



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Consider Permanent Closure of the 100 Block of South Murphy Avenue (Study Issue), Adopt a Resolution of Intent to Establish a Pedestrian Mall, Adopt a Resolution Directing the City Manager to Temporarily Close the 100 Block of South Murphy Avenue until December 31, 2023, through the Issuance of a Special Event Permit, and Update Council Policy 1.1.10 (Use of the Public Sidewalk and Street of the 100 Block of South Murphy Avenue)

BACKGROUND

In June 2020, the City temporarily closed the 100 Block of South Murphy Avenue (Murphy Avenue) to vehicles by issuing a Special Event Permit (Permit) to itself, and, allowed restaurants to use the street for outdoor dining. The issuance of the Permit was based on the City's authority under the Sunnyvale Municipal Code and the general enabling authority pursuant to California Vehicle Code Section 21101(e). The temporary closure was in response to the Countywide COVID restrictions on indoor dining.

Study Issue OCM 22-01-Permanently Close the 100 Block of South Murphy Avenue to Vehicular Traffic (Study Issue) (Attachment 1), was ranked number one by the City Council at the 2022 Study Issues Workshop. Staff presented the Study Issue findings and asked for direction at a May 24, 2022 City Council Study Session. Council supported moving forward with permanently closing the 100 Block of South Murphy Avenue (Murphy Avenue) and extending the temporary closure through June 30, 2023. Council also asked staff to return with a process to permanently close Murphy Avenue.

On August 9, 2022, Council amended Resolution No. 1075-21, directing the City Manager to continue allowing outdoor dining on private property and closing Murphy Avenue through the earlier of either June 30, 2023, or when COVID's Emergency Proclamation is lifted.

EXISTING POLICY

General Plan Chapter 3: Land Use and Transportation

GOAL LT-11 SUPPORTIVE ECONOMIC DEVELOPMENT ENVIRONMENT - Facilitate an economic development environment that supports a wide variety of businesses and promotes a strong economy within existing environmental, social, fiscal, and land use constraints.

GOAL LT-12 A BALANCED ECONOMIC BASE - Develop a balanced economic base that can resist downturns of any one industry and provides revenue for City services.

Policy LT-12.6 Create a strong, identifiable Downtown that offers regional and citywide shopping opportunities and entertainment.

Council Policy 1.1.10 - Use of the Public Sidewalk on the 100 Block of South Murphy Avenue

ENVIRONMENTAL REVIEW

On August 11, 2020, as part of its adoption of the amended Downtown Specific Plan (DSP), the City Council certified a Draft and Final Environmental Impact Report (collectively "EIR") (State Clearinghouse #2018052020) pursuant to the California Environmental Quality Act (CEQA). The EIR provided a program-

level review of the environmental impacts of the DSP amendments as well as a project-level review of six specific development proposals within the DSP. Certification of the EIR included adoption of a Mitigation Monitoring and Reporting Program (MMRP) and adoption of a Statement of Overriding Considerations for significant unavoidable impacts to cultural and historic resources, noise, utilities, and traffic. The EIR and the DSP identify South Murphy Avenue as part of the roadway network for vehicle traffic (see page 221 of the Draft EIR and page 7-17 of the DSP).

In 2022, as part of the Study Issue process, the Transportation and Traffic Division conducted on-site observations and counts to determine transportation trip generation and whether additional transportation studies were necessary. Before COVID pandemic, restaurants were permitted to the sidewalk for outdoor dining. Based on data collected over a period of a week, there were about 286 seats deployed in the sidewalk area of Murphy Avenue. Using the Institute of Transportation Engineers (ITE) Trip Generation Manual 11th Edition, Traffic staff determined that a total of 582 seats could be allowed to be deployed by restaurants along Murphy Avenue without triggering a need for further transportation studies. The increase of 299 seats would generate approximately 70 new AM Peak trips and 98 new PM Peak trips, assuming that all restaurants are open in the mornings and evenings. This is below the threshold where the Congestion Management Program would require further transportation studies.

Ample parking spaces will be available in the existing public parking structures and surface parking lots. The downtown area is also directly served by public transit options such as Caltrain and Valley Transportation Authority Bus Lines 20, 21, 53, 55 and 523. The vehicular traffic using Murphy Avenue that would be diverted due to the closure of Murphy Avenue can be accommodated on Sunnyvale Avenue and Frances Street as the two streets also directly connect Evelyn Avenue and Washington Avenue east and west of Murphy Avenue.

Furthermore, staff intends to present to City Council an addendum to the EIR if City Council considers the adoption of a Resolution of Intent to permanently close Murphy Avenue. California Environmental Quality Act (CEQA) Guidelines Section 15164 provides that an agency shall prepare an addendum to a previously-certified EIR (i.e., DSP EIR) so long none of the conditions described in Section 15162 have occurred. Under Section 15162, a subsequent Environmental Impact Report (EIR) is required when there are substantial changes to the project or circumstances that require major revisions to the previous EIR due to the involvement of new significant environment effects or substantially more severe impacts than were discussed in the EIR, which is not the case in this particular action. Here, none of the conditions described in CEQA Guidelines Section 15162 requiring the preparation of a subsequent EIR have occurred with respect to the permanent closure of Murphy Avenue.

DISCUSSION

Throughout 2021, staff received numerous emails from the community and businesses asking the City to permanently close Murphy Avenue to vehicular traffic. Staff proposed this Study Issue and Council ranked it number one at the 2022 Study Issues Workshop. While most businesses supported the Study Issue, some businesses preferred that the street remain open to cars as some customers with mobility issues need to be dropped off in front of a business. Also, some businesses felt that the City was subsidizing restaurants located on Murphy Avenue by providing rent-free street patios.

Staff recommended that the Study Issue include extensive outreach to identify potential impacts the closure of Murphy Avenue would have on businesses and residents. To keep the new peak hour trips to less than 100 net new trips, staff also recommended that restaurants not be allowed to have more than 299 seats on Murphy Avenue. The Study scope also included an evaluation of maintenance costs as well as one-time costs needed to ensure the street complied with accessibility codes.

Staff began working on the Study Issue in March 2022 and conducted several engagement opportunities to seek feedback from the public and businesses regarding their support of the Murphy Avenue closure. Staff created an Open City Hall survey (Attachment 3), visited businesses, posted Study Issue information on

social media, and presented several times at Sunnyvale Downtown Association (SDA) meetings. Feedback from the public and businesses showed strong support for permanently closing Murphy Avenue to vehicles to create a permanent pedestrian mall, and no major impacts were identified. Staff also verified the number of combined seats on the street did not exceed 299 and confirmed no additional traffic analysis was needed.

Staff presented the Study Issue findings at a May 24, 2022 Council Study Session (Attachment 4). Over 90% of survey respondents and almost 90% of downtown businesses support the permanent closure of Murphy Avenue. Most respondents did not support the City charging the businesses for maintenance costs of cleaning sidewalks nor the street. Other forms of feedback (business visits, SDA meetings, social media posts) also support the permanent closure of Murphy Avenue. The major challenge staff discovered is that accessibility improvements are needed to permanently close and use Murphy Avenue as a pedestrian mall.

Staff hired an accessibility consultant to evaluate existing conditions on Murphy Avenue to recommend any modifications for the operation of the street dining program to conform with applicable state and federal regulations concerning accessibility. The consultant observed necessary improvements regarding equitable access from the sidewalks to the street table seating areas and recommended that (1) wheelchair accessible seating should be provided in the street dining areas for each restaurant and (2) accessible routes should be provided to such areas.

In response, staff has explored three high-level concept alternatives to comply with the accessibility requirements:

1. Construct ramps at each restaurant currently using street for dining
2. Raise the street to remove curbs between street and sidewalk
3. Regrade the existing parking bays to remove curb between street and sidewalk

The three concepts listed above vary in estimated costs, design, and construction time.

Concept 1 would break up the look of the street as the ramps need to be strategically placed near restaurants that have outdoor dining and may not follow a consistent pattern. The estimated cost for 17 ramps would be about \$400,000 (including design, construction, and contingency). The number of ramps may be reduced depending on the number of restaurants that apply for street dining permits. Design and construction of the ramps would take about 12 months.

Concept 2 would raise areas of the street that are lower and leaving other areas which are already flush in place. This option is estimated to cost about \$2 million. This option would be aesthetically attractive as raising of the street would have a consistent look. However, this option would take about 2 years to design and construction and would be the most disruptive to the businesses fronting Murphy Avenue.

Concept 3, recommended by SDA members at an outreach meeting, would raise the existing parking bays to curb height. The estimated cost for this option is between \$530,000 and \$590,000. The difference between the estimated cost depends on whether existing pavers are reset or another material such as colored concrete is used. This concept would provide a cohesive look to the street.

To permanently close Murphy Avenue, the City needs to comply with the Pedestrian Mall Law of 1960, California Streets and Highways Code section 11000 et seq., which requires that a pedestrian mall is to be used exclusively or primarily for pedestrian travel, and a local agency has the power to:

- Establish a pedestrian mall by prohibiting in whole or in part vehicular traffic on a street;
- Use City funds or levy assessments on lands benefitting from the establishing of the pedestrian mall, to pay claims from damages, if any, to a property owner or tenant due to the establishment of a pedestrian mall;
- Identify and construct improvement on City streets which have been, or will be, established as a

- pedestrian mall; and
- Use City funds or assessment levied on lands benefitting from the pedestrian mall improvements to pay for the improvements.

The key steps to comply with the Pedestrian Mall Law of 1960 include:

- Council adoption of a Resolution of Intent to establish a pedestrian mall;
- A public hearing not less than 90 days after adopting the Resolution of Intent;
- Council adoption of a resolution determining whether to abandon the proceedings or establish the pedestrian mall; and
- Council adoption of an ordinance after all claims for damages submitted are resolved.

The City currently spends about \$50,000 annually cleaning the sidewalks and streets. This cost increased in the past two years. Prior to temporarily closing Murphy Avenue, staff cleaned the sidewalks, but did not clean the street. Additionally, cleaning waste from the crows requires additional staff time and resources to keep the sidewalks and street clean. Currently, the sidewalks are cleaned weekly on Wednesdays, and the street is cleaned weekly on Fridays.

The closure of Murphy Avenue has allowed businesses and the public the opportunity to experience Murphy Avenue as a car-free street. The Study Issue results show that businesses and the community support a permanent closure of Murphy Avenue to vehicles. Staff provided Murphy Avenue businesses the estimated costs for the accessibility improvements and annual maintenance for the sidewalks and the street. The SDA, on behalf of the businesses, stated that they support the permanent closure, but are unable to pay the accessibility costs nor the maintenance costs (Attachment 7). The SDA is asking that the City fund the accessibility improvements as well as continue to fund the maintenance costs.

Council Policy 1.1.10 - Use of the Public Sidewalk on the 100 Block of South Murphy Avenue (Attachment 5), currently only allows outdoor dining on the sidewalks, not the street. The policy needs to be updated if restaurants are going to be allowed to permanently use the street for public dining. Updates to the existing sidewalk use policy are required to provide guidelines for the use of the public street and will include the following amendments (Attachment 6):

- Include "Street" in the language to extend outdoor dining on public street
- Annual outdoor dining permits
- Require a 6' clearance/pedestrian path in the center of Murphy Avenue
- Require enclosed dining areas with retractable belt barriers, metal post stanchions, and/or ropes
- Prohibit televisions, radios, speakers, or other electronics within outdoor dining areas.
- No private banners, posters, signs of any kind may be installed or painted on any street furnishing used for outdoor dining.

The COVID's Emergency Proclamation will expire on February 28, 2023 and based on the results of the Study Issue, staff recommends Council take the following actions:

- Adopt the Resolution of Intent to establish a pedestrian mall (Attachment 2) and set a public hearing for May 16 2023.
- Update Council Policy 1.1.10-Use of the Public Sidewalk and Street of the 100 Block of South Murphy Avenue to include the use of the street for public dining.
- Direct staff to move forward with a project to construct Option 3 (regrade parking bays) and return to Council with budget, timeline, and drawings.
- Direct staff to use funds from the City's Community Benefits Fund for the project.
- Adopt a Resolution to direct the City Manager to issue a new event permit to keep Murphy Avenue closed to vehicular traffic until the start of construction.

Staff recommends paying for the accessibility improvements from the Community Benefits Fund since making Murphy Avenue accessible to all visitors is statutorily required and a benefit to the community. Staff also recommends the City continue maintaining the street until construction begins on the accessibility improvements and staff can use the construction time to develop a long-term maintenance plan with the SDA and downtown businesses.

Staff is recommending that Murphy Avenue remain closed until December 31, 2023 via a new Special Event Permit issued to the City while the staff designs the accessibility improvements and brings the project to Council for approval. In June 2020, the City previously issued a Special Event Permit to temporarily close Murphy Avenue to vehicles based on the City's authority under Sunnyvale Municipal Code Chapter 9.45 and the general enabling authority pursuant to Vehicle Code Section 21101(e). The permit term was extended as warranted by the COVID-19 pandemic restrictions and updates. The issuance of a new Special Event Permit will allow the City to facilitate a consistent outdoor dining program on Murphy Avenue prior to the establishment of a pedestrian mall, and after June 30, 2023 or when the COVID's Emergency Proclamation is lifted, whichever is earlier.

FISCAL IMPACT

The fiscal impacts depend on Council direction and which option is chosen to comply with accessibility requirements. The additional year of the increased annual maintenance will be absorbed in the Public Works Department. After the necessary improvements are constructed and the maintenance scope is determined for permanent closure, staff will include any increases in maintenance cost in the following Recommended Budget and potential permit fees. These ongoing costs will be budgeted in the General Fund. Some of the City's costs may be offset by the increase in sales tax revenue restaurants generate with the additional outdoor dining areas. However, the exact revenue increase will be difficult to track.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Public Library, Senior Center, Community Center and in the Department of Public Safety Lobby. In addition, the agenda and report are available at the Sunnyvale Public Library, Office of the City Clerk, and on the City's website. Staff notified the SDA and all downtown businesses of the Council meeting.

ALTERNATIVES

1. Adopt a Resolution of Intent to Establish a Pedestrian Mall on the 100 Block of South Murphy Avenue and Set a Public Hearing for May 16, 2023.
2. Adopt a Resolution Directing the City Manager to Extend the Closure of Murphy Avenue until December 31, 2023, through the Issuance of a Special Event Permit in accordance with Sunnyvale Municipal Code Chapter 9.45 and Vehicle Code Section 21101(e).
3. Direct Staff to Return with a Project to Regrade Existing Parking Bays on Murphy Avenue (Option 3) and Use Funds from the City's Community Benefits Fund for Project.
4. Adopt and Update Council Policy 1.1.10 (Use of the Public Sidewalk and Street of the 100 Block of South Murphy Avenue).
5. Other Council Direction

STAFF RECOMMENDATION

Alternatives 1, 2, 3 and 4: 1) Adopt a Resolution of Intent to Establish a Pedestrian Mall on the 100 Block of South Murphy Avenue and Set a Public Hearing for May 16, 2023; 2) Adopt a Resolution Directing the City Manager to Extend the Closure of Murphy Avenue until December 31, 2023, through the Issuance of a Special Event Permit in accordance with Sunnyvale Municipal Code Chapter 9.45 and Vehicle Code Section 21101(e); 3) Direct Staff to Return With a Project to Regrade Existing Parking Bays on Murphy Avenue (Option 3) and Use Funds From the City's Community Benefits Fund for Project; and 4) Update Council Policy 1.1.10 (Use of the Public Sidewalk and Street of the 100 Block of South Murphy Avenue).

Murphy Avenue has been closed to cars since June 2020 in response to the COVID-19 pandemic and to support the restaurants by facilitating outdoor dining on the street. There have been no major impacts on the businesses or community. The Council, community, and businesses have indicated support for permanently closing Murphy Avenue.

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Reviewed by: Teri Silva, Assistant City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Study Issue Paper
2. Resolution of Intent
3. Survey Results Summary
4. May 24, 2022 Study Session Presentation
5. Murphy Avenue Sidewalk Use Policy
6. Proposed Updated Council Policy 1.1.10 (Use of the Public Sidewalk and Street of the 100 Block of South Murphy Avenue).
7. SDA Letter
8. Resolution Directing the City Manager to Extend the Closure of Murphy Avenue until December 31, 2023, through the Issuance of a Special Event Permit in accordance with Sunnyvale Municipal Code Chapter 9.45 and Vehicle Code Section 21101(e).