Dining Area and Los Angeles Municipal Code Section 41.50(B)(2)(C) Smoking in Outdoor Dining Area.
48. September 10, 2020, 11:25 p.m. – Compliant Application – Violations related to: Los Angeles Administrative Code 8.77 Violation of Local Emergency Order; Los Angeles Municipal Code Section 41.50C.1 failure to post “No Smoking” signs in Outdoor Dining Area and Los Angeles Municipal Code Section 41.50(B)(2)(C) Smoking in Outdoor Dining Area.
49. September 18, 2020, 12:20 a.m. – Compliant Application – Violations related to: Los Angeles Administrative Code 8.77 Violation of Local Emergency Order; Los Angeles Municipal Code Section 41.50C.1 failure to post “No Smoking” signs in Outdoor Dining Area and Los Angeles Municipal Code Section 41.50(B)(2)(C) Smoking in Outdoor Dining Area.
50. September 25, 2020, 12:00 a.m. – Compliant Application - Violations related to: Los Angeles Administrative Code 8.77 Violation of Local Emergency Order; Los Angeles Municipal Code Section 41.50C.1 failure to post “No Smoking” signs in Outdoor Dining Area and Los Angeles Municipal Code Section 41.50(B)(2)(C) Smoking in Outdoor Dining Area.

51. April 20, 2021, 5:00 p.m. – Officer Declaration – Officer Garcia conducted four site investigations at the subject property on: August 27, 2020, September 3, 2020, September 10, 2020, and September 18, 2020 and found violations related to the Mayor’s Stay at Home COVID-19 Order, servicing alcohol without an ABC license, tables blocking sidewalk and parking spaces, not enforcing social distancing, security guard not wearing masks, amplified music, and serving food and hookah (LAMC 41.50(B)(2)(c) violation).

University of California at Los Angeles Police Department submitted the following reports:

On-Site:

Incident/Investigation Reports: There were 6 incident/investigation reports, submitted for the subject property (923 Broxton Avenue) between June 5, 2018 and April 26, 2021.

1. June 5, 2018, 12:14 p.m. – Incident/Investigation Report – Battery – The victim was sitting in front of the subject business. Suspect punched the victim several times and wrapped his arm around the victim.
2. June 23, 2019, 1:58 a.m. – Incident/Investigation Report – Criminal Threat – Suspect threatened business owner with a gun and told him he was going to kill him. The suspect was charged with two counts of criminal threats.
3. February 2, 2020, 3:07 a.m. – Incident/Investigation Report – Assault with Deadly Weapon – Gunshots were fired outside of the subject business.
4. August 10, 2020, 1:00 p.m. – Incident/Investigation Report – Obstruction of Peace – A traffic accident occurred after shots were fired.
5. September 12, 2020, 12:24 a.m. – Incident/Investigation Report – Driving Under the Influence – Suspect was arrested on driving under the influence.
6. April 26, 2021, 7:49 a.m. – Incident/Investigation Report – Driving Under the Influence – Suspect had a drink with dinner at the subject business.

Event Reports: There were 8 event reports submitted for the subject property (923 Broxton Avenue) between January 26, 2018 and September 17, 2020 related to disturbing the peace, assault with deadly weapon, possession of firearm, fight, suspicious circumstances.

The following is a summary of testimony provided by the Los Angeles Police Department at the May 19, 2021, public hearing:

Los Angeles Police Department Vice – Hugo Velazco

- An officer for nine years and assigned to the Los Angeles Police Department West Los Angeles Vice Unit.
- My duties include criminal investigations, Los Angeles Municipal Code violations, ABC investigations, tobacco enforcement, and other quality of life issues.

- I've received formal training related to alcohol related issues such as over-serving of alcohol and liquor violations.
- The West Los Angeles Vice Unit initiated a formal investigation of the Habibi Café based on the following incidents:
  - On August 22, 2020, 0330 hours, two males were in a verbal dispute in the subject premises and returned with a handgun, firing multiple rounds, striking the victim in the abdomen. After the incident, officers met with the manager to discuss the security plan and customer safety. Officers conducted undercover operations related to underage drinking, tobacco sales to minor, and tobacco permit inspections. Officers wanted to also ascertain if the subject operations was a gang hangout.
  - On August 27, 2020, 2200 hours, an undercover operations was conducted and observed 150 patrons waiting outside the business and observed three security guards, which they did not ask the patrons to socially distance. Also, the patrons were seated with tables blocking the sidewalk and the security guards directed people to walk on the street. Loud music was playing from the subject operations and can be heard in excess of 300 feet away. The patrons were being served food and hookah. LAPD Officers confirmed with Los Angeles Department of Transportation that the subject business did not have a valid Al Fresco dining permit. LAPD issued a citation for the following violations: Mayor's Executive Order, smoking in outdoor area, no smoking signs in outdoor area, property owner obstructing sidewalk, obstructing of sidewalk without three feet clearance, and loud music.
  - On August 30, 2020, 1930 hours, Los Angeles Police Department conducted an investigation of the operations to determine if they had a valid Al Fresco Permit. The business owner, Mr. Fathi failed to produce an Al Fresco Permit and also stated that he owns another café across the street, 940 Broxton Avenue.
  - On September 3, 2020, 2345 hours, Los Angeles Police Department conducted an undercover investigation and the officers were served food and hookah outside. The officers did not see posted "No Smoking" signs in the dining area. LAPD issued a compliant for smoking in the outdoor area and no smoking posted signs in the outdoor dining area.
  - On September 10, 2020, 2320 hours, Los Angeles Police Department conducted an undercover investigation and saw that the security guards were not wearing their masks. The officers as well as other patrons were served simultaneously food and hookah. LAPD issued a compliant for smoking in the outdoor area, no smoking posted signs in the outdoor dining area, and violation of Mayor's Executive Order.
  - On September 18, 2020, 0020 hours, Los Angeles Police Department conducted an undercover investigation and observed 30 patrons sitting outside with eight patrons (unmasked) waiting for a table. Officers and other patrons were served food and hookah simultaneously. Officers observed that patrons were served alcohol (two bottles of vodka). A compliant was generated for smoking in the outdoor dining area, no smoking posted signs, and violation of Mayor's Executive Order.

- On September 24, 2020, 2330 hours, Los Angeles Police Department conducted an undercover investigation and observed an intoxicated female with a clear plastic cup which appeared to be alcohol. Officers and customers were served with food and hookah simultaneously. A complaint was generated for smoking in the outdoor dining area, no smoking posted signs, and violation of Mayor's Executive Order.
- On October 9, 2020, 2200 hours, Los Angeles Police Department conducted an undercover investigation and served simultaneously food and hookah. Building and Safety issued an Order to Comply for various building compliance issues and the security guard did not have a security guard card.
- During our investigations, officers observed patrons bringing in alcohol beverages into the subject business. Officers also observed intoxicated individuals drinking in the adjacent parking lot and entering into Habibi Café.
- Although the operator stated that he does not have belly dancing at his business, the officer showed pictures of belly dancers from the Habibi Café social media account.

#### Los Angeles Police Department Vice Detective Dana Harris

- Assigned to the Gang and Narcotics Citywide Nuisance Abatement Unit. He oversees narcotics and nuisance investigations citywide and ensures that there is a partnership between officers and the business as well as the community.
- Habibi Café according to citizens, has been a problematic location for years resulting in complaints to the West Los Angeles Police Division.
- On August 22, 2020, 0340 hours, two males were in a verbal dispute that spilled into the street and the suspect fired a gun, striking the victim twice in the torso and listed in critical condition. This incident as well as other complaints led to the attention of West Los Angeles Police Command Staff, City Planning, Building and Safety and Alcohol Beverage Control.
- As part of the investigation is to review the calls for service and Habibi management contacted the Los Angeles Police Department regarding crime. However, there is a high number of calls for service associated with Habibi Café, since this is considered a restaurant.
- West Los Angeles Police Command Staff, Vice Unit, and Senior Lead Officers have met and spoke with Habibi Café management and identified deficiencies in their operation and remain noncompliant.
- In reviewing the 47 Calls for Service, in 2001, from 10:00 p.m. to 6:00 a.m., there were 20 Calls for Service that include: robbery, battery, criminal threats, assault with a deadly weapon, murder, and grand theft.
- This location is in desperate need to attention.
- The hours of operation as stated is open until 4:00 a.m. and Denny's is the only restaurant that is open that late. Recommend that they open Sunday through Thursday, from 11:00 a.m. to 10:00 p.m. and Friday and Saturday, from 11:00 a.m. to 12:00 a.m. (midnight), with no afterhours use other than routine cleanup. No alcohol should be allowed or maintained on the premises

and adjacent parking lot. If they bring alcohol on the premises, management should curtail this activity and advise them they are no longer welcome. Any private events should be subject to the same hours of operation. No employee while working at this establishment shall accept compensation for the purpose of spending time with patrons. No booth or group seating shall be installed that hinders observation of the occupants. Age verification devices for the sale of tobacco shall be installed. All security shall be state licensed and registered with the Los Angeles Police Commission as well as maintain an active red cross first-aid card. Security personnel should be in uniform and readily identifiable to patrons and law enforcement. The applicant shall prepare a security plan for review by the Los Angeles Police Department. All security personnel shall maintain order and prevent activity that would interfere with the enjoyment of the property. Security personnel shall have patron exit of the eastbound door only and monitor the crowd forming at the venue. Security shall prevent loitering and provide staff assistance escorts when business is closed. There shall be no tobacco sales on the sidewalk. The alleyway is prohibited from entry to the venue and the front door should be used. I've observed patrons using the side door that spilled out to the alleyway creating a nuisance for the community. Trash on the premises shall be removed immediately. The business should adhere to the Westwood Specific Plan. For live entertainment or special event, a request shall be made through the Los Angeles Police Department Commission Investigation as well as other appropriate permits. There shall be no amplified music from this business and noise shall comply with the Los Angeles Municipal Code.

- We are here because of public safety issues attributed by the subject business.

The Los Angeles Police Department West Los Angeles Station Senior Lead Officer, Sergeant, and Captain testified that there is a consistent and on-going crime and nuisances associated with the subject property. Furthermore, they explained that concerned citizens raising issues of crime remain anonymous for fear of retaliation by the operator.

The following is a summary of testimony provided by the University of California Police Department at the May 19, 2021, public hearing:

University of California Police Department Sergeant - Andrew Ikeda

- Assigned to the Detective unit the last four years and have been at UC Police Department for 25 years
- In reviewing UC Police Department Calls for Service over three years, we responded to 12 calls for service that ranged from assault with a deadly weapon, criminal threats, peace disturbance, driving under the influence, and shots fired. Just as Detective Harris stated earlier, there are a number of reports of peace disturbances and physical conflicts as late as 3 or 4 a.m.
- In regards to shots fired in the area, on February 2, 2020, 3:06 a.m. a UCLA PD officer was on Gayley and Le Conte and heard six shots. He immediately went to Habibi Café since that is the only business open that late. Witnesses

were pointing across the street at the parking lot and smelled the discharge of a firearm. He encountered two suspects that were pepper sprayed and pointed towards Habibi Café. Six females were also pepper sprayed by male individuals. Officers located 9-millimeter casings and stolen handgun. The next day, we responded to someone from the Bank of America, located at 924 Westwood Boulevard as they found a bullet hole on the fifth floor.

- Another shot fired incident was on August 10, 2020, that occurred on Gayley and Young Drive South near the UCLA Medical Center as officers heard a traffic collision. The suspects attempted to evade the officers and threw the gun in the bush. The suspects claim they were coming from the Habibi Café.
- In regards to the driving under the influence, the driver reported that he came from the Habibi Café.

As evidenced by the testimony at the hearing and submitted reports from the Los Angeles Police Department and University of California Police Department, the subject location has been under review for on-going nuisance activities related to attempted murder, shootings, homicide, fights, disturbances, stabbing, batteries, assault with deadly weapon, grand theft, trespassing, business disputes, criminal threats, robberies, thefts, and vandalism for over twenty years. In regards to the mode and character, the subject business fosters a party-like atmosphere with amplified music, belly dancing, mobile strippers, hookah smoking, live disc-jockey, and queuing of line. As a result, this encourages the aforementioned on-going nuisance activities and the operator has done little to address these issues. However, the conditions herein will address the public nuisance impacts of the operation of the business, with the goal of substantially abating the nuisances. This situation has resulted in the utilization of limited City resources to attempt to mitigate the nuisance activities.

### 3. **Adversely impacts nearby uses.**

The subject business is located off Broxton Avenue with a 20-foot wide alley on the north side of the property. On May 19, 2021, the Council Office submitted an e-mail stating "After a review of the Staff Investigation Report dated May 14, 2021, in conjunction with the testimony from LAPD, The office of the City Attorney, UCLA PD, and other stakeholders to the zoning administrator during the Public Hearing of May 19, 2021, it is clear that the subject use jeopardizes and adversely affects public health, peace, and safety of persons both onsite and within the surrounding district." Furthermore, the LAPD Sergeant and Captain testified that long-term nuisance activities generating from the site have created issues for the adjacent commercial uses and nearby business owners and citizens are fearful of retaliation by the Habibi Café operator. The Block-by-Block Program Manager testified that adjacent business windows are broken, vehicles are double parked (creating a traffic issue), and mobile strip clubs have affected the nearby businesses. At the hearing, the operator's representative and Habibi Café Business Manager testified that a large part of the crime is attributed to the homeless. The Zoning Administrator acknowledges that there are crimes occurring throughout the areas

and the lack of LAPD resources during the pandemic and the Black Live Matters protests period to address the increase of crimes. Nevertheless, there is extensive documentation of criminal activity directly linked to the operation of the Habibi Café at the subject property not proportional to other restaurant establishments where other similar restaurant businesses do not generate same number of complaints and drain on LAPD resources over the years. Additionally, it is shocking, especially in 2020 (during the pandemic), the nature of the crime related to the subject business is gun violence with Los Angeles Police Department reporting a shooting on August 22, 2020, and University of California Police Department reporting two shootings on February 2, 2020, and August 10, 2020, which has passed a nuisance threshold and become a public life and safety concern that must be addressed.

**4. Violates provisions of Chapter 1 of the Municipal Code, or any other city, state, or federal regulation, ordinance, or statute.**

The list of such violations is set forth in the arrest reports, investigative reports, calls for service, and other crime reports referenced in this action, which are described in greater specificity in the case file. These include violation of Case No. DIR-2004-2253-DRB-SPP-1A Director's Determination for Design Review and Project Permit Compliance that had been approved by the West Los Angeles Area Planning Commission for the installation of an awning and signage at 923 and 925 Broxton Avenue, the remodel of front façade at 925 Broxton Avenue to include an outside patio area and a change of use for the subject retail/restaurant, which the operator was not compliant and/or partially compliant as noted in the Staff Investigator Report dated May 14, 2021, which is based on a field analysis.

Additional serious State and City regulations are also documented. The subject establishment is permitted as a restaurant, however, it has engaging in hookah smoking service which is not permitted by the State Code 6404.5 which prohibits the smoking of tobacco or any non-tobacco substance, including from electronic smoking devices or hookah pipes, within any enclosed place of employment and Los Angeles Municipal Code Section 41.50 B 2 C prohibiting smoking tobacco or any non-tobacco substance including from electronic smoking devices in or within 10-feet of the outdoor areas of a restaurant establishment. This prohibition applies to all outdoor areas of the establishment if the outdoor area is used in conjunction with food service and/or the consumption, dispensing or sale of alcoholic or non-alcoholic beverages. City Attorney Office Tobacco Enforcement Supervisor also testified in the May 19, 2021, public hearing, that the Habibi Café does not have a hookah/smoking permit. The city has a tobacco retailers permit that allows for the sale of tobacco that includes hookah only for tobacco retail businesses and private members only clubs. Tobacco is not allowed for consumption in unlawful areas such as a restaurant. A cigar or smokers lounge, smoking would be permissible as long as the business does not violate the State Law. However, a restaurant that serves food (food facility) cannot be a smoker's lounge under State law. Additionally, outdoor smoking is regulated by the Los Angeles Municipal Code that

prohibits smoking at outdoor dining areas. In this case, this restaurant is selling hookah and purports to be a smoking lounge. Therefore, it is illegal under state law.

Further, LAPD has documented that in various investigation incidents that alcoholic beverage bottles have been seen or recovered at Habibi Café where the restaurant does not have a City of Los Angeles issued Conditional Use permit or a California State Department of Alcoholic Beverage Control issued license for the sale and dispensing of alcoholic beverages for on- or off-site consumption. Any discovered and documented on-site sales and consumption of alcoholic beverages is illegal under both the City and State Law.

Therefore, the operator and Habibi Café has violated both State and City regulations on tobacco/smoking and alcoholic beverage sales and consumption, as well as violating Case No. DIR-2004-2253-DRB-SPP-1A, Director's Determination for Design Review and Project Permit Compliance for its operation.

5. **Violates any condition imposed by a prior discretionary land use approval granted pursuant to Section 11.5.7.**

As part of the nuisance investigation that includes an assessment of Condition compliance with respect to the terms and Conditions of the Director's determination, Case No. DIR-2004-2235-DRB-SPP-1A, City Planning staff conducted a field analysis on March 19, 2021. The operator demonstrated either partial compliance or not in compliance with the following Conditions:

Conditions of Approval:

1. Except as detailed in Condition Number 3 below, all existing signs, exterior lights, light fixtures and other appurtenances shall be removed. The result shall be a clean, finished exterior that does not show evidence of removed items. Removal shall take place so that no portion of the existing items remain, and so there are no exposed conduits or electrical equipment.
  - a. "Exhibit C", stamped and dated June 2, 2004, indicates existing site conditions and details the elements to be removed. Exhibit C is located in the subject case file DIR 2004-2253 DRB-SPP-A1
  - b. Lettering on awnings (painted signs) shall be covered with sections of new canvas, or shall be removed by exchanging swatches of canvas, to match existing awning material. Existing awning signs are primarily shown on Exhibit C, pages 1, 2, 10, 15, and 18. For the front awning, as an alternative to covering the lettering, the awning may be entirely replaced with a new awning so long as the new awning is identical in design (but containing no writing or graphics). For the rear awning, as an alternative to covering the lettering, the rear awning may be entirely removed.

- c. Existing signs painted directly on the building's exterior walls shall be painted over in a color identical to the remainder of the painted building facade. The North-facing side alley wall shall be entirely repainted (on the portions of the wall with existing white paint, and excluding the portion with unpainted brick). The result shall be a consistent white coat of paint, through which no previous lettering or graphics are visible. The portion of this facade with exposed, unpainted brick shall remain unpainted. The West-facing rear facade need not be entirely painted, only the portion in which there is currently the large sign reading "Habibi Cafe & Lounge" (See subsection "d" below). Existing painted wall signs are primarily shown on Exhibit C, pages 16, 17, and 19.
- d. The rear facade of subject property shall have no signage. The large painted sign reading "Habibi Cafe & Lounge" and the awning sign reading "Habibi Cafe ... 923" shall be removed.
- e. Portable signs (e.g. Sandwich signs) shall not be placed upon the sidewalk.

Staff Investigator's Comment: Partial Compliance. During the site visit, staff observed that the operator removed the following: neon signage, the American flag, hookah signage, wires, string lights, painted signs, rear wall sign and replaced the awning. The rear sign was painted over in white color. However, the heaters, speakers, and lantern lights remain.

- 2. Existing signage and other exterior items as enumerated above in Condition Number 1, shall be removed prior to clearance from the Department of City Planning. (Refer to "Exhibit C", stamped and dated June 2, 2004, located in the subject case file DIR 2004-2253 DRB-SPP-A1). Planning staff shall verify appropriate removal of said items in person, at the site location, and shall document site conditions by photographs that will become part of the subject case file.

Staff Investigator's Comment: Partial compliance. Staff reviewed Case No. DIR-2004-2253-DRB-SPP-1A and found pictures submitted by the applicant to the case file on March 31, 2005 and April 4, 2005 showing that the sign was removed. Although a majority of the exterior items were removed, the heaters, speakers, and lantern lights remain.

- 3. The only permitted remaining signs shall be as follows:
  - a. 923 Broxton Avenue's front elevation wall sign (facing Broxton Ave.) reading "Habibi Cafe" as shown in Exhibit A page 6 (proposed materials) and Exhibit C, page 1 may remain. The sign's neon light portion (accent with wavy line), as shown on Exhibit C, page 1, shall be removed.
  - b. 923 Broxton Avenue's side alley elevation wall sign (on building's Northern facade, sign is not painted on wall) reading "Habibi Cafe"

as shown on Exhibits C, page 1 may remain. The sign's neon light portion (accent with wavy line), as shown on Exhibit C, page 1 shall be removed.

- c. A maximum of 3 small signs (measuring not more than 1-square foot each) that indicate the subject addresses may be added to the wall, so long as details regarding such signage are included in final plans and approved by staff at time of Planning Department Clearance.
- d. Window signage amounting to no more than 4 square feet may remain if such items are documented and approved by Staff prior to Planning Department Clearance. Window signs may include the existing American Flag, as shown on Exhibit C page 7, or "smoking/no-smoking" signs.
- e. A store hour sign may be placed in each of the two front doors of the premise, so long as the total for both signs is no more than 64 square inches.
- f. A "parking information" sign measuring 12-inches by 6-inches, as shown on Exhibit A, page 6 and Exhibit C, page 6 may remain.

Staff Investigator's Comment: Partial Compliance. Exhibit A page 6 identifies that the awning color is in black color. However, during the site visit it was red color. The side alley elevation wall sign remains. The sign's neon light portion was removed. Two wall signs were observed during the site visit, which is below the maximum of 3 signs. Staff did not observe posted hours of operation.

- 5. The Applicant shall screen the rear dumpster / trash receptacle associated with the subject tenant space, or use other commercially reasonable efforts to minimize the visual impact of the trash area. Applicant shall make a good faith effort in this endeavor, to coordinate with the adjacent business owners responsible for the other two dumpsters at the rear of the site. Applicant shall maintain rear trash area in a tidy and sanitary manner, the condition of which shall be ensured by a Covenant and Agreement (Condition of Approval No. 13).

Staff Investigator's Comment: Partial compliance. During the staff visit, staff observed that the trash receptacles were not screened and it seems the operator has not attempted to minimize the visual impact of the trash area. However, the trash area was in general clean with no adjacent empty boxes.

- 10. Dining tables and chairs may be placed on the sidewalk (in compliance with the requirements of the Department of Public Works) provided that a minimum of 10 feet of sidewalk width remain for pedestrian circulation along Broxton Ave. At the time of final approval by Department of City Planning, Applicant shall submit an outdoor dining layout plan showing the placement of tables and chairs in compliance with this requirement. The number and

location of tables and chairs which the tenant may place upon the sidewalk shall be limited to that depicted on the outdoor area dining layout plan and shall be ensured by a Covenant and Agreement (Condition No. 13).

Staff Investigator's Comment: Not in compliance. Although the Bureau of Engineering issued revocable permits (Permit Nos. R-0585-0029 and R-03850028) for a total of 10 tables and 24 chairs, the Department of Building and Safety issued Order to Comply A-5400820 stating the operator violated the minimum setback of 10 feet from the dining tables and chairs to the sidewalk width for pedestrian circulation along Broxton Avenue.

23. Enforcement. Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendment thereto.

Staff Investigator's Comment: Partial compliance. Based on a review of the conditions, it seems that the applicant is not complying with the following: Condition No. 10 and partially complies with Condition Nos. 1, 2, 3, and 5.

### **ADDITION AND MODIFICATION OF CONDITIONS**

The following imposition of conditions have been made based upon the current review of the conditions of approval for Case No. DIR-2004-2253-DRB-SPP-1A, administrative record, communication from the operator's representative, Los Angeles Police Department, City Attorney Office, and testimony received at the public hearing:

Condition No. 1 – This Condition requires that the owner/operator file a Plan Approval with the Office of Zoning Administration within 12 to 18 months of the effective date of this determination. It is the intent of this Condition to permit the Zoning Administrator to maintain close monitoring of the operation of the premises. To do so, it is necessary to determine whether the owner/operator is complying with the Conditions imposed herein and to determine whether more or less restrictive controls are required, or whether the Conditions imposed herein have resulted in the desired effect of reducing or eliminating the nuisance activities associated with the current use, or whether revocation of the use is warranted. A compliance review is also a requirement of the Municipal Code provisions regarding nuisance abatement procedures pursuant to Section 12.27.1 of the Municipal Code.

Condition Nos. 2 and 3 – These Conditions are designed to ensure that any use of the land or business operation is conducted in a manner which respects the character of the surrounding community, including to ensure that all other regulations of the Municipal Code shall be observed.

Condition No. 4 – Graffiti clean-up is required within 24 hours of occurrence to lessen public nuisance impacts caused by any such graffiti.

Condition No. 5 – This Condition requires that a Covenant and Agreement regarding all of the Conditions be recorded with the County Recorder by the property owner. This is a standard Condition required in order to ensure that any future owner of the property be made aware of the restrictions and requirements that have been made applicable to the premises. This Condition serves to ensure that in the event of a successor owning or operating the site, the new owner or operator is made aware of the requirements of this Office in order to assure the compatibility of the use with the surrounding businesses and properties.

Condition No. 6 – This Condition ensures that the Department of City Planning and the Department of Building and Safety are apprised of the Conditions of this action and take these Conditions into consideration prior to the issuance of any building permit.

Condition No. 7 – This Condition ensures that the operator complies with the conditions under Case No. DIR-2004-2253-DRB-SPP-1A.

Condition No. 8 – This Condition limits the authorized use to be a restaurant use, and further ensures that the floor plan comply with Case No. DIR-2004-2253-DRB-SPP-1A Approved Plans dated April 4, 2005, and that the outdoor dining area within the public sidewalk complies to the Bureau of Engineering issued revocable permits.

Condition No. 9 – This Condition ensures that the subject business has a bonafide kitchen and continues to serve food to patrons.

Condition No. 10 – This Condition restricts the hours of operation. There is a high number of criminal incidents reported during the evening and therefore limiting the hours of operation is appropriate to abate nuisance activities.

Condition Nos. 11 and 12 – These Conditions ensure that no smoking of tobacco or any non-tobacco substance is allowed inside or within 10 feet of the outdoor area as the subject restaurant serves food. Los Angeles Police Department and City Attorney Office submitted evidence that Habibi Café patrons were consuming food and smoking hookah in the outdoor area and the operator failed to produce proper authorization.

Condition No. 13 – This Condition prohibits the sales, dispensing, and consumption of alcoholic beverages on or off the premises when the business has no alcoholic beverage sales permit and license.

Condition No. 15 – This Condition ensures that no area in the restaurant will be considered “private”.

Condition Nos. 14 and 16 – These Conditions ensures that no adult entertainment, karaoke, disc jockey, topless entertainment, belly dancers, male or female performers or fashion shows is allowed on the premises. During the hearing, LAPD and members of the public testified that belly dancers and disc jockey were at the subject business and staff confirmed that the operator does not have any permits to allow for live performances or disc jockey.

Condition No. 17 – This Condition ensures that game or equipment is not permitted herein.

Condition No. 18 – This Condition ensures that a payphone is not permitted herein.

Condition Nos. 19, 20, and 21 – These Conditions ensures that private events, including corporate events, birthday parties, anniversary parties, weddings or other private events shall be subject to the same provision and hours of operation.

Condition No. 22 – This Condition requires one security guard on-site from Sunday through Thursday and two security guards on-site from Friday to Saturday as past arrests and testimony point to criminal activities taking place on the premises that demand at least two full-time, state-licensed security presence daily until one half hour after closing.

On-site guards are required not only to ensure the security within the building, but also to patrol the adjoining sidewalks to disperse any loitering and any other undesirable activities that may constitute a public nuisance or result in criminal activities.

The Condition also requires the maintenance of a security log, which will establish a security guard on duty at what times and documents any events that take place on the premises and the resulting actions. The log can be used as evidence of the presence and the effectiveness of security at the site when the case returns for a Plan Approval to assess compliance with Conditions and public nuisance impacts of the operation of the retail/restaurant.

Condition No. 23 – This Condition requires the operator to produce a security plan and meet with the LAPD to evaluate and determine the effectiveness of the security plan.

Condition Nos. 24 and 25 – This Condition ensures that there is sufficient exterior lighting of the building and to maintain an adequate camera surveillance system.

Condition No. 26 – This Condition ensures that no booth or group seating is not permitted herein.

Condition No. 27 – This Condition ensures that the front door is the entrance to the subject business.

Condition Nos. 28 and 29 – These Conditions require the operator to post signs to minimize noise and prohibit loitering on the premises.

Condition Nos. 30, 31, 32, 33, and 34 – These Condition ensure that the operator, owner, on-site manager(s) and staff comply with all applicable laws and conditions and manage the facility to discourage illegal and criminal activity on the subject premises and also to inform the manager and employees that there are imposed conditions which the familiarity with Conditions is required to promote compliance with the Conditions, and that Habibi Café staff are to monitor the patrons as well as to not accept any form of payment from a customer for the purpose of sitting or spending time with customers.

Condition Nos. 35, 36, 37, and 38 – These Conditions require that any music, sound, or noise shall not violate LAMC as well as make an effort to control any unnecessary noise made by restaurant staff or any employees and mitigate any potential negative impact of its operation.

Condition Nos. 39 and 40 – These Conditions ensure that the subject restaurant and the surrounding private areas and the public sidewalk and alley are liter and obstruction free and that the trash bins are secured with a lock.

Condition Nos. 41 and 42 – These Conditions require the operator to have a hotline telephone number and an email address directly to the subject business and to post signs as well as maintain a complaint log. The operator shall respond to address the complaint with a time frame of 24-hour.

Condition Nos. 43 and 44 – These Conditions ensure that the letter of determination, business permit, insurance information, security and any emergency contact phone numbers shall be made available upon request by Los Angeles Police Department, Department of Building and Safety, and Department of City Planning.

Condition Nos 45 and 46 – These Conditions require the operator and owner, should there be a change in ownership, to notify the new owner of the conditions herein and the Zoning Administrator reserves the right to require the new owner to file for a Plan Approval application.

Condition No. 47 – This Condition requires the operator and/or owner to reimburse the City for the imposition of Conditions pursuant to Los Angeles Municipal Code 19.01-N. A Notice of Fee letter dated April 22, 2021 was sent to the operator and owner notifying them that an initial imposition of conditions, including environmental clearance and applicable surcharges, the total fee is \$72,234.21 (subject to future fee increases) and the aforementioned amount to be paid within 30 days of the effective date of the determination letter.

Condition No. 49 – This is a standard Condition in the Department of City Planning Letter of Determination as instructed by the City Attorney Office. The purpose of the Indemnification language is to notify the owner/operator that in the event of a legal challenge to a case, the owner/operator shall defend, indemnify, and hold harmless, the City. It serves as a promise to pay for the cost of possible future damages relative to lawsuits against the City.

It is the purpose of these proceedings under Ordinance No. 180,409 to provide a just and equitable method to be cumulative with and in addition to any other remedy available for the abatement of public nuisance activities. This action is, therefore, to advise the owner and any future owner or lessee that this determination constitutes the first governmental action under the above noted ordinance to make the herein cited correction and changes. Failure to comply with the Conditions herein will put the property at risk of revocation and the issue of an order directing the discontinuance of the use as a retail/restaurant located at 923-925 Broxton Avenue.

It is further determined that the instant action by the Zoning Administrator on behalf of the Director of Planning is in compliance with Section 12.27.1 of the Municipal Code and has been conducted so as not to impair the constitutional right of any person. All of the procedures followed as a part of this action conform to the Municipal Code. The owner/operator of the business as well as the property owner have been provided notice of these proceedings and have been afforded the opportunity to testify and respond to the allegations concerning the impacts of the operation of the retail/restaurant known as the Habibi Cafe on the property and surrounding area. Representatives of the property owner and business owner were present at the public hearing and provided testimony. The Conditions imposed under this initial action are not so onerous as to prevent the viable, legal operation of the business.

Inquiries regarding this matter shall be directed to Matthew Lum, Planning staff for the Office of Zoning Administration at (213) 978-1912.

VINCENT P. BERTONI, AICP  
Director of Planning



JACK CHIANG  
Associate Zoning Administrator

JC:VS:ML

cc: Councilmember Paul Koretz,  
Fifth Council District  
Adjoining Property Owners  
Public Hearing Sign-in / Notification Sheet: May 19, 2021

**Applicant Copy**  
 Office: Downtown  
 Application Invoice No: 75797

City of Los Angeles  
 Department of City Planning



Scan this QR Code® with a barcode reading app on your Smartphone. Bookmark page for future reference.



\*6800175797\*



## City Planning Request

NOTICE: The staff of the Planning Department will analyze your request and accord the same full and impartial consideration to your application, regardless of whether or not you obtain the services of anyone to represent you.

This filing fee is required by Chapter 1, Article 9, L.A.M.C.

If you have questions about this invoice, please contact the planner assigned to this case. To identify the assigned planner, please visit <https://planning.lacity.org/pdiscaseinfo/> and enter the Case Number.

**Receipt Number:181021A44-382A23A8-B2EC-400C-8B5A-CD471EEB850C, Amount:\$109.47, Paid Date:10/18/2021**

Applicant: MSW LAW FIRM APC - S. WOLF, MARTIN ( 323-8811978 )
Representative:
Project Address: 925 S BROXTON AVE, 90024

**NOTES:**

DIR-2021-1463-RV-1A			
Item	Fee	%	Charged Fee
Appeal by Aggrieved Parties Other than the Original Applicant *	\$89.00	100%	\$89.00
<b>Case Total</b>			<b>\$89.00</b>

Item	Charged Fee
*Fees Subject to Surcharges	\$89.00
Fees Not Subject to Surcharges	\$0.00
<b>Plan &amp; Land Use Fees Total</b>	<b>\$89.00</b>
<b>Expediting Fee</b>	<b>\$0.00</b>
<b>Development Services Center Surcharge (3%)</b>	<b>\$2.67</b>
<b>City Planning Systems Development Surcharge (6%)</b>	<b>\$5.34</b>
<b>Operating Surcharge (7%)</b>	<b>\$6.23</b>
<b>General Plan Maintenance Surcharge (7%)</b>	<b>\$6.23</b>
<b>Grand Total</b>	<b>\$109.47</b>
<b>Total Invoice</b>	<b>\$109.47</b>
<b>Total Overpayment Amount</b>	<b>\$0.00</b>
<b>Total Paid</b> (this amount must equal the sum of all checks)	<b>\$109.47</b>

Council District: 5  
 Plan Area: Westwood  
 Processed by CHAN, JASON on 10/18/2021

Signature: \_\_\_\_\_

**Building & Safety Copy**  
 Office: Downtown  
 Application Invoice No: 75797

City of Los Angeles  
 Department of City Planning



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Council District: 5  
 Plan Area: Westwood  
 Processed by CHAN, JASON on 10/18/2021

Signature: \_\_\_\_\_