



City of Culver City

Mike Balkman Council
Chambers
9770 Culver Blvd.
Culver City, CA 90232

Staff Report

File #: 21-985, Version: 1

Item #: A-2

CC - (1) Discussion of Extending Emergency Temporary Use Permits Related to the COVID-19 Pandemic; and (2) Discussion of Extending Outdoor Dining and Valet Fee Waivers Related to the COVID-19 Pandemic; (3) Discussion and Approval of Staff's Recommendation on the Implementation of the MOVE Culver City Project Design on Westbound Culver Boulevard Relative to Expanded Outdoor Dining and Direction on the Timing of Implementation; and (4) Direction to the City Manager as Deemed Appropriate.

Meeting Date: May 24, 2021

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Fiscal Impact: Yes ☒ No ☐

General Fund: Yes ☒ No ☐

Public Hearing: ☐

Action Item: ☒

Attachments: Yes ☒ No ☐

Commission Action Required: Yes ☐ No ☒ **Date:**

Commission Name:

Public Notification: (E-Mail) Meetings and Agendas - City Council (05/20/2021) Community Project Advisory Committee, the Bicycle & Pedestrian Advisory Committee, the Downtown Business Association, the Culver City Chamber of Commerce, the Culver City Arts District, the Move Culver City Roundtable, the Economic Recovery Task Force Stakeholders, and each member of the business community who have been issued a Temporary Use Permit for their use of the public right-of-way or private parking lots. (05/17 and 05/18/2021)

Department Approval: Sol Blumenfeld, Community Development Director (05/14/2021); Charles Herbertson, Public Works Director/City Engineer (05/14/2021); Rolando Cruz, Transportation Director (05/14/2021)

RECOMMENDATION

Staff recommends the City Council (1) discuss extending Emergency Temporary Use Permits (TUPs) issued in response to the COVID-19 pandemic; (2) discuss extending outdoor dining and valet fee waivers suspended in response to the COVID-19 pandemic; (3) discuss and approve staff's recommendation on the implementation of the MOVE Culver City project design on westbound Culver Boulevard relative to expanded outdoor dining and provide direction on the timing of implementation; and (4) provide direction to the City Manager as deemed appropriate.

BACKGROUND

The City Council is being asked to consider three related issues in connection with the City's response to the pandemic:

- 1) Continued use of the public right of way and (PROW) and limited street closures for expanded outdoor dining and parklets.
- 2) Extension of emergency outdoor dining Temporary Use Permits (TUP) on the public right of way and on private property; and
- 3) Staff's recommendation on the implementation of the MOVE Culver City (MCC) project design on westbound Culver Boulevard currently being developed by the Transportation Department relative to outdoor dining and parklets and the timing of implementation.

On March 14, 2020, the City issued a Proclamation of Local Emergency responding to the rate of positive COVID-19 cases in the community and the rapidly growing number of cases in Los Angeles County. On March 20, 2020, the City issued a First Supplement of Public Order that included, among other items, a waiver of outdoor dining license fees, valet permit fees and suspending parking enforcement activities to reduce expenditures for local businesses and provide unimpeded curbside access for pick-up and deliveries. This was the first of numerous supplementary orders issued to provide guidance, protocols, and programs to mitigate the pandemic's negative impacts upon many businesses and to help curb the spread of the virus throughout the community.

On May 11, 2020, the City Council approved the formation of the Economic Recovery Task Force (the "ERTF") to address the unique challenges of COVID-19 and to implement measures to spur economic survival during the pandemic and eventually; recovery from it. One of the initial recommendations for the ERTF, in collaboration with Community Development and Public Works, was the implementation of no fee TUPs to allow restaurants, some personal services and retailers the ability to expand into the public right-of-way (PROW), and on private parking lots due to the prohibition or curtailment of indoor occupancies and physical distancing requirements. This TUP program was approved in the 17th Supplement to the Public Order and allows businesses to expand their operations into parking lots, closed-off streets, parklets and sidewalks. In June 2020, the City Council approved a few street closures throughout Downtown and in the Arts District to assist restaurants and businesses clustered in these areas. To date, the City has issued 45 TUPs on private property and 37 in the PROW. As currently issued, these TUPs are aligned with the Public Order and will expire simultaneously with the end of the local emergency.

Recently, LA County advanced to the Yellow - and lowest tier - in accordance with California's Blueprint for a Safer Economy. The Blueprint provides criteria for loosening and tightening restrictions based on the number of infections and the local healthcare industry's ability to admit and treat patients. This tier allows for 50% indoor capacity for restaurants and full reopening (with some

modifications) for retailers (See Attachment No. 1). Governor Newsom has also declared that if the number of infections continue to decline and hospitalizations remain low, coupled with ample vaccine supply and distribution, that he will eliminate all restrictions and permit a full reopening of California on June 15, 2021.

DISCUSSION

Over the last several weeks, there has been increased interest from businesses and residents regarding the future of temporary, expanded outdoor dining relative to Governor Newsom's reopening announcement, the current yellow tier status and increased indoor dining allowance. Throughout the pandemic, the forgivable paycheck protection plan loans, the eviction moratorium, and the TUPs allowed many restaurants to continue to survive despite reduced or prohibited indoor occupancies, provided continued employment, and created unique and safe dining experiences for the community. Several restaurants have invested significant funds to meet or exceed LA County safety regulations, oftentimes creating attractive dining environments with planters, lighting, canopies, surrounds, and furniture. Several business and residents have expressed gratitude for the program and noted it has been successful in providing a lifeline to many small businesses throughout the last year.

Additionally, the upcoming MOVE Culver City (MCC) project currently being implemented by the City's Transportation Department, has spurred discussion as to when street closures may be reopened to advance the City's first/last mile mobility goals. The City Council approved MCC's version 4 design on February 1, 2021, the version 4 design 90% plans and specifications on March 22, and the version 4 design final plans and specifications on May 10th. The version 4 design does not address the existing outdoor dining configuration for westbound Culver Boulevard in the Downtown area.

The MCC project team has developed the near-term, post pandemic mobility lane design concepts options for westbound Culver Boulevard. These design concept options were summarized in a memo from MCC consultant team to staff (see Attachment No. 2). As the goal of the MCC Project is to re-prioritize the streets for alternative mobility options with the "Complete Streets" concept in mind, the MCC consultant team (Sam Schwartz being the prime contractor) was hired as they have great expertise on Complete Streets design. This project goal is further reflected in the project design guidelines approved by the City Council on February 1, 2021 and was incorporated into the overall project design concept option consideration process. As such, staff is recommending the "Mirror Version 4 Plans" design concept option for westbound Culver Boulevard to mirror the version 4 plans based on the City Council-approved MCC project guidelines. Under this design concept, the MCC project will implement one bus lane, one bike lane, and one general traffic lane. This option excludes the use of roadway for outdoor dining. The "Mirror Version 4 Plans" design concept meets the goal of the MCC project and City's Complete Streets policy and would allow the MCC pilot project to assess the benefits of such Complete Streets design to come up with findings that will help inform the long-term infrastructure design for the Downtown area and the project corridor.

During the April 27, 2021 Traffic, Mobility and Parking Subcommittee (Subcommittee) meeting and the April 29 MCC Community Project Advisory Committee and Community Virtual Workshop, Transportation presented street configuration options for the near-term post-pandemic westbound Culver Blvd. design that could allow for extended outdoor dining while also providing two westbound

lanes, one for mobility and another for general traffic as part of the Downtown planning efforts. For the initial launch of MCC, the current plan is to maintain the current temporary street closures to allow time for economic recovery, and the near-term, post pandemic westbound Culver Boulevard mobility lane will be implemented at a later phase pending the direction from the City Council on this agenda item. However, implementation of the westbound Culver Boulevard mobility lane as a future phase will require a change order with the mobility lane contractor (Invitation for Bids currently in progress) and increase overall project costs by \$150,000 due to additional staff, consultant, and contractor coordination and mobilization, modification and relocation of bus/bike platforms, and some implementation works that would need to be modified during the installation of westbound Culver Boulevard mobility lanes. There were several members of the public present at the Subcommittee that were in favor of the design concept option with reduced outdoor dining, shared bus/bike lane, and one general traffic lane. Other comments spoke to the lack of bike accommodations; cyclists' reluctance to sharing a lane with buses; suggestion that the westbound Culver Boulevard should not re-introduce general traffic lane; and requests that future design and use discussions be expanded to include a larger audience.

The MCC project is on track to implementing the version 4 design (excluding the westbound Culver Boulevard segment) by end of July. If City Council approves staff's recommendation, staff will proceed with finalizing the design concept and develop the plans and specifications for the westbound Culver Boulevard design. Should City Council desire to integrate the westbound Culver Boulevard as part of the initial launch, staff will incorporate it into the initial launch implementation process.

Given the current reopening timeline presented by Governor Newsom, and the desire to advance the MCC project, staff seeks City Council direction relative to the continuation and extension of the emergency TUPs for private property and the PROW. This direction could include a timeline for the extension of outdoor dining license and valet parking permit fee waivers that are in alignment with, or beyond, full reopening/ending the local emergency. Staff has developed the following options to consider:

Temporary Use Permit on Public Right-of-Way

The current PROW TUP allows business to expand into the PROW to include adjacent sidewalks, curbside parking spaces (via parklets) and into street closures. It is important to note, that all outdoor dining is normally required to be parked under the provisions of the City's Zoning Code. This requirement was suspended over the past year due to the economic impacts created by the pandemic and the City Council may want to consider how continued outdoor dining impacts parking in the Downtown. Options for continuation/extension of TUPs on the PROW include, but are not limited to:

1. Existing TUPs to remain as-is, including street closures: Extend all the PROW TUPs for three to six months after the end of the local emergency, or as long as authorized by City Council when 100% of indoor dining capacity is restored. This would allow for warm weather outdoor dining and provide time to assess desires and trends for transitioning back to indoor dining and allow restaurants to generate additional income to pay off past-due rent accumulated during the eviction moratorium. If the re-evaluation shows a significant reduction in the use of the expanded outdoor dining areas, then staff will issue a 30-day notice to TUP holders, providing them time to disassemble and restore the PROW.

2. Extend TUPs in all areas except within closed-off streets: Allow continued use of adjacent sidewalk areas and temporary parklets not located within street closures for three to six months after the end of the local emergency or when 100% of indoor dining capacity is restored with a re-evaluation at the end of the period. The TUP extensions will commence after reopening the streets.

During the May 5, 2021 ERTF meeting, stakeholders indicated their desire to extend existing TUPs beyond the local emergency, up to one year, to help them recover financially. However, in regard to Downtown, there was also significant support by stakeholders to eventually re-open westbound Culver Boulevard, but maintain the expanded sidewalk usage and opportunities for parklets, to provide for improved traffic flow and volume in and out of Downtown once employees return to work in the area. The ERTF noted that developing a clear and certain timeline is critical for businesses to plan and adjust operations accordingly.

As noted previously, implementation of the westbound Culver Boulevard mobility lane as a future phase will require a change order with the mobility lane contractor and increase overall project costs by \$150,000.

Extension of the PROW TUP program post-pandemic (end of the local emergency) may require code amendments or other action by the City Council.

Temporary Use Permits on Private Property

TUPs for private property, per modifications to Title 17, Zoning, of the Culver City Municipal Code, allows business to expand operations into their privately owned parking lots temporarily suspending compliance with parking space requirements. Options for continuation/extension of the program may include:

1. Continue As-Is: Extend TUPs on private property for 12-18 months after 100% indoor dining capacity is restored to allow businesses to use the additional income generated to pay off past due rent accumulated during the eviction moratorium, or as long as authorized by City Council when 100% of indoor dining capacity is restored, and grant authority to the Community Development Director to administratively approve any modification to the TUPs. As noted above, outdoor dining is required to be parked pursuant to the Zoning Code and continued business operations where parking requirements have been suspended mean that a business is operating without required on-site parking. Extending TUPs after the pandemic may result in extensive spill-over parking in the neighborhood adjacent to the business which the City Council may want to consider.

2. Expire when indoor occupancy is restored: Allow existing TUPs to expire after the end of the local emergency or when 100% of indoor dining capacity is restored.

It is important to note that extension of TUPs on private property would increase parking demand at the same time reducing the number of on-site parking spaces for staff and customers to use, potentially causing spillover parking into adjacent neighborhoods.

This discussion concerning outdoor dining as part of this agenda item exclusively concerns outdoor dining in the Downtown area. As there are no private parking lots in the Downtown where TUPs have been issued, the issue of extending TUPs on private property will return as a discussion item at a future City Council meeting.

Outdoor Dining License and Valet Permit Fees

The First Supplement to Public Order, issued on March 20, 2020 suspended existing outdoor dining license and valet permit fees. Subsequent Public Orders have extended these waivers until June 30, 2021. Options for waiver extensions or modifications of the program may include:

1. End fee waiver upon the end of the local emergency: Cease the fee waivers when the local emergency is terminated or 100% indoor occupancy is restored; or
2. Postpone: Extend the fee waiver for three to six months after the end of the local emergency or when 100% indoor dining capacity is restored for existing (permanent) outdoor dining permits to allow businesses to use deferred fees to pay off past due rent that accumulated during the eviction moratorium.

Vaccination and Variants

Currently, the State of California has vaccinated approximately 32 million individuals. In Los Angeles County, approximately 50% of residents have received at least one shot; and with 76% of its residents being vaccinated, Culver City boasts one of the highest vaccine rates in the entire state.

On May 10, 2021 the *Los Angeles Times* reported that “*Los Angeles County could reach herd immunity from the coronavirus among adults and the oldest teenagers by mid- to late July*” based on current vaccine distributions.

Herd immunity, if it were to be achieved, creates a resistance to the spread of an infectious disease within a population that is based on pre-existing immunity of a high proportion of individuals within a community. To achieve herd immunity however, public health experts indicate a minimum of 70 percent (and ideally 85 percent) of residents need to be inoculated. However, the *New York Times* noted on May 7, 2021 that “daily vaccination rates are slipping” on a national level and that current polling indicates that about 30 percent of the U.S. population is still reluctant to be vaccinated.

Additionally, the World Health Organization just identified the B.1.617 variant from India, as the fourth variant of concern and current vaccinations may not be as effective against it. Despite the success of vaccine distribution in LA County, it is unknown if there will be resurgence of COVID-19 in the future relative to the spread of these variants and/or lack of herd immunity nationally.

FISCAL ANALYSIS

There is no fiscal impact relative to discussion and request for direction regarding extending emergency TUPs on private property and public right-of-way. Continuation of waivers for existing, permanent outdoor dining (\$15,500/month) and valet fees (\$500/month) would result in reduced revenues to the City of approximately \$16,000 per month during the extension period, based on pre-pandemic estimates.

For the MCC project, there is additional costs of approximately \$150,000 that will incur if the westbound Culver Blvd. segment is postponed to a later phase.

ATTACHMENTS

1. 2021-05-24 ATT1 State of California Blueprint for Safer Reopening
2. Downtown Planning Quick-Build Design Options Memo

MOTION

That the City Council:

1. Discuss extending Emergency Temporary Use Permits related to the COVID-19 pandemic;
2. Discuss extending outdoor dining and valet fee waivers related to the COVID-19 Pandemic;
3. Discuss and approve staff's recommendation on the implementation of the MOVE Culver City (MCC) project design on westbound Culver Blvd. relative to expanded outdoor dining and provide direction on the timing of implementation; and
4. Provide direction to the City Manager as deemed appropriate.