

AGENDA ITEM
13A

Date: December 1, 2021

Council Meeting Date: December 13, 2021

TO: Honorable Mayor and City Council
FROM: Alex D. McIntyre, City Manager
SUBJECT: Extension of Outdoor Business Expansion Program

SUMMARY

On November 8, 2021, City Council approved a path towards a full-time closure of Main Street from Fir Street to the western boundary of the San Buenaventura Mission and California Street between Santa Clara and Main Streets. Council directed staff to return with options for extending the program and begin the steps towards a resolution of intent to establish the Pedestrian Mall Act of 1960.

Through careful analysis, staff recommends the continuance of the current Temporary Outdoor Business Expansion Program, which was created in response to the COVID emergency, through July 1, 2022. This extension will provide needed time for City staff to prepare a new special event permit that addresses parking and traffic concerns.

RECOMMENDATION

Approve extending the current Temporary Outdoor Business Expansion Program through July 1, 2022.

DISCUSSION/ANALYSIS

Outdoor business expansion opportunities, including Main Street Moves, were created in response to the COVID-19 pandemic as the need arose for economic support for the Ventura business community. With resounding support from businesses, the public, and City Council, Council directed staff to focus on a full-time closure of Main Street from Fir Street to the western boundary of the San Buenaventura Mission and California Street between Santa Clara and Main streets; followed by a plan for citywide outdoor business expansion.

The path toward the full closure includes, but is not limited to, the need for a traffic study, parking mitigation plan, California Environmental Quality Act (CEQA) analysis, Coastal Commission approvals, compliance with the Pedestrian Mall Act closure process and request for proposals (RFP) released for infrastructure and design improvements. Because of the external approvals and studies required, this process could take as long as three years to complete. However, staff will make every effort to process items concurrently to accelerate the timeline.

The Pedestrian Mall Act is the primary vehicle under state law for the closure of streets to create a pedestrian mall. The process has multiple steps and cost to the city, as described in the attached memo (Attachment A) from the City Attorney's Office. For the reasons stated in the memo, the process under the Pedestrian Mall Act should be timed to coincide with the City Council's consideration of the closure's CEQA analysis.

The current Temporary Outdoor Business Expansion Program, which was created by the City Council in response to the COVID emergency is set to expire on January 7, 2022, unless it is extended. To continue the successful momentum of outdoor business opportunities in the interim, staff recommends continuing the expansion program for six months to July 1, 2022.

The health emergency and its repercussions remain and justify a further extension of the program. Specifically, the Ventura County Health Department continues its masking mandates for indoor dining and shopping. Restaurants continue their economic recovery from the months of full and partial closures. In addition, some patrons do not yet feel comfortable dining indoors at a restaurant.

The Director's Permit for participating businesses separate from Main Street Moves will continue with the Outdoor Business Expansion Program extension. During this initial six-month extension, staff will address the concerns regarding traffic, parking, and ADA/sidewalk access throughout the Main Street Moves closure. Staff plans put forward a Special Events Permit before the sunset of the Temporary Outdoor Business Expansion Program to legally continue with an interim program before establishing the Pedestrian Mall.

FINANCIAL IMPACT

The continuation of the Main and California streets closure impacts parking revenue that would have otherwise been collected. This averages to \$39,360 per month.

Please note that Downtown Ventura Partners has provided public restrooms, trash cans, decorations, and numerous hand washing stations at their expense.

CURRENT FINANCIAL IMPACT FOR BUSINESS EXPANSION PROGRAM			
FUND	ITEM	AMOUNT	BUDGETED
Parking (30)	Waived Parking Fees	\$ 236,160	No
TOTAL IMPACT		\$236,160	

Prepared by: Meredith Hart, Interim Economic Development Manager

ATTACHMENTS

- A Pedestrian Mall Act of 1960 City Attorney Memo
- B Downtown Ventura Partners Support Letter

ATTACHMENT A
CITY OF VENTURA
CITY ATTORNEY

Date: December 8, 2021

To: Honorable Mayor and Members of the City Council
Alex McIntyre, City Manager

From: Andy Heglund, Senior Assistant City Attorney

Subject: Summary of the Pedestrian Mall Law

Generally, state law only allows public streets to be permanently closed in two ways: vacation and the Pedestrian Mall Law (“Mall Law”). Vacation of a street converts the street to private property. The Mall Law allows the City to close a public street while maintaining it as public property. This law is not a blanket approval of all things related to the closure (for example, CEQA, general plan conformance, development permits, etc.) – **it only creates a mechanism to close a public street exclusively or primarily for pedestrian use.**

Because a street closure potentially impacts adjacent property owners and others who use the street for access, the Mall Law ensures that the public is involved in the discussion on whether the street should be closed. Adjacent property owners have enhanced protections in the process.

The Mall Law process takes months to complete. The information below highlights a few of the major steps in the process so that you will understand how the Mall Law works and how the public, especially adjacent property owners, have a direct role in the decision on whether to close the streets for Main Street Moves.

1. Resolution of Intention

One of the first steps in the process requires the City Council to adopt a resolution of intention, which formally tells the public that a possible street closure is being considered. This resolution explains how the “public interest and convenience” require a pedestrian mall, what vehicles (including bicycles) will be allowed to continue to access the closed road, and how the

City will pay for any damages to property owners caused by the closure. This resolution does not close the street – it only informs the public that the City Council will be considering a street closure and that they may have certain rights related to the closure.

The Mall Law gives the City Council the ability, through the process, to establish an assessment to pay damages and make improvements, if desired. The resolution must also designate the boundaries of the district if one is to be formed. If improvements to the closed street will be made, the resolution must generally describe those improvements and explain how they will be paid for.

2. Public Notice and Involvement

As mentioned above, the Mall Law requires that the public be fully informed on the proposed closure. The resolution of intention must be (1) mailed to all property owners adjacent to the proposed closure and, if an assessment is part of the program, to all property owners impacted by the assessment, (2) posted on the streets proposed to be closed, and (3) recorded with the County.

Before the City Council may close the street, a public hearing is held to address claims of damages and objections to the proposed closure. This hearing must be scheduled at least 90 days after the resolution of intention is approved.

3. Claims for Damages

Any property owner that might be damaged by the proposed closure may file a written claim of damages with the City Clerk no later than the hearing on the closure. This claim must state the amount of damages. If a property owner fails to submit a claim by the time of the hearing, the claim will be waived.

At the hearing on the proposed closure, the City Council must evaluate each claim and determine whether to pay it in full or not. The property owner making the claim may agree to reduce the claim amount. **Any claims the**

City Council agrees to pay must be paid before the street is closed to vehicles. The claims may be paid from any source, including assessments collected through a district established to fund the closure.

For any claims that the City Council does not agree to pay at the hearing, the City must file a lawsuit, similar to an eminent domain action, to resolve the dispute. **All of these lawsuits must be resolved before the street may be closed to vehicles.**

4. Majority Protest

If a majority of property owners adjacent to the proposed street closure object in writing to the closure, the City Council cannot approve the closure and may not bring back the proposed closure for consideration for at least one year.

Final Thoughts

Beginning the Mall Law process by adopting the resolution of intention **should be timed to coincide with the City Council's consideration of the CEQA analysis** for the proposed closure. This will avoid a claim that the City Council has already determined to close the streets necessary for Main Street Moves before considering the environmental impacts created by the closure. For example, if an environmental impact report ("EIR") is needed, the hearing on the closure under the Mall Law should be scheduled to occur at the same time the City Council considers the EIR. When that date is set, the resolution of intention can be brought to the City Council for consideration at a meeting at least 90 days before the hearing to consider the EIR and determine whether to close the streets.

Please feel free to contact me if you have any specific questions about the Mall Law or how it relates to the CEQA analysis.

ATTACHMENT B
**Downtown Ventura Partners Support
Letter**

**TO BE POSTED BY
FRIDAY, DECEMBER 10, 2021**