



1 North San Antonio Road
Los Altos, California 94022-3087

MEMORANDUM

DATE: 1/24/23

TO: Councilmembers

FROM: City Manager

SUBJECT: COUNCIL Q&A FOR JANUARY 24, 2023, CITY COUNCIL REGULAR MEETING

Study Session

Question: For the required adjustments, please identify/explain what regulations “require” these changes.

Answer: Below are the required adjustments with their regulations:

- Require greater distance from centerline to ensure safer vehicular traffic for emergency vehicles and other vehicles. The minimum distance requirement from the centerline of street is 10 feet as regulated by Santa Clara Fire.
- Protected dining area with concrete barriers and metal railings are required for California ABC compliance.
- Permanent canopy structures are not permitted by Santa Clara County Fire.

Question: For the proposed adjustments, please identify/explain the precise “lessons” that were learned. (I.e., were there specific problems with specific restaurants/stores that motivated the proposed adjustments?)

Answer: Below are the proposed adjustments with the lessons learned:

- Require all parklets to include a wood platform structure that meets the sidewalk grade. There are three reasons for this recommended change. 1) The platform/structure will increase safety by preventing customers from exiting parklets directly into the street as seen in the current iteration of the program. 2) It is difficult to make the grade on the roadway ADA accessible. With the proposed separation of the sidewalk dining and the parklet program, the platform will allow for compliance with ADA requirements. 3) The platforms will create a more aesthetically pleasing outdoor dining environment for restaurants and visitors.
- Parklets limited to whichever is greater of either:
 - a. All parking stalls within primary building frontage

b. Four angular (on Main) or two parallel (on State) parking stalls.

Staff recommends this new limit because it will ensure that parklets are sized appropriately for businesses and will limit impacts of the parklet programs to neighboring businesses.

- Establish annual program fee.

Staff recommend charging an annual fee for the parklet program. Restaurants that participate in the program are using public space to expand their businesses. The value of this expansion on public property and right of ways should be captured. Additionally, review, implementation and enforcement of a permanent program should be paid for by the participating businesses.

Question: Why do staff now recommend wood platforms? When the Council discussed outdoor dining in the past, we were advised that it would be cost prohibitive to require restaurants to build wood platforms as part of their parklets.

Answer: Please see the above answer for the “lessons learned” and why wood platforms are now being recommended. Additionally, during the pandemic restaurants were facing uncertain and changing regulations and an unknown timeline for when operations could return to “normal.” The parklet program was a response to these challenges. One of the goals of the program was to reduce the costs on businesses to the maximum extent practical. With the rescinding of the emergency order the uncertainty regarding regulations is removed.

Question: Generally, what is the cost to install a wood platform with concrete and steel barriers as required by the proposed program?

Answer: This cost would depend upon the contractor providing the work and the cost of resources.

Question: Generally, what is the annual cost to maintain a wood platform with concrete and steel barriers as required by the proposed program?

Answer: The annual maintenance cost would vary depending on usage of the dining area and quality of the materials. This would be difficult to speculate, but staff thinks most of the cost would be staff time to clean and maintain the structures and barriers with an occasional expense to fix damaged dining furniture or replace plants.

Question: Whose responsibility is it to install/maintain the reflectors and related traffic safety mechanisms diverting cars away from the parklets?

Answer: City staff can install and maintain the traffic safety mechanisms after parklets are installed.

Question: How did staff determine that \$3 / sq. ft. is a reasonable fee for the annual inspection and maintenance of outdoor dining facilities? How will these funds be used? Do they go into the general fund? Is this a revenue raising fee for the city or will these funds all be used in conjunction with city responsibilities related to outdoor dining?

Answer: Staff determined that \$3 per square foot was a reasonable fee by reviewing neighboring cities parklet program fees and this was in the middle range of fees offered by cities. This fee can be adjusted at the direction of City Council. These funds will be put into the general fund. All funds collected as a part of this program will help to offset the ongoing cost of staff to oversee and inspect the parklets.

Question: If the proposed fees do not cover the City's expenses in supervising and facilitating outdoor dining, will the general fund be used to cover excess expenses?

Answer: If the operational expenses exceed the proposed fees, the general fund would be used to cover the excess expenses.

Question: Why does Main Street require all parklets to be at least 15 feet from the center line? Can parklets be 11 feet from the center line on Main as is proposed for State Street?

Answer: City staff propose this distance to ensure that there is enough space for emergency vehicles and regular vehicular traffic. Additionally, Main Street does see more regular foot traffic of pedestrians. The minimum distance requirement from the centerline of street is 10 feet as regulated by Santa Clara Fire.

Question: How would the proposed program adjustments affect the City's ability to establish a one-way loop downtown as a pilot program?

Answer: The proposed program adjustments do not impact the City's ability to establish a one-way loop downtown because the parklets will not be in the path of vehicular traffic.

Question: Are merchandise displays allowed under the proposed Outdoor Display Guide?

Answer: No.

Question: Why can't retailer's display "advertise a business address, phone number, or list of products and prices?"

Answer: This language was included in the original Outdoor Display Program. Business address and phone number should be included on the signage in the building frontage. Products and prices may be displayed through a temporary sign in their window under our Temporary Signage code section. This is consistent with land use regulations in neighboring jurisdictions and countywide.

Question: The Outdoor Display Guide requires that the City be named insureds. Does that same policy apply to outdoor dining programs?

Answer: Yes. It is incorporated into the agreement.

Parklet Program Guide

LOCATION:

Question: Why are we measuring this from the centerline instead of the curb?

Answer: We are measuring from the centerline to ensure that the driving lanes have enough space for emergency and vehicular traffic.

Question: How can it be assured that it is clear to the business owners that the edge of their parklet barrier will be consistent with parklet design specification. Can we state a clear distance from the curb?

Answer: City staff is comfortable measuring from centerline because these requirements are focused on safe emergency and vehicular traffic.

Question: Is 11 feet from the center line of State Street appears quite narrow, is quite narrow for emergency vehicles to pass through. Has Santa Clara fire approved these specifications?

Answer: Santa Clara Fire approved a 10-foot access way in 2021; this specific requirement has not changed since that time.

Question: Bullet 4 is insufficient with respect to safety at the corners. We have requirements for maximum height of the fences and landscaping on corner lots in the neighborhoods because of safety. We need the same here. For example one of the busiest corners in town is at First and Main. You can imagine that parklets may interfere with visual sight lines as one approaches the corner. If you compare that with a parklet at Second and Main, where the more shallow and lower profile parklet would allow for easy visibility of cross traffic to the light.

Answer: City staff is comfortable that the new setback from the centerline and height of barriers will not be an issue at corners.

Question: Good to recognize the different streets. Would stating a measurement from the curb eliminate confusion?

Answer: City staff is comfortable measuring from centerline because these requirements are focused on safe vehicular traffic.

Question: Please clarify the 5-foot required clear space does not include the area of Row with the tree wells

Answer: Correct. That would not be a path of travel.

Question: Can we have a limit to adjacent limits on parking spaces?

Answer: Per the program guidelines, the maximum number of spaces is capped at four angular parking spaces or two parallel parking spaces when encroaching in front of a neighboring business.

ACCESSABILITY

Question: Is 5% ADA access realistic if the business only wants to put 2 small tables and otherwise provide sufficient ADA access in the overall business?

Answer: This is the minimum required amount of seating under the Americans with Disabilities guidelines.

PLATFORM STRUCTURE

Question: Can there be some restriction if the platform is over drainage? Please clarify how the drainage is going to properly function and be cleaned out.

Answer: Per the program guidelines, parklets may not block any drainage.

BARRIERS

Question: Is this intended to be a single vendor so that they are all identical? If not how much variation is allowed.

Answer: The guidelines are designed to create a safe, accessible parklet with a standard aesthetic look and feel and to limit variation. The City has connected with a pre-cast concrete contractor who could be a preferred vendor, but businesses could use any contractor.

Question: For Main Street, where parking is diagonal, will the side barrier run at the parking space angle or be perpendicular to the sidewalks? We need to clarify the utilization of parking space.

Answer: The barriers will run along the angular parking stalls' perimeter to allow a safe dining area for patrons while allowing enough room to access adjacent vehicular parking stalls.

Question: How can we encourage uniformity of the barriers

Answer: Per the program guidelines, they will be uniform in material, dimensions, and height.

Question: Are the barrier criteria suggestions or objective standards that need to be followed?

Answer: Per the program guidelines, the barriers have objective standards in material, dimensions, and height.

FURNITURE

Question: Who will be monitoring that businesses will be bringing in their furniture? What will happen if they fail to do so?

Answer: City staff will monitor that businesses bring in their furniture. Businesses will be informed of any violations and directed to remediate the issue. If the violations continue, staff have the ability to revoke the permit under the maintenance section of the agreement.

UMBRELLA

Question: Suggested language change: Umbrellas are required to be secured to an umbrella stand.

Answer: Staff will address.

Question: Please clarify if Umbrellas, when extended, can of must not impinge on the required 5 foot ROW clearance.

Answer: Correct. Staff will address.

LIGHTING

Question: * Language needed under lighting. Regarding electrical cords - All cords will be covered to prevent a trip hazard.

Answer: Staff will address.

Question: - The lighting requirement fails to identify that the property owner is responsible for the outlet so that lighting can be plugged directly in.

Answer: Staff will address.

Question: Can we limit lighting so that light is focused on where it is needed, request lights be turned off 2 hours after the close of business to limit waste of energy.

Answer: Lighting is only permitted during business hours.

Question: What are the parameters for the case-by-case electric heating?

Answer: This will require staff to verify that the electric heating is safe and meets all applicable code guidelines.

Submittal fee

Question: How did we arrive at \$3.00 a square foot for submittal fees?

Answer: Staff determined that \$3 per square foot was a reasonable fee by reviewing neighboring cities fees for their parklet program and this was in the middle range of fees offered by cities. This can be adjusted at the direction of City Council.

Question: Renewal fees should be calculated differently for Main and State Street. The example given fits with Main Street. However, State Street businesses that take up 2 parallel spaces are occupying approximately the same amount of square footage as 4 angled spaces on Main Street. For clarity, an example for State Street should be provided as well.

Answer: The renewal fees are calculated on a per square foot basis so all parklets will be charged equally across both streets.

SIGNAGE:

Question: On page 19, Clarify that signs more than 42" tall cannot interfere with line of sight at corner businesses.

Answer: Staff will address.

GENERAL QUESTIONS

Question: Are there any spaces that have potential impacts on street runoff (sewer) grates? If so, how do we ensure that there is no interference with the flow of runoff to the drains?

Answer: Per the program guidelines, they may not block any drainage.

Question: Would State Street Market be considered one application? Or is it considered multiple businesses and how would that be handled.

Answer: State Street Market is one business so it would be one individual application.

Question: Has the city removal and maintenance agreement been drafted. When will we review that?

Answer: City staff are still working on the removal and maintenance agreement which will be approved by the City's Risk Manager and City Attorney. It will be publicly available with the program application for businesses to complete.

Question: Can I have a copy of the City Removal and Maintenance Agreement. Can a copy be placed on the city website.

Answer: City staff are still working on the removal and maintenance agreement which will be approved by the City's Risk Manager and City Attorney. It will be publicly available with the program application for businesses to complete.

Question: What is the process for reviewing and intervening if there is a problem?

Answer: City staff will deal with any potential issues through Code Enforcement.

Question: If there is an issue, who does the public report an issue to?

Answer: The public can report an issue to the City through Code Enforcement.

Question: How are we going to track the sales tax revenue to demonstrate that the dining areas are regularly used and adding vibrancy to our downtown. Is there any supporting data that there has been an increase in tax revenues. If non available, when can we expect to see the data.

Answer: City staff can track the downtown triangle sales tax data during this program. It is important to note that this data would include all businesses, not just businesses with parklets. However, it is important to note that sales tax revenues are still rebounding from the COVID-19 pandemic, and the City still is observing an increase in sales tax.

Question: The space in front of the Enchante hotel is currently public property/public right away, will this property be included in this proposed parklet/outdoor dining program?

Answer: No, this area has a separate agreement from the initial development of the Hotel.

Question: What happens when we need to slurry coat the streets?

Answer: City staff will plan to do crack and slurry as necessary on the rest of the street and then can repair these specific areas upon removal when that date is determined.

Item 1. Response to the Santa Clara County Civil Grand Jury Report: Show Me the Money: Financial Transparency Needed

Question: Since we state on page 7 (of the PDF), in Response 1 to Finding 1 AND on page 8, Response 1 to Recommendation 1, that "the City is willing to provide the report in the format the Grand Jury recommends", then why are we not agreeing to Recommendation 2 to update our financial policy, since we can state that it is unwarranted but still agree to change the policy to include a change we are willing to make?

Answer: The City of Los Altos Financial Policy establishes general policies and procedures for financial management and supports long-term planning of the City's fiscal health. The document provides various guidelines for items that are relevant to Los Altos but does not prescribe specific actions at the granular level.

Instead, the document provides directional language such as "to remain compliant with applicable State law" to "maintain financial reports in conformance with GAAP" to "plan the use of debt in a manner that sustains financing payments at manageable levels" as a few examples. None of these guidelines identifies specific reports or actions, instead the document provides direction.

If the Council wants to prescribe a specific date interval for each of the reports created by the City, it can do so, but Staff would not recommend changing the current practice or content of the City's Financial Policies for one report.

Question: Where will future treasurer's report be (prepared monthly) filed with the city and made public on our City's website beginning March 2024? Where on the website will people be able to access it?

Answer: The Treasurer's Report will be placed on the consent calendar. It will be accessible through City Council agendas.

Question: will we be updating our municipal code to remain in compliance with California Government Code 41004. If so, when?

Answer: The City is fully compliant with the Government Code referenced here. No change to the municipal code is necessary or recommended.

Item 2. Minutes

Comment: In the Pledge, there is repetition of "lead the pledge" and it should be "led the pledge", please delete and correct. "Councilmember Dailey ~~lead the pledge~~ led the pledge of allegiance."

Answer: Noted and corrected.

Item 3. Sixth Cycle Housing Element 2023-2031:

Comment: There is an error on page 742 of the packet, the second to last page of the resolution, "I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the ___ day of ___, 202~~4~~ by the following vote:", the year should be 2023.

Answer: We will read this error into the record and correct it in the final resolution.

Question: In the Director's memo dated January 20, 2023, in the fourth point under the second bullet of the item on Woods Lane (page 2), reference is made to the "conservative capacity assumption." What is that? Please explain that entire paragraph.

Answer: As detailed in the memo the actual capacity is 40 units allowed under zoning. The housing element is accounting for 11 units which is a conservative assumption after evaluating the site constraints.

Question: In the draft resolution, in sections 8 and 9, the phrase "The Development Services Director, Nick Zornes" should be replaced with: "The City Manager, or his designee,"

Answer: If the council directs staff to incorporate this change this can be done. We will read this error into the record and correct it in the final resolution.

Item 6. Independent Intake Official (IIO) Yearly Report

Question: Does the IIO have any recommendations about how the program can be improved or is she satisfied with the program as is?

Answer: From IIO Stephanie Atigh:

In general, the program seems to be working smoothly, as intended. It would be good to prevent respondents from mistakenly using this process to file complaints about non-police department activities in the community. Perhaps clearer language or a notice in large print that only complaints relating to police department employees should be filed using this website, the IIO email or the IIO phone number.

Question: Has the City received any complaints about the IIO process itself? Is there any reason to believe that legitimate complaints/concerns about the City's public safety department are not being made due to a lack of faith or other failure in the IIO system?

Answer: From IIO Stephanie Atigh: I have not received any complaints about the process. I have no reason to believe that complaints are not being made or that potential complainants have no faith in the process.

From Captain Krauss: We have not received any complaints to the Police Department about the IIO process.