

AMENDED FINDINGS FOR PROPOSED ORDINANCE PER 06/06/2023 PLUM COMMITTEE INSTRUCTIONS CF 20-1074-S4

Land Use Findings

Charter Finding 556 (General Plan). In accordance with City Charter Section 556, the proposed Ordinance is in substantial conformance with the purposes, intent, and provisions of the General Plan.

The City established the temporary L.A. Al Fresco Program in May 2020 in response to the COVID-19 pandemic and local state of emergency to allow restaurants to operate outdoor dining areas through a free streamlined application process. Following the success of L.A. Al Fresco, the City drafted a proposed Ordinance that would create a permanent administrative “by-right” approval process for outdoor dining areas on private property and ensure that existing participants are able to continue operations with their current approvals.

Both participating and new restaurants will be able to expand outdoor dining areas by-right if they comply with the proposed Ordinance’s standards for eligibility, operations, and, if applicable, alcohol service. These standards replace certain Zoning Code restrictions on outdoor dining on private property while balancing the desire for outdoor dining in relation to neighbors, other sensitive receptors and residential areas. By facilitating the expansion of outdoor dining, the proposed Ordinance aims to beautify, expand street use, and improve governmental services as prioritized in various elements of the General Plan.

This proposed Ordinance furthers the following objectives and policies of the General Plan:

Land Use (Chapter 3)
<p>Policy 3.4.3 Establish incentives for the attraction of growth and development in the districts, centers, and mixed-use boulevards targeted for growth that may include:</p> <ul style="list-style-type: none"> d. Streamlined development review processes f. Modified parking requirements in areas in proximity to transit or other standards that reduce the cost of development
Economic Development (Chapter 7)

Objective 7.4 Improve the provision of governmental services, expedite the administrative processing of development applications, and minimize public and private development application costs.

Policy 7.4.1 Develop and maintain a streamlined development review process to assure the City's competitiveness within the Southern California region.

Policy 7.4.2 Maximize opportunities for "by-right" development.

Policy 7.4.3 Maintain development fee structures that do not unreasonably burden specific industry groups, are financially competitive with other cities in the region, and reduce uncertainty to the development community.

Mobility Element ([Mobility Plan 2035](#))

Policy 1.7 Regularly Maintained Streets: Enhance roadway safety by maintaining the street, alley, tunnel, and bridge system in good to excellent condition.

Policy 2.1 Adaptive Reuse of Streets: Design, plan, and operate streets to serve multiple purposes and provide flexibility in design to adapt to future demands.

Policy 4.13 Parking and Land Use Management: Balance on-street and off-street parking supply with other transportation and land use objectives.

Health Element ([Plan for a Healthy Los Angeles](#))

Policy 1.1 Leadership Position: Los Angeles as a regional leader by collaborating across departments, agencies, sectors, and jurisdictions to incorporate health, equity, and sustainability considerations into policies, programs, and procedures.

Policy 2.9 Community Beautification: Proactively work with residents and public, private, and nonprofit partners to develop, execute, and maintain civic stewardship over community beautification efforts to promote neighborhoods that are clean, healthy, and safe.

The General Plan establishes growth and development policies by providing a comprehensive long-range view of the City as a whole. The proposed Ordinance contributes to the land use diversity and economic development of the City, while also carrying out policies in both the Mobility (Mobility Plan 2035) and Health (Plan for a Healthy Los Angeles) Elements.

The proposed Ordinance furthers Land Use Policy 3.4.3, namely by (d) creating a streamlined review process and (f) modifying parking requirements. The proposed Ordinance expands on the temporary LA AI Fresco Program, creating a permanent “by-right” review process for outdoor dining areas on private property. The streamlined and “by-right” nature of the new approval process will allow current AI Fresco participants as well as new participants to continue or begin their outdoor dining operations at little to no cost, subject to the submission of the appropriate documentation to the Department of City Planning and Department of Building and Safety in conformance with the standards set forth in the proposed AI Fresco Ordinance. Lastly, the proposed Ordinance will allow the replacement of automobile parking spaces by outdoor dining areas, which is vital for restaurants as it decreases development costs and allows for the maximum utilization of private property for outdoor dining. However, it is important to note that outdoor dining areas will still be required to comply with any applicable accessibility regulations pursuant to Chapter 11-A and 11-B of the California Building Code, as adopted by reference in Sec. 91.1100. of the Los Angeles Municipal Code (LAMC).

The proposed Ordinance’s new streamlined “by-right” process for outdoor dining on private property also aligns with the General Plan’s Economic Development Objective 7.4 and Policies 7.4.1, 7.4.2, and 7.4.3. Clear standards and requirements are established for current L.A. AI Fresco participants to transition into a permanent program, as well as new applicants to begin outdoor dining operations. The proposed Ordinance creates no new planning or land use entitlement fees that would be required for applications for outdoor dining on private property, and only applies a minimal clearance fee for applications to newly expand alcohol service into outdoor dining areas, subject to certain regulations. This is imperative to reduce costs for restaurants and allow them to continue their economic recovery from the COVID-19 pandemic and emergency. Additionally, the streamlining of outdoor dining applications will also allow the City to compete with cities throughout the Southern California region and statewide, as other cities and counties have already adopted permanent outdoor dining programs or are preparing a permanent program, such as the cities of San Diego, Santa Monica, Beverly Hills, and San Francisco. Each jurisdiction has or is considering different application requirements and standards pertaining to outdoor dining, such as location, design, and hours of operation.

The proposed Ordinance further encourages “by-right” development as specified in Economic Development Policy 7.4.2 by establishing a streamlined pathway for current participants of the temporary LA AI Fresco program to transition to the permanent program. As part of this streamlining, the proposed Ordinance’s standards pertaining to outdoor dining areas may supersede project-specific conditions of approval (such as those associated with a Conditional Use Permit) that would preclude or conflict with outdoor dining, at the applicant’s request. The substitution of any conflicting conditions will promote the “by-right” character of the LA AI Fresco Program and decrease the processing time for AI Fresco applications to allow small and local restaurants to continue

their outdoor operations with little to no disruption in service and continue their economic recovery from the COVID-19 pandemic and emergency. Furthermore, 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. These standards include the following:

- The Outdoor Dining Area shall have an enclosure of no more than 50 percent, except that:
 - Moveable, non-permanent delineators are exempt from counting towards the maximum enclosure.
 - The Outdoor Dining Area may have an enclosure of up to 100 percent if the roof coverage is no more than 25 percent.
- Television monitors and other similar audiovisual devices are prohibited in Outdoor Dining Areas.
- Live music, live entertainment including but not limited to disc jockeys, karaoke, dancing, pool tables, billiard tables, and adult entertainment uses are prohibited in Outdoor Dining Areas.
- An Outdoor Dining Area shall operate no later than 10:30 p.m. on Sundays through Thursdays and 11:00 p.m. on Fridays and Saturdays if abutting or across an alley from a residential zone, not including the RAS zone. If the Outdoor Dining Area is not abutting or across an alley from a residential zone, then the Outdoor Dining Area is subject to any applicable hours limitation imposed by law, discretionary action, or previously issued permit.
- Notwithstanding any provisions to the contrary, the noise levels of the Outdoor Dining Area shall not exceed the standards set forth in the Noise Ordinance (Ordinance No. 156,363).
- Outdoor Dining Areas shall be cleaned nightly and adjoining sidewalk areas shall be kept free of debris, litter and graffiti.
- A City-issued identification shall be posted in the Outdoor Dining Area and made clearly visible to the public, indicating that the area is subject to the standards of the Al Fresco Ordinance. A hotline phone number and contact information for LADBS Code Enforcement shall be provided for complaints or concerns regarding the operation of the Outdoor Dining Area. A telephone number of the restaurant operator or manager shall be provided for complaints or concerns regarding the operation of the Outdoor Dining Area.
- A sign reminding guests to be respectful of surrounding neighbors shall be posted in the Outdoor Dining Area.
- Background music shall not exceed 5 dBA above ambient noise levels and shall only be permitted in compliance with the following additional standards:
 - Outdoor speakers shall be oriented toward the center of the Outdoor Dining Area.

- Outdoor background music shall be played no later than 10:00 p.m.
- Noise Monitoring Device. The restaurant operator shall install a noise monitoring device in the Outdoor Dining Area in accordance with the following requirements.
 - Device Standards. The noise monitoring device shall be capable of:
 - Continuously monitoring dBA levels for the duration of the Outdoor Dining Area.
 - Sending notifications to the restaurant operator in the event the dBA level exceeds the notification threshold established in guidance promulgated by the Department of City Planning.
 - Maintaining decibel readings that can be made available upon request.
 - Device Placement. The noise monitoring device shall be located along the perimeter of the Outdoor Dining Area that is closest to the most sensitive zone or use. The restaurant operator shall indicate the location of the monitoring device in plans submitted to the Department of Building and Safety prior to approval of a permit and/or Certificate of Occupancy for the Outdoor Dining Area. The noise monitoring device shall remain in the approved location for the duration of the Outdoor Dining Area. In no event shall the noise monitoring device be covered, blocked or altered.
 - Device Log. The restaurant operator shall maintain the noise monitoring data for a minimum of 12 consecutive months. The entirety of the noise monitoring data shall be provided to the City upon request.

The “by-right” nature of the permanent Al Fresco Program will promote livability and convenience for residents and employees, promote a variety of uses, and strengthen the employment and amenity base of communities.

The streamlining of outdoor dining approvals as outlined in the proposed Ordinance also aligns with Policies 1.7, 2.1, 2.14, and 4.13 of the Mobility Element (Mobility Plan 2035). First, as noted in the outdoor dining standards list above, restaurants will be required to clean outdoor dining areas nightly and maintain adjoining sidewalk areas free of debris, litter, and graffiti. Furthermore, the proposed Ordinance will facilitate the conversion of off-street parking to outdoor dining areas. This will help de-emphasize land used for parking, such as surface parking lots, in favor of outdoor dining areas, promoting safety for patrons, residents, and the community. More importantly, automobile parking spaces used for outdoor dining will not need to be replaced.

Lastly, the proposed Ordinance aims to promote public health, namely Policies 1.1 and 2.9 of the Health Element (Plan for a Healthy Los Angeles). The temporary LA Al Fresco

Program was started to provide opportunities for patrons and residents to enjoy restaurant dining at locations where the risk of exposure to COVID-19 was minimized. Safety issues associated with the COVID-19 pandemic remain, and as such, the permanent outdoor dining program will prove vital in ensuring patrons and residents, especially those that are immunocompromised or have other health concerns, continue to have equitable access to outdoor dining. The proposed outdoor dining standards will ensure that outdoor dining areas approved through the new process do not cause adverse effects to the public health, safety, and welfare of neighbors and surrounding communities, such as limiting hours of operation when abutting residential zones and requiring proper maintenance of outdoor dining areas.

For the reasons stated above, the proposed Ordinance is in substantial conformance with the purposes, intent, and provisions of the General Plan.

City Charter Finding 558 and LAMC Section 12.32 (Public Necessity, Convenience, General Welfare, Good Zoning Practice). In accordance with City Charter Section 558 (b)(2) and LAMC Sections 12.32 C.2 and C.7, the proposed Ordinance is in substantial conformance with public necessity, convenience, general welfare, and good zoning practice by promoting economic development, public safety, and community vibrancy.

The City established the temporary L.A. Al Fresco Program in May 2020 during the COVID-19 pandemic and emergency to allow restaurants to operate outdoor dining areas through a streamlined process with minimal fees and application process. This temporary program created a lifeline for many restaurants to resume operations and stay financially viable during the pandemic and emergency when indoor dining was limited due to local emergency orders. At the same time, the program promoted public health by providing opportunities for patrons and residents to enjoy restaurant dining at locations where the risk of exposure to COVID-19 was minimized. More than 2,500 restaurants Citywide participated in the temporary L.A. Al Fresco Program.

The proposed Ordinance expands on the temporary L.A. Al Fresco Program by creating a new streamlined process in the Zoning Code to allow outdoor dining areas on private property, such as parking lots, with minimal requirements. The proposed Ordinance will allow restaurant owners to continue or begin outdoor dining operations at little to no cost, allowing them to fulfill the demand for safe dining spaces and an amenity that will serve patrons, residents, and visitors. Many of the benefits pertaining to economic development and public health brought forth by the temporary program will continue under the permanent program. Additionally, a permanent program will bring greater certainty to restaurants as it relates to outdoor dining regulations, which is vital for them to continue recovering economically from the COVID-19 pandemic and emergency. By streamlining outdoor dining in restaurants, the proposed Ordinance will help create more vibrant neighborhoods that will benefit local communities and commercial areas while leading to the growth of restaurants throughout the City.

Environmental Findings

Approval of the proposed Ordinance (Project) is supported by the **Categorical Exemption (ENV-2022-8180-CE)** prepared for this Project and presented to the City Planning Commission (CPC) on April 27, 2023. In accordance with the California Environmental Quality Act (CEQA), the proposed Project's reduction in parking is statutorily exempt from CEQA pursuant to California Public Resources Code Section 21080.25, and meets the criteria of a Categorical Exemption pursuant to CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures) and Section 15311 (Accessory Structures). Furthermore, there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies.

On the basis of the whole of the record before the Lead Agency including any comments received, the Lead Agency finds that there is no substantial evidence that the proposed Project will have a significant effect on the environment. The Project will not change zoning or General Plan designation or introduce any new land uses. It does not directly authorize new restaurants to be built and is only available where restaurants are an existing allowed use. Restaurants continue to be subject to historic preservation review as applicable and restaurants located on hazardous waste sites which propose ground disturbing activities are required to comply with additional remediation standards. The Project contains measures to avoid environmental impacts, such as noise and adverse behavior, and there is not a reasonable possibility that the Project may have a significant adverse effect on the environment given the existing physical conditions baseline and allowed use. As detailed in the Categorical Exception document (Environmental Case No. ENV-2022-8180-CE) prepared by the Lead Agency, and attached to the subject case file, the Project would not result in a cumulative impact or significant effect on the environment.

Chapter 2.6, Section 21080.25 of the State's Public Resources Code provides a statutory exemption from CEQA for a "project carried out by a City or County to reduce minimum parking requirements." A central component of this Project pertains to eliminating automobile parking requirements and provisions. The Project provides regulatory relief from automobile parking requirements needed for the placement of outdoor dining structures on private property that are ancillary to a restaurant's by-right use. The relief provided exempts existing and/or new outdoor dining areas from parking requirements and further allows for restaurants to convert existing required automobile parking spaces to outdoor dining areas without needing to replace those spaces. This provision is permanent for eligible businesses and in some instances will result in an overall reduction of required parking below current LAMC parking requirements for the life of that use and/or structure. The utilization of a restaurant's parking spaces on private property would allow for the creation or modification of outdoor dining areas and would reduce minimum

parking requirements. As such, the Project qualifies for the statutory exemption pursuant to Section 21080.25 of the State's Public Resources Code.

Additionally, in May 2023, an IS/ND (ENV-2023-3278-ND) was prepared for the Proposed Project in accordance with CEQA (Public Resources Code §21000 et seq.) and the State CEQA Guidelines (Title 14, California Code of Regulations, §15000 et seq.). The IS/ND was circulated for 30 days for public review and comment from May 18, 2023 to June 20, 2023. Subsequent to the 30-day public comment period, modifications allowing background music in outdoor dining areas in compliance with additional standards, imposing restrictions on the hours during which music can be played in outdoor dining areas, and incorporating enforcement procedures for City Departments, have been made to the Proposed Project. An Errata has been prepared, dated October 2023, to clarify and redefine the Proposed Project and document all necessary revisions to the IS/ND that resulted from the modifications. The Errata combined with the Draft IS/ND, including technical appendices, comprise the Final IS/ND.

On the basis of the whole of the record before the Lead Agency including any comments received, the Lead Agency finds that there is no substantial evidence that the proposed Project will have a significant effect on the environment. The Final IS/ND reflects the Lead Agency's independent judgment and analysis.