



CITY COUNCIL STAFF REPORT



July 13, 2021

ITEM TITLE

Third Avenue Curb Cafes and Sidewalk Cafes: Approve a Reimbursement Grant Program for Curb Cafes and Sidewalk Cafes on Third Avenue and Streamline the City's Permit Processes for Certain Encroachments Within the Public Right-of-Way

Report Number: 21-0101

Location: Third Avenue between E Street and G Street

Department: Economic Development

Environmental Notice: The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required. Notwithstanding the foregoing, the activity qualifies for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines.

Recommended Action

- A) Adopt a resolution approving a grant program to reimburse Third Avenue businesses for costs associated with the design, permitting, and construction of curb cafés and sidewalk cafés along Third Avenue and appropriating American Rescue Plan Act funds therefor **(4/5 Vote Required)**; and
- B) Place an ordinance on first reading amending Chula Vista Municipal Code chapter 12.28, "Encroachments," to streamline the City's permitting process for certain encroachments within the public right-of-way and make certain updates **(First reading)**.

SUMMARY

This item is to support increased outdoor business operations by creating a grant program that would provide reimbursement to businesses on Third Avenue for costs associated with the design, permitting, and construction of curb cafés and sidewalk cafés. and appropriating American Rescue Plan Act funds received by the City therefor. This action would authorize the Director of Economic Development, in conjunction with the Director of Public Works, City Engineer, and Director of Development Services, to develop a permit process for curb cafés and sidewalk cafés on Third Avenue through July 31, 2023 and authorize the Director of Economic Development to develop and implement grant program guidelines that are consistent with this action.

This item also includes an amendment to the Municipal Code that would give the City Engineer and Director of Public Works broader authority to approve certain encroachments, including for curb and sidewalk cafés, and clarify which encroachments require staff versus City Council approval. The proposed amendments also include other non-substantive and clean up changes that, among other things, clarify the interchangeability between the Director of Public Works and City Engineer in overseeing the encroachment permit process.

The goal of this item is to encourage placemaking and generate increased economic activity in the City's downtown urban core along Third Avenue.

ENVIRONMENTAL REVIEW

The proposed activity has been reviewed for compliance with the California Environmental Quality Act (CEQA) and it has been determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Although environmental review is not required at this time, once the scope of potential project(s) has been defined, environmental review will be required for each project and the appropriate environmental determination will be made. Notwithstanding the foregoing, it has also been determined that the activity qualifies for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines. Thus, no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

On May 5, 2020, in response to the COVID-19 pandemic, the City Council approved Chula Vista's COVID-19 90-Day Economic Recovery Plan. One tenet of this plan included exploring the establishment of business- On May 5, 2020, in response to the COVID-19 pandemic, the City Council approved Chula Vista's COVID-19 90-Day Economic Recovery Plan. One tenet of this plan included exploring the establishment of business-friendly City policies and programs to create an environment that minimizes costs, burdens, and barriers for Chula Vista businesses. These efforts were guided by the City's pursuit to facilitate a safe re-opening and recovery of Chula Vista's local economy.

One additional feature of the COVID-19 90-Day Economic Recovery Plan was the City Council's establishment of a no-fee permit that allowed businesses on Third Avenue between E and G Streets to encroach into the public right-of-way, where feasible, for expanded business operations.

On July 14, 2020, the City Council formalized a permitting process to allow for these expanded operations in the public right-of-way through the approval and creation of a ministerial permit process. The process has been widely used by businesses along Third Avenue and has been instrumental in ensuring businesses were able to survive during the pandemic.

On June 15, 2021, Governor Gavin Newsom announced a fully reopened California and a lift of pandemic executive orders. While restaurants, bars, and breweries are allowed to operate at full indoor capacity they are still recovering financially from eighteen months of reduced occupancy and revenues. The continued opportunity to operate outdoors with increased occupancy will help these businesses fully recover over the next year or so. In addition, during this time the community has enjoyed the opportunity to be outside when

enjoying a meal or a beverage. As a result, staff is proposing to terminate the existing encroachments in the right-of-way, but replace it with a program that will provide appropriately designed and constructed improvements within the right-of-way that are permitted and ADA accessible. In addition, proposed improvements will not be allowed to encroach or impact surrounding businesses but must only be located in front of the existing business. This will ensure and encourage more thoughtful placemaking with a goal of generating increased economic activity along Third Avenue.

To alleviate the financial burden on these businesses staff is also proposing a reimbursement grant program that would reimburse Third Avenue businesses for the costs of designing, permitting and constructing curb and sidewalk cafés along Third Avenue. Staff recommends appropriating three-hundred thousand dollars (\$300,000) of American Rescue Plan Act monies to fund this program. Businesses along Third Avenue would be eligible for a reimbursement grant for one (1) year through July 30, 2022.

This action would authorize the Director of Economic Development, in conjunction with the Director of Public Works, City Engineer, and Director of Development Services, to develop a permit process for curb cafés and sidewalk cafés on Third Avenue through July 31, 2023 and authorize the Director of Economic Development to develop and implement grant program guidelines that are consistent with this action. A draft Temporary Curb/Sidewalk Café Encroachment Permit guide outlining the permit process and grant program guidelines is included as Attachment 2.

Additional detail for curb cafés and sidewalk cafés is outlined as follows:

Curb Cafés

Restaurants, bars, and breweries would be considered the only businesses eligible to establish curb cafés in the right-of-way within parking spaces along Third Avenue. Their location would be limited to the area adjacent to the business' street frontage, unless written consent is provided from the adjacent/adjoining business and property owner that the curb café would encroach in front of. To establish a balanced approach and avoid over-proliferation, staff would generally endeavor to ensure that the number of curb cafés would be limited to two per each side of each block and that no more than six (6) parking spaces would be eliminated per block side. The instrument for approval of curb cafés is a "Maintenance Agreement and Encroachment Permit." Maintenance Agreements and Encroachment Permits under this program would be for a period of one (1) year with an option for the City Manager or his/her designee to authorize one (1) additional one (1) year extension. This twelve to twenty-four month period would allow for: 1) businesses to continue to recover from the economic impacts of COVID-19; and 2) the City to complete its Downtown Parking Management Study. After this time, the City intends to re-evaluate the curb café program. The total reimbursement costs for each curb café would be up to a maximum of fifteen thousand dollars (\$15,000). Staff proposes this limit on the basis of the following estimates used for the design, permitting, and construction. Design: \$2,500; Permitting: \$2,500; and, Construction: \$10,000.

Sidewalk Cafés

Restaurants, bars, breweries, bakeries, coffee shops and ice cream shops would be considered businesses eligible to establish sidewalk cafés in the right-of-way on City sidewalk and sidewalk bulb-out areas along Third Avenue. Similar to curb cafés, their location would be limited to the area adjacent to the building's frontage, unless written consent is provided from the adjacent/adjoining business and property owner that the sidewalk café would encroach in front of. The total reimbursement costs for each sidewalk café would be

four thousand dollars (\$4,000) based on the limited construction costs associated with purchasing railings, tables and chairs and City permit costs, including the reimbursement of sewer capacity fees.

Currently, the Chula Vista Municipal Code (CVMC) authorizes the Director of Public Works to permit certain encroachments in the public right-of-way. The proposed changes to Chapter 12.28 – Encroachments of the CVMC, would authorize the City Engineer, in addition to the Director of Public Works, to permit certain encroachments in the public right-of-way. Further, the changes would clarify which encroachments require staff versus City Council approval and provide for other non-substantive and clean up changes that, among other things, clarify the interchangeability between the Director of Public Works and City Engineer in overseeing the encroachment permit process. If the proposed amendments are adopted, curb cafés and sidewalk cafés would be subject to approval by the Director of Public Works or City Engineer. These changes to the CVMC will help streamline the permit and approval process for Curb Cafés, Sidewalk Cafés and other limited encroachments, and continue the City’s business support efforts so businesses can more quickly and efficiently navigate the City’s permit processes. A strikeout/underline version detailing proposed amendments to CVMC Chapter 12.28 – Encroachments, is included as Attachment 1.

DECISION-MAKER CONFLICT

Staff has reviewed the property holdings of the City Council and has found that, Mayor Casillas-Salas has real property holdings within 500 feet of the boundaries of the property which is the subject of this action. Consequently, pursuant to California Code of Regulations Title 2, sections 18700 and 18702.2(a)(7), this item presents a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov’t Code § 87100, et seq.) for the above-identified member.

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

Approval of the attached resolution will appropriate \$300,000 of American Rescue Plan Act funds in the fiscal year 2021-22 budget. There is no fiscal impact to the General Fund as a result of appropriating money received through the American Rescue Plan Act.

ONGOING FISCAL IMPACT

There would be no on-going fiscal impact to the General Fund.

ATTACHMENTS

1. Strikeout/Underline Showing Proposed Chula Vista Municipal Code Amendments
2. Draft Temporary Curb/Sidewalk Café Encroachment Permit Guide

Staff Contact: Kevin Pointer, Senior Economic Development Specialist