



THE CITY OF SAN DIEGO

Report to the Planning Commission

DATE ISSUED: August 26, 2021

REPORT NO. PC-21-039

HEARING DATE: September 9, 2021

SUBJECT: Spaces as Places, Amendments to the San Diego Municipal Code and Local Coastal Program; Process 5

SUMMARY

Issue: Should the Planning Commission recommend City Council approval of the Spaces as Places initiative including amendments to the San Diego Municipal Code and the Local Coastal Program to allow for additional activating uses within the public right-of-way?

Staff Recommendation: Recommend City Council approval of the Spaces as Places initiative including amendments to the San Diego Municipal Code and the Local Coastal Program.

City Strategic Plan Goal and Objectives: Goal #3: Create and sustain a resilient and economically prosperous City. Objective #1: Create dynamic neighborhoods that incorporate mobility, connectivity, and sustainability. Objective #4: Prepare and respond to climate change.

Environmental Review: The City of San Diego conducted an environmental review under the California Environmental Quality Act (CEQA) and determined that the Spaces as Places program is categorically exempt from CEQA pursuant to CEQA Guidelines Sections 15301(c)(Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15304(h)(Minor Alterations to Land), and 15311 (Accessory Structures). An exception to the exemptions as listed in CEQA Guidelines Section 15300.2 would not apply. The Spaces as Places program is also consistent with the Final Program Environmental Impact Report for Complete Communities: Housing Solutions and Mobility Choices (SCH No. 2019060003) certified by the San Diego City Council on November 9, 2020 (Resolution R-313279). This activity is a subsequent discretionary action and is not a separate project for the purposes of CEQA review pursuant to CEQA Guidelines Sections 15378(c) and 15060(c)(3). Pursuant to CEQA Statute Section 21166 and CEQA Guidelines Section 15162, there is no change in circumstance, additional information, or project changes to warrant additional environmental review for this action.

Housing Impact Statement: The proposed amendments would apply to retail and recreational uses and would not have an impact on housing.

BACKGROUND

On August 4, 2020, the City Council approved an emergency ordinance allowing Temporary Outdoor Business Operations as an emergency response to the COVID-19 pandemic (Emergency Outdoor Operations Regulations). The Emergency Outdoor Operation Regulations allowed businesses to conduct outdoor dining within the public right-of-way as a means to provide for dining establishments to continue to operate when indoor operations were wholly or partially significantly limited due to public health orders issued to protect public health. On May 18, 2021, the City Council extended the Emergency Outdoor Operations Regulations to continue to allow the temporary use of the public right-of-way for outdoor dining for an additional year due to continuing limits on indoor operations in effect at that time.

While originally conceived as an emergency response to the pandemic, outdoor dining proliferated, often in ways that have resulted in more active and enjoyable use of public spaces not previously experienced prior to the pandemic. In response to this, the Planning Department has developed Spaces as Places to provide permanent options for outdoor dining that simultaneously provide flexibility for business owners to use the public right-of-way while contributing to the enjoyment of the public space for people with all abilities, and increasing opportunities for more enjoyable pedestrian travel. Spaces as Places is a comprehensive program that includes such flexibility, as well as necessary regulations and design standards to achieve the vision of the program.

DISCUSSION

Spaces as Places is focused not only on increasing opportunities for businesses to expand indoor dining operations into outdoor operations within the public right-of-way, but also simultaneously creating an enhanced experience for active transportation for people of all abilities consistent with the City's climate goals. The creation of quality pedestrian and bike friendly spaces to help improve social connections and build strong communities contributes to the City's achievement of the mode share goals for pedestrians and bicyclists set forth in the Climate Action Plan. Active outdoor spaces with corresponding investments, such as tree plantings, can also address the need to adapt to extreme heat due to a changing climate, particularly through investments in areas with the highest extreme heat vulnerabilities. Spaces as Places also provides opportunities to support businesses in traditionally underserved communities to ensure that outdoor dining investments that improve public spaces and enhance the pedestrian environment can be equitably enjoyed across the City.

The Planning Department has worked with various City departments to develop draft regulations that will ensure these uses in the public right-of-way will continue to comply with requirements for fire safety and access, stormwater, ADA accessibility, and traffic safety, and will be designed and operated in a manner that is the most safe for our City. The draft proposed Spaces as Places regulations are included as Attachment 1. Spaces as Places also

includes a Spaces as Places Design Manual that provides a step-by-step guide and design guidelines for creating safe and enjoyable public spaces. The draft Spaces as Places Design Manual is included as Attachment 2.

As part of our outreach activities, staff has been engaging various stakeholders to gather feedback on the initiative. Two online workshops were conducted in June to provide an overview of the preliminary draft regulations and gather additional input. Over 150 people attended these workshops with feedback indicating strong support for the permanent operation of outdoor dining within the public right-of-way. Feedback on use of outdoor spaces and outdoor dining is also being gathered through online surveys for residents and businesses. More than 500 residents have taken the survey and provided valuable input that has helped shape the initiative thus far.

Options for Outdoor Dining

Based on the outreach and input received so far, Spaces as Places includes a menu of options to facilitate the creation of wider sidewalks, facilitate outdoor dining, and allow for the creation of more space for pedestrians and bicycles to safely use the streets. Given the City's diverse urban landscape, Spaces as Places includes the following options:

Streetaries: Streetaries are outdoor places created in areas formerly dedicated to parking spaces that serve as an extension of a restaurant or other establishment that sells food and drink. Based on the discussions with various City departments, draft guidelines for locational requirements, minimum design requirements and permit requirements to ensure public health and safety have been developed and included in the proposed regulations.

Social Curb: Social curbs consist of a permanent extension of the existing curb to extend into the existing parking spaces to facilitate a variety of activities such as recreation, outdoor dining, and enjoyable public interaction, all which contribute to an enhanced active transportation experience, making it more likely that people will walk or bike. Social curbs are intended to create places for all. Social curbs would provide a more flexible option for the creation of outdoor spaces by allowing for permanent curb extensions along streets where on street parking currently exists. Given that permanent curb extension is an involved process, locational and design requirements have been developed.

Outdoor Dining on Private Property: Outdoor dining within private property is currently allowed as a temporary use. Spaces as Places would include new regulations to allow permanent outdoor dining on private property, while also providing necessary locational and design requirements to ensure compatibility with surrounding land uses. Outdoor dining would be allowed to replace existing off-street parking spaces (except for ADA parking spaces) for restaurants that are located within a transit priority area.

Promenade: Promenades involve partial or complete street closures to vehicular traffic to facilitate active transportation uses such as walking and biking free from vehicular conflicts. Recreational amenities, outdoor dining, and other enjoyable public interactions can facilitate and contribute to the enjoyment of the active transportation experience. Spaces as Places includes new regulations to facilitate the approval process for promenades where necessary locational and design requirements are satisfied.

Requirements for Outdoor Dining

The proposed Municipal Code regulations would allow for outdoor dining to occur in the right-of-way, while also including certain requirements to ensure that the outdoor dining will positively contribute to the active use of the public right-of-way for walkers and bikers of all abilities. Specifically, the proposed regulations would require meeting locational requirements to ensure visibility, limiting outdoor dining to streets with lower speed limits and pedestrian friendly streets, avoiding conflicts with existing and planned bike lanes and bus lanes, ensuring compliance with engineering standards, maintaining a 5 foot clear path of travel within the public right-of-way at all times, maintaining clear access to underground utilities, maintaining clearances from fire hydrants and storm drain inlets, complying with storm water, fire code and accessibility requirements, ensuring that the noise levels comply with the sound level limits of the adjacent use and complying with the permitted operational hours for outdoor dining. The regulations would require that the property owner enters into an encroachment, maintenance and removal agreement; that the property owner maintains the outdoor dining area free of litter at all times and indemnifies the City from any claims, damages or injuries.

Exclusive Use of Public Right-of-Way

Spaces as Places is proposed for the post-pandemic world when restaurants can function at full capacity indoors and outdoor dining would represent an expansion of a restaurant's seating capacity into the outdoors, to enhance the overall public experience within the public right-of-way. To ensure that the public right-of-way continues to be accessible to all – throughout the City – additional requirements are proposed for private businesses operating in the public right-of-way. A fee for the exclusive use of the public right-of-way is proposed to ensure that the public right-of-way will be enhanced in ways that will facilitate its successful use by private businesses. Specifically, the fee, which would be charged to businesses that operate within the public right-of-way would be used to fund improvements that enhance the safe and enjoyable use of the surrounding public spaces. At least 50 percent of this funding source would be used to support businesses in traditionally underserved communities so that outdoor dining investments that enhance the public right-of-way can be enjoyed equitably across the City; such investments are also anticipated to enhance the safe and enjoyable use of the surrounding public spaces as well – to ensure that these spaces are available and enjoyed equitably across the City. Examples of investments that could be made with the funds include traffic calming investments to enhance safety for all people experiencing the public right-of-way, expanded sidewalks and bikeways to allow for more spaces for people, tree and shade investments to provide relief from the heat within the right-of-way, and recreational amenities that can enhance the public's experience while also providing recreational value. The increased space used by restaurants can also create the

need for additional investments in public infrastructure itself, and this fee would also provide a funding source to realize those needed investments.

RECOMMENDATIONS

Community Planners Committee (CPC): The proposed Spaces as Places program will be presented to Community Planners Committee on August 24th, 2021 and the results of the meeting will be presented by staff during the presentation at Planning Commission.

CONCLUSION

Spaces as Places is intended to transform streets into more healthy, sustainable and vibrant neighborhood components and strengthen the local economy. The program, which will offer a menu of options approach through Streetaries, Promenades, Social Curbs and outdoor dining within private property will help foster social interaction and community building. The program will also contribute to the City's climate action goals by enhancing the public's experience of the right-of-way and increase active travel – whether it be by walking, rolling, or biking - throughout the City. Staff recommends approval of the proposed amendments to the San Diego Municipal Code and the Local Coastal Program and adoption of the Spaces as Places Design Manual.

Respectfully submitted,

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Attachments:

1. Spaces as Places - Draft Proposed Amendments to the San Diego Municipal Code
2. Draft Spaces as Places Design Manual