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February 13, 2013

Ovsep Abramian (A)
Joseph's Café, Inc.
1775 North Ivar Avenue
Los Angeles, CA 90028

George Andraos (O)
1800 Gramercy Place, #1
Hollywood, CA 90028

Robert Abrahamian (R)
Joseph's Café, Inc.
1775 North Ivar Avenue
Los Angeles, CA 90028

CASE NO. ZA 2003-8170(CUB)(CUX)(PA1)
APPROVAL OF PLANS
1775 North Ivar Avenue
Hollywood Planning Area
Zone : C2-2D-SN
D. M. : 150A187
C. D. : 13
CEQA : ENV 2011-1485-CE
Legal Description: Fr. Lot 12 Arb 1, Fr. Lot 24
Arb 1, Block 20, Hollywood Tract

Pursuant to Los Angeles Municipal Code Section 12.24-M, I hereby PARTIALLY APPROVE:

plans to modify and delete some of the Conditions required pursuant to Case No. ZA 2003-8170(CUB)(CUX) which permitted the sale and dispensing of a full line of alcoholic beverages for on-site consumption and patron dancing in a 2,754 square-foot restaurant in the C2-2D-SN Zone; and

Pursuant to Los Angeles Municipal Code Section 12.24-M and ZA Memorandum No. 122, I hereby APPROVE:

modification of Condition No. 49 to extend the life of the grant for the sale of alcoholic beverages and patron dancing for ten additional years.

The Zoning Administrator hereby retains, deletes, or modifies (as shown in underlined and strikeout text) the existing Conditions as follows:

1. 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.
2. **MODIFIED** The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A" Plot Plan, and ~~Exhibit "B" Floor Plan~~, except as may be revised as a result of this action.
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. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Fire Department, Zoning Administrator and the Department of Building and Safety for purposes of having a building permit issued.
6. The patio shall be enclosed by walls 8 to 10 feet in height and include noise-attenuating materials on the roof. Access to the patio shall be only from within the restaurant. A one-way emergency exit may be permitted from the patio if required by the Fire Department.
7. **MODIFIED** The dance floor shall not exceed ~~288~~ 345 square feet and shall be located at the west side of the restaurant. Dancing is permitted from 8 p.m. to 2 a.m., daily as long as a valid Dance Hall Permit issued by LAPD is maintained. A copy of the permit must be available for inspection at all times. No dancing is permitted on the patio or in the bar. A revised floor plan must be submitted, to the Zoning Administrator within 60 days of the determination, eliminating the dance floors in the bar and on the patio.
8. **MODIFIED** ~~The following are not permitted: hired dancers, any No Adult Entertainment use [Los Angeles Municipal Code Section 12.70], karaoke, or pool tables are permitted without approval by the Department of City Planning.~~
9. **MODIFIED** ~~Live music and live entertainment associated with any dancing is permitted during all business hours as long as the music is inaudible outdoors or to adjoining tenants. Amplified recorded music or live entertainment shall not be audible beyond the area under control of the applicant. Live entertainment is permitted from 7 p.m. to 2 a.m., daily, and is limited to no more than three musicians performing indoors.~~
10. **DELETED** ~~Non-amplified entertainment which begins no earlier than 7 p.m. and is limited to not more than three musicians is permitted. Music shall not be audible beyond the boundaries of the restaurant.~~
11. **MODIFIED** When there is no dancing, maximum seating capacity is 141. When dancing is occurring, maximum seating capacity is 119 seats.
 - a. The permitted occupant load of the restaurant is 151. The number of patron seats may be increased **only** if first approved by LADBS and LAFD after review of the revised floor plan. Under no circumstances may the seat count exceed 169 or may the occupant load exceed 181 (20% maximum increase permitted by LAMC Section 12.24-W,1)
 - b. If greater than 141 seats or occupant load is permitted, a copy of the revised seating plan and occupant load certificate must be submitted to the Office of Zoning Administration for review and final approval. **NOTE: An increase in the occupant load may result in an increase in the number of required parking spaces. No parking variance was considered as part of this application.**

12. The premises shall be maintained as a bona fide eating place with a kitchen, and shall provide a menu containing an assortment of foods normally offered in such restaurants. Food service shall be available at all times during normal operating hours.
13. ~~**DELETED** Dancing shall not occur unless the applicant maintains the appropriate permit from the Police Commission. The dance floor approved by the Commission shall have the same location as that approved by the Zoning Administrator.~~
14. ~~**DELETED** Patrons shall not occupy the dance floor while in the possession of any beverage.~~
15. ~~**DELETED** Dancing is limited to the hours of 8 p.m. to 2 a.m., daily.~~
16. Five security guards shall be employed inside the premises; one security officer shall be stationed in the off-site associated parking lot, and one additional security officer acting as a supervisor shall be employed during all hours the business is open. The guards shall not include the business operator nor any employees. All guards shall be employees of a State-licensed security company. They shall wear a distinctive uniform with a patch on each shoulder which reads "Private Security" and which contains the name of the private security company with whom the guards are employed in accordance with Section 7582.26(f) of the Business and Professions Code. Their responsibility shall be the maintenance of order inside, prevention of any activity that would interfere with the quiet enjoyment of nearby properties, crowd control, and keeping the sidewalks clear for pedestrians.
17. Coin operated games, pool tables or similar game activities or equipment are not permitted.
18. No outdoor music or entertainment nor any outdoor loudspeakers or other outdoor sound system is permitted.
19. Doors shall not be propped open but shall only open in order to permit the normal passage of patrons and staff into and from the patio, and to accommodate deliveries and trash removal.
20. ~~**MODIFIED** Operation of the restaurant is limited to 40 7 a.m. to 2 a.m., daily. After hours use, other than for routine clean up and maintenance, is not permitted. Hours of alcoholic beverage sales shall not exceed 11 a.m. to 1:30 a.m., daily.~~
21. ~~**DELETED** No "Happy Hours" are permitted where certain beverages are sold for discounted prices.~~
22. ~~**DELETED** No signs are permitted on the outside of the building or directed from the inside to the outside which advertise the availability of alcoholic beverages.~~
23. The sale of alcoholic beverages is limited to on-site consumption. No patron may drink any beverage on the sidewalk or elsewhere outside the restaurant.
24. No portable bar is permitted.

25. ~~**DELETED** There shall be no exterior advertising of any kind or type, including advertising directly to the exterior from within, promoting or indicating the availability of alcoholic beverages.~~
26. ~~**DELETED** No sales of fortified wine is permitted.~~
27. ~~**DELETED** The sale of alcoholic beverages shall be incidental to the sale of food.~~
28. Containers of distilled spirits shall not be stored on the premises after being sold to patrons for the purpose of later consumption nor shall distilled spirits be sold by the full bottle.
29. No employee shall be permitted to solicit in or upon the licensed premises the purchase or sale of any drink, any part of which is for, or intended for, the consumption or use of such employee or to permit any employee to accept in or upon the premises any drink for, or intended for the consumption of any employee. No person employed as a waiter or waitress, host or hostess, shall be allowed to sit with patrons while in the establishment.
30. The Conditions of this grant and a copy of the business license, insurance information and a valid emergency contact phone number for the valet service shall be retained on the premises at all times and be immediately produced upon request of any Los Angeles Police officer or Department of Alcoholic Beverage Control investigator. The manager and all employees shall be knowledgeable of the Conditions herein.
31. There shall be no cover charge, no prepayment required, nor shall there be a requirement to purchase a minimum number of drinks.
32. All bartenders and waiters shall be at least 21 years of age.
33. The quarterly gross sale of alcoholic beverages shall not exceed the gross sale of food during the same period. The applicant shall maintain records which reflect separately the gross sale of food and the gross sales of alcoholic beverages. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon request.
34. Within 180 days from the effective date of this grant, the applicant shall make arrangements with the Police Department to conduct STAR training for all employees who act in the capacity of manager. The applicant shall request written confirmation of completion of the initial training from the Police Department and shall concurrently submit a copy of such request to the Zoning Administrator.
35. The restaurant shall not be used exclusively for private parties in which the general public is excluded.
36. ~~**DELETED** Any public pay telephone on the property shall be located inside the facility, not outside.~~
37. The area adjacent to the premises shall be maintained free of litter during all business hours.

38. Partitions separating tables and lounge areas shall not exceed 54 inches in height. No obstructions shall be attached, fastened or connected to seating areas that restrict, limit or obstruct the clear observation of the occupants.
39. Signs shall be prominently posted in English, and the predominant language of the facility's clientele, if different, stating that California State law prohibits sale of alcoholic beverages to persons who are under 21 years of age. "No Loitering or Public Drinking" signs shall be posted in and outside of the subject facility. Said signs shall be in the same language(s).
40. **MODIFIED** The applicant shall provide leases signed by applicable parties who control parking in the area located at 1760-1764 North Ivar Avenue for a minimum of 35 parking spaces between the hours of 6 p.m. and 2:30 a.m., daily, for minimum periods of one year and which shall be continued throughout the duration of the use. The leases shall state that the 35 parking spaces reserved for the applicant's facility shall be ~~exclusive~~ available for all hours the facility is open to the public. Each lessor shall provide a notarized statement summarizing the number of parking spaces on each affected lot, the number for ~~exclusive~~ use of the facility, and the number of remaining spaces which the lessor controls. Off-site parking lot locations shall be to the satisfaction of the Zoning Administrator. Leases may be cancellable only if the use terminates or the lessee fails to pay.
41. Copies of all required leases shall be provided by the applicant to the Zoning Administrator upon their execution. Failure to maintain active leases will be grounds for revocation.
42. **DELETED** ~~The valet parking fee shall not exceed \$5 per vehicle.~~
43. A portable sign shall be posted in front of the restaurant visible from the street informing patrons as to the availability of valet parking.
44. **MODIFIED** The applicant shall obtain written clearance from the Police Department with respect to crowd control, outside queuing of patrons, and other security-related matters within ~~45~~ 30 days of the effective date of this determination with a copy provided to the Zoning Administrator.
45. **DELETED** ~~The applicant shall indicate on the plot plan the location of the trash dumpster. If stored outside, it shall be concealed behind solid walls the color of which matches that of the building.~~
46. All outdoor lighting shall be shielded so as to not produce any glare on other properties.
47. **DELETED** ~~No outside pay phones are permitted. Any such phone shall be located inside the building.~~
48. The business operator shall install and maintain security cameras and a one-month on-site video library that covers all common areas of the business, high-risk areas and entrances and exits to the satisfaction of the Vice Section of the Hollywood Police Station, with a copy of any such approval provided to the Zoning Administrator. Videotapes shall be made available to the Police Department upon request.

49. **MODIFIED** ~~This grant expires on May 1, 2011, and is null and void thereafter. This grant shall have a life of ten years after which the applicant shall file for and win an authorization from the Office of Zoning Administration in order to continue the sale of a full line of alcoholic beverages for on-site consumption and patron dancing.~~
50. **MODIFIED** ~~Within 45~~ 30 days of the effective date of this action, the property owner shall record a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded 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~~ Development Services Center 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.
51. **NEW** A Plan Approval shall be required if there is any change in the property ownership and/or the business owner/operator, so as to evaluate the applicability of existing conditions and any review of potential changes in the "mode and character" of the new operation.
52. **NEW** The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action or proceedings against the City or its agents, officers, or employees relating to or to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim action or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.

OBSERVANCE OF CONDITIONS – TIME LIMIT – LAPSE OF PRIVILEGES

All terms and conditions of the approval shall be fulfilled before the use may be established. The instant authorization is further conditional upon the privileges being utilized within three years after the effective date of approval and, if such privileges are not utilized or substantial physical construction work is not begun within said time and carried on diligently to completion, the authorization shall terminate and become void.

TRANSFERABILITY

This authorization runs with the land. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent upon you to advise them regarding the conditions of this grant.

VIOLATIONS OF THESE CONDITIONS, A MISDEMEANOR

Section 12.29 of the Los Angeles Municipal Code provides:

"A variance, conditional use, adjustment, public benefit or other quasi-judicial approval, or any conditional approval granted by the Director, pursuant to the authority of this chapter shall become effective upon utilization of any portion of the privilege, and the owner and applicant shall immediately comply with its Conditions. The violation of any

valid Condition imposed by the Director, Zoning Administrator, Area Planning Commission, City Planning Commission or City Council in connection with the granting of any action taken pursuant to the authority of this chapter, shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this Code."

Every violation of this determination is punishable as a misdemeanor and shall be punishable by a fine of not more than \$2,500 or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

APPEAL PERIOD – EFFECTIVE DATE

The applicant's attention is called to the fact that this grant is not a permit or license and that any permits and licenses required by law must be obtained from the proper public agency. Furthermore, if any Condition of this grant is violated or if the same be not complied with, then the applicant or his successor in interest may be prosecuted for violating these Conditions the same as for any violation of the requirements contained in the Municipal Code. The Zoning Administrator's determination in this matter will become effective after FEBRUARY 28, 2013, 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:

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

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

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 Zoning Administrator who acted on the case. This would include clarification, verification of condition compliance 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 contained in the application, the plans submitted therewith, the report of the Project Planner thereon, the statements made at the public hearing on September 4, 2013, all of which are by reference made a part hereof, as

well as knowledge of the property and surrounding district, I find that the requirements for authorizing a conditional use plan approval under the provisions of Section 12.24-M have been established by the following facts:

BACKGROUND

The property is an irregular-shaped parcel of land with a slight north to south downslope located at the southwest corner of Yucca Street and Ivar Avenue. Consisting of two contiguous lots (portion of Lots 23 and 24, Block 20, Hollywood Tract), the property is approximately 5,685 square feet in area with street frontages of approximately 70 feet along Yucca Street and 81 feet along Ivar Avenue. The property is developed with a two-story restaurant (Joseph's Café) with a small surface parking lot located at the northeast corner of the property consisting of three stalls and accessory office space on the second floor. Pedestrian access is located along the building's Ivar Avenue frontage.

The project is a request for an Approval of Plans to permit the continued sale and dispensing of a full line of alcoholic beverages and public dancing in conjunction with the subject restaurant. The applicant is also requesting modifications and/or removal of various conditions as stipulated under the Zoning Administrator's February 26, 2004 approval of the parent case, ZA 2003-8170(CUB)(CUX).

The surrounding properties are zoned C4-2D-SN and characterized by a slight north to south downslope and fully improved streets. The adjacent properties to the west are developed with three-story multi-family residential uses and a five-story hotel building.

The adjacent properties to the north across Yucca Street are developed with a row of one-story commercial buildings consisting of an office use and a restaurant. These commercial uses make up only a narrow strip of the existing development along the north side of Yucca Street, behind which consist primarily of two-story multi-family residential uses along Ivar Avenue. The adjacent properties to the east, across Ivar Avenue, are developed with a rental car facility consisting primarily of surface parking lots.

The adjacent properties to the south are developed with a vehicle rental facility catering to production studios consisting of one-story commercial buildings and a surface parking lot. Developments further south are characterized by commercial uses extending toward Hollywood Boulevard.

Ivar Avenue is a Local Street with a width of 70 feet and improved with asphalt roadway, concrete gutter, curb and sidewalk with street trees.

Yucca Street is a Local Street with a width varying between 95 and 97 feet and improved with asphalt roadway, gutter, curb and sidewalk.

Previous zoning related actions on the site/in the area include:

Subject Property

Case No. ZA 2003-8170(CUB)(CUX) – On February 26, 2004, the Zoning Administrator approved the sale and dispensing of a full line of alcoholic beverages accessory to the operation of a restaurant, and public dancing as a use accessory to a restaurant.

Case No. ZA 2001-2473(CUX) – On September 27, 2001, the Zoning Administrator approved a public dance hall. At its meeting on December 11, 2001, the Central Area Planning Commission failed to act thereby sustaining the action of the Zoning Administrator. The applicant appealed certain parts of the Zoning Administrator's approval.

Case No. ZA 98-0635(CUB) – On December 18, 1998, the Zoning Administrator approved the sale of a full line of alcoholic beverages for on-site consumption in conjunction with an existing restaurant and an expanded outdoor patio.

Surrounding Properties

Case No. ZA 2011-0997(CUB)(CU) – On January 23, 2012, the Zoning Administrator approved the sale and dispensing of beer and wine only for on-site consumption and a deviation from operating hours for a Mini-Shopping Center in conjunction with an existing restaurant on property located at 6363 West Yucca Street.

Case No. ZA 2005-6681(CUB) – On March 14, 2006, the Zoning Administrator approved the sale of a full line of alcoholic beverages for on-site consumption in conjunction with an existing restaurant on property located at 6445 West Hollywood Boulevard.

Case No. ZA 2005-2581(CUB)(ZV) – On May 25, 2006, the Zoning Administrator approved the sale of a full line of alcoholic beverages for on-site consumption in conjunction with a second-floor bar/lounge; sale of a full line of alcoholic beverages for on-site consumption in conjunction with a ground floor cafeteria; sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with a gourmet shop associated with a ground floor cafeteria; and a variance to allow an outdoor second floor terrace associated with the bar/lounge and located at 1717 North Vine Street.

Case No. ZA 2004-4673(CUB)(CUX) – On November 5, 2004, the Zoning Administrator approved the sale of beer and wine only for on-site consumption, with live DJ entertainment, in conjunction with an existing restaurant with patio seating on property located at 6445 West Hollywood Boulevard.

PUBLIC HEARING

The public hearing was held on September 4, 2012 in City Hall. The hearing was attended by the applicant, his representative, and two LAPD Officers.

Robert Abrahamian, operator and Sandra Dominguez, representative:

- There are 50 conditions that applicant has to operate under, some are duplicates or too prohibitive
- The cafe permit from LAPD doesn't restrict our hours, we shouldn't be limited by the CUB
- The ABC license allows alcohol sales from 6 a.m. to 2 a.m.
- We can be cited by ABC if people are dancing off the dance floor
- We added more dance floors to eliminate the risk of ABC citation
- Condition Nos. 12 and 27 are duplicative
- We only have dancing with private parties

- The kitchen is open at all times
- Condition Nos. 9, 10, and 18 substitute with our language
- There have been no noise citations
- Condition No. 19 is unclear which doors it refers to
- Condition No. 20, we serve breakfast at 6 a.m. or 7 a.m. and should be able to serve alcohol
- I did not know I could appeal the conditions
- Condition No. 21, delete the happy hour restriction. What is the issue with "happy hour"? We stop them from drinking if they get drunk. My prior representative volunteered this condition without my consent
- Condition Nos. 22 and 25 are duplicates we don't have outdoor alcohol advertising
- Condition No. 24, portable bars are regulated by ABC, we don't have any
- Condition No. 26, we don't sell fortified wines
- Condition No. 31, modify the cover charge language
- Condition No. 38, we don't have partitions, delete
- Condition Nos. 40 and 41, we have 35 off-site parking spaces, but we can't get a lease for 35 exclusive parking spaces. We provide free valet parking at lunch
- Condition No. 42 should be deleted as it is unconstitutional to set a maximum valet fee, we currently charge \$10 but the price fluctuates
- Condition No. 43: the valet has their own sign
- Condition No. 49 should be modified to a ten year term
- Condition No. 50 should be deleted because the property owner will not permit it to be recorded against the property
- We have operated since 1977, we served beer and wine starting in 1984
- In 1988 we started serving a full line
- I am a hands-on owner

Officer Andre Abrams:

- This is an extensive list of requested changes
- Prior to 2004 we had problems at the restaurant including assaults with deadly weapons, DUI's, and noise complaints
- LAPD opposed the 2003 CUB due to calls for service to the location
- This is a prime example of a restaurant morphing into a nightclub
- We would prefer that you not change any of the conditions
- There was a car break in by a drunk patron of Joseph's Café

Officer Louis Gray:

- Google Joseph's Café and you will see it's a nightclub
- The conditions were imposed to make the operator accountable
- LAPD has cited the operator for violating the hours of operation
- The café is advertised as an after hours club
- A concerned neighbor emailed me stating she was walking to the farmer's market and saw 20 men on the sidewalk in front of Joseph's. A fight broke out and she was confronted by a man with a gun who had an "AP" (Armenian Power gang) tattoo
- There are drunk and rowdy people in the café at 8 a.m.
- They advertise "Rise at Joseph's Night Club"
- It is a well-known after hours location
- We have no problems with him running a restaurant
- The crime statistics decreased when we imposed the CUB conditions
- We will provide calls for service information for the location

- The applicant says he is hands on, but said he is unaware of after hours use

Joseph Abrahamian:

- The California Constitution does not permit local governments to impose conditions that conflict with State Law
- We open at 7 a.m. on Saturday and Sunday
- We don't serve alcohol to people who come in from Avalon
- We don't have fights
- We don't open after 2 a.m., we have dancing and alcohol from 10 p.m. to 2 a.m. when most diners leave
- The Council Office supports our request
- The Neighborhood Council approved it, we will submit a copy of their letter
- There has been a restaurant here for 35 years
- These conditions give LAPD too much power

CORRESPONDENCE

Letters of support for the request were submitted by Senator Kevin De Leon, Antonio Vellatti, and Neil Zlozower. The applicant submitted a 22-page petition signed by over 100 people that stated, "we support the pending plan approval for renewal of the conditional use permit and all of the requested modifications."

A letter dated August 31, 2011, from Captain Beatrice Girmala, Area Commanding Officer of the Hollywood Community Police Station (LAPD) is summarized as follows:

The LAPD has concerns regarding the applicant's request to renew the grant and the proposed revisions to the conditions of approval.

Applicant is requesting significant line item revisions that would potentially change the current business model. Although there have been no recent, nor significant indications of an on-going public nuisance, the requested changes will have an adverse effect on surrounding businesses and further exhaust police resources.

Problems in the past associated with the subject property were related to noise and crowd complaints. An analysis of the period between 2009 to present indicates a decrease in calls for service, during which time the applicant has had an active CUP with conditions and restrictions being enforced.

The LADP welcomes business development and commends the applicant for their efforts to comply with the conditions in the existing CUP, however, the nature of the requested revisions leads to some level of concern as they would effectively eliminate the majority of the current conditions, giving the applicant the unfettered ability to operate with minimal restrictions.

The renewal and requested revisions would adversely affect surrounding properties and move away from the success achieved with having location specific Conditional Use Permits in place.

A letter dated October 10, 2012 was submitted by Robert Abrahamian which reiterated his request for modification of conditions. He stated that he "was merely asking to be allowed to continue to operate our lawful business in a lawful manner without redundant, unclear and

outdate items that are trivial in today's business world." The letter opposed LAPD's recommended conditions of approval and disputed their testimony at the hearing. He included various attachments that he felt supported his requests.

A letter dated October 16, 2012, was submitted by the Hollywood United Neighborhood Council stating they voted to approve the renewal of the conditional use permit for Joseph's Café subject to the following deletions and modifications of conditions:

8. No adult entertainment shall be allowed, unless approved by the City of Los Angeles, Department of the Zoning Administration.
10. Non-amplified entertainment is permitted. Music shall not be audible beyond the boundaries of the restaurant.
11. Capacity shall be determined by the Los Angeles Fire Department and shall issue to Operator an Occupant load sign prior to opening for business. Operator's capacity sign shall be posted at the front entrance to premise and such capacity sign shall state a maximum seating capacity and a maximum floor capacity.
12. Premises shall be maintained under ABC law for a type 47 liquor license a bona fide eating establishment.
19. Doors shall not be propped open but shall only open in order to permit the normal passage of patrons and staff into and from the patio, and to accommodate deliveries and trash removal.
20. Operation for the restaurant is limited to 10 a.m. to 4 a.m., daily. After hours use, other than for routine clean up and maintenance is not permitted. Hours of alcoholic beverage sales shall not exceed 11 a.m. to 1:30 a.m., daily.
31. There can be a cover charge, but there shall not be any requirement to purchase a minimum number of drinks.
40. The applicant shall provide leases signed by applicable parties who control parking in the area for a minimum of 35 parking spaces between the hours of 6 p.m. and 4:30 a.m., daily, for minimum periods of one year and which shall be continued throughout the duration of the use. The leases shall state that the 35 parking spaces are for the applicant's facility for all hours the facility is open to the public. Each lessor shall provide a notarized statement summarizing the number of parking spaces on each affected lot, the number for exclusive use of the facility, and the number of remaining spaces which the lessor controls. Off-site parking lot locations shall be to the satisfaction of the Zoning Administrator. Leases may be cancellable only if the use terminates or the lessee fails to pay.
44. Business owner shall maintain a clear sidewalk for any and all pedestrians to pass. Orderly queuing and crowd control shall be maintained by the business owner and security staff.
49. The grant shall expire in ten (10) years from the date of approval. In the event the business is sold or under new ownership, a plan approval for the new ownership is required.

REVIEW OF COMPLIANCE WITH CONDITIONS

The following identifies the degree of compliance with the conditions based upon testimony at the public hearing, planning staff's visit to the premises and information in the case file.

1. 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.

Comment: Could not confirm.

2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A" – Plot Plan, and Exhibit "B" – Floor Plan, except as may be revised as a result of this action.

Comment: There is an unauthorized DJ booth in the dining room.

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.

Comment: Could not confirm.

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.

Comment: No graffiti was observed on the premises.

5. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Fire Department, Zoning Administrator and the Department of Building and Safety for purposes of having a building permit issued.

Comment: Not applicable.

6. The patio shall be enclosed by walls 8 to 10 feet in height and include noise-attenuating materials on the roof. Access to the patio shall be only from within the restaurant. A one-way emergency exit may be permitted from the patio if required by the Fire Department.

Comment: Patio walls are approximately 10 feet in height. There's a shade canopy and canvas awning. Access to the patio is from the restaurant.

7. The dance floor shall not exceed 288 square feet and shall be located at the west side of the restaurant.

Comment: Not in compliance. There are three dance floors including one on the patio. Applicant stated that no live music or entertainment is provided on the patio and

no speakers were visible. The floor plan indicates three dance floors: two indoors (448 square-foot floor in the dining room and a 100 square-foot dance floor in the bar), and a 144 square-foot area located on the patio. Applicant is requesting the following modification: "Dancing shall be permitted upon the premise. At all times Operator shall maintain a current Dance Hall permit and make such permit available at all times for verification of such entitlement." LAPD is opposed to the change.

8. The following are not permitted: hired dancers, any Adult Entertainment use (Los Angeles Municipal Code Section 12.70), karaoke, or pool tables.

Comment: Compliance could not be determined, no adult entertainment activity/use was observed. Applicant is requesting the following modification: "No Adult Entertainment shall be allowed, unless approved by the City of Los Angeles, Department of Zoning Administration." LAPD is opposed to the change.

9. Live music and live entertainment associated with any dancing is permitted during all business hours as long as the music is inaudible outdoors or to adjoining tenants.

Comment: Compliance could not be determined, no live music or entertainment was observed. Applicant is requesting the following modification: "Café, Live Entertainment shall be permitted upon the premise. Such entertainment shall not exceed sound decibels higher than allocated for such commercially zoned urban area or that is unreasonably affecting the quality of life in the surrounding areas."

10. Non-amplified entertainment which begins no earlier than 7 p.m. and is limited to not more than three musicians is permitted. Music shall not be audible beyond the boundaries of the restaurant.

Comment: Compliance could not be determined, non-amplified entertainment was not observed. Applicant is requesting that this condition be deleted. LAPD is opposed to deleting this condition.

11. When there is no dancing, maximum seating capacity is 141. When dancing is occurring, maximum seating capacity is 119 seats.

Comment: Compliance could not be determined, as not all seats were in place. The applicant is proposing 170 seats (115 interior and 55 outdoor patio seats). The seating count is consistent with applicant's statements on the Master Land Use Application ("MLUA"). Applicant is requesting the following modified condition: "Capacity shall be determined by the Los Angeles Fire Department and shall issue to Operator an Occupant Load sign prior to opening for business. Operator's capacity sign shall be posted at front entrance to premise and such capacity sign shall state a maximum seating capacity and a maximum floor capacity." LAPD is opposed to the change.

12. The premises shall be maintained as a bona fide eating place with a kitchen, and shall provide a menu containing an assortment of foods normally offered in such restaurants. Food service shall be available at all times during normal operating hours.

Comment: Partial compliance. The menu indicates compliance, however, the applicant identifies the subject use as a "restaurant and night club" on the MLUA and the restaurant's website indicates night club use. Applicant is requesting the following

modified condition: "Premise shall be maintained under ABC law for a type 47 liquor license a bona fide eating establishment." LAPD is opposed to the change.

13. Dancing shall not occur unless the applicant maintains the appropriate permit from the Police Commission. The dance floor approved by the Commission shall have the same location as that approved by the Zoning Administrator.

Comment: The Police Commission permit was reviewed by staff. The applicant is requesting to delete this condition. LAPD is opposed to the deletion.

14. Patrons shall not occupy the dance floor while in the possession of any beverage.

Comment: Applicant is requesting to delete this condition. LAPD is opposed to the deletion.

15. Dancing is limited to the hours of 8 p.m. to 2 a.m., daily.

Comment: Applicant is requesting to delete this condition. LAPD is opposed to the deletion.

16. Five security guards shall be employed inside the premises; one security officer shall be stationed in the off-site associated parking lot, and one additional security officer acting as a supervisor shall be employed during all hours the business is open. The guards shall not include the business operator or any employees. All guards shall be employees of a State-licensed security company. They shall wear a distinctive uniform with a patch on each shoulder which reads "Private Security" and which contains the name of the private security company with whom the guards are employed in accordance with Section 7582.26(f) of the Business and Professions Code. Their responsibility shall be the maintenance of order inside, prevention of any activity that would interfere with the quiet enjoyment of nearby properties, crowd control, and keeping the sidewalks clear for pedestrians.

Comment: No security guards were observed. Applicant is requesting the following modification: "Operator shall provide, on premise, California Guard Authorized Security Guards in accordance with Section 7582.26(f) of the Business and Professions Code during the hours of 8 p.m. until 4 a.m. when open for business." LAPD is opposed to the change.

17. Coin operated games, pool tables or similar game activities or equipment are not permitted.

Comment: No such games or activities were observed.

18. No outdoor music or entertainment nor any outdoor loudspeakers or other outdoor sound system is permitted.

Comment: No such activity or equipment was observed. Applicant is requesting that this condition be deleted. LAPD is opposed to the deletion.

19. Doors shall not be propped open but shall only open in order to permit the normal passage of patrons and staff into and from the patio, and to accommodate deliveries and trash removal.

Comment: All doors were closed at the time of the site visit. Applicant is requesting to delete this condition. LAPD is opposed to the deletion.

20. Operation of the restaurant is limited to 10 a.m. to 2 a.m., daily. After hours use, other than for routine clean up and maintenance, is not permitted. Hours of alcoholic beverage sales shall not exceed 11 a.m. to 1:30 a.m., daily.

Comment: Hours of operation were not posted on the premises at the time of the site visit. Applicant is requesting the following modified condition: "Hours of operation are from 6 a.m. until 2 a.m. daily, alcohol sales from 6 a.m. to 2 a.m., to mirror California State ABC Law." LAPD is opposed to the change.

21. No "happy hours" are permitted where certain beverages are sold for discounted prices.

Comment: No signs or marketing materials were observed within the premises advertising the availability of a "happy hour" however, the restaurant's website indicates that "happy hour" is from 3 p.m. to 7 p.m., Monday through Friday. Applicant is requesting to delete this condition. LAPD recommended: Happy Hours are permitted between the hours of 4 p.m. to 7 p.m. weekdays only. During all other hours any beverages sold or advertised at a discounted price is prohibited.

22. No signs are permitted on the outside of the building or directed from the inside to the outside which advertise the availability of alcoholic beverages.

Comment: No such signs were observed on the premises.

23. The sale of alcoholic beverages is limited to on-site consumption. No patron may drink any beverage on the sidewalk or elsewhere outside the restaurant.

Comment: No such activity was observed on the premises.

24. No portable bar is permitted.

Comment: No portable bar was observed. Applicant is requesting the following modification: "Operator shall maintain and keep current a duplicate license approved by the California Alcoholic Beverage Control Board for each bar located on the premises." LAPD is opposed to the deletion.

25. There shall be no exterior advertising of any kind or type, including advertising directly to the exterior from within, promoting or indicating the availability of alcoholic beverages.

Comment: Vodka advertisements were posted on the restaurant's exterior.

26. No sales of fortified wine is permitted.

Comment: No such wines were observed on the menus. Applicant is requesting to delete this condition. LAPD is opposed to the deletion.

27. The sale of alcoholic beverages shall be incidental to the sale of food.

Comment: Could not confirm. Applicant is requesting to delete this condition. LAPD is opposed to the deletion.

28. Containers of distilled spirits shall not be stored on the premises after being sold to patrons for the purpose of later consumption nor shall distilled spirits be sold by the full bottle.

Comment: Restaurant staff stated that bottle storage was not offered.

29. No employee shall be permitted to solicit in or upon the licensed premises the purchase or sale of any drink, any part of which is for, or intended for, the consumption or use of such employee or to permit any employee to accept in or upon the premises any drink for, or intended for the consumption of any employee. No person employed as a waiter or waitress, host or hostess, shall be allowed to sit with patrons while in the establishment.

Comment: No such activity was observed.

30. The Conditions of this grant and a copy of the business license, insurance information and a valid emergency contact phone number for the valet service shall be retained on the premises at all times and be immediately produced upon request of any Los Angeles Police officer or Department of Alcoholic Beverage Control investigator. The manager and all employees shall be knowledgeable of the Conditions herein.

Comment: The required documents and information were not presented to staff upon request at the time of the site visit.

31. There shall be no cover charge, no prepayment required, nor shall there be a requirement to purchase a minimum number of drinks.

Comment: Applicant is requesting the following modification: "Dining patrons shall not be forced to pay a cover charge for dining unless it is inclusive in entertainment." LAPD is opposed to the change.

32. All bartenders and waiters shall be at least 21 years of age.

Comment: No bartender was on duty during the site visit. Applicant stated there are three to four bartenders, all of whom are over 21 and have completed STAR training.

33. The quarterly gross sale of alcoholic beverages shall not exceed the gross sale of food during the same period. The applicant shall maintain records which reflect separately the gross sale of food and the gross sales of alcoholic beverages. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department upon request.

Comment: Compliance could not be determined.

34. Within 180 days from the effective date of this grant, the applicant shall make arrangements with the Police Department to conduct STAR training for all employees who act in the capacity of manager. The applicant shall request written confirmation of

completion of the initial training from the Police Department and shall concurrently submit a copy of such request to the Zoning Administrator.

Comment: Applicant has submitted copies of STAR training completion documents issued by the LAPD.

35. The restaurant shall not be used exclusively for private parties in which the general public is excluded.

Comment: Compliance could not be determined.

36. Any public pay telephone on the property shall be located inside the facility, not outside.

Comment: No public pay phones were observed.

37. The area adjacent to the premises shall be maintained free of litter during all business hours.

Comment: The adjacent area was free of litter.

38. Partitions separating tables and lounge areas shall not exceed 54 inches in height. No obstructions shall be attached, fastened or connected to seating areas that restrict, limit or obstruct the clear observation of the occupants.

Comment: Staff did not observe any partitions. Applicant is requesting to delete this condition. LAPD is opposed to the deletion.

39. Signs shall be prominently posted in English, and the predominant language of the facility's clientele, if different, stating that California State law prohibits sale of alcoholic beverages to persons who are under 21 years of age. "No Loitering or Public Drinking" signs shall be posted in and outside of the subject facility. Said signs shall be in the same language(s).

Comment: Signs were observed posted in English inside the facility.

40. The applicant shall provide leases signed by applicable parties who control parking in the area for a minimum of 35 parking spaces between the hours of 6 p.m. and 2:30 a.m., daily, for minimum periods of one year and which shall be continued throughout the duration of the use. The leases shall state that the 35 parking spaces reserved for the applicant's facility shall be exclusive for all hours the facility is open to the public. Each lessor shall provide a notarized statement summarizing the number of parking spaces on each affected lot, the number for exclusive use of the facility, and the number of remaining spaces which the lessor controls. Off-site parking lot locations shall be to the satisfaction of the Zoning Administrator. Leases may be cancellable only if the use terminates or the lessee fails to pay.

Comment: Staff was told the parking is located at 1760-1764 North Ivar Avenue approximately 70 feet away. No spaces were marked for the exclusive use of the restaurant's patrons. The applicant stated that despite efforts to obtain the lease terms as required, property owners were unwilling to include the "exclusive" language. Applicant is requesting the following modification: "Operator shall provide a minimum

of Thirty Five (35) parking spaces between the hours of 6 p.m. and 2:30 a.m. daily for the duration of Operator's continued use. Operator shall obtain and provide bona fide leases for such parking which shall be submitted to Zoning Administration upon execution." LAPD defers to the Zoning Administrator.

41. Copies of all required leases shall be provided by the applicant to the Zoning Administrator upon their execution. Failure to maintain active leases will be grounds for revocation.

Comment: Copies of required leases were not submitted by the applicant. Applicant is requesting to delete this condition. LAPD defers to the Zoning Administrator.

42. The valet parking fee shall not exceed \$5 per vehicle.

Comment: Staff was informed that the valet parking fee is \$10. Applicant is requesting to delete this condition.

43. A portable sign shall be posted in front of the restaurant visible from the street informing patrons as to the availability of valet parking.

Comment: No sign was located in front of the restaurant. Applicant is requesting to delete this condition.

44. The applicant shall obtain written clearance from the Police Department with respect to crowd control, outside queuing of patrons, and other security-related matters within 15 days of the effective date of this determination with a copy provided to the Zoning Administrator.

Comment: No such documentation was found in the case file. Applicant is requesting the following modified condition: "Operator shall maintain a clear sidewalk for any and all pedestrians to pass by. Queuing and crowd control shall be maintained and orderly by operator and/or operator's security at all times."

45. The applicant shall indicate on the plot plan the location of the trash dumpster. If stored outside, it shall be concealed behind solid walls the color of which matches that of the building.

Comment: The trash enclosure isn't shown on the plot plan. Staff was shown a locked area between the restaurant and the adjacent building where there were two open trash dumpsters. Applicant stated he has an easement for the dumpsters.

46. All outdoor lighting shall be shielded so as to not produce any glare on other properties.

Comment: Could not confirm.

47. No outside pay phones are permitted. Any such phone shall be located inside the building.

Comment: No pay phones were observed outside the premises. Applicant is requesting that this condition be deleted.

48. The business operator shall install and maintain security cameras and a one-month on-site video library that covers all common areas of the business, high-risk areas and entrances and exits to the satisfaction of the Vice Section of the Hollywood Police Station, with a copy of any such approval provided to the Zoning Administrator. Videotapes shall be made available to the Police Department upon request.

Comment: A copy of the LAPD approval was not submitted.

49. This grant expires on May 1, 2011, and is null and void thereafter.

Comment: Applicant filed the Plan Approval on June 10, 2011 pursuant to ZA Memo No. 122. Applicant is requesting the following modified condition: "This grant shall expire ten (10) years from the date of approval. In the event the business is sold or under new ownership, a plan approval for the new ownership is required."

50. Within 15 days of the effective date of this action, the property owner shall record a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement for 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.

Comment: Applicant is requesting to delete this condition, as the property owner refused to record the covenant.

CONDITION MODIFICATIONS AND ADDITIONS

The following modifications and additions to extant conditions have been made based upon the current review:

Condition No. 7 was modified to allow one 345 square-foot dance floor (a 20% increase) in the dining room; no dance floors are permitted in the bar or on the patio. Hours of patron dancing was moved from Condition No. 15 to No. 7.

Condition No. 8 was clarified.

Condition Nos. 9 and 10 (live entertainment) were combined.

Condition No. 11 was modified to allow an increase of patron seats and occupant load only if first approved by LADBS and LAFD, and only then to the 20% maximum increase permitted by LAMC 12.24-W,1. An increase in occupant load may result in a higher parking requirement.

Condition No. 13 was combined with Condition No. 7.

Condition Nos. 14, 21, 22, 25, 26 were deleted at the applicant's request because they involve the sale and service of alcoholic beverages which are regulated by ABC

Condition No. 20 was modified to extend the hours of operation of the restaurant to 7 a.m. to 2 a.m., daily.

Condition Nos. 36 and 47 (pay phones) were deleted.

Condition No. 40 was modified to remove the parking lease agreement requirement for "exclusive" off-site parking spaces. Note: If the City Council adopts new valet parking requirements for Hollywood, such requirements would supersede this language.

Condition No. 42, \$5 maximum valet fee, was deleted.

Condition No. 49 was modified to extend the grant for ten years.

Condition No. 50 was modified to require a covenant be recorded within 30 days.

Condition Nos. 51 and 52 were added requiring a plan approval be filed if there is a change in the owner or operator, and requiring the applicant to indemnify the City.

AUTHORITY FOR PLAN APPROVAL

Section 12.24-M of the Los Angeles Municipal Code provides in part:

"M. Development, Change or Discontinuance of Uses:

1. Development of Site. On any lot or portion thereof on which a conditional use is permitted pursuant to the provisions of this section, new buildings or structures may be erected, enlargements may be made to existing buildings, existing uses may be extended on an approved site, and existing institutions or school developments may be expanded as permitted in Subsection L of this Section, provided plans therefore are submitted to and approved by the Commission or by a Zoning Administrator, whichever has jurisdiction at that time ...".

BASIS FOR CONDITIONAL USE PERMITS

A particular type of development is subject to the conditional use plan approval process because it has been determined that such use of property should not be permitted by right in a particular zone. All uses requiring a conditional use permit from the Zoning Administrator are located within Section 12.24-W of the Los Angeles Municipal Code. In order for the continued sale of a full line of alcoholic beverages for on-site consumption and patron dancing to be authorized, certain designated findings have to be made. In these cases, there are additional findings in lieu of the standard findings for most other conditional use categories.

FINDINGS

Following (highlighted) is a delineation of the findings and the application of the relevant facts to same:

1. **The proposed location will be desirable to the public convenience or welfare.**

The property is an irregular-shaped 5,685 square-foot parcel of land located at the southwest corner of Yucca Street and Ivar Avenue in Hollywood. The property is developed with a two-story building containing a restaurant (Joseph's Café) with

accessory office space on the second floor. There are three parking spaces. The restaurant has operated at the location since 1977 and alcoholic beverages have been served since 1984. The restaurant has live entertainment and dancing pursuant to the prior approvals. Off-site parking for 35 cars is provided via valet. The 2003 approval limited the hours of operation from 10 a.m. to 2 a.m., daily with dancing and live entertainment from 8 p.m. to 2 a.m., daily. Patron dancing was permitted on a 288 square-foot dance floor located in the dining room. The applicant filed for the subject plan approval in order to extend the term grant for ten years and to modify a significant number of conditions of approval. The following is a summary of the changes requested by the applicant:

- Operate from 6 a.m. to 4 a.m., daily
- Increase the number of seats from 141 to 170
- Double the size of the dance floor, and add one to the bar and on the patio
- Increase the occupancy load from 139 to 450 patrons
- Remove the limit on the number of live musicians
- Permit a dual use (restaurant from 6 a.m. to 10 p.m., a night club from 10 p.m. to 4 a.m.)
- Delete a number of alcohol related conditions
- Remove the requirement that the 35 off-site parking spaces be exclusively reserved for the use of the restaurant
- Eliminate the valet parking sign and \$5 dollar maximum valet charge
- Modify the security guard condition
- Delete the requirement to record a covenant

The applicant has requested these changes because he feels they unfairly restrict the operation of his business. When asked by the Zoning Administrator why he didn't appeal the conditions when they were imposed in 2004, he said his representative agreed to them without his approval and he was unaware that he could appeal. He stated that Planning and LAPD went beyond their legal authority in requiring many of the conditions. Staff visited the restaurant and found that the applicant had illegally constructed three dance floors including one on the patio. LAPD was strongly opposed to the requested modifications because they resulted in a significant change in the operation of the restaurant. LAPD testified that they have cited the applicant for violating their hours of operation, and submitted an email from a resident stating intoxicated patrons outside of Joseph's threatened her with a gun. The Neighborhood Council voted in support of some of the modified conditions, and letters of support were submitted by business owners and restaurant patrons. The applicant testified that the request was supported by the Council Office, but no comments were submitted for the record confirming their support.

LAMC Section 12.24-W,1(d) enumerates the following procedures for conditional use permits involving the sale of alcoholic beverages:

The use of a lot for an establishment dispensing, for sale or other consideration, alcoholic beverages, including beer and wine, for on-site or off-site consumption may not be continued or re-established without conditional use approval granted in accordance with the provisions of this section if, after September 13, 1997, there is a substantial change in the mode or character of operation of the establishment, including any expansion by more than 20 percent of the floor area, seating or occupancy, whichever applies; except that construction for which a building permit is required in order to comply with an order issued by

the Department of Building and Safety to repair or remedy an unsafe or substandard condition is exempt from this provision. Any expansion of less than 20 percent of the floor area, seating or occupancy, whichever applies, requires the approval of plans pursuant to Subsection M of this section.

Applicants who file for approval of plans to increase the intensity of a previously approved conditional use permit are permitted a maximum 20 percent increase in floor area, seats, or occupancy load. If applicants propose to exceed the 20 percent limit, they are required to file for a new conditional use permit. The current conditional use allows 141 seats, however, the occupant load approved by the Fire Department is 151 people. The number of seats may only be increased if LAFD reviews the revised floor plan and determines that a higher occupant load can safely be accommodated. Because the applicant filed for a plan approval rather than a new CUB, if LAFD and LADBS approve an increase in the number of patron seats or occupants, they can only be increased to a maximum of 169 seats and 181 occupants. The applicant is required to submit a revised floor plan after review and approval by LADBS and LAFD.

The Zoning Administrator does not have the authority under a plan approval application to approve several of the requested changes to the operation. The requested increase in hours of operation from 10 a.m. to 2 a.m. to 6 a.m. to 4 a.m., daily is a significant change in the mode and character of the use; and has been extended only to 7 a.m. to 2 a.m., daily. The request to allow three dance floors in lieu of one dance floor, can't be approved because it would change the use from a restaurant with accessory dancing to a nightclub. It would also likely require an increase in parking. The previously approved dance floor in the dining room can be expanded to a maximum increase of 20% (345 square feet). Dancing and live entertainment are not permitted outside on the patio or in the bar. The Zoning Administrator removed the maximum valet fee, deleted the alcohol related conditions, and removed the pay phone conditions. All other conditions were maintained to ensure the restaurant does not impact public welfare.

2. **The location is proper in relation to adjacent uses or the development of the community.**

The surrounding properties are zoned C4-2D-SN and characterized by a slight north to south downslope and fully-improved streets. The adjacent properties to the west are developed with three-story multi-family residential uses and a five-story hotel. The adjacent properties to the north across Yucca Street are developed with one-story commercial buildings. The adjacent properties to the east, across Ivar Avenue, are developed with a rental car facility. The adjacent properties to the south are developed with a studio rental facility. There are numerous nightclubs in the close vicinity that have strained the resources of LAPD. LAPD had no issues with the location when it was operating exclusively as a restaurant, but as the intensity of the dancing and live entertainment increased and the food service decreased (in violation of the prior conditions or approval) it has become problematic. As limited herein, the restaurant should be compatible with the adjacent uses.

3. **The use will not be materially detrimental to the character of the development in the immediate neighborhood.**

The applicant has operated the subject use for 35 years at this location. The requested changes to the operation of the use have been granted only in part to

ensure that there will be no materially detrimental impacts to the character of the neighborhood.

4. **The proposed location will be in harmony with the various elements and objectives of the General Plan.**

There are 11 elements of the General Plan. Each of these elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The majority of the policies derived from these Elements are in the form of Code requirements of Los Angeles Municipal Code. Except for the entitlements described herein, the project does not propose to deviate from any of the requirements of the Los Angeles Municipal Code. The Land Use Element of the City's General Plan divides the City into 35 Community Plans. The Hollywood Community Plan designates the property for Regional Center Commercial uses and Height District No. 2D. The modifications granted herein are consistent with the Hollywood Community Plan Goal L.U.2, which encourages a range of employment opportunities in Regional Centers located near transit. The grant is consistent with Objective 7.3 of the Framework Element which states, "maintain and enhance the existing businesses in the City. The extension of the conditional use permit will permit the operation of a restaurant located on a commercial corridor within walking distance of residential areas. In light of the above, the location will be in harmony with elements and objectives of the General Plan.

5. **The proposed use will not adversely affect the welfare of the pertinent community.**

The approval of the proposed modifications could have adversely affected the welfare of the community, especially the nearby residences. However, the limitations imposed herein should mitigate the impact of the restaurant's operation.

6. **The granting of the application will not result in an undue concentration of premises for the sale or dispensing for consideration of alcoholic beverages, including beer and wine, in the area of the City involved, giving consideration to applicable State laws and to the California Department of Alcoholic Beverage Control's guidelines for undue concentration; and also giving consideration to the number and proximity of these establishments within a 1,000-foot radius of the site, the crime rate in the area (especially those crimes involving public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct), and whether revocation or nuisance proceedings have been initiated for any use in the area.**

The subject property is located in Census Tract No. 1920.01. A search of the Department of Alcoholic Beverage Control's (ABC) website indicates that there are six on-site and four off-site licenses allocated to the census tract and there are currently 20 on-site licenses and five off-site licenses. The applicant has an active Type 47 license and the subject request will not result in an additional ABC license in the census tract.

The subject property is located in Crime Reporting District No. 636. Los Angeles Police Department reports that a total of 1,012 crimes were reported in District No. 636 in 2011, compared to the citywide average of 144 crimes and the high crime reporting district average of 173 crimes for the same period. In 2011 there were 130 Narcotics,

1 Liquor Law, 5 Public Drunkenness, 1 Disturbing the Peace, 1 Disorderly Conduct, and 140 DWI related arrests. These numbers do not reflect the total number of arrests in the subject reporting district over the accountable year. Arrests for this calendar year may reflect crimes reported in previous years.

Officers from LAPD spoke at the hearing and were opposed to the requested changes to the operation of the restaurant. They requested that a plan approval be required if there is a change of ownership or a change in the operator of the business. That condition has been incorporated herein along with the majority of the conditions from the prior grant. Shortly after the public hearing, on October 31, 2012, four people, including a 14-year-old, were shot on Hollywood Boulevard. On January 13, 2013, there was a fatal shooting, one block to the south of the subject location, when a fight broke out as patrons exited the Empire Nightclub. This area of Hollywood is saturated with nightclubs and criminal activity. LAPD is opposed to the subject use becoming a nightclub. The grant allows the applicant to open earlier in the morning to serve breakfast, while prohibiting it from morphing into a nightclub. If the applicant fails to follow the conditions of approval, the Office of Zoning Administration has the ability to require additional conditions of approval through a plan approval. As conditioned, the operation of the restaurant should not result in an increase in police services.

7. **The proposed use will not detrimentally affect nearby residentially zoned communities in the area of the City involved, after giving consideration to the distance of the proposed use from residential buildings, churches, schools, hospitals, public playgrounds and other similar uses, and other establishments dispensing, for sale or other consideration, alcoholic beverages, including beer and wine.**

The following sensitive uses are located within a 1,000-foot radius of the property:

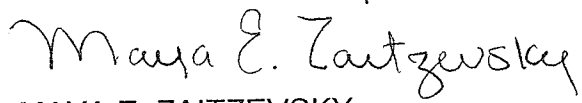
- Church of Scientology International
- Ecclesia Church
- Oasis of Hollywood
- AMDA Inc. Performing Arts College
- AMDA Inc.
- American Musical and Dramatic College
- Vedanta (Society of Southern California) Temple
- Multi-family residences

The restaurant is located in an area of Hollywood which contains a mix of commercial uses, multi-family residences, religious institutions, and schools. As conditioned, the continued operation of the use should not detrimentally affect nearby sensitive uses.

ADDITIONAL MANDATORY FINDINGS

8. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone C, areas of minimal flooding.
9. On July 25, 2012, the project was issued a Notice of Exemption (Subsection c, Section 2, Article II, City CEQA Guidelines), log reference ENV 2011-1485-CE, for a Categorical Exemption, Class 5, Category 23, Article III, Section 1, City CEQA

Guidelines (Sections 15300-15333, State CEQA Guidelines). I hereby adopt that action.



MAYA E. ZAITZEVSKY
Associate Zoning Administrator
Direct Telephone No. (213) 978-1416

MEZ:aln

cc: Councilmember Eric Garcetti
Thirteenth District
Adjoining Property Owners