



CITY OF MANHATTAN BEACH

1400 Highland Avenue Manhattan Beach, CA 90266
www.manhattanbeach.gov • (310) 802-5000

STAFF REPORT

Agenda Date: 9/5/2023

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Talyn Mirzakhian, Community Development Director
Jaehee Yoon, Senior Planner

SUBJECT:

Status of the Long-Term Outdoor Dining and Business Use Program Development and Consideration of Recommendations from the Outdoor Dining Task Force (Community Development Director Mirzakhian).

(Estimated Time: 1 Hr.)

A) DISCUSS AND PROVIDE DIRECTION

B) APPROPRIATE FUNDS IF NEEDED

RECOMMENDATION:

Staff recommends that the City Council receive the report on the status of the long-term outdoor dining and business use program development and provide direction on recommendations from the outdoor dining task force. In the event that the City Council opts to approve the additional work scope, staff recommends that the City Council appropriate funds accordingly.

EXECUTIVE SUMMARY:

Since May 1, 2023, the City has hosted a series of outdoor dining task force meetings that included informational sessions and discussions amongst the task force members to create a long-term program that is truly unique to the City. On July 25, 2023, the task force unanimously voted to recommend a program scope that limits the type of business uses and locations that will be allowed. Specifically, the task force recommended limiting the program to Eating and Drinking Establishments only, Citywide on private property, and limited to Downtown and North End for public property, inclusive of considering commercial use of commercial walk street corners, which is currently prohibited by the Manhattan Beach Municipal Code.

In light of the refined and narrowed program scope, an alternative path for the Local Coastal Program amendment process is available for the City to consider, which will not only be

streamlined but also allows flexibility for the City to revisit and make changes to the program more efficiently in the future. This is made possible if the Coastal Commission determines that the City's program qualifies for a Minor Local Coastal Program amendment. By doing so, the City will be able to issue its own blanket Coastal Development Permit to implement the program in the Coastal Zone.

Based on the input from the task force and public, staff is also seeking the City Council's direction on amending the contract with the outdoor dining consultant, Moore Iacofano Goltsman, Inc., to conduct a statistically valid community survey and alternative traffic pattern analysis.

FISCAL IMPLICATIONS:

The Professional Services Agreement (PSA) with the outdoor dining consultant, Moore Iacofano Goltsman, Inc. (MIG), was approved by the City Council on June 6, 2023 for a total not to exceed amount of \$400,000. If the City Council desires to expand the consultant's work scope to include a statistically valid community survey and alternative traffic pattern analysis, an additional amount of \$39,240 will need to be appropriated from the unreserved General Fund balance.

BACKGROUND:

Between June 2020 and February 2023, the City allowed for temporary outdoor placement of a variety of uses, including dining areas, fitness uses, and salons in response to COVID-19 protocols that restricted indoor operations. After a number of amendments to the City's Emergency Orders regarding the temporary program and public testimony on the subject matter, the focus gradually shifted to post-pandemic operations for outdoor dining uses. In general, the community has been supportive of allowing outdoor dining and business uses to continue in the post-pandemic era as long as a refined set of regulations to address some of the unintended pitfalls of the temporary program are established. Subsequently, on August 24, 2021, the City Council provided direction to staff to pursue a work plan item to study a long-term program for outdoor dining and business uses, both in the public right-of-way and on private property.

On July 5, 2022, the City Council directed staff to form a 15-member ad hoc task force to develop the long-term program; and on June 6, 2023, the City Council approved a contract with MIG to assist the City in specialized subject areas of developing the comprehensive, long-term program so as to expedite the development process and supplement the necessary resources that are currently not available in-house.

DISCUSSION:

To date, the City has held five outdoor dining task force meetings that included a series of informational sessions and discussions amongst the task force members. Below is a summary of topics covered at each meeting:

Meeting Date	Agenda
May 1, 2023	Program scope; visioning exercise; and strengths, weaknesses, opportunities, and threats (SWOT) analysis
May 30, 2023	Living streets design manual, (rescinded) Downtown Specific Plan,

June 27, 2023	outdoor dining case studies (City of San Diego and Capitola) Code considerations (fire, building and safety, public works, and traffic)
July 25, 2023	Program scope refinement and overview of required code amendments
August 29, 2023	Provisions related to outdoor dining operations

The meeting agenda, minutes, and PowerPoint slides from each meeting can be found in more detail on the City's outdoor dining [webpage](https://www.manhattanbeach.gov/departments/community-development/outdoor-dining/-toggle-all) [<https://www.manhattanbeach.gov/departments/community-development/outdoor-dining/-toggle-all>](https://www.manhattanbeach.gov/departments/community-development/outdoor-dining/-toggle-all).

Program Scope

Initially, the task force was open to exploring a program scope that included all types of businesses, Citywide, on public and private property. However, given that a refined and narrowed scope would help expedite program development with a focus on quality, the task force members discussed and voted on limiting the program scope at the July 25, 2023 meeting. Specifically, the task force unanimously agreed to narrow the program scope to the following, which was largely based on reviewing the areas and types of business uses that most actively participated in the temporary outdoor program, as well as what would strategically work well within the City's urban landscape:

1. Business uses: Eating and Drinking Establishments only.

The task force voted unanimously to limit the program to Eating and Drinking Establishment uses only. Eating and Drinking Establishments, as defined in the Manhattan Beach Municipal Code (MBMC), refer to restaurants and bars for on-site consumption, which generally require Use Permits and are subject to conditions of approval and more stringent parking requirements. Eating and Drinking Establishments were also the most prominent participant of the temporary outdoor dining program.

It should be noted that business uses classified as Food and Beverage Sales per the MBMC are excluded from the program scope, as it differs from Eating and Drinking Establishments. Specifically, Food and Beverage Sales uses, per the MBMC, allow very limited areas for food preparation and are primarily for consumption off-premises, and only in certain circumstances with incidental seating of up to 4 people, which in turn does not require as many parking spaces as an Eating and Drinking Establishment use. Examples of Food and Beverage Sales include delicatessens, liquor stores, and grab-and-go style retail. Due to the restrictions on seating capacity, active participation for this type of use in the temporary outdoor dining program was infeasible, and would exacerbate parking challenges (i.e., it would introduce greater formal seating capacity for a use that is not allowed to have traditional seating per the MBMC).

The task force did recognize, however, that Food and Beverage Sales uses could likely benefit from any added public open spaces that result from an effort to improve the public realm as part of this program. At the July 25, 2023 task force meeting, there was consensus on installing uniform street furniture and hardscape/landscape features throughout Downtown

and North End on existing right-of-way for the public to sit, eat, and enjoy the surroundings. Currently, there is some amount of existing street furniture or improvements in the public right-of-way (e.g., along Manhattan Beach Boulevard and Manhattan Avenue) that already accomplish this. The idea is to expand those opportunities to allow the public to actively make use of these spaces. This notion will likely be supported by the Coastal Commission as it aligns with the Coastal Commission's goal of enhancing visitor-serving amenities, and balances the private improvements with publicly-accessible ones. While the details associated with such improvements need to be analyzed, staff supports the recommendation to include the public property street furniture and landscape/hardscape improvements as part of the long-term outdoor dining program, especially since these spaces can be utilized by other business use classifications, such as Food and Beverage Sales, and further activate the public realm.

2. Location:

The task force was provided with options on where the long-term program should be implemented in the future - Citywide or limited to Downtown and North End, as dining decks were most prevalent in Downtown and North End during the temporary program. Based on discussions, the task force voted unanimously to allow outdoor dining opportunities Citywide on private property and allow the use of public right-of-way for dining decks in Downtown and North End only. Specifically for private property, the task force recommended that private parking lots should be utilized only when there is excess parking available, or incorporated using underutilized spaces such as existing open space.

3. Public property utilization:

In considering the options for public property, the task force voted unanimously to include sidewalks, on-street decks, and walk street commercial corners. Given that allowing on-street decks on vehicular streets and commercial use of walk streets will require amendments to Chapter 7.36 of the MBMC, additional information is provided in the following section for the City Council's consideration.

Walk Street Commercial Corners

Section 7.36.170(B) of the MBMC currently prohibits commercial use of walk streets, and is discouraged in the General Plan Land Use Element, Policy LU-5.5. This specific provision was codified as part of Ordinance No. 2039 when MBMC Chapter 7.36 (Private Use of The Public Right Of Way) was repealed and replaced in February 2003. At the time, the public expressed strong interest in protecting walk streets from commercial uses and supported adding code language that would explicitly prohibit new or expanded commercial uses on walk streets. This was mainly due to the associated potential negative impacts such as noise, odor, loitering, trash, privacy, parking, and the erosion of quality of life. As a result, there are only two establishments (i.e., Uncle Bill's Pancake House and Ocean View Cafe) with a valid Encroachment Permit that were authorized to continue their operations on walk streets as long as they do not expand their use, or change the nature of their operations. No other establishment has been able to operate its business on walk streets since then.

Despite the history, and in light of the City's desire to capture opportunities for outdoor

dining, while also balancing the loss of public parking spaces, the concept of allowing commercial use of walk street commercial corners was discussed with the task force. Staff evaluated areas of the City where this would apply to understand the potential impacts and merits. First, the number of parcels that will be eligible to participate is limited to 15, all of which are zoned commercial and adjacent to walk streets. This translates into the fact that the scale will be most manageable compared to all other forms of outdoor dining in which there are currently no predictable limits on where and how many can occur. The table below lists the type of existing business uses and areas on which eligible parcels are located:

Table: Eligible Commercial Parcels for Walk Street Commercial Use

Business Use	Downtown	North End	Total
Eating and Drinking Establishment	4 (2 of which are existing)	2	6
Retail	5		5
Others*	2	2	4
TOTAL	11	4	15

* Parcels which are currently neither Eating and Drinking Establishment nor Retail

In addition, and assuming that the eligible parcel will not be allowed to construct on-street decks and rather encouraged to apply for use of walk street commercial corners as an alternative, no additional replacement parking will be required as the on-street public parking spaces will be preserved. This is also a point that the Coastal Commission was receptive to, as the opportunity to make use of walk streets appeared to be a better option than taking away existing on-street public parking spaces. Given that the Coastal Commission’s approval is required for the long-term program to be successfully implemented in the Coastal Zone, where most of the outdoor dining has and is anticipated to take place, staff recommends that use of walk street commercial corners should be revisited and explored further. In that case, staff will work on crafting appropriate provisions to mitigate potential impacts to the surrounding uses by focusing on alcohol service regulations and hours of operation, to name a few.

Local Coastal Program Amendment

Alongside the progress made with the task force, staff has been working on drafting the regulatory framework for the different outdoor dining typologies. This includes amending various sections of the MBMC and Local Coastal Program (LCP) that require new or revised provisions. Once the draft is prepared with the input from the task force and the public, the proposed amendments will be presented to the Parking and Public Improvements Commission (PPIC) and the Planning Commission (PC) for review and recommendation to the City Council for adoption.

For applications located outside of the Coastal Zone, the outdoor dining program will be implemented 30 days following the City Council’s adoption. However, the Coastal Commission must certify the City-adopted LCP amendment prior to implementing the program in the Coastal Zone, which typically could take up to a year from the date the City’s LCP amendment submittal is deemed complete for processing by the Coastal Commission. In order to prevent a lengthy

LCP amendment review and certification process, staff has been in communication with the Coastal Commission on a regular basis since February 2023 to inform them of the City’s progress and receive input. Additionally, these discussions are intended to address any coastal issues or concerns on behalf of the Coastal Commission as we develop the program, and to minimize the risk of unexpected modifications being requested upon their formal review of the LCP amendment.

In recent discussions, Coastal Commission staff has provided the City with an alternative, and expedited, regulatory approach, in recognition of the Coastal Act’s priority for visitor-serving uses. Specifically, rather than submitting a LCP amendment, which is customarily the case for most amendments to the MBMC as the two documents mirror each other, the Coastal Commission has suggested that a Minor LCP amendment may work for the City if the amendments are minimal. A Minor LCP amendment in this case may include revising the existing provision to be more specific and which do not change the kind, location, intensity, or density of the land use. In order to apply for a Minor LCP amendment, it first requires that the program scope be limited so as not to create extensive amendments throughout the existing LCP. The advantage of this alternative is that the Coastal Commission review will be streamlined and the City can issue itself its own blanket Coastal Development Permit (CDP) for the program after receiving certification of the Minor LCP amendment. By doing so, applicants within the Coastal Zone will not be required to obtain a separate CDP from the Coastal Commission. Furthermore, the City will have the ability to revisit the program in five years upon issuance of the blanket CDP and make changes to the program as necessary, which provides the City the flexibility to do so more efficiently compared to going back to the Coastal Commission for a subsequent LCP amendment. The table below summarizes the pros and cons of each LCP amendment option:

Table: LCP amendment options

Option	LCP Amendment	Minor LCP Amendment + Blanket Program CDP
Pro	<ul style="list-style-type: none"> • Program scope can be broad and comprehensive • Familiar/Traditional path of introducing new provisions/programs 	<ul style="list-style-type: none"> • Streamlined process, if amendments to the LCP are minimal • Ability to revisit City-issued CDP in 5 yrs to make changes or modify program • Applicants in the coastal zone do not require a separate CDP
Con	<ul style="list-style-type: none"> • Longer Coastal Commission review process • Future changes will require LCP amendment • Individual CDP required for each applicant in the Coastal Zone 	<ul style="list-style-type: none"> • Program scope needs to be narrowed • Appealable Area may cause delays to the CDP issuance, if it is appealed to the Coastal Commission

Given that the benefits of the second approach outweigh the disadvantages, staff is

recommending the Minor LCP Amendment approach, which will be followed by a City-issued CDP to the City. It is important to note that while the City can work towards this approach, the Coastal Commission can only determine if the City's LCP amendment qualifies as Minor or not after it has been formally submitted for review. Notwithstanding, Coastal Commission staff has advised that constant communication with the City prior to similar LCP amendment submittals is the most effective method of ensuring any streamlined review. As previously mentioned, staff has been engaging in frequent discussions with Coastal Commission staff for their feedback along the way and will continue to do so into the future to help expedite the City's LCP amendment process.

Additional Consultant Work Scope

Community Survey

The current scope by MIG related to community engagement includes facilitating three task force meetings, hosting two community workshops, and conducting several stakeholder interviews. The work scope does not specifically include a statistically valid community survey. However, there have been inquiries from the task force and the public on whether a community survey will be conducted to receive broader input on the community's preferences. In general, there are benefits in conducting a separate community survey at the early stages of the program development. Specifically, it may influence the focus of the work plan effort before decisions and/or recommendations are made. In addition, a community survey will provide the public with an opportunity to actively engage in the decision-making process which will allow the program development to align with community feedback.

The City Council may consider three options to conducting a community survey. First, staff may internally prepare a community survey and circulate it to the public. Another alternative would be to utilize the two community workshops in the future to incorporate tools that can seek input from the public on a variety of topics such as visual boards, written surveys, and participant notes. The final option would be a statistically valid survey. If this alternative is desired, the consultant's work scope may be revised to include a community survey. Based on an estimate received from the consultant, the statistically valid community survey will be an additional \$14,930.

One-way Streets

The task force also discussed the possibility of analyzing alternative traffic patterns as part of this effort; for example, reconfiguring the right-of-way to one-way streets. In 2016, one of the workshops for the Downtown Specific Plan effort posed the question "Should Manhattan Beach Boulevard be converted to a one-way street (Morningside to Ocean Dr. with 11th street westbound, Ocean Dr. northbound & 12th St. eastbound), converting extra width to parking/public amenities?". A majority of the public (approximately 70%) strongly disagreed with the concept of one-way streets. Since then, the possibility of creating one-way streets in Downtown has not been considered by the City, nor was it included in the scope of work for this effort. However, there was some discussion amongst the task force on studying the reconfiguration of on-street parking spaces and sidewalk widening to allow for more available areas for outdoor dining and business uses, which may result in creating one-way streets. Staff is requesting direction from Council on whether or not to include this consideration in the consultant's work scope. The additional work scope will specifically analyze if the proposed outdoor dining program will result in any street deficiencies such as parking space elimination or sidewalk relocation/widening, and determine if creating one-way streets would be a feasible solution to improving traffic flow. Based on the consultant's analysis, which will include a list of

pros and cons, the City can consider if creating one-way street segments would be the best solution to addressing street deficiencies caused by future outdoor dining activities. In order to do so, the contract with MIG will need to be revised to include an analysis of alternative traffic patterns with an additional estimated amount of \$24,310. As public property outdoor dining is recommended only in Downtown and North End, if desired, this work scope will focus on areas in and around Downtown where one-way streets seem most feasible.

Direction Needed

Staff requests City Council direction on the following matters:

A. The task force-recommended program scope:

- i) Business Uses: Eating and Drinking Establishments only with public improvements (i.e., street furniture and landscape/hardscape) in Downtown and North End, which may cater to Food and Beverage Sales uses as well as visitor-serving amenities to balance private and public interests.
- ii) Location:
 - Allow private property outdoor dining Citywide utilizing parking spaces, only when excess parking spaces are available, developing underutilized open spaces, and constructing second floor decks (already an option in many areas).
 - Limit public property outdoor dining to Downtown and North End only for sidewalks, on-street decks, and walk street commercial corners.
- iii) Inclusion of walk street commercial corners on the 15 eligible parcels identified by staff which can provide an alternative to on-street decks and reduce replacement parking needs.

B. Potential contract revision with MIG to include additional work scope for a statistically accurate community survey (\$14,930) and/or alternative traffic pattern analysis (\$24,310).

CONCLUSION:

Based on the recommendations generated by the task force discussions, staff recommends that the City Council provide direction on pursuing the long-term outdoor dining work plan effort with the program scope as presented and determine if the contract with MIG should be revised to include the additional work scope.

PUBLIC OUTREACH:

A courtesy notice was published in The Beach Reporter on August 24, 2023, and mailed to all property owners and adjacent owners of the 15 eligible walk street parcels being considered in this report. In addition, an email was sent out to all interested parties notifying them of the status update report before the City Council and will be uploaded to the City's dedicated outdoor dining webpage.

ENVIRONMENTAL REVIEW:

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the discussion and direction from Council is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary. However, the long-term outdoor dining program as well as the associated code and policy amendments are subject to CEQA, which is included in the

current contract with MIG to conduct the necessary CEQA analyses.

LEGAL REVIEW:

The City Attorney has reviewed this report and determined that no additional legal analysis is necessary.

ATTACHMENTS:

1. Potential Walk Street Commercial Corner Encroachment Areas
2. PowerPoint presentation