



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Approve Changes to Council Policy 1.1.10 to Update Use Regulations Regarding Storing Outdoor Dining Furniture on Sidewalks on the 100 Block of South Murphy Avenue (Study Issue OCM 17-01) and Finding of Exemption from the California Environmental Quality Act

BACKGROUND

At the March 2017 Study Issues Workshop, City Council ranked *OCM 17-01 Storing Outdoor Dining Furniture Overnight on Sidewalks on Murphy Avenue*, as a priority study. The study issue was also in alignment with the Council Priority on Downtown, adopted at its strategic session earlier that year.

Businesses in the 100 block of South Murphy Avenue are subject to the regulations outlined in *Council Policy 1.1.10 Use of the Public Sidewalk on the 100 Block of South Murphy Avenue*. The policy is intended to promote the attractive commercial and historic environment of South Murphy Avenue by allowing private use of the public sidewalk, while ensuring a successful streetscape and protection of the public. Council Policy 1.1.10 Section C. *Outdoor Dining in the Public Sidewalk* allows businesses to place outdoor dining furniture during business hours in designated areas of the public right-of-way. Section C.3. *Appearance*, requires that businesses' tables and chairs be moved indoors when the business is closed.

Over the last few years, some Downtown businesses on the 100 block of South Murphy Ave. have shared that they have struggled because of rising housing and employee costs, conditions that have created a labor shortage in the service industry. To afford paying higher wages and overcome the hiring struggles from a shrinking labor pool, Downtown restaurants have decreased the number of employees that work the evening and closing shifts. While the schedule is optimal for business management, it places a heavy burden on the one or two employees that must bring in heavy outdoor furniture. In support of alleviating restaurants' daily labor and time intensive task of bringing outdoor dining furniture indoors, the Sunnyvale Downtown Association (SDA) requested that the Council study alternatives that could help restaurant owners and operators, while still maintaining the City's goal of an attractive and successful Downtown.

EXISTING POLICY

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

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378 (a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

DISCUSSION

The scope of the Study Issue outlines that staff evaluate three areas (the subject guidelines apply to the 100 block of South Murphy only, not the entire Downtown area):

1. Review the current program to evaluate its effectiveness for both businesses and City staff;
2. Examine potential impacts or implementation needs of allowing merchants to leave outdoor dining furniture on the sidewalk on a permanent basis, with the merchants responsible for sidewalk cleaning;
3. Explore a compromise option that would require indoor storage on the evening before the scheduled cleaning, and a penalty for non-compliance.

In December of 2018, City staff met with the Downtown businesses to discuss the scope of the Study Issue and solicit input on existing conditions and possible strategies. Staff presented the current maintenance schedule and an estimated cost of contracting out some of the maintenance services, such as power washing sidewalks. The intent was to provide options that could afford some flexibility if businesses managed some of the maintenance responsibilities. The attending businesses requested clarification and confirmation of the current maintenance schedule including type of service provided, and expressed interest in taking on some of the maintenance responsibilities. It was unanimous that the businesses were not interested in coordinating or taking on the responsibility to power wash the sidewalks, but would be interested in sweeping/blowing down the sidewalks. Staff advised that a second meeting would be scheduled to discuss various options based on the meeting attendees' feedback.

Staff also met with various City departments to discuss areas of opportunity and concern, including Public Works who is currently responsible for maintenance, Community Development who oversees the outdoor dining permit program, and Public Safety's Neighborhood Preservation Division who is responsible for code compliance. Preliminary concerns included maintaining the level of cleanliness standards, ensuring compliance with any potential agreements, and ensuring all merchant participation on the 100 block of South Murphy Avenue, including those without outdoor dining.

In March 2019, staff met again with the Downtown Association businesses and presented four options (Attachment 1) for formal consideration by the businesses.

- Option 1: No change to the current schedule;
- Option 2: Require shared maintenance responsibilities between the businesses and the City;
- Option 3: No change to the maintenance schedule, but would require businesses to bring in outdoor furniture three nights a week; and,
- Option 4: Require businesses to take on full maintenance responsibilities.

An analysis for each option is outlined below, reflecting comments from both City staff and businesses.

Option 1: No Change to the Current Murphy Avenue Maintenance Schedule

Under this option, nothing changes in terms of maintenance or requirements to bring outdoor dining furniture indoors nightly.

Pros:

- The City continues to maintain the sidewalk and parking lots three times per week, as identified in Attachment 1.

Cons/Concerns:

- Businesses have expressed significant burden on employees associated with current requirements; and,
- Businesses are incurring additional costs by having staff work late to ensure the furniture is brought in every night.

Option 2: Require Shared Maintenance Responsibilities Between the Businesses and the City (Merchants Blow Down Sidewalks) Analysis

Under this option, maintenance responsibilities would be shared by the businesses and the City. As indicated in Attachment 1, the businesses would sweep/blow down the sidewalks twice per week at a time determined and agreed upon by the Sunnyvale Downtown Association. The City would continue to pressure wash the sidewalk and breezeway on one side of the 100 block of South Murphy Avenue on alternating Wednesdays. The City would also continue to maintain the two parking lots identified in Attachment 1, as well as empty garbage receptacles and pick up any litter (i.e. abandoned furniture and large items, etc.). Under this option, businesses would only bring in outdoor dining furniture on the nights when the City will be pressure washing the sidewalk and breezeway.

Pros:

- Merchants would not be required to bring outdoor furniture indoors nightly;
- Businesses would realize cost savings by not needing additional staff six days a week for closing hours;
- City staff would not be required to maintain the sidewalks and would free up staff time to allocate resources elsewhere in the City;
- City staff would not be required to blow down sidewalks on Murphy Avenue.

Cons/Concerns:

- Possible rust stains on sidewalks due to outdoor furniture including heat lamps, if not moved regularly;
- New compliance process needed for new maintenance schedule;
- Impact to City staff if merchants do not follow maintenance schedule, City staff would be unable to complete pressure washing;
- Option requires participation by all merchants, including restaurants without outdoor dining furniture, and non-restaurants; and,
- Existing outdoor dining permits would need to be updated to reflect new changes and requirements.

Option 3: No Change to the Maintenance Schedule, Merchants Bring in Furniture Three Nights/Week Analysis

Pros:

- Merchants would not be required to bring outdoor furniture indoors nightly, changing to only three times a week; and,

- Merchants would not need to maintain additional staff four days a week for closing hours.

Cons/Concerns:

- New compliance process required for new maintenance schedule;
- Impact to City staff if merchants do not follow maintenance schedule, City staff would will be unable to complete blowing or pressure washing;
- Requires participation by all merchants, including restaurants without outdoor dining furniture, and non-restaurants; and,
- Existing outdoor dining permits would need to be updated to reflect new changes and requirements.

Option 4: Merchants Take on Full Maintenance of Sidewalks and Breezeways Analysis

Pros:

- Merchants would have greater schedule flexibility to maintain the sidewalks, and therefore flexibility on number of nights outdoor dining furniture is brought indoors;
- City staff would not be required to maintain the sidewalks and would free up staff time to allocate resources elsewhere in the City; and,
- City staff would continue to maintain parking lots as identified in Attachment 1.

Cons/Concerns:

- Businesses would absorb all maintenance of sidewalks including emptying of garbage receptacles and any litter pick up;
- Sidewalk maintenance level of service would need to be upheld by contract service provider; and,
- Businesses would need to find a funding source to absorb the cost of providing this service.

After discussing and reviewing the proposed options, the Sunnyvale Downtown Association met once again with its membership in April 2019 and formally took a vote on the preferred option (Attachment 2). The Downtown Association is recommending that the Council approve *Option 2 Merchants Blow Down Sidewalks* as a pilot program for the duration of one year. At that point, businesses would propose to evaluate the effectiveness and either permanently recommend adoption or propose modifications to the Council policy.

FISCAL IMPACT

None.

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 Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website. The Downtown Association notified all its members of the Council meeting date and time.

ALTERNATIVES

1. Approve the proposed changes to *Council Policy 1.1.10 Use of the Public Sidewalk on the 100*

- Block of South Murphy Ave* (Attachment 3) and as described in Option 2 in Attachment 1, and direct staff to return in one year for reconsideration of the policy.
2. Approve the proposed changes to *Council Policy 1.1.10 Use of the Public Sidewalk on the 100 Block of South Murphy Ave* (Attachment 3) and as described in Option 2 in Attachment 1 with modifications, and direct staff to return in one year for reconsideration of the policy.
 3. Other direction as provided by Council.
 4. Make the finding that the action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(a).

STAFF RECOMMENDATION

Alternatives 1 and 4: 1. Approve the proposed changes to *Council Policy 1.1.10 Use of the Public Sidewalk on the 100 Block of South Murphy Avenue* (Attachment 3) and as described in Option 2 in Attachment 1 of the report and direct staff to return in one year for reconsideration of the policy; and, 4. Make the finding that the action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(a).

Staff supports the Downtown Association’s recommendation to create a pilot program for one year. A trial period allows the City and the businesses to engage in regular check-ins and address issues that may arise. At the end of the pilot, businesses and the City can evaluate whether the pilot program meets the businesses needs and Council’s goal to maintain a successful and attractive Downtown.

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Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Storing Outdoor Furniture Options
2. Sunnyvale Downtown Association Preferred Option
3. Redline of Council Policy 1.1.10 Use of the Public Sidewalk on the 100 Block of South Murphy Avenue