



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/06/2020

ITEM NO: 8

DATE: September 28, 2020

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Provide Specific Direction to Modify the Town's Pilot Parklet Program and Economic Recovery Initiatives:

- a. Discuss Town's Pilot Parklet Program (established pre-COVID), and Consider Extending the Parklet Duration for a Minimum of Five to Seven Years; and
- b. Determine the Duration of the Temporary Economic Recovery (Krail) Parklets Located on Public Property in Downtown and Consider Phasing Options to Facilitate Outdoor Seating and Business Activities; and
- c. Discuss Options for Businesses to Implement Platforms, Ramps, Overhead Coverage, and Other Modifications Within the Economic Recovery Parklets to Continue to Support Outdoor Business Services Through the Winter; and
- d. Discuss Other Elements of the Economic Recovery Initiatives and Provide Further Direction as Appropriate.

RECOMMENDATION:

Provide specific direction to modify the Town's Pilot Parklet Program and Economic Recovery Initiatives:

- a. Discuss Town's Pilot Parklet Program (established pre-COVID), and consider extending the parklet duration for a minimum of five to seven years; and
- b. Determine the duration of the Temporary Economic Recovery (krail) Parklets located on public property in downtown and consider phasing options to facilitate outdoor seating and business activities; and

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Economic Vitality Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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RECOMMENDATION (continued):

- c. Discuss options for businesses to implement platforms, ramps, overhead coverage, and other modifications within the Economic Recovery parklets to continue to support outdoor business services through the winter; and
- d. Discuss other elements of the Economic Recovery Initiatives and provide further direction as appropriate.

BACKGROUND:

On February 5, 2019, the Town Council adopted a Pilot Parklet Program that allowed for private businesses in Downtown to enter into a public-private partnership with the Town and construct outdoor dining areas on the public street for the business to use during operating hours and for the public to use otherwise. The pilot was recommended to last three years with the intent that a new streetscape program would begin in about the same amount of time. Later in 2019, the Town Council started a streetscape fund dedicating approximately \$1.9M to the future project.

However, in March of 2020, the world was struck with the COVID-19 pandemic that created an unprecedented and unpredictable economic situation. Through this upheaval, the Town Council quickly pivoted to support local businesses by adopting an Economic Recovery Resolution on June 2, 2020 and authorizing the expenditure of up to \$150,000 of the streetscape funds to create temporary parklets on public property (parking spaces on public streets) allowing business activities to commence outdoors.

The Resolution included a series of initiatives to provide opportunity and support for local businesses throughout the Town as they weathered the uncertain economy brought on by the pandemic. These initiatives included: streamlined policies; reduced fees for some Conditional Use Permits; the ability for current businesses to adapt their business model with staff level approval and an Economic Recovery Agreement; reduced parking requirements in private lots to accommodate outdoor business activities including patio/parklet dining; and a temporary parklet and curbside pick-up program that removed parking on N. Santa Cruz Avenue to allow for outdoor seating and business activities and quick turn parking spaces all within the parameters of the Public Health Order.

At the time of adoption, it was difficult to anticipate the duration of the program and the needs for businesses through the summer and beyond. Thus, the Council directed staff to work with businesses and remain flexible and adaptive as the needs changed and return at a future meeting with a project update and options for further steps.

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DISCUSSION:

As the months have unfolded, it has become clear that the pandemic and modified businesses operations will be part of the economic environment for the foreseeable future. This brings the challenge of the winter weather and how the Town may assist businesses with adapting the temporary outdoor spaces to accommodate their operations while remaining in compliance with State and County regulations including the Building and Fire Codes, Americans with Disabilities Act (ADA) regulations, and Public Health Orders.

Staff is providing the Town Council with some discussion points below for consideration and is requesting direction on next steps, including if the Council would like to commit additional funds beyond the initial \$150,000 dedicated to Economic Recovery on June 2, 2020. To date, the Town has spent approximately \$160K (including \$70k in staff costs absorbed by Parks and Public Works) on the installation and rental of the krail and other downtown modifications. In addition, the Council committed another \$150,000 from the fund for holiday light displays.

Pilot Parklet Program

The increased demand for space outdoors to conduct business activities has also brought increased interest in the Town's original Pilot Parklet Program adopted on February 5, 2019 (Pilot Parklet Program). Prior to the pandemic, the Town was allowing businesses and property owners to come in on a first come, first served basis to apply for and construct parklets for outdoor restaurant seating. The model allowed for businesses to spill over in front of other businesses, and little consideration was given to encouraging neighbors to work together to build larger parklets that could be divided to serve multiple businesses in a row. Now that most businesses need outdoor space, the approach for the Pilot Parklet Program may need to shift to consider how more equitable parklet spacing and utilization may be achieved.

With the addition of the Economic Recovery Parklet Program (krail parklets), staff has received several ideas and inquiries regarding when the krail parklets will be removed and how businesses may retain outdoor seating and business service areas beyond the pandemic.

The Pilot Parklet Program may be one way to achieve this continued outdoor service area; however, the investment is prohibitive for many in this uncertain economic environment. Thus there are still several stakeholders interested in the Town purchasing planters to replace the krail and create a more semi-permanent parklet barrier for businesses.

Additionally, the question remains on the timeline of the Pilot Parklet Program and if the Town still intends on ending in around 2022, as originally anticipated when the pilot began. Staff recommends extending the timeframe of the Pilot Parklet Program for another five to seven

DISCUSSION (continued):

years to allow for Economic Recovery and the planning that is required for a downtown streetscape program.

Economic Recovery Parklet Program (Krail Parklets in the Public Right of Way)

Town staff has been working with the business community since the beginning of June to implement and adjust the krail parklets in downtown along public streets. There are currently 42 businesses utilizing the temporary krail parklets, including restaurants, retailers, and personal service businesses. The Town has provided and painted the krail barriers that create the delineation from vehicular traffic while the businesses have provided their own furniture, sun protection, and platforms.

Town staff recommends that the Council consider a phased approach to end the krail parklets and set a timeline for the transition. The Council should provide direction on one of the following phasing options or identify another approach:

- Identify a specific duration for the krail parklets. Staff recommends retaining them through March 2021 at a minimum. The estimated cost of the krail rental would be \$10,000 per month plus \$10,000 pickup fee when the project is complete. The current rental is paid through October 2020.
- Provide a grant program that assists businesses with constructing their own parklets following the guidelines in place for the Pilot Parklet Program, incentivizing those businesses that work together to include neighboring businesses. This could include a sunset of the krail parklets at the end of spring or summer 2021 with a construction timeframe for the more permanent parklets soon thereafter. These permanent parklets would have the same time guarantee of five to seven years, or as determined by Town Council.
- Purchase concrete planter boxes to replace the krail, creating semi-permanent parklet spaces in the street as discussed at the June 1, 2020 Council meeting. The investment amount to replace existing krail parklets with planters would be approximately \$500k with additional monthly costs for Town upkeep and maintenance. In turn, the businesses would be responsible for installing proper ADA and storm drain access within the parklet space that their business utilizes. The planters are made to order and can take several months to be delivered. In this option, staff would replace the krail with the planters as they become available.

DISCUSSION (continued):

- Choose to leave the krail parklets in place without a timeline for removal. To date, the Town has expended \$160,000 on the rental and set up of the krail (through October 2020) and anticipate spending an additional \$10,000 per month rental of the existing krail.

Additional Guidance for Krail Parklets in the Public Right-of-Way

Additional direction is needed for the management and use of the public right of way within the temporary parklets even with a timeline determination by Council. This is especially important because businesses may have a longer term need for outdoor space and many are interested to know what could be allowed during the winter months. Specifically, this discussion has brought up issues of how businesses may provide customers with protection from the elements while maintaining only a single side of coverage as the County Public Health Order requires.

While staff continues to rely on the businesses to follow the Public Health Order, the Council may wish to provide direction regarding appropriate activities and structures within the krail parklets. Unlike private property, there has not been landowner oversight on the design and aesthetics of each parklet, thus the staff is asking the Council to give direction for these spaces.

Many of the overhead coverings and constructed platforms currently in place stretch the limit of what should be built without Town building permits or approval by Santa Clara County Fire. Staff recommends that now is the time to reset and provide the businesses with clear guidelines for what is expected with a timeline for compliance. Council's decision on the duration of the temporary krail parklets would help businesses determine their return on investment as they look to revamp their parklet consistent with the guidelines and in preparation for winter.

Staff is looking for specific direction from the Council on:

- **Parklet Overhead Coverage** - Several businesses have purchased or constructed shade structures within their parklets for the summer. Now, with colder and wetter weather expected in the winter, businesses are inquiring about what they may install to provide protection from the winter elements. As an example, some businesses are asking to replace canvas sail-type coverings with prefabricated corrugated awning covers, or other solid water-resistant materials.

Staff is seeking Council direction on the following specific items:

- Does the Council want to see structures built over the krail parklets?

DISCUSSION (continued):

- If yes, does the Council want to specify allowable materials or other parameters or let the businesses determine what works best for their budgets?
- Staff recommends that all existing and future overhead structures within the kral parklets obtain permits from the Town and/or Fire Department. This would also allow for the Town to evaluate structures that might be built next to one another to ensure that they work together to direct rainfall runoff appropriately.
- Would the Council like to create a grant program to businesses to offset some of the costs associated with obtaining permits? Staff can bring back the costs based on Council direction, or the Council could direct a not to exceed cost per business.
- Alternatively, would the Council prefer only umbrellas moving forward? Under this option, would the Council want to specify the type of umbrella or tent a business could utilize? Any structures that have been built to date without permits would all need to be removed.
- **Leveling Platforms and Ramps** - Several businesses have constructed platforms in their parklets to level the ground and make them more comfortable and accessible for guests. These have been constructed at the cost of the businesses. Some of the platforms present concerns because they do not allow rainwater to access the storm drains directly.

It is the responsibility of the business operating the parklet to ensure the parklet complies with ADA standards. Compliance with the ADA must include, at a minimum, either a parklet surface flush with the sidewalk or a parklet that provides an ADA compliant ramp. The underside of the platform must be constructed to allow for seasonal drainage.

- Would the Council like to provide financial support in the form of grants to businesses to build and/or modify the platforms to create ones that allow storm water to pass and provide leveling? If so, provide any direction on a grant program, or the staff can bring back options at a future meeting. If it is the will of the Council to phase the kral parklets to semi-permanent planters, the need for platforms and ramps would remain. Therefore, Council direction is needed for the immediate term for the temporary parklets to address ADA and drainage.

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- **Heaters** - Provide direction on the use of heaters in the parklets. Outdoor heaters currently do not require a Town permit if they are on private property; however, they are typically allowed on public rights-of-way, such as the sidewalks in front of restaurants because they tend to inhibit full sidewalk access.

If heaters are permitted, an overhead covering for the parklet may not be an option based on the Fire Code. If Council is favorable towards allowing heaters, staff would require that the businesses work with the Fire Department to ensure that their use of heaters is safe for the parklet space they are using.

- **Unused Parklets** - For those parklets that are not being utilized by a business, would the Council like to see them remain in place, or be removed and the kral stored until a time when the business occupying the frontage can use them?

The original intent of implementing extra parklets was to create extra space throughout the downtown for people to spread out as they move through Town; however, staff observes that they are rarely used. Some have been requested by businesses and have an agreement in place; however, due to the current Public Health Order, the business is unable to open.

- If the Council would like to see the unused parklets remain, the Town will need to provide accommodation to make the spaces accessible and compliant with the ADA. Staff is asking the Council to provide direction if unassigned parklets should remain in place and if the Town should cover the cost for adding a platform or ramp to the space.
- **Pop up Retail and Temporary Food Carts in Parklets** – Staff has received a few inquiries from existing businesses that would like to partner with an ancillary pop-up business to create additional customer interest. One request was for a coffee cart located in its kral parklet on weekends only, while the other was for an ongoing coffee cart within the private outdoor property of the business. In both cases, the existing businesses are independent retailers without CUPs that would allow beverage/food uses. The existing businesses would not operate the pop-up coffee carts; instead, they would be operated by separate business entities.

While the Economic Recovery Resolution could allow for a business itself to modify their own business model, adding an additional business use such as food service and operating a pop-up within their parklet in the public right-of-way may stretch beyond the intent of the Economic Recovery Resolution. There are pros and cons to ancillary

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businesses. On the one hand, adding additional business services in parklets could provide more interest from consumers and generate more business for the downtown as a whole. On the other hand, the addition could also create more localized competition to the downtown's existing businesses who may have much more restrictive service rules enforced through the Public Health Order as an established brick and mortar business.

Staff is seeking direction from the Council regarding pop-up retail and food cart uses in the krail parklets and/or within the confines of a business' private property. Staff proposes two options for consideration:

- Allow pop-up businesses to be hosted in krail parklets if the business occupying the parklet is agreeable to the pop-up and it occurs no more than four days per month; or
- Allow current Los Gatos businesses to host pop-up businesses on private property only including outside and inside property; however, the pop-up may not extend into public right-of-way.

For both options, the existing business would need to enter into an Economic Recovery Agreement with the Town and the pop-up would be required to obtain a Los Gatos business license and meet the requirements of all State and County public health and environmental health guidelines.

Temporary Parklets, Patios, and Business Areas on Private Property

For businesses located in shopping centers or with private parking lots, staff has utilized the Economic Recovery Resolution to execute Economic Recovery Agreements to allow for reduced parking requirements so that businesses may accommodate their business activities in the parking lot. While in most cases businesses were not permitted to use the entire lot, there are some parking lots that are not conducive to safely hosting business activities and car traffic, so exceptions were made for use of the entire private parking lot.

This opportunity for businesses with private lots has been successful and well received by stakeholders. Staff has received a few inquiries from nearby residences regarding noise during outdoor group fitness classes. In response, staff has worked with the business owners to address the issue successfully.

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DISCUSSION (continued):

At this time, staff is not recommending any modifications to these elements of the Economic Recovery program.

Process Streamlining and Permit Fee Reduction

While the economic situation of the pandemic continues to stretch the limits of many of the Town's small businesses, it has been encouraging to see new businesses show interest in locating in Los Gatos. Staff has processed two new Conditional Use Permit (CUP) applications and one CUP modification since June 1, 2020. In addition, two to four more are anticipated in the upcoming weeks. The Town has also had three new personal service businesses utilize the Economic Recovery Agreement in lieu of a CUP, and two businesses use the Agreement to modify their existing business activities. Staff continues to provide personal and individualized support to Los Gatos businesses and property owners. Staff appreciates the Chamber's support with these efforts as well. Businesses as a whole have shown gratitude for the Town Council's actions of support thus far.

The Town's economic recovery initiatives have become a model many other communities are looking to emulate as they try to support their local business communities. Staff recommends that these initiatives remain in place for the duration of the pandemic or until such time that the Council deems appropriate. No action is needed to continue these initiatives.

CONCLUSION:

After discussing the topics and opportunities outlined in this report, and possibly others that may come forward through public comment or Town Council discussion, staff is requesting direction on next steps for the Economic Recovery Resolution initiatives and the Town's Pilot Parklet Program.

Below is an overview of the direction staff is seeking:

- A. Consider extending the duration of the Pilot Parklet Program for a minimum of five to seven years.
- B. Discuss the Temporary Economic Recovery (kral) Parklets located on public property in downtown and determine:
 - a. A timeline for the program duration. Staff recommends an extension to at least the end of March 2021.

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CONCLUSION (continued):

- b. With a definitive timeframe for the krail, identify potential incentives for businesses to participate in the Town's Pilot Parklet Program which would likely be incorporated into a future streetscape project.
 - c. Alternatively, if the temporary parklets remain after March 2021, would the Council want to invest in the purchase and maintenance of a more attractive planter box option instead of continuing the use of krail?
- C. Discuss options for businesses to prepare for outdoor business activities through the winter within the Economic Recovery (krail) parklets. Specifically,
- a. Provide direction on weather coverings, platforms, ramps, drainage, and other modifications.
 - b. Provide direction on the use of heaters in the parklets.
 - c. If the Council would like to see the unused parklets remain, should the Town cover the costs for adding a platform or ramp to make the space ADA compliant?
 - d. Determine timelines for business owners to comply with drainage, ADA, and other requirements.
- D. Provide any additional direction on the Economic Recovery Resolution and supporting initiatives including:
- a. Pop-up businesses hosted in krail parklets or within private business space.

COORDINATION:

This report has been prepared with coordination between the Town Manager's and Town Attorney's Offices, and the Police, Community Development, Parks and Public Works, and Finance Departments.

FISCAL IMPACT:

The Council's direction may necessitate additional expenditures from the Economic Recovery fund, including:

- Extending the rental period of the existing krail;
- Purchasing and maintaining concrete planter boxes;
- Directing funds towards parklet grants for businesses; and
- Providing funds for the construction of parklet ramps or platforms in the krail parklets

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ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.