

# Staff Summary Report



Hearing Officer Hearing Date: June 3, 2008

Agenda Item Number: 4

**SUBJECT:** This is a public hearing for a request by **CAFE ISTANBUL (PL080075)** located at 1310 East Apache Boulevard for one (1) use permit.

**DOCUMENT NAME:** 20080603dssd02

**PLANNED DEVELOPMENT (0406)**

**SUPPORTING DOCS:** Yes

**COMMENTS:** Hold a public hearing for a request by **CAFE ISTANBUL (PL080075)** (Mohmound Ayashe, applicant; City of Tempe, property owner) located at 1310 East Apache Boulevard, Suite No. 204 in the CSS, Commercial Shopping and Services District for:

**ZUP08085** Use permit to allow a hookah lounge/tobacco retailer.

**PREPARED BY:** Shawn Daffara, Planner II (480-858-2284)

**REVIEWED BY:** Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

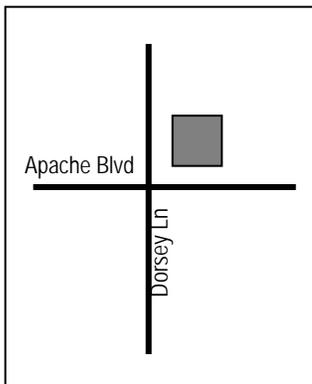
A handwritten signature in black ink, appearing to read 'SEA'.

**LEGAL REVIEW BY:** N/A

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff – Approval subject to Conditions 1-10

**ADDITIONAL INFO:** The applicant is requesting a use permit to allow a hookah lounge/tobacco retailer located at 1310 East Apache Boulevard in the CSS, Commercial Shopping & Services District. No public input has been received to date. Staff supports the request for a use permit as it meets the criteria for a use permit in the Zoning and Development Code.



**PAGES:**

1. List of Attachments
2. Comments;
3. Reasons for Approval; Conditions of Approval; History & Facts
4. Description; Zoning & Development Code Reference

**ATTACHMENTS:**

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Zoning Administrator Opinion
5. Site plan
- 6-7 Floor Plan(s)
- 8-9 Staff Photograph(s)

## COMMENTS:

The applicant, Café Istanbul is requesting a use permit to allow a hookah lounge/tobacco retailer located at 1310 East Apache Boulevard in the CSS, Commercial Shopping & Services District. Café Istanbul first opened in 1994 at another location. In 2004 they moved the business (restaurant & market) with the addition of a hookah lounge to 1310 East Apache Boulevard. Since the passing of Smoke Free Arizona Legislation all hookah lounges/tobacco retailers must cease all indoor smoking or the establishment may install an independent ventilation system. The existing Café Istanbul restaurant and market will remain downstairs and a hookah lounge will be located on the second floor in a separate suite with its own independently ventilated system. Hours of operation for the hookah lounge will be from 4pm to 1am, seven (7) days a week; they will employ 2-3 full time employees. Peak hours for hookah tend to be after dinner into the late evening.

City of Tempe Zoning and Development Code tobacco retailer separation requirements, which took effect in June of 2007, require a separation of tobacco retailers or hookah lounges from locating within 1,320 feet of a school. Thus, Café Istanbul requested a Zoning Administrator's opinion to determine if they would be permitted to submit a use permit request to operate a hookah lounge/tobacco retail establishment. The applicant provided a copy of their "Tobacco Distributors License" dated 2004, from the State of Arizona, as evidence that they had been operating as a hookah lounge prior to the separation requirement. In the Zoning Administrator's letter, Planning Director Lisa Collins opined that Café Istanbul had been operating as a hookah lounge prior to the separation requirement taking effect; therefore permitting them to submit a use permit request to operate a hookah lounge/tobacco retail establishment.

No public input has been received on this request. Staff supports the request for a use permit to allow a hookah lounge.

## Use Permit

The Zoning and Development Code requires a use permit for a hookah lounge in the CSS, Commercial Shopping and Services District.

Evaluating the use permit, the proposal appears to pass the use permit test listed below:

- a) Any significant increase in vehicular or pedestrian traffic in adjacent areas;
  - There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.
- b) Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
  - This is a hookah lounge and will generate smoke; however all hookah smoking shall be contained within the establishment and on the outdoor patio. The hookah lounge has its own independent ventilation system. Therefore this use should not adversely impact neighboring businesses with the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare.
- c) Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
  - The proposed development would not contribute to neighborhood deterioration or downgrade property values. This use permit request is consistent with the General Plan 2030's Land Use Element. The requested use permit will not be detrimental to the surrounding area, but will further the General Plan Land Use Element Goals and Strategies.
- d) Compatibility with existing surrounding structures and uses;
  - The proposed use appears to be compatible with surrounding uses

## Conclusion

Staff recommends approval of the use permit subject to conditions.

### REASON(S) FOR APPROVAL:

1. The business is a general commercial use, and is compatible with the other businesses on the property and within the area.
2. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
3. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.

**SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.**

### CONDITION(S) OF APPROVAL:

1. The use permit is valid for Café Istanbul and may be transferrable with approval from the Hearing Officer staff. Should the business be sold, the new owners must contact the Hearing Officer staff for review of the business operation.
2. This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
3. The use permit is valid for the plans reviewed and approved by the Hearing Officer.
4. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
5. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
6. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer for further review
7. The gross sale of beverages and snack items may not exceed that of tobacco and hookah products for the hookah lounge tax license.
8. All business signs shall receive a Sign Permit. Please contact the Planning Division at (480) 350-8331.
9. The applicant shall contact City of Tempe Crime Prevention Unit for a Security Plan. Please contact Sergeant Ken Harmon (480) 858-6330.
10. The Restaurant and the Hookah Lounge shall have separate sales tax licenses. The applicant shall contact Sales Tax and License for a hookah lounge/tobacco retailer tax license.

### HISTORY & FACTS:

May 19, 2004

BA040085: Use Permit approved to allow an outdoor dining patio for CAFÉ INSTANBUL.

April 3, 2008

DSM09009: Zoning Administrator Opinion to allow CAFÉ INSTANBUL hookah lounge to apply for a use permit given they did not meet the 1,320 foot separation from a school.

**DESCRIPTION:**

Owner – City of Tempe  
Applicant – Mohmound Ayashe  
Existing Zoning – CSS, Commercial Shopping and Services District  
Parcel Size – 33,511 s.f. / .76 acres  
Total Building Area – 8860 s.f.  
Parking Required – 54 spaces  
Parking Provided – 54 spaces

**ZONING AND  
DEVELOPMENT**

**CODE REFERENCE:**

Part 3, Chapter 2, Section 3-202, Table 3-202A – Permitted Land Uses in CSS, Commercial and Shopping and Services District.

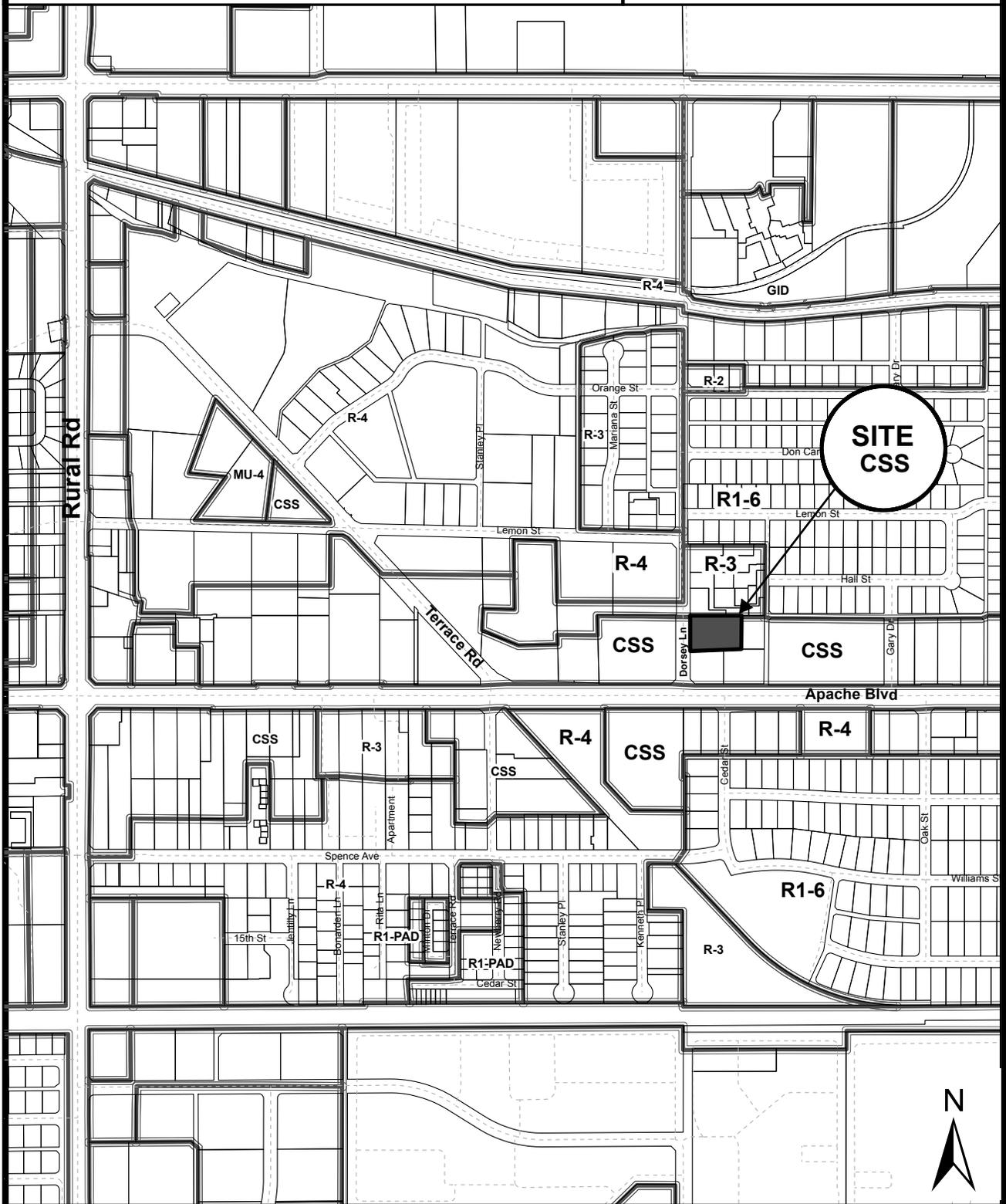
Part 3, Chapter 4, Section 3-423 – Use Separation Requirements

Part 6, Chapter 3, Section 6-308 – Use Permit

Part 6, Chapter 3, Section 6-313 – Security Plan

**CAFE ISTANBUL**

**PL080075**



**Location Map**

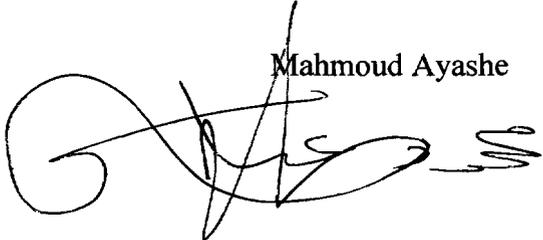


**CAFE ISTANBUL (PL080075)**

May 5, 2008

The purpose of this letter of intent is to inform the city how our establishment will be operating. Café Istanbul has been in Tempe for over fourteen years. Through these difficult times we have had to keep up with the changing trends. To continue operating we must open a hookah lounge above our current establishment. This new rented space will have its own ventilation system in keeping with current state law. The hours of operation will be from 4:00 pm till 1:00 am. Food and beverages of any kind will not be served inside the hookah lounge. The hookah lounge will only serve flavored tobacco hookahs as well as sell hookahs and hookah accessories. We thank you for your consideration and time.

Sincerely,

Mahmoud Ayashe  


Development Services  
Department

480-350-8331

April 3, 2008

Mr. Mahmoud Ayashe  
Cafe Istanbul Inc.  
1310 East Apache Boulevard, Suite 101  
Tempe, Arizona 85281

**FILE COPY**

RE: **CAFE ISTANBUL & MARKET – HOOKAH LOUNGE**  
1310 East Apache Boulevard, Suite 101  
PL080075 / DS080218 / DSM08009

Dear Mr. Ayashe:

I have reviewed your request for a Zoning Administrator's opinion as whether an application for a use permit to allow a hookah lounge at the Cafe Istanbul and Market located at 1310 East Apache Boulevard, Suite 101 in the CSS, Commercial Shopping and Services District can be accepted. Given the supporting evidence that shows the hookah use existed prior to the separation requirement becoming effective, you are able to apply for a use permit to allow a Hookah Lounge/Tobacco Retailer at this location.

The City of Tempe Zoning and Development Code, Part 3, Land Use, Section 3-423 states:

'Tobacco Retailers shall not be located on a lot within 1,320 feet, measured by a straight line in any direction, from the lot line of a charter school, private school, or public school, which provides elementary or secondary education. Instructional or vocational schools are excluded from the separation agreement.'

Your check number 2553 in the amount of \$320.00 has been applied toward a use permit fee of \$1065.00. Please submit the balance of \$745.00 along with the remaining project submittal items when applying for your use permit (i.e. 300 ft. radius map, typed mail labels, site plan, floor plan, letter of intent and signed letter of approval from the property owner).

If you need additional information or assistance, please contact Shawn Daffara, staff planner, at 480-858-2284.

Sincerely,



Lisa Collins  
Planning Director

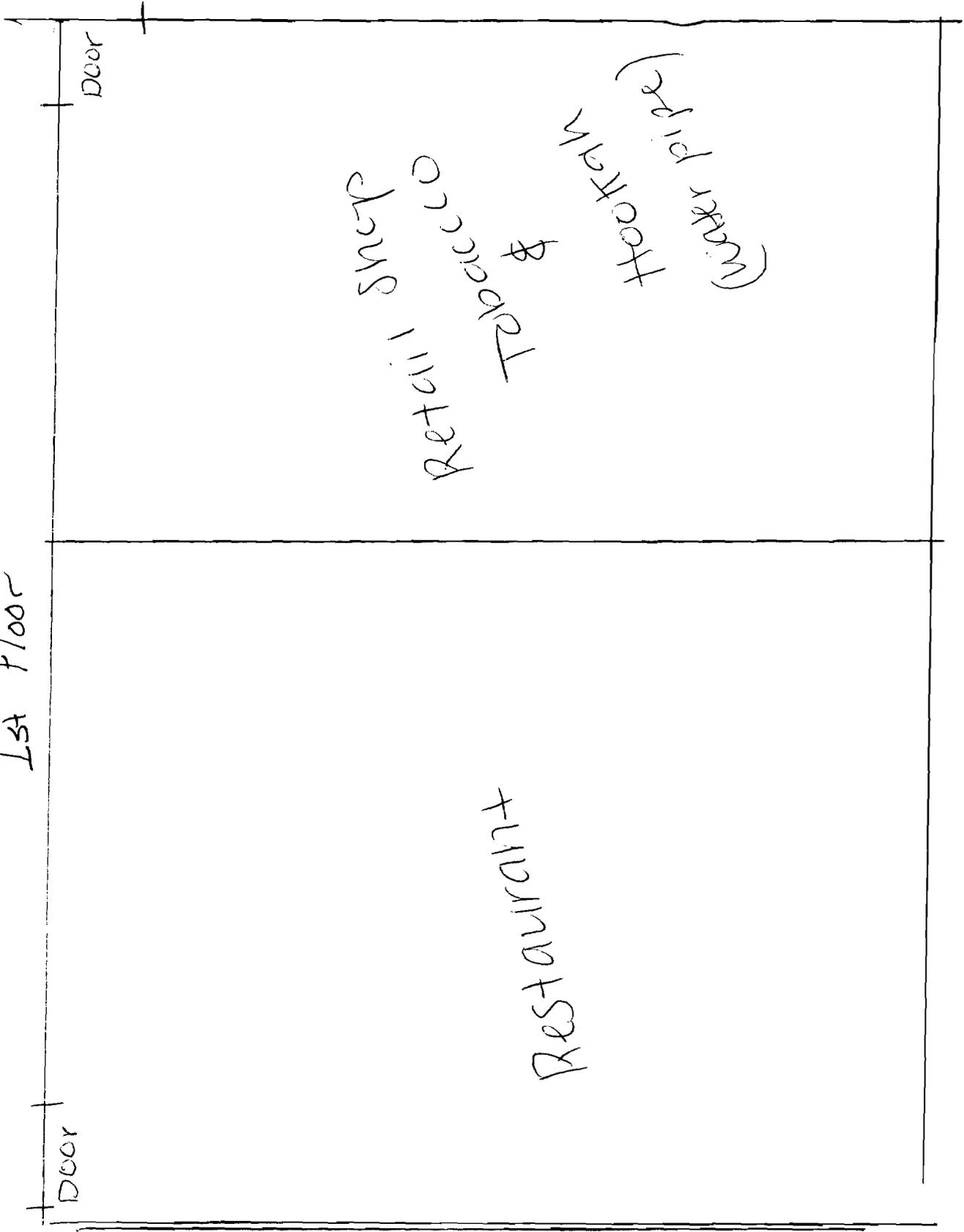
LC/dm

cc: Kay Savard/COT Tax & Licensing  
Dean Miller/COT Commercial Code Department  
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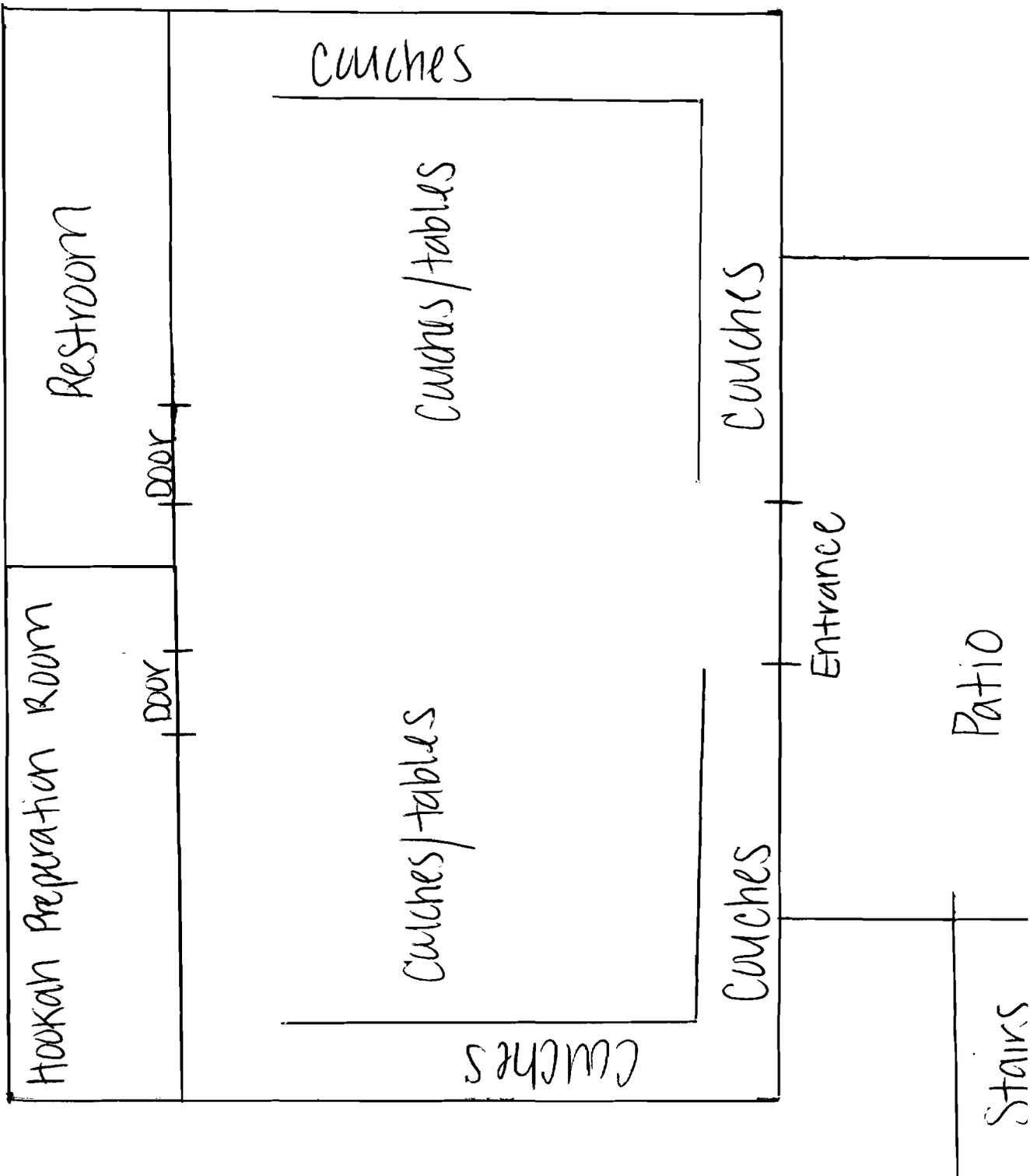


# Cafe Istanbul

1st Floor



Hookah Lounge / Cafe Istanbul  
1380 Sq. Feet  
2nd Floor





# CAFÉ ISTANBUL

1310 E APACHE BLVD., SUITE NO. 204

PL080075

FRONT OF BUSINESS



**CAFÉ ISTANBUL**

**1310 E APACHE BLVD., SUITE NO. 204**

**PL080075**

**2<sup>ND</sup> LEVEL OUTDOOR PATIO**