Legislation Details (With Text)

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Type:	Gen. Bus. - Staff Report	**Status:**	Passed
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On agenda:	1/2/2019	**Final action:**	1/2/2019
Title:	Second-Story Outdoor Dining Use Permit Guidelines for the Downtown Commercial (CD) Zone (Community Development Director McIntosh). ADOPT GUIDELINES		
Sponsors:			
Indexes:			
Code sections:			
Attachments:	1. Second-Story Outdoor Dining Guidelines, 2. Second-Story Outdoor Dining Map, 3. Existing Regulations Fact Sheet, 4. Public Comments		

Date	Ver.	Action By	Action	Result

TO:
Honorable Mayor and Members of the City Council

THROUGH:
Bruce Moe, City Manager

FROM:
Anne McIntosh, Community Development Director
Nhung Madrid, Senior Management Analyst
Ted Faturos, Assistant Planner

SUBJECT:
Second-Story Outdoor Dining Use Permit Guidelines for the Downtown Commercial (CD) Zone (Community Development Director McIntosh).
ADOPT GUIDELINES

RECOMMENDATION:
Staff recommends that the City Council review and accept the new and revised Use Permit guidelines for second-story outdoor dining in the Downtown.

FISCAL IMPLICATIONS:
There are no fiscal implications associated with the recommended action.

BACKGROUND:
On October 16, 2018, the City Council conducted a duly noticed public hearing to consider Ordinance No. 18-0022 and Ordinance No. 18-0023 (Local Coastal Program Amendment) to revise land use regulations in the Downtown Commercial (CD) Zone.

After receiving public testimony, the City Council discussed second-story outdoor dining. Urgency Ordinance No. 18-0019-U had imposed a temporary prohibition on second-story outdoor dining, pending study of the pros and cons of allowing second-story outdoor dining. Prior to Urgency Ordinance No. 18-0019-U, second-story outdoor dining was permitted with a use permit.

After deliberation, the City Council voted 4-1 (Mayor Napolitano voted no) to allow second-story outdoor dining on balconies projecting over the public right-of-way, through a Use Permit process, subject to certain development standards. The City Council directed staff to prepare specific performance measures to be used as guidelines for these types of applications, and work with various stakeholder groups to further refine the guidelines.

DISCUSSION:
As directed by the City Council, staff developed second-story outdoor dining guidelines for the Downtown and solicited feedback from various community stakeholders including residents, business owners, merchants, and property owners. The second-story outdoor dining guidelines were first developed during the Downtown Specific Plan process and were reviewed by the Planning Commission as part of the Commission's discussions for the Downtown Specific Plan.

Staff reached out via email to dozens of stakeholders to get their feedback on the Guidelines (Attachment). Staff also provided stakeholders an *Existing Regulations for Restaurants and Second-Story Outdoor Dining* fact sheet (Attachment) that provided important context for evaluating the proposed Guidelines. The fact sheet explains how restaurant uses, including requests for second-story dining are regulated by the Use Permit process, and that it is very difficult to have second-story dining because of the City's parking and accessibility requirements.

Staff shared the following proposed Guidelines with stakeholders and asked for feedback:

- Permitted only with a Use Permit in the main commercial corridors, as depicted in the Second-Story Outdoor Dining Map (Attachment)
- Not allowed to face residential uses
- Noise study required for any dining use proposed to serve full alcohol with hours of operation past 10:00 PM
- Physical and operational modifications, improvements and conditions required to minimize and address adverse impacts
- Post-construction and operation monitoring required to verify conformance with the conditions of the Use Permit
- Additional modifications, improvements and conditions as needed to ensure conformance with the Use Permit

Staff received 14 responses from a mix of restaurateurs, property owners, Downtown residents, and other Manhattan Beach residents (Attachment). Two property owners supported the regulations. One person involved in the restaurant business opposed them, saying they were not needed. Some residents supported the proposed regulations, with some respondents asking that they be modified and enhanced in different ways. A few residents were against second-story outdoor dining, regardless of how the City regulates the use, and also offered modifications to the proposed regulations.

Staff believes the proposed second-story outdoor dining guidelines are a common-sense approach

that effectively strikes a balance between different stakeholders' interests and concerns. Staff believes that the proposed guidelines are validated by various points-of-view expressed by the stakeholder feedback. These new guidelines are much more restrictive than what is allowed in the Code, and addresses some of the concerns from the Downtown community. Taken together, the guidelines, the map and the Use Permit public hearing process creates a stronger regulatory framework for second-story outdoor dining in the CD Zone that does not currently exist in the Code.

PUBLIC OUTREACH/INTEREST:
As part of the community outreach process, City staff sent out email notices to over 70 people which included all parties that participated and provided email addresses at previous Downtown Plan discussions and/or workshops. Participants were invited to provide feedback on the proposed guidelines, and were also notified of tonight's meeting. Participants were also asked to share the request for feedback with other potentially interested parties.

ENVIRONMENTAL REVIEW
Pursuant to the California Environmental Quality Act ("CEQA"), the Community Development Department has determined that these proposed guidelines addressing second-story outdoor dining are exempt from the requirements of CEQA and the City's CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3).

LEGAL REVIEW
The City Attorney has reviewed this staff report and has indicated that no legal analysis is required.

Attachments:
1. Second-Story Outdoor Dining Guidelines
2. Second-Story Outdoor Dining Guidelines Map
3. Existing Regulations Fact Sheet
4. Public Comments