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# AL FRESCO ORDINANCE ERRATA TO INITIAL STUDY / NEGATIVE DECLARATION

Case Number: ENV-2023-3278-ND

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## 1. INTRODUCTION

The Al Fresco Ordinance contains new zoning regulations and standards that provide a pathway for restaurants to move forward with a streamlined approval process for outdoor dining on privately-owned property (Proposed Ordinance or Proposed Project).

The City of Los Angeles (City) has prepared this Errata to the Initial Study/Negative Declaration (IS/ND), Case No. ENV-2023-3278-ND, dated May 2023, for the Proposed Ordinance. The IS/ND evaluated environmental impacts associated with the Proposed Ordinance that would allow ambient music in outdoor dining areas and concluded that the Proposed Ordinance with ambient music would result in less-than-significant impacts. The 30-day circulation period for public review and comment on the IS/ND was from May 18, 2023 to June 20, 2023.

After the IS/ND was circulated, the Proposed Ordinance was modified to incorporate instructions from the Planning and Land Use Management (PLUM) Committee of the City Council, including but not limited to the imposition of a curfew for restaurants abutting residential zones, as well as the addition of reasonable enforcement provisions on ambient background music. The modified Proposed Ordinance is referred to as the Draft Al Fresco Ordinance.

In October 2023, Michael Baker International (MBI)<sup>1</sup>, a qualified noise expert, reviewed Chapter XIII: Noise of the published IS/ND, Draft Al Fresco Ordinance (that would allow ambient background music by-right), and public comments received on the IS/ND and the Ordinance and provided a Peer Review<sup>2</sup> of the noise impact analysis in the IS/ND. MBI recommends minor revisions to the IS/ND to clarify the noise impact analyses and best management practices (BMP) to be incorporated in the IS/ND and the Draft Al Fresco Ordinance (**Exhibit A**).

This Errata provides minor corrections and clarifications to the Proposed Project resulting from the modifications to the Proposed Ordinance, and recommended changes to the IS/ND and Draft Al Fresco Ordinance and BMPs in MBI's Peer Review. The Errata also contains minor revisions to the IS/ND resulting from the inadvertent omission of Attachment B and mislabeling of Attachments in the IS/ND, while providing supplemental information and environmental impact analysis for the City decision-makers and the public.

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<sup>1</sup> MBI is a full-service firm that provides a wide range of engineering and consulting services, including planning and environmental. MBI has extensive experience evaluating environmental impacts of projects and preparing documentation pursuant to the CEQA and NEPA, with qualifications of reviewing noise professionals attached as Exhibit A to the Peer Review.

<sup>2</sup> MBI states that "ambient music" is not a recognized term of art among noise professionals and recommends changing all references to "ambient music" to "background music." As such, all documents, including the Proposed Ordinance, use the term "background music" from this point on.

Furthermore, the Department of City Planning (City Planning) prepared an alternative version of the Draft AI Fresco Ordinance that includes all of the PLUM's instructions in the June 28, 2023 Letter, except those related to the allowance and enforcement of background music (Alternative Ordinance). The Alternative Ordinance prohibits background music in outdoor dining areas unless a Conditional Use Permit is granted by City Planning through a discretionary review process (**Alternative Ordinance; attached as Exhibit A to City Planning's Supplemental Report, dated 11/2/2023, CF 20-1074-S4**). This Errata provides minor modifications to the IS/ND, as well as an analysis of noise impacts from the Alternative Ordinance.

The modifications to the Proposed Project and minor revisions and clarifications to the IS/ND included in this Errata do not represent substantial revisions that would require recirculation of the negative declaration, and the Proposed Project will continue to have less-than-significant impacts from both Draft AI Fresco Ordinance and Alternative Ordinance.

## 2. BACKGROUND

An initial draft of the Proposed Ordinance, which initially did not allow background music, along with Exemptions from CEQA prepared for the Ordinance pursuant to California Public Resources Code Section 21080.25 and State CEQA Guidelines Section 15303, Class 3 (New Construction or Conversion of Small Structures) and Section 15311, Class 11 (Accessory Structures), were presented to the City Planning Commission (CPC) on April 27, 2023. As the draft Proposed Ordinance considered by the CPC did not allow background music, the corresponding environmental documents for the proposed project did not include an analysis of such an additional project feature at that time.

On April 27, 2023, CPC approved and recommended adoption of the Proposed Ordinance to the City Council. As part of their action on the Proposed Ordinance, CPC instructed City Planning to report to the City Council with recommendations for allowing background music to be played in outdoor dining areas with an analysis of any potential noise impacts resulting from the Proposed Ordinance under CEQA. In response, City Planning prepared an IS/ND under Case No. ENV-2023-3278-ND in accordance with CEQA (Public Resources Code §21000 et seq.) and the State CEQA Guidelines (Title 14, California Code of Regulations, §15000 et seq.) in May 2023 for the Proposed Ordinance that would allow background music in outdoor dining areas. City Planning also prepared a report to the PLUM Committee dated May 26, 2023 to include the Department's recommendations for background music in outdoor dining areas per CPC's instruction (PLUM Report).

The IS/ND evaluated environmental impacts associated with the Proposed Ordinance that would allow background music in outdoor dining areas, as well as other potential noise impacts associated with outdoor dining, and concluded that the Proposed Ordinance with background music would result in less-than-significant impacts. The 30-day circulation period for public review and comment on the IS/ND was from May 18, 2023 to June 20, 2023, during which 44 total public comments were received via email and submitted to the Council File, with 33 of those comments including reference to noise at an AI Fresco business.<sup>3</sup> A summary of public comments and responses to the comments are included in **Exhibit B** attached to this Errata.

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<sup>3</sup> 25 comments related to the topic of noise were received prior to the commencement of the IS/ND circulation period on May 18, 2023, and another 17 comments were received after the close of the IS/ND circulation period in June 20, 2023.

After the IS/ND was circulated, the PLUM Report and the IS/ND were presented to the PLUM Committee for consideration at its meeting on June 6, 2023 (CF 20-1074-S4). At the meeting, PLUM took a total of nine actions, which can be found in the Committee Clerk Letter dated July 28, 2023 in CF 20-1074-S4. The following five actions necessitated modifications to the proposed Ordinance.

4. *Instructed the Department of City Planning (DCP) that the ordinance be incorporated into the New Zoning Code (future Chapter 1A of the LAMC) subject to changes to conform to the format and style of the new Zoning Code.*
5. *Instructed the DCP to amend the proposed ordinance to limit the application of the curfew (hours provided below) to restaurants abutting and across from an alley to a residential zone, not including the Residential/Accessory (RAS) Zone. Amend the proposed curfew hours from 11:00 p.m. across the board to 10:30 p.m. (Sunday – Thursday); and 11:00 p.m. (Friday/Saturday).*
6. *Instructed the DCP to include reasonable enforcement provisions in the final draft of the ordinance with regard to ambient music.*
8. *Instructed the Los Angeles Department of Building and Safety (LADBS) as follows:*
  - a. *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 AI Fresco Ordinance.*
  - b. *A hotline phone number and contact information of the LADBS Code Enforcement shall be provided for complaints or concerns regarding the operation of the outdoor dining area.*
9. *Requested the City Attorney to prepare and present the draft AI Fresco Ordinance approved as to form and legality to clarify and streamline LAMC regulations regarding outdoor dining on private property, as recommended in the May 11, 2023 LACPC report, and the May 26, 2023 DCP report which recommends that the proposed AI Fresco Ordinance be modified to allow ambient music in outdoor dining areas in compliance with LAMC Section 112.01 (Noise Regulation).*

Accordingly, City Planning modified the Proposed Ordinance and prepared another version of the Ordinance, hereafter referred to as the Draft AI Fresco Ordinance, that reflects the nine PLUM instructions, including allowing background music to be played in outdoor dining areas by-right and reasonable enforcement provisions with regard to background music. Detailed information on the modifications to the Draft AI Fresco Ordinance are provided in **Section 3** below.

Additionally, in October 2023, MBI reviewed Chapter XIII: Noise of the published IS/ND, Draft AI Fresco Ordinance (that would allow background music by-right) and public comments received on the IS/ND and the Ordinance and provided a Peer Review of the noise impact analysis in the IS/ND. MBI recommends minor revisions to the IS/ND to refine the analyses and best management practices (BMP) to be incorporated in the IS/ND and the Draft AI Fresco Ordinance. MBI concludes that the noise impacts of the Draft AI Fresco Ordinance would remain less than significant with incorporation of these BMPs in the Draft AI Fresco Ordinance and their comments addressed in the IS/ND, Chapter XIII: Noise, consistent with the conclusion of the IS/ND prepared

in May 2023. Accordingly, the Draft AI Fresco Ordinance has been updated to include MBI's BMPs.

**Section 3** of this Errata documents all necessary revisions to the IS/ND resulting from modifications to the Proposed Ordinance through the Draft AI Fresco Ordinance based on PLUM instructions as well as MBI's Peer Review. **Section 3** also contains minor revisions to the IS/ND resulting from the inadvertent omission of **Attachment B** and mislabeling of Attachments in the IS/ND, while providing supplemental information and environmental impact analysis for the City decision-makers and the public.

After considering the Council File, public comments and challenges with maintaining the original policy intent of the Proposed Ordinance, which is to establish a streamlined approval process, City Planning prepared an alternative version of the Draft AI Fresco Ordinance that includes all of the PLUM's instructions in the June 28, 2023 PLUM Report, except those related to the allowance and enforcement of background music (**Alternative Ordinance; attached as Exhibit A to City Planning's Supplemental Report, dated 11/2/2023, CF 20-1074-S4**). The Alternative Ordinance prohibits background music in outdoor dining areas unless a Conditional Use Permit is granted by City Planning. Per the Supplemental Report titled "Revised Recommendations Pursuant to PLUM Instruction Regarding Council File No. 20-1074-S4" and dated November 2, 2023, City Planning recommends that the City Council adopt the Alternative Ordinance in lieu of the Draft AI Fresco Ordinance due to the reasons explained in the Supplemental Report. Per the Peer Report, MBI reviewed the Alternative Ordinance and determined that the Alternative Ordinance would have lesser impacts than the Draft AI Fresco Ordinance given that the background music will not be permitted by-right and each individual establishment obtaining a Conditional Use Permit would need its own CEQA analysis for noise impacts. Section 3 of this Errata provides more information on the Alternative Ordinance and a noise impact analysis of the Alternative Ordinance. Section 4 of this Errata provides minor modifications to the noise impact analysis in the IS/ND regarding the Alternative Ordinance.

### **3. MODIFICATIONS TO THE PROPOSED ORDINANCE (DRAFT AI FRESCO ORDINANCE) AND REVISIONS TO THE IS/ND**

#### **MODIFICATIONS TO THE PROPOSED PROJECT**

As previously mentioned, City Planning modified the Proposed Ordinance and prepared another version of the Ordinance, hereafter referred to as the Draft AI Fresco Ordinance, that reflects the nine PLUM instructions, including allowing background music to be played in outdoor dining areas by-right and reasonable enforcement provisions with regard to background music. Modifications to the Proposed Ordinance are as follows, and these modifications in this Errata supersede all conflicting project information in the IS/ND.

#### **Additional Outdoor Dining Area Standards and Parking Relief in Los Angeles Municipal Code (LAMC) Sec. 12.21 A.24(d):**

1. The Outdoor Dining Area shall have an enclosure of no more than 50 percent, except that:
  - a. Moveable, non-permanent delineators are exempt from counting towards the maximum enclosure.
  - b. The Outdoor Dining Area may have an enclosure of up to 100 percent if the roof coverage is no more than 25 percent.
2. Television monitors and similar audiovisual devices are prohibited in Outdoor Dining Areas.

3. 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.
4. 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.
5. 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.
6. 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).
7. Outdoor Dining Areas shall be cleaned nightly and adjoining sidewalk areas shall be kept free of debris, litter and graffiti.
8. 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 AI 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.
9. A sign reminding guests to be respectful of surrounding neighbors shall be posted in the Outdoor Dining Area.
10. Background Music Allowance. Background music shall not exceed 5 dBA above ambient noise levels and shall only be permitted in compliance with the following additional standards:
  - a. Outdoor speakers shall be oriented towards the center of the Outdoor Dining Area.
  - b. Outdoor background music shall be played no later than 10:00 p.m.
  - c. Noise Monitoring Device. The restaurant operator shall install a noise monitoring device in the Outdoor Dining Area in accordance with the following requirements.
    - i. Device Standards. The noise monitoring device shall be capable of:
      1. Continuously monitoring dBA levels for the duration of the Outdoor Dining Area.
      2. Sending notification to the restaurant operator in the event the dBA level exceeds the notification threshold set forth below.
      3. Maintaining decibel readings that can be made available upon request.
    - ii. 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 life of the Outdoor Dining Area. In no event shall the noise monitoring device be covered, blocked or altered.
    - iii. 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.
11. Parking Relief Allowance. When an Outdoor Dining Area is located in a building's parking area, automobile parking spaces may be replaced by Outdoor Dining Area.

**Expansion of Administration Provisions in Sec. 12.21 A.24(e):**

1. Deemed approved alcohol authorizations must continuously abide by all the following:
  - a. Have a valid LA AI Fresco Authorization issued or renewed as of the effective date of this ordinance that has not been previously revoked for violations;
  - b. Have a valid approval for alcohol service from the Department of City Planning or have existing alcohol sales with no conditional use approval prior to March 1, 1977; and
  - c. Have a license to sell alcohol from the California Department of Alcoholic Beverage Control; and
  - d. Is not subject to any of the enforcement mechanisms set forth in Paragraph (f) that, upon further investigation by the City, result in a citation, the imposition of fines or penalties, or revocation.
2. Expanded Outdoor Dining Area clearance alcohol authorizations for those operators that do not have a deemed approved alcohol authorization must continuously abide by the following:
  - a. The “Building Permit Clearance - Minor” fee, pursuant to LAMC Section 19.04 of this Code, shall be paid prior to the issuance of an Expanded Outdoor Dining Area Clearance.
  - b. Have a valid approval for alcohol service from the Department of City Planning or have existing alcohol sales with no conditional use approval prior to March 1, 1977;
  - c. Have a license to sell alcohol from the California Department of Alcoholic Beverage Control; and,
  - d. Is not subject to any of the enforcement mechanisms set forth in Paragraph (f) that, upon further investigation by the City, result in a citation, the imposition of fines or penalties, or revocation.

**Changes to the Enforcement Provisions - moved from Sec. 12.21 A.24(e)(3) to Sec. 12.21 A(24)(f):**

1. Enforcement
  - a. Failure to comply with any of the regulations and standards set forth herein shall constitute a violation of the AI Fresco Ordinance and may result in a citation, Administrative Citation, Orders to Comply and/or other available enforcement mechanisms identified herein or in the LAMC.
  - b. The City shall have the authority to conduct inspections, consistent with LAMC Section 98.0105, to verify compliance with all of the requirements prescribed in LAMC Section 12.21 A.24. The owner and restaurant operator shall be notified of the deficiency or violation and shall be required to timely correct and eliminate the deficiency or violation.
  - c. Enforcement of the requirements pursuant to LAMC Section 12.21 A.24 is not exhaustive and the City may pursue other remedies.
  - d. Citations and/or Orders to Comply. A citation for violating LAMC Section 12.21 A.24 shall include, but is not limited to, Administrative Citations and/or Notice to Appear Citations issued by the Los Angeles Police Department, and Orders to Comply and/or Notices of Violation issued by the Department of Building and Safety.
    - i. The terms Administrative Citation, Enforcement Officer, and Responsible Party shall have the same meanings as in Sec. 11.2.02 of this Code.

- ii. An Enforcement Officer may issue an Administrative Citation to the property owner and/or Responsible Party for any violation of Sec. 12.21 A.24.
- e. Fines and Penalties for Violations. A property owner and/or Responsible Party issued an Administrative Citation in violation of Sec. 12.21 A.24 shall be subject to the following fines:
  - i. An administrative fine of \$1000 for a first violation;
  - ii. An administrative fine of \$5,000 for a second violation;
  - iii. An administrative fine of \$8,000 for a third violation and \$8,000 for each subsequent violation.
  - iv. Upon the successful imposition of an administrative fine for a third violation of LAMC Section 12.21 A.24(d)(2), either because no appeal is filed or any appeal is denied, the right to play background music in the Outdoor Dining Area shall be suspended for a period of 12 consecutive months with no violations.
- f. Administrative Process Applicable to Citations. Unless otherwise specified herein, all Administrative Citations issued for violations of Sec. 12.21 A.24 shall be subject to the provisions set forth in Article 1.2 of Chapter I of this Code, including, but not limited to, the administrative hearing and appeal process and the City's authority to use any civil remedy available to collect any unpaid administrative fine.
- g. Revocation of Outdoor Dining Areas.
  - i. Definitions. As used in this subsection, the following terms are defined as follows:
    1. BOARD. The Board of Building and Safety Commissioners.
    2. DEPARTMENT. The Los Angeles Department of Building and Safety.
    3. SUPERINTENDENT. The Superintendent of Building or his or her authorized representative.
  - ii. Applicability. The provisions of this subsection shall apply to every Outdoor Dining Area operating pursuant to LAMC Section 12.21 A.24 with a valid Certificate of Occupancy and a valid permit.
  - iii. Revocation Proceedings Resulting from Citations and Other Enforcement Mechanisms. Regardless of any previous corrective actions or payments of fines and fees, any combination of four or more Notice to Appear Citations, Orders to Comply, Notices of Violation or Administrative Citations issued by Los Angeles Police Department, Department of Building and Safety or other City Departments for any violation under LAMC Section 12.21 A.24 or the Noise Ordinance may result in revocation proceedings for any Certificate of Occupancy or permits, or both, issued to authorize an Outdoor Dining Area pursuant to LAMC Section 12.21 A.24. The revocation proceedings shall be commenced by issuance of a Notice of Intent to Revoke ("Notice"), which shall be sent to the owner of the property and the restaurant operator of the Outdoor Dining Area. The Notice shall state the following:
    1. The date and place of the revocation hearing, which shall be scheduled at least 15 days and not more than 90 days from the date of issuance of the Notice.
    2. A list of all violations under LAMC Section 12.21 A.24 LAMC or the Noise Ordinance for which a Notice to Appear Citation, Order to Comply, Notice of Violation, or Administrative Citation was issued

- by Los Angeles Police Department, Department of Building and Safety or other City Department.
3. Copies of all Notice to Appear Citations, Orders to Comply, Notices of Violation and Administrative Citations related to these violations, unless the copies were previously furnished to the owner or restaurant operator.
  4. The owner or restaurant operator is entitled to be represented by legal counsel at any revocation hearing.
- iv. Revocation Hearing. On the date specified in the Notice, a revocation hearing shall be held before the Board. The Board shall determine whether the Certificate of Occupancy or permit, or both, shall be revoked. Revocation shall be ordered by the Board for multiple violations of LAMC Section 12.21 A.24 or the Noise Ordinance, four or more Notice to Appear Citations, Orders to Comply, or Notice of Violation or Administrative Citations issued to the property owner of record or restaurant operator by the Los Angeles Police Department, the Department of Building and Safety or any other City Department.
  - v. In making its determination, the Board may hear from the owner, restaurant operator, or other interested party. The determination of the Board is final.
  - vi. Reversion of Uses. Upon the Board's determination to revoke any Certificate of Occupancy or permits issued to authorize an Outdoor Dining Area, the Board may order the owner or restaurant operator to obtain all necessary permits to remove all improvements in the Outdoor Dining Area. The Board may also order the restaurant operator to obtain all necessary permits to restore the use and condition that existed prior to the development of the Outdoor Dining Area or convert the Outdoor Dining Area to a conforming use.
  - vii. Permits Suspension Period. The Board may determine that no new Certificate of Occupancy or permits authorizing an Outdoor Dining Area shall be issued for a period of up to 12 consecutive months, as counted from the date the revocation determination is made by the Board.
  - viii. Each violation of the Code and each day of operation without a Certificate of Occupancy or a building permit is a misdemeanor.
- h. Criminal and Other Remedies Available. Any violation of LAMC Section 12.21 A.24 may be prosecuted as a misdemeanor. In cases where the City Attorney elects to criminally prosecute a violation, the defendant shall be subject to all applicable penalties authorized by LAMC Section 11.00 (m), and not the administrative fines authorized by this section.

## **MBI PEER REVIEW**

MBI's Peer Review dated October 2023 recommends minor revisions to the IS/ND to further refine the ND's analysis of noise impacts related to the Draft AI Fresco Ordinance, which are explained in the Revisions to the IS/ND for the Draft AI Fresco Ordinance Section below. MBI also included the following BMPs to be incorporated into the IS/ND and the Draft AI Fresco Ordinance. MBI also clarified in the Peer Review that BMPs are not the same as mitigation measures. Mitigation measures are required to be implemented by projects potentially causing significant environmental impacts to reduce to a level of less than significant while implementation of best management practices would be required as regulations in the proposed Ordinance and do not affect the significance findings of the IS/ND.

The BMPs that would apply to the AI Fresco Ordinance include, the following::

- Outdoor background music shall be played no later than 10:00 p.m.
- Outdoor speakers shall be oriented toward the center of the Outdoor Dining Area and shall not face or be directed to adjacent uses.
- Noise level from the Outdoor Dining Area at the perimeter of the Outdoor Dining Area that is closest to the most sensitive zone or use shall comply with the City of Los Angeles Municipal Code.
- No live music or live entertainment (including disk jockeys) shall be allowed in the outdoor dining areas.
- A telephone number of the business 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.
- The operator shall maintain a log of the following that shall be subject to inspection by City staff upon request:
  - a. The noise level shall be measured at the perimeter of the Outdoor Dining Area that is closest to the most sensitive zone or use every day prior to the opening of the restaurant's Outdoor Dining Area with background music playing at the volume to be kept throughout the operating hours of the Outdoor Dining Area.
  - b. The background music shall be played at no more than 5 dBA above ambient noise levels.
- Notwithstanding any provisions to the contrary, the noise levels of the Outdoor Dining Area shall not exceed the standards within the Noise Ordinance, Ord. 156,363.

All of these best management practices have been incorporated into the Draft AI Fresco Ordinance. The best management practice requiring a log of the noise level in the outdoor dining area is incorporated into the Ordinance in the form of a noise monitoring device that is capable of maintaining a log of decibel readings. The Peer Review concludes that with these BMPs incorporated in the Draft AI Fresco Ordinance and their recommendations addressed in this Errata to the IS/ND, noise impacts of the Draft AI Fresco Ordinance would remain less than significant, consistent with the conclusion of the IS/ND prepared in May 2023.

## **REVISIONS TO THE IS/ND FOR THE DRAFT AI FRESCO ORDINANCE**

This Section documents all necessary revisions to the IS/ND resulting from modifications to the Draft AI Fresco Ordinance and MBI's Peer Review. This Section also contains minor revisions to the IS/ND resulting from inadvertent omission of Attachment B and mislabeling of Attachments in the IS/ND while providing supplemental information and environmental impact analysis for the City decision-makers and the public. Changes to the IS/ND are listed by section, page number,

and paragraph number, if applicable. Deleted text is shown with a ~~strike through~~ line, and added text is underlined.

### **Chapter 3; Section 3.3.1 Project Background & Overview; Page 26; Paragraph 1**

[...] To reduce the possibility of noise and other nuisances, the Temporary Authorization Program prohibits the following activities: loud music, television monitors, screens and speakers, live entertainment, dancing, pool tables, billiard tables, adult entertainment uses, private events, and cover charges. The proposed Project retains all these prohibitions, except for the prohibition of private events, cover charges, and ~~ambient background~~ music, which will be permitted under the permanent program.

### **Chapter 3; Section 3.3.1 Project Background & Overview; Page 26; Paragraph 2**

In addition, the operational standards require that all outdoor dining areas not operate any later than ~~11:00 p.m. if the restaurant site falls within 250 feet of a residential zone, not including the RAS zone or other commercial zones~~ 10:30 p.m. on Sunday-Thursday and 11 p.m. on Friday-Saturday if abutting or across an alley from a residential zone, not including the RAS zone. Moreover, the Project includes a set of security, monitoring, and maintenance standards that require restaurants to take proactive measures to clean litter and debris, as well as require restaurants to post a City-issued identification on the premises that includes instructions on how patrons or community members can submit complaints or concerns regarding the operation of the outdoor dining area. These eligibility criteria and operational standards align with what is required of current temporary Al Fresco Program participants and provides a path for the City to better review and verify the businesses that can provide outdoor dining on private property.

Furthermore, restaurants are required to comply with additional operational standards for background music in outdoor dining areas, which are best management practices recommended by Michael Baker International (MBI) in their Peer Review dated October 2023. Specifically, all operators who want to play background music must install a noise monitoring device in the outdoor dining area and background music cannot exceed 5dBA above ambient noise levels or the thresholds set forth in the City's Noise Ordinance. The noise monitoring device must be capable of continuously monitoring dBA levels for the duration of the Outdoor Dining Area and maintain decibel readings that can be made available upon request. Continuous monitoring and maintenance of a log will ensure that documentation is made available and be used to verify violation of the noise regulations in the event a complaint is made. The documentation and verification of any violation of the noise regulations can be used by the City's enforcement agencies to issue citations and/or notices of violation, which can ultimately lead to revocation of all permits issued to authorize the outdoor dining area.

The noise monitoring device needs to be located along the perimeter of the outdoor dining area that is closest to the most sensitive zone or use. This placement requirement would ensure that the operators monitor noise levels close to sensitive uses and zones while also ensuring that they comply with the noise regulations. The location of the device must be approved by the Department of Building and Safety and cannot be altered. Lastly, the operator must maintain the noise monitoring data for a minimum of 12 consecutive months and provide the data to the City upon request. These provisions in the Ordinance would ensure that the data is available for verification of violation in the event a complaint is made.

In addition to the device, outdoor speakers must be oriented toward the center of the outdoor dining area, and outdoor background music shall be played later than 10:00 p.m. All operators

also need to post a sign in the outdoor dining area reminding guests to be respectful of surrounding neighbors. Lastly, in no event the restaurant's outdoor dining area can exceed the noise limits in the Noise Ordinance set forth in the Los Angeles Municipal Code.

Any ~~d~~ Deviations from the outdoor dining area standards of the proposed Project will be considered through a Plan Approval of the original discretionary entitlement pursuant to Section 12.24 M of Chapter I or Article 13 of Chapter 1A of the LAMC, as applicable, or a variance pursuant to Section 12.27 of Chapter I or Section 13B.5.3 of Chapter 1A of the LAMC. Non-compliance with the outdoor dining area standards may result in administrative citations and/or notices of violation issued by LADBS, and violations of the City's Noise Ordinance may result in administrative citations issued by LAPD. When an operator is issued an administrative citation, enforcement agencies will charge a series of escalating monetary fines and penalties. Additionally, any combination of four or more Notice of Appear Citations, Orders to Comply, Notices of Violation and/or Administrative Citations issued by an enforcement agency may result in revocation proceedings for any Certificate of Occupancy and/or permits issued to authorize an outdoor dining area. When the Board of Building and Safety Commissioners (Board) determines that the Certificate of Occupancy and/or permits must be revoked, the Board may determine that the operators must obtain all necessary permits to restore the use and condition that existed prior to the Outdoor Dining Area improvements and permit issuance. Furthermore, the Board may determine that no new permits authorizing an outdoor dining area can be issued for a period of up to 12 consecutive months. These enforcement mechanisms would require operators to comply with the Draft AI Fresco Ordinance.

### **Chapter 3; Section 3.3.1 Project Background & Overview; Page 31; Paragraph 1**

Any deviations from the outdoor dining area standards of the proposed Project will be considered through a Plan Approval of the original discretionary entitlement pursuant to Section 12.24 M of Chapter I or Article 13 of Chapter 1A of the LAMC, as applicable or a variance. Non-compliance with the outdoor dining area standards may result in administrative citations and notices to comply issued by LADBS and/or LAPD (insomuch as LAPD is responsible for enforcing the Noise Ordinance) with a series of escalating monetary fines and penalties, including revocation of all permits issued to authorize an outdoor dining area.~~enforcement actions pursuant to Section 12.27.1 (Administrative Nuisance Abatement Proceedings) of Chapter I or Article 13 of Chapter 1A of the LAMC, as applicable. [...]~~

### **Chapter 3; Section 3.3.1 Project Background & Overview; Page 33; New Paragraph After Paragraph 3**

Outdoor Dining Area applicants may obtain case management services by utilizing LADBS' complementary Restaurant and Small Business Express Program (RSBEP). The goal of the RSBEP is to make the permitting and inspection process more efficient by enhancing the coordination of permitting, construction, and inspection. Additional information on the RSBEP can be obtained via the LADBS.org website by searching RSBEP.

LADBS also has authority to issue a citation for violating LAMC Section 12.21 A.24, requiring a series of escalating monetary fines and penalties. Such citations are subject to the administrative process provisions set forth in Article 1.2 of Chapter I of the LAMC, including, but not limited to, the administrative hearing and appeal process and the City's authority to use any civil remedy available to collect any unpaid administrative fine.

### **Chapter 4; Section XIII. Noise; Page 74; Paragraph 3**

To assess the existing ambient noise conditions in the area, the City Planning's Geographic Information Systems Unit gathered data (see ~~Attachment A~~ Attachment B to the Negative Declaration) that displays the total number of restaurants within the City of Los Angeles that are within 150 feet, 250 feet, and 500 feet of a freeway, boulevard, or avenue.

**Chapter 4; Section XIII. Noise; Page 74; Paragraph 4**

A sample review of noise impact analyses for previously analyzed development projects in the City (see Attachment A to the Negative Declaration) have found that existing typical daytime ambient noise levels along major roadways in the City is generally in the range of 65<sub>2</sub> to 70<sub>5</sub> dBA.

**Chapter 4; Section XIII. Noise; Page 77; Paragraph 3**

LADBS and LAPD's enforcement power is codified in Section 111.05 of the Noise Ordinance. Non-compliance with the outdoor dining area standards may result in ~~enforcement actions pursuant to Section 12.27.1 (Administrative Nuisance Abatement Proceedings) of Chapter I or Article 13 of Chapter 1A of the LAMC, as applicable.~~ administrative citations issued by LADBS and/or LAPD that are subject to a series of escalating monetary fines and penalties as follows:

- (1) Fines and Penalties for Violations. An owner and/or Responsible Party issued an Administrative Citation in violation of LAMC Section 12.21 A.24 shall be subject to the following fines:
  - (i) An administrative fine of \$1000 for a first violation;
  - (ii) An administrative fine of \$5,000 for a second violation;
  - (iii) An administrative fine of \$8,000 for a third violation and \$8,000 for each subsequent violation.
- (2) Upon the successful imposition of an administrative fine for a third violation of LAMC Section 12.21 A.24(d)(2), either because no appeal is filed or any appeal is denied, the right to play background music in the Outdoor Dining Area shall be suspended for a period of 12 consecutive months with no violations.

Such citations are subject to the administrative process provisions set forth in Article 1.2 of Chapter I of the LAMC, including, but not limited to, the administrative hearing and appeal process and the City's authority to use any civil remedy available to collect any unpaid administrative fine.

Additionally, any combination of four or more Notice of Appear Citations, Orders to Comply, Notices of Violation and/or Administrative Citations issued by an enforcement agency may result in revocation proceedings for any Certificate of Occupancy and/or permits issued to authorize an outdoor dining area. When the Board of Building and Safety Commissioners (Board) determines that the Certificate of Occupancy and/or permits must be revoked, the Board may determine that the operators must obtain all necessary permits to restore the use and condition that existed prior to the Outdoor Dining Area improvements and permit issuance. Furthermore, the Board may determine that no new permits authorizing an outdoor dining area can be issued for a period of up to 12 consecutive months. These enforcement mechanisms would require operators to comply with the Draft AI Fresco Ordinance.

**Chapter 4; Section XIII. Noise; Page 77; Paragraph 5**

The proposed Ordinance includes several “standards” that serve to limit the types of uses, including the following restrictions:

- (i) Music, television monitors, and other similar audiovisual devices screens and speakers are prohibited in Outdoor Dining Areas.
- (ii) 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.
- (iii) An Outdoor Dining Area shall operate no later than 11:00 p.m. if within 250 feet of a residential zone, not including the RAS zone. 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.

#### **Chapter 4; Section XIII. Noise; Page 77; Paragraph 6**

The proposed Project retains all of the same prohibitions that are currently restricted under the Temporary Authorization Program, except for the prohibition of private events, cover charges, and ambient background music, which is generally described as around 62 dBA at one meter (3.28 feet) from the speaker pursuant to the Peer Review prepared by Michael Baker International (MBI) and dated October 2023. (limited to allow patrons to speak at normal conversational levels), Background music which will be permitted under the permanent program in compliance with additional standards described below and enforced pursuant will be subject to noise regulations set forth in Section 112.01 of the LAMC, enforced by LAPD. Violation of noise regulations in LAMC Section 112.01 may result in administrative citations with escalating monetary fines and penalties, including revocation of all permits issued for an outdoor dining area.

The proposed Project includes the following background music standards, recommended by MBI as best management practices in their Peer Review:

**(2) Background Music Allowance.** Background music shall not exceed 5 dBA above ambient noise levels and shall only be permitted in compliance with the following additional standards:

(i) Outdoor speakers shall be oriented toward the center of the Outdoor Dining Area.

(ii) Outdoor background music shall be played no later than 10:00 p.m.

**(iv) Noise Monitoring Device.** The restaurant operator shall install a noise monitoring device in the Outdoor Dining Area in accordance with the following requirements.

**a. Device Standards.** The noise monitoring device shall be capable of:

i. Continuously monitoring dBA levels for the duration of the Outdoor Dining Area.

ii. 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.

iii. Maintaining decibel readings that can be made available upon request.

**b. 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.

**c. Device Log.** The 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.

Incorporation of these best management practices does not affect the analysis and conclusion of this IS/ND that the proposed Project would not have a significant impact related to noise.

#### **Chapter 4; Section XIII. Noise; Page 78; Paragraph 2**

[...] The Project creates new administrative processes for having outdoor dining on private property for eligible restaurants that are already permitted uses in the zones in question. Moreover, regardless of any structures or activities allowed by the Project, outdoor dining establishments would still be required to follow the LAMC Noise Ordinance, keeping noise to within legal limits and thus below noise impact thresholds. LAPD is the City department that oversees compliance with the Noise Ordinance and enforces any noise complaints that are made throughout the City. Any noise calls are logged and are public records. Furthermore, LADBS will enforce the aforementioned operation standards, as well as the background music standards included in the proposed Project.

#### **Chapter 4; Section XIII. Noise; Pages 78-79; Paragraph 3**

Typical operational noise levels generated by outdoor dining would be approximately 60 dBA for normal conversation, to 65 dBA for a somewhat more lively dining atmosphere. As noted in Attachment A B, dated August 2023, the vast majority of the City's restaurants (90.1%) are within 150 feet of a major roadway, which themselves typically generate approximately 65 to 70 dBA of noise generally located in a busy commercial environment, with 90.1% located within 150 feet of a major roadway. In comparing this information with the updated Attachment A, dated August 2023, which illustrates a selection of daytime ambient noise measurements taken along or near high traffic commercial corridors across the city, ambient noise levels ranging from about 62 to 75 dBA are typical and would be the presumed baseline ambient noise level for a significant majority of restaurants. Most outdoor dining areas, then, would generate noise within the normal range of ambient noise levels for the environments in which they are located, and therefore, residential uses near outdoor dining areas that are located near major roadways tend to be subject to high ambient noise levels with or without outdoor dining.

It should be noted that residences that do not directly face major roadways may not be exposed to the high ambient noise levels from the roadways. Additionally, some restaurants may set up their outdoor dining area in rear patios that are located further away from major roadways but closer to the residences, in which case, the residences may potentially be exposed to higher noise levels from the outdoor dining areas rather than from a nearby major roadway.

However, all restaurants proposing outdoor dining areas would be required to comply with the outdoor dining area operation standards and background music requirements in the proposed

Ordinance. These Further standards aimed at limiting noise in participating restaurants include limiting entertainment to outdoor ambient background music in outdoor dining areas for all participating restaurants to no later than 10:00 p.m. at low volume and restricting hours of operations for outdoor dining areas past 10:30 PM on Sunday through Thursday and 11:00 PM in Friday through Saturday within 250 feet of any residential zone if the outdoor dining area is abutting or across an alley from a residential zone, not including the RAS zone. All participating restaurants will be required to orient speakers in outdoor dining areas toward the center and post a sign reminding guests to be respectful of surrounding neighbors in the outdoor dining area. Additionally, operators will be required to install a notice monitoring device that is capable of continuously monitoring dBA levels and maintaining decibel reading that can be made available upon request. This log must be provided upon request by City staff. The availability of the log and other operation and background music standards set forth in the Ordinance will be enforced by LADBS.

In the event an operator violates any of these standards, administrative citations may be issued by LADBS and/or LAPD (insomuch as LAPD is responsible for enforcing the Noise Ordinance) with a series of escalating monetary fines and penalties, including revocation of all permits issued for an outdoor dining area, as applicable. Furthermore, all restaurants and their outdoor dining areas will be subject to the City's noise regulations set forth in LAMC Section 112.01, which is enforced by LAPD. Specifically, LAMC Section 112.01(c) prohibits a restaurant's outdoor dining area from exceeding the ambient noise level of other occupied properties or an increase of more than 5 dBA within any adjoining residential unit or attached business.

Schools, which are sensitive noise receptors, are also likely to be closed in the evening hours when outdoor dining noise would be present. Furthermore, enforcement of the existing Noise Ordinance (LAMC Section 112.01 (c)) by the LAPD's dedicated Noise Enforcement Team would prohibit a restaurant's outdoor dining area from exceeding an increase of 5 dBA over the ambient noise level at any nearby residence or business, preventing noise from reaching the threshold of significance. As noted above, the proposed Project allows for the use of ambient music within the outdoor dining area. There is no evidence in the record that supports a causal connection between the use of ambient music and increased noise levels. In fact, the testimony throughout the administrative proceedings is that the ambient noise levels would be limited to normal conversational levels) and cannot be heard once a patron leaves the outdoor dining area. There is no evidence in the record that supports a causal connection between the use of ambient music and increased noise levels. Based on the information provided above in the "Overview of Noise Analysis for Outdoor Dining Ordinance and Characteristics of Sound" section, ambient music and normal Outdoor Dining uses will fall within the 5 dBA threshold, consistent with the City's Noise Ordinance. Compliance with these regulatory compliance measures and the City's enforcement measures implemented by LAPD and LADBS will ensure that restaurants and their outdoor dining areas would not have a significant impact on noise. Therefore, impacts in this regard would be less than significant.

#### **Chapter 4; Section XXI. Mandatory Findings of Significance; Page103; Paragraph 1**

**Less than Significant Impact.** For the reasons stated in this Initial Study, the Project would not potentially result in any significant impacts and would not have the potential to contribute to cumulative impacts. Any new development authorized by the Project would be an accessory to a restaurant use and limited in scope. The project is not anticipated to result in substantial new development and as such will not contribute to cumulative impacts or have cumulatively considerable impacts.

The scope of the Permanent Al Fresco Ordinance, and the project description in this IS/ND, is limited to Outdoor Dining Areas on private property. The City's program for dining in the public rights-of-way (Sidewalk Dining and On-Street Dining) was launched per the City's Temporary Al Fresco Program in May 2020 in response to the COVID-19 pandemic. Sidewalk Dining is overseen by the Bureau of Engineering (BOE) while On-Street Dining is overseen by the Los Angeles Department of Transportation (LADOT), and both are subject to a separate revocable permit application and authorization process. (Council File No. 20-1074.) In July 2023, LADOT released a revised Policy for On-Street Dining, and in June, 2023, the BOE updated its policy on Sidewalk Dining. These policies, similar to the Permanent Al Fresco Ordinance for private properties, seek to modify and extend temporary policies allowing outdoor dining in the public right-of-way to create permanent programs for On-Street Dining and Sidewalk Dining. LADOT and BOE's programs for dining in the public right-of-way, however, have not yet been defined and will follow a separate process, have independent utility, and therefore have not been considered as part of the current Al Fresco Ordinance. LADOT and BOE policies referenced herein are the latest policies listed in the LADOT and BOE Department websites.

Furthermore, in terms of the City's noise analysis, background music will continue to be prohibited in On-Street Dining and Sidewalk Dining areas. Thus, any Program for dining in the public right-of-way that is implemented at a later date would not create a cumulatively considerable noise impact because background music is not permitted in these public right-of-way outdoor dining areas; and the on-street program is subject to a revocable permitting scheme, issued by BOE and LADOT. Finally, all restaurant operators, regardless of if located on public or private property are subject to the City's Noise Ordinance's regulatory requirements. Therefore, there would not be any cumulatively considerable impact due to Noise. Impacts related to this issue would be less than significant.

#### **Attachment A to the IS/ND (Exhibit C)**

More information was added to Attachment A to specify zone, neighborhood, and other pertinent geographic context for the exact location of the samples of daytime ambient noise level measurements. Some samples referenced in the previous version of Attachment A have been omitted or revised due to redundancy or lack of an exact address of the noise level measurement location in order to maintain consistency, while presenting a diversity of samples representative of various neighborhoods in Los Angeles. In addition, daytime ambient noise level measurements were verified and corrected as reported in the respective Environmental Impact Reports (EIRs).

#### **Attachment B to the IS/ND (Exhibit D)**

The IS/ND erroneously referenced Attachment A when describing data collected by City Planning's Geographic Information Systems (GIS) Unit for restaurants located near major roadways, which are defined as roadways designated as a Boulevard I, Boulevard II, Avenue I, or Avenue II in the Mobility Element. Attachment B has been added to this Errata with data displaying the total number of restaurants in the City of Los Angeles and the total number of temporary Al Fresco authorizations that are located within 150 feet, 250 feet, and 500 feet from major roadways.

## **4. MODIFICATIONS TO PROPOSED ORDINANCE (ALTERNATIVE ORDINANCE) AND NOISE ANALYSIS**

### **ALTERNATIVE ORDINANCE**

For the policy reason stated in City Planning's Supplemental Report, dated November 2, 2023, and to ensure the overall success and long-term viability of the proposed Permanent AI Fresco Program, City Planning prepared an alternative version of the Draft AI Fresco Ordinance that includes all of the PLUM Committee's instructions from their June 6, 2023 meeting, except those related to the allowance and enforcement of background music (Alternative Ordinance). One of the main differences between the Draft AI Fresco Ordinance and the Alternative Ordinance is the prohibition on background music, unless a Conditional Use Permit is obtained. The following summarizes modifications to the Proposed Ordinance in the Alternative Ordinance. These modifications supersede all conflicting project descriptions in the IS/ND.

#### **Prohibition on Background Music and Removal of Background Music Allowance Standards in Los Angeles Municipal Code (LAMC) Sec. 12.21 A.24(d):**

1. The Outdoor Dining Area shall have an enclosure of no more than 50 percent, except that:
  - a. Moveable, non-permanent delineators are exempt from counting towards the maximum enclosure.
  - b. The Outdoor Dining Area may have an enclosure of up to 100 percent if the roof coverage is no more than 25 percent.
2. Background music and speakers are prohibited in Outdoor Dining Areas.
3. Television monitors and other similar audiovisual devices are prohibited in Outdoor Dining Areas
4. 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.
5. 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.
6. 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).
7. Outdoor Dining Areas shall be cleaned nightly and adjoining sidewalk areas shall be kept free of debris, litter and graffiti.
8. 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 AI 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.
9. A sign reminding guests to be respectful of surrounding neighbors shall be posted in the Outdoor Dining Area.

#### **Expansion of Relief Provisions in Sec. 12.21 A.24(e):**

1. Relief from the Outdoor Dining Area enclosure standard in LAMC Section 12.21 A.24(d)(1)(i) may be requested through the approval of plans on the original discretionary entitlement pursuant to LAMC Section 12.24 M. If there is no original discretionary entitlement, relief may be requested through a Conditional Use Permit pursuant to LAMC Section 12.24 W.32.
2. Relief from the Outdoor Dining Area background music and speakers prohibition in LAMC Section 12.21 A.24(d)(1)(ii) may be requested through a Conditional Use Permit pursuant to LAMC Section 12.24 W.32.

**Changes to Enforcement - Removal of Procedures and Fines Specific to ACE Citations for Background Music and Noise Regulations in Sec. 12.21 A(24)(f):**

1. Enforcement
  - a. Failure to comply with any of the regulations and standards set forth herein shall constitute a violation of the Al Fresco Ordinance and may result in a citation, Administrative Citation, Orders to Comply and/or other available enforcement mechanisms identified herein or in the LAMC.
  - b. The City shall have the authority to conduct inspections, consistent with LAMC Section 98.0105, to verify compliance with all of the requirements prescribed in LAMC Section 12.21 A.24. The owner and restaurant operator shall be notified of the deficiency or violation and shall be required to timely correct and eliminate the deficiency or violation.
  - c. Enforcement of the requirements pursuant to LAMC Section 12.21 A.24 is not exhaustive and the City may pursue other remedies.
  - d. Citations and/or Orders to Comply. A citation for violating LAMC Section 12.21 A.24 shall include, but is not limited to, Administrative Citations and/or Notice to Appear Citations issued by the Los Angeles Police Department, and Orders to Comply and/or Notices of Violation issued by the Department of Building and Safety.
  - e. Administrative Process Applicable to Administrative Citations. Unless otherwise specified herein, all Administrative Citations issued for violations of LAMC Section 12.21 A.24 shall be subject to the provisions set forth in Article 1.2 of Chapter I of this Code, including, but not limited to, an administrative hearing and appeal process as set forth in LAMC Section 11.2.01, et seq., and the City's authority to use any civil remedy available to collect any unpaid administrative fine.
  - f. Revocation of Outdoor Dining Areas.
    - i. Definitions. As used in this subsection, the following terms are defined as follows:
      1. BOARD. The Board of Building and Safety Commissioners.
      2. DEPARTMENT. The Los Angeles Department of Building and Safety.
      3. SUPERINTENDENT. The Superintendent of Building or his or her authorized representative.
    - ii. Applicability. The provisions of this subsection shall apply to every Outdoor Dining Area operating pursuant to LAMC Section 12.21 A.24 with a valid Certificate of Occupancy and a valid permit.
    - iii. (iii) Revocation Proceedings Resulting from Citations and Other Enforcement Mechanisms. Regardless of any previous corrective actions or payments of fines and fees, any combination of four or more Notice to Appear Citations, Orders to Comply, Notices of Violation or Administrative

Citations issued by Los Angeles Police Department, Department of Building and Safety or other City Departments for any violation under LAMC Section 12.21 A.24 or the Noise Ordinance may result in revocation proceedings for any Certificate of Occupancy or permits, or both, issued to authorize an Outdoor Dining Area pursuant to LAMC Section 12.21 A.24. The revocation proceedings shall be commenced by issuance of a Notice of Intent to Revoke ("Notice"), which shall be sent to the owner of the property and the restaurant operator of the Outdoor Dining Area. The Notice shall state the following:

1. The date and place of the revocation hearing, which shall be scheduled at least 15 days and not more than 90 days from the date of issuance of the Notice.
  2. A list of all violations under LAMC Section 12.21 A.24 LAMC or the Noise Ordinance for which a Notice to Appear Citation, Order to Comply, Notice of Violation, or Administrative Citation was issued by Los Angeles Police Department, Department of Building and Safety or other City Department.
  3. Copies of all Notice to Appear Citations, Orders to Comply, Notices of Violation and Administrative Citations related to these violations, unless the copies were previously furnished to the owner or restaurant operator.
  4. The owner or restaurant operator is entitled to be represented by legal counsel at any revocation hearing.
- iv. Revocation Hearing. On the date specified in the Notice, a revocation hearing shall be held before the Board. The Board shall determine whether the Certificate of Occupancy or permit, or both, shall be revoked. Revocation shall be ordered by the Board for multiple violations of LAMC Section 12.21 A.24 or the Noise Ordinance, four or more Notice to Appear Citations, Orders to Comply, or Notice of Violation or Administrative Citations issued to the property owner of record or restaurant operator by the Los Angeles Police Department, the Department of Building and Safety or any other City Department.
  - v. In making its determination, the Board may hear from the owner, restaurant operator, or other interested party. The determination of the Board is final.
  - vi. Reversion of Uses. Upon the Board's determination to revoke any Certificate of Occupancy or permits issued to authorize an Outdoor Dining Area, the Board may order the owner or restaurant operator to obtain all necessary permits to remove all improvements in the Outdoor Dining Area. The Board may also order the restaurant operator to obtain all necessary permits to restore the use and condition that existed prior to the development of the Outdoor Dining Area or convert the Outdoor Dining Area to a conforming use.
  - vii. Permits Suspension Period. The Board may determine that no new Certificate of Occupancy or permits authorizing an Outdoor Dining Area shall be issued for a period of up to 12 consecutive months, as counted from the date the revocation determination is made by the Board.
  - viii. Each violation of the Code and each day of operation without a Certificate of Occupancy or a building permit is a misdemeanor.
- g. Criminal and Other Remedies Available. Any violation of LAMC Section 12.21 A.24 may be prosecuted as a misdemeanor. In cases where the City Attorney elects to criminally prosecute a violation, the defendant shall be subject to all applicable

penalties authorized by LAMC Section 11.00 (m), and not the administrative fines authorized by this section.

### **Modification to Conditional Use Permit Provisions in Sec. 12.24 W.32**

Outdoor Dining Areas that Deviate from the Standards Set Forth in LAMC Section 12.21.A.24.(d)(1)(i) and (ii) But Maintain a Valid Certificate of Occupancy or Valid Permit Issued by LADBS for an Outdoor Dining Area in the RAS3, RAS4, CR, C1, C1.5, C2, C4, C5, CM, M1, M2, and M3 Zones or wherever restaurants are permitted.

Pursuant to the Supplemental PLUM Report dated November 2, 2023, City Planning recommends that the City Council adopt the Alternative Ordinance in lieu of the Draft AI Fresco Ordinance due to the reasons explained in the Supplemental Report.

### **NOISE ANALYSIS**

The Alternative Ordinance would be more restrictive than the Draft AI Fresco Ordinance in terms of background music in that music will not be permitted. Operators who want to play background music in an outdoor dining area must obtain a Conditional Use Permit from City Planning. Given that the Conditional Use Permit is a discretionary entitlement, the proposed outdoor dining area will be subject to further CEQA review, and as such, each individual outdoor dining area will have its own site-specific CEQA analysis completed. Noise impacts from the outdoor dining area, including background music, will be analyzed in CEQA, and in the event a significant impact is identified, appropriate mitigation measures will be imposed on the proposed outdoor dining area. Furthermore, the Zoning Code in the LAMC currently does not regulate background music in the outdoor dining area. By prohibiting background music in the outdoor dining area and requiring a Conditional Use Permit in the event an operator wants to play background music, the Alternative Ordinance would be lowering the impact level than as currently permitted. As such, the Alternative Ordinance would have lesser impacts related to noise than the Draft AI Fresco Ordinance, consistent with the comments provided by MBI in its Peer Review.

As for the noise impacts from the Alternative Ordinance, outdoor dining areas without background music will have operational noise resulting from the users of the outdoor dining area. However, Chapter XI, Noise Regulation (Noise Ordinance), of the LAMC regulates noise from non-transportation noise sources such as commercial or industrial operations, mechanical equipment, or residential activities, which are also thresholds of significance for noise impacts within the City of Los Angeles. All establishments subject to the Alternative Ordinance are required to comply with Chapter XI, Noise Ordinance of the LAMC. For example, Section 112.01 of the LAMC addresses noise from radios, television sets, and similar devices that are used for the producing, reproducing, or amplification of the human voice, music, or any other sound. This section states that any noise level caused by these devices that is audible to the human ear at a distance in excess of 150 feet from the property line of the noise source, within any residential zone of the City or within 500 feet thereof, would be a noise violation. Additionally, these devices may not generate noise that exceeds the ambient noise level at any adjacent property by more than 5 dBA.

Pursuant to Section 111.05 of the LAMC, the Los Angeles Police Department (LAPD) implements some of the noise regulations that apply to restaurant establishments, such as Section 112.01 of the LAMC. The Commission Investigation Division (CID) of LAPD is the regulatory arm of the Board of Police Commissioners and includes the Investigative Enforcement Section that has a Noise Enforcement Team. In the event an establishment exceeds the thresholds in the Noise Ordinance, LAPD has the authority to issue citations. Per the Alternative Ordinance, these

citations can count toward a combination of four or more citations and/or orders to comply that may result in revocation proceedings for any Certificate of Occupancy and/or permits issued to authorize an outdoor dining area. Once the permits are revoked by LADBS, the establishment may be required to obtain all necessary permits to remove all improvements and restore the use and condition that existed prior to the permitted outdoor dining area. Furthermore, the establishment may not be able to obtain new permits to open a new outdoor dining area for a period of up to 12 months. As such, compliance with the regulatory compliance measures in the Noise Ordinance and enforcement mechanisms set forth in the proposed Alternative Ordinance would result in less-than-significant impacts for noise in the outdoor dining areas.

## 5. CONCLUSION

The IS/ND has been modified to reflect PLUM's direction to further modify the Proposed Ordinance to change curfew hours for outdoor dining areas, limit the application of the curfew hours, and include reasonable enforcement provisions (Draft AI Fresco Ordinance). The revisions to the IS/ND also include edits to the noise impact analyses as well as incorporation of BMPs as recommended by MBI in their Peer Review. As explained in the Peer Review, BMPs are different from mitigation measures, as mitigation measures are required to be implemented by projects potentially causing significant environmental impacts. The BMPs are incorporated into the Draft AI Fresco Ordinance and IS/ND to bolster the impact analyses and do not change the significance findings of the IS/ND. As supported by the Peer Review, noise impacts of the Draft AI Fresco Project would remain less than significant, consistent with the conclusion of the IS/ND prepared in May 2023. Therefore, all modifications to the proposed Ordinance and revisions to the IS/ND explained in **Section 3** above would not result in a new, avoidable significant effect and/or new mitigation measures or project revisions to reduce potential impacts to less than significance pursuant to State CEQA Guidelines Section 15073.5(b) of the State CEQA Guidelines.

Similarly, this Errata analyzes noise impacts from outdoor dining areas under the Alternative Ordinance which would require a Conditional Use Permit approval for all outdoor dining areas that will play background music. As supported by the Peer Review, noise impacts of the Alternative Ordinance would be less than significant. Therefore, all modifications to the proposed Ordinance explained in **Section 4** above would not result in a new, avoidable significant effect and/or new mitigation measures or project revisions to reduce potential impacts to less than significance pursuant to State CEQA Guidelines Section 15073.5(b) of the State CEQA Guidelines.

State CEQA Guidelines Section 15073.5(a) requires that a lead agency recirculate a negative declaration "when the document must be substantially revised." Pursuant to CEQA Guidelines Section 15073.5, a substantial revision of the negative declaration means: (1) identification of a new, avoidable significant effect requiring mitigation measures or project revisions and/or (2) determination that proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required. Recirculation is not required when new information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration. Based on these requirements and definitions, the City determined that the modifications to the Proposed Project and minor revisions and clarifications to the IS/ND included in this Errata do not represent substantial revisions that would require recirculation of the negative declaration. The original IS/ND, this Errata and Exhibits attached to this Errata comprise the Final IS/ND for the Proposed Ordinance.

## EXHIBITS TO THE ERRATA

Exhibit A - MBI Peer Review

Exhibit B - Responses to Comments

Exhibit C - Attachment A to the IS/ND

Exhibit D - Attachment B to the IS/ND

**Al Fresco Ordinance**  
**Errata to Initial Study/Negative Declaration**  
**ENV-2023-3278-ND**

Exhibit A – MBI Peer Review

## MEMORANDUM

**To:** Bonnie Kim, City of Los Angeles

**From:** Eddie Torres, Zhe Chen, and John Bellas, Michael Baker International

**Date:** October 26, 2023

**Subject:** City of Los Angeles Al Fresco Ordinance – Initial Study Noise Section Peer Review

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### INTRODUCTION

Michael Baker reviewed Chapter XIII: Noise of the Initial Study/Negative Declaration (IS/ND) for the Al Fresco Ordinance Project (Ordinance), prepared by the City of Los Angeles (City) in May 2023. Michael Baker also reviewed the Draft Al Fresco Ordinance, which would allow background music by-right, and public comments received on the IS/ND and the Ordinance. This memorandum summarizes our comments on the IS/ND and provides recommended Best Management Practices (BMP) for background music to be incorporated in the IS/ND and/or the Draft Al Fresco Ordinance, as appropriate. With the BMPs incorporated in the Al Fresco Ordinance and comments addressed in the IS/ND, Chapter XIII: Noise, noise impacts of the project would remain less than significant, consistent with the conclusion of the IS/ND prepared in May 2023. We also considered a proposed alternative Al Fresco Ordinance Project (Alternative Ordinance), which would allow background music pursuant to a discretionary Conditional Use Permit, and determined that noise impacts of the Alternative Ordinance would have lesser impacts than the Draft Al Fresco Ordinance given that background music will not be permitted by-right and each individual restaurant obtaining a Conditional Use Permit would need its own CEQA analysis for noise impacts, consistent with the conclusion of the Errata to the IS/ND prepared in October 2023.

Resumes of Michael Baker reviewers, John Bellas, Eddie Torres, and Zhe Chen, are included in [Attachment A, Resumes](#).

### COMMENTS ON NOISE SECTION (Section 4.XIII. of IS/ND)

The following summarizes our comments on the IS/ND based on our review of the Draft Al Fresco Ordinance that would allow background music by-right:

On Page 77, Outdoor Dining Ordinance and Applicable Operation-Related Restrictions, Item (iii). In the Revised Draft Al Fresco Ordinance, operation hours restriction of outdoor dining area have been subsequently revised to “no later than 10:30 p.m. Sunday to Thursday and no later than 11:00 p.m. Friday and Saturday, if abutting or across an alley to a residential zone”. Please revise the IS/ND language accordingly.

On Page 77, Outdoor Dining Ordinance and Applicable Operation-Related Restrictions. In the IS/ND, ambient music is defined as “limited to allow patrons to speak at normal conversational levels.” The use of “ambient music” is not a recognized term of art among noise professionals. As such, MBI recommends changing all references to “ambient music” to “background music” and make the global revision throughout the IS/ND and the Ordinance. In addition, it is difficult to define the sound level that allows patrons to speak at normal conversational levels, and subsequently could be difficult for enforcement purposes.

As such, it is recommended to provide a numerical sound level limit of the background music. According to a research paper,<sup>1</sup> crowd noise is estimated at 60 dBA at one meter (3.28 feet) away for raised normal speaking. This noise level would have a +5 dBA adjustment for the impulsiveness of the noise source, and a -3 dBA adjustment for the random orientation of the crowd members.<sup>2</sup> Therefore, crowd noise would be approximately 62 dBA at one meter (3.28 feet) from the source. As such, the recommended sound level for background music is 62 dBA at one meter (3.28 feet) from the speaker. Note that this sound level recommendation is set to generally define “background music” for the purpose of CEQA analysis. Noise level standards at the perimeter of the Outdoor Dining Area that is closest to the most sensitive zone or use would be regulated by the City’s Municipal Code and subject to enforcement and revocation proceedings.

On Page 78, second paragraph, “[The Project] are generally located in a busy commercial environment with high ambient noise levels”. It is recommended to provide historic noise measurement results to show the ambient noise levels in busy commercial areas. **Attachment A** of the Draft IS/ND included historic noise measurements results, but it is difficult for the reader to understand which measurements were representative of the noise levels in busy commercial areas. It is recommended to add a column to the table in Attachment A to specify in which areas (commercial or residential) the measurements were taken, and revise the Draft IS/ND to “[The Project] are generally located in a busy commercial environment with high ambient noise levels ranging from [X] dBA to [Y] dBA, as shown in Attachment A.”

On Page 78, third paragraph. This paragraph discusses that most restaurants are located near major roadways which generate approximately 65 to 70 dBA of noise, and therefore the residences near the restaurants are also subject to high ambient noise levels. While true for the street-facing portions of such restaurants, certain residences may not directly face the major roadways and, thus, may not be exposed to the full high ambient noise levels from the roadways. At the same time, some restaurants set up their outdoor dining areas in rear patios that are located further away from the major roadways but closer to the residences. This type of setup makes residences potentially exposed to higher noise levels from the outdoor dining areas than from the nearby roadway. As such, it is recommended to include additional analysis of this condition, by acknowledging this condition, and then specifying that restaurants with outdoor dining areas directly adjacent to residential uses shall comply with the Best Management Practices and the City’s Noise Ordinance.

On Page 78, third paragraph, “standards aimed at limiting noise in participating restaurants include limiting entertainment to outdoor ambient background music at low volume”. As discussed above, it is recommended to provide numerical sound level of the background music, which is 62 dBA at one meter (3.28 feet) from the speaker for the purpose of CEQA analysis. Note that this sound level recommendation is set to generally define “background music.” Noise level standards at the perimeter of the Outdoor Dining Area that is closest to the most sensitive zone or use would be regulated by the City’s Municipal Code and subject to enforcement and revocation proceedings.

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<sup>1</sup> M.J. Hayne, et al, *Prediction of Crowd Noise*, Acoustics, November 2006.

<sup>2</sup> Ibid.

## RECOMMENDED BEST MANAGEMENT PRACTICES

Michael Baker reviewed outdoor dining regulations from other jurisdictions, and recommends the Best Management Practices (BMPs) below to be incorporated into the Draft Al Fresco Ordinance. It should be noted that BMPs are different than mitigation measures recommended in a CEQA document. Mitigation measures are required to be implemented by projects potentially causing significant environmental impacts to reduce to a level of less than significant, while implementation of BMPs would be required by the Al Fresco Ordinance and does not affect the significance findings of the IS/ND.

The recommended BMPs are:

- Outdoor background music shall be played no later than 10:00 p.m.
- Outdoor speakers shall be oriented toward the center of the Outdoor Dining Area and shall not face or be directed to adjacent uses.
- Noise level from the Outdoor Dining Area at the perimeter of the Outdoor Dining Area that is closest to the most sensitive zone or use shall comply with the City of Los Angeles Municipal Code.
- No live music or live entertainment (including disk jockeys) shall be allowed in the outdoor dining areas.
- A telephone number of the business 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.
- The operator shall maintain a log of the following that shall be subject to inspection by City staff upon request:
  - a. The noise level shall be measured at the perimeter of the Outdoor Dining Area that is closest to the most sensitive zone or use every day prior to the opening of the restaurant's Outdoor Dining Area with background music playing at the volume to be kept throughout the operating hours of the Outdoor Dining Area.
  - b. The background music shall be played at no more than 5 dBA above ambient noise levels.
- Notwithstanding any provisions to the contrary, the noise levels of the Outdoor Dining Area shall not exceed the standards within the Noise Ordinance, Ord. 156,363.

## **CONCLUSION**

With the above-mentioned BMPs incorporated in the Draft Al Fresco Ordinance and comments addressed in the IS/ND, Chapter XIII: Noise, noise impacts of the project would remain less than significant, consistent with the conclusion of the IS/ND prepared in May 2023. We also considered the Alternative Ordinance and determined that noise impacts of the Alternative Ordinance would have lesser impacts than the Draft Al Fresco Ordinance given that background music will not be permitted by-right and each individual restaurant obtaining a Conditional Use Permit would need its own CEQA analysis for noise impacts. Noise impacts of the Alternative Ordinance would be less than significant, consistent with the conclusion of the Errata to the IS/ND prepared in October 2023.

Attachment A  
Resumes

## John M. Bellas, LEED AP

### *CEQA Technical Director/Associate Vice President*

#### General Qualifications

With more than 20 years of experience, Mr. Bellas is a recognized expert in the environmental planning field in Southern California. He has managed the preparation of numerous CEQA and NEPA documents for a wide range of projects, including land development/entitlement projects, land use plans/programs, and capital improvement projects. In addition, he served as an in-house/on-call environmental administrator/coordinator for several prominent cities in Southern California. He has also conducted specialized CEQA training programs for client cities, served as an instructor in AEP's Advanced CEQA and CEQA Essentials series, contributed to a variety of AEP CEQA topic papers, and presented on CEQA topics at AEP and APA conferences and webinars.

#### CEQA Advice and Strategy Experience

Mr. Bellas has served as an in-house and/or on-call CEQA advisor to the Cities of Pasadena, Los Angeles, Santa Clarita, Laguna Woods, Blythe, and California City. In this role, he has reviewed numerous environmental documents for technical and legal adequacy and provided strategic guidance on countless CEQA matters. Notable assignments include:

**City of Pasadena, Environmental Coordinator/Administrator.** Mr. Bellas has served as the City of Pasadena's environmental coordinator/administrator for more than 12 years, where he is responsible for all of the City's environmental documents. Tasks include supervising the CEQA process for all projects in the City; reviewing CEQA and NEPA documents prepared by City staff and other consultants; providing recommendations on the appropriate procedures for complying with CEQA and other environmental regulations; strategizing with the City Attorney's Office on CEQA matters; reviewing technical studies for adequacy; drafting comment letters on behalf of the City for projects outside of the City's jurisdiction or for which the City is a responsible agency; overseeing the preparation, posting, and distribution of environmental notices; conducting CEQA training; and participating in public meetings and hearings.

**City of Los Angeles, EIR Peer Review Services.** Since 2017, Mr. Bellas has lead a team of senior/principal-level environmental planners that provide EIR Peer Review Services to the Los Angeles Department of City Planning. In this role, he provides technical review of initial studies, Sustainable Communities Environmental Assessments (SCEA), draft/final environmental impact reports (EIRs), and CEQA findings/statements of overriding considerations. He also regularly advises the City on CEQA matters. Examples include working with the City Attorney's Office to develop an approach to analyzing greenhouse gas emissions in CEQA documents; drafting/compiling standardized regulatory framework language for the City's EIRs; and contributing to the City's white paper on addressing the Friant Ranch case in CEQA documents.

#### Select Lectures and Course Instruction

Mr. Bellas regularly speaks/presents on CEQA matters. Select examples of past engagements include:

- "Advanced CEQA." Association of Environmental Professionals (Inland Empire Section). 2011, 2018, 2020, and 2023.
- "CEQA Essentials." Association of Environmental Professionals (Inland Empire Section). 2017, 2018, and 2019.
- "EIR Review: A How to Guide, Parts I-V" (City of Los Angeles CEQA Training). Los Angeles, CA. 2020/2021.

**Years of Experience:** 24

#### **Degrees**

BS, 1999, Environmental Resource Management, Penn State University

#### **Professional Affiliations**

Association of Environmental Professionals (AEP)

American Planning Association (APA)

LEED AP, U.S. Green Building Council/Green Building Certification Institute

- "Don't Start an Avalanche! Navigating Safe Mitigation Measures." AEP Conference. Lake Tahoe, CA. 2023. (Also presented) AEP Orange County Chapter Webinar. 2023.
- "CEQA Yoga: Bend, but Don't Break Your Project Description." APA Conference. Anaheim. 2022. (Also presented) APA/AEP Virtual Workshop. 2022. (Also presented) University of California Planners Workshop/Virtual Training Session. 2020.
- "CEQA 101 and Hot Topics." Los Angeles County Board of Education Facilities Network. 2023.
- "Power to the Program (EIR)." AEP Conference (Virtual). 2021.
- "CEQA Overview for the Pasadena City Council." Pasadena, CA. 2019.
- "CEQA Update for the Pasadena Planning Commission." Pasadena, CA. 2017.
- "CEQA Overview for the California City Planning Commission." California City, CA. 2019.
- "Mitigation Measures: A Rose by Any Other Name..." APA Conference. San Diego, CA 2018.
- "CEQA's Mid-Life Crisis." APA Conference. Pasadena, CA. 2016.
- "Blazing the Trail: Pasadena's Path to Adopting VMT Transportation Metrics." APA Conference. Pasadena, CA. 2016.
- "Successes and Challenges for Cities in Streamlining CEQA." AEP Conference. San Diego, CA. 2016.
- "City of Santa Clarita CEQA Training, Part I (CEQA Basics) and Part 11 (Advanced CEQA Topics)." Santa Clarita, CA. 2016.

### **CEQA Document Project Management Experience**

Mr. Bellas has managed the preparation of numerous CEQA documents, ranging from program EIRs for community plans, specific plans, and other land use plans to project-level EIRs and initial study/mitigated negative declarations (IS/MND) for land development and public works projects. A limited list of his project management/project direction experience includes:

- City of Arcadia, Arroyo Pacific Academy Specific Plan IS/MND
- City of Industry, Puente Hills Mall Expansion Project IS/MND
- City of Laguna Woods, General Plan EIR
- City of Laguna Woods, Golden Rain Foundation GPA/ZC IS/MND
- City of Laguna Woods, Gate 12 Community Center Improvement Project IS/MND
- City of Manhattan Beach, Downtown Specific Plan IS/MND
- City of Pasadena, 39 Congress Medical Building IS/MND
- City of Pasadena, Urban Wildlife Management Plan IS/MND
- City of Rolling Hills Estates, General Plan EIR
- City of Rolling Hills Estates, The Village/Merrill Gardens Project IS/MND
- City of Rolling Hills Estates, Peninsula Center Revitalization Project IS/MND
- City of Santa Clarita, Blackhall Studios Project EIR
- City of Santa Clarita, Bouquet Canyon Project EIR
- City of Santa Clarita, Henry Mayo Hospital Master Plan Amendment SEIR
- City of Santa Clarita, Jobs Creation Overlay Zone IS/MND
- City of Santa Clarita, Canyon Country Community Center Project IS/MND
- County of Santa Barbara, Energy and Climate Action Plan EIR
- South Pasadena Unified School District, Mission Place Project EIR
- Santa Monica-Malibu Unified School District, Santa Monica High School Campus Plan EIR

TECHNICAL STUDIES MANAGER

# Eddie G. Torres



**Mr. Torres serves as the Director of Technical Studies, with a specialty in Acoustics, Air Quality, Climate Change, and Visual Impact Assessments. Mr. Torres leads Michael Baker's efforts to be at the forefront of Global Climate Change studies. Mr. Torres has prepared numerous analyses that are consistent with climate change legislation such as Assembly Bill 32, Senate Bill 97, Executive Order S-3-05, and Senate Bill 375. In addition to analyzing climate change impacts, Mr. Torres has led the development of numerous greenhouse gas inventory models which calculate greenhouse gas emissions from such sources as vehicular traffic, stationary sources, electricity consumption, water consumption, wastewater treatment, and construction processes.**

## RELEVANT EXPERIENCE

**USS Iowa Project - Phase 1, Los Angeles, California.** *Pacific Battleship Center.* Environmental Specialist. Responsible for technical studies. Michael Baker prepared an environmental impact report for the U.S.S. Iowa Project for the Pacific Battleship Center, a non-profit organization, in the Port of Los Angeles. The historic battleship was towed from San Francisco Bay, where it has remained in storage by the U.S. Navy, to the Port of Los Angeles. The battleship will be permanently moored at Berth 87 and open to the public as a tourist and educational attraction. Temporary structures will be placed at the berth for offices and restroom facilities. The second phase of the project includes construction of a permanent landside Visitors Center.

**California State University, Long Beach Master Plan Update EIR.** *California State University, Long Beach.* Technical Specialist. Led the preparation of air quality, greenhouse gas, energy, and noise EIR sections. Michael Baker is assisting the California State University, Long Beach with preparing an EIR for the

Master Plan Update. The Master Plan Update is a long-range planning document that will guide physical development on the CSULB campus through the horizon year 2035. The Master Plan Update addresses CSULB's current and future needs, focusing less on physical growth and more on optimizing the existing physical assets of the campus. The Master Plan Update also identifies priority projects to be implemented in the near term. The primary strategies for implementing the Master Plan Update include renovation of existing buildings (renovation), demolition and replacement of existing buildings in the same physical location (replacement), construction of new buildings (new construction), and leaving buildings in their existing location and configuration (building to remain). The Master Plan Update also identifies goals and strategies to improve open space, mobility and parking, and sustainability and resiliency.

**Earvin "Magic" Johnson Recreation Master Plan, Los Angeles, California.** *LA County Parks & Recreation.* Environmental Specialist. Technical Study Manager. The Earvin "Magic" Johnson Recreation Master Plan (EMJ) is approximately a 120-acre recreation area located within a disadvantaged urban community known as South Central-Willowbrook area where the community consists of 58% Hispanic or Latino and 35% African-American residents. The Project is a community-based and needs-based preliminary design of a state-of-the-art recreational facility in the EMJ Recreation Area. Given the project location consisting of minority and underserved residents, the project required developing and implementing an Outreach Strategic Plan that would consist of stakeholder meetings, special interest/ small group interviews, (3) community workshops and a final County Public Hearing. Michael Baker was contracted to provide development of a conceptual design alternatives plan for recreation facilities such as a bicycle and pedestrian trails, exercise stations, children play areas, picnic areas, and other public use areas. Michael Baker will prepare baseline conditions data such as mapping, demographic trends for parks & recreation needs, traffic study, title search material, CEQA (including Air/GHG/Noise, Jurisdictional Delineation, Biology, and Cultural Resources), and a regulatory compliance strategy & permit plan. Michael Baker will be apply County codes and be familiar with the necessary restrictions and processes to prepare the Final Recreation Master Plan and phasing plan.

## Michael Baker INTERNATIONAL

*Years with Michael Baker*  
24

*Years of Experience*  
24

### Education

B.A., 2000, Environmental Analysis and Design, University of California, Irvine

Certificate, 2000, Fundamentals of Mechanical Engineering, University of California, Irvine

### Licenses/Certifications

Institute of Noise Control Engineering, 2002

2.1.1 Traffic Noise Analysis, California

2.2.1 Air Quality Analysis, California

### Professional Affiliations

American Planning Association (APA)

Association of Environmental Professionals (AEP)

Institute of Noise Control Engineering

also need to post a sign in the outdoor dining area reminding guests to be respectful of surrounding neighbors. Lastly, in no event the restaurant's outdoor dining area can exceed the noise limits in the Noise Ordinance set forth in the Los Angeles Municipal Code.

Any ~~d~~ Deviations from the outdoor dining area standards of the proposed Project will be considered through a Plan Approval of the original discretionary entitlement pursuant to Section 12.24 M of Chapter I or Article 13 of Chapter 1A of the LAMC, as applicable, or a variance pursuant to Section 12.27 of Chapter I or Section 13B.5.3 of Chapter 1A of the LAMC. Non-compliance with the outdoor dining area standards may result in administrative citations and/or notices of violation issued by LADBS, and violations of the City's Noise Ordinance may result in administrative citations issued by LAPD. When an operator is issued an administrative citation, enforcement agencies will charge a series of escalating monetary fines and penalties. Additionally, any combination of four or more Notice of Appear Citations, Orders to Comply, Notices of Violation and/or Administrative Citations issued by an enforcement agency may result in revocation proceedings for any Certificate of Occupancy and/or permits issued to authorize an outdoor dining area. When the Board of Building and Safety Commissioners (Board) determines that the Certificate of Occupancy and/or permits must be revoked, the Board may determine that the operators must obtain all necessary permits to restore the use and condition that existed prior to the Outdoor Dining Area improvements and permit issuance. Furthermore, the Board may determine that no new permits authorizing an outdoor dining area can be issued for a period of up to 12 consecutive months. These enforcement mechanisms would require operators to comply with the Draft AI Fresco Ordinance.

### **Chapter 3; Section 3.3.1 Project Background & Overview; Page 31; Paragraph 1**

Any deviations from the outdoor dining area standards of the proposed Project will be considered through a Plan Approval of the original discretionary entitlement pursuant to Section 12.24 M of Chapter I or Article 13 of Chapter 1A of the LAMC, as applicable or a variance. Non-compliance with the outdoor dining area standards may result in administrative citations and notices to comply issued by LADBS and/or LAPD (insomuch as LAPD is responsible for enforcing the Noise Ordinance) with a series of escalating monetary fines and penalties, including revocation of all permits issued to authorize an outdoor dining area.~~enforcement actions pursuant to Section 12.27.1 (Administrative Nuisance Abatement Proceedings) of Chapter I or Article 13 of Chapter 1A of the LAMC, as applicable. [...]~~

### **Chapter 3; Section 3.3.1 Project Background & Overview; Page 33; New Paragraph After Paragraph 3**

Outdoor Dining Area applicants may obtain case management services by utilizing LADBS' complementary Restaurant and Small Business Express Program (RSBEP). The goal of the RSBEP is to make the permitting and inspection process more efficient by enhancing the coordination of permitting, construction, and inspection. Additional information on the RSBEP can be obtained via the LADBS.org website by searching RSBEP.

LADBS also has authority to issue a citation for violating LAMC Section 12.21 A.24, requiring a series of escalating monetary fines and penalties. Such citations are subject to the administrative process provisions set forth in Article 1.2 of Chapter I of the LAMC, including, but not limited to, the administrative hearing and appeal process and the City's authority to use any civil remedy available to collect any unpaid administrative fine.

### **Chapter 4; Section XIII. Noise; Page 74; Paragraph 3**

## AIR AND NOISE MANAGER

# Zhe Chen, MBA



*Ms. Chen is a technical manager and senior environmental specialist focusing on air quality, climate change, and noise. She has rich experience in environmental consulting industry and a strong education background in science and engineering. Ms. Chen is qualified to prepare California Environmental Quality Act (CEQA) documents for public and private clients, especially air quality, greenhouse gas (GHG), energy, and noise technical analysis. She is an expert in air quality, GHG, and noise modeling, including California Emissions Estimator Model (CalEEMod), the AERMOD Atmospheric Dispersion Modeling System, the Federal Highway Administration Traffic Noise Model (TNM), etc. Ms. Chen also has rich experience in climate action planning, using her technical and analytical skills to provide climate change and environmental due diligence services to local governments and regional jurisdictions. She is proficient in utilizing climate change tools to develop GHG inventories and Climate Action Plans (CAP), recommending sustainability strategies and programs to local governments, and performing climate risk, vulnerability, and adaptation assessment.*

## RELEVANT EXPERIENCE

**California State University, Long Beach Master Plan Update EIR.** *California State University, Long Beach.* Technical Specialist. Led the preparation of air

quality, greenhouse gas, energy, and noise EIR sections. Michael Baker is assisting the California State University, Long Beach with preparing an EIR for the Master Plan Update. The Master Plan Update is a long-range planning document that will guide physical development on the CSULB campus through the horizon year 2035. The Master Plan Update addresses CSULB's current and future needs, focusing less on physical growth and more on optimizing the existing physical assets of the campus. The Master Plan Update also identifies priority projects to be implemented in the near term. The primary strategies for implementing the Master Plan Update include renovation of existing buildings (renovation), demolition and replacement of existing buildings in the same physical location (replacement), construction of new buildings (new construction), and leaving buildings in their existing location and configuration (building to remain). The Master Plan Update also identifies goals and strategies to improve open space, mobility and parking, and sustainability and resiliency.

**Sevilla II Tentative Tract Map No. 38557 IS/MND, Coachella, California.** Senior Air Quality and Noise Specialist. Michael Baker International is assisting City of Coachella with preparation of an IS/MND for the Sevilla II Tentative Tract Map No. 38557 Project. The proposed project would construct approximately 204 single-family residential dwellings. Typical lots would be approximately 5,000 square feet in size. The proposed project would include pedestrian sidewalks; landscaping; approximate 1.0-acre recreational park area; an approximate 1.37-acre water retention basin; an approximate 0.23-acre dedicated [future] well site; monumental signage; and street and utility improvements.

**Tumbleweed Energy Storage Project Technical Studies. Kern County, California.** Project Manager and Senior Air Quality and Noise Specialist. Michael Baker provided environmental services for the preparation of Air Quality, Health Risk Assessment, Greenhouse Gases, Energy, and Noise and Vibration technical studies for the project. The project would construct a 125 megawatt (MW) battery energy storage system (BESS), a 2 MW photovoltaic (PV) electric generating solar facility, a new one-mile overhead gen-tie line to the Desert Flower Substation located at the southwest corner of Holiday Avenue and 110th Street West. The project provides an electric energy storage service by receiving energy (charging), storing it, and later delivering the same energy (i.e., transmission) from and to the point of interconnection at the existing Southern California Edison (SCE)-owned Whirlwind Substation.

**Heritage Square South Project, City of Pasadena, California.** Senior Air Quality and Noise Specialist.

Michael Baker prepared an Environmental Assessment for the City in accordance with the U.S. Department of Housing and Urban Development's regulations. The project would construct a mixed-use structure with 70 units of permanent supportive housing for seniors as well as 15,000 square feet of retail/restaurant space. Ms. Chen prepared the air quality and noise technical studies for the project and conducted project's consistency analysis with the City's Climate Action Plan.

## Michael Baker INTERNATIONAL

*Years with Michael Baker*  
3

*Years of Experience*  
8

### Education

M.B.A., 2023, Business Administration, University of California, Irvine

M.S., 2015, Environmental Science and Engineering, Stanford University

B.S., 2013, Chemistry, Peking University

### Licenses/Certifications

LEED Green Associate, 2019

Certified Associate in Project Management, 2018

FHWA Traffic Noise Modeling, 2016

### Professional Affiliations

Association of Environmental Professionals (AEP)

**Al Fresco Ordinance**  
**Errata to Initial Study/Negative Declaration**  
**ENV-2023-3278-ND**

Exhibit B – Responses to Comments

# Summary of Public Comments and Responses

This document includes a summary of public comments received regarding the Initial Study / Negative Declaration (IS/ND) for the proposed AI Fresco Ordinance (Proposed Ordinance) during the 30-day circulation period for public review from May 18, 2023 to June 20, 2023, prepared by the Los Angeles Department of City Planning (City Planning) for the proposed AI Fresco Ordinance, under Case No. ENV-2023-3278-ND. 44 total public comments were received via email and submitted to the Council File. Comments are organized by theme with their associated response as follows:

- Enforcement
- Residential Adjacency
- Nighttime Disturbance
- Live Music and Entertainment
- Alcohol and Noise
- Noise Level Management

## **Enforcement**

Commenters expressed concern regarding enforcement of noise complaints by the Los Angeles Police Department (LAPD). LAPD is currently responsible for the enforcement of noise complaints and compliance with the Noise Ordinance. However, commenters shared that noise complaints have a very low priority for LAPD, and callers expressed long wait times before reaching a call operator, and police usually cannot show up to solve the problem in a timely manner. As such, the public asks for a more effective and immediate enforcement mechanism, including penalties to the restaurant operators if violating the City's ordinances, such as requiring businesses that are under investigation for a violation to be excluded from being eligible beneficiaries of the streamlining provisions in the proposed AI Fresco Ordinance.

## *Response*

Per the Planning and Land Use Management (PLUM) Committee's instructions from the June 6th, 2023 meeting, City Planning worked closely with the Los Angeles Department of Building and Safety (LADBS), Office of the City Attorney, LAPD, and other City Departments, to research and include feasible and reasonable enforcement provisions in the final draft of the ordinance with regard to background music. After evaluating appropriate enforcement options for allowing background music, including consulting with a noise expert to provide best management practices to control and prevent for excessive noise, City Planning has concluded that the recommended enforcement measures, many of which require the additional expenditures of fees and ongoing monitoring efforts, are counter to the initial City Council instruction to "streamline outdoor dining provisions throughout the Zoning Code for private property." As such, City Planning recommends disallowing background music by-right from Outdoor Dining Areas and an Alternative Ordinance is attached for consideration in **Exhibit A of the Supplemental Report**. The Alternative Ordinance maintains the most essential qualities of an outdoor dining program, with appropriate enforcement provisions, as well as the opportunity for individual operators to apply to play background music in an Outdoor Dining Area through a Conditional Use Permit.

Should City Council proceed with allowing background music, the Proposed Ordinance transmitted by the City Attorney was amended to include an enforcement schema that allows for background music by-right with preventative measures for monitoring to ensure compliance with

LAMC noise regulations and establishes enhanced monetary penalties for violations of the Noise Ordinance, as detailed below.

In addition to the operational standards requested by the PLUM Committee to require Al Fresco operators to install signage that includes a hotline phone number and contact information of LADBS Code Enforcement, as well as adjusting the curfew hours for Outdoor Dining Areas abutting or across an alley from a residential zone (not including RAS) to no later than 10:30 p.m. on Sunday-Thursday and 11:00 p.m. on Friday-Saturday, the enforcement schema includes best management practices recommended by a noise expert. Additional operational standards for allowing background music in an Outdoor Dining Area include a requirement to install and maintain a qualified noise monitoring device. The device must be able to continuously monitor decibel levels, notify the operator if a decibel level threshold is exceeded, and maintain 12 consecutive months of noise monitoring data that is made available upon request by LADBS. The device must be installed along the perimeter of the Outdoor Dining Area, closest to the most sensitive zone or use. Al Fresco operators are also required to post signs reminding guests to be respectful of their surrounding neighbors, orient speakers toward the center of the Outdoor Dining Area, and the Ordinance continues to prohibit television monitors and screens, live music, and live entertainment in Outdoor Dining Areas, as well as limiting background music to be played no later than 10:00 p.m. in any Outdoor Dining Area, regardless of day of week or adjacency to residential zoning. Background music must not exceed 5 decibels above ambient noise levels, and Al Fresco operators must continue to comply with the citywide Noise Ordinance (Ord. 156,363).

The Proposed Ordinance also includes administrative fines that start from \$1,000 for a first violation, increase to \$5,000 for a second violation, and \$8,000 for a third violation, as well as \$8,000 for each subsequent violation. Further, upon the successful imposition of an administrative fine for any combination of three violations of the Noise Ordinance or the background music operational standards, the right to play background music in the Outdoor Dining Area shall be automatically suspended for a period of 12 consecutive months.

Lastly, both the Proposed Ordinance transmitted by the City Attorney and the recommended Alternative Ordinance prepared by City Planning incorporate permit revocation procedures for noncompliance of the Outdoor Dining Area standards. The Board of Building and Safety Commissioners may revoke a Certificate of Occupancy or a permit authorizing an Outdoor Dining Area for any combination of four or more Notice to Appear Citations, Orders to Comply, Notices of Violation and/or Administrative Citations issued by Los Angeles Police Department, Department of Building and Safety and/or other City Departments for any violation under LAMC Section 12.21 A.24 or Noise Ordinance No. 156,363.

### **Residential Adjacency**

Commenters suggest adding a distance requirement between outdoor dining areas and residential uses in the proposed Ordinance.

#### *Response*

This suggestion was considered but ultimately determined that such a policy would be overly restrictive for restaurants and their patrons. The stated intent of the permanent Al Fresco program is to be flexible, streamlined, and affordable, providing economic benefits to restaurants and places for patrons to gather and dine in a way that reduces the risk of COVID-19 exposure. As such, the Proposed Ordinance contains other standards to allow Outdoor Dining Areas while balancing the needs of adjacent residential uses. These include but are not limited to: a prohibition

on television monitors and similar audiovisual equipment, live music, and live entertainment; a curfew of 10:30 p.m. on Sunday-Thursday and 11 p.m. on Friday-Saturday if abutting or across an alley from a residential zone, not including the RAS zone; and required signage reminding guests to be respectful of surrounding neighbors, all of which are maintained in the Alternative Ordinance in **Exhibit A of the Supplemental Report**.

### **Nighttime Disturbance**

Commenters expressed concerns about noise levels generated at nighttime and suggested an earlier curfew time of 9 p.m. and 10 p.m. Commenters advocated for an earlier curfew time to be considerate of children and seniors who usually go to sleep at an earlier time and are more sensitive to noise impacts.

#### *Response*

The AI Fresco Ordinance allows Outdoor Dining Areas to operate no later than 10:30 p.m. Sunday-Thursday, and 11:00 p.m. on Friday-Saturday if abutting or across an alley from a residential zone, not including the RAS zone. Further, should City Council proceed with allowing background music by-right as an incidental use to the Outdoor Dining Area, background music would not be allowed beyond 10:00 P.M., regardless of proximity to residential zoning or day of the week. As the stated intent of the permanent AI Fresco program is to be flexible, streamlined, and affordable for restaurants, these limited nighttime Outdoor Dining Area hours of operation for restaurants that are in proximity to residential zones and the universally applicable 10:00 p.m. cutoff for background music reflect a balanced approach to allowing outdoor dining activity to occur while being considerate of residential neighbors. However, as stated previously, City Planning does not recommend allowing background music in an Outdoor Dining Area. The Alternative Ordinance (**Exhibit A of the Supplemental Report**) maintains the most essential qualities of an outdoor dining program with the opportunity for individual operators to apply to play background music in an Outdoor Dining Area through a discretionary Conditional Use Permit.

### **Live Music and Entertainment**

Commenters noted problems caused by live bands, DJs, and loud amplified music in outdoor dining areas. As such, commenters suggested prohibiting live music, live entertainment, and amplified music in the outdoor dining areas.

#### *Response*

The AI Fresco Ordinance has, from its inception, prohibited live entertainment in Outdoor Dining Areas, and has now been modified to further clarify that live music, television monitors and similar audiovisual equipment are prohibited. The prohibition on live entertainment includes but is not limited to karaoke, disc jockeys, dancing, pool tables, billiard tables, and adult entertainment uses. City Planning also recommends continuing to disallow background music in Outdoor Dining Areas as proposed in the Alternative Ordinance in **Exhibit A of the Supplemental Report**.

Should City Council decide to permit background music by-right in an Outdoor Dining Area, additional operational standards will apply, such as orienting speakers in Outdoor Dining Areas toward the center. Additionally, AI Fresco operators will be required to install and maintain a noise monitoring device that continuously monitors decibel levels at the perimeter of the Outdoor Dining Area that is closest to the most sensitive zone or use. The device must be able to notify the operator if a decibel level threshold is exceeded and a minimum of 12 consecutive months of

decibel level data must be maintained and made available upon City request. Moreover, all AI Fresco operations must continue to comply with the Noise Ordinance.

### **Alcohol and Noise**

The proposed Ordinance continues to permit outdoor dining for restaurants. However, commenters stated that some bars serving alcohol have also benefited from the temporary AI Fresco program. Commenters expressed their belief that bars usually generate higher noise levels and cause more nuisances to nearby residences.

In addition to the noise generated onsite at outdoor dining areas allowed under the temporary AI Fresco program, commenters expressed concern regarding rowdy, intoxicated patrons and diners exhibiting disruptive behavior in surrounding residential neighborhoods after leaving the restaurants and bars, such as loud shouting and looking for their cars parked on the neighborhood streets.

#### *Response*

The Proposed Ordinance has been modified to include additional eligibility criteria for operators seeking to benefit from the streamlined alcohol authorizations for Outdoor Dining Areas. Temporary program participants who have had their temporary LA AI Fresco Authorization revoked for a violation of the temporary program conditions are rendered ineligible for both the “deemed approved” and the “Expanded Outdoor Dining Area clearance” alcohol authorization options and must instead obtain the standard discretionary entitlements to provide alcohol service outdoors on a permanent basis. These eligibility criteria are maintained in the Alternative Ordinance in **Exhibit A of the Supplemental Report**.

Additionally, the proposed enforcement schema that is included in both the Proposed Ordinance and the Alternative Ordinance attached as **Exhibit A to the Supplemental Report**, includes expanded enforcement and revocation procedures that provide LADBS the authority to appropriately address noncompliance issues.

Issues with noisy patrons leaving restaurants are outside of the scope of the AI Fresco Ordinance, as by definition this takes place outside of any dining area, whether indoor or outdoor. Nevertheless, complaints related to noisy patrons that have left a restaurant or bar may be addressed through the same process as other noise or disturbance of the peace complaints.

### **Noise Level Management**

Commenters suggested requiring focused directional speakers that would not disturb the neighborhood.

Commenters suggested prohibiting any noise audible at 75 feet from the outdoor dining areas.

#### *Response*

In August 2023, Michael Baker International (MBI)<sup>1</sup> analyzed the noise impact analyses in the IS/ND and provided a peer review recommending minor revisions to the IS/ND to bolster the analyses and best management practices to address background music (Peer Review).

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<sup>1</sup> MBI is a full-service firm that provides a wide range of engineering and consulting services, including planning and environmental. MBI have extensive experience evaluating environmental impacts of projects and preparing documentation pursuant to the CEQA and NEPA.

Should City Council proceed with allowing background music by-right as an incidental use to the Outdoor Dining Area, the Proposed Ordinance incorporates the best management practices recommended in the Peer Review as operational standards for background music. Specifically, all operators who want to play background music must install a noise monitoring device in the outdoor dining area and background music cannot exceed 5dBA above ambient noise levels or the thresholds set forth in the City's Noise Ordinance. The noise monitoring device must be capable of continuously monitoring dBA levels for the duration of the Outdoor Dining Area and maintain decibel readings that can be made available upon request. Continuous monitoring and maintenance of a log will ensure that documentation is made available and be used to verify violation of the noise regulations in the event a complaint is made. The documentation and verification of any violation of the noise regulations can be used by the City's enforcement agencies to issue citations and/or notices of violation, which can ultimately lead to revocation of all permits issued to authorize the Outdoor Dining Area.

The noise monitoring device needs to be located along the perimeter of the Outdoor Dining Area that is closest to the most sensitive zone or use. This placement requirement would ensure that the operators monitor noise levels close to sensitive uses and zones while also ensuring that they comply with the noise regulations. The location of the device must be approved by the Department of Building and Safety and cannot be altered. Lastly, the operator must maintain the noise monitoring data for a minimum of 12 consecutive months and provide the data to the City upon request. These provisions in the Proposed Ordinance would ensure that the data is available for verification of violation in the event a complaint is made. In addition to the device, outdoor speakers must be oriented toward the center of the outdoor dining area, and outdoor background music shall be played later than 10:00 p.m. Lastly, in no event the restaurant's outdoor dining area can exceed the noise limits in the Noise Ordinance set forth in the Los Angeles Municipal Code.

However, as stated previously, City Planning does not recommend allowing background music in an Outdoor Dining Area by-right. The recommended Alternative Ordinance (**Exhibit A of the Supplemental Report**) instead maintains the most essential qualities of an outdoor dining program with the opportunity for individual operators to apply to play background music in an Outdoor Dining Area through a discretionary Conditional Use Permit.

**Al Fresco Ordinance**  
**Errata to Initial Study/Negative Declaration**  
**ENV-2023-3278-ND**

Exhibit C – Attachment A to the IS/ND

**Al Fresco Ordinance**  
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**ENV-2023-3278-ND**

Exhibit C – Attachment A to the IS/ND

# Noise Measurement Samples

Updated August 2023

As part of the environmental review for various discretionary development projects in the City of Los Angeles, Environmental Impact Reports (EIRs) are required to include an analysis measuring a project's noise and vibration impact on the surrounding neighborhood. In addition to reporting on the existing noise environment of the project site itself prior to commencing construction, an EIR noise analysis includes measurements of existing ambient sound levels at other nearby monitoring locations of significance.

A selection of relevant daytime ambient noise measurements published in various EIRs are listed below; representative of a diversity of Los Angeles neighborhoods and measured along or adjacent to some of the busiest traffic corridors in the city.

Chapter XI Noise Regulation of the LAMC states that the baseline ambient noise shall be the actual measured ambient noise level or the City's presumed ambient noise level, whichever is greater. For comparison, the presumed ambient noise levels, as regulated by Section 111.03 of the LAMC are also included below. Actual ambient noise level is the measured noise level averaged over a period of at least 15 minutes. Daytime measurements are used to establish existing ambient noise conditions and to provide a baseline for evaluating noise impacts due to the construction of projects. For the purpose of this report, the existing daytime ambient noise levels across the various corridors can be used as an approximation for a baseline threshold to maintain if background music were allowed in outdoor dining areas.

LOCATION	DAYTIME AMBIENT NOISE LEVELS (dBA)	STREET CLASS*	ZONE	NEIGHBORHOOD	CASE NO.	YEAR	NOTES
Christian Science Church 4032 Whitsett Ave, Studio City, CA 91604	68.6	Avenue II	R3-1-RIO	Studio City	<a href="#">ENV-2001-1196-EIR</a>	2012	Church located on Whitsett Ave and Valleyheart Dr, across from open space and adjacent to multifamily residential buildings, near the Los Angeles River and Ventura Blvd
NoHo 14 5445 Lankershim Blvd, North Hollywood, CA 91601	68.3	Boulevard II	C2-2D-CA	North Hollywood	<a href="#">ENV-2019-7241-EIR</a>	2022	Mixed use commercial and residential building on southwest corner of Lankershim Blvd and Cumpston St, near other commercial uses
Whitsett Green 4128 Whitsett Ave, Studio City, CA 91604	71.5	Avenue II	R3-1-RIO	Studio City	<a href="#">ENV-2020-1512-EIR</a>	2022	Multifamily residential building, across from open space and adjacent to other multifamily residential buildings, near the Los Angeles River and Ventura Blvd
Fusion Warner Center Apartments 21601 Erwin St, Woodland Hills, CA 91367	70.3	Collector	(WC)R3-45/3	Woodland Hills	<a href="#">ENV-2016-3909-EIR</a>	2018	Multifamily residential building complex located in Warner Center Specific Plan Zone, next to commercial uses, across from ground-level parking lot and near shopping mall on Topanga Canyon Blvd
Wilshire Boulevard Temple 3663 Wilshire Blvd, Los Angeles, CA 90010	62	Avenue I	C4-2	Koreatown	<a href="#">ENV-2010-1407-EIR</a>	2011	Parking lot of Temple located southeast corner of parcel located on Wilshire Blvd, next to other commercial uses
Wilshire Grand Center 900 Wilshire Boulevard, Los Angeles, CA 90017	72.1 – 74.7	Avenue I / Avenue II	C2-4D-SN	Downtown	<a href="#">ENV-2009-1577-EIR</a>	2009	Commercial complex with hotel, retail, office and restaurant uses, located along Wilshire Blvd, Figueroa St and 7th St, near 110 Fwy
1100 Wilshire 1100 Wilshire Blvd, Los Angeles, CA 90017	70.8 – 71.1	Avenue I	C4(CW)-U/6	Westlake	<a href="#">ENV-2009-1577-EIR</a>	2009	Office building located at Wilshire Blvd and Bixel St in Central City West Specific Plan Zone, near other commercial uses
Good Samaritan Hospital 1225 Wilshire Blvd, Los Angeles, CA 90017	62.9 – 64.1	Avenue I	C4(CW)-U/6	Westlake	<a href="#">ENV-2009-1577-EIR</a>	2009	Hospital complex located between Lucas Ave and Witmer St along Wilshire Blvd in Central City West Specific Plan Zone, near other commercial uses
Ecole Claire Fontaine 1047-1051 South Abbot Kinney Blvd, Los Angeles, CA 90291	68.3	Avenue III	C2-1-CA	Venice	<a href="#">ENV-2016-4321-EIR</a>	2017	School located at the northwest corner of Abbot Kinney Blvd and Westminster Ave, across from open space and near other commercial uses
Westminster Early Education Center 1010 S Abbot Kinney Blvd, Venice, CA 90291	67.7	Boulevard II	[Q]PF-1XL	Venice	<a href="#">ENV-2016-4321-EIR</a>	2017	School complex located on Abbot Kinney Blvd and Main St, near commercial uses to the north, multifamily residential to the west and open space to the south

\* Street classes are defined by the [Los Angeles Mobility Element](#).

LAMC CHAPTER XI NOISE REGULATION ZONE	PRESUMED AMBIENT NOISE LEVEL (dB (A))	
	DAY	NIGHT
A1, A2, RA, RE, RS, RD, RW1, RW2, R1, R2, R3, R4, and R5	50	40
P, PB, CR, C1, C1.5, C2, C4, C5, and CM	60	55
M1, MR1, and MR2	60	55
M2 and M3	65	65

**Al Fresco Ordinance**  
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Exhibit D – Attachment B to the IS/ND

# Los Angeles City Restaurants Near Major Roadways\*

Updated August 2023

\* A Major Roadway is a roadway designated as a Boulevard I, Boulevard II, Avenue I, or Avenue II in the Mobility Element

<b>ALL RESTAURANTS</b>		
Total**	9,981	100.0%
Within 150 Feet	8,994	90.1%
Within 250 Feet	9,257	92.7%
Within 500 Feet	9,576	95.9%

\*\*Approximately 339 records were excluded from this analysis due to geographic irregularities

<b>RESTAURANTS WITH A TEMPORARY AL FRESCO AUTHORIZATION</b>		
Total***	2,721	100.0%
Within 150 Feet	2,415	88.8%
Within 250 Feet	2,505	92.1%
Within 500 Feet	2,610	95.9%

\*\*\*Approximately 71 records were excluded from this analysis due to geographic irregularities