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March 24, 2026

Exhibit 3

*Via E-Mail*

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**Re: Comment in Support of Appeal - PLN25-0649  
Amended Use Permit for 1200 Park Street**

Dear Mayor Ashcraft, Vice Mayor Pryor, and Honorable Councilmembers:

I am writing on behalf of Alameda resident Kevin Durfee regarding his appeal of the Alameda Planning Board's approval of an amended use permit for Park Station Brewery. Park Station is located at 1200 Park Street. Mr. Durfee and his family live across the street from the brewery at 2416 San Jose Avenue.

Park Station Brewery is located directly adjacent to a residential neighborhood and is surrounded by single-family homes. For the past eight months, it has been permitted to host outdoor concerts including amplified music up to 85 decibels without the City considering the implication of these events on the surrounding residential community or requiring commonsense measures to mitigate the impacts of these extremely loud events. Now, Park Station is requesting an amendment to its use permit to increase the frequency and volume of events, causing an even greater disruption to surrounding neighbors.

The Planning Board's approval of the amended use permit constituted a failure to proceed in the manner required by law for two reasons. First, approving the amended permit without analyzing and mitigating the significant noise impacts associated with louder and more frequent concerts violates the California Environmental Quality Act ("CEQA"). Contrary to the

Planning Board's determination, the amended use permit does not qualify for an exemption from CEQA under Guidelines section 15301 (existing facilities exemption) or section 15183 (projects consistent with general plan). Because neither exemption applies, the City was required to analyze and mitigate the amended permit's significant noise impact.

Second, the Project does not meet the standards for granting a use permit under Alameda's municipal code. The use sought by the Project, namely outdoor amplified music events with a maximum noise limit of 90 dBA, multiple times per month, does not favorably relate to surrounding residential neighborhood. The extremely loud amplification levels would be detrimental to nearby residents and create a nuisance. (See AMC § 30-21.3(a).)

Rather than increase the noise limit and frequency of outdoor amplified music allowed at Park Station, the City should modify the existing use permit to limit and mitigate the noise to levels that comply with the City's noise ordinance and do not have a significant impact on the surrounding community.

Mr. Durfee respectfully requests the City Council grant his appeal, deny the use permit, and analyze and mitigate the significant noise impacts resulting from the proposed use prior to any further approvals.

## **I. FACTUAL BACKGROUND**

### **A. The Original Use Permit.**

In 2023, the City approved a conditional use permit for Park Station that allowed outdoor amplified music events three times per month on either Friday or Saturday until 8:00 PM. The 2023 use permit requires Park Station to comply with a maximum noise level of 85 dBA when measured at adjacent residential property lines, 65 feet away. The conditional use permit also required that the applicant return to the Planning Board for a six-month review of outdoor seating and music uses. The City did not analyze or mitigate the noise impacts caused by the original use permit under CEQA.

The 85 dBA limit was not derived from a site-specific study or based on the Alameda Noise Ordinance. Instead, according to City staff, the 85 dBA standard was borrowed from the City of Santa Monica Noise Ordinance's limit for outdoor entertainment at the Third Street Promenade. (Ex. A, p. 1.)<sup>1</sup> However, there are crucial differences between the Promenade and Park Station that make the borrowed standard completely inappropriate. Santa Monica's Promenade is an entertainment district with a decades long history of live entertainment, and is distanced from residences by hundreds of feet. (*Id.*) Here, residences are directly adjacent to Park Station, which is zoned community commercial and required to adhere to "design standards which ensure compatibility and harmony with adjoining land uses." There is no logical basis for

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<sup>1</sup> Kevin Durfee is an electrical engineer with ten years of experience in digital signal processing and acoustics. He has prepared expert comments, which are attached hereto as Exhibit A.

selecting a standard used for an entertainment zone to set the noise limit in a residential neighborhood.

Making matters worse, Alameda did not borrow Santa Monica's complete noise standard for the Promenade. Santa Monica's noise ordinance set a limit for the Promenade of 85 dB at 25 feet and 107 dB at 1 foot. When adopting the standard for Park Station, however, Alameda changed the requirement to just 85 dB at adjacent properties which is *less* restrictive, and permits louder noise than what is allowed for the Promenade. (Ex. A, p. 1.) Moreover, in addition to the 85 dBA limitation, Santa Monica's standards for the Promenade also contained a limit that "No business on the Third Street Promenade shall utilize any speaker or sound reproduction system at a volume that can be heard inside the premises of another building or structure while the doors and windows to the premises are closed." This same limit was not included in the Park Station use permit.

### **B. The Impact of Park Station's Noise on the Surrounding Residential Neighborhood.**

Since Park Station began operating events with outdoor amplified music in August 2025, it has caused great disturbance to the surrounding residential neighborhood. Written comments from the public to the Planning Board indicate that the music can be heard loudly inside homes a block away, even when windows and doors are closed.

Neighbors are considering whether they need to sell their houses and move because the noise is so bad. Multiple residents reported that the amplified outdoor music disturbed their children. In comments to the Planning Board, one resident said the outdoor amplified music "has regularly disrupted [their] afternoon and evenings and made it difficult to maintain a consistent bedtime routine for [their] young children." Another resident noted, "[T]he current noise levels are already having a real impact on my family. My children regularly complain about the noise from performances, and it has become difficult to enjoy quiet evenings or consistent sleep in our own home." One neighbor's child covers her ears and asks her dad to make the noise stop. For Mr. Durfee and his family, the noise has interfered with the sleep of his 18-month old child.

In addition, Park Station has repeatedly violated the noise limits set forth in its permit. While more violations have almost certainly occurred, two such occasions were documented by the City's own inspectors following reports of noise levels exceeding the noise ordinance and use permit. On October 15, 2025, the City's inspector documented noise levels peaking at **90 to 95 decibels** across the street from Park Station, at the intersection of Park Street and San Jose Avenue. For reference, 85 dBA is the noise level of a jack hammer at 50 feet away. (Ex. A, p. 2.)

### **C. Park Station's Request for an Amended Permit to Allow Louder and More Frequent Events.**

On January 5, 2025, Park Station requested an amendment to its use permit (the "Project") to increase the frequency of events, allow events to run later into the evening, and increase the maximum sound level. Park Station's application included the following requests:

- An increase from **3** to **10** outdoor music events per month;
- Amplified outdoor music events on Sundays (a school night), in addition to Fridays and Saturdays;
- Outdoor amplified music until 9:00 PM on Friday, Saturday, and Sunday, rather than 8:00 PM as originally permitted; and
- An increase in the maximum noise level from 85 dBA to 90 dBA.

On February 23, 2026, the Planning Board held a hearing to consider the required 6-month review of the use permit allowing outdoor seating and live music events and to consider the Project, amending the use permit. Ultimately, the Planning Board approved an amended use permit allowing four outdoor live music events per month, up from the previously permitted three events per month. In addition, the amended permit approved by the Planning Board increased the maximum noise level from 85 dBA when measured at the adjacent residential property line, to 85 dBA when measured 100 feet away at the southwest corner of the intersection of Park Street and San Jose Avenue, at the AutoZone parking lot. By increasing this measurement distance for the 85 dBA limit, the City essentially allowed an increase in loudness of 4 dBA from the original permit. (Ex. A, p. 7.)

The Planning Board provided no explanation for why a limit of 85 dBA measures at a commercial property (AutoZone) was appropriate or how it was compatible with the residential community abutting Park Station. Moreover, the City did not review the amended permit's potential noise impacts under CEQA or require common sense mitigation measures to reduce the impact.

The City not only failed to analyze the impacts prior to approving the permit, but also actively participated in making the situation worse. City staff and the Planning Board, for aesthetic reasons, asked Park Station to remove a wall that was supposed to be constructed behind the stage that would have provided some sound dampening.

To be clear, Mr. Durfee and his neighbors do not oppose the brewery, outdoor seating at the brewery, or even occasional music at Park Station. But CEQA requires the permitted noise level be analyzed and mitigated below significance, and the Alameda Municipal Code requires the noise generated by Park Station be compatible with the surrounding residential neighborhood. The City never analyzed the noise impact from the 2023 use permit and it is now making the same mistake in violation of CEQA and the municipal code.

## **II. APPROVAL OF THE PERMIT WITHOUT ANALYSIS AND MITIGATION OF ITS SIGNIFICANT NOISE IMPACT VIOLATES CEQA.**

### **D. The Project is Subject to CEQA and the City Must Complete CEQA Review Before Deciding Whether to Approve the Amended Use Permit.**

The proposed project is subject to CEQA because it may cause a direct physical change in the environment and it requires the issuance of a discretionary permit by the City. (Pub. Res. Code §§ 21065, 21080.) Therefore, the City must complete its CEQA review of the project

before it can grant the requested amended permit. (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 129.)

CEQA mandates that “the long-term protection of the environment . . . shall be the guiding criterion in public decisions” throughout California. (Pub. Res. Code, § 21001(d).) The foremost principle under CEQA is that it is to be “interpreted in such a manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 563-64.) An agency’s action violates CEQA if it “thwarts the statutory goals” of “informed decision making” and “informed public participation.” (*Kings Co. Farm Bur. v. City of Hanford* (1990) 221 Cal.App.3d 692, 712.)

To achieve its objectives of environmental protection, CEQA has a three-tiered structure. (14 CCR § 15002(k); *Comm. to Save Hollywoodland v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1185-86.) First, if a project falls into an exempt category, no further agency evaluation is required. (14 CCR § 15002(k)(1).) Second, if a project is not exempt, the agency prepares an initial study to determine whether the project may have a significant impact on the environment. (14 CCR §§ 15002(k)(2), 15063(a).) If the initial study indicates that there is no substantial evidence that the project may cause a significant effect on the environment the agency may issue a negative declaration. (14 CCR §§ 15002(k)(2), 15063(b)(2), 15070.) Finally, if the project will have a significant effect on the environment, an environmental impact report (“EIR”) is required. (14 CCR §§ 15002(k)(3).)

CEQA identifies certain classes of projects that are exempt from the provisions of CEQA. These are called categorical exemptions. (14 CCR §§ 15300, 15354.) “Exemptions to CEQA are narrowly construed and “[e]xemption categories are not to be expanded beyond the reasonable scope of their statutory language.” (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 125.) It is the burden of the agency attempting to exempt a project from CEQA to demonstrate that an exemption applies. (*Save the Plastic Bag Coalition v. County of Marin* (2013) 218 Cal.App.4th 209, 228; Guidelines, §§ 15002, 15003.)

CEQA contains several exceptions to categorical exemptions. (14 CCR § 15300.2) If an exception applies, the exemption cannot be used, and the agency must instead prepare an initial study and CEQA document. (*McQueen*, 202 Cal. App. 3d at 1149; *Hollywoodland*, 161 Cal. App. 4th at 1187.) “Even if a project falls within the description of one of the exempt classes, it may nonetheless have a significant effect on the environment based on factors such as location, cumulative impact, or unusual circumstances.” (*Save Our Carmel River v. Monterey Peninsula Water Mgmt. Dist.* (2006) 141 Cal. App. 4th 677, 689.) One such exception, referred to as the “unusual circumstances exception” states that “a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.” (14 CCR § 15300.2.)

The California Supreme Court established two ways a party may invoke the unusual circumstances exception in the case *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1105 (“*Berkeley Hillside*”). First, “a party may establish an unusual circumstance

with evidence that the project *will* have a significant environmental effect. That evidence, if convincing, necessarily also establishes ‘a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.’” (*Berkeley Hillside*, 60 Cal.4th 1086, 1105 (emph. added).) Alternatively, “[a] party invoking the exception may establish an unusual circumstance without evidence of an environmental effect, by showing that the project has some feature that distinguishes it from others in the exempt class, such as its size or location. In such a case, to render the exception applicable, the party need only show a reasonable possibility of a significant effect due to that unusual circumstance.” (*Id.*)

Here, the Planning Board concluded the Project is exempt from the requirements of CEQA pursuant to CEQA’s exemption for existing facilities (14 CCR § 15301) and based on consistency with an EIR for a general plan, zoning, or community plan (14 CCR § 15183). As explained below, neither exemption applies. Moreover, the unusual circumstances exception precludes reliance on a categorical exemption. Since no exemption applies, the City violated CEQA by approving the Project without analyzing and mitigating its significant noise impact.

#### **E. The Existing Facilities Exemption Does Not Apply.**

The City first claims it was not required to conduct CEQA review of the use permit’s impacts because of the “existing facilities” categorical exemption (14 CCR § 15301). CEQA Guidelines section 15301 provides a limited exemption from CEQA for certain existing facilities. Section 15301 explains that the exemption applies to:

[T]he operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving *negligible or no expansion of existing or former use*.

(14 CCR § 15301 [emphasis added].)

Section 15301 goes on to list examples of projects that fall within this exempt category of projects including things like internal and external alterations to plumbing and electrical conveyances and interior partitions, new copy on existing signs, and the maintenance of existing landscaping. Section 15301 explains that “[t]he key consideration is whether the project involves negligible or no expansion of use.” (*Id.*)

The amended use permit application sought to increase the number of outdoor amplified music events from 3 to 10 per month, increase the noise limit from 85 to 90 dBA, allow music until 9:00 PM, and expand the days on which amplified music events could occur. More than tripling the number of events per month, extending hours and greatly increasing the noise limit does not fall within the category of a “negligible or no expansion” of the existing use. As a result, the City was required to review the Project under CEQA prior to the Planning Board making a decision on approval of the Project.

While the Planning Board ultimately approved a more limited scope than requested by the applicant, the relevant question is whether the project being considered by the City (i.e. 10

events per month, 90 dBA, music until 9:00 PM and allowable on Fridays) met the criteria for the exemption. It did not and therefore the Planning Board was required to have had information about the environmental impacts of the Project in front of it when it made its decision on the use permit.

But even the amended permit that was ultimately approved still does not qualify as a “negligible or no expansion” of the existing use. The approved amended permit is a 33% increase in events, and by moving where the 85 dBA limit is measured, allows for a 4 dBA increase in the maximum loudness, both of which constitute a significant change. (See Ex. A, p. 1, 7.)

Because the Existing Facilities exemption does not apply, the City was required to review the Project’s impacts before the Planning Board made its decision. Failing to do so precluded informed decision making and violated CEQA.

**F. Because the Project Will Have a Significant Noise Impact, the Unusual Circumstances Exception Precludes Reliance on the Existing Facilities Exemption.**

Even if the Project did fit within the scope of the Existing Facilities exemption, which it does not, the exemption would still be inapplicable because the Project will have a significant adverse noise impact on the surrounding community. (*See* 14 CCR § 15300.2(c).) This significant impact constitutes an unusual circumstance, precluding reliance on the exemption. (*See* 14 CCR § 15300.2(c).)

1. The Project will expose people to noise levels in excess of standards established under the Alameda Noise Ordinance.

A project has a significant noise impact if it exposes people to noise levels “in excess of standards established in the local . . . noise ordinance.” (CEQA Guidelines, Appendix G, XII(a).) The noise allowed by the amended use permit is far in excess of the Alameda’s Noise Ordinance, indicating the amended permit will have a significant noise impact.

Section 4-10.4 of the Alameda Municipal Code states that exterior noise levels, when measured at any receiving single or multiple family residential property in the City, does not conform with the Noise Ordinance if they exceed the following noise standards:

TABLE I - RECEIVING LAND USE

Single or Multiple Family Residential, School, Hospital, Church, or Public Library Properties

Category	NOISE LEVEL STANDARDS, dB(A)		
	Cumulative Number of Minutes in <u>Any One (1) Hour Time Period</u>	Daytime (7:00 a.m. to 10:00 p.m.)	Nighttime (10:00 p.m. to 7:00 a.m.)
1*	30	55	50
2	15	60	55
3	5	65	60
4	1	70	65
5	0	75	70

\* For example, this means the measured noise level may not exceed fifty-five (55) dB(A) for more than thirty (30) minutes out of any one (1) hour time period.

Section 4-10.4(d) adds that “[e]ach of the noise level standards specified above shall be reduced by (5) dB(A) for simple tone noises, noises consisting primarily of speech or music, or for reoccurring or impulsive noises.” Mr. Durfee explains that this is because “music has aggravating acoustic and psychoacoustic properties that typical outdoor noise does not. Music has more low frequency content (bass), spikes in maximum noise levels (drums), and peaks at specific frequencies (instruments and vocals). As a result music more easily penetrates homes and is less likely to be masked by ambient sound.” (Ex. A, p. 6.)

Based on this table and section (d), 30 minutes of music in any one hour above 50 dBA at a receiving residential property violates the Noise Ordinance. Similarly, music in excess of 70 dBA **for any amount of time** violates the Noise Ordinance. The fact that a use permit is being granted does not negate the significant impact that is evidenced by the permit’s allowance of maximum noise levels that exceed the City’s own noise standards.

Because the amended use permit exposes people to noise levels “in excess of standards established in the local . . . noise ordinance,” it will have a significant noise impact, precluding reliance on the existing facilities exemption.

2. The Project will cause a substantial periodic increase in ambient noise in the Project vicinity above levels existing without the Project.

A project also has a significant noise impact if it causes a “substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.” (CEQA Guidelines, Appendix G, XII(d).) The Project will have a significant impact because the concerts result in periodic extreme increases in ambient noise in the surrounding residential community.

As explained in Mr. Durfee’s expert comments, noise measurements taken during city inspections demonstrate a significant increase in ambient noise levels. (Ex. A, p. 7.) Noise measurements taken at San Jose Avenue and Park Street on days without any live music events showed ambient noise levels as low as 52 dBA over a five minute period. (Ex. A, p. 7.) On a day with a live music event, but before the music began, City inspectors measured ambient noise

levels on San Jose Avenue at 65-70 dB, and 70-90 dB on Park Street. In a later inspection, during a live music event, the City's inspector measured ambient levels of 80-85 dBA on all four corners of the intersection of San Jose Avenue and Park Street. (*Id.*) "These measurements show an increase in the 'noise floor' of minimum ambient noise level of at least 10DB, which is a doubling of loudness, and used in acoustic studies or EIRs to indicate a clearly significant difference." (*Id.*)

Moreover, the City's general plan states that a project's noise impact is considered "significant" if the project causes "an increases in day-night average sound level (Ldn) of 4 or more dBA if the resulting noise level would exceed that described as normally acceptable for the affected land use, as indicated by State guidelines, or any increase in Ldn of 6 dBA or more." The City's General Plan estimates sound levels between 65 and 70 db (CNEL) on Park Street and 60-65 dB (CNEL) on streets like Encinal. (Ex. A, p. 5.) While San Jose Avenue is quieter than Encinal, even using the 60-65 dB as a conservative estimate, Mr. Durfee explains that a three hour concert at 85 dB increases Ldn by well over the 6 dB threshold of significance. (*Id.*)

The Project application would have allowed a more than 300% increase in frequency of events that increase ambient noise. As approved by the Planning Board, the amended permit will allow an increase in ambient noise above existing levels from outdoor music events 33% more often each month compared to the original permit. (See Ex. A, p. 1, 6-7.) Both scenarios create a significant noise impact, precluding the City from relying on the Existing Facilities exemption.

3. Testimony from neighbors of noise disturbance constitutes substantial evidence that the amended permit will have a significant noise impact.

In addition to Mr. Durfee's expert comments, testimony by neighbors at the Planning Board meeting and written comments submitted to the City constitute substantial evidence that increasing the number of permitted events and the allowable volume will have a significant noise impact.

In *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal. App.4th 714, the court held that even where a noise ordinance was not violated, neighbors' personal testimony about pounding music and crowd noise from past events constituted substantial evidence of a significant noise impact when combined with reasonable inferences about future impacts, requiring preparation of an EIR.

Here, the testimony of numerous neighbors indicates amplified music generated by Park Station's outdoor events is disrupting the lives of the surrounding community and having a significant impact. Allowing more frequent events and raising the maximum noise level will substantially increase the impact.

The City must analyze and mitigate the Project's significant noise impact prior to approving the amended use permit.

**G. Analysis and Mitigation of the Project's Noise Impact is Required Under Section 15183.**

1. Requirements of Section 15183 Exemption

CEQA Guidelines Section 15183 provides an exemption for projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified, except as necessary to evaluate whether there are project-specific significant impacts which are peculiar to the project or project site. (14 CCR § 15183(a).)

When relying on section 15183 to approve a project, a lead agency may not forgo further analysis of potentially significant impacts unless it makes certain findings. An agency is required to perform further analysis for impacts that: (1) are peculiar to the proposed project or parcel, (2) were not analyzed as significant effects in a prior EIR for the zoning, community, or general plan with which the project is consistent, (3) are potentially significant off-site or cumulative impacts that were not discussed in the prior EIR, or (4) are previously identified significant impact which, due to substantial new information not known at the time the EIR was certified, are determined to have a more severe impact than discussed in the prior EIR.

Under section 15183(f), an effect of a project on the environment is not considered peculiar to the project or project site if “uniformly applied development policies or standards have been previously adopted ... with a finding that the development policies or standards will substantially mitigate the environmental effect when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect.” (14 CCR § 15183(f).)

Agency determinations under Guidelines section 15183 are reviewed under the substantial evidence standard. (*Lucas v. City of Pomona* (2023) 92 Cal.App.5th 508, 538, citing *Concerned Dublin Citizens v. City of Dublin* (2103) 214 Cal.App.4th 1301, 1311.) In determining whether an agency's findings concerning the use of a statutory exemption from CEQA may be upheld, courts must review the administrative record to see that substantial evidence supports each element of the exemption. (*Lucas*, 92 Cal.App.5th at 538.) This includes the determination that “uniformly applied development policies or standards” will substantially mitigate the project's environmental effects. (14 CCR § 15183(f).) Agency findings must specifically address the effect of uniform policies and standards on potential environmental impacts. (*Hilltop Group v. County of San Diego* (2024) 99 Cal.App.5th 890, 918.)

2. Section 15183 Requires Project-Specific CEQA Review

The Planning Board's Resolution PB-26-1 provides that the Planning Board finds “this project is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 (projects consistent with General Plan and Zoning).” This is incorrect. The City's attempt to rely on Section 15183 is misplaced because: (1) its finding is not supported by substantial evidence, and

(2) substantial evidence demonstrates the Project will have significant off-site noise impacts peculiar to the Project that were not analyzed in a prior EIR.

- i. The City lacks substantial evidence to support its finding that Section 15183 exempts the Project from CEQA review.*

While the Planning Board resolution claims generally that the Project is exempt from environmental review pursuant to section 15183, there is no evidence or analysis to support this finding. As an initial matter, the Resolution does not even specify which general plan, zoning, or community plan EIR the City is claiming the Project is consistent with. Similarly, the record contains no findings or evidence that any general plan, zoning, or community plan EIR applicable to this Project will substantially mitigate any project-level impact. Moreover, there are no findings or evidence that the amended permit: (1) will not have impacts peculiar to the project or parcel, (2) will not have impacts that were not analyzed as significant in a prior EIR, (3) will not have potentially significant off-site or cumulative impacts, or (4) will not have more significant impacts than those analyzed in a prior EIR. Without making any of these findings, and without evidence to support such findings, the City cannot rely on Section 15183 to exempt the Project from CEQA.

Even if the City specified it was relying on the EIR prepared for the City's General Plan, it could not make the findings necessary to exempt the Project from further CEQA review under Section 15183 because the City did not analyze whether the amended permit will have any off-site noise effects or impacts peculiar to the Project or Project site. The General Plan EIR does not examine project-level noise impacts for any project, let alone this specific amended permit. Moreover, there is no evidence that the significant noise impact will be mitigated by any uniformly applied policies or standards.

Accordingly, the City lacks substantial evidence to support the necessary findings to exempt the Project from CEQA review. It must analyze and mitigate the Project's significant noise impact in a project-specific environmental impact report.

- ii. The Project will have significant off-site noise impacts peculiar to the Project and Project site that were not analyzed in a prior EIR.*

In contrast, as discussed above and in the attached expert comments, noise impacts from the amended permit will allow Park Station to generate significant noise resulting in a significant off-site impact in the surrounding residential neighborhood. (Ex. A, pp. 1, 5-7, 9.) This noise impact is peculiar to the Project, was not analyzed in a prior EIR, and will not be mitigated by any uniformly applied policies or standards.

The City's failure to perform an analysis of the amended use permit's noise impacts prevents an understanding of the extent to which the Project is expected to exceed the significance threshold or the nature of mitigation required to reduce such impacts below the threshold. The City's conclusion lacks the support of substantial evidence. Accordingly, the City must prepare a project-specific EIR that includes a noise analysis and appropriate mitigation.

### **III. THE APPLICATION DOES NOT MEET THE STANDARDS FOR GRANTING AN AMENDED USE PERMIT.**

Alameda Municipal Code Section 30-21.3 provides that “a use permit shall be granted *only when the use will favorably relate to other property, uses and intensities in the vicinity* and to the General Plan of the City and *will not cause any damage, hazard, nuisance or other detriment to persons or property in the vicinity.*” (AMC § 30-21.3(a) [emphasis added].)

The City has no evidence to support its findings that the use permit “will not adversely affect other property in the vicinity” or that “the proposed use would not have a negative impact upon the surrounding properties.” The existing noise levels and frequency of live music events *is already* disturbing the adjacent residential neighborhood. Increasing both the volume and frequency of the permitted outdoor concerts will obviously increase the negative impact on nearby residents.

Section 30-21.3(b) lists the standards the City must use when considering approval of a use permit. It explains the Planning Board can authorize a use permit *only if* the evidence presented at the hearing is such as to establish:

- “The location of the proposed use is compatible with other land uses in the general neighborhood area” and
- “The proposed use ... will not adversely affect other property in the vicinity...”

The Planning Board was not presented with any evidence that outdoor amplified music at Park Station is compatible with the adjacent residential neighborhood. Furthermore, no evidence was presented to the Planning Board that the amended permit will not adversely affect homes in the area.

To the contrary, during the Planning Board’s February hearing, neighbors testified that the music was audible in their homes and disrupted their lives. Even with the doors and windows closed, neighbors testified the sound is so loud during these outdoor music events that they cannot hold a phone conversation or watch TV. Worse yet, neighbors have testified that these outdoor music events are disrupting their children’s sleep.

Put simply, amplified outdoor music at Park Station, without mitigation, is not compatible with the surrounding residential neighborhood.

### **IV. THERE IS NO EVIDENCE TO SUPPORT A VARIANCE TO ALLOW PARK STATION TO GENERATE NOISE IN EXCESS OF THE NOISE ORDINANCE.**

Park Station does not qualify for a variance that would allow it to exceed the City’s Noise Ordinance standards. The Municipal Code provides that a variance can be granted “only when the strict and literal interpretation of the regulations in the particular case would involve practical difficulties or unnecessary hardship, any only to the extent necessary to overcome such difficulties or unnecessary hardship.” (AMC 30-21.1(a).) It further says “No variance shall be granted which would have the effect of granting a special privilege not shared by other property

in the same district or vicinity.” (AMC 30-21.1(a).) There is no evidence that Park Station meets these standards.

Requiring Park Station to comply with the Noise Ordinance like all other businesses in the City does not involve any unnecessary hardship. Park Station can still host live music, but must do so indoors, without music amplification, or with additional sound buffering to ensure compliance with the noise standard. In fact, Park Station has hosted live music events indoors on numerous occasions. Granting a variance would give Park Station a special privilege not shared by other businesses in the area. There are no other businesses on Park Street that are allowed to host multiple live, outdoor music events each month with amplified sound, generating noise far in excess of the Noise Ordinance. Without evidence to support a variance, the City cannot approve a use permit that exceeds the City’s Noise Ordinance standards.

**V. THERE CITY SHOULD REVOKE THE USE PERMIT OR AMEND IT TO REDUCE THE MAXIMUM NOISE LIMIT.**

Park Station should not be allowed to continue violating the Noise Ordinance while the City conducts a site-specific analysis of its noise impacts and proposes mitigation measures. Instead, the City should revoke the use permit or amend it to require compliance with the Noise Ordinance and compatibility with the surrounding neighborhood.

The use permit states that it can be revoked by the City at any time if the City determines that “1) the use or conditions under which it is being operated or maintained is detrimental to the public health, welfare, or materially injurious to property or improvements in the vicinity; 2) the property is operated or maintained so as to constitute a public nuisance; or 3) the use is operated in violation of the conditions of the Use Permit.” (Use Permit Condition 21.) All of these conditions are occurring.

Unless and until the City analyzes and proposes measures to reduce the impact of the noise generated at Park Station, the City Council should exercise its discretion and either revoke or amend the use permit to stop conditions that are currently detrimental to public health and welfare of neighbors and that constitute a nuisance.

**VI. CONCLUSION**

Mr. Durfee respectfully requests the City grant his appeal and refrain from approving the amended use permit prior to analyzing and mitigating its significant noise impacts. Failing to do so would violate CEQA and the City’s municipal code. Mr. Durfee further requests the City Council revoke or modify the use permit to limit and mitigate noise generated from Park Station to a level that is compatible with the surrounding residential neighborhood.

Sincerely,



Rebecca L. Davis

# EXHIBIT A

Dear Alameda City Council,

I have reviewed Park Station's permit, including the proposed changes, and provided an analysis of the noise impact.

## Background

I am an electrical engineer with over ten years of experience in digital signal processing and acoustics. After attaining my masters degree in electrical engineering from Stanford University in 2013 I joined a company that designed headphones with novel acoustic features like transparency mode. In response to how customers used the product, the company helped legislate new regulations for over-the-counter hearing aids and pivoted toward hearing health. Over multiple product cycles I worked directly with audio processing technologies like beam forming and adaptive noise cancelation. I then joined Apple where I have worked on similar technologies for the past eight years. I currently lead an organization of thirty engineers that has delivered features like Personalized Volume which leverages an on device machine learning model to process the surrounding audio environment and automatically adjust a users volume. In short, I am well qualified to prepare environmental noise studies and review studies prepared by others.

Park Station is a recently constructed tavern located at 1200 Park Street, replacing a tire repair shop that closed in 2017. The site was constructed with a large outdoor seating area and wire fences lining Park Street and San Jose. As the location is surrounded by single family homes and mixed-use properties, its zoning designation is Community Commercial, which is required to adhere to "design standards which ensure compatibility and harmony with adjoining land uses."

A permit granted to the business by the planning board in 2023 allows Park Station to play amplified live music from a stage at the corner of Park and San Jose three times per month, for three hours at a time, with a noise allowance of 85 decibels when measured at surrounding properties. According to planning board meeting minutes,<sup>1</sup> the planning staff originally derived the 85 decibel limit from Santa Monica's Noise Ordinance. The regulations originally suggested by the staff for outdoor music events, 107 decibels at 1 ft. and 85 decibels at 25 ft., exactly match the allowable noise levels for the Santa Monica Promenade.<sup>2</sup> The Promenade is an entertainment district with a decades long history of live entertainment and distanced from residential zoning by hundreds of feet. There are also key provisions in Santa Monica's regulations that prohibit indoor audibility in surrounding structures, and such a provision was not included in Park Station's permit.

At a planning board meeting in February of 2026 the staff proposed increasing the number of allowed days to every Friday and Saturday. The planning board decided to increase to four events per month, still for three hours at a time. Additionally, Park Station proposed raising the decibel limit to 90 dB(A). The planning board decided the 85 decibel limit is now to be measured at an increased one hundred feet, instead of the prior measurement which took place at surrounding property lines.

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<sup>1</sup> <https://alameda.legistar.com/LegislationDetail.aspx?From=RSS&FullText=1&GUID=F261D55C-9658-4D2F-A738-3AA1681A659E&ID=5699837>

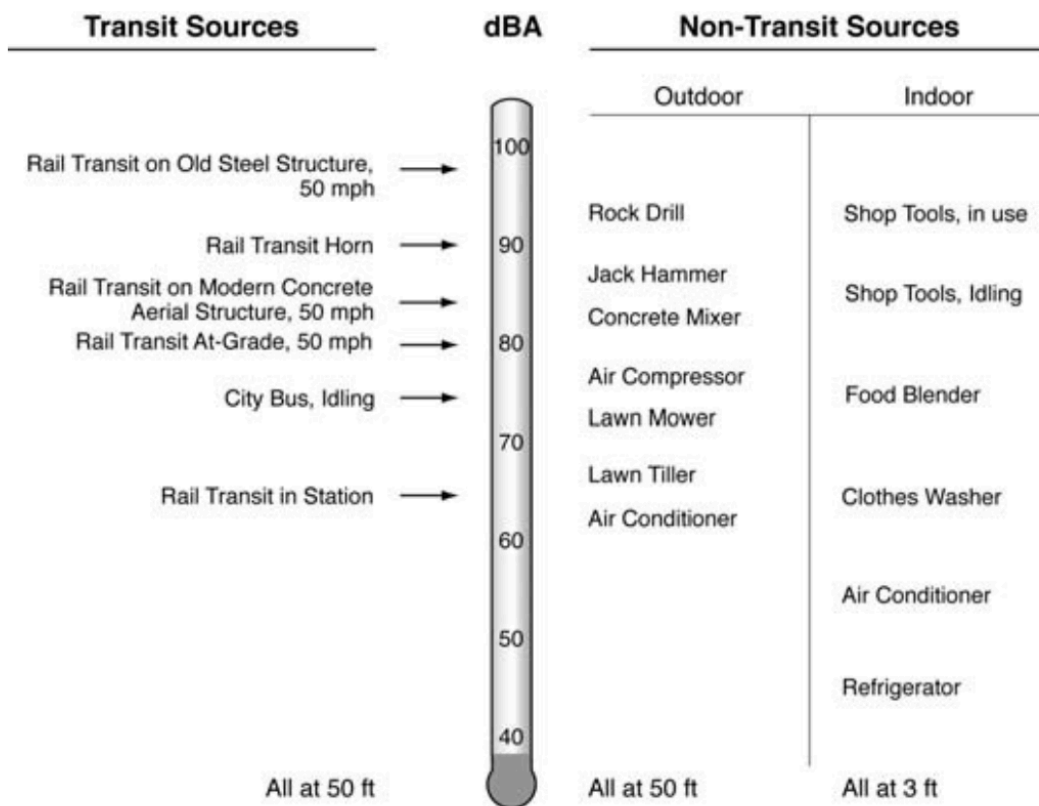
<sup>2</sup> <https://ecode360.com/42737046#42737047>

# Significant Noise Impacts

Amplified music at Park Station has had a significant impact on the surrounding environment. Permitting Park Station to increase the number events per month by 33% as approved, and increase the sound levels will have a significant noise impact. The proximity to single family homes, lack of any barrier or acoustic dampening, and extremely high decibel limit creates a substantial temporary increase in ambient noise levels and exposes the surrounding community to noise levels in excess of standards established by Alameda’s noise ordinance, general plan, and applicable standards of other agencies. Both of these conditions are criteria on CEQA’s checklist for significant environmental impact.

To put the noise levels discussed into context the FTA Transit Noise and Vibration Impact Assessment Manual<sup>3</sup>, which is used by government agencies to manage construction noise, has provided some useful references.

Figure 1 FTA Manual, Section on Typical A-Weighted Sound Levels (FTA page 207)



As can be seen above, 85 decibels, is near the estimated noise level for jack hammers, concrete mixers, or a train passing at a distance of 50 ft. The National Institute for

<sup>3</sup> [https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123\\_0.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf)

Occupational Safety warns that workers exposed to this level of noise throughout an average workday are at risk of developing significant hearing loss over their working lifetime. The NIOSH also states that 85 dBA noises “often require you to raise your voice to be heard by someone three feet away” and gives examples of equipment that can produce noise levels around 85-90 dBA as “lawn mowers” and “power tools.” To state the obvious, this is a very high noise level.

Figure 2 FTA Manual, Section on Receiver Response to Transit Noise (FTA page 18)

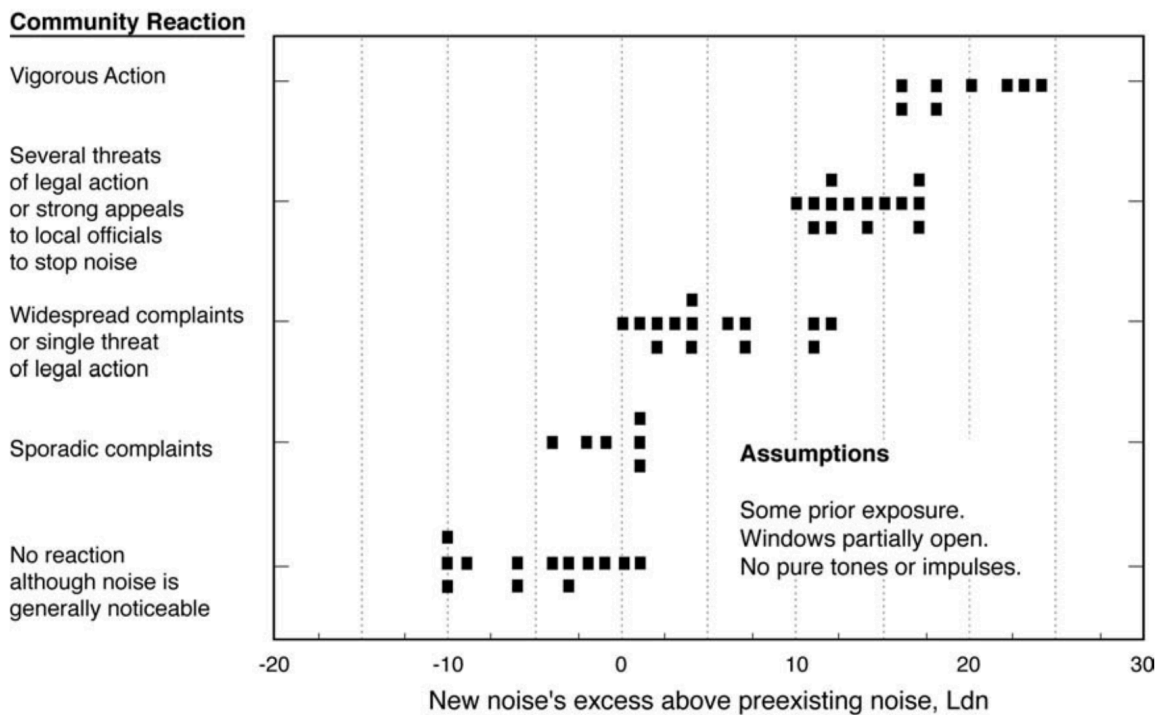
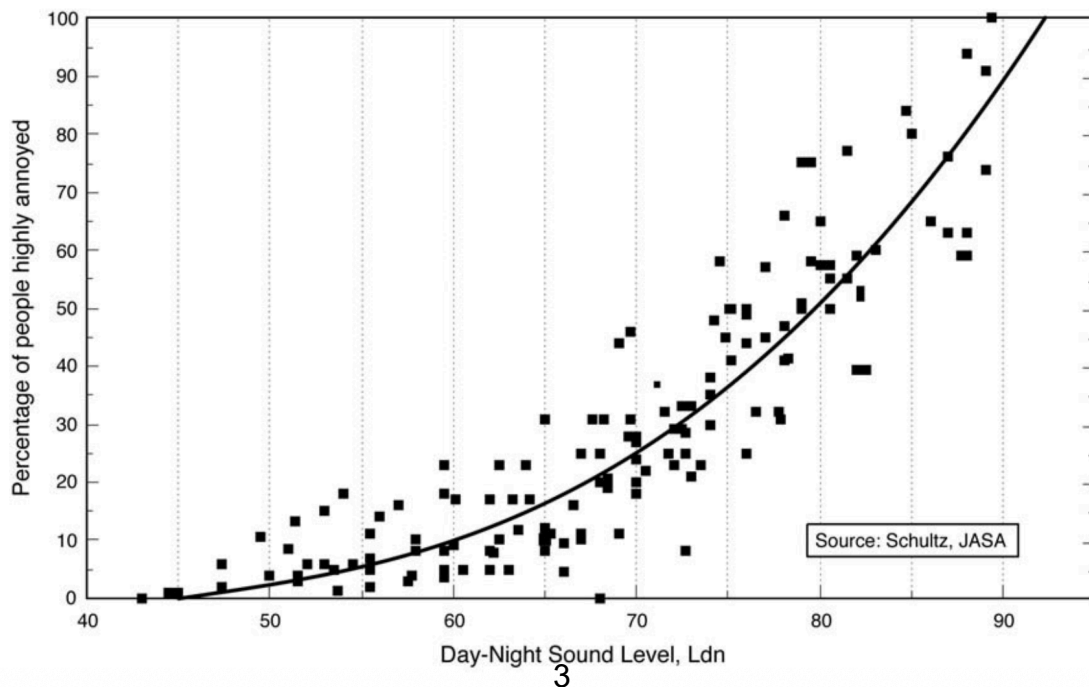


Figure 3 FTA Manual, Community Annoyance Due to Noise (FTA page 18)



The figures above show community response and annoyance due to noise changes and absolute noise levels. A 20 dB(Ldn) increase can be expected to provoke “vigorous action” from the surrounding community. Every 10 dB(Ldn) increase in noise is generally perceived to be twice as loud.

Alameda’s general plan aims to “protect Alameda residents from the harmful effects of exposure to excessive noise from aircraft, buses, boats, trucks and automobiles, and adjacent land uses.” It acknowledges that “research shows excessive roadway, aircraft and/or wind turbine noise negatively impacts the memory, learning acquisition, test scores and physical well-being of children” and expresses concern that “some Alameda residents currently experience single event noise in excess of 80 dB(A) on a nightly basis.” Although much of the data in the general plan focuses on 24 hour averages, statements like this indicate that even short lived events above 80 dB(A) are significant.

Figure 4 Projected Noise Sources, Alameda General Plan



The major sources of noise affecting Alameda are from the Oakland International Airport, BART lines, the railroad, the Port of Oakland, and local streets with faster moving vehicles.  
Source: City of Alameda

Figure 5 California Land Use Compatibility Guidelines

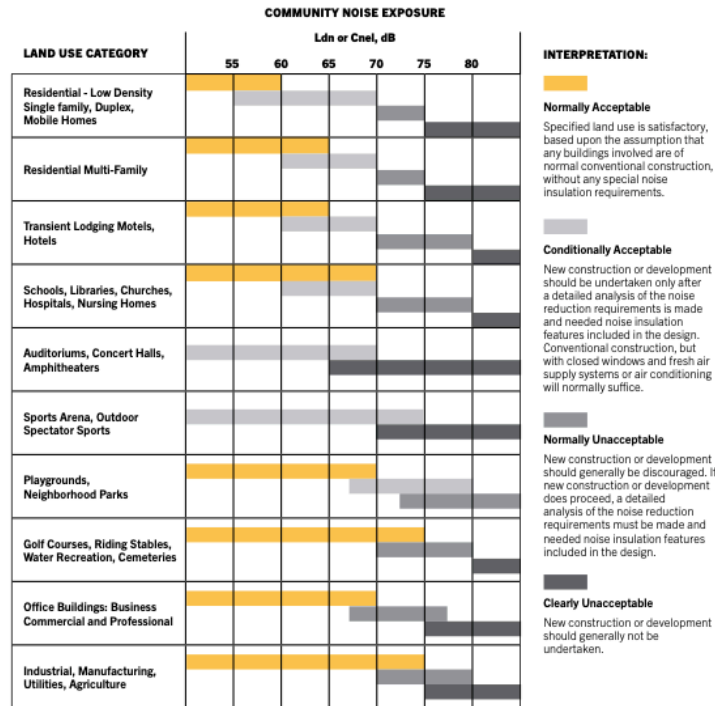


FIGURE 7.5: CALIFORNIA LAND USE COMPATIBILITY GUIDELINES

As seen in the figures above the general plan calls for a 60 dB(Cnel) limit near single family homes. Above this level CA Land Use Compatibility Guidelines states “new construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise insulation features included in the design.”<sup>4</sup>

The general plan also states “In making a determination of impact under the California Environmental Quality Act (CEQA), consider the following impacts to be “significant” if the proposed project causes: an increase in the day-night average sound level (Ldn) of 4 or more dBA if the resulting noise level would exceed that described as normally acceptable for the affected land use, as indicated by State guidelines, or any increase in Ldn of 6 dBA or more.” As shown in the general plan the city estimates the sound levels to be between 65-70 dB(CNEL) on park street and 60-65 dB(CNEL) on streets like Encinal. San Jose Ave is quieter than Encinal, but using this as a conservative estimate, a three hour concert at 85 dB increases Ldn by well over 6 dB.

These recommendations and guidelines are supported and likely derived from governmental studies, recommendations, and reports like the EPA Levels Document<sup>5</sup> which calls for 55

<sup>4</sup> [https://irp.cdn-website.com/f1731050/files/uploaded/AGP\\_Book\\_June2022\\_Amend-1.pdf](https://irp.cdn-website.com/f1731050/files/uploaded/AGP_Book_June2022_Amend-1.pdf)

<sup>5</sup> <https://www.epa.gov/archive/epa/aboutepa/epa-identifies-noise-levels-affecting-health-and-welfare.html>

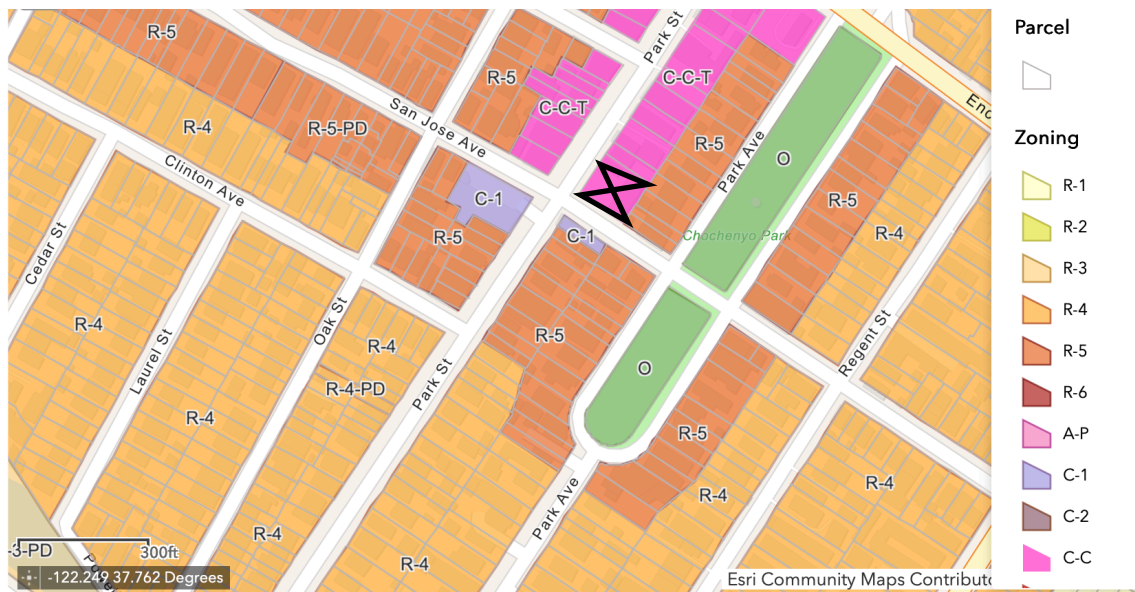
dB(Ldn) outdoors and 45 dB(Ldn) indoors to prevent activity interference and annoyance. It states “these levels of noise are considered those which will permit spoken conversation and other activities such as sleeping, working and recreation, which are part of the daily human condition.”

Alameda's noise ordinance, like many other cities across California, limits noise disturbances more strictly than the previous recommendations for land use. It limits any noise that persists for thirty minutes, when measured at a single or multiple family residential property to be 55 dB(A). This limit is then further reduced by another five decibels for “simple tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.” This is likely because music has aggravating acoustic and psychoacoustic properties that typical outdoor noise does not. Music has more low frequency content (bass), spikes in maximum noise levels (drums), and peaks at specific frequencies (instruments and vocals). As a result music more easily penetrates homes and is less likely to be masked by ambient sound. When considering the nearby commercial properties the limits are ten decibels higher, at 60 dB(A), which is still well below the 85 dB(A) granted in the permit.

During the February of 2026 planning board meeting many nearby residents complained about noise disturbances and indoor audibility due to the events at Park Station. Courts have helped provide further clarity on how testimony like this relates to CEQA's “fair argument” test. On May 7, 2015 the Sixth District Court of Appeal found that factual non-expert evidence can form the basis for a fair argument with respect to noise and traffic safety impacts. In this case testimony of numerous residents reporting noise penetrating their home from a nearby property provided the basis for a fair argument that would compel preparation of an EIR. The parallels in this case are strong.

Sound measurements and calculations also conclude that the impact of the existing noise and the proposed permit change are significant. The zoning map below shows the close proximity of Park Station to surrounding residences. Multiple single family homes border Park Station and there are residences in mixed used buildings directly across the street. The nearest residence is sixty five feet away from the stage.

Figure 6 Alameda Zoning Map



Measurements from the city's inspection report, while flawed and in no way a substitute for a study, show a significant increase in ambient noise levels. The report states that in one inspection ambient noise levels on San Jose were approximately 65-70DB on San Jose Ave and 70-90DB on Park Street. In a later inspection, when live music was playing noise levels averaged 80-85DB on all four corners of the intersection of San Jose Ave and Park Street. One of these corners is directly below the nearest residence. The same inspection measured an average DB level of 81-83DB on Park Street. These measurements show an increase in the "noise floor" or minimum ambient noise level of at least 10DB, which is a doubling in loudness, and used in acoustic studies or EIR's to indicate a clearly significant difference. A later inspection found the same 10 decibel shift upward.

While the city's report shows a significant increase, it is missing key information and therefore understates the severity of the impact. The report does not state the length of time ambient levels were measured or averaged. As noted by nearby residents in the planning board meeting, Park Street can have loud, but short lived events like a bus stopping on the corner, that do not have the same level of annoyance. These events are momentary and contain significantly different frequency content than music, which make them less noticeable after passing through walls, doors, and windows. As a result, the report understates the real impact of the amplified music.

Additionally many, if not all, of the inspections were done during or close to the live music performances. These performances draw hundreds of people to the outdoor seating area and this on its own raises ambient noise levels by a significant amount. Here again the inspection report understates the actual impact of the amplified music and also understates the overall, combined effect of these events.

Independent noise measurements taken on days without live music events on San Jose Avenue showed ambient noise levels were as low as 52 dB(A) over a five minute period.<sup>6</sup> The majority of the noise during this time came from cars passing, which typically creates a "whooshing" sound that functions as a form of white or brown noise. White noise contains an equal portion of its energy at high frequencies which are easily blocked by homes. It is also sometimes used by sound machines as a sleep aid as it sounds similar to rain falling or waves crashing.

The proposed changes to the permit, which would change where the noise limit is enforced, would have a significant impact. Moving the limit from the nearest residence, which is sixty five feet away, to the southwest corner of Park St. and San Jose Ave, which is one hundred feet away, will result in an increase in loudness. The inverse square law states that sound pressure decreases by six decibels when the distance from the noise source doubles. Using this free field model the change in loudness can be calculated as follows:

$$20\log_{10} (65/100) \approx 4 \text{ dB}$$

This is a simplistic model which does not take into account the acoustics effect of surrounding buildings, so the actual effect could be much larger depending on the specific location. This increase in loudness, when coupled with additional events per month result in a significant increase in intensity.

It is also worth noting that if the loudness levels measured at surrounding properties are at or near 85 db(A) the loudness levels at Park Station can likely cause hearing damage in a short

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<sup>6</sup> Measured by Kevin Durfee via the NIOSH iOS app. The NIOSH has validated accuracy to plus or minus 2 dB.

period of time. In 2022, the WHO published a Global Standard recommending sound levels at venues and events be limited to no more than 100 dB(A) equivalent continuous sound level over any 15-minute period. This is likely why Alameda's noise ordinance requires a "conspicuous and legible sign" warning of hearing damage in places of public entertainment above 95 dB(A).

## Adverse Effects of Noise<sup>7</sup>

Although the health effects of noise are not taken as seriously in the United States as they are in other countries, they are real and, in many parts of the country, pervasive.

**Noise-Induced Hearing Loss.** If a person is repeatedly exposed to loud noises, they may experience noise-induced hearing impairment or loss. In the United States, both the Occupational Health and Safety Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) promote standards and regulations to protect the hearing of people exposed to high levels of industrial noise.

**Speech Interference.** Another common problem associated with noise is speech interference. In addition to the obvious issues that may arise from misunderstandings, speech interference also leads to problems with concentration fatigue, irritation, decreased working capacity, and automatic stress reactions. For complete speech intelligibility, the sound level of the speech should be 15 to 18 dBA higher than the background noise. Typical indoor speech levels are 45 to 50 dBA at 1 meter, so any noise above 30 dBA begins to interfere with speech intelligibility. The common reaction to higher background noise levels is to raise one's voice. If this is required persistently for long periods of time, stress reactions and irritation will likely result.

**Sleep Disturbance.** Noise can disturb sleep by making it more difficult to fall asleep, by waking someone after they are asleep, or by altering their sleep stage, e.g., reducing the amount of rapid eye movement (REM) sleep. Noise exposure for people who are sleeping has also been linked to increased blood pressure, increased heart rate, increase in body movements, and other physiological effects. Not surprisingly, people whose sleep is disturbed by noise often experience secondary effects such as cognitive decline, increased fatigue, depressed mood, and decreased work performance.

**Cardiovascular and Physiological Effects.** Human's bodily reactions to noise are rooted in the "fight or flight" response that evolved when many noises signaled imminent danger. These include increased blood pressure, elevated heart rate, and vasoconstriction. Prolonged exposure to acute noises can result in permanent effects such as hypertension and heart disease.

**Impaired Cognitive Performance.** Studies have established that noise exposure impairs people's abilities to perform complex tasks (tasks that require attention to detail or analytical processes) and it makes reading, paying attention, solving problems, and memorizing more difficult. This is why there are standards for classroom background noise levels and why offices and libraries are designed to provide quiet work environments.

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<sup>7</sup> More information on these and other adverse effects of noise may be found in Guidelines for Community Noise, eds B Berglund, T Lindvall, and D Schwela, World Health Organization, Geneva, Switzerland, 1999. (<https://iris.who.int/handle/10665/66217>)

# Conclusion

No study was conducted by the city to characterize the effects of the amplified music or inform mitigations. The existing permit is incompatible with Alameda’s general plan and noise ordinance. It also far exceeds applicable standards of other agencies. The city’s inspection report and independent measurements show these events raise ambient noise levels significantly. The proposed changes to the permit would result in a significant increase in intensity.

# Appendix

Figure 7 Ldn Estimate Consistent With General Plan Estimates and Independent Noise Measurements

Ldn and Lden Calculator				
Start Time	Hourly Leq			
00:00	<input type="text" value="50"/>	dB	✓	
01:00	<input type="text" value="50"/>	dB	✓	<b>Leq</b>
02:00	<input type="text" value="50"/>	dB	✓	<b>57.8 dB</b>
03:00	<input type="text" value="50"/>	dB	✓	
04:00	<input type="text" value="50"/>	dB	✓	<b>Ldn</b>
05:00	<input type="text" value="50"/>	dB	✓	<b>60.1 dB</b>
06:00	<input type="text" value="55"/>	dB	✓	
07:00	<input type="text" value="60"/>	dB	✓	<b>Lden</b>
08:00	<input type="text" value="60"/>	dB	✓	<b>60.6 dB</b>
09:00	<input type="text" value="60"/>	dB	✓	
10:00	<input type="text" value="60"/>	dB	✓	
11:00	<input type="text" value="60"/>	dB	✓	
12:00	<input type="text" value="60"/>	dB	✓	
13:00	<input type="text" value="60"/>	dB	✓	
14:00	<input type="text" value="60"/>	dB	✓	
15:00	<input type="text" value="60"/>	dB	✓	
16:00	<input type="text" value="60"/>	dB	✓	
17:00	<input type="text" value="60"/>	dB	✓	
18:00	<input type="text" value="60"/>	dB	✓	
19:00	<input type="text" value="60"/>	dB	✓	
20:00	<input type="text" value="55"/>	dB	✓	
21:00	<input type="text" value="50"/>	dB	✓	
22:00	<input type="text" value="50"/>	dB	✓	
23:00	<input type="text" value="50"/>	dB	✓	

**Calculate**

Figure 8 Ldn Estimate With Three Hour Concert

**Ldn and Lden Calculator**

<b>Start Time</b>	<b>Hourly Leq</b>			
00:00	<input type="text" value="50"/>	dB	✓	
01:00	<input type="text" value="50"/>	dB	✓	<b>Leq</b>
02:00	<input type="text" value="50"/>	dB	✓	<b>76.0 dB</b>
03:00	<input type="text" value="50"/>	dB	✓	
04:00	<input type="text" value="50"/>	dB	✓	<b>Ldn</b>
05:00	<input type="text" value="50"/>	dB	✓	<b>76.1 dB</b>
06:00	<input type="text" value="55"/>	dB	✓	
07:00	<input type="text" value="60"/>	dB	✓	<b>Lden</b>
08:00	<input type="text" value="60"/>	dB	✓	<b>78.4 dB</b>
09:00	<input type="text" value="60"/>	dB	✓	
10:00	<input type="text" value="60"/>	dB	✓	
11:00	<input type="text" value="60"/>	dB	✓	
12:00	<input type="text" value="60"/>	dB	✓	
13:00	<input type="text" value="60"/>	dB	✓	
14:00	<input type="text" value="60"/>	dB	✓	
15:00	<input type="text" value="60"/>	dB	✓	
16:00	<input type="text" value="60"/>	dB	✓	
17:00	<input type="text" value="85"/>	dB	✓	
18:00	<input type="text" value="85"/>	dB	✓	
19:00	<input type="text" value="85"/>	dB	✓	
20:00	<input type="text" value="55"/>	dB	✓	
21:00	<input type="text" value="50"/>	dB	✓	
22:00	<input type="text" value="50"/>	dB	✓	
23:00	<input type="text" value="50"/>	dB	✓	

**Calculate**