



City of Gilroy

STAFF REPORT

Agenda Item Title:	Extension of Temporary Outdoor Dining Program
Meeting Date:	August 21, 2023
From:	Jimmy Forbis, City Administrator
Department:	Community Development
Submitted By:	Sharon Goei, Community Development Director
Prepared By:	Sharon Goei, Community Development Director

STRATEGIC PLAN GOALS

Promote Economic Development Activities

RECOMMENDATION

Adopt a resolution extending the temporary outdoor dining program through December 31, 2023.

EXECUTIVE SUMMARY

The City developed a temporary outdoor dining program to support business activity and to aid in the economic recovery of the City arising from the COVID-19 pandemic. The program expired on May 31, 2023. In response to recent comments from the business community and considering potential property tax implications on parklets, staff is seeking Council direction and recommending extending the temporary outdoor dining program through December 31, 2023.

BACKGROUND

In response to the COVID-19 outbreak in early 2020, local and state agencies issued health and safety directives to slow the spread of COVID-19, including social distancing measures.

On March 16, 2020, Santa Clara County issued a shelter-in-place order, directing all residents to shelter in their places of residence except to engage in essential activities. On March 19, 2020, California Governor issued a statewide shelter-in-place order.

On June 1, 2020, to support business activity and to aid in the economic recovery of the City arising from the COVID-19 pandemic, the City Council approved a temporary outdoor dining program. The program temporarily allowed restaurants to operate in outdoor settings adjacent to their business, utilizing private parking lots, public parking spaces, sidewalks, plazas, or similar outdoor spaces, for outdoor dining. Use of City-owned public properties and right-of-way, such as public parking spaces, mainly applied to downtown businesses. The temporary program simplified the permitting process, with the goal of assisting restaurants with re-opening quickly in a manner consistent with local and state health and safety directives, establishing outdoor dining while ensuring the safety of patrons and the public. Several restaurants took advantage of the program and set up temporary outdoor dining spaces. The temporary program was intended to end on May 31, 2021, or 30 days after the County order allows sit-down dining without distancing restrictions, whichever is sooner.

On May 3, 2021, and again on May 16, 2022, the City Council extended the temporary outdoor dining program. The program remained valid until May 31, 2023. In the Resolution extending the program through May 31, 2023, it states that until May 31, 2023, the City shall make specific City-owned public properties, including sidewalks, plazas, public parking lots, and other rights-of-way, available for outdoor dining during the pendency of the County and State orders.

Under the temporary program, Station 55 Seafood and Mexican Cocina established an outdoor dining parklet. Station 55 desires to retain the temporary parklet installed under the COVID-19 program.

The outdoor dining parklet on Monterey Street in front of the Tempo Kitchen and Bar originated under a separate pilot program in 2017. It currently has a Revocable Encroachment Permit for Occupying an Existing Parklet issued by the Public Works Department in April 2021.

It is worth noting that as public health professionals continue to monitor COVID-19 data and agencies update COVID-19 guidance, on February 28, 2023, Governor Newsom issued a proclamation terminating the State's COVID-19 State of Emergency. The Governor also phased out the executive actions in March 2020 as part of the response to the pandemic.

ANALYSIS

Recently, staff has received concerns regarding the negative impacts of outdoor dining parklets occupying public parking spaces. Businesses expressed that such installation was only allowed due to COVID-19 and that parking spaces occupied by parklets cannot be used by surrounding business customers. Businesses also voiced concerns that parklets block adjacent businesses' visibility and create vehicular traffic visibility issues.

Staff has also been receiving comments that advocate for the outdoor dining parklets to remain, noting that they support business activity and continue to stimulate the local economy.

A further consideration and implication about outdoor dining parklets arose from an early August communication from the Santa Clara County Assessor to jurisdictions in the County. In the communication, the County Assessor states the following:

“Private business use of outside public spaces, often known as ‘parklets’, started as a response to the pandemic. During that time, businesses required outdoor operation for safety, as indoor spaces were closed. The community has grown to value the outdoor experience, even as indoor service to the public resumed. No longer required, but highly desired, the expansions have a durability and permanence that may create a taxable use. It is the Assessor’s responsibility to evaluate this private use of public space and consistently apply the Revenue & Taxation Code.

As you contemplate formalizing parklets and other transformations of public space through agreements, licensing and/or permitting, we would like to make sure you understand the potential property tax implications of this activity.”

Thus, outdoor dining parklets could result in potential property tax implications.

The City Council’s adopted budget for FY 2023-24 and FY 2024-25 includes the Downtown Parking Management Plan as a Council-initiated legislative agenda item. Consideration of any permanent program for downtown parklets will depend upon the study results and adoption of the Downtown Parking Management Plan. Public Works staff is anticipated to bring forward the Downtown Parking Management Plan for consideration by the City Council in fall 2023.

In response to recent comments from the business community and considering potential property tax implications on parklets, staff is seeking Council direction on extending the temporary outdoor dining program through December 31, 2023. Staff proposes this timeline in anticipation of the Downtown Parking Management Plan completion before this date, with the Plan guiding the consideration of any permanent program for downtown parklets. Prior to this date, County Assessor may also provide further details on potential property tax implications for parklets.

Staff recommends that Council adopt the resolution proposed in the attachment to the staff report to extend the temporary outdoor dining program through December 31, 2023. Staff will return to the City Council or provide the City Council with any updates prior to December 31, 2023.

ALTERNATIVES

If the City Council chooses not to extend the temporary outdoor dining program through December 31, 2023, staff will notify and work with any affected business on compliance.

FISCAL IMPACT/FUNDING SOURCE

The temporary outdoor dining program had no fees or costs associated with it other than minimal staff time reviewing and managing requests. There may be revenue implications for businesses under the temporary program, as well as businesses nearby. There may be property tax implications for businesses with parklets.

Attachments:

1. Draft Resolution