

SUBJECT: REQUEST TO EXPAND A PREVIOUSLY APPROVED OUTDOOR DINING AREA AND THE SALES, SERVICE, AND CONSUMPTION OF ALCOHOLIC BEVERAGES INCIDENTAL TO FOOD SERVICE TO A THIRD FLOOR RESTAURANT LOCATED AT 639 LA PEER DRIVE, SUITE 400

PREPARED BY: COMMUNITY DEVELOPMENT DEPARTMENT
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STATEMENT ON THE SUBJECT

The applicant requests to expand a previously approved 1,393-square-foot outdoor dining area to 6,313 square feet and to include the sales, service, and consumption of a full range of alcoholic beverages incidental to food service within the expanded area at a new restaurant located on the third floor at 639 La Peer Drive, Suite 400, West Hollywood (Administrative Permit Amendment (APA24-0017)).

RECOMMENDATION

Staff recommends that the Director of the Community Development Department hold the public hearing, consider all pertinent testimony, and conditionally approve the application request by adopting the following:

- 1) Draft Resolution No. CD 24-280: **“A RESOLUTION OF THE COMMUNITY DEVELOPMENT DEPARTMENT DIRECTOR OF THE CITY OF WEST HOLLYWOOD CONDITIONALLY APPROVING AN ADMINISTRATIVE PERMIT AMENDMENT TO ALLOW THE EXPANSION OF A PREVIOUSLY APPROVED OUTDOOR DINING AREA AND ON-SITE SALES, SERVICE, AND CONSUMPTION OF FULL ALCOHOL INCIDENTAL TO FOOD SERVICE TO THE EXPANDED OUTDOOR DINING AREA FOR A NEW RESTAURANT LOCATED ON THE THIRD FLOOR AT 639 LA PEER DRIVE, SUITE 400, WEST HOLLYWOOD, CALIFORNIA AND FINDING THAT THIS ACTION IS EXEMPT FROM CEQA UNDER SECTION 15303 OF THE CEQA GUIDELINES.”**
(EXHIBIT A)

BACKGROUND

Application Information

The request is for the following:

1. Expand the previously approved outdoor dining area; and

2. Allow on-site consumption of alcoholic beverages within the expanded area.

Both requests are incidental to food service and subject to an administrative permit amendment, pursuant to 19.62 of the West Hollywood Municipal Code (WHMC). The required findings are included in draft Resolution No. CD 24-280.

A. Date of Application:	August 6, 2024
B. Application Deemed Complete	September 5, 2024
C. Applicant:	Jake Stevens
D. Property Owner:	639 La Peer, LLC
E. Zoning / General Plan:	CC2 (Commercial, Community 2)
F. Environmental Status:	Categorically Exempt per CEQA Guidelines Section §15303 (New Construction)
G. Public Notices:	The public hearing was noticed in accordance with the WHMC

Site and Area Conditions

The project site is located on the west side of La Peer Drive, south of Santa Monica Boulevard and is nearing completion of construction with a three-story, multi-tenant commercial building. The tenant space will be located on the third floor and was approved for 3,188 square feet of interior floor area and a 1,393-square-foot outdoor dining area. The current request would expand the outdoor dining area to 6,313 square feet. The commercial property is surrounded entirely by commercial uses with the nearest residential use to the north across Santa Monica Boulevard, located over 350 feet from the subject structure.



Figure 1: Aerial view of the subject site with the red box identifying the property line and the blue box indicating the location of the third floor restaurant and adjacent outdoor dining area

Project History

The 3,188-square-foot restaurant tenant space and adjacent 1,393-square-foot outdoor dining area was approved under Master Project (MP) 19-0006 on August 1, 2019. All required parking for the interior and outdoor restaurant use is provided on-site and accounted for as part of the previously approved Development Permit. The property is currently under construction under Building Permit B19-1450 that was issued June 23, 2022. On April 11, 2023, the Community Development Director approved the sale, service and consumption of alcoholic beverages within the interior and outdoor dining area until 2 A.M. daily incidental to food service under AP23-0008. Additionally, with that approval, the Community Development Director approved alcohol consumption within a 4,889 square foot outdoor patio called a butterfly garden, to be utilized as an outdoor waiting area for patrons before entering the restaurant.

California Environmental Quality Act (CEQA)

The proposed project has been determined not to have a significant effect on the environment and is categorically exempt from the provisions of CEQA pursuant to Section 15303 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, which exempts the restaurant structures that do not involve the use of significant amounts of hazardous substances and do not exceed 10,000 square feet in floor area where all necessary public services and facilities are available, and the surrounding area is not environmentally sensitive. The restaurant will remain 3,188 square feet and the outdoor dining area will be a total of 6,313 square feet. And therefore, will not exceed 10,000

square feet in floor area. The project does not involve the use of significant amounts of hazardous substances, all necessary public services and facilities are available, and the surrounding area is not environmentally sensitive. The construction of the three-story, commercial building was categorically exempt from CEQA pursuant to Section 15332 (In-fill Development Projects) of the CEQA Guidelines and this project does not alter that determination.

Public Comment

At the time the staff report was published, staff has not received any comments from the public regarding the proposed project.

ANALYSIS

Project Proposal

The request is for a new full-service restaurant to amend previous approvals to expand the outdoor dining area from 1,393 square feet to 6,313 square feet and allow the on-site sales, service and consumption of full alcohol incidental to meal service within the expanded area. The applicant has been approved to operate the restaurant and outdoor dining area under AP23-0008 from 7:00 a.m. to 2:00 a.m., daily. The applicant requests the same operating hours for the expanded outdoor dining area. The request will remove the previously approved butterfly garden to accommodate the expansion of the outdoor dining area.

The applicant requests that California Government Code Section 65863.2 (Assembly Bill 2097) be applied to waive the 23 required parking spaces by the expanded outdoor dining area. Assembly Bill 2097 prohibits the City from imposing a minimum parking requirement for projects located within ½ miles of public transit. This property is located 220 feet away from a public transit stop and therefore, a minimum parking requirement is not applicable.

The previously approved outdoor dining area is located adjacent to the third floor restaurant in the middle of the building, with a setback approximately 80 feet from the northern edge of the building that is closest to the nearest residential use over 350 feet away. The floor plan is identified below as Figure 2. The proposed amendment would expand the outdoor dining area an additional 4,920 square feet, more than three times the original size, occupying the entirety of the third floor outdoor area. This expanded floor plan is captured below as Figure 3. The use will be over 350 feet away from the nearest residential use located across Santa Monica Boulevard, a major thoroughfare with consistent traffic and ambient noise. This considerable distance, combined with the noise-buffering effect of the busy street, will minimize any potential noise transfer from the property to the residential area, ensuring that the proposed use will not adversely impact the sensitive uses in the neighborhood. Due to the significant change to the project design, the major change request is required to be processed in the same manner as the original entitlement. The original entitlement is AP23-0008 which was reviewed and approved at a Director's hearing on April 11, 2023.

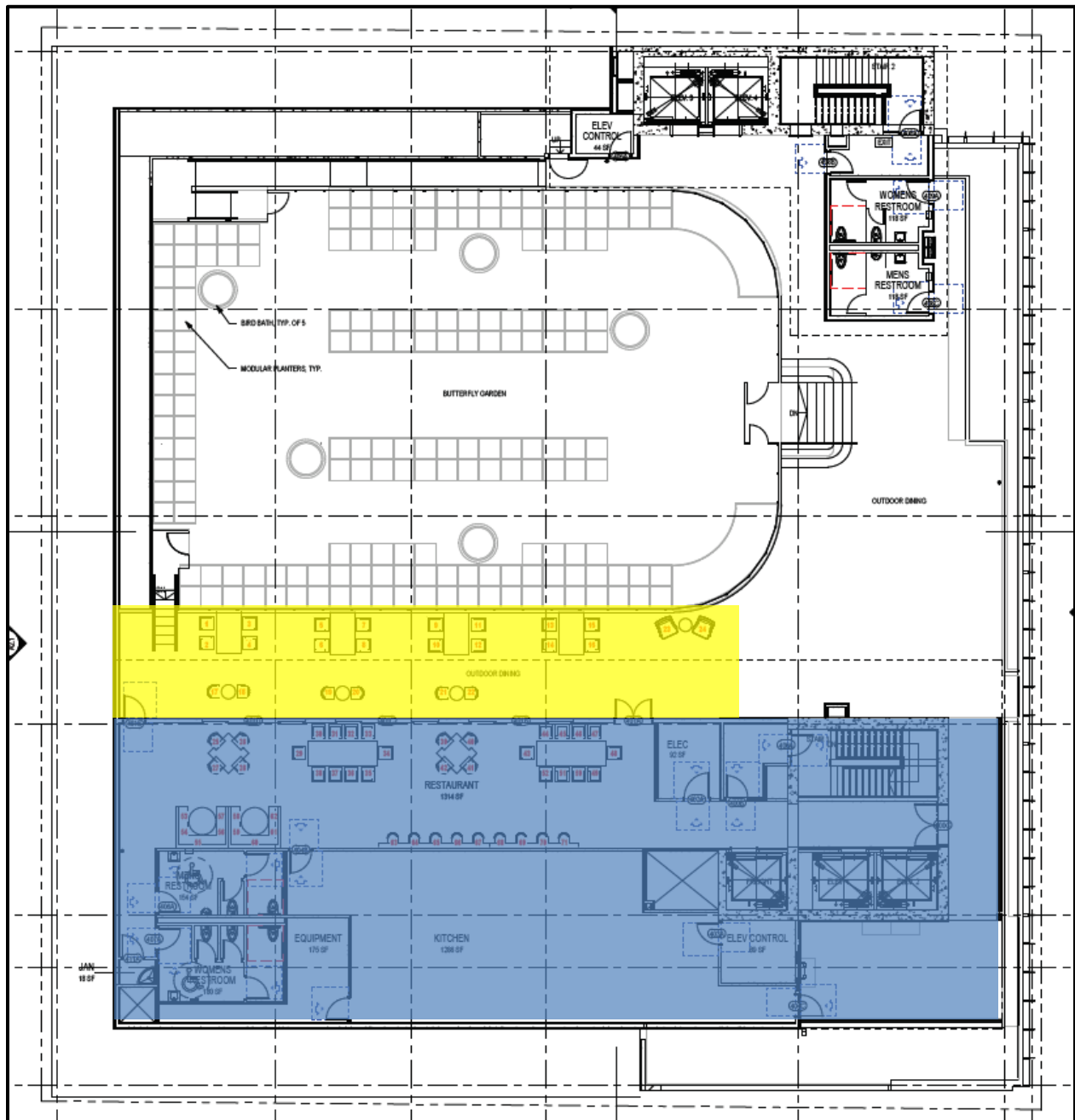


Figure 2: The blue box indicates the restaurant, and the yellow box indicates the previously approved 1,393 outdoor dining area on the Third Floor.

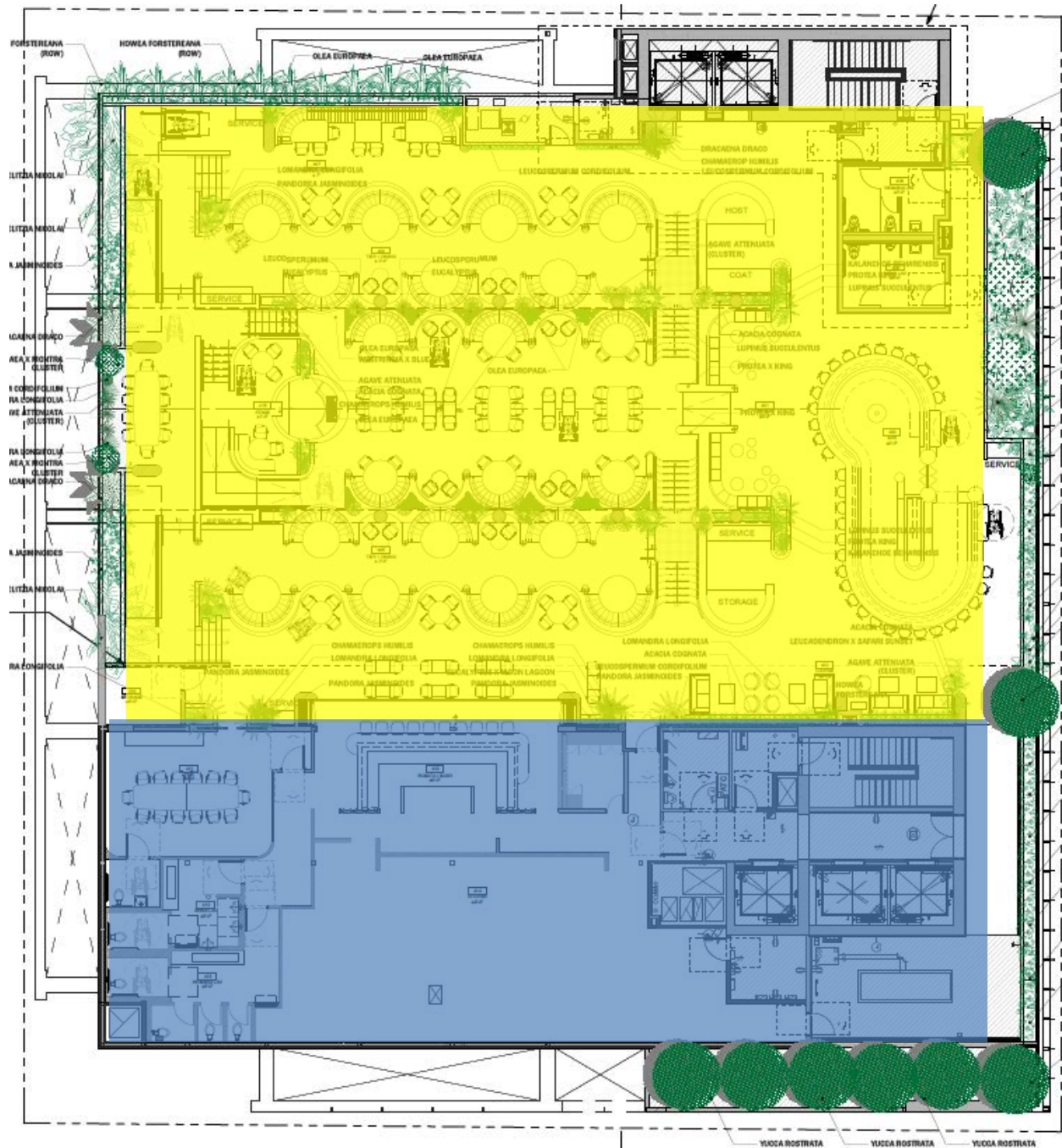


Figure 3: The blue box indicates the restaurant, and the yellow box indicates the requested 6,313 outdoor dining area on the Third Floor

Alcohol Service Incidental to Restaurant Food Service

The applicant is requesting the expansion of on-site sales of full alcohol as an accessory use to the area in yellow in Figure 3, and its proposed food and drinks menu is attached as Exhibit B. According to ABC, there are twenty-six other eating establishments within the vicinity of the subject site that sell full alcoholic beverages for on-site consumption which are identified in the table and map below.

	Business	Address	Type of License
1	The Bayou	8939 Santa Monica Blvd	(47) On-Sale General – Eating Place
2	Stache	8941 Santa Monica Blvd	(47) On-Sale General – Eating Place
3	Saint Felix (Currently Closed)	8945 Santa Monica Blvd	(47) On-Sale General – Eating Place
4	Hi Tops	8933 Santa Monica Blvd	(47) On-Sale General – Eating Place
5	(UNDER CONSTRUCTION)	8948 Santa Monica Blvd	(47) On-Sale General – Eating Place
6	Bottega Louise	8934-8940 Santa Monica Blvd	(47) On-Sale General – Eating Place
7	Beaches	8928 Santa Monica Blvd	(47) On-Sale General – Eating Place
8	Tom Tom - PUMP	8930-8932 Santa Monica Blvd	(47) On-Sale General – Eating Place
9	Rocco's	8900 Santa Monica Blvd	(47) On-Sale General – Eating Place
10	The Abbey	692 N Robertson Blvd	(47) On-Sale General – Eating Place
11	Soulmate	631 N Robertson Blvd	(47) On-Sale General – Eating Place
12	King and Queen Cantina (Currently Closed)	616 N Robertson Blvd	(47) On-Sale General – Eating Place
13	Sur	606-614 N Robertson Blvd	(47) On-Sale General – Eating Place
14	Cecconi's	8764 Melrose Ave	(47) On-Sale General – Eating Place
15	Olivetta	9010 Melrose Ave	(47) On-Sale General – Eating Place
16	Great White	8917 Melrose Ave	(47) On-Sale General – Eating Place
17	Gracias Madre	8905 Melrose Ave	(47) On-Sale General – Eating Place
18	Craig's	8826 Melrose Ave	(47) On-Sale General – Eating Place
19	The Butcher's Daughter	8755 Melrose Ave	(47) On-Sale General – Eating Place
20	Drake's	8747 Melrose Ave	(47) On-Sale General – Eating Place
21	Catch	8715 Melrose Ave	(47) On-Sale General – Eating Place

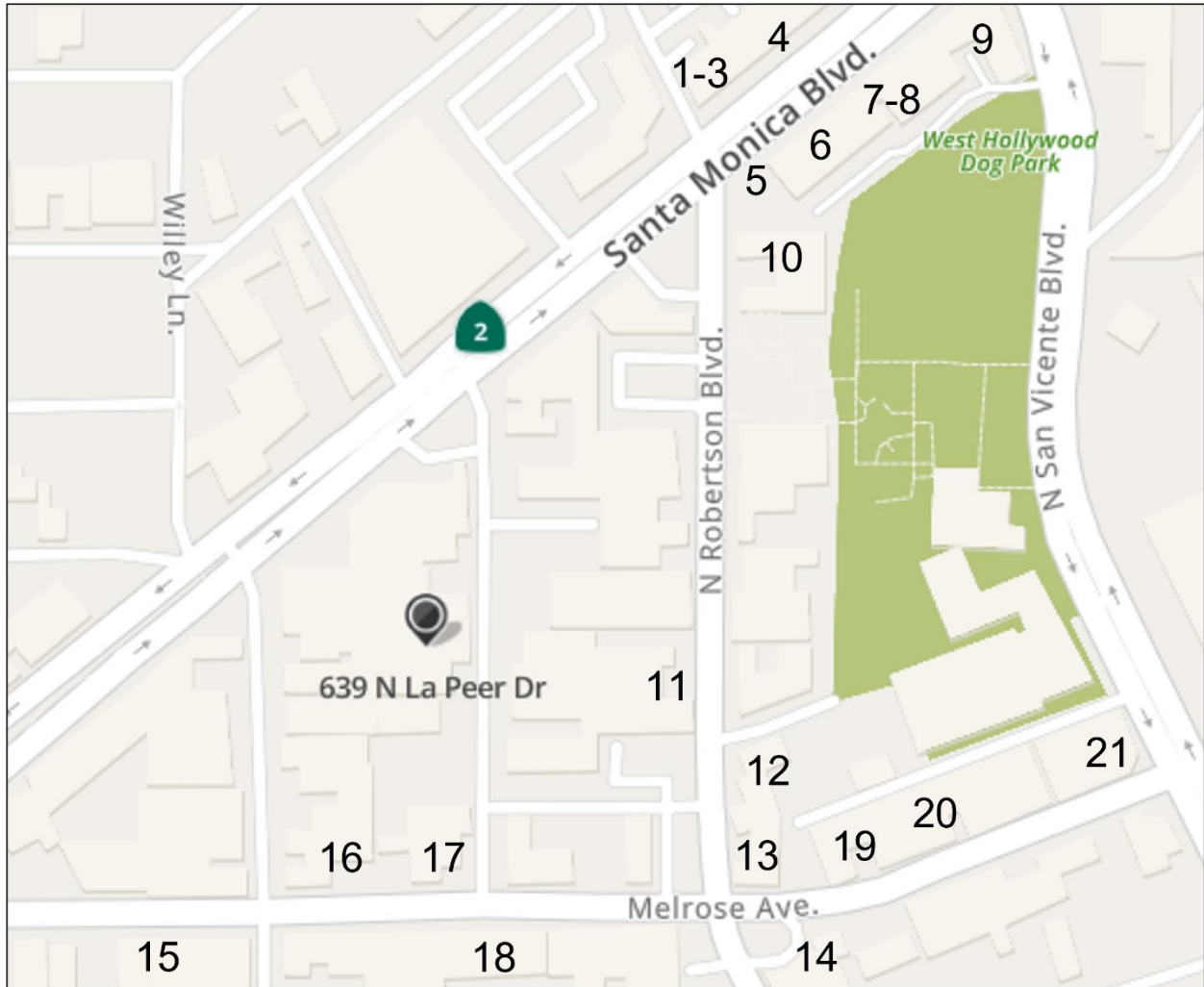


Figure 3: Type 47 On-Sale of Full Liquor Vicinity Map

Overall, the area serves as a hub of mixed activities, including nightlife and entertainment within the general region of West Hollywood that includes numerous bars, restaurants, and nightclubs. The applicant requests to keep the original approved hours from 7:00 a.m. to 2:00 a.m., daily and extend them to the newly expanded area. Staff supports this request as it is based on the proximity of similar uses on La Peer Drive and Santa Monica Boulevard. In addition, the General Plan encourages a wide variety of uses including retail, galleries, boutiques, cafes, restaurants, creative office space, entertainment venues, bars, and nightclubs in the Melrose/Beverly District, all operating at varying hours. This diverse mix supports the character of the Melrose/Beverly District and the consumption of alcohol ending at 2:00 a.m. daily.

Noise

Section 19.36.060 of the WHMC sets forth specific standards for the operation of restaurants with alcohol sales and among these is a requirement that any alcoholic beverage sales operation avoid disruption of nearby residents' sleep between the hours

of 10:00 p.m. and 8:00 a.m. Since the subject site is not directly adjacent to any residential uses, the requested hours of 7:00 a.m. to 2:00 a.m. daily are appropriate for this site. Additionally, an eight (8) foot glass perimeter wall encloses the outdoor dining area, serving as a barrier to minimize noise transfer to nearby properties. This type of barrier has been recommended in other projects with sound studies, and it has proven effective in mitigating noise impacts. While the distance of 350 feet from the nearest residential property to this restaurant will provide a certain measure of buffering with respect to noise transfer to the residents across Santa Monica Boulevard, staff is recommending that additional conditions be put in place to ensure that neighbors to the north of the restaurant are not disrupted. These include:

- Condition 3.1. requires that any outdoor speakers be oriented to direct sound toward the interior of the dining areas.
- Condition 3.2. requires the operator to install a volume limiter, allowing master control of all volume from a single location under the control of the restaurant's General Manager.
- Condition 3.3. requires that a 24-hour community contact/telephone line be prominently displayed at the restaurant entrance and distributed to all stakeholders within 500 feet before the commencement of the restaurant operations.

The previously approved project, AP23-0008, included the following conditions and will remain in effect.

- Condition 3.6 requires that if the operation of the restaurant with accessory alcohol use results in significant off-site noise or other public nuisance, the Director may modify the conditions of this permit or revoke it in order to reduce or eliminate adverse impacts.
- Condition 3.7 requires that any amplified music in the outdoor dining area be limited to ambient sound levels.
- Condition 4.5 requires the operator of the restaurant to post signage urging patrons to respect nearby residential neighbors by being quiet upon exiting the premises.
- Condition 4.12 requires the establishment to be conducted in compliance with the noise requirements in the Zoning Ordinance and Noise Ordinance of the Municipal Code. These provisions ensure that if the restaurant operators fail to abide by provisions of the Municipal Code designed to protect residential neighbors, the business license associated with the establishment would be subject to revocation.

With the noise mitigation measures and other operational conditions, the required findings for the sales, service, and consumption of alcohol can be satisfied.

Basis for Staff's Recommendation

Amendments to an approved project requires that a major change request be processed in the same manner as the original entitlement. An Administrative Permit allows for outdoor dining and full alcohol incidental to food service at a restaurant use with late night (after 11:00 pm) alcoholic beverage sales for on-site consumption in the outdoor dining area. The entitlement allows the tenant to operate consistently with other similar restaurants in the area while ensuring that the operating characteristics of the use, as well as any conditions imposed on the business, are appropriate and tailored to the establishment's site and surroundings. The proposed use continues to be compliant with WHMC Section 19.36.060 "Alcoholic Beverage Sales," and this type of incidental full alcohol service is consistent with the vision set forth in the West Hollywood General Plan, which encourages the development of restaurants. This restaurant is located within the Melrose/Beverly District, which is known as a national and international destination for high-end art and design studios a wide variety of uses that synergizes with one another. By providing the expanded outdoor dining area and the sales, service, and consumption of full alcohol, the business will provide an additional amenity to local residents and visitors to the Melrose/Beverly District.

The subject site is over 500 feet away from West Hollywood Park to the east, separated by many buildings, including other restaurants and bars in between. The restaurant and outdoor dining would not affect the park to any greater degree than any of the many restaurants in the vicinity, most of which offer ancillary alcohol service with meals. Furthermore, the restaurant will operate as a typical full-service restaurant, open to the public and welcoming to all members of the public. The project has been conditioned with respect to operational conditions including those regarding outdoor sound and limitation on operating hours will ensure that the site does not become a nuisance. Therefore, the project will comply with the applicable provisions of the Zoning Ordinance and the Municipal Code.

The project is consistent with the policies, general land uses, and programs of the General Plan given that Policy LU-11.1 encourages this area of the city "to continue to allow a wide variety of uses including retail, galleries, boutiques, cafes, restaurants, creative office space, entertainment venues, bars, and nightclubs." In addition, the proposed project is consistent with policy ED-7.3, which seeks to "attract complementary entertainment businesses such as restaurants, bars, cafes, theaters, music venues, and nightclubs to enhance the desirability of the City as a tourist destination." The property is surrounded by commercial uses and will complement the other entertainment and nighttime uses along La Peer Drive, Melrose Avenue, and Santa Monica Boulevard. Operation of a restaurant and outdoor dining with late-night incidental alcohol service at this location will not endanger, jeopardize, or otherwise constitute a menace to the public convenience, health, interest, safety, or the general welfare of persons residing or working in the vicinity of the restaurant as it is compatible with the existing land uses in the Melrose/Beverly District.

The area is an active environment with many different commercial uses including other restaurants with ancillary alcohol service. The use is compatible with the surrounding uses and environment and provides a convenient location for dining to the surrounding neighbors, employees of the other businesses, and visitors to the area with hours that coincide with other uses and are convenient to those target audiences. Therefore, staff finds that the applicant's request to expand the outdoor dining area and the sales, service, and consumption of full alcohol is appropriate and consistent with the provisions of WHMC Section 19.36.060.

SUMMARY

The applicant is requesting the expansion of an outdoor dining area and the sales, service, and consumption of full alcohol at a new restaurant located on the third floor. Through appropriate conditioning that addresses hours of operation, outdoor dining, noise, and other operational concerns, all the required findings for the project can be made. The approval is further conditioned such that if it is found that operation of the establishment results in significant off-site noise or other public nuisance, the Community Development Department Director may modify the conditions of this permit in order to reduce or eliminate adverse impacts on the neighborhood. Therefore, staff recommends that the Director approve the application request subject to the findings and conditions set forth in Draft Resolution CD 24-280.

EXHIBITS

- A. Draft Resolution No. CD 24-280
- B. Food and Drinks Menu
- C. Radius Map
- D. Project Plans