

Communication from Public

Name:

Date Submitted: 11/06/2023 08:10 PM

Council File No: 20-1074-S4

Comments for Public Posting: Nearby neighbors of al frescos suggest prohibiting speakers only within close range (about 100 feet) of residences as a good compromise that strikes a balance between residential & commercial interests. This is a fraction of the 500 feet in the original unamended Proposed Ordinance (April 2023), as well as the current temporary Al Fresco Ordinance. Perhaps it can be considered as an alternative. However, if the November vote is strictly yes or no on outdoor speakers, we must request a No vote on outdoor speakers. The decibel monitoring equipment may work adequately for locations at a distance from al frescos, however it seems not unlikely that the arrangement might leak sound at nearby locations (15-100 feet in our case). Five decibels can make a difference & amplified sound is almost always audible nearby. The effect would be significant due to the extreme duration of amplified sound for hours, days, decades & lifetimes. We are requesting to retain a normal environment without the addition of amplified sound. EPA's website says "Sound becomes unwanted when it...disrupts or diminishes one's quality of life. The fact that you can't see, taste or smell (sound) may help explain why it has not received as much attention as other types of pollution, such as air pollution, or water pollution." (Clean Air Act Title IV - Noise Pollution, updated 8-08-23) PLEASE RETAIN A NOISE BUFFER BETWEEN COMMERCIAL SPEAKERS & RESIDENTIAL ZONES With the increase of new al frescos during the last 3 years, residents have been subjected to chronic amplified music & frequent unwillingness of operators to lower volume. Measuring and evaluating decibels & ambience involves acoustic variables that behave dynamically with results that can be ambiguous & potentially contentious, according to two separate Los Angeles acoustic engineers in recent unpaid phone conversations. There is a great deal at stake for people who live close to amplified sound sources that endure for hours, days, and years. We received information about this proposal for the first time only 3 days ago and have no idea how effective the proposed decibel monitoring devices will be. WALKING DISTANCE NEIGHBORS ARE AL FRESCOS' BUILT-IN CUSTOMER BASE Residential v commercial interests are avoidable! Residents in close range of al frescos believe their noise protection rights can be preserved without impacting the al fresco

program. Encouragement of foot traffic has been a goal of the alfresco program and people in close walking distance are among the most reliable customers. Good food & customer service are highly valued and much harder to find than amplified music, which isn't even expected or thought about at casual outdoor lunch venues.

DURATION OF AMPLIFIED SOUND OVER HOURS, DAYS, DECADES, LIFETIMES

Duration per se of chronic amplified sound is a key issue of noise impact. The main focus has been decibels & ambience. Sheer duration is generally absent from discussion and deserves emphasis. Amplified sound carries, especially outdoors. It's almost always audible at nearby locations. Please don't test out the new noise monitoring equipment on the nearby neighbors. There hasn't been time or opportunity to see how acoustic complications might play out, and there will be thousands of new amplified restaurants in densely populated areas. It's a bleak prospect for residents, who would find themselves in a bad situation that has already become law, with enforcement resources stretched thin. The LA Municipal Code says Los Angeles residents deserve "an Environment Free of Unnecessary Excessive Noise," (LAMC 111). The State of California Health & Safety Code states "Excessive noise is a serious hazard to the public health and welfare." Long duration and/or or lifetime chronic noise from commercial outdoor speakers meets a definition of excessive. It is a significant noise impact that will subject us to future restaurants at the same location, with a new set of music preferences and inclinations to test the noise regulations. All of this demands the attention, time, forbearance, and energy of residents who must take whatever comes. It's a significantly harmful intrusion on a person's life. The same will apply to people who come after us. We conclude by re-emphasizing our preference to retain a noise buffer zone of only 100 ft rather than completely & unnecessarily prohibiting speakers! It would be a fair compromise that we hope will be considered.

Communication from Public

Name: Citizens Preserving Venice

Date Submitted: 11/06/2023 02:23 PM

Council File No: 20-1074-S4

Comments for Public Posting: Dear Members of the PLUM Committee, Citizens Preserving Venice (CPV) has reviewed the impacts of the draft Al Fresco Dining Ordinance in the Coastal Zone and gathered input from numerous residents and community leaders. CPV opposes the ordinance as proposed and also opposes allowing ambient music. CPV is not opposed to the concept of al fresco dining, as given our climate we believe there may be more areas where outdoor dining could take place. Such areas, however, must be well planned and designed, and the rules enforced. The proposed Ordinance does little to address these concerns. The loss of business suffered due to the COVID pandemic is a reasonable and urgent rationale for temporary/emergency measures. However, any permanent changes to the code should respect the considerations that informed the existing code. An ordinance such as this was in the past unthinkable and would likely never have been considered if COVID had not heavily impacted the restaurant business. However, COVID recovery should not be used as an excuse to leverage temporary measures into profitable benefits for businesses on the backs of their surrounding neighbors. If allowances need to continue to be made for the sake of recovery, they should be temporary, with defined sunsets. Also, this ordinance would reverse decades of public policy on parking requirements. Mitigations must be required in order to cover the loss of parking, i.e. providing parking elsewhere, rideshare coupons, etc. There are many unanswered questions. How does this impact those establishments who currently pay for parking to be provided off site? Will existing deed restrictions and certificates of occupancy for currently required parking will be modified? Will loading zones, often located in the parking areas, be lost as well? If so, where will the loading activities take place? These issues must be fully vetted before this ordinance is finalized and implemented. It also should be pointed out that while this measure is characterized as an emergency measure to help struggling restaurants, its long-term beneficiaries will be the landlords/property owners, who are being gifted with significant permanent increases in the intensity of use granted for their properties. In fact, this increase may well make survival more difficult for some restaurateurs since landlords may logically increase rents to match increases in service areas. On the other

hand, restaurants that lack outdoor space for conversion may now find they've been put at a competitive disadvantage. Over the past three years the City understandably allowed restaurants to provide al fresco dining as a way to help keep them financially viable during the COVID crisis. Many restaurants in Venice took advantage of this opportunity that had never previously been allowed. Our neighborhoods have now had several years' experience with the program and for the most part this experience has not been good. The reasons boil down to a significant loss of parking and lack of enforcement related to noise, trash, nighttime operating hours, private parties, etc. Experience also shows that the additional al fresco dining patrons often park in adjacent residential areas, further inconveniencing neighbors and visitors. That is not to say that some restaurants did not do a good job, but most did not. The proposed "good neighbor" self-enforcement policy of the ordinance will translate to more of the same bad behavior – permanently. See attached letter for the remainder of our comments.

Citizens Preserving Venice

November 5, 2023

VIA ELECTRONIC MAIL

Members of the Planning Land Use Management (PLUM) Committee
City of Los Angeles
200 North Spring Street
Los Angeles, CA 90012

OPPOSE: Al Fresco Dining Ordinance
CPC-2022-8179-CA, CEQA: ENV-2022-8180-CE,
Council File No. 20-1074-S4

Dear Members of the PLUM Committee,

Citizens Preserving Venice (CPV) has reviewed the impacts of the draft Al Fresco Dining Ordinance in the Coastal Zone and gathered input from numerous residents and community leaders. CPV opposes the ordinance as proposed and also opposes allowing ambient music. CPV is not opposed to the concept of al fresco dining, as given our climate we believe there may be more areas where outdoor dining could take place. Such areas, however, must be well planned and designed, and the rules *enforced*. The proposed Ordinance does little to address these concerns.

The loss of business suffered due to the COVID pandemic is a reasonable and urgent rationale for temporary/emergency measures. However, any permanent changes to the code should respect the considerations that informed the existing code. An ordinance such as this was in the past unthinkable and would likely never have been considered if COVID had not heavily impacted the restaurant business. However, COVID recovery should not be used as an excuse to leverage temporary measures into profitable benefits for businesses on the backs of their surrounding neighbors. If allowances need to continue to be made for the sake of recovery, they should be temporary, with defined sunsets.

Also, this ordinance would reverse decades of public policy on parking requirements. Mitigations must be required in order to cover the loss of parking, i.e. providing parking elsewhere, rideshare coupons, etc. There are many unanswered questions. How does this impact those establishments who currently pay for parking to be provided off site? Will existing deed restrictions and certificates of occupancy for currently required parking will be modified? Will loading zones, often located in the parking areas, be lost as well? If so, where will the loading activities take place? **These issues must be fully vetted before this ordinance is finalized and implemented.**

It also should be pointed out that while this measure is characterized as an emergency measure to help struggling restaurants, its **long-term beneficiaries will be the landlords/property owners, who are being gifted with significant permanent increases in the intensity of use granted for their properties.** In fact, this increase may well make survival more difficult for some restaurateurs since landlords may logically increase rents to match increases in service areas. On the other hand, restaurants that lack outdoor space for conversion may now find they've been put at a competitive disadvantage.

Over the past three years the City understandably allowed restaurants to provide al fresco dining as a way to help keep them financially viable during the COVID crisis. Many restaurants in Venice took advantage of this opportunity that had never previously been allowed. Our neighborhoods have now had several years' experience with the program and for the most part this experience has not been good. The reasons boil down to a significant loss of parking and lack of enforcement related to noise, trash, nighttime operating hours, private parties, etc. Experience also shows that the additional al fresco dining patrons often park in adjacent residential areas, further inconveniencing neighbors and visitors. That is not to say that some restaurants did not do a good job, but most did not. The proposed "good neighbor" self-enforcement policy of the ordinance will translate to more of the same bad behavior – *permanently*.

1. The Coastal Zone Must Be Clearly Exempted:

Our primary concern is that the proposed ordinance does not make clear that it does not apply in the Coastal Zone. The ordinance must explicitly state that it does not apply to the Coastal Zone, as it directly and negatively impacts Coastal Access, which is protected by the Coastal Act and is a large part of the Coastal Commission's mission. The certified Land Use Plan for Venice has very specific regulations for a restaurant, which are based on service floor area. Thus, if the service floor area is increased that would significantly increase the parking requirement, in addition to the parking being removed needing to be replaced. **Implementation in the Coastal Zone must be approved by the Coastal Commission.**

Unlike in other parts of the city, we Venetians share our street parking with literally millions of visitors every year, as Venice Beach is one of the top two visitor destinations in California, along with Disneyland. We do not have anywhere near adequate public transportation to get visitors to and from the beach. If we want visitors and tourists, we absolutely must provide parking. In fact, we have no residential permit parking in the Venice Coastal Zone specifically because public parking for coastal access is so important.

Venice has a long history of inadequate parking. In residential neighborhoods directly adjacent to areas being commercialized, such as the Rose Café, there have long been parking and traffic problems as a result of a significant number of parking spaces being used for restaurant service floor area. Traffic is also jammed on Main St. for the same reason. The entire Venice Coastal Zone is already under-parked. Much of Venice was

built when streetcars were prevalent and automobiles were not. Apartment buildings of that era provide no parking, which means that residents returning home have to search their neighborhood for parking spots and walk to their homes, often late at night. This program would exacerbate their situation without any consideration or mitigation.

There are many parts of the city where al fresco dining may be compatible with the needs of the area. However, an area such as Venice is different for the simple reason that tens of thousands of visitors come to Venice that do not go to these other areas of the city. The L.A. Chamber of Commerce has noted that Venice is the second most visited destination in southern California after Disneyland. **However, Disneyland has plenty of parking and Venice does not. To allow this significant reduction in parking and treat this popular, dense, unique community as any other area of the City is a mistake.** A Coastal Development Permit should continue to be required for any expansion of service floor area for outdoor dining in the Coastal Zone.

2. There has Been Inadequate Outreach to the Impacted Residential Communities and Neighborhood Councils:

There has been inadequate outreach to the community, including to neighborhood councils, especially subsequent to the CPC hearing where additional recommendations were made to extend the curfew and to allow ambient music, with no enforcement mechanism. To make **proposals that increase impacts on the residential neighborhoods should have required much more extensive outreach to the community and Neighborhood Councils.**

3. There is a Lack of Fairness to Smaller Restaurants and Other Retail Businesses:

Some restaurants have their own on-site parking lots and most have converted at least some of their parking spaces to outdoor seating. With this proposed ordinance, however, the entire parking area can be converted to al fresco dining, compounding the parking problem for other restaurants and retail stores nearby, as well as neighboring residences. **Yet other establishments with no parking lots on site do not gain the ability to greatly expand their service area, seating capacity and potential revenues.** In addition, this would unfairly benefit larger businesses that are more likely to have large parking lots, and not small businesses. **The City is quite literally using a limited public asset (parking capacity) to favor certain restaurants who have on-site parking areas, when all establishments were hurt during the COVID crisis.** This is wrong and unfair.

Allowing for 100% elimination of on-site parking allows for intensification of use by converting the former parking area to *additional new seating, up to 150 seats.* Therefore, the impact is even worse than eliminating up to 100% of on-site parking as **it adds significant expansion and intensification for which parking is also not provided.** It favors big business as small restaurants do not have the kitchen capacity to add 150 seats. Also, the restaurants that add 150 seats at the expense of parking are likely not adding more bathrooms. Venice already has way too few public bathrooms (it

is believed that Santa Monica has double the number for approximately half the visitors.)

4. Environmental Justice Concerns – the Ordinance Unfairly Impacts Lower Income Residents:

This ordinance, as currently drafted, essentially violates the spirit if not the precise letter of the Environmental Justice regulations and policies of the City and the Coastal Zone in that it unfairly negatively impacts neighborhoods where the majority of mid to lower income residents live adjacent or very close to commercial zones. It is unlikely that the negative quality of life problems resulting from this proposed ordinance (noise, loss of parking, sanitation issues, and lack of enforcement) would impact wealthier communities. This ordinance will result in commodification of neighborhoods that don't have the resources to fight back, decreasing their quality of life. High net worth residents, living in upscale neighborhoods such as Brentwood or Pacific Palisades that are exclusively residential, will likely not be impacted because their properties are not contiguous with or adjacent to restaurants in commercial areas. The affluent population of Los Angeles lives behind gates and walls or is surrounded by land and will therefore not experience such quality-of-life disruptions as this ordinance will cause.

5. Curfew Requirements Must Be Changed to Affect Establishments within 250 Feet of a Residential Zone:

We support a 10:30 pm curfew for outdoor dining for establishments within 250 feet of a residential zone (as opposed to establishments abutting or across the alley from a residential zone). The basis should be the proximity of the residential zone to the noise of the outdoor dining, not whether or not the residential zone abuts the property or is across the alley. Using within 250 feet of a residential zone will also provide a more equitable result. For example, there is one restaurant in Venice on Washington Blvd that is 60 feet away from a residential zone but is not abutting or across an alley from that residential zone, and there is another restaurant on Abbot Kinney Blvd that is 100 feet away from a residential zone but is not abutting or across an alley from that residential zone. Clearly, the impacts on these residential zones would be significant and these residential areas would be unfairly impacted by the noise. The impact on residential areas from noise from outdoor dining has been a serious quality of life issue for many residential areas nearby restaurants with outdoor dining and/or music.

6. Ambient Music Must Not Be Allowed:

The existing law's prohibition on outside music and speakers must remain. First, there is no clear definition of "ambient music." As per the dictionary, ambient music is "a genre of music that puts an emphasis on tone and atmosphere," or "a style of gentle, largely electronic instrumental music with no persistent beat, used to create or enhance a mood or atmosphere." Also, the definition of ambient music is not an objective one but is open to interpretation and whether the music being played is ambient would be

difficult if not impossible to enforce. As was indicated in the CPC's Amended Findings: "...the proposed ordinance contains robust outdoor dining standards to protect the public health welfare and safety of communities and residential areas by addressing common issues that may be associated with outdoor dining, such as noise and operations. *Music, television monitors, and live entertainment would be prohibited in outdoor dining area...*" As the City originally determined, prohibiting music is key to the success of the al fresco dining program. The original findings made clear that the new outdoor dining standards must ensure that outdoor dining would not cause adverse effects to the public health, safety, and welfare of neighbors and surrounding communities, such as noise. The findings further state that "the project contains measures to avoid environmental impacts, such as noise and adverse behavior..." With the addition of ambient music, that would no longer be the case. There are innumerable studies regarding the nature of sound and how sound carries outdoors, particularly at night and particularly near bodies of water, such as at Venice Beach. Yet the most obvious and basic mitigations, such as walls to protect neighbors from loud noise, are nowhere to be found in this proposed ordinance.

The additional research performed by Planning to consider ambient music as per the CPC's request cannot override the original findings because noise complaints were erroneously evaluated. The report indicates that in the three years from April 1, 2020 to April 4, 2023 the Department of Building and Safety only logged 134 noise complaints for the entire City of Los Angeles, suggesting that noise would not be a problem. But it did not consider noise complaints to the LAPD, which is the city department where the vast majority of complaints are lodged. The report regarding ambient music was based on incomplete data and its conclusions were premature, incomplete, and erroneous. The conclusion defies logic in that it essentially states that a change to a noise ordinance would not have any impact on noise and in turn its impacts on the community.

7. Clear and Realistic Enforcement Procedures Must Be Included in the Ordinance:

The ordinance currently states that non-compliance with the Outdoor Dining standards *may* result in enforcement actions pursuant to Section 12.27.1. Needless to say, that is wholly inadequate. This ordinance lacks an enforcement strategy. The resources must be provided for enforcement of this program to ensure its success and protect residential areas from adverse impacts.

Currently, LAPD does not enforce noise regulations and that would need to change with respect to outdoor dining as rules against amplified music or serving on rooftops and other outdoor areas are routinely ignored.

There is good reason why the City's existing Noise Ordinance has prohibited outdoor speakers and outdoor amplified music for decades. Even with the current prohibitions, many restaurants use outdoor speakers and amplified music, with impunity. To legalize outdoor ambient music will only make the impacts on neighborhoods much worse.

Also, creating a program that must for its success rely heavily on enforcement will create needless conflicts and new burdens on law enforcement, thus enforcement is unlikely to be successful.

As always, we look forward to working with City Planning and the Coastal Commission to improve the proposed Al Fresco Dining Ordinance in the Coastal Zone so that it is fair and does not cause adverse effects to the public health, safety, and welfare of neighbors and surrounding communities nor adverse effects to Coastal Access, a Coastal Resource to be protected under the Coastal Act. This program has the potential to be a win/win for our city. Please do not allow it to go forward as proposed, which is a major win for only certain restaurants or their landlords/property owners and an unacceptable loss for other businesses and the neighborhoods.

Yours truly,

Robin Rudisill
Citizens Preserving Venice

CC:

Karen Bass, Mayor
Kevin Keller, Senior Advisor, Office of Los Angeles Mayor
Krista Kline, Director of Legislative Affairs, Office of Los Angeles Mayor
Hydee Feldstein-Soto, City Attorney
Kevin James, Special Assistant City Attorney
Traci Park, CD-11 Councilmember
Jeff Khau, CD-11 Planning Deputy
Steve Hudson, Coastal Commission District Director
Shannon Vaughn, Coastal Commission Program Manager
Dani Ziff, Coastal Commission District Supervisor
Vince Bertoni, Director of Planning
Hagu Solomon-Cary, Senior City Planner
Bonnie Kim, City Planner
Brian Averill, Venice Neighborhood Council President

Citizens Preserving Venice is a 501(c)3 organization with the goals of preserving the character of Venice as a Special Coastal Community, including its history and its social, cultural, racial and economic diversity, and of stabilizing affordable housing in Venice.