

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN JOSE DECLARING ITS 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**

WHEREAS, between June 2020 and September 2020, the San José City Manager issued five emergency declarations in response to the COVID-19 pandemic to allow the expansion of business operations outdoors while maintaining compliance with the County of Santa Clara’s Order and Social Distancing Protocol; and

WHEREAS, in July 2020, the City of San José (“City”) temporarily closed North San Pedro Street between West Santa Clara Street and West St. John Street (“San Pedro”) as part of the San José Al Fresco initiative to facilitate outdoor dining during the COVID-19 pandemic; and

WHEREAS, following the end of the COVID-19 state of emergency, businesses on San Pedro, community members, and this City Council have called for the one-block portion of San Pedro to be permanently converted to a pedestrian mall to enhance this key public space in the heart of downtown San José; and

WHEREAS, through this resolution, the City declares its intention to establish a pedestrian mall on the one-block portion of San Pedro; and

WHEREAS, the Pedestrian Mall Law of 1960 (Streets and Highways Code Section 11000 et seq.) authorizes municipalities to close streets to vehicular traffic and to establish pedestrian malls; and

WHEREAS, San Pedro is a 60-foot-wide, public right-of-way (building face to building face), and the establishment of a pedestrian mall on San Pedro will centralize a 20-foot pedestrian right-of-way down the middle of the street; and

WHEREAS, the City wishes to prohibit vehicular traffic on the proposed pedestrian mall except for emergency and utility maintenance vehicles, which shall be allowed access at all times. In addition, private maintenance vehicles and other vehicles for large equipment drop-offs may be allowed by appointment or in conjunction with a special event permit; and

WHEREAS, upon establishment of the pedestrian mall, service and delivery vehicles will be able to access the pedestrian mall between the hours of 5 a.m. and 10 a.m. daily; and

WHEREAS, the entrance from North San Pedro Street to the Market/San Pedro Square Parking Garage will be closed to vehicular traffic, but the garage exit onto North San Pedro Street at the north end of the street will continue to operate as it has since July 2020; and cars exiting the garage will only be allowed to turn right onto San Pedro, proceeding northbound toward West St. John Street; and

WHEREAS, there are no new permanent infrastructure installations or street improvements proposed, but 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 once funding is secured, retractable or removable bollards will be installed to increase pedestrian safety, all of which will be financed by the City; and

WHEREAS, the City does not intend to form an assessment district at this time to pay for the proposed improvements, but may consider the formation of such an assessment

district in the future to pay for additional improvements that may be contemplated at a later date; and

WHEREAS, the City will hold a duly noticed public hearing on Tuesday, January 23, 2024, at 1:30 p.m., or as soon thereafter as the matter can be heard, to hear protests and objections to the establishment of the proposed pedestrian mall and to review any claims of damages from those having any legal or equitable interest in any real property which might suffer legal damage by reason of establishment of the proposed pedestrian malls; and

WHEREAS, the proposed conversion of San Pedro to a pedestrian mall, including any temporary improvements and the installation of bollards, is exempt from the California Environmental Quality Act under Sections 15301 (Existing Facilities) and 15304 (Minor Alterations to Land) of the state CEQA Guidelines, and no further environmental review is warranted under Title 21 of the San José Municipal Code;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The foregoing recitals are hereby incorporated by reference.
2. Pursuant to the Pedestrian Mall Law of 1960 (California Streets and Highways Code Section 11000 et seq.), the City Council declares its intention to establish a pedestrian mall on North San Pedro Street between West Santa Clara Street and West St. John Street.
3. The City Council determines that the public interest and convenience require the establishment of pedestrian malls and that vehicular traffic will not be unduly inconvenienced.

4. The City intends to adopt an ordinance prohibiting vehicular traffic on the proposed pedestrian mall, with the exception of emergency and utility maintenance vehicles, which shall be allowed access at all times. In addition, private maintenance vehicles and other vehicles for large equipment drop-offs may be allowed by appointment or in conjunction with a special event permit.
5. Temporary improvements and traffic control devices (e.g., bollards) will be installed to increase pedestrian safety, all of which will be financed either by general funds, other available moneys, or the proceeds of assessments levied on lands benefited by the establishment of a pedestrian mall.
6. The City's General Fund, or other available funding sources, will be the source of moneys used to pay damages, if any, allowed or awarded to any property owner by reason of the establishment of the pedestrian mall.
7. The City will hold a duly noticed public hearing on Tuesday, January 23, 2024, at 1:30 p.m., or as soon thereafter as the matter can be heard, in the Council Chambers, located at 200 East Santa Clara Street, San José, CA, 95113, and via a remote public meeting by video conference, the details of which will be published on the January 23, 2024 agenda posted on Friday, January 12, 2024, at <https://sanjose.legistar.com>, where the City Council will hear protests and objections to the establishment of the pedestrian mall. Any persons having objections to the establishment of the proposed pedestrian mall may file a written protest with the Office of the City Clerk, 200 E. Santa Clara Street, Tower 14th Floor, San José, CA 95113, or CityClerk@sanjoseca.gov, at any time not later than 1:30 p.m., or as soon thereafter as the matter can be heard on January 23, 2024.

8. Notice is hereby given that 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 malls may file a written claim for damages with the Office of the City Clerk, 200 E. Santa Clara St., Tower 14th Floor, San José, CA 95113, or CityClerk@sanjoseca.gov, at any time not later than 1:30 p.m., or as soon thereafter as the matter can be heard, on January 23, 2024. Such written claim must describe the real property as to which the claim is made, must state the exact nature of the claimant's interest therein, must state the nature of the claimed damage thereto, and must state the amount of the damages claimed. Failure to file such a written claim within the time provided shall be deemed a waiver of any claim for damages or compensation and shall operate as a bar to any subsequent action seeking to prevent establishment of the proposed pedestrian mall or to recover damages on account of such establishment. Furthermore, the filing of such a claim shall operate as a bar in any subsequent action to the recovery of any damages or compensation in excess of the amount stated in such claim.

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ADOPTED this ____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk