



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 04/20/2021

ITEM NO: 16

DATE: April 14, 2021

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Discuss and Provide Direction on the Following Actions to Continue the Town's Support of Economic Recovery and Community Vitality in Response to the Ongoing COVID-19 Pandemic, Including:

- a. Temporary Krail Parklets:
 - 1. Confirm Sunset Date of September 19, 2021;
 - 2. Provide Direction on the Temporary Tents and Other Weather Protection Structures;
- b. Semi-Permanent Parklets:
 - 1. Provide Direction on Timeline for Grant Distribution and Parklet Construction;
 - 2. Provide Direction on Awnings and Other Weather Structures;
 - 3. Provide Direction on Maximum Number of Spaces for Parklets; and,
- c. Approve the extension of Personal Services Businesses in Office Commercial Zones (Zone O) with an Economic Recovery Agreement

RECOMMENDATION:

Discuss and provide direction on the following actions to continue the Town's support of economic recovery and community vitality in response to the ongoing COVID-19 pandemic, including:

- a. Temporary Krail Parklets:
 - 1. Confirm sunset date of September 19, 2021;
 - 2. Provide direction on temporary tents and other weather protection structures;

PREPARED BY: Monica Renn
Economic Vitality Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Community Development Director, Parks and Public Works Director, and Finance Director

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RECOMMENDATION (continued):

- b. Semi-Permanent Parklets:
 - 1. Provide direction on timeline for grant distribution and parklet construction;
 - 2. Provide direction on awnings and other weather protection structures;
 - 3. Provide direction on maximum number of spaces for parklets; and,
- c. Approve the extension of Personal Services Businesses in Office Commercial Zones (Zone O) with an Economic Recovery Agreement.

BACKGROUND:

The COVID-19 pandemic has created a truly unprecedented set of circumstances for the Los Gatos community and beyond. Since March 2020, the Town Council has been working to remain supportive and adaptive to the community's stakeholders, delicately balancing competing interests and continuing to consider how to provide available assistance. Without a doubt, the health and safety of the community remain a top priority. The Town Council has met on several occasions to discuss and direct actions that support the Town's economic and community vitality efforts. A high-level summary of these includes: rent forgiveness for Town-owned properties; expanded support to non-profits serving the needs of residents; and community and economic vitality efforts.

Specifically related to economic vitality, the Town Council has adopted an Economic Recovery Resolution, with the most recent updates adopted on February 16, 2021, based on direction provided by the Town Council at its January 19, 2021 meeting. The Resolution memorializes the Town's effort to streamline and update business processes to provide modernized provisions with greater flexibility as businesses look to adapt and recover from the pandemic. A large part of the Resolution also included the ability for businesses to flex outdoor space, both public and private, to offer outdoor dining and services as indoor business activity was drastically reduced (or closed) as a part of County and State COVID-19 response Public Health Orders. The Temporary Krail Parklet Program, adopted in May of 2020, has been a staple for many businesses as they were given the opportunity to use public on-street parking spaces for their private business operations at no cost to the business. Attachment 1 provides an overview of the timeline and actions taken by the Council related to economic and community vitality throughout the pandemic.

At its January 19, 2021 meeting, the Town Council discussed the Town's two distinctly different parklet programs. Those being: the Temporary Krail Parklet Program in which the intent is to provide outdoor space for business activity when indoor space is restricted as a result of

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BACKGROUND (continued):

COVID-19 Public Health Orders; and the Semi-Permanent Parklet Program in which the intent is to provide an al-fresco style outdoor dining experience that enhances downtown and compliments the dining provided indoors. For the semi-permanent parklets, businesses must enter into a public-private partnership with the Town to construct, manage, and maintain parklets in downtown on existing on-street parking spaces. The parklet area must be accessible and open to the public during non-business operating hours.

The Town Council also approved an incentive program for the semi-permanent parklets in January that included a \$10,000 construction grant and a subsidized option for the architecture and engineering costs. The grant allocation was increased to \$20,000 per business on April 6, 2021, as a part of the Town Council's discussion on the American Rescue Plan Act (ARPA) funds.

Staff was asked to return to the Town Council to provide an update and discuss further the timeline for the temporary krail parklets and the components of the semi-permanent parklets. Based on feedback from stakeholders at recent business outreach meetings, and the discussion at the April 6, 2021 meeting, staff is providing this update and requesting direction from the Council on several items outlined in the recommendation.

DISCUSSION:

Temporary Krail Parklets

Sunset Timeline - On March 15, 2021, staff held two stakeholder remote meetings with businesses and commercial property owners to provide updates on economic recovery efforts including the two parklet programs. Based on input received via emails and at the meeting, one of the biggest concerns was the sunset timeline for the temporary krail parklets. Two requests that seemed to have the most business support were:

1. Businesses requested that the sunset timeline be fluid and allow them at least 60 to 90 days after they reach 100% capacity indoors to continue to use the temporary krail parklets, and thus did not expect September could meet that request. The ask was to set a sliding sunset date that allows such a buffer so that businesses had the opportunity to utilize the outdoor seating along with full indoor capacity in an effort to recoup some of their lost revenue and accommodate guests that are not yet comfortable dining indoors. As the pandemic settles and business returns, many businesses have back rent and other debt to repay that were necessary expenses to keep them afloat during shelter in place. Having the additional seating space available provides them

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DISCUSSION (continued):

with more opportunity to serve more guests. That noted, the State of California recently reported that all businesses could utilize full indoor capacity on June 15, 2021 if the infection, hospitalization, and vaccination trends meet the Governor's criteria. If this is the case, mid-September would deliver the request of 90 days past 100% indoor capacity.

2. Other businesses asked that the krail stay in place through at least December 31, 2021, with this end dated being reconsidered once again as December approaches. This ask still provides a specific date for planning purposes, but is further out than September, allowing additional time for recovery and transition out of the temporary krail parklets.

Temporary Tents and Other Weather Protection Structures - As the temporary krail parklets sunset, the expectation is that all accompanying furnishings, banners, tents, walls, awnings, covers, etc. will also be removed. The Town has granted approval for some of the temporary tent structures over the temporary krail parklets that have been built through the pandemic; however, many remain unpermitted. Several businesses have gone beyond erecting a temporary tent and built a structured cover that includes wood and metal elements reflecting a permanent roof like cover. To date, none of these have been permitted.

At the business stakeholder meetings on March 15, 2021, staff received quite a bit of feedback on the desire for businesses to be able to continue to build and utilize such structures for the long term on the semi-permanent parklets. In regards to the semi-permanent parklets, this will be discussed in greater detail later in this report; however, staff is asking for the Town Council's direction on the tents, awnings, covers, banners, and other furnishings built or added as a part of the economic recovery efforts. Would the Town Council like to direct that these items be removed when the krail is removed, or is there a preference to have them removed sooner as the chance of rain dwindles?

Semi-Permanent Parklets

Grant Application Timeline - At its January 19, 2021 meeting, the Town Council approved a preliminary deadline for the subsidized semi-permanent parklet grant applications of June 30, 2021. Based on the amount of interest businesses have shown thus far, and the expedited ability for full indoor dining to possibly return on June 15, 2021, staff continues to recommend this deadline for applications, and that construction must be completed by December 31, 2022. The grant would be distributed in progressive payments, with the final payment taking place once the parklet gains final inspection by the Town.

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DISCUSSION (continued):

Following the June 30, 2021 deadline, at the Town Council's direction, staff may return to the Town Council with another update on the semi-permanent parklets to understand if the process should then be reopened for additional interested businesses.

Awnings, Roofs, Covers, and Weather Protection for Semi-Permanent Parklets - To date, the semi-permanent parklets have only allowed covers that are open-air, moveable, and non-permanent such as umbrellas and sail-type shade structures. At its January 19, 2021 meeting, the Town Council provided feedback that covers on the semi-permanent parklets shall remain in this fashion of open-air, moveable, and non-permanent to allow for a full view of the buildings and businesses located behind the parklets and to support the intent of the program which is to provide an al-fresco dining experience and not replace or replicate indoor dining.

At the February 26, 2021 joint study session with the Town Council and Planning Commission, the Town Council and Planning Commission heard an urban design presentation that noted the importance of parklets blending in with the design of the streetscape and not creating additional square footage of building space. The renderings and photos provided in Attachment 3 demonstrate the current direction of the semi-permanent parklets and illustrate the umbrellas and sail-type coverings noted. Additionally, this attachment provides examples of the more structured and permanent covers that are being requested by some business stakeholders. Such structures would create new elevations along the streets of Downtown, essentially allowing the parklets to become extensions of the buildings, rather than outdoor, open-air patio dining experience as the program originally intended.

It is important to note that such structures require additional support and engineering when accompanying a parklet, thus the current agreement with the Town's consultant for the architecture and engineering of the semi-permanent parklets would not support such covers. If the Town Council changes their direction on the semi-permanent parklet covers, staff recommends that the cost of design, engineering, building permits, and other associated processes and fees of the covers be the responsibility of the parklet applicant. If there is a desire by the Town Council to subsidize the roof structures, the Town costs for the parklet architecture and engineering would increase significantly and an adjustment to the investment by the Town would be necessary.

Staff is seeking the Town Council's input and direction on continuing the requirement that all coverings for the semi-permanent parklets be open-air, moveable, and non-permanent as originally approved, unless the Town Council decides to change this direction.

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DISCUSSION (continued):

Number of Public Parking Spaces per Parklet - Understanding that the parklets are being constructed on public property and that the interest in the parklets has increased recently, staff is seeking the Council's direction if there should be a limit to the number of spaces any one business or parklet may utilize. Prior to COVID-19, the standard was two spaces per parklet/business; however, if more spaces existed in front of the business' building, and the building owner approved, additional spaces were granted. Staff took this question to the Town Council in 2019 and at that time, there was no desire to set a maximum limit of spaces per parklet. There are a few instances in downtown where a single building has a large amount of linear street frontage and thus under the current guidelines could build a parklet that is in excess of three spaces.

Would the Town Council like to keep the current direction that a standard parklet is two parking spaces, or allow requests for larger parklets to be considered on a case-by-case basis with the following considerations: (1) Are the additional spaces within the linear street frontage of the parklet applicant's commercial building or parcel, and (2) Does the property owner support this parklet?

In some cases, especially with businesses located on a corner lot, a business could fit within the guidelines above and utilize four to six parking spaces. Is the Town Council comfortable with this amount of public space being used for a parklet if the spaces are contained within the linear street frontage of the applicant's commercial building or parcel?

Would the Town Council like to consider allowing such parklets, and create a rent or fee structure for the use of public parking spaces beyond a certain threshold? For example, a parklet occupying more than three spaces (or the equivalent of more than three parallel parking spaces) could require an annual rental fee for the use of public property. This could take effect with the first year's payment due in 2024.

Alternatively, the guidelines in place could remain and parklets could continue to expand the full length of the applicant's building frontage under the current public-private partnership agreement. One argument for this is that some property owners are interested in building a parklet that expands the full length of their building to create an open-air and roomy experience for their tenants, customers, and the general public as such gathering spaces create synergy and extra space for a more comfortable guest experience. These spaces are all open to the public during non-operating hours and do offer additional space for the general public to spread out.

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DISCUSSION (continued):

Personal Service in Commercial Office Zones

As staff continues to work with businesses on relocation and reorganizing efforts, it has been noted that many small office spaces are now available for lease given that many office business models have shifted their work structures. Additionally, personal service continues to be an industry where businesses are seeking opportunity to downsize or reorganize their business model so that they may serve customers in an environment that is comfortable and supportive of social distancing, staggered appointments, and rotating employee schedules. For many personal service businesses, large retail spaces or the environment of downtown doesn't fit their needs; however, the vacant offices spaces do as many provide onsite parking and the ability to meet the needs of the customer requests.

Staff is recommending that the Town Council expand the Economic Recovery Resolution to allow for personal service businesses to be able to locate within the Town's Office Zones (O) with an Economic Recovery agreement. This allowance would run with the duration of the Economic Recovery Resolution which is currently in place through December 31, 2021. Businesses would need to have an executed agreement in place prior to the expiration of the resolution. Attachment 4 reflects this modified draft language for the Town Council's consideration.

CONCLUSION AND ALTERNATIVES:

Staff is seeking the direction of the Town Council on the items discussed in this report to continue to support the Town's Economic Recovery and Community Vitality efforts. Below, the numbered actions provide a recommendation for the Town Council to consider with alternatives to each item listed by letter for the Town Council's consideration and direction.

Temporary Krail Parklets:

1. Confirm sunset date of September 19, 2021, at which time all krail will be removed by the Town.
 - a. Direct a sunset date of 90 days after dining returns to 100% capacity in Santa Clara County as this provides additional flexibility if 100% capacity does not return on June 15, 2021; or
 - b. Set a new sunset date of December 31, 2021 and direct staff to return in the fall with an update on the economic recovery efforts.

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CONCLUSION AND ALTERNATIVES (continued):

2. Provide direction that all tents, awnings, roof structures, curtains, banners, and other furnishings implemented during the Temporary Krail Parklet Program be removed with the sunset of the krail parklets.
 - a. Direct the removal of specific items at an earlier date.

Semi-Permanent Parklets:

1. Provide direction on timeline for grant distribution and parklet construction that includes an application deadline of June 30, 2021 and a final construction deadline of December 31, 2022, with progressive grant payments, and direct staff to return to the Town Council after the close of the application period with an update on the program to consider an extension of the timeline.
2. Provide direction on awnings, roof structures, and other weather structures by confirming that only open-air, moveable, and non-permanent coverings such as umbrellas and sail-type shade structures are permitted on the semi-permanent parklets.
 - a. Modify the semi-permanent parklet program guidelines to allow parklet applicants to construct awnings, roof structures, or other weather coverings that are permanent; or
 - b. Provide direction on if the Town Council would like to make further investment to subsidize such structures through the grant program or require that the applicant assume the full cost to design and build them.
3. Provide direction on the maximum number of spaces for parklets by confirming that a standard parklet remains at two spaces and larger parklets will be reviewed on a case-by-case basis given that the parklet does not extend beyond the applicant's linear street or building frontage and has approval of the property owner.
 - a. Set a maximum number of parking spaces allowed for use by a single business' semi-permanent parklet; or
 - b. Adopt a rental fee for parklets that extend beyond three parking spaces with the first payment due in 2024. Fees and payment structure would be drafted by staff and returned to the Town Council at a future meeting for discussion and adoption.
4. Approve the extension of Personal Services Businesses in Office Zones (O) with an Economic Recovery Agreement by adopting the modified Economic Recovery Resolution in Attachment 4.

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COORDINATION:

This report was drafted in collaboration with the Town Manager and Town Attorney's Offices, and the Finance, Police, Community Development, and Parks and Public Works Departments.

FISCAL IMPACT:

The recommendations do not have a fiscal impact; however, some of the alternatives do, as follows:

- If the temporary krail parklets are extended beyond September 19, 2021, a rental fee of \$10,000 per month would be required to be paid by the Town until their removal.
- If the Town Council directs subsidy of awnings, roofs, or other permanent structures, staff would need to work with the Town's consultant on a cost estimate and renegotiate the agreement for services. It is estimated that the investment of the Town would increase by a minimum of \$10,000 per parklet to include the design and engineering costs of a solid cover.
- Setting up a rental fee structure would provide revenue for the Town on use of public land at a rate yet to be determined.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Timeline of Council Discussions and Actions to Date on Economic Recovery
2. Map of existing Temporary Krail and Semi-Permanent Parklets
3. Renderings and photos of Semi-Permanent Parklets and Weather Covering Options
4. Proposed Revised Economic Recovery Resolution
5. Public Comment received before 11:00 a.m. on Thursday, April 15, 2021