



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein

SUBJECT: SEE BELOW

DATE: September 11, 2023

Approved

Date

9/21/2023

COUNCIL DISTRICT: 3

**SUBJECT: RESOLUTION OF INTENTION TO ESTABLISH A PEDESTRIAN MALL
ON NORTH SAN PEDRO STREET**

RECOMMENDATION

- (a) Adopt a Resolution of Intention to establish a pedestrian mall on North San Pedro Street between West Santa Clara Street and West St. John Street pursuant to the Pedestrian Mall Law of 1960.
- (b) Set a public hearing for Tuesday, January 23, 2024, at 1:30 p.m. in accordance with 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. Adoption of the Resolution of Intention is the first step to establishing a pedestrian mall on North San Pedro Street between West Santa Clara Street and West St. John Street (San Pedro) under this state law. The law then provides for a 90-day public noticing period prior to a City Council hearing to close the street and establish a pedestrian mall. The public hearing is set for January 23, 2024.

BACKGROUND

North San Pedro Street is a key public space in the heart of 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 wider range of San José residents to come downtown to socialize, walk, and dine. Over the years, San Pedro has frequently been closed to vehicular

traffic and converted to a pedestrian-only street for special events such as the Downtown Farmers' Market, Super Bowl 50, College Football National Championship, and San José Jazz Summerfest. In 2019, the District 3 City Council Office funded a month-long weekend open streets program with a variety of low-cost and modest activations on San Pedro called, "Meet in the Streets" which was very well received by the public and neighborhood stakeholders.

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

San Pedro has been closed to regular vehicular traffic since July 2020. Businesses on San Pedro, community members, and the City Council have called for the one-block portion of North San Pedro Street, between West Santa Clara Street and West St. John Street to be permanently converted to a pedestrian mall, removing all regular vehicular traffic from the street. At the May 23, 2023 meeting, the City Council directed staff to proceed with the implementation of the Pedestrian Mall Law of 1960 to permanently remove regular vehicular traffic from San Pedro.

ANALYSIS

San Pedro Logistics

San Pedro is a 60-foot-wide, public right-of-way (building face to building face). Establishing a pedestrian mall on San Pedro centralizes a 20-foot pedestrian right-of-way down the middle of the street, which in the case of emergency can be utilized for emergency vehicle access.

There are no new permanent infrastructure installations or street improvements being proposed. However, once funding is secured, retractable or removable bollards will be installed to increase pedestrian safety. Until such time, pedestrians will continue to be protected from vehicular traffic with the utilization of traffic barricades. Barricades are located at both the north and south ends of the street, with no more than four feet of spacing between barriers. Some additional temporary, overhead festoon/decorative lighting, a street mural, and additional temporary planter boxes may also be installed down the street in the future to enhance the pedestrian experience and provide an additional safety element.

Service and delivery vehicles currently access business customers on San Pedro by utilizing the freight-loading and 30-minute parking zones on West Santa Clara Street, Market Street, and Almaden Avenue. Based on business-owner feedback, operation parameters of the proposed pedestrian mall will allow for service and delivery vehicle access to San Pedro between the hours of 5 a.m. and 10 a.m. daily. The Downtown Property-Based Improvement District's Groundwerx staff will facilitate the movement of the traffic barricades when access to the street is needed.

The entrance from North San Pedro Street to the Market/San Pedro Square Parking Garage will be closed to vehicular traffic. However, the garage exit onto North San Pedro Street at the north end of the street will continue to operate as it has since September 2020. Cars exiting the garage will only be allowed to turn right onto San Pedro, proceeding northbound toward West St. John Street. No left turn out of the garage exit will be allowed.

Businesses on San Pedro will gain approximately eight feet of outdoor dining and social space along their sidewalk frontage, depending on where they are located on the street compared to pre-COVID-19 conditions. The creation of the pedestrian mall does not consist of an expansion of the current closed street and any temporary improvements will not impact drainage, stormwater runoff, or access to utilities.

Any future improvements on San Pedro are purely speculative. The City has no plans to add any permanent improvements or infrastructure on San Pedro other than retractable or removable bollards at both ends of San Pedro for added pedestrian safety. If any improvements are proposed in the future, such a proposal will be subject to review by the City Council and environmental analysis under the California Environmental Quality Act.

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 San Pedro 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 San Pedro 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 include:

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 San Pedro and all intersecting streets, and a copy must be recorded with the county 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 San Pedro 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 San Pedro 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 which might suffer legal damage by reason of the establishment of the proposed pedestrian mall has until the end of the public hearing on January 23, 2024, 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.

EVALUATION AND FOLLOW-UP

As outlined in the Pedestrian Mall Law of 1960, not less than 90 days prior to the public hearing on January 23, 2024, the City must post copies of the Resolution of Intention on San Pedro and any intersecting streets and record a copy with the county recorder; and not less than 45 days prior to the hearing, the City must mail a copy of the resolution to any owner of property or person with interest in property that abuts any portion of the pedestrian mall or intersecting street. The City Council will conduct a public hearing on January 23, 2024, in accordance with the Pedestrian Mall Law of 1960, and adopt a resolution either abandoning the proceeding or determining that a pedestrian mall shall be established. Finally, if a pedestrian mall is to be established and any claims have been paid, the City Council will adopt an ordinance establishing the pedestrian mall.

COST SUMMARY / IMPLICATIONS

Staff anticipates minimal costs related to the implementation of the pedestrian mall, namely costs associated with fulfilling the distribution and posting requirements of the Pedestrian Mall Law of 1960. These costs will be absorbed within the Office of Economic Development and Cultural Affairs' existing budget.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, the Fire Department, the Department of Public Works, and Department of Transportation.

PUBLIC OUTREACH

Multiple community meetings have been held with San Pedro businesses and property owners. A community meeting to specifically outline the process of implementing the Pedestrian Mall Law of 1960 was held in conjunction with the San José Downtown Association on Wednesday, August 23, 2023 at the Tabard Theatre on San Pedro Square. Email notification of this meeting was sent to business and property owners, as well as adjacent neighborhood stakeholders through the San José Downtown Association, and a letter outlining the Pedestrian Mall Law process was mailed to property owners within the geographic area outlined in the prescribed law.

This memorandum will be posted on the City's Council Agenda webpage for the October 3, 2023 City Council meeting.

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COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Categorically Exempt, CEQA Guidelines Section 15301(c) Existing Facilities, 15304 (e) (f) Minor Alterations to Land, File No. ER23-200.

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 Blage Zelalich, Deputy Director, Office of Economic Development and Cultural Affairs, at (408) 535-8172.