



Legislation Details (With Text)

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On agenda: 6/15/2021 **Final action:**
Title: Consider an Extension of the Expiration Date of Temporary Encroachment Permits for Outdoor Street Dining on Ocean Drive and on Manhattan Beach Boulevard West of Ocean Drive after July 5, 2021 (Community Development Director Tai).
DISCUSS AND PROVIDE DIRECTION

Sponsors:

Indexes:

Code sections:

Attachments: 1. Downtown Outdoor Dining Map, 2. Outdoor Dining Occupancy List, 3. Pier Area Outdoor Dining Map

Date	Ver.	Action By	Action	Result
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TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Carrie Tai, AICP, Community Development Director
Erik Zandvliet, T.E., City Traffic Engineer

SUBJECT:

Consider an Extension of the Expiration Date of Temporary Encroachment Permits for Outdoor Street Dining on Ocean Drive and on Manhattan Beach Boulevard West of Ocean Drive after July 5, 2021 (Community Development Director Tai).

DISCUSS AND PROVIDE DIRECTION

RECOMMENDATION:

Staff recommends that the City Council discuss and provide direction on whether to extend the expiration date for temporary outdoor dining and business use encroachment areas located on Ocean Drive and on Manhattan Beach Boulevard west of Ocean Drive after July 5, 2021. Staff recommends 1) removal of the encroachment areas on Manhattan Beach Boulevard west of Ocean Drive after July 5, 2021, and 2) extending the expiration date of the existing encroachment area on Ocean Drive until September 6, as long as it is narrowed to provide two-way traffic.

FISCAL IMPLICATIONS:

The City is currently foregoing approximately \$8,618 (7,118 + \$1,500) in revenue each month for the use of nine public metered parking spaces and 500 square feet of public encroachment areas for outdoor street dining on Ocean Drive and on Manhattan Beach Boulevard west of Ocean Drive. The

current lease rate for the public right-of-way is \$3 per square foot per month and the current meter rate is \$2 per hour (\$26 per day). Revenue from parking meters is directed into the Parking Fund and Capital Improvement Plan Fund, which is used to improve and repair City parking facilities, as well as on-going maintenance expenses. In addition, staff time in support of outdoor dining is not reimbursed.

BACKGROUND:

On March 13, 2020, the City declared a State of Emergency due to the spread of COVID-19, the disease caused by the novel coronavirus. In late May 2020, Los Angeles County began gradually relaxing the closures, allowing for non-essential retail to fully open to customers, as well as restaurants to re-open their dining rooms, subject to operating protocols to limit the spread of COVID-19. On June 10, 2020, the City Manager issued Emergency Order No. 11, expanding the circumstances under which the Director of Community Development may issue encroachment permits and sidewalk dining permits during the period that social distancing requirements are in place. Pursuant to this and subsequent orders, the City has issued encroachment permits to 26 restaurants for street dining in 78 public parking spaces and other street right-of-way areas (see Attachment).

City Emergency Order No. 21, effective November 20, 2020, extended the time period in which businesses and restaurants may use public property until 90 days after Los Angeles County allows indoor dining. Los Angeles County authorized indoor dining when it enacted the “Red Tier” on March 15, 2021. Pursuant to the City’s Emergency Order, street dining permits will expire on June 14, 2021. Los Angeles County is currently in the “Yellow Tier”, which allows restaurants to operate at 50% indoor occupancy, bars at 25% indoor occupancy and other retail and office uses at 75% occupancy.

On May 18, 2021, the City Council discussed the possibility of extending outdoor temporary encroachments through Labor Day. The benefits and consequences of an extension through the summer were raised, including potential conflicts with upcoming special events and traffic safety during the summer, especially near the pier. After hearing public testimony, the City Council extended the expiration date for temporary outdoor dining and business use encroachment areas located east of Ocean Drive until September 6, 2021, and those areas located on Ocean Drive and west of Ocean Drive until July 5, 2021 in consideration of upcoming City special event and peak season public safety needs.

The Governor’s office has announced that due to increasing vaccinations and decreasing COVID-19 cases, the State will largely reopen by June 15, 2021, with lifting of operating restrictions and capacity limits reduced social distancing protocols for most everyday activities. At the time this staff report was written, the State’s exact changes to the current regulations are unknown, however, it appears that the State declaration of emergency will remain in place. The outdoor dining areas are effectuated by City’s Emergency Orders authorized under the current State of Emergency. The City Council requested that staff to return this item to the City Council closer to the June 15 State reopening date to further discuss the encroachment areas located on Ocean Drive and West of Ocean Drive

DISCUSSION:

Encroachment Permits and Agreements West of Ocean Drive

The City issued a temporary encroachment permit to the Shellback Tavern on July 7, 2020, to

operate outdoor dining on Ocean Drive south of Manhattan Beach Boulevard. Then, on April 2, 2021, the City issued temporary encroachment permits to the Rock'N Fish and The Strand House restaurants to operate outdoor dining in nine public parking spaces on Manhattan Beach Boulevard west of Ocean Drive. These areas have a combined occupancy of about 90 outdoor seats (see Attachment). Part of the justification for the expanded outdoor dining for these restaurants west of Ocean Drive was to help establish more equitable distribution of available seating percentages for all restaurants in Downtown.

Each of the three businesses obtained a temporary encroachment permit to construct the dining area as well as an encroachment permit to operate the business in the public right-of-way. The raised dining platforms constructed on Manhattan Beach Boulevard also required building permits and building inspections. Fees for these permits ranged from a minimum of \$600 to more than \$5,000. Permits and fees were consolidated where possible to reduce costs to the businesses.

The City executed Temporary Encroachment Agreements with all three businesses that specify terms and conditions for operating in the public right-of-way, including liability insurance, indemnification and termination clauses. Pursuant to the terms, the City reserves the right to terminate the Agreement for any reason or for no reason upon ten calendar days' written notice to Business Owner. Each Encroachment Area is also subject to temporary modification or suspension at any time based on the public's priority for use of City right-of-way as determined solely by the City. Specifically, the temporary encroachment permits for the areas located on and west of Ocean Drive have termination dates of June 30, 2021, unless otherwise extended.

All of the street dining areas were constructed as temporary structures, and not designed for long-term use. Most of the dining platforms on Manhattan Beach Boulevard are essentially portable stages, and are being rented. Many of the improvements are over existing public infrastructure and will eventually need to be removed for street maintenance or to ensure storm water drainage along the gutters. Depending on the date of installation, certain locations may be required to verify that their structures continue to be safe from a structural standpoint.

All of the restaurants are providing both indoor and outdoor seating. While up to 50% indoor seating occupancy is currently allowed, the restaurant owners report that they can only reach 25-35% indoor occupancy due to table spacing requirements. Also, restaurants have more difficulty adjusting table seating to fit party size due to strict table spacing requirements, which results in unused seats. If, as expected, the State and County's dining regulations are relaxed to allow full indoor dining capacity, it is highly likely there will be a period during which customers may still be uncomfortable with dining indoors until the pandemic subsides.

Seasonal Vehicular and Pedestrian Volumes

The City experiences a dramatic increase of vehicle and pedestrian traffic during the summer months. Due to increasing vaccinations and relaxation of health department protocols for businesses, it is expected that vehicle and pedestrian volumes will return to levels experienced before the pandemic. There is also the possibility of increased volumes due to pent-up demand. During favorable weather and summer weekends, vehicle traffic commonly backs up on Manhattan Avenue, Highland Avenue and Manhattan Beach Boulevard; most parking spaces fill up by mid-day; and sidewalks become crowded throughout Downtown. This poses impacts to residential areas as well, with the City regularly receiving comments from downtown residents citing difficulties with leaving and entering their streets and garages. On congested days, the Police Department will close

Manhattan Beach Boulevard at Manhattan Avenue to vehicular traffic in an effort to reduce traffic congestion and maintain pedestrian safety. In addition, there are several summer camp programs that have drop-off locations along Ocean Drive and near the pier that contribute to traffic congestion. The continuation of outdoor dining areas may contribute to these conditions, despite the best of efforts to display directions, enforce regulations, and encourage the use of alternate parking garage locations.

Planned Special Events

As the pandemic regulations begin to ease, many annual special events have requested to return to the City, albeit under social distancing and reduced occupancy conditions. The City's Special Events Committee has discussed the anticipated schedule and estimates that at least seven events may be impacted by certain street dining areas. Specifically, the International Surf Festival, which includes the 6-Man Beach Volleyball Tournament (tentatively scheduled for July 30 to August 1), and the Manhattan Beach Open Volleyball Tournament (tentatively scheduled for August 19 to 21) use both the upper and lower pier parking lots to stage events. The events also require the closure of Manhattan Beach Boulevard west of Manhattan Avenue to manage traffic and pedestrian flow, as well as to provide safe and sufficient space for spectators and participants. The 6-Man requires four days to set up prior to the event and one day afterward to clean-up, totaling five days from July 29 to August 2. The Manhattan Beach Open requires five days to set up prior to the event and three days afterward for teardown, totaling 11 days from August 15 to 25. Staff is expecting to receive additional guidance and protocols for operating large-scale special events from the County on June 15. There is a critical need for areas on Manhattan Beach Boulevard west of Ocean Drive, as well as areas on Ocean Drive to support public safety support for these events.

After Labor Day, the Tour de Pier, Pumpkin Race, Skechers Friendship Walk, Pier Lighting, Holiday Open House, and Holiday Fireworks will likely require areas on Manhattan Beach Boulevard west of Manhattan Avenue for emergency access and social distancing reasons.

Modified Dining Operation West of Ocean Drive

The three restaurants with encroachment areas located on or west of Ocean Drive have proposed modification to their current outdoor street dining permits as an alternative to allow the areas to remain open except during special events (see Attachment). The following is a summary of the restaurant proposals:

Shellback Tavern (116 Manhattan Beach Bl.) has proposed to remove their dining area on Ocean Drive completely on special event days. Since this dining area was constructed on the street surface with water-filled barriers and pop-up canopies only, the area can be removed in one day or restored in one day with a same-day inspection, in conformance with the existing permit conditions. Shellback Tavern has approximately 88 indoor seats and 18 outdoor seats.

The Strand House (117 Manhattan Beach Bl.) has proposed to reduce their street dining area on the north side of Manhattan Beach Boulevard west of Ocean Drive throughout the entire summer with a four-foot reduction in width to restore the full travel lane widths, excluding street parking areas. The Strand House has approximately 249 indoor seats and 96 outdoor seats, of which 38 seats are west of Ocean Drive.

Rock'N Fish (120 Manhattan Beach Bl.) has proposed to keep their street dining area on the south

side of Manhattan Beach Boulevard west of Ocean Drive through the summer, noting that the full lane widths would be restored in conjunction with the Strand House dining area modification. It should be noted that the outdoor dining area previously used by Rock'N Fish east of Ocean Drive is currently being used by Brewco (124 Manhattan Beach Bl.) to help provide some equity in the percentage of available outdoor seating for various restaurants. Rock'N Fish has approximately 98 indoor seats and 34 outdoor seats west of Ocean Drive.

Based on their initial construction schedule, the Strand House and Rock'N Fish dining platforms on Manhattan Beach Boulevard would require approximately one week for removal and two to three weeks for reinstallation and re-inspection, both of which necessitate temporary closures of the roadway and sidewalks. This effort would likely significantly affect public access to the beach and The Strand Walk in the summer season, and would not be feasible in July and August due to the volleyball tournament schedules.

An alternative to the dining areas on Manhattan Beach Boulevard has previously been considered. As part of Emergency Order No. 21, the closure of the Upper Pier parking lots was authorized for outdoor dining under certain conditions. While the terms of this provision have expired, a portion of the Upper Pier parking lot(s) was previously considered for outdoor dining in lieu of the encroachment area on Manhattan Beach Boulevard. This alternative should consider the heavy beach parking usage of for the Pier lots during summer months as well as the need to temporarily remove the outdoor dining areas during special events. This alternative would need to be authorized by a new Emergency Order and require a Coastal Development Permit amendment in compliance with the City's Local Coastal Plan.

Fire, Police, Community Development, and Parks & Recreation Department staff have discussed these proposals and the potential impact to public safety and welfare during the summer. The encroachment area on Ocean Drive south of Manhattan Beach Boulevard could remain in place during non-special event days with a reduced width to ensure two-way traffic. For the encroachment areas on Manhattan Beach Boulevard west of Ocean Drive, normal vehicle flow could be maintained during non-special event days, but there would be a significant impedance to public access and heightened risk to public safety during high activity days. Specifically, the dining structures restrict the view of pedestrians at crosswalks and corners, limit the options for emergency access in the event of an incident in the immediate vicinity, and would reduce the ability to evacuate large numbers of beachgoers or event participants quickly if necessary. In addition, the dining areas require restaurant staff to use the public sidewalks and cross streets with food and drinks during high traffic and pedestrian times.

RECOMMENDATION:

Based on an assessment of ongoing dining operations and upcoming special events, staff recommends that the encroachment areas on Manhattan Beach Boulevard west of Ocean Drive will need to be removed after July 5, 2021, due to heavy beach activity and in preparation for the two volleyball tournaments. Based on its simpler construction, it may be feasible for the encroachment area on Ocean Drive to remain in place until September 6, as long as it is narrowed to provide two-way traffic.

PUBLIC OUTREACH:

The Downtown Business and Professionals Association has been informed of this agenda item and asked to notify their respective members. This meeting has also been noticed in conformance with public meeting requirements.

ENVIRONMENTAL REVIEW:

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is: 1) statutorily exempt from CEQA pursuant to Section 15269(c) of the State CEQA Guidelines as it constitutes a specific action to mitigate an emergency; and 2) categorically exempt pursuant to Section 15304(e) and 15311(c) due to its temporary nature with no permanent changes to the right-of-way. Thus, no environmental review is necessary.

LEGAL REVIEW:

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

ATTACHMENTS:

1. Downtown Outdoor Dining Map
2. Outdoor Dining Occupancy List
3. Pier Area Outdoor Dining Map