



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Adopt a Resolution Pursuant to California Streets and Highways Code Section 11311 to Establish a Pedestrian Mall on the 100 Block of South Murphy Avenue, Accept the Second Addendum to the 2020 Downtown Specific Plan Environmental Impact Report for the Historic Murphy Avenue Pedestrian Mall Project in Accordance with the California Environmental Quality Act, Introduce an Ordinance Adding Chapter 10.66 (Pedestrian Mall on South Murphy Avenue) to Title 10 of the Sunnyvale Municipal Code and Amend Various Sections of Chapter 10.56 (Bicycles) of the Sunnyvale Municipal Code Related to Bicycles on Pedestrian Malls and Approve Budget Modification No. 20 in the Amount of \$800,000

BACKGROUND

In June 2020, the City temporarily closed the 100 block of South Murphy Avenue (commonly known as “Historic Murphy Avenue”) to vehicles by issuing a Special Event Permit (Permit) to allow 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 authority pursuant to California Vehicle Code Section 21101(e). The temporary closure was in response to the Countywide COVID-19 restrictions on indoor dining.

On August 9, 2022, Council amended Resolution No. 1075-21, directing the City Manager to continue allowing outdoor dining on private property and closing Historic Murphy Avenue through the earlier of either June 30, 2023, or when the COVID-19 Emergency Proclamation is lifted (RTC No. 22-0806).

On February 7, 2023, Council adopted a resolution of intent to establish a pedestrian mall on the 100 block of South Murphy Avenue; set a public hearing for May 16, 2023; adopted 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); directed staff to regrade existing parking bays on Murphy Avenue using funds from the City’s Community Benefits Fund; and updated Council Policy 1.1.10 (Use of the Public Sidewalk and Street of the 100 Block of South Murphy Avenue) (RTC No. 23-0144).

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.

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

POLICY PURPOSE: The City is committed to the preservation and enhancement of the 100 Block of Historic South Murphy Avenue as Sunnyvale’s “Main” Street. This policy is intended to promote the attractive commercial and historic environment of Murphy Avenue by allowing private use of the public street and sidewalk, while ensuring a successful streetscape and protection of the general public.

Pursuant to Sunnyvale Charter Section 1305, at any meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by affirmative votes of at least four members so as

to authorize the transfer of unused balances appropriated for one purpose to another, or to appropriate available revenue not included in the budget.

DISCUSSION

In 2022, staff surveyed the community and businesses, used social media to announce the potential closure to vehicles, and presented several times at Sunnyvale Downtown Association (SDA) meetings. Feedback from the community and businesses showed strong support for banning vehicles on Historic Murphy Avenue and creating a permanent pedestrian mall. The restaurants also stressed the need to ensure the street was designed in a manner that it can continue to be used for outdoor dining.

Staff hired an accessibility consultant to evaluate existing conditions on Historic Murphy Avenue and 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.

To permanently prohibit vehicles on Historic Murphy Avenue, the City needs to comply with the Pedestrian Mall Law of 1960. On February 7, 2023, Council took the first step in the process by adopting a resolution of intent to establish a pedestrian mall (Resolution No. 1171-23). The next step in the process is for the Council to conduct a public hearing. The Resolution of Intent identified the date of the public hearing as May 16, 2023. The Council also directed staff to raise the existing parking bays to curb height to comply with accessibility requirements using funds from the Community Benefits Fund. The estimated cost for raising the bays is between \$530,000 and \$600,000. The estimated cost range depends on whether existing pavers are reset or another material such as colored concrete is used.

Staff is recommending that Council appropriate \$800,000 for the project. It is anticipated that \$700,000 would be needed for design and construction, and an extra \$100,000 be allocated for additional items requested by Council which are the following: include the existing street furniture and trees during design to ensure there is no interference with the finished bays, explore alternatives to the existing bollards and orange water-filled k-rail barriers currently used to prevent vehicles from driving on Historic Murphy Avenue and to review if additional bicycle parking could be accommodated on Historic Murphy Avenue. Without a schematic design for these items, the \$100,000 would be an allocation for staff to design and construct as many of these additional items as possible.

Under the Pedestrian Mall Law, property owners abutting the proposed pedestrian mall may protest the proposed establishment of the pedestrian mall or submit claims for damages up to the time of the public hearing. Impacted owners were notified of the public hearing date and the Sunnyvale Downtown Association sent emails to impacted businesses regarding the Pedestrian Mall process. If property owners representing more than 50% of frontage within a proposed pedestrian mall submit a written protest, the mall cannot be established. If any written claims for damages are received from property owners, the City must resolve the claims before establishing the pedestrian mall. As of this report preparation, the City has not received any written protests or claims.

The City currently spends about \$50,000 annually cleaning the sidewalks and streets. This cost has 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 to vehicles has allowed businesses and the public the opportunity to experience Murphy Avenue as a vehicle-free street. Staff provided Murphy Avenue businesses with 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 4). The SDA is asking that the City fund accessibility improvements as well as continue to fund the maintenance costs.

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. In addition, staff can use the construction time to develop a long-term maintenance plan with the SDA and downtown businesses.

Staff recommends that Council adopt the resolution establishing the pedestrian mall (Attachment 1) if the City (1) receives either no written protests or receives written protests from property owners representing less than a majority of frontage within a proposed pedestrian mall block; and (2) does not receive any written claims for damages before the public hearing. Pursuant to the Pedestrian Mall Law, if the City receives written protests from property owners representing a majority of the frontage on the proposed pedestrian mall, then Council must terminate the proceedings for the establishment of the pedestrian mall and wait at least one year to undergo the process for establishing a pedestrian mall on Historic Murphy Avenue. (Sts. & Hy. Code, § 11306.) Additionally, the City cannot prohibit traffic on Historic Murphy Avenue until any disputed claims are resolved. (Sts. & Hy. Code, § 11401.)

In addition to adopting the resolution establishing the pedestrian mall, staff recommends Council introduce an Ordinance amending Chapter 10.56 (Bicycles) and adding Chapter 10.66 (Pedestrian Mall on South Murphy Avenue) (Attachment 3) to the Sunnyvale Municipal Code. Key provisions of the Ordinance are as follows:

- Expanding the prohibition of bicycles, motor driven cycles and motor scooters on sidewalks and overhead pedestrian crossings that is signed for pedestrian use to include the prohibition of bicycles on the pedestrian mall on Historic Murphy Avenue.
- Prohibiting motor vehicle traffic within the pedestrian mall boundaries at all times, except for emergency vehicles, public utility vehicles, garbage and recycling trucks, which will be allowed at all times.
- Permitting private maintenance vehicles and commercial vehicles from performing work or services on the malls as authorized by the Public Works Director.
- Incorporating regulations for the use of the pedestrian mall as set forth in Council Policy 1.1.10, entitled Use of the Public Street and Sidewalk on the 100 Block of South Murphy Avenue, into the Ordinance.
- Prohibiting the riding of bikes on pedestrian malls and prohibiting stunt riding on pedestrian malls.

ENVIRONMENTAL REVIEW

Historic Murphy Avenue is located within Block 2 of the Downtown Specific Plan (DSP). On August 11, 2020, City Council certified an Environmental Impact Report (DSP EIR) (State Clearinghouse No. 2018052020), adopted a Mitigation Monitoring and Reporting Program, and adopted a Statement of Overriding Considerations for the DSP amendments and six specific development projects. The DSP EIR provides a program-level review of the 2020 DSP amendments, which intensified the allowable development on six project sites. The 2020 amendments also included a comprehensive update of the DSP's goals, policies, and design standards. On February 14, 2023, the City Council adopted an Addendum to the DSP EIR to allow for additional residential units and office square footage on Block 20 of the DSP.

California Environmental Quality Act (CEQA) Guidelines Section 15164(a) provides that "The lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred." Under Section 15162, a subsequent EIR is required if substantial changes are proposed to

the project, or to the circumstances under which the project is undertaken, which require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. An addendum does not need to be circulated for public review but must be considered by the decision-making body prior to approving the project.

The proposed pedestrian mall project has been reviewed using an environmental checklist. The analysis in the checklist concludes that the proposed pedestrian mall is not a substantial change from the types of uses and activities that were analyzed in the previously certified program EIR. No new mitigation measures are proposed. Consequently, a Second Addendum to the 2020 DSP EIR has been prepared (Attachment 2). The 2020 DSP EIR can be reviewed on the City web page for the Downtown Specific Plan Amendment, which can be found at <https://www.sunnyvale.ca.gov/business-and-development/projects-in-sunnyvale/long-range-planning-initiatives/downtown-specific-plan-amendment>.

The Project is located within an existing commercial area where the street life has historically included outdoor sidewalk dining and periodic special events. The construction needed to implement the pedestrian plaza, such as installation of bollards and pavement modifications or additional curb cuts, is within the scope of normal operational activities and streetscape improvements anticipated by the DSP. The Project will comply with all applicable mitigation measures adopted in the DSP EIR, as well as all other applicable regulations and guidelines.

Although the DSP depicts Historic Murphy Avenue as part of the public street network for vehicle traffic (DSP page 7-8), there are no DSP goals or policies that discourage or prohibit the creation of a pedestrian mall. On the contrary, eliminating motor vehicle traffic on Historic Murphy Avenue is consistent with the pedestrian-oriented policies of the DSP. The 2020 DSP amendments call for several bicycle- and pedestrian-friendly upgrades to the Project Area. The DSP identifies Historic Murphy Avenue as a key segment of a future “pedestrian loop” where the convenience and needs of pedestrians will be prioritized over vehicles (DSP p. 3-14). The DSP also proposes various streetscape enhancements to create a “pedestrian promenade” extending along Murphy Avenue. between McKinley and Evelyn Avenues (DSP p. 3-13).

The pedestrian mall also furthers the two main goals of the DSP’s North Washington District (DSP Section 5.4.2), which are to support a “lively street life” along the Historic Murphy Avenue, and to provide a link between the Caltrain station and the Downtown’s Commercial Core to encourage use of Caltrain.

FISCAL IMPACT

The cost for the project is currently estimated at \$800,000. Staff recommends that the Council approve Budget Modification No. 20 to appropriate funding to a new project.

**Budget Modification No. 20
FY 2022/23**

| Current | Increase/ (Decrease) | Revised |
|----------------|---------------------------------|----------------|
|----------------|---------------------------------|----------------|

Capital Projects Fund, Community Benefits Sub-Fund

Expenditures

| | | | |
|------------------------------|-----|-----------|-----------|
| New Project - Murphy Avenue | \$0 | \$800,000 | \$800,000 |
| Pedestrian Mall Improvements | | | |

Reserves

| | | | |
|-------------------------|--------------|-----------|--------------|
| Project Name or Program | \$19,087,744 | \$800,000 | \$18,287,744 |
|-------------------------|--------------|-----------|--------------|

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.

ALTERNATIVES

1. Adopt a Resolution Pursuant to California Streets and Highways Code Section 11311 to Establish a Pedestrian Mall on the 100 Block of South Murphy Avenue.
2. Accept the Addendum to the 2020 Downtown Specific Plan Environmental Impact Report for the Historic Murphy Avenue Pedestrian Mall Project in Accordance with the California Environmental Quality Act.
3. Introduce an Ordinance Adding Chapter 10.66 (Pedestrian Mall on South Murphy Avenue) to Title 10 of the Sunnyvale Municipal Code and Amend Various Sections of Chapter 10.56 (Bicycles) of the Sunnyvale Municipal Code Related to Bicycles on Pedestrian Malls.
4. Approve Budget Modification No. 20 in the amount of \$800,000.
5. Other action as directed by Council.

STAFF RECOMMENDATION

Alternatives: 1, 2, 3, and 4: 1.) Adopt a Resolution Pursuant to California Streets and Highways Code Section 11311 to Establish a Pedestrian Mall on the 100 Block of South Murphy Avenue; 2.) Accept an Addendum to the 2020 Downtown Specific Plan Environmental Impact Report for the Historic Murphy Avenue Pedestrian Mall Project in Accordance with the California Environmental Quality Act; 3.) Introduce an Ordinance Adding Chapter 10.66 (Pedestrian Mall on South Murphy Avenue) to Title 10 of the Sunnyvale Municipal Code and Amend Various Sections of Chapter 10.56 (Bicycles) of the Sunnyvale Municipal Code Related to Bicycles on Pedestrian Malls; and 4.) Approve Budget Modification No. 20 in the amount of \$800,000.

Historic 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.

Prepared by: Connie Verceles, Deputy City Manager

Reviewed by: Tim Kirby, Director of Finance

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Draft Resolution
2. Second Addendum to the 2020 DSP EIR
3. Draft Ordinance

4. SDA Support letter from February 2023