

TRANSMITTAL TO COUNCIL

Case No. DIR 2012-1288(RV)	Planning Staff Name(s) and Contact No. Sue Chang – 213-978-3304	C.D. No. 8
Related Case No(s).	Last Day to Appeal October 16, 2012	

Location of Project (Include project titles, if any.)
10023 and 10027 South Figueroa Street

Applicant(s) and Representative(s) Name(s) and Contact Information, including phone numbers, if available.

Office of Zoning Administration
City of Los Angeles
200 North Spring Street, #763
Los Angeles, CA 90012
213-978-1318

Appellant(s) and Representative(s) Name(s) and Contact Information, including phone numbers, if available.

Nick Benetatos Tam's Burger No. 6 16254 Crown Valley Drive Apple Valley, CA 92307	Michael G. Thomas Kem, Noda, Devine & Segal 1388 Sutter Street, Suite 600 San Francisco, CA 94109 415-426-3950
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Final Project Description (Description is for consideration by Committee/Council, and for use on agendas and official public notices. If a General Plan Amendment and/or Zone Change case, please include the prior land use designation and zone, as well as the proposed land use designation and zone change (i.e. "from Very Low Density Residential land use designation to Low Density land use designation and concurrent zone change from RA-1-K to (T)(Q)R1-1-K). In addition, for all cases appealed in the Council, please include in the description only those items which are appealable to Council.)

In accordance with Municipal Code Section 12.27.1, the above-captioned files, which are the subject of the attached appeal, are transmitted for your consideration.

The appellant, Nick Benetatos, is appealing the entire determination of the Zoning Administrator.

On October 16, 2012, Zoning Administrator Sue Chang, acting for the Director of Planning, pursuant to the provisions of Section 12.27.1 found that the operation of Tam's Burger at 10023 and 10027 South Figueroa Street is a public nuisance and requires modification of its operation to mitigate adverse impacts on persons and property inside the building and on surrounding properties.

Items Appealable to Council
DIR 2012-1288(RV)

Fiscal Impact Statement	ENV. No., if applicable	Commission Vote:
Yes No X	ENV 2011-2918-CE	

Please note: In addition to this transmittal sheet, Council needs:

- (1) One original and two copies of the Commission, Zoning Administrator or Director of Planning report
- (2) Staff recommendation report
- (3) Appeal, if applicable;
- (4) environmental document used to approve the project, if applicable;
- (5) public hearing notice; and (6) mailing labels
- (7) Condo projects only: 2 copies of Determination labels (including tenants and 500 ft. radius).

Prepared by Linn K. Wyatt	Date October 19, 2012	Contact Number PLANNING & LAND USE MANAGEMENT 213-978-1318 OCT 22 2012
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LINN K. WYATT
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

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SUE CHANG
LOURDES GREEN
CHARLES J. RAUSCH, JR.
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October 19, 2012

Honorable City Council
City of Los Angeles
Room 395, City Hall
Los Angeles, CA 90012

Case No. DIR 2012-1288(RV)
Appellants: Nick Benetatos
Address: 10023 and 1027 South
Figueroa Street
Council District: 8
Plan: South Los Angeles
Environmental: ENV 2012-2918-CE

Honorable Members:

In accordance with Municipal Code Section 12.27.1, the above-captioned files, which are the subject of the attached appeal, are transmitted for your consideration.

Appeal Request: The appellant, Nick Bernetatos, is appealing the entire determination of the Zoning Administrator.

Background: On October 1, 2012, Zoning Administrator Sue Chang, acting for the Director of Planning, pursuant to the provisions of Section 12.27.1 found that the operation of Tam's Burger at 10023 and 10027 South Figueroa Street is a public nuisance and requires modification of its operation to mitigate adverse impacts on persons and property inside the building and on surrounding properties.

LINN K. WYATT
Chief Zoning Administrator

LKW:imc



MASTER APPEAL FORM

ORIGINAL

City of Los Angeles – Department of City Planning

APPEAL TO THE: CITY COUNCIL
(DIRECTOR, AREA PLANNING COMMISSION, CITY PLANNING COMMISSION, CITY COUNCIL)

REGARDING CASE #: ~~DIR-2012-2188 (RV)~~ DIR 2012-1288 (RV)

PROJECT ADDRESS: 10023 and 10027 South Figueroa Street, Los Angeles, CA 90044

FINAL DATE TO APPEAL: October 16, 2012

- TYPE OF APPEAL:**
1. Appeal by Applicant
 2. Appeal by a person, other than the applicant, claiming to be aggrieved
 3. Appeal by applicant or aggrieved person from a determination made by the Department of Building and Safety

APPELLANT INFORMATION – Please print clearly

Name: Nick Benetatos

- Are you filing for yourself or on behalf of another party, organization or company?
- Self Other: Tam's Burger No. 6

Address: 16254 Crown Valley Drive

Apple Valley, CA Zip: 92307

Telephone: _____ E-mail: _____

- Are you filing to support the original applicant's position?
- Yes No

REPRESENTATIVE INFORMATION

Name: Michael G. Thomas

Address: Kern, Noda, Devine & Segal; 1388 Sutter Street, Suite 600

San Francisco, CA Zip: 94109

Telephone: 415-426-3950 E-mail: mthomas@kernlaw.com

This application is to be used for any appeals authorized by the Los Angeles Municipal Code for discretionary actions administered by the Department of City Planning.

JUSTIFICATION/REASON FOR APPEALING – Please provide on separate sheet.

Are you appealing the entire decision or parts of it?

- Entire Part

Your justification/reason must state:

- The reasons 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

ADDITIONAL INFORMATION/REQUIREMENTS

- Eight (8) copies of the following documents are required (1 original and 7 duplicates):
 - Master Appeal Form
 - Justification/Reason for Appealing document
 - Original Determination Letter
- Original applicants must provide the original receipt required to calculate 85% filing fee.
- Original applicants must pay mailing fees to BTC and submit copy of receipt.
- Applicants filing per 12.26 K "Appeals from Building Department Determinations" are considered original applicants and must provide notice per 12.26 K 7.
- Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the City (Area) Planning Commission must be filed within 10 days of the written determination of the Commission.
- A CEQA document can only be appealed if a non-elected decision-making body (i.e. ZA, APC, CPC, etc...) makes a determination for a project that is not further appealable.

*"If a nonelected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision-making body, if any."
 --CA Public Resources Code § 21151 (c)*

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

Appellant Signature:  Date: 10-15-12

Planning Staff Use Only

Amount <u>105.02</u>	Reviewed and Accepted by <u></u>	Date <u>10-15-12</u>
Receipt No.	Deemed Complete by	Date

- Determination Authority Notified Original Receipt and BTC Receipt (if original applicant)

JUSTIFICATIONS FOR APPEAL

Case # DIR 2012-1288(RV)

Nick Benatatos and Jack Benatatos on behalf of Tam's Burger #6 (hereinafter "Respondents" or "Tam's Burger #6") appeal from the October 1, 2012 Decision of the Zoning Administrator entitled "Imposition of Conditions" upon Tam's Burger #6, located at 10023 and 10027 South Figueroa Street, Los Angeles, California.

This Appeal from the Zoning Administrator's Decision in Case No. DIR 2012-1288(RV) is made on the following grounds:

First, the imposition of these conditions upon Respondents' business will be so onerous as to prevent the viable operation of the business, such that the Benatatos family will be forced to close Tam's Burger #6, which has been a part of the community for almost thirty years. The undisputed evidence presented at the hearing was that the combined economic impact of the conditions imposed will mandate that Tam's Burgers #6 will be forced to close and the family-owned establishment's long-term employees will lose their jobs. The Decision makes no mention of the fact that the City seeks to deprive Tam's Burger's #6 of its twenty-six (26) year continuous, existing use as a twenty-four (24) hour fast food establishment. The required, dramatic reduction in operating hours (34 hours per week) restriction will substantially reduce revenues.

The City's conditions require at least three high cost expenditures that this small, family-owned business cannot afford: 1) a full time security guard; 2) the replacement of Respondents' existing expensive video surveillance system with another sought by the LAPD; and 3) construction of a wrought iron fencing that completely encloses the establishment.

Respondents' business has been continuously family-owned and operated fast food establishment since 1986. Tam's Burgers #6 has sixteen (16) employees, the vast majority for over five years, and two employees over fourteen (14) years and Tam's Burger's #6's cook has worked at this location for over 28 years (including the 2-3 years from 1983 to 1986 prior to the Benatatos family's operations). The City has downplayed, ignored and dismissed the very real impact that will result from the closure of this long time community-friendly business. Tam's Burgers #6 has an EBT food meal program contract with the City to serve and feed the homeless who have no other place to eat. Instead of taking into account the negative impact on the community, the LAPD has specifically demanded that respondents stop serving the homeless, and the City's Decision opts to characterize the fact that the homeless are fed at this establishment as a "public nuisance."

Second, the Application's submitted evidence is insufficient. The City must first exhaust, or at least implement its own prior reasonable recommendations, which were timely and duly authorized by Tam's Burgers #6, prior to resorting to punitive sanctions that will result in closure of 26+-year family-owned business.

Prior to any action by the Zoning Administrator requiring that a use be discontinued, the City was required, but failed to demonstrate that (1) prior governmental efforts to eliminate the problems associated with the use have failed; and 2) 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." (See Decision pg. 8 regarding required standard) The Decision is not supported by

JUSTIFICATIONS FOR APPEAL

Case # DIR 2012-1288(RV)

evidence that this particular business is the cause of crime in the surrounding area. The Zoning Administrator's Decision erroneously concludes that the operations of Tam's Burger #6 constituted a "Public Nuisance."

Third, we are concerned that the October 1, 2012 Decision (hereinafter "The Decision") contains numerous, very significant, material misrepresentations of fact and evidence. The most glaring misrepresentations pertain to (1): the repeated, false *affirmative characterization* of Tam's Burger's #6's operators as uncooperative (Decision at pages 14, 16 and 26) and (2) the complete, and extremely misleading omission in the Report to any of the evidence presented at the Hearing by Respondents of their actions and coordination with the LAPD during 2010-2011. These glaring omissions and misrepresentations of evidence in the Final Decision taint the veracity of the conclusions.

The Decision ignores and entirely omits Tam's Burgers #6 history of voluntary compliance with the LAPD's requests and recommendations (2010-2011) to 1) remove all exterior tables; 2) removal of an exterior payphone; 3) installation of the no trespassing / loitering signage.

In 2010, the LAPD approached Mr. Benetatos requesting his help prevent drug use and prostitution at the corner. They requested that he eliminate the payphones in the corner. Mr. Benetatos complied with the request and took them out. Subsequently, LAPD requested that Tam's Burgers #6 remove the tables in front. Respondents complied with this request. This resulted in a drop of 15% of business for TAM'S BURGERS #6.

In May 2011, Benetatos signed and personally delivered the "L.A.M.C. SECTION 41.24 TRESPASS ARREST AUTHORIZATION" to the Los Angeles Police Department's Southeast Division. Benetatos' authorization was for the maximum period of twelve (12) months from May 2011 through May 2012. Pursuant to the Authorization, TAM'S BURGER #6 expressly requested and authorized "the Los Angeles Police Department to enter the above property and enforce Los Angeles Municipal Code 41.24(d)."

The Decision ignores any mention of this evidence altogether. In fact, Tam's Burgers #6's cooperation was not met with follow-through by the LAPD with respect to enforcement by the LAPD following Respondents' specific written request for enforcement of L.A.M.C. 41.24(d).

Fourth, the City has failed to demonstrate its own compliance with the LAPD's suggested mitigation measures, and the government has failed, after exhausting reasonable efforts to limit instances of criminal activity in the surrounding community. Again, the Decision's omitted history of Tam's Burgers #6's voluntary cooperation with numerous recommendations from the LAPD during 2010-2011 is relevant. In addition to substantial evidence of the voluntary cooperation by Tam's Burger's #6, the evidence demonstrates that LAPD did not follow through with its

JUSTIFICATIONS FOR APPEAL

Case # DIR 2012-1288(RV)

own recommendations. The evidence demonstrated that the LAPD did not follow-up calls and Tam's Burger #6's express written authorization that "the Los Angeles Police Department to enter the above property and enforce Los Angeles Municipal Code 41.24."

Finally, the City has imposed conditions that are overbroad and vague such that TAM'S BURGER's #6 is not provided adequate notice of what measures must be taken and the consequences. (See for example, Condition #17: "No employee/security guard shall...encourage or allow patrons to remain on the premises for more than 15 minutes.")

DISCUSSION OF JUSTIFICATION FOR APPEAL

I. Tam's Burgers #6 has cooperated with law enforcement requests.

The October 1, 2012 Decision (hereinafter "The Decision") contains numerous, very significant, material misrepresentations of fact and evidence. These misrepresentations are discussed infra. The most glaring misrepresentations pertain to (1): the repeated, false *affirmative characterization* of Tam's Burger's #6's operators as uncooperative; (2) the complete, and extremely misleading omission in the Report to any of the evidence presented at the Hearing by Respondents of their actions and coordination with the LAPD during 2010-2011. These glaring omissions and misrepresentations of evidence in the Final Decision taint the veracity of the conclusions.

Respondents complied with LAMC 41.24(g) which provides as follows:

LAMC 41.24(g) When a peace officer's assistance in dealing with a trespass is requested, the owner, owner's agent, or the person in lawful possession shall make a separate request to the peace officer on each occasion. *However, a single request for a peace officer's assistance may be made to cover a limited period of time not to exceed twelve months when such request is made in writing and provides the specific dates of the authorization period.*

"There are no patron seats at the location." (Decision pg. 15) "There is a covered patio on the east side of the property and there is no seating underneath the patio. It appears customers utilize the drive-through window or walk-up counter to order food." (Decision pg. 8) The Decision does not identify the reason that there are no patron seats in the patio area. The City's findings do not mention that Benetatos removed the exterior tables at the express request of the LAPD during 2010-2011).

Decision at Page 16:

JUSTIFICATIONS FOR APPEAL

Case # DIR 2012-1288(RV)

"The LAPD has been involved with the subject property in an effort to mitigate nuisance and criminal activities since 2010 and contacted the business operator in the middle of 2011. However, the operator has not cooperated with the LAPD in mitigating the alleged nuisance activities on and around the site. LAPD involvement with property to mitigate nuisance...activities since 2010 and contacted the business operator in the middle of 2011."

[Decision at Pg. 16 (emphasis added);

The Decision's summary of evidence misleads. There is no mention of the communication between the LAPD and Mr. Benetatos in 2010-2011. There is no mention regarding Tam's Burger's #6's elimination of the tables and payphone during this time period. [See also, Decision at page 26]

II. The Application's submitted evidence is insufficient.

The City has failed to demonstrate that the government has exhausted reasonable efforts to eliminate conditions in the surrounding area before effectively ordering the closure of this fast food establishment. The City's decision falsely claims that Respondents have not cooperated with the City's recommendations.

In addition to the omissions within the Report, the cited evidence is insufficient and does not support the conclusions. The Decision improperly concludes that Tam's Burger's operations constitute a public nuisance; 2) that Tam's Burger's has not voluntarily complied with rational, reasonable restrictions and recommendations from the City; and 3) the Conditions the City seeks to impose upon Tam's Burger are inordinate, unfair and severe burdens.

The Decision's omitted history of Tam's Burgers #6's voluntary cooperation with numerous recommendations from the LAPD during 2010-2011 is relevant. In addition to substantial evidence of the voluntary cooperation by Tam's Burger's #6, the evidence demonstrates that LAPD did not follow through with its own recommendations.

Tam's Burgers #6 has complied with the LAPD's request for signage regarding no trespassing. In addition, in May 2011, Mr. Benetatos signed and personally delivered the "L.A.M.C. SECTION 41.24 TRESPASS ARREST AUTHORIZATION" to the Los Angeles Police Department's Southeast Division. Benatatos' authorization was for the maximum period of twelve (12) months from May 2011 through May 2012. Pursuant to the Authorization, Tam's Burger #6 expressly requested and authorized "the Los Angeles Police Department to enter the above property and enforce Los Angeles Municipal Code 41.24."

Commercial property open to the general public L.A.M.C.
41.24(d)

JUSTIFICATIONS FOR APPEAL

Case # DIR 2012-1288(RV)

My property is open to the general public between the hours of [24 Hrs]. I authorize the Los Angeles police department to advise persons pursuant to L.A.M.C. 41.24(d) to leave the premises for 24 hours if the request to leave is rationally related to the services performed of the facilities provided on the property. I further authorize the Los Angeles police department to arrest anyone who has been so notified and refuses to leave or returns within 24 hours for a violation of L.A.M.C. 41.24(d).

I or my authorized agent will cooperate fully in the prosecution of anyone who was arrested for violation of any local or state law, including trespassing or vandalism. The name of the manager of the aforementioned property is **Nick Benetatos...P.S. Any of my employees can sign for the Offices.**"

The evidence at the hearing demonstrated that Respondents thereafter contacted the police to report trespassers and loiterers and suspicious activity, but Respondents' active efforts to engage the LAPD were met with no response, or the response that it was not worth the time for LAPD to come and arrest someone for loitering or even a possible potential drug-related offense, because the arrestee would invariably be released by the time the LAPD had completed processing, whereupon he would immediately return to the street.

III. The Conditions that the City seeks to impose will dramatically reduce income, while commanding large expenditures of money, Respondents simply cannot afford, will severely impair the business financially and will force the twenty-six (26) year-owned Tam's Burgers #6 location to close.

Tam's Burgers #6 has cooperated, and will continue to comply with reasonable, rational, sound policies that are fairly and non-arbitrarily implemented to achieve those goals. The following five conditions constitute the most severe, and least justified restrictions that the City seeks to impose upon Respondents:

A. Elimination of Tam's Burgers #6's twenty-four (24) hours per day operations by 34 hours per week.

The Decision includes the following "findings of fact" gleaned from the City's June 5, 2012 site visit: "The restaurant does not post hours of operation." [Decision pg. 8] "TAM'S BURGER *currently* opens 24 hours daily." [Decision pg. 15, emphasis added] The Decision does not disclose that since 1986, the Benetatos family has operated Tam's Burger's #6 as a twenty-four (24) hours per day fast food establishment. Moreover, for the last 29 years, the operating hours (24 hours / day) of Tam's Burgers #6 has remained the same.

JUSTIFICATIONS FOR APPEAL

Case # DIR 2012-1288(RV)

The Zoning Administrator's Decision seeks to impose a sharp reduction (34 hours per week) in Condition #11:

11. The hours of operation shall be limited to the following:

Sunday through Thursday: 6:00 a.m. to 12
Friday and Saturday: 6:00 a.m. to 2:00 a.m.

(Decision pg. 3, Condition #11) This proposed restriction of six hours per day (weekdays) and four hours per night (weekends) would impose high financial cost to Tam's Burgers #6 (which has operated for its entire 29-year history (including the 26 years operated by Respondents) as a twenty-four (24) hour business -- without any correlative benefits.

There is no evidentiary or logical nexus between the alleged nuisance activity and the proposed abatement remedy. There is no evidence that this criminal activity is occurring during the time period that the City seeks to close the business. There is no evidence of criminal activity within the proposed time period restriction in the City's Determination letter, nor in the evidence presented at the hearing. *(See pages 11-12 of Decision erroneously double-counts a single incident that an Investigative report confirmed occurred at 11:29 p.m. on 9/21/09. The 9/22/09 Vehicle Report with a time of 2:00 a.m. is another report pertaining to the same incident the previous day.)*

There is also no evidence that shows that the premises of or immediately surrounding Tam's Burgers #6 has higher levels of crime than other areas located in
at or near the business relative to the surrounding area and similar businesses.

The evidence again was undisputed that these restrictions would impose a significant financial burden on this family-owned business.

B. Security Guard

Condition #12 requires that Tam's Burgers #6 "shall retain a minimum of one California State licensed uniform security guard during the hours of dusk until the business is closed for the day." [Decision pgs. 3-4, Condition #12(a)-(f)]

The Decision's stated rationale for security guard is two-fold (See Decision at page 22). The first stated reason is circular in reasoning -- Tam's Burger's #6 must hire a full-time security guard "to reinforce a commitment to an effective security patrol..." [Decision pg. 22: "The purpose of this condition is to reinforce an ongoing commitment for an effective security patrol that also cooperates with the Police Department when a need might arise."] The second stated rationale is premised again on the false claim that Tam's Burger #6 fails to cooperate with the

JUSTIFICATIONS FOR APPEAL

Case # DIR 2012-1288(RV)

LAPD in that since Tam's Burger #6 did not maintain a log of calls to the LAPD that means that Tam's Burger #6 did not and does not call the LAPD.

The evidence at the hearing was undisputed that the cost of complying with this Modification is exorbitant for this small, family-owned business.

C. Fencing

Condition #18 requires Tam's Burgers #6 to "install a 6 foot high wrought iron fence around the subject premise..." (Decision pg. 5, Condition #18)

Condition #18 makes no sense in light of the actual operations of Tam's Burgers #6 as a twenty-four (24) hour fast-food establishment. The problems it seeks to remedy do not currently exist, and would only occur if Condition #11 (the hours of operation restriction) is imposed. On page 25, Decision expressly identifies the reasoning and rationale for the fencing condition as only supported by an argument that there will in the future be a need for an enclosure -- "*especially during the hours when the subject premises is closed.*" (Decision pg. 25, emphasis added)

Even aside from the completely prospective nature of the problem (created by this very Decision's Condition #11), the fencing condition would completely undermine the effectiveness of the other measures the City has requested to ostensibly prevent loitering on the property and make the premises more visible to the LAPD. The Fencing naturally would actually keep patrons within the premises, which is counterproductive to the anti-loitering purpose.

D. Replacement Of Existing Camera Surveillance System

The evidence is undisputed that Respondents already have a video surveillance system, and have continuously cooperated with law enforcement requests for video surveillance footage. The recording system condition, if imposed, would irrationally require Respondents to spend several thousand dollars replacing their existing (several thousand dollar) system.

13. A camera surveillance system shall be installed and maintained, which covers parking lot area, the adjoining sidewalks and all common areas as well as high-risk areas in consultation with the Los Angeles Police Department, Southeast Vice Unit.

(Decision pg. 4, Condition #13) The Zoning Administrator's Decision does reference the evidence adduced at the hearing that Tam's Burger #6 already has a video surveillance system. The Decision does not disclose that Respondents have complied with all LAPD requests to review and copy surveillance recordings. The Decision also does not disclose is that the LAPD sought that this fast food establishment agree to additional invasive, and expensive measures that would have required that Tam's Burger #6 purchase an entirely new surveillance system that

JUSTIFICATIONS FOR APPEAL

Case # DIR 2012-1288(RV)

permits the LAPD carte blanche warrantless access to all footage – including interior cameras that absolutely no connection to exterior alleged “nuisance” activities. “Improvement #7” was the LAPD’s demand that Respondents provide complete, unfettered access to the government at all times over the internet:

7. Install and/or maintain a video surveillance system to monitor the interior and exterior of the Property. *The video surveillance system should be accessible through the Internet so that the Property owner, business owner and managers; and Los Angeles Police Department (“LAPD”) officers can monitor the Property from their work and home computers, tablets, and/or phones.*

The video system that was actually requested by the LAPD would represent a serious impairment in Tam’s Burgers #6’s fundamental right to privacy that far outweighs the government’s interest in recording Respondents’ employees inside the establishment.

E. Fifteen Minute Restriction

Condition #17, punishable by a misdemeanor, commands that “[n]o employee/security guard shall...encourage or allow patrons to remain on the premises for more than 15 minutes.” (Decision pg. 5, Condition #17) The vagueness of Condition #17 fails to provide Respondents with adequate notice of what conduct is prohibited, such that Respondent and its employees have a sufficiently clear warning of what is expected of them so they can reasonably understand and comply.

The Decision follows the LAPD’s prior written request for the following thirty (30) minute time limitation in proposed Improvement #2: “Do not allow patrons to linger over a soda or other soft drink for more *than 30 minutes*. Do not allow the same customer to repeatedly purchased drinks and or food.”

The City’s Determination Order has inexplicably reduced the LAPD’s suggested time limit from thirty minutes to fifteen minutes.

Condition #17 is impermissibly vague in all of its applications and is drafted in a manner that fosters arbitrary or discriminatory enforcement.

JUSTIFICATIONS FOR APPEAL

Case # DIR 2012-1288(RV)

Thank you very much for your time and attention to this matter. We respectfully urge you to grant our appeal and remove these modifications and conditions that would unjustly result in the closure of this business.

Very truly yours,



MICHAEL G. THOMAS

LINN K. WYATT
CHIEF ZONING ADMINISTRATOR

ASSOCIATE ZONING ADMINISTRATORS

R. NICOLAS BROWN
SUE CHANG
LOURDES GREEN
CHARLES J. RAUSCH, JR.
FERNANDO TOVAR
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CITY OF LOS ANGELES
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ANTONIO R. VILLARAIGOSA
MAYOR

October 1, 2012

Chief Zoning Administrator (A)
Office of Zoning Administration
200 North Spring Street, #763
Los Angeles, CA 90012

Western Commercial Bank (O)
21550 Oxnard Street
Woodland Hills, CA 91367

Jack Benetatos (Op)
12341 Tonopah Court
Apple Valley, CA 92308

Nick Benetatos
16254 Crown Valley Road
Apple Valley, CA 92307

Tom Aita
Senior Vice President
First California Bank
2200 Sepulveda Boulevard
Torrance, CA 90501

CASE NO. DIR 2012-1288(RV)
IMPOSITION OF CONDITIONS
10023 and 10027 South Figueroa Street
South Los Angeles Planning Area
Zone : C2-1VL
D. M. : 91.5A201
C. D. : 8
CEQA : ENV-2011-2918-CE
Legal Description : Fr. Lots 147 and 148
Tract 5054

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

that the operation of the business known as Tam's Burger, located at 10023 and 10027 South Figueroa Street, is a public nuisance, and requires the modification of its operation to mitigate adverse impacts on persons and properties in surrounding area,

as follows:

1. The business owner/operator and/or the property owner shall file a Plan Approval application with associated application fees as set forth in Section 19.01-1 of the Municipal Code and public hearing notification mailing fees, within **6 months** from the effective date of this determination to allow for a review of the effectiveness in implementing the Conditions established herein and to determine whether the public nuisance problems identified in the "Findings" section below have been reduced or eliminated. A public hearing shall be conducted. Notice of the public hearing shall



be to all property owners and occupants located within 500 feet of the property. In addition, all persons who were mailed a copy of the instant determination shall be notified. Failure to file the Plan Approval application may result in revocation of the use.

The applicant shall provide appropriate documentation to substantiate ongoing compliance of the applicant with each of the conditions contained herein at the time of filing the Plan Approval Review application.

2. The use of the property 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 such Conditions are proven necessary for the protection of the neighborhood. The Zoning Administrator may also add, modify or delete Conditions if they are no longer necessary or have proven ineffectual.
3. A copy of these terms and Conditions shall be maintained on the subject premises, and shall be made available to all enforcement personnel upon request.

The conditions of the subject grant shall be provided to employees including security personnel for their review. Employees shall be notified that the violation with the required conditions herein may result in disciplinary action including up to termination of employment.

Within 30 days from the effective date of this grant, a statement signed by the employees stating that they reviewed and agree to comply with the conditions shall be submitted to the Zoning Administrator.

4. The property, including the parking area and sidewalk areas adjacent to the subject premises, shall be maintained free from trash and debris. The owner/operator shall keep the premises and any area adjacent to the premises, over which he[she] has control clear of litter, newspaper racks, benches, furniture, boxes or objects that encourage loitering.
5. All graffiti on the site shall be removed and painted over to match the color of the surface to which it is applied with anti-graffiti paint within 24 hours of its occurrence.

Within 30 days from the effective date of this determination, the property owner/business owner/operator shall submit evidence of compliance with this condition to the Zoning Administrator such as photographs and receipts of graffiti removal, etc.

6. Should there be a change in the ownership of the property/the business and/or the business operator, the property owner and the business owner/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. Prior to the closing of escrow for a potential change in the ownership of the property/business owner or operator, evidence showing that a copy of this determination including the conditions required herewith has been provided to

the prospective owner/operator, shall be submitted to the satisfaction of the Zoning Administrator.

7. The business operator shall post professionally prepared signs in English and Spanish, at visible and conspicuous locations on the property, containing the following language in lettering of at least 2 inches in height: [LAPD]

“NO NARCOTICS USE OR DEALERS, NO LOITERING, NO WEAPONS, NO TRESPASSING, NO PROSTITUTION. THIS PROPERTY IS PATROLLED REGULARLY AND FREQUENTLY BY THE LAPD.”

8. The property owner shall, within 10 days of the effective date of this determination, sign and deliver to the Los Angeles Police Department (“LAPD”), Southeast Vice Unit, a “Trespass Arrest Authorization” form, which authorizes the LAPD to arrest individuals unlawfully loitering on the property pursuant to LAMC Section 41.24. A copy of the executed form shall also be provided to the Zoning Administrator within the same 10 days. [LAPD]
9. There shall be no public telephones, automated teller machines (ATM’s) or vending machines on the property. [LAPD]
10. The property owner shall install and maintain exterior lighting in the parking or other areas in consultation with the Los Angeles Police Department [LAPD], Southeast Vice Unit, to provide sufficient illumination so as to render objects or persons on the property and adjoining sidewalk clearly visible. All exterior lighting shall be shielded and directed onto the site to prevent the light source from illuminating adjacent properties. [LAPD]

Within 30 days from the effective date of this determination, evidence of compliance with this condition shall be submitted to the Zoning Administrator. A letter or an e-mail from the LAPD stating that the required exterior lighting has been installed in compliance with this condition will satisfy this condition.

11. The hours of operation shall be limited to the following: [LAPD]

Sunday through Thursday; 6:00 a.m. to 12 midnight
Friday and Saturday: 6:00 a.m. to 2:00 a.m.

12. The following security measures shall be provided to mitigate loitering, and any nuisance/criminal activity on the subject premises. [LAPD]
 - a. The business owner/operator shall retain a minimum of one California State licensed uniform security guard during the hours of dusk until the business is closed for the day.

The property owner and/or the business owner/operator shall provide a copy of a valid contract for such service to the Zoning Administrator within 30 days of the effective date of this action.

- b. The security guard shall request the assistance of the Los Angeles Police Department if, based upon their training, the situation so warrants. The security guard shall cooperate with all law enforcement personnel during any investigations or inspections on the property.
 - c. The guard shall be fluent in English and will have clear instructions to enforce applicable conditions and uphold the law. The business operator and/or guard shall not follow, impede, obstruct or delay any law enforcement personnel conducting inspections or official business at the location. The guard shall be responsible for securing not only the subject fast food establishment but the adjacent parking lot and perimeter.
 - e. A log for security patrol and calls to the LAPD shall be maintained by the guard at the property, indicating the dates and times of security guard on duty and nature and resolution of any security incidents and calls to the LAPD, and shall be provided when requested by any law enforcement personnel.
 - f. The on-site manager shall be available to meet with the Police Department upon any inspection and be allowed access to the property when requested. Cooperate with any law enforcement agencies in their investigations related to the property and do not impede or interfere with their investigation.
13. A camera surveillance system shall be installed and maintained, which covers a parking lot area, the adjoining sidewalks and all common areas as well as high-risk areas in consultation with the Los Angeles Police Department, Southeast Vice Unit. Video tapes shall be maintained for 30 days and shall be made available to the Police Department or other enforcement agency upon request. [LAPD]

The surveillance monitors shall be located in an area where the monitors are regularly monitored by staff and/or security personnel.

Signs indicating the use of a 24-hour video surveillance system shall be posted at the driveway entrance, parking lot area and on the exterior walls facing the adjoining streets. The signs shall state the following: [LAPD]

WARNING
THIS PREMISE IS UNDER 24-HOUR SURVEILLANCE
BY THE MANAGEMENT AND THE LAPD.
ALL CRIMINAL ACTIVITIES WILL BE DIRECTLY
REPORTED TO THE LAPD.

The sign(s) shall be at least two square feet with 2-inch block lettering. The sign(s) shall be in English and Spanish.

Within 30 days from the effective date of this determination, the business owner/operator or property owner shall submit evidence that shows compliance with this condition including, but not be limited to, photographs of such a posting and a

letter from the LAPD, which states that the required surveillance cameras and signs have been installed/posted as required.

14. The business operator shall not allow access onto the property by persons known to them to be prostitutes, pimps, prostitution customers, parolees with prior narcotic or prostitution offenses, narcotics users, narcotics possessors, narcotics sellers or manufacturers of illegal controlled substances.
15. The business operator shall inform the Police Department immediately if any person on the property is engaging in narcotics activity, or if narcotics paraphernalia is observed on the property. All trespassers and loiterers on the property shall be immediately reported to the Police Department. [LAPD]
16. The property owner and/or the business operator shall identify a contact person and provide a 24-hour "hot line" telephone number for any inquiries or complaints from the community regarding the subject facility. Prior to the utilization of this grant, the phone number shall be posted on the site so that is readily visible to any interested party. The hot line shall be:
 - posted at the driveway entrance, and the ordering counter,
 - responded to within 24-hours of any complaints/inquiries received on this hot line, and
 - documented in a log and available for review by the Los Angeles Police Department and the Zoning Administrator upon request on when the calls were received, returned and the action taken at a minimum.
17. No employee/security guard shall be involved in criminal activity or encourage or allow patrons to remain on the premises for more than 15 minutes. [LAPD]
18. The property owner and/or the business owner/operator shall install a 6-foot high wrought iron fence around the subject premise including the area between the rear parking lot and the front of the business near the ordering windows such that the entire parking lot is secured. The driveway entrances and the drive-thru are allowed to remain open for vehicular access during the permitted operating hours.

The driveways including the drive-thru shall remain closed during non-operating hours such that no vehicular/pedestrian access is permitted to the parking lot during those hours.

Within 30 days from the effective date of this determination, evidence of compliance with this condition shall be submitted to the Zoning Administrator.

19. The business owner/operator shall join and actively participate in the efforts of any local business neighborhood watch, and shall meet with Southeast Area Vice Unit representatives on an as-needed basis to receive appropriate training and information regarding vice and nuisance related crimes and activity in the area. [LAPD]

20. Trash bins and greaser shall be covered and shall be located within an enclosed area, which shall be maintained with only access to the restaurant staff. The trash bins and greaser enclosure area shall be maintained in clean condition at all times.

Within 30 days from the effective date of this determination, evidence of compliance with this condition shall be submitted to the Zoning Administrator for inclusion in the file.

21. The property owner and/or the business owner/operator shall reimburse the City of Los Angeles applicable fees and surcharges for the subject application, as set forth at Los Angeles Municipal Code Section 19.01, within 60 days of the effective date of this determination.
22. Within 15 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.

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 advise 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 16, 2012, 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 and correspondence contained in the file, the report of the Zoning Analyst thereon, the statements made at the public hearing before the Zoning Administrator on June 21, 2012, 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

On May 25, 1989, Ordinance No. 164,749 became effective, establishing procedures for the modification, discontinuance or removal of a use, building or structure that constitutes a public nuisance or endangers the public health or safety or violates any provision of City, State or Federal statutes or ordinance. That ordinance became Section 12.21-A, 15 of the Los Angeles Municipal Code.

On October 27, 1997, Ordinance No. 171,740 became effective, amending the language in the earlier ordinance.

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

The site is a level, corner-shaped lot composed of two recorded lots approximately 9,201.4 square feet of lot area having a frontage of approximately 80 feet on the west side of Figueroa and uniform depth of 115 feet. The property is zoned C2-1VL.

The subject site is developed with a fast food restaurant with a drive-thru, walk-up window, single story, approximately 870 square feet. The site is also developed with a 12-space surface parking lot. A 15-foot alley separates the lot from the adjacent residential homes. The parking lot is accessible from 101st Street.

The property is located within the South Los Angeles Planning Area, Los Angeles State Enterprise Zone, Fast Food Establishments, South Los Angeles Alcohol Sales Specific Plan, approximately 1.08107 kilometers from the nearest known fault, and Central City Revitalization Zone.

A site visit was conducted on June 5, 2012, at approximately 10 a.m. The site was not maintained: graffiti on the cement walls, menu signs, and building; greaser in the parking lot, and rubbish throughout the property (see staff photos in the file). A trash bin is located in the parking lot, adjacent to the abandoned greaser. Covered bar windows at the walk-up counter is located on the east side of the building (see staff photos). The restaurant does not post hours of operation. Some of the building signs advertising specials were covered in graffiti. A lighted pole sign is located on the east side of the property. The parking stalls are slightly visible.

During the site visit, staff talked through the phone with the manager and asked why the property is not maintained. The manager explained criminal activity has been a problem in the area and provided examples where he has attempted to catch offenders and prosecute them. He claims that each time he paints over the graffiti, it comes back within a couple of days. Because it is time and money consuming, he leaves the graffiti.

The business sells fast-food related items for breakfast, lunch, and dinner ranging from omelets and pancakes to hamburgers, fried chicken, and burritos. There is a covered patio on the east side of the property and there is no seating underneath the patio. It appears customers utilize the drive-through window or walk-up counter to order food.

Staff observed two cameras: one located on the southwest corner facing the walk-up counter, the other located on the northwest corner facing the rear door. Staff did not determine whether the cameras were operable.

A street light is located on the west side of the property. There are a number of fluorescent lights under the patio cover. Staff counted three lights attached to the rear of the property (west side of the building). There are two lights attached to the south side of the building.

A light is attached to the pole sign on the east side of the property. Also, a light is attached to the menu at the beginning of the drive-through.

Community allegations and Los Angeles Police Department calls for service and arrest report documentation of: criminal homicides, pimping-prostitution, narcotics use-sales, loitering, transients and intoxicated groups, drinking in public, graffiti and associated trash and debris that encourage loitering. There are written allegations of the same noted nuisance activities received as citizen declarations. These activities are jeopardizing and/or endangering the public health and safety of persons residing or working on the premises or in the surrounding area, thereby constituting a public nuisance, and contributing to the deterioration of the adjacent community. The activities occurring in and around the premises have generated numerous police responses thereby straining the resources of the Police Department.

Adjacent properties to the north of the subject property are zoned C2-1VL and developed with a used-car business and surface parking lot.

Properties to the east are zoned C2-1VL and developed with commercial businesses: "Tacos El Guapo" and automotive related business. There is a gas station on the southeast corner of Figueroa Street and Century Boulevard.

Properties to the south are zoned C2-1VL and developed with commercial businesses and multi-family dwellings. A motel that has over 50 rooms called "Twenty First Comfort Inn" is located on the southeast corner of 101st Street and Figueroa Street.

Properties to the west are zoned R1-1 and developed with single-family dwellings.

Figueroa Street, adjoining the property to the east is a Major Highway – Class I, with a width of 100 feet and fully improved with curb, gutter, and sidewalk.

101st Street, adjoining the property to the south is a Local Street with a width of 60 feet and fully improved with curb, gutter, and sidewalk.

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

Subject site:

Ordinance No. 167093 – Effective August 18, 1991, this ordinance changed the zone of the subject property from C2-1 to HD 1-VL.

Ordinance No. 162,128 – On March 31, 1987, the City Council established a specific plan for the regulation of establishments dispensing, for sale or other consideration, alcoholic beverages for off-site consumption, located in the South Central Area of the City of Los Angeles.

Ordinance No. 171,682 – On August 11, 1997, ordinance was approved to consolidate two existing conditional use categories for the sale of alcoholic beverages Citywide.

Ordinance No. 180,103 – On June 19, 2007, the Planning and Land Use Management Committee of the City Council approved an interim control ordinance

to prohibit the establishment of new fast food restaurants in South Los Angeles for 365 days.

Certificate of Occupancy 1948LA24518 – Issued on January 19, 1949, for a one-story, Type V, 540 square-foot addition to Lunch Stand, G-1 Occupancy.

Certificate of Occupancy 1946LA31400 – Issued on March 28, 1947 for a one-story, Type V, 18- by 24-foot (432 square feet), Lunch Stand, G-1 Occupancy.

Case No. CPC 2007-3827(ICO) – On September 27, 2007, the City Planning Commission approved an interim control ordinance to impose interim regulations on the issuance of all permits related to the establishment of new fast-food restaurants located in South Los Angeles.

Case No. CPC 2010-2278(GPA) – On October 14, 2010 the City Planning Commission approved a General Plan Amendment to add a footnote that regulates the establishment of new fast-food establishments in South Los Angeles.

Building and Safety Order to Comply Case No. 204289 – Issued on July 16, 2007, for a pole sign addition, self-standing plywood sign, graffiti. On September 13, 2007, the case for closed.

Surrounding properties:

Case No. ZA 93-0434(RV) – On July 14, 1993, the Zoning Administrator determined that the property located at 10001 South Figueroa Street known as New Century Market to be a public nuisance for nearby residential areas and imposed conditions. A Plan Approval was initiated and the Zoning Administrator and modified the hours of operation. On October 5, 1993, the City Council took final action on a revocation case against the New Century Market due to serious nuisance problems. The City's action called for a three-month review of the revocation conditions.

The South Los Angeles Community Plan Map designates the property for General Commercial land uses with corresponding zones of C1.5, C2, C4, RAS3, RAS4 and Height District No. 1VL. The property is in the South Los Angeles Alcohol Sales Specific Plan. However, this does not affect this case.

The following was received from the community:

- There are eight citizen declarations stating some of the illegal activity associated with Tams Burgers such as: prostitution, drinking in public, trash and debris, pimping prostitution, shootings, loitering, excessive noise, vandalism, gang activity, graffiti, and illegal parking.
- A letter was received from a resident complaining about pimping prostitution, criminal homicides, narcotic sales, loitering, transients, intoxicated groups or drinking in public, graffiti. The resident has been living in the community for over 10 years and stated that it has been insane to live under current conditions.

The Los Angeles Police Department submitted the following Arrest, Crime, and Vehicle Reports (provided by City Attorney):

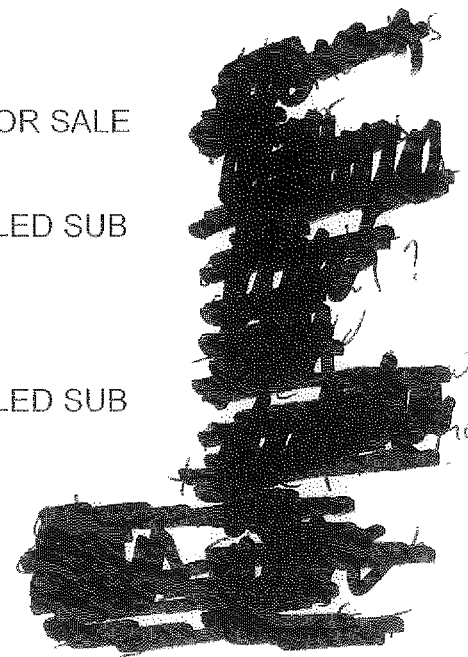
- 09/21/09 (11:29 PM) Investigative Report. Victim was in his vehicle in the Tam's Burgers parking lot. An unknown suspect(s) fired numerous rounds, striking several times, and killing the victim. Victim was transported from the scene to Harbor UCLA Medical Center and pronounced dead by the doctor.
- 09/22/09 (2:00 AM) Vehicle Report. While the victim was in the vehicle, an unknown person(s) shot victim numerous times, resulting in killing the victim. Vehicle was held for fingerprints.
- 04/27/10 (10:30 AM) Vehicle Report. Vehicle was recovered by two officers.
- 06/04/10 (4:20 PM) Arrest for 11350(A)HS; Possession of Cocaine. Suspect was sitting down and loitering in front of subject Tam's Burgers drinking out of beer can. LAPD observed a plastic bindle containing off white substance resembling rock cocaine.
- 07/28/10 (11:30 PM) Attempted Murder and Murder. Two victims were parked in a car at Tam's Burgers parking lot. A male suspect approached the vehicle from the passenger side and fired multiple gunshots into the vehicle. Both were struck by the gunfire. One victim was transported to Harbor UCLA hospital and pronounced dead by the doctor. The other victim was treated on the scene for flesh wound.
- 07/30/10 (1:28 PM) Vehicle Report. Vehicle was impounded for evidence in regards to the homicide that occurred on 7/28/10.

The Los Angeles Police Department Patrol Calls for Service, May 1, 2009 to February 13, 2012: 58 Responses to 10023 Figueroa Street.

A Consolidated Crime Analysis Database (CCAD) report from June 29, 2007 to January 3, 2011:

- | | | | |
|---|-----|----------|-------------------------------------|
| 1 | ① | 06/29/07 | MISDEMEANOR BATTERY |
| | 2. | 02/28/08 | POSS/PURCHASE COCAINE BASE FOR SALE |
| | 3. | 02/28/08 | PROPERTY REPORT |
| | 4. | 03/11/08 | DRINKING IN PUBLIC |
| | 5. | 04/20/08 | POSSESSION NARCOTIC CONTROLLED SUB |
| | 6. | 04/20/08 | PROPERTY REPORT |
| | 7. | 02/28/09 | PIMPING |
| 2 | ⑧ | 09/21/09 | CRIMINAL HOMICIDE |
| | 9. | 04/27/10 | RECOVERED VEHICLE |
| | 10. | 06/04/10 | POSSESSION NARCOTIC CONTROLLED SUB |
| | 11. | 06/04/10 | PROPERTY REPORT |
| | ⑫ | 07/28/10 | CRIMINAL HOMICIDE |
| | ⑬ | 07/28/10 | ASSAULT W/DEADLY WEAPON |
| | ⑭ | 01/03/11 | ASSAULT W/DEADLY WEAPON |

Same 13
4
5



The Los Angeles Police Department (LAPD) sent a letter to the manager, dated November 23, 2011, initiated a Preliminary Nuisance Investigation. They attached to the letter suggested conditions to mitigate the nuisance activity associated with the subject property:

1. *The owner/operator shall keep the premises and any area adjacent to the premises over which he has control (including sidewalks and all parking lots) clear of litter, newspaper racks, benches, boxes, milk crates, homeless encampments or objects that encourage loitering on a daily basis.*
2. *There shall be no loitering and no alcoholic beverages consumed on the property or any property adjacent to the premises under the control of the owner/operator.*
3. *No employee shall be involved in criminal activity or encourage or allow patrons to remain on the premises for more than 15 minutes.*
4. *The owner/operator shall provide adequate lighting to both the front and rear of the business and it shall be of sufficient strength to make visible the identity and the actions of all persons on the premises.*
5. *Any graffiti painted or marked upon the premise or adjacent area under the control of the owner/operator shall be removed or painted over with a matching color within 24 hours.*
6. *One California State licensed uniform security guard shall be present during the hours of dusk until the business is closed for the day. The security guard shall be employed by the owner/operator and be present each day the premise is open for business. The guard shall be fluent in English and will have clear instructions to enforce applicable conditions and uphold the law. The guard will not follow, impede, obstruct or delay any law enforcement personnel conducting inspections or official business at the location. Along with normal security guard duties and patrolling, the guard shall keep the area clear of all transients, prostitutes, narcotics users, dealers, and those groups loitering upon the premises.*
7. *The owner shall install and maintain adequate fencing (either wrought iron or chain link) closing off the space on the north side of the business. This is the area between rear parking lot and the front of the business near the ordering windows. This is to prevent unnecessary loitering by the aforementioned individuals.*
8. *The owner/operator shall not allow, permit or install any pay phones and remove any pay phones currently on the property to discourage loitering (south side of the property).*
9. *The owner/operator shall join and actively participate in the efforts of any local business neighborhood watch, and shall meet with Southeast Area Vice unit representatives on an as needed basis to receive appropriate training and information regarding vice, alcoholic beverage control laws and nuisance abatement procedures.*

10. *The owner/operator shall provide a signed trespass arrest authorization form allowing LAPD officers to arrest individuals unlawfully loitering on the property pursuant to section 41.24 LAMC.*
11. *The owner/operator shall install and maintain video surveillance cameras with inside/outside views of all common areas. Management shall routinely monitor the cameras and keep the video recordings (either tapes, DVD or computer drives) for at least one week before re-recording over the said recording device. Management shall immediately notify the LAPD when criminal activity is observed and shall keep and make available to the LAPD any and all tapes, which indicate possible criminal activity.*
12. *The owner/operator shall install signs that state the premises are being monitored and video recorded with at least two-inch lettering.*
13. *Comply with all orders and regulations of the Department of Building and Safety, County Health Services Department, City Clerk's Office, City Fire Department, and any other regulatory agency in a timely manner.*
14. *The owner/operator shall install at least two professional printed signs in English and Spanish in visible and conspicuous locations throughout his property stating the following:*

"No trespassing, no loitering, no narcotics use or dealers, no prostitution, no weapons, no drinking of alcoholic beverages. This property is patrolled regularly and frequently by the LAPD."

The signs shall have lettering of at least two inches in height.

15. *The owner/operator shall identify and assign a contact person to respond to a posted 24-hour "hot line" telephone number for any inquires or complaints from the community regarding the property and/or operation of the business. The hot line number shall be conspicuously posted at the front, north and south sides of the business. The calls shall receive response within 24-hours and documented in a log and available for review by the Los Angeles Police Department upon request. The log shall include when the calls were received, when the calls were returned, action taken and the name and phone number of the complainant. The lettering within the signs shall be at a minimum of 2" wide and 4" in height.*
16. *The hours of operation shall be limited to the hours between 6 a.m. to 12 midnight Sunday through Thursday and 6 a.m. to 2 a.m. Friday through Saturday.*
17. *It shall be the responsibility of the owner/operator to ensure compliance of these conditions at all times. All employees involved in and around the aforementioned property shall be made familiar with these conditions and implement them as required.*
18. *A copy of this agreement and the list of conditions shall be posted along with other permits in public view and shall be made available to all law enforcement personnel upon demand.*

19. *Thoroughly train all of your employees with respect to all of these procedures. Provide written instructions to your employees and notify them that they will be disciplined for violation of the procedures.*
- [20.] *The on-site manager shall be available to meet with Police Department upon any inspection and be allowed access to the property when requested. Cooperate with any law enforcement entity in their investigations related to the property and do not impede or interfere with their investigations.*
- [21.] *The owner/operator shall join and actively participate in the efforts of any local business neighborhood watch, and shall meet with Southeast Vice Unit representatives on an as needed basis to receive appropriate training and information, regarding Vice and nuisance related crimes and activity in the area.*

A Los Angeles Police Officer sent the Planning Department a letter that was received on April 17, 2012. The Officer states, "The Southeast Area has been plagued by this location for numerous years with the owner being uncooperative with mitigating the nuisance at his business ... below is a brief description of the issues with the location:

1. *Extensive calls for service and crime reports at the location, including two homicides in the last two years and a narcotics arrest involving an employee.*
2. *Loitering to including transients, gang, prostitution and narcotic offenders.*
3. *Building is dilapidated and lot is full of trash, debris and graffiti.*
4. *Owner was advised of the nuisance associated with the property and was provided with voluntary conditions as of Dec 2011. None of which have been complied with.*
5. *Owner has been uncooperative and will not meet physically with officers, stating that all criminal issues associated with the property are a police matter. All correspondence has been through telephone, e-mail or certified mail.*
6. *Several citizen declarations involving people living in the area directly affected by the nuisance activity at the location with the file.*
7. *Location currently being monitored by 24-hour pole camera operated by the police department depicting the nuisance activity."*

PUBLIC HEARING

The public hearing was held on June 21, 2012 in Room 1020, Los Angeles City Hall. The purpose of the hearing was to obtain oral and written testimony from anyone having knowledge about the activities on or about the subject property. The Zoning Administrator presented an overview of the case, stated the hearing procedures to be followed and then read aloud portions of the Zoning Investigator's report for background purposes. The hearing was attended by the property owner [Tom Aita, Senior Vice President of the First California Bank], business owner/operators [Nick and Jack Benetatos] and representatives of the Los Angeles Police Department, detective Support and Vice Division, Community

Problems Unit [Michael Dickes], the City Attorney's Office [Rebecca Gardner] and Council District 8 [Purvi Doshi]. A representative of the City Attorney did not testify.

The following testimony was taken:

Business owners/operators [Nick and Jack Benetatos]:

- The current business owner had a lease in 1986 and the current business operator [a son of the business owner] has operated Tam's Burger since 1989. They have a lease until 2034.
- The business owners are present at the site five (5) days a week.
- There are no patron seats provided at the site.
- The business owners/operators cannot control nuisance activities outside the property.
- As soon as the graffiti is removed, it comes back. The operators always report graffiti to Los Angeles Police Department [LAPD]. However, since graffiti is not an urgent issue for public safety, the LAPD does not immediately respond.
- The property has never robbed and there was no damage during the civil disturbance in the 1990s.
- Figueroa Street is known as an area in which prostitutes frequent.
- Tam's Burger does not sell condoms, illegal drugs, and alcoholic beverages, and does not promote drug sales on the subject premises.
- The business operators cannot afford a security guard.
- There are no patron seats at the subject premise.
- A majority of Tam's Burger customers are residents in the area.
- The site has vehicular ingress from 101st Street and egress to Figueroa Street.
- Nuisance and criminal activities on and around the site have decreased and the situation is better than before.
- Tam's Burger currently opens 24 hours daily.
- The operators have provided Trespass Authorization for the LAPD for one year [May 2011-May 2012], and agree to comply with 23 conditions suggested by the City Attorney except for Condition Nos. 2, 5, 12, 14, 15, 16, 21 and 22.

[ZA Note: The letter signed by the business operators and the property owner on June 12, 2012 is in the case file.]

The property owner, First California Bank [Tom Aita]:

- Due to a default loan, First California Bank became the legal owner of the subject property in November, 2010.
- There is active litigation on the subject property with Neutral Ground LLC.
- The property owner agrees to comply with operating conditions recommended by the Los Angeles Police Department and other responsible agencies.
- The property owner offered the business owner to break the lease, but, the business owner refused.

The Los Angeles Police Department, Detective Support and Vice Division [Mike Dickes]:

- The LAPD has been involved with the subject property in an effort to mitigate nuisance and criminal activities since 2010 and contacted the business operator in the middle of 2011. However, the operator has not cooperated with the LAPD in mitigating the alleged nuisance activities on and around the site.
- The business is managed by a son of the business owner.
- Not all of the businesses in the area are maintained in a similar manner as the subject premises. For example, Tam's Burger at Figueroa and Manchester located approximately 20 blocks from the subject site has a similar surrounding environment in terms of nuisance and criminal activities. However, its physical condition is not like the subject premises.
- The hours of operation should be restricted and a security guard is needed in order to mitigate nuisance and criminal activities.
- The northerly adjoining property is improved with an automobile dealer. A fence should be constructed to secure space between the subject site and the adjoining property to mitigate loitering activities in that area, especially during non-operating hours on the site and the neighboring property.
- There are milk crates in front of the subject premises resulting in loitering.
- There is a 24-hour LAPD surveillance camera in front of the site in order to monitor gang activities. Such monitoring began at the end of 2011.
- The former Century Market, which was the subject of a nuisance abatement site, was burned down during the 1990s civil disturbance and is no longer in operation at Figueroa Street and Century Boulevard. Currently, there is an automobile dealer at that location.
- There are liquor stores in close proximity to the subject location at 98th and Figueroa, and 101st and Hoover Streets.
- There is a motel [Flight Motel] nearby the subject site.

Council District 8 [Purvi Doshi]:

- Council office supports the conditions recommended by the City Attorney's office and the LAPD including a security guard and reduced hours of operation.
- Graffiti should be removed immediately and repainted with anti-graffiti paint.
- Wrought iron fence should be installed with a minimum height of 6 feet in order to secure the property and to mitigate nuisance activities on and around the site.

The business owner/operators in rebuttal:

- Transients are everywhere and the business owners/operators cannot control them.
- A security guard will cost the business operator \$5,000 to \$8,000 per month and the operators cannot afford it.
- The wrought iron fence was previously broken and the installation of the fence will need the property owner's approval.

After the testimony was taken, the Zoning Administrator took the case under advisement for two weeks in order to allow a representative of the First California Bank to follow upon the

legal ownership of the subject property and contact information of Neutral Ground LLC, which is in litigation with the First California Bank. The City Attorney's Office was requested to submit 23 operating conditions that were recommended by their office. During the advisement period, the LAPD was asked to submit information about the local business/neighborhood watch program to the Zoning Administrator.

Subsequent to the hearing, the City Attorney's Office submitted the 23 operating conditions and a representative of the First California Bank e-mailed the following to the Zoning Administrator.

"In reviewing our legal documents regarding the subject property former Western Commercial Bank did foreclose on 10023 W. Figueroa Street property prior to First California Bank's acquisition of Western Commercial Bank. As such, First California Bank is the recorded owner of this property.

The Bank, however, is unable to sell the subject property due to Notice of Pendency of Action (Case No. BC409014) filed by Kenneth J. Ellis against Cindy Ellis; Corey Sims; Neutral Ground; Trudy Swearingen; Western Surety Company...."

DISCUSSION:

The crime reports from the LAPD, the Planning Department staff investigation reports, letters/declarations from residents in the area as well as oral testimony at the public hearing, all generally summarized above, lead the Director of Planning/Zoning Administrator to conclude that the property has long been a source of nuisance and criminal activity involving a high number of incidents and police responses as a result of violations of several municipal and State laws. The facts of the case support a clear and convincing nexus between nuisance behavior on the subject property and the lack of control exercised by the landlord and business owner/operator over the property during the course of several years since the 1980s.

The subject fast food establishment has been under the current business ownership since 1986 and a son of the owner has been operating the subject premises since 1989. The representatives of the Los Angeles Police Department, Southeast Division testified that nuisance activities on and around the subject location continue; resolution of the problems was not aggressively pursued by the property/business owners or business operators. Due to the extent of criminal and nuisance activities at the property in recent years, the site has been a location of frequent police response for service and the target of routine patrols and occasional undercover operations.

It is an objective of the administrative nuisance abatement provisions not to seek closure of an offending land use but rather its rehabilitation. Should corrective conditions prove ineffective, the Municipal Code authorizes the discontinuance of that use.

In order to establish and maintain order and to prevent criminal activities as well as to mitigate public nuisance activities on or nearby the subject site, the Zoning Administrator has established operating conditions that will mitigate the nuisance activities if the conditions are observed by the business owner/operators and property owner.

In the following section, the rationale for each Condition is set forth.

1. **The business owner/operator and/or the property owner shall file a Plan Approval application with associated application fees as set forth in Section 19.01-I of the Municipal Code and public hearing notification mailing fees, within 6 months from the effective date of this determination to allow for a review of the effectiveness in implementing the Conditions established herein and to determine whether the public nuisance problems identified in the "Findings" section below have been reduced or eliminated. A public hearing shall be conducted. Notice of the public hearing shall be to all property owners and occupants located within 500 feet of the property. In addition, all persons where were mailed a copy of the instant determination shall be notified. Failure to file the Plan Approval application may result in revocation of the use.**

The applicant shall provide appropriate documentation to substantiate ongoing compliance of the applicant with each of the conditions contained herein at the time of filing the Plan Approval Review application.

The purpose of the review is to determine in an open, public setting whether or not the Conditions have been followed and whether the nuisance problems have been fully mitigated. The review will depend upon factual information such as arrest reports, detentions, investigations, photographs, videos, the issuance or suspension of licenses or permits, the timeliness of actions taken by the property owner and business owner/operator, and other indices upon which an informed and reasonable judgment can be made. The notice of the review hearing will be mailed by the property owner to the same persons who were notified by the City of the original hearing. Review at a later period may result in a revocation of the use on the subject property, if there is failure to comply and if the nuisance activities on the site continue to impact the surrounding properties.

2. **The use of the property 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 such Conditions are proven necessary for the protection of the neighborhood. The Zoning Administrator may also add, modify or delete Conditions if they are no longer necessary or have proven ineffectual.**

This condition is imposed to bring to the attention of the property owner/business owner/operator that additional corrective conditions may be imposed if necessary. The condition also serves to remind the property owner and the business owner/operator that the subject premise should be run in a manner that considers the impact of the subject premise on the surrounding uses.

The Zoning Administrator cannot predict what changes in the mode and character of operation may occur, if any, or whether the business operator or property owner will retain their respective business interests and ownership. The property owner and business operator may supplement the Conditions established by the Zoning

Administrator. Likewise, some Conditions may subsequently be expendable. In either case, the Zoning Administrator has the authority to add, amend and delete Conditions as found appropriate after evaluating the evidence at hand.

3. **A copy of these terms and Conditions shall be maintained on the subject premise, and shall be made available to all enforcement personnel upon request.**

The conditions of the subject grant shall be provided to employees including security personnel for their review. Employees shall be notified that the violation with the required conditions herein may result in disciplinary action including up to termination of employment.

Within 30 days from the effective date of this grant, a statement signed by the employees stating that they reviewed and agree to comply with the conditions shall be submitted to the Zoning Administrator.

These documents should be available at the fingertips of any responsible business operator. Failure to provide them easily and quickly to law enforcement may indicate that the required conditions are not in compliance. Failure to procure the Conditions of this determination would put into question whether the business operator is cognizant of them and has any ability to therefore comply with them. Such delays are at odds with the ability of law enforcement to conduct a proper and timely inspection of the premises.

The mere posting of these Conditions will not assure compliance. However, it does minimize any future allegation that the operators/employees were unaware of the Conditions or could not remember all of them. Failure to follow rules once informed is a far worse excuse. It is incumbent upon the property owner and business operator to make certain the employees understand the rules.

4. **The property, including the parking area and sidewalk areas adjacent to the subject premise, shall be maintained free from trash and debris. The owner /operator shall keep the premises and any area adjacent to the premises, over which he[she] has control clear of litter, newspaper racks, benches, furniture, boxes or objects that encourage loitering.**

This condition requires the property owner, the business owner/operator be responsible to keep the premises clean and free of litter and to discourage loitering in and around the site including adjacent sidewalks and the area under the property owner's/operator's control.

Proper care and daily maintenance of the premises is a customary practice of a responsible business enterprise that expects to be successful. If the property is left unkempt, such condition only encourages loitering activity and other deleterious behavior that negatively impact the surrounding neighborhood. Ongoing routine daily property maintenance is an essential component of the property's rehabilitation and improved standing with its neighbors.

5. **All graffiti on the site shall be removed and painted over to match the color of the surface to which it is applied with anti-graffiti paint within 24 hours of its occurrence.**

Within 30 days from the effective date of this determination, the property owner/the business owner/operator shall submit evidence of compliance with this condition to the Zoning Administrator such as photographs and receipts of graffiti removal, etc.

This condition is intended to keep the subject site free of graffiti and to mitigate the aesthetic impacts that result in blighting effects to the surrounding properties. The removal of graffiti not only assures a property that visually contributes to the welfare of the surrounding area, but also discourages vandalism and criminal activities on the project site. Prompt removal or painting over of graffiti with a color to match the surface to which it is applied has been generally effective elsewhere in preventing or at least minimizing a recurrence of such incidents.

6. **Should there be a change in the ownership of the property/the business and/or the business operator, the property owner and the business owner/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. Prior to the closing of the escrow for a potential change in the ownership of the property/business owner or operator, evidence showing that a copy of this determination including the conditions required herewith has been provided to the prospective owner/operator, shall be submitted to the satisfaction of the Zoning Administrator.**

This food establishment has had a long history of nuisance and criminal activities such as drinking alcoholic beverages in public, prostitution, illegal drug transactions, a lack of maintenance on and around the site as well as loitering. Tam's Burger has been under the same business ownership/operator since 1986, approximately for 26 years. It shall be the property and the business owner's responsibility to maintain the property and to conduct the business in a manner that will not adversely impact residents, customers, visitor and business operators as well as properties in the surrounding area. This condition is intended to inform the prospective future property/business owner and the business operators of their responsibilities in implementing the imposed conditions.

7. **The business operator shall post professionally prepared signs in English and Spanish, at visible and conspicuous locations on the property, containing the following language in lettering of at least 2 inches in height: [LAPD]**

"NO NARCOTICS USE OR DEALERS, NO LOITERING, NO WEAPONS, NO TRESPASSING, NO PROSTITUTION. THIS PROPERTY IS PATROLLED REGULARLY AND FREQUENTLY BY THE LAPD."

This condition provides adequate notice to persons considering criminal behavior that there are consequences to those choices.

8. **The property owner shall, within 10 days of the effective date of this determination, sign and deliver to the Los Angeles Police Department ("LAPD"), Southeast Vice Unit, a "Trespass Arrest Authorization" form, which authorizes the LAPD to arrest individuals unlawfully loitering on the property pursuant to LAMC Section 41.24. A copy of the executed form shall also be provided to the Zoning Administrator within the same 10 days. [LAPD]**

This condition is required in support of the LAPD investigation and potential arrests of individuals unlawfully loitering on the subject property. This Condition follows in tandem from the previous one, allowing the Police Department to arrest, and for the City Attorney to prosecute, individuals for loitering on private property as set forth in the Municipal Code, without the presence of the property owner. Under the Penal Code, it is a misdemeanor to enter or occupy property without the consent of the owner, his/her agent, or the person in lawful possession.

9. **There shall be no public telephones, automated teller machines (ATM's) or vending machines on the property. [LAPD]**

The presence of a public pay phone, ATM or vending machine can serve as an attractive nuisance for persons who are otherwise loitering. Loitering on and around the subject premise has been established through oral testimony and police reports.

10. **The property owner shall install and maintain exterior lighting in the parking or other areas in consultation with the Los Angeles Police Department [LAPD], Southeast Vice Unit, to provide sufficient illumination so as to render objects or persons on the property and adjoining sidewalk clearly visible. All exterior lighting shall be shielded and directed onto the site to prevent the light source from illuminating adjacent properties. [LAPD]**

Within 30 days from the effective date of this determination, evidence of compliance with this condition shall be submitted to the Zoning Administrator. A letter or an e-mail from the LAPD stating that the required exterior lighting has been installed in compliance with this condition will satisfy this condition.

It is much easier for security personnel and law enforcement officers to conduct effective surveillance if they can see the faces of perpetrators and accomplices and other identifiable features of their person or clothing. Light sufficient to make discernible their faces should discourage some persons from loitering or committing crimes at this location.

11. **The hours of operation shall be limited to the following: [LAPD]**

**Sunday through Thursday; 6:00 a.m. to 12 midnight
Friday and Saturday: 6:00 a.m. to 2:00 a.m.**

Currently, Tam's Burger opens 24 hours daily resulting in nuisance and criminal behaviors on and around the site that require more frequent patrols by the Police Department, especially late at night. This condition is recommended by the LAPD in order to mitigate criminal and nuisance activities on the subject premise.

12. The following security measures shall be provided to mitigate loitering, and any nuisance/criminal activity on the subject premise. [LAPD]

- a. The business owner/operator shall retain a minimum of one California State licensed uniform security guard during the hours of dusk until the business is closed for the day.

The property owner and/or the business owner/operator shall provide a copy of a valid contract for such service to the Zoning Administrator within 30 days of the effective date of this action.

- b. The security guard shall request the assistance of the Los Angeles Police Department if, based upon their training, the situation so warrants. The security patrol shall cooperate with all law enforcement personnel during any investigations or inspections on the property.
- c. The guard shall be fluent in English and will have clear instructions to enforce applicable conditions and uphold the law. The business operator and/or guard shall not follow, impede, obstruct or delay any law enforcement personnel conducting inspections or official business at the location. The guard shall be responsible for securing not only the subject fast food establishment but the adjacent parking lot and perimeter.
- e. A log for security patrol and calls to the LAPD shall be maintained by the guard at the property, indicating the dates and times of security guard on duty and nature and resolution of any security incidents and calls to the LAPD, and shall be provided when requested by any law enforcement personnel.
- f. The on-site manager shall be available to meet with the Police Department upon any inspection and be allowed access to the property when requested. Cooperate with any law enforcement agencies in their investigations related to the property and do not impede or interfere with their investigation.

The purpose of this condition is to reinforce an ongoing commitment for an effective security patrol that also cooperates with the Police Department when a need might arise.

A responsible business operator should not hesitate to call the Police Department when the situation warrants assistance as that Department is charged with serving and protecting the entire community. Without a log of calls indicating the date, time and purpose of such calls, the owner has no evidence to corroborate how many and what type of calls, if any, were made to the Police Department. Failure to call the Police Department when warranted is inappropriate as public safety and welfare are at risk.

13. A camera surveillance system shall be installed and maintained, which covers a parking lot area, the adjoining sidewalks and all common areas as well as high-risk areas in consultation with the Los Angeles Police Department, Southeast Vice Unit. Video tapes shall be maintained for 30 days and shall be made available to the Police Department or other enforcement agency upon request. [LAPD]

The surveillance monitors shall be located in an area where the monitors are regularly monitored by staff and/or security personnel.

Signs indicating the use of a 24-hour video surveillance system shall be posted at the driveway entrance, parking lot area and on the exterior walls facing the adjoining streets. The signs shall state the following: [LAPD]

**WARNING
THIS PREMISE IS UNDER 24-HOUR SURVEILLANCE
BY THE MANAGEMENT AND THE LAPD.
ALL CRIMINAL ACTIVITIES WILL BE DIRECTLY
REPORTED TO THE LAPD.**

The sign(s) shall be at least two square feet with 2-inch block lettering. The sign(s) shall be in English and Spanish.

Within 30 days from the effective date of this determination, the business owner/operator or property owner shall submit evidence that shows compliance with this condition including, but not be limited to, photographs of such a posting and a letter from the LAPD, which states that the required surveillance cameras and signs have been installed/posted as required.

Use of video surveillance will show activities occurring inside the subject location as well as activities outside on the adjacent sidewalk area and in the parking lot, and will assist the efforts of the property owners, the business owners/operators, security guards and the LAPD in identifying those persons who are involved in criminal activity and loitering. The recorded video can also be used as supporting evidence in prosecuting suspects who have been detained at the scene or apprehended at a later date.

The posting of signs of 24-hour surveillance cameras throughout the premises is intended to discourage criminal and nuisance activities on and around the subject location.

14. The business operator shall not allow access onto the property by persons known to them to be prostitutes, pimps, prostitution customers, parolees with prior narcotic or prostitution offenses, narcotics users, narcotics possessors, narcotics sellers or manufacturers of illegal controlled substances.

Allowing persons who have been known to exhibit criminal behavior serves no redeeming purpose. As summarized in this determination, the subject premise has

been a magnet for assorted criminal activity over a period of years, creating a public nuisance. This condition is imposed to assure that there will be ongoing vigilance in preventing persons associated with criminal activity on the premises.

15. **The business operator shall inform the Police Department immediately if any person on the property is engaging in narcotics activity, or if narcotics paraphernalia is observed on the property. All trespassers and loiterers on the property shall be immediately reported to the Police Department. [LAPD]**

This condition reflects common sense and good management practice. Failure to call the Police Department when warranted is inappropriate as public safety and welfare are at risk.

16. **The property owner and/or the business operator shall identify a contact person and provide a 24-hour "hot line" telephone number for any inquiries or complaints from the community regarding the subject facility. Prior to the utilization of this grant, the phone number shall be posted on the site so that it is readily visible to any interested party. The hot line shall be:**

- **posted at the driveway entrance, and the ordering counter,**
- **responded to within 24-hours of any complaints/inquiries received on this hot line, and**
- **documented in a log and available for review by the Los Angeles Police Department and the Zoning Administrator upon request on when the calls were received, returned and the action taken at a minimum.**

This condition is to document any public complaints about criminal activities, public nuisance and/or any anti-social behavior that may be associated with the operation of the subject premise.

17. **No employee/security guard shall be involved in criminal activity or encourage or allow patrons to remain on the premises for more than 15 minutes. [LAPD]**

This condition is intended to mitigate loitering on and around the subject premises.

18. **The property owner and/or the business owner/operator shall install a 6-foot high wrought iron fence around the subject premise including the area between the rear parking lot and the front of the business near the ordering windows such that the entire parking lot is secured. The driveway entrances and the drive-thru are allowed to remain open for vehicular access during the permitted operating hours.**

The driveways including the drive-thru shall remain closed during non-operating hours such that no vehicular/pedestrian access is permitted to the parking lot during those hours.

Within 30 days from the effective date of this determination, evidence of compliance with this condition shall be submitted to the Zoning Administrator.

This condition is to prevent graffiti, loitering, criminal and nuisance activities on the subject premises, especially during the hours when the subject premises is closed.

19. **The business owner/operator shall join and actively participate in the efforts of any local business neighborhood watch, and shall meet with Southeast Area Vice Unit representatives on an as needed basis to receive appropriate training and information regarding vice and nuisance related crimes and activity in the area. [LAPD]**

This condition encourages the business owner/operator to be informed of criminal and nuisance activities in the area and to receive appropriate training opportunity from the LAPD.

20. **Trash bins and greaser shall be covered and shall be located within an enclosed area, which shall be maintained with only access to the restaurant staff. The trash bins and greaser enclosure area shall be maintained in clean condition at all times.**

Within 30 days from the effective date of this determination, evidence of compliance with this condition shall be submitted to the Zoning Administrator for inclusion in the file.

Currently, trash bins and greaser are located in a parking lot and are maintained with graffiti without proper care. This condition is intended to mitigate a potential health hazard and aesthetic impacts.

21. **The property owner and/or the business owner/operator shall reimburse the City of Los Angeles applicable fees and surcharges for the subject application, as set forth at Los Angeles Municipal Code Section 19.01, within 60 days of the effective date of this determination.**

The City Planning staff has spent considerable time preparing the case file, notifying the public of the hearing, coordinating with other departments to obtain relevant information, conducting field investigations, conducting the hearing, drafting the instant determination, and mailing it out. The fee established in the Code represents only partial cost recovery. Time and costs expended by the Police Department and the City Attorney's office are not included in the fee so those departments are not reimbursed. This condition allows a partial recovery of the cost involved with this instant determination.

22. **Within 15 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.**

The purpose of the covenant is to ensure that the property owner/business owner and operator and any subsequent owner/operator will comply with the conditions imposed on the property. This covenant is a recorded public document. The covenant functions as a public notice that the property and business owners as well as the business operators agree to comply with the imposed conditions.

FINDINGS

In order to preclude a recurrence of narcotics use-sales, pimping-prostitution, vandalism, transients and intoxicated groups, drinking in public, graffiti, loitering, associated trash and debris that encourage loitering and other unlawful behavior and other illegal and nuisance activities summarized in this determination from continuing on and around the subject site, the Zoning Administrator on behalf of the Director of Planning has determined that the use is a public nuisance as established in Section 12.27.1 of the Los Angeles Municipal Code. The Zoning Administrator hereby finds that the fast food restaurant known as Tam's Burger located at 10023-10027 South Figueroa Street:

1. Adversely impacts nearby residential or commercial uses.

The police reports, the Planning Department staff investigation, public testimony at the hearing, which was conducted on June 21, 2012 as summarized in this determination, support the alleged nuisance activities such as loitering, littering, graffiti, drinking alcoholic beverages in public, trash and debris in and around the subject location, prostitution and transactions involving illegal substance. These nuisance and criminal activities have had a negative effect and have affected the safety and welfare of other adjacent businesses and residents living adjacent to and in close vicinity to the site. The subject premise has been under the current business ownership since 1986 and under the same operator since 1989. The business owner/operator has been informed of the alleged nuisance activities associated with the operation of the subject premise by the Los Angeles Police Department. However, the business owners/operators have not taken any action to mitigate nuisance and criminal activities on and around the subject site. The business operator stated that the business owners/operators cannot control activities outside the subject premise; therefore, they are not responsible. In addition, as soon as old graffiti is removed, new graffiti is found.

The Police Department reported that a son of the business owner has operated the site since 1989. The business owner/operator is not always present at the subject site as stated by the operator at the hearing. The Southeast Area has been plagued by the subject premise for numerous years and the owner/operators have been uncooperative with mitigating the nuisances at the subject location. The following are just a few examples to show the current condition and uncooperative behavior of the business operator:

- Extensive calls for service and crime reports at the location, including two homicides in the last two years and a narcotics arrest involving an employee.
- Loitering including transients, gang, prostitution and narcotic offenders.

- Building is dilapidated and lot is full of trash, debris and graffiti.
- Owner was advised of the nuisance associated with the property and was provided with voluntary conditions as of December 2011, none of which have been complied with.
- Owner has been uncooperative and will not meet physically with officers, stating that all criminal issues associated with the property are a police matter. All correspondence has been through telephone, e-mail or certified mail.
- Several people living in the area directly affected by the nuisance activity at the location have provided declarations.
- Location currently being monitored by 24 hour pole camera operated by the Police Department depicting the nuisance activity.

It is evident that without the implementation of corrective measures, there is no indication that the property owner/business owner/operator will participate in a reduction of the nuisance and criminal activities. To ensure that the imposed conditions are complied with, a plan approval is required within 6 months after this determination becomes effective. The plan approval review requires a public hearing at which members of the public as well as the police and council office will be given a forum to provide information regarding the effectiveness of the conditions and the property owner's/the business owner's/operator's compliance with those conditions.

2. **Jeopardizes or endangers the public health or safety of persons residing or working on the premises or in the surrounding area.**

The letters and petitions received to the file, and testimony taken at the June 21, 2012 hearing indicate that the operation of the subject premises has resulted in minimal activities and the business owner/operator failed to mitigate such detrimental impacts to the surrounding properties. The premise has been poorly managed with graffiti, trash and litter on and in adjoining sidewalks resulting in blighting effects to the surrounding properties. The Los Angeles Police Department (LAPD) has submitted documentation indicating multiple incidents of such activities on the subject premise and on the adjacent streets. The evidence shows that on-going nuisance activities around the subject site continue to occur in and around this establishment resulting in an attraction of nuisance behaviors that endanger the public health or safety of residents/employees/customers on the premises and in the surrounding area.

3. **Constitutes a public nuisance.**

The LAPD surveillance of nuisance activities occurring in the area surrounding Tam's Burger shows loitering, narcotic activities, drinking in public, prostitution, vandalism, and other illegal activities summarized in this determination.

The public testimony indicate that loitering and public drinking and other nuisance activities on the premises and around the subject site have occurred since the 1980s and the subject premise has been under the current business ownership

since that time, but, such problems have not been mitigated. The Los Angeles Police Department has repeatedly responded to, made investigations of and arrests for nuisance activities on and around the subject location. These activities are jeopardizing and/or endangering the public health and safety of persons residing or working on the premises or in the surrounding area, thereby constituting a public nuisance, and contributing to the deterioration of the adjacent community. The activities occurring in and around the premises have generated numerous police responses thereby straining the resources of the Police Department.

Without the imposition of the corrective conditions, the Zoning Administrator hereby finds that Tam's Burger at this location will continue to attract nuisance activities. It is through these conditions that the use is made compatible with the neighborhood and their continued existence and compliance assures neighbors that the nuisance problems are under control.

4. **Has resulted in repeated nuisance activities including but not limited to disturbances of the peace, illegal drug activity, and harassment of passersby, prostitution, theft, assaults, batteries, loitering, police detentions and arrests.**

The current business operator has operated the subject premise since 1989 and has been informed of the alleged nuisance activities associated with the operation of the subject premise. However, the owner/operator failed to mitigate the alleged nuisance and illegal activities resulting in detrimental impacts to the surrounding properties. The business operator stated that the nuisance/criminal activities are not associated with the operation of the subject premise and he cannot control activities occurring outside the subject premises. However, as indicated by the LAPD, not all of the businesses in the area that are similar to the subject premises have caused such detrimental impacts. For example, even though Tam's Burger at Figueroa Street and Manchester Avenue is located in an atmosphere similar to the subject site, the operator of said premise was able to manage the business without similar nuisance/criminal activities occurring at the subject location.

The imposition of the conditions is a minimum requirement of what the property owner and the business owners/operators can do to improve such nuisance/criminal activities. If there are other measures available to alleviate nuisance activities, the property owner and the business owners/operators should adopt such measures in order to improve the situation on the site.

The property owner and the business operator's compliance with and the effectiveness of the required conditions will be evaluated at the next Plan Approval, which is required to be filed within six (6) months from the effective date of this determination.

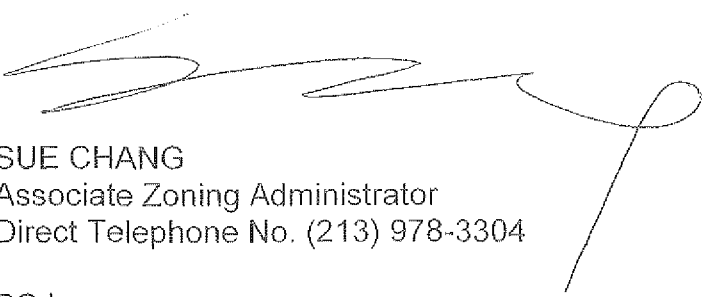
5. **Violates provisions of Chapter 1 of the Municipal Code, or any other city, state, or federal regulations, ordinance or statute.**

The LAPD records indicate that there have been numerous arrests for illegal activities on and around the site as summarized in this determination. The LAPD

reports indicate that extensive calls for service and crime reports were received at the location including two homicides in the last two years and a narcotics arrest involving an employee. Unless and until the business operator acknowledges its past failure to comply with the required laws and regulations and accepts responsibilities to take corrective actions, no improvements are expected.

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. The business owners/operators have been afforded the opportunity to review the file both in advance of and after the hearing, which was duly noticed, and to testify and respond to the allegations concerning the impacts of the operation of Tam's Burger at 10023-10027 South Figueroa Street. The property owner and business owner/operator were in attendance at the public hearing held on June 21, 2012 and provided testimony. Further, the conditions imposed are not so onerous as to prevent the viable operation of the business.

MICHAEL LOGRANDE
Director of Planning



SUE CHANG
Associate Zoning Administrator
Direct Telephone No. (213) 978-3304

SC:lmc

cc: Councilmember Bernard C. Parks
Eighth District
Adjoining Property Owners

CITY OF LOS ANGELES
DEPARTMENT OF CITY PLANNING
OFFICE OF ZONING ADMINISTRATION

STAFF INVESTIGATOR REPORT

June 13, 2012

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Western Commercial Bank (O)
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Jack Benetatos (Op)
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Apple Valley, CA 92308

Nick Benetatos
16254 Crown Valley Road
Apple Valley, CA 92307

CASE NO. DIR 2012-1288(RV)
POSSIBLE IMPOSITION OF
CONDITIONS TO ABATE NUISANCE
OR REVOCATIONS OF USE
10023 South Figueroa Street
South Los Angeles Planning Area
Zone : C2-1VL
D. M. : 091-5A201
C. D. : 8
CEQA : ENV-2011-2918-CE
Legal Description : Fr. Lots 147 and 148
Tract 5054

Request

The purpose of the hearing is to obtain testimony of the property owner and/or business operator, plus affected and/or interested persons regarding the operation of Tam's Burgers (also known as Tam's Burgers #6), use location address: 10023 South Figueroa Street, (property location addresses of: 10023 and 10027 South Figueroa Street). Following the hearing, the Zoning Administrator may require the discontinuance of the use; or may impose corrective conditions regarding its use as fast food establishment in order to mitigate any land use impacts caused by the use. The public is also invited to submit written comments prior to the hearing.

Authority

The Director of Planning, through the Office of Zoning Administration, has the authority to revoke the use or impose corrective conditions on the operation of the existing business as a bar under Section 12.27.1 (land use impacts caused by any use) of the Los Angeles Municipal Code.

Property Description

The site is a level, corner-shaped lot composed of two recorded lots approximately 9,201.4 square feet of lot area having a frontage of approximately 80 feet on the west side of Figueroa and uniform depth of 115 feet. The property is zoned C2-1VL.

The subject site is developed with a commercial restaurant with a drive-thru, walk-up window, single story, approximately 870 square feet. The site is also developed with a 12-space surface parking lot. A 15-foot alley separates the lot from the adjacent residential homes. The parking lot is accessible from 101st Street.

The property is located within the South Los Angeles Planning Area, Los Angeles State Enterprise Zone, Fast Food Establishments, South Los Angeles Alcohol Sales Specific Plan, approximately 1.08107 kilometers from the nearest known fault, and Central City Revitalization Zone.

A site visit was conducted on June 5, 2012, at approximately 10 a.m. The site was not maintained: graffiti on the cement walls, menu signs, and building; greaser in the parking lot, and rubbish throughout the property (see staff photos). A trash bin is located in the parking lot, adjacent to the abandoned greaser. Covered bar windows at the walk-up counter is located on the east side of the building (see staff photos). The restaurant does not post hours of operation. Some of the building signs advertising specials were covered in graffiti. A lighted pole sign is located on the east side of the property. The parking stalls are slightly visible.

During the site visit, staff talked through the phone with the manager and asked why the property is not maintained. The manager explained criminal activity has been a problem in the area and provided examples where he has attempted to catch offenders and prosecute them. He claims that each time he paints over the graffiti, it comes back within a couple of days. Because it is time and money consuming, he leaves the graffiti.

The business sells fast-food related items for breakfast, lunch, and dinner ranging from omelets and pancakes to hamburgers, fried chicken, and burritos. There is a covered patio on the east side of the property and there is no seating underneath the patio. It appears customers utilize the drive-through window or walk-up counter to order food.

Staff observed two cameras: one located on the southwest corner facing the walk-up counter, the other located on the northwest corner facing the rear door. Staff did not determine whether the cameras were operable.

A street light is located on the west side of the property. There are a number of fluorescent lights under the patio cover. Staff counted three lights attached to the rear of the property (west side of the building). There are two lights attached to the south side of the building. A light is attached to the pole sign on the east side of the property. Also, a light is attached to the menu at the beginning of the drive-thru.

The Project

Community allegations and Los Angeles Police Department calls for service and arrest report documentation of: criminal homicides, pimping-prostitution, narcotics use-sales, loitering, transients and intoxicated groups, drinking in public, graffiti and associated trash and debris that encourage loitering. There are written allegations of the same noted nuisance activities received as citizen declarations. These activities are jeopardizing and/or endangering the public health and safety of persons residing or working on the premises or in the surrounding area, thereby constituting a public nuisance, and contributing to the deterioration of the adjacent community. The activities occurring in and around the premises have generated numerous police responses thereby straining the resources of the Police Department.

Relevant Provisions of the Municipal Code

Nuisance Abatement Authority – Section 12.27.1 of the Los Angeles Municipal Code

On May 25, 1989, Ordinance No. 164,749 became effective, establishing procedures for the modification, discontinuance or removal of use, building or structure that constitutes a public nuisance or endangers the public health or safety or violates any provision of City, State, or Federal statutes or ordinance. That ordinance became Section 12.21-A,15 of the Los Angeles Municipal Code.

On January 18, 2009, Ordinance No. 180,409 became effective, amending the language of the Los Angeles Municipal Code.

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.

Surrounding Land Uses

Adjacent properties to the north of the subject property are zoned C2-1VL and developed with a used-car business and surface parking lot.

Properties to the east are zoned C2-1VL and developed with commercial businesses: "Tacos El Guapo" and automotive related business. There is a gas station on the southeast corner of Figueroa Street and Century Boulevard.

Properties to the south are zoned C2-1VL and developed with commercial businesses and multi-family dwellings. A motel that has over 50 rooms called "Twenty First Comfort Inn" is located on the southeast corner of 101st Street and Figueroa Street.

Properties to the west are zoned R1-1 and developed with single-family dwellings.

Previous Cases, Affidavits, Permits, and Orders On the Applicant's Property:

Ordinance No. 167093 – Effective August 18, 1991, this ordinance changed the zone of the subject property from C2-1 to HD 1-VL.

Ordinance No. 162128 – On March 31, 1987, the City Council established a specific plan for the regulation of establishments dispensing, for sale or other consideration, alcoholic beverages for off-site consumption, located in the South Central Area of the City of Los Angeles.

Ordinance No. 171682 – On August 11, 1997, ordinance was approved to consolidate two existing conditional use categories for the sale of alcoholic beverages Citywide.

Ordinance No. 180,103 – On June 19, 2007, the Planning and Land Use Management Committee of the City Council approved an interim control ordinance to prohibit the establishment of new fast food restaurants in South Los Angeles for 365 days.

Certificate of Occupancy 1948LA24518 – Issued on January 19, 1949, for a one-story, Type V, 540 square-foot addition to Lunch Stand, G-1 Occupancy.

Certificate of Occupancy 1946LA31400 – Issued on March 28, 1947 for a one-story, Type V, 18- by 24-foot (432 square feet), Lunch Stand, G-1 Occupancy.

Case No. CPC 2007-3827(ICO) – On September 27, 2007, the City Planning Commission approved an interim control ordinance to impose interim regulations on the issuance of all permits related to the establishment of new fast-food restaurants located in South Los Angeles.

Case No. CPC 2010-2278(GPA) – On October 14, 2010 the City Planning Commission approved a General Plan Amendment to add a footnote that regulates the establishment of new fast-food establishments in South Los Angeles.

Building and Safety Order to Comply Case No. 204289 – Issued on July 16, 2007, for a pole sign addition, self-standing plywood sign, graffiti. On September 13, 2007, the case for closed.

Previous Cases, Affidavits, Permits, and Orders on Surrounding Properties:

Case No. ZA 93-0434(RV) – On July 14, 1993, the Zoning Administrator determined that the property located at 10001 South Figueroa Street known as New Century Market to be a public nuisance for nearby residential areas and imposed conditions. A Plan Approval was initiated and the Zoning Administrator and modified the hours of operation. On October 5, 1993, the City Council took final action on a revocation case against the New Century Market due to serious nuisance problems. The City's action called for a three-month review of the revocation conditions.

General Plan, Specific Plans and Interim Control Ordinances

Community Plan:

The South Los Angeles Community Plan Map designates the property for General Commercial land uses with corresponding zones of C1.5, C2, C4, RAS3, RAS4 and Height District No. 1VL.

Specific Plans and Interim Control Ordinances:

The property is in the South Los Angeles Alcohol Sales specific plan. However, this does not affect this case.

Streets

Figueroa Street, adjoining the property to the east is a Major Highway – Class I, with a width of 100 feet and fully improved with curb, gutter, and sidewalk.

101st Street, adjoining the property to the south is a Local Street with a width of 60 feet and fully improved with curb, gutter, and sidewalk.

Flood Hazard Evaluation

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 the property is located in Zone C, outside the flooding area.

Environmental Clearance

On November 14, 2011, the project was issued a Notice of Exemption (Subsection c, Section 2, Article II, City CEQA Guidelines), log reference ENV-2012-1289-CE, for a Categorical Exemption, Class 2, Category 21, Article III, Section 1, City CEQA Guidelines (Sections 15300-15333, State CEQA Guidelines).

Comments from Other Departments or the General Public

The Los Angeles Police Department submitted the following Arrest, Crime, and Vehicle Reports (provided by City Attorney):

- 09/21/09 (11:29 PM) Investigative Report. Victim was in his vehicle in the Tam's Burgers parking lot. An unknown suspect(s) fired numerous rounds, striking several times, and killing the victim. Victim was transported from the scene to Harbor UCLA Medical Center and pronounced dead by the doctor.
- 09/22/09 (2:00 AM) Vehicle Report. While the victim was in the vehicle, an unknown person(s) shot victim numerous times, resulting in killing the victim. Vehicle was held for fingerprints.
- 04/27/10 (10:30 AM) Vehicle Report. Vehicle was recovered by two officers.
- 06/04/10 (4:20 PM) Arrest for 11350(A)HS; Possession of Cocaine. Suspect was sitting down and loitering in front of subject Tam's Burgers drinking out of beer can. LAPD observed a plastic bindle containing off white substance resembling rock cocaine.
- 07/28/10 (11:30 PM) Attempted Murder and Murder. Two victims were parked in a car at Tam's Burgers parking lot. A male suspect approached the vehicle from the passenger side and fired multiple gunshots into the vehicle. Both were struck by the gunfire. One victim was transported to Harbor UCLA hospital and pronounced dead by the doctor. The other victim was treated on the scene for flesh wound.
- 07/30/10 (1:28 PM) Vehicle Report. Vehicle was impounded for evidence in regards to the homicide that occurred on 7/28/10.

The Los Angeles Police Department Patrol Calls for Service, May 1, 2009 to February 13, 2012: 58 Responses to 10023 Figueroa Street.

A Consolidated Crime Analysis Database (CCAD) report from June 29, 2007 to January 3, 2011:

1. 06/29/07 MISDEMEANOR BATTERY
2. 02/28/08 POSS/PURCHASE COCAINE BASE FOR SALE
3. 02/28/08 PROPERTY REPORT
4. 03/11/08 DRINKING IN PUBLIC
5. 04/20/08 POSSESSION NARCOTIC CONTROLLED SUB
6. 04/20/08 PROPERTY REPORT
7. 02/28/09 PIMPING
8. 09/21/09 CRIMINAL HOMICIDE
9. 04/27/10 RECOVERED VEHICLE
10. 06/04/10 POSSESSION NARCOTIC CONTROLLED SUB
11. 06/04/10 PROPERTY REPORT
12. 07/28/10 CRIMINAL HOMICIDE
13. 07/28/10 ASSAULT W/DEADLY WEAPON
14. 01/03/11 ASSAULT W/DEADLY WEAPON

There are eight citizen declarations stating some of the illegal activity associated with Tams Burgers such as: prostitution, drinking in public, trash and debris, primp prostitution, shootings, loitering, excessive noise, vandalism, gang activity, graffiti, and illegal parking.

The Los Angeles Police Department (LAPD) sent a letter to the manager, dated November 23, 2011, initiated a Preliminary Nuisance Investigation. They attached to the letter suggested conditions to mitigate the nuisance activity associated with the subject property:

1. The owner/operator shall keep the premises and any area adjacent to the premises over which he has control (including sidewalks and all parking lots) clear of litter, newspaper racks, benches, boxes, milk crates, homeless encampments or objects that encourage loitering on a daily basis.
2. There shall be no loitering and no alcoholic beverages consumed on the property or any property adjacent to the premises under the control of the owner/operator.
3. No employee shall be involved in criminal activity or encourage or allow patrons to remain on the premises for more than 15 minutes.
4. The owner/operator shall provide adequate lighting to both the front and rear of the business and it shall be of sufficient strength to make visible the identity and the actions of all persons on the premises.
5. Any graffiti painted or marked upon the premise or adjacent area under the control of the owner/operator shall be removed or painted over with a matching color within 24 hours.
6. One California State licensed uniform security guard shall be present during the hours of dusk until the business is closed for the day. The security guard shall be employed by the owner/operator and be present each day the premise is open for business. The guard shall be fluent in English and will have clear instructions to enforce applicable conditions and uphold the law. The guard will not follow, impede, obstruct or delay any law enforcement personnel conducting inspections or official business at the location. Along with normal security guard duties and

patrolling, the guard shall keep the area clear of all transients, prostitutes, narcotics users, dealers, and those groups loitering upon the premises.

7. The owner shall install and maintain adequate fencing (either wrought iron or chain link) closing off the space on the north side of the business. This is the area between rear parking lot and the front of the business near the ordering windows. This is to prevent unnecessary loitering by the aforementioned individuals.
8. The owner/operator shall not allow, permit or install any pay phones and remove any pay phones currently on the property to discourage loitering (south side of the property).
9. The owner/operator shall join and actively participate in the efforts of any local business neighborhood watch, and shall meet with Southeast Area Vice unit representatives on an as needed basis to receive appropriate training and information regarding vice, alcoholic beverage control laws and nuisance abatement procedures.
10. The owner/operator shall provide a signed trespass arrest authorization form allowing LAPD officers to arrest individuals unlawfully loitering on the property pursuant to section 41.24 LAMC.
11. The owner/operator shall install and maintain video surveillance cameras with inside/outside views of all common areas. Management shall routinely monitor the cameras and keep the video recordings (either, tapes, DVD or computer drives) for at least one week before re-recording over the said recording device. Management shall immediately notify the LAPD when criminal activity is observed and shall keep and make available to the LAPD any and all tapes, which indicate possible criminal activity.
12. The owner/operator shall install signs that state the premises are being monitored and video recorded with at least two-inch lettering.
13. Comply with all orders and regulations of the Department of Building and Safety, County Health Services Department, City Clerk's Office, City Fire Department, and any other regulatory agency in a timely manner.
14. The owner/operator shall install at least two professional printed signs in English and Spanish in visible and conspicuous locations throughout his property stating the following:

"No trespassing, no loitering, no narcotics use or dealers, no prostitution, no weapons, no drinking of alcoholic beverages. This property is patrolled regularly and frequently by the LAPD."

The signs shall have lettering of at least two inches in height.

15. The owner/operator shall identify and assign a contact person to respond to a posted 24-hour "hot line" telephone number for any inquiries or complaints from the community regarding the property and/or operation of the business. The hot line number shall be conspicuously posted at the front, north and south sides of the business. The calls shall receive response within 24-hours and documented in a

log and available for review by the Los Angeles Police Department upon request. The log shall include when the calls were received, when the calls were returned, action taken and the name and phone number of the complainant. The lettering within the signs shall be at a minimum of 2" wide and 4" in height.

16. The hours of operation shall be limited to the hours between 6 a.m. to 12 midnight Sunday through Thursday and 6 a.m. to 2 a.m. Friday through Saturday.
17. It shall be the responsibility of the owner/operator to ensure compliance of these conditions at all times. All employees involved in and around the aforementioned property shall be made familiar with these conditions and implement them as required.
18. A copy of this agreement and the list of conditions shall be posted along with other permits in public view and shall be made available to all law enforcement personnel upon demand.
19. Thoroughly train all of your employees with respect to all of these procedures. Provide written instructions to your employees and notify them that they will be disciplined for violation of the procedures.
- [20.] The on-site manager shall be available to meet with Police Department upon any inspection and be allowed access to the property when requested. Cooperate with any law enforcement entity in their investigations related to the property and do not impede or interfere with their investigations.
- [21.] The owner/operator shall join and actively participate in the efforts of any local business neighborhood watch, and shall meet with Southeast Vice Unit representatives on an as needed basis to receive appropriate training and information, regarding Vice and nuisance related crimes and activity in the area.

A Los Angeles Police Officer sent the Planning Department a letter that was received on April 17, 2012. The Officer states, "The Southeast Area has been plagued by this location for numerous years with the owner being uncooperative with mitigating the nuisance at his business...below is a brief description of the issues with the location:

1. Extensive calls for service and crime reports at the location, including two homicides in the last two years and a narcotics arrest involving an employee.
2. Loitering to including transients, gang, prostitution and narcotic offenders.
3. Building is dilapidated and lot is full of trash, debris and graffiti.
4. Owner was advised of the nuisance associated with the property and was provided with voluntary conditions as of Dec 2011. None of which have been complied with.
5. Owner has been uncooperative and will not meet physically with officers, stating that all criminal issues associated with the property are a police matter. All correspondence has been through telephone, e-mail or certified mail.
6. Several citizen declarations involving people living in the area directly affected by the nuisance activity at the location with the file.



7. Location currently being monitored by 24-hour pole camera operated by the police department depicting the nuisance activity."

Matthew Lum 9/14/12

MATTHEW LUM
Project Planner

ML:aln

COUNTY CLERK'S USE

CITY OF LOS ANGELES

CITY CLERK'S USE

OFFICE OF THE CITY CLERK
200 NORTH SPRING STREET, ROOM 360
LOS ANGELES, CALIFORNIA 90012

CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOTICE OF EXEMPTION

(California Environmental Quality Act Section 15062)

Filing of this form is optional. If filed, the form shall be filed with the County Clerk, 12400 E. Imperial Highway, Norwalk, CA 90650, pursuant to Public Resources Code Section 21152 (b). Pursuant to Public Resources Code Section 21167 (d), the filing of this notice starts a 35-day statute of limitations on court challenges to the approval of the project. Failure to file this notice with the County Clerk results in the statute of limitations being extended to 180 days.

LEAD CITY AGENCY City of Los Angeles Department of City Planning	COUNCIL DISTRICT 8
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PROJECT TITLE Revocation Action	LOG REFERENCE ENV 2012-1289CE
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PROJECT LOCATION 10023 South Figueroa Street

DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT: Mitigate nuisance activities on-site and upon adjacent properties by imposition of conditions and/or revocation of use

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT, IF OTHER THAN LEAD CITY AGENCY: Chief Zoning Administrator
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CONTACT PERSON Matthew Lum	AREA CODE 213	TELEPHONE NUMBER 978-1345	EXT.
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EXEMPT STATUS: (Check One)		
	STATE CEQA GUIDELINES	CITY CEQA GUIDELINES
<input type="checkbox"/> MINISTERIAL	Sec. 15268	Art. II, Sec. 2b
<input type="checkbox"/> DECLARED EMERGENCY	Sec. 15269	Art. II, Sec. 2a (1)
<input type="checkbox"/> EMERGENCY PROJECT	Sec. 15269 (b) & (c)	Art. II, Sec. 2a (2) & (3)
<input type="checkbox"/> CATEGORICAL EXEMPTION	Sec. 15300 <i>et seq.</i>	Art. III, Sec. 1
<input type="checkbox"/> GENERAL EXEMPTION	Sec. 15060	n/a
Class <u>21</u> Category <u>2</u> (City CEQA Guidelines)		
<input type="checkbox"/> OTHER	(See Public Resources Code Sec. 21080 (b) and set forth state and City guideline provision.)	

JUSTIFICATION FOR PROJECT EXEMPTION:

IF FILED BY APPLICANT, ATTACH CERTIFIED DOCUMENT ISSUED BY THE CITY PLANNING DEPARTMENT STATING THAT THE DEPARTMENT HAS FOUND THE PROJECT TO BE EXEMPT.

SIGNATURE	TITLE	DATE May 15, 2012
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FEE:	RECEIPT NO.	REC'D. BY	DATE
------	-------------	-----------	------

DISTRIBUTION: (1) County Clerk, (2) City Clerk, (3) Agency Record 21
Rev. 11-1-03 Rev. 1-31-06 Word

IF FILED BY THE APPLICANT:

NAME (PRINTED)

SIGNATURE

DATE

CITY OF LOS ANGELES
CALIFORNIA



DEPARTMENT OF CITY PLANNING

**NOTICE OF PUBLIC HEARING
POSSIBLE IMPOSITION OF CONDITIONS TO ABATE NUISANCE OR REVOCATION OF USE**

To Owners: Within a 100-Foot Radius
 Within a 500-Foot Radius
 Abutting a Proposed Development Site

And Occupants: Within a 100-Foot Radius
 Within a 500-Foot Radius
And: Others

The purpose of the hearing is to obtain testimony of the property owner and/or business operator, plus affected and/or interested persons regarding the operation of Tam's Burgers (also known as Tam's Burgers #6), use location address: 10023 South Figueroa Street, (property location addresses of: 10023 and 10027 South Figueroa Street). Following the hearing, the Zoning Administrator may require the discontinuance of the use; or may impose corrective conditions regarding its use as fast food establishment in order to mitigate any land use impacts caused by the use. The public is also invited to submit written comments prior to the hearing.

Hearing: Office of Zoning Administration

Case No.: DIR 2012-1288(RV)

Date: Thursday, June 21, 2012

CEQA No.: ENV 2012-1289-CE

Council No.: 8

Time: 10:00 a.m.

Plan Area: South Los Angeles

Zone: C2-1VL

Place: Los Angeles City Hall
200 North Spring Street, Room 1020
(Enter from Main Street)
Los Angeles, CA 90012

Applicant: City of Los Angeles
Department of City Planning
Office of Zoning Administration

Staff Contact: Matthew Lum
Phone No.: (213) 978-1345
Matthew.lum@lacity.org

PROJECT LOCATION: 10023 South Figueroa Street
The property is legally described as Fr. Lots 147 and 148, Tract 5054

REQUESTED ACTION: The Zoning Administrator will consider:

1. Community allegations and Los Angeles Police Department calls for service and arrest report documentation of: criminal homicides, pimping-prostitution, narcotics use-sales, loitering, transients and intoxicated groups, drinking in public, graffiti and associated trash and debris that encourage loitering. There are written allegations of the same noted nuisance activities received as citizen declarations. These activities are jeopardizing and/or endangering the public health and safety of persons residing or working on the premises or in the surrounding area, thereby constituting a public nuisance, and contributing to the deterioration of the adjacent community. The activities occurring in and around the premises have generated numerous police responses thereby straining the resources of the Police Department.

2. Pursuant to Section 21084 of the California Public Resources Code, the above referenced project has been determined not to have a significant effect on the environment and which shall therefore be exempt from the provisions of CEQA.

The environmental document will be among the matters considered at the hearing. The decision maker will consider all the testimony presented at the hearing, written communication received prior to or at the hearing, and the merits of the project as it relates to existing environmental and land use regulations.

Authority: The Director of Planning, through the Office of Zoning Administration, has the authority to revoke the use or impose corrective conditions on the operation of the existing business as a bar under Section 12.27.1 (land use impacts caused by any use) of the Los Angeles Municipal Code.

Exhaustion Of Administrative Remedies: If you challenge a City action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence on these matters delivered to the Department before the action on this matter will become a part of the administrative record. Note: This may not be the last hearing on this matter.

Advice To Public: The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communications may be mailed to the Los Angeles City Planning Department, Office of Zoning Administration, 200 N. Spring Street, Room 763, Los Angeles, CA 90012 (attention: Matthew Lum).

Review Of File: The file, including the application and the environmental assessment, are available for public inspection at this location between the hours of 8:00 a.m. to 4:00 p.m., Monday through Friday. Please call (213) 978-1318 several days in advance to assure that the files will be available. The files are not available for review the day of the hearing.

Accommodations: As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability. The hearing facility and its parking are wheelchair accessible. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or services may be provided upon request. Other services, such as translation between English and other languages, may also be provided upon request.

To ensure availability of services, please make your request no later than three working days (72 hours) prior to the hearing by calling the staff person referenced in this notice.

Como entidad cubierta bajo el Título II del Acto de los Americanos con Desabilidades, la Ciudad de Los Angeles no discrimina. La facilidad donde la junta se llevará a cabo y su estacionamiento son accesibles para sillas de ruedas. Traductores de Lengua de Muestra, dispositivos de oído, u otras ayudas auxiliares se pueden hacer disponibles si usted las pide en avance. *Otros servicios, como traducción de Inglés a otros idiomas, también pueden hacerse disponibles si usted los pide en avance.*

Para asegurar la disponibilidad de éstos servicios, por favor haga su petición al mínimo de tres días (72 horas) antes de la reunión, llamando a la persona del personal mencionada en este aviso.

Office: Downtown
 Applicant Copy
 Application Invoice N

PLAN & LAND USE \$105.02
 Total Due: \$105.02
 Check: \$105.02



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

City Planning Request

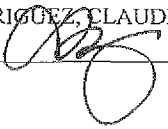
NOTICE: The staff of the Planning Department will analyze your request and accord the same full and impartial consideration to your application, regardless of whether or not you obtain the services of anyone to represent you.

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

Applicant: BENETATOS, NICK (B:818-6810147)
Representative:
Project Address: 10023 S FIGUEROA ST, 90003

NOTES: Appeal by aggrieved party; OS fee's included.

Item	Fee	%	Charged Fee
Other	\$105.02	100%	\$105.02
Case Total			\$105.02
*Fees Subject to Surcharges			\$0.00
Fees Not Subject to Surcharges			\$105.02
Plan & Land Use Fees Total			\$105.02
Expediting Fee			\$0.00
OSS Surcharge (2%)			\$0.00
Development Surcharge (6%)			\$0.00
Operating Surcharge (7%)			\$0.00
General Plan Maintenance Surcharge (3%)			\$0.00
Grand Total			\$105.02
Total Credit			\$0.00
Total Invoice			\$105.02
Total Overpayment Amount			\$0.00
Total Paid (this amount must equal the sum of all checks)			\$105.02

Council District: 8
 Plan Area: South Los Angeles
 Processed by RODRIGUEZ, CLAUDIA on 10/15/2012
 Signature: 

LA DEPARTMENT OF BUILDING AND SAFETY
 LA 06 51 253120 10/15/12 03:29PM

LA 06 51 253120 10/15/12 03:29PM
 Total Due: \$105.02
 Check: \$105.02

Office: Downtown
 Applicant Copy
 Application Invoice No:

PLAN & LAND USE \$105.02

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City Planning Request


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Applicant: BENETATOS, NICK (B:818-6810147)
Representative:
Project Address: 10023 S FIGUEROA ST, 90003

NOTES: Appeal by aggrieved party; OS fee's included.

DIR-2012-1288-RV			
Item	Fee	%	Charged Fee
Other	\$105.02	100%	\$105.02
Case Total			\$105.02
*Fees Subject to Surcharges			\$0.00
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Council District: 8
 Plan Area: South Los Angeles
 Processed by RODRIGUEZ, CLAUDIA on 10/15/2012
 Signature: 

LA DEPARTMENT OF BUILDING AND SAFETY
 1001 S MAIN ST
 LOS ANGELES, CA 90012
 (213) 473-3100
 www.ladbs.org