

Council Memorandum

July 28, 2020

To: Honorable Mayor Hall and Members of the City Council
From: Jeff Murphy, Community Development Director
Via: Geoff Patnoe, Assistant City Manager *GP*
Re: **Additional Materials Related to Staff Report Item No. 12 – Empowering the Director of Emergency Services to Temporarily Suspend or Modify Certain Land Development Standards to Mitigate the Economic Effects of the COVID-19 Pandemic State of Emergency on Local Businesses**

On July 27, 2020, the Ad Hoc Subcommittee on Economic Revitalization (Subcommittee) considered additional information about the business makeup of the downtown area relative to the above referenced item. After deliberation, the subcommittee supported allowing the size of curb cafés to be expanded from two to four parking stalls, subject to the following restrictions:

- Businesses that are issued a Private Property Permit to activate a private parking lot or private common area shall not be eligible for a right-of-way use permit for a curb café.
- The maximum length of a curb café may extend past the length of the business frontage it serves, only if written authorization is granted from the affected adjacent business owner and property owner.

Background

As reflected in the July 28, 2020, staff report, the maximum size of curb cafés is limited to two parking stalls (Section 2.6.5.A.5). Some business owners are wanting to use more stalls, as many as four, to accommodate more seating to help offset their loss of indoor space. At its meeting on July 20, 2020, the Subcommittee did not initially provide a recommendation on this matter, but raised the concerns listed below. The Subcommittee also requested additional information about the business makeup of the downtown area and those businesses that would likely utilize a curb café.

- Concerns were raised over equity in that a business that activates both a private parking lot and curb café has an unfair advantage over a business that relies entirely on street parking.
- Parking stalls are not assigned to specific businesses but provide parking for all establishments in the downtown area. The Subcommittee raised concerns that too many curb cafés could cut into public street parking for non-restaurant businesses.

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Discussion

At its meeting on July 27, 2020, the Economic Development Department staff provided the Subcommittee with the requested information and, after deliberation, the Subcommittee agreed to recommend the expansion of curbside cafés from two to four stalls subject to the following conditions:

- Businesses that are issued a Private Property Permit to activate a private parking lot or private common area shall not be eligible for a right-of-way use permit for a curbside café.
- The maximum length of a curbside café may extend past the length of the business frontage it serves, only if written authorization is granted in writing from the affected adjacent business owner and property owner.

If the City Council agrees with the Subcommittee's recommendations, a revised "Attachment A" to the City Council resolution that incorporates these recommendations is attached and would replace the version included in the July 28, 2020, staff report.

Attachment: A. Attachment A to the City Council Resolution (Rev. 7/27/20)

cc: Scott Chadwick, City Manager
Celia Brewer, City Attorney
Cindie McMahon, Deputy City Attorney
Ron Kemp, Deputy City Attorney
David Graham, Chief Innovation Officer

**LAND DEVELOPMENT STANDARDS TEMPORARILY SUSPENDED OR MODIFIED DURING THE
LOCAL COVID-19 PANDEMIC STATE OF EMERGENCY**

A. Curb Cafés (Section 2.6.5.A of the Village & Barrio Master Plan)

The following standards are temporarily suspended or modified for a curb café, which is defined under the master plan as a temporary deck structure for a food and/or beverage serving use that allows for outdoor seating to extend from the sidewalk and into the parking lane.

1. The following provision of Sections 2.6.5.A.2 is suspended.

Curb cafés are temporary structures on public streets. The city engineer may require their temporary or permanent removal to accommodate street or other infrastructure improvements or maintenance or to ensure adequate public parking is maintained. ~~In the Coastal Zone, if city authorized parking studies indicate public parking occupancy within a quarter mile radius of the curb café is 85 percent or more for five consecutive years, the curb café shall be removed unless the applicant can secure replacement public parking within the quarter-mile radius equal to the number of on-street parking spaces impacted by the curb café.~~

2. The following provision of Sections 2.6.5.A.4 is suspended

~~No more than four curb cafes may be permitted per street block (see definition in appendix A); however, this maximum may be reduced for the following reasons:~~

- a. ~~No curb cafes shall be permitted on any street block that has an on-street public parking occupancy of 85 percent or more based on the most recent City authorized parking study or other information the city engineer accepts.~~

- b. The city engineer may limit the number of curb cafés or deny a curb café due to reasons of public health, safety or welfare, such as lack of adequate infrastructure, topography, bike lanes, and proximity to driveways, intersections, and residences.

3. Sections 2.6.5.A.9.c is suspended.

~~c. Parking as required by Section 2.6.6.~~

4. Sections 2.6.5.A.5 is modified as follows.

The maximum size of curb cafés shall be limited to ~~two~~ four diagonal or parallel parking spaces. Where parking spaces are not demarcated, the ~~two~~ four parking space maximum shall still apply and shall be based on dimensional parking standards approved by the city engineer.

5. Sections 2.6.5.A.6 is modified as follows.

The maximum length and size of the curb café shall generally be restricted to the length of the building/tenant space the curb café serves. The curb café shall be “most-directly” in front of the business it serves. Accordingly, some curb cafés may be limited to no more than one parking space. Notwithstanding, the maximum length of a curb café may extend past the length of the business frontage it serves, only if written authorization is granted from the affected adjacent business owner and property owner.

6. Eating/drinking establishments that are issued a Private Property Permit to activate a private parking lot or private common area shall not be eligible for a right-of-way use permit for a curb café.

B. Sidewalk Café (Section 2.6.5.B of the Village & Barrio Master Plan)

The following standards are temporarily modified for a sidewalk café, which is defined under the master plan as an outdoor extension of a food and/or beverage serving use where exterior seating occurs partially or wholly on public property.

1. Section 2.6.5.B.3 is modified as follows.

The sidewalk café shall be restricted to the frontage(s) of the business it serves and shall not encroach on the frontage of any adjacent business, unless authorization is granted in writing from the adjacent business/property owner.

C. Outdoor display (Section 2.6.5.C of the Village & Barrio Master Plan)

The following standards are temporarily suspended or modified for an outdoor display, which is defined under the master plan as a temporary display of merchandise by a business that is limited in size, duration and location and placed partially or wholly on public property.

1. Section 2.6.5.C.1 is suspended.

~~One outdoor display may be located outside the walls of the business space it serves and within the public right-of-way.~~

2. Uses, services and operations associated with the business shall be allowed to temporarily occupy that space reserved for outdoor displays consistent with the standards specified in Sections 2.6.5.C.2 and 4 through 7.

3. Section 2.6.5.C.3 is modified as follows.

The outdoor display shall be placed adjacent to and parallel to the subject business. The display shall not be placed adjacent to the street curb, perpendicular to the business, or as part of a curb café. The outdoor display shall not encroach upon the frontage of an adjacent business, unless authorization is granted in writing from the adjacent business.

D. Private Property Permit (Carlsbad Municipal Code Section 8.17)

The temporary outdoor activation of private property such as parking lots and common areas to allow the continued operations and services of businesses affected by COVID may be authorized upon approval of a Private Property Permit, even in zones that require that commercial and retail activity be conducted within a structure, including, Carlsbad Municipal Code Sections 21.26.020(1), 21.28.020(1), 21.30.020(2), and 21.31.070(A).