



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein

SUBJECT: Establishment of a
Pedestrian Mall on Post
Street

DATE: February 3, 2025

Approved

Date:

2/4/25

COUNCIL DISTRICT: 3

RECOMMENDATION

- (a) Conduct a public hearing to establish a pedestrian mall on Post Street between South First Street and Lightston Alley pursuant to the Pedestrian Mall Law of 1960.
- (b) Adopt a resolution determining that the pedestrian mall should be established.
- (c) Approve an ordinance establishing a pedestrian mall on Post Street between South First Street and Lightston Alley pursuant to the Pedestrian Mall Law of 1960.

SUMMARY AND OUTCOME

The Pedestrian Mall Law of 1960 is a state law that provides a process through which a California city can permanently close a city street to regular vehicular traffic to establish a pedestrian mall. The law provides for a 90-day public noticing period following the adoption of a Resolution of Intention and prior to a City Council hearing to permanently remove regular vehicular traffic from the street and establish a pedestrian mall. The City Council approved the relevant Resolution of Intention on November 5, 2024, and the public hearing is set for February 25, 2025. The intended outcome of the February 25, 2025, public hearing is to approve an ordinance establishing a pedestrian mall on Post Street between South First Street and Lightston Alley.

BACKGROUND

In June 2020, City Council implemented the San José Al Fresco initiative in response to the COVID-19 pandemic. The initiative allowed businesses to conduct outdoor operations, utilizing public streets, private parking lots, public sidewalks, and on-street parking spaces with reduced regulation. As a part of this initiative, Post Street was closed to non-emergency vehicular traffic. Most businesses on the street used the space for outdoor dining and activations. This adjustment was instrumental in helping businesses in the neighborhood survive through the pandemic at a time when Santa Clara County regulations prohibited patrons from eating indoors or patrons did not feel comfortable eating indoors.

In January 2022, Post Street reopened to vehicular traffic to allow stakeholders to evaluate how to equitably manage the street and respond to the request for access from several retailers in the area. In the summer of 2022, the Post Street Traffic Closure Pilot was implemented. The pilot consisted of a temporary closure on Post Street from Thursdays through Sundays. This pilot was subsequently extended through December 2024. During the pilot, staff worked with key partners, such as the nonprofit Project More, which coordinated the street closure application and posted weekly tow zone signs, and with Groundwerx, which managed the weekly street closure with temporary barricades.

In the summer of 2023, staff was directed to begin the legal proceedings to permanently close the street prior to the conclusion of the pilot. Since the beginning of the pilot, the City and San Jose Downtown Association staff have met with business owners, property owners, and stakeholders to discuss the closure. The overwhelming majority of feedback has supported making the street closure permanent. City Council approved a Resolution of Intention to establish a pedestrian mall on Post Street on November 5, 2024, and scheduled a public hearing for February 25, 2025.

ANALYSIS

Between South First Street and Lightston Alley, Post Street is a 50-foot-wide public right-of-way (building face to building face). Establishing a pedestrian mall on this block centralizes a 20-foot pedestrian right-of-way down the middle of the street, which emergency vehicles may access when necessary.

With the permanent street closure, no new infrastructure installations or street improvements are being proposed at this time. If funding is secured, removable bollards could be installed to increase pedestrian safety and enhance aesthetics. Until then, pedestrians will continue to be protected from vehicular traffic through the existing meridian safety barricades. Barricades are located at the east and west ends of the street, with no more than four feet spacing between barriers.

There is currently a loading zone on Post Street midway down the block. During the pilot closure, service and delivery vehicles accessed Post Street by utilizing freight loading zones on adjacent Lightston Alley and First Street. The loss of the loading zone on Post Street is not expected to pose a significant impact on the businesses on the street and has not been a concern raised by business owners.

Throughout the closure, businesses and Project More have used the closed street for dining, pop-up fairs, and community events. Because the street will function as a pedestrian walkway under permanent closure, businesses on Post Street will gain approximately eight feet of outdoor dining and activation space along their sidewalk frontage. Business owners look forward to removing regular vehicular traffic in the street to permanently improve their sidewalk space and eliminate the need to move their equipment and infrastructure weekly.

City staff and the San Jose Downtown Association have been working to understand the needs of businesses on the street related to parking. Based on business owner feedback, City staff has converted two passenger loading zones on Lightston Alley to 30-minute parking spaces to counterbalance the elimination of short-term parking on Post Street. There will be no impact on the entrance or exits of the nearby parking garage at 60 South Market Street, as the Post Street entrance is west of Lightston Alley and is not a part of the proposed pedestrian mall. Similarly, there will be no impact on the operation or access for the adjacent Evergreen Community College District offices at 89 Post Street, also west of Lightston Alley.

It is important for a pedestrian mall to feel inviting through activations and aesthetics. There are several ways that Post Street could be enhanced. Additional temporary, overhead festoon/decorative lighting, a street mural, or permeable pavers could enhance the pedestrian experience and provide an additional safety element. However, the City has no plans to add any permanent improvements or infrastructure on Post Street at this time.

Pedestrian Mall Law of 1960

In 1960, the California Legislature, through the Pedestrian Mall Law of 1960, declared “that in certain areas in cities and particularly in retail shopping areas thereof, there is need to separate pedestrian travel from vehicular travel and that such separation is necessary to protect the public safety or otherwise to serve the public interest and convenience.” (Streets and Highway Code § 11000, et seq.) The City wishes to establish a pedestrian mall on Post Street primarily for pedestrian travel, and prohibit vehicular traffic on the proposed pedestrian mall, except for emergency and utility maintenance vehicles that will be allowed access at all hours and service and delivery vehicles that will be allowed access between the hours of 5 a.m. to 10 a.m. To close Post Street permanently, the City must comply with the Pedestrian Mall Law of 1960, codified as California Streets and Highways Code Section 11000, et seq.

The key steps to establishing a pedestrian mall are outlined below.

1) *Resolution of Intention.* The City Council must adopt a resolution declaring the City's intent to establish a pedestrian mall. The resolution must contain: (a) the determination and declaration to establish a pedestrian mall, (b) a general description of the street, (c) a general description of the mall intersections, (d) a general description of the intersecting streets, (e) a statement that the City Council proposes to adopt an ordinance prohibiting, in whole or in part, vehicular traffic on the pedestrian mall, (f) a general statement of the source(s) of moneys proposed to be used to pay damages, if any, allowed or awarded to a property owner complainant, (g) the day, hour, and place for a City Council hearing on the pedestrian mall to hear protests and objections to the mall, and a statement that anyone may file a written protest with the City Clerk before the end of said hearing, and (h) a statement that any owner of property or person with an interest in property who might suffer legal damage by reason of the establishment of the mall may file a written claim of damages with the City Clerk before the end of said hearing, and the failure to file such a claim within the time provided shall be a waiver of any claim for damages.

2) *Public Noticing Period.* Not less than 90 days prior to the public hearing, copies of the Resolution of Intention are required to be posted on Post Street and all intersecting streets, as applicable, and a copy must be recorded with the Santa Clara County Clerk-Recorder. Not less than 45 days prior to the public hearing, a copy of the resolution must be mailed to any owner of property or person with an interest in property that abuts any portion of the mall or intersecting street.

3) *Public Hearing.* At a public hearing noticed for the time specified in the Resolution of Intention and held pursuant to Section 54954.6 of the Government Code to establish the proposed pedestrian mall, all objections, protests, and claims must be heard and considered. If the owners of property abutting the proposed pedestrian mall, representing a majority of the frontage on the proposed pedestrian mall, submit written objections to the establishment of the proposed pedestrian mall, the City Council will terminate the proceedings, and no proceeding for the establishment of a pedestrian mall may be commenced within one year after such termination. Following the public hearing, the City Council must, by resolution, either abandon the proceeding or determine that a pedestrian mall shall be established.

4) *Adopt the Ordinance Establishing Pedestrian Mall.* Following the adoption of the resolution determining that a pedestrian mall shall be established and upon payment of any claims, the City Council must adopt an ordinance establishing the pedestrian mall. The ordinance must contain: (a) a general description of the pedestrian mall and a declaration and determination that the mall is finally established, (b) rules and regulations prohibiting vehicular traffic on the mall subject to such exceptions as the ordinance may provide, (c) such additional rules and regulations as the City Council may determine pertaining to the interpretation, operation, and enforcement of the aforementioned rules and regulations, and (d) such provisions as the City Council may

determine pertaining to the operative date or dates of any of such rules or regulations. The Pedestrian Mall Law of 1960 expressly permits the City to pay for improvements on Post Street or any claims for damages from: a) general funds, b) other available moneys, or c) the proceeds of assessments levied on lands benefited by the establishment of a pedestrian mall. The City intends to pay for any improvements on Post Street or any claims for damages utilizing one or more sources of funds allowed by the Pedestrian Mall Law of 1960. Regarding claims for damages specifically, any person owning or having any legal or equitable interest in any real property that might suffer legal damage by reason of the establishment of the proposed pedestrian mall has until the end of the public hearing on February 25, 2025, to file a written claim. If any claims for damages are granted by the City Council, state law allows for the formation of an assessment district to cover those damages. However, following staff's discussions with businesses and property owners, the City does not anticipate any claims for damages. The City retains the right to form an assessment district at a later date to cover the cost of improvements or claims for damages, if necessary.

Steps 1 and 2 of the process outlined above have been completed. Staff is seeking City Council approval for steps 3 and 4 of this process with the recommendations brought forward in this memorandum.

EVALUATION AND FOLLOW-UP

The Post Street closure has been well received by the community, including by both residents and businesses and has added vibrancy to Downtown San José. Such critical public space holds the potential to better support local businesses, improve mobility for people of all abilities and ages, and invite a broader range of San José residents to come downtown to socialize, shop, and dine. Staff will continue to work with Post Street stakeholders, including businesses on the street, the San Jose Downtown Association, and non-profit organizations, to identify funding opportunities to enhance access, aesthetics, and functionality in the space.

COST SUMMARY/IMPLICATIONS

Staff anticipates minimal costs related to implementing the pedestrian mall, namely costs associated with fulfilling the distribution and posting requirements of the Pedestrian Mall Law of 1960. These costs have been absorbed within the City Manager's Office of Economic Development and Cultural Affairs' existing budget. The City has no plans at this time to add permanent improvements or new infrastructure on Post Street. If any future improvements are proposed, the cost of those improvements will be brought forward as part of a corresponding budget process.

The City does not intend to form an assessment district at this time to pay for potential street improvements (e.g., street murals, removable bollards, additional outdoor lighting)

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but may consider forming such an assessment district in the future to pay for additional improvements that may be contemplated at a later date.

The elimination of short-term parking on Post Street will result in lost revenue of approximately \$10,000 to \$15,000 each year from both parking meters and citations in the General Purpose Parking Fund and General Fund, respectively. The impact of the lost revenue will be included in future revenue forecasts for each fund.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

PUBLIC OUTREACH

As outlined in the Pedestrian Mall Law of 1960, not less than 90 days prior to the public hearing on February 25, 2025, the City posted copies of the Resolution of Intention on Post Street, between South First Street and Lightston Alley and recorded a copy with the Santa Clara County Clerk-Recorder. Not less than 45 days prior to the hearing, the City mailed a copy of the resolution with the attached letter to the owner representatives of properties listed on the Santa Clara County tax collector data or persons with interest in property that abuts any portion of the pedestrian mall or intersecting street.

Multiple community meetings have been held with Post Street businesses and property owners. On Wednesday, August 26, 2024, a community meeting to specifically outline the process of implementing the Pedestrian Mall Law of 1960 was held in conjunction with the San Jose Downtown Association at 55 South on Post Street. The San Jose Downtown Association emailed notification of this meeting to businesses and property owners, as well as adjacent neighborhood stakeholders.

This memorandum will be posted on the City's Council Agenda website for the February 25, 2025 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

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CEQA

Categorically Exempt, CEQA Guidelines Section 15301(c) Existing Facilities, File No. ER24-259.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

NANCI KLEIN

Director of Economic

Development and Cultural Affairs

For questions, please contact Chris Arkley, Senior Executive Analyst, Downtown Coordinator, City Manager's Office of Economic Development and Cultural Affairs, at chris.arkley@sanjoseca.gov or (408) 535-8579.