


Agenda Report Reviewed by:
City Manager: 

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM

Meeting Date: September 20, 2022
To: Honorable Mayor and City Councilmembers
From: Larry McLaughlin, City Manager
Toni Bertolero, Engineering Consultant, GHD
Mario Landeros, Interim City Engineer
Subject: Parklets on Caltrans Right-of-Way and/or Local Streets
Recommendation: Provide Direction to Staff regarding the Parklets
Funding: Currently Budgeted: Yes No N/A
Funding Source: Building Reserve Fund 103: \$85,000, CIP Project No. 0424-22.01

Account Code/Costs authorized in City Approved Budget (if applicable) AK (verified by Administrative Services Department)

INTRODUCTION/PURPOSE:

This item is to provide an oral report and receive direction from the City Council on the installation of permanent parklet(s) on Caltrans right-of-way (ROW) and/or local streets.

BACKGROUND:

Parklets have been allowed as temporary installations during the City’s pandemic response effort in support of local businesses. The City of Sebastopol deployed a variety of strategies to allow more flexible use of City right-of-way to support public health and economic recovery during the throes of the COVID-19 pandemic, including 10-minute temporary parking, use of the Downtown Plaza for public outdoor dining, more flexible approvals for sidewalk dining, and temporary installation of parklets.

At the October 6, 2020 meeting, Council directed staff to submit a Caltrans encroachment permit application for parklets at three locations. At that time, Caltrans was issuing encroachment permits for temporary parklets in response to the coronavirus pandemic which presented a need for outdoor dining. Caltrans has extended the encroachment permit until December 31, 2022. According to Caltrans, no further extensions will be given.

The locations of the three temporary parklets (“Parklets”) are described below and shown on Attachment 1:

1. In front of “Screamin’ Mimi’s/Create It/The Face Place/Thrive Yogo” on Sebastopol Avenue north side at Depot Street;
2. In front of “People’s Music/Sumbody” on N. Main Street, west side, the block between McKinley St. and Bodega Ave, south of the McKinley Crosswalk; and
3. In front of “Sunshine Café/Retrograde Coffee Roasters” on South Main Street, west side, mid-block between Bodega Avenue and Burnett Street.

At the February 15, 2022 meeting, Council directed staff to move forward with applying for an encroachment permit with Caltrans for installation of a permanent parklet at the South Main Street location. Feedback from the public included possible installation of parklets on local streets and developing parklet design guidelines.

At the July 5, 2022 meeting, Council approved the Fiscal Year 2022-23 Capital Improvement Plan which included funding for the South Main Street Parklet with a caveat that staff receive further direction at a future meeting due to incomplete information from Caltrans on the requirements for encroachment permits for permanent parklets. The South Main Parklet project approved funding includes developing a parklet design guidelines and construction of a permanent parklet at this location.

DISCUSSION:

Parklets in State ROW

Caltrans requires the City to enter into a separate lease agreement with the State for each parklet the City has in state right of way. In addition to payment of rent at the minimum lease rate of \$6,000 annually or \$500 per month (the City elects the method at time of executing agreement), other notable provisions of the lease are:

- Lease rate is subject to annual increase of 3.5%.
- Initial term of lease is 1 year, however, the City may cancel it at any time. After initial year the lease may continue on a month-to-month basis.
- Designated use is Park and Recreational Use Only. Restrictions on commercial activities on state highway apply (ref. S&H Code §731) such as no table service, open to the public, and no advertisement.
- Compliance with all applicable State and Federal water pollution control requirements regarding storm water and non-storm water discharges from the parklet area is required and the City will be responsible for all applicable permits and implement and maintain the best management practices (BMPs) as prescribed.
- Installation of parklet improvements requires Caltrans prior written consent and FHWA concurrence which could be time-consuming. Will likely need to include ADA compliance.
- City applies for and acquires a Caltrans encroachment permit for each parklet in state ROW, and submits:
 - Engineered construction plans and detailed specifications
 - Cost estimate of construction
 - Evidence of coverage assuring there are sufficient funds available to complete the work
 - Performance bond and Payment bond (labor and materials)
 - Insurance coverage verification
 - Copy of building permit issued (if any) for the structure
 - Construction contract
 - Other documentation as necessary (e.g. landscape & irrigation plans, evidence of compliance with applicable environmental requirements, etc.)

Parklets on Local Streets

For parklets on local streets, City encroachment permits would be necessary assuming the City allows businesses to apply for installation of a parklet that would benefit their business solely. This is how many parklets are handled in other cities. This allows for a particular business to install and maintain the parklet and would be under an encroachment permit with the City. The rules and procedures for this type of parklet could be included in the Parklets design guidelines if the City elects to include this, including a Parklets Fee program.

In 2015, prior to the pandemic, Council adopted Resolution 6033 establishing guidelines and procedures for parklets (Attachment 3). The guidelines and procedures in the resolution have not been implemented as activities after 2015 were based on Caltrans processes and requirements. New information regarding parklets has been

acquired and will be incorporated in the Parklets design and implementation guidelines that will be developed and presented to the Planning Commission and Council in the future.

GOALS:

This action supports the following City Council Goals and General Plan Actions:

Goal 8 - Enhance and Maintain the Economic Vitality of the City

PUBLIC COMMENT:

As of the writing of this staff report, the City has received three comments, via email communication from Jennifer Balleto, Gregory Odle and Allayna Fry (Attachment 2). Engineering/GHD also conducted an informal telephone survey and reached out to businesses located near the existing parklets and asked three questions of the businesses that staff was able to reach. The survey results are summarized in Table 1.

Table 1 Parklets Telephone Survey conducted August 24-25, 2022

Question	Yes	No	No opinion/ not sure
1. Are you in favor of making the parklets permanent?	8	5	4
2. Has the loss of parking due to the parklets affected you?	3	9	2
3. Is there a safety issue with the parklet location?	2	9	3

Staff anticipates receiving additional public comment from interested parties following the publication and distribution of this staff report. Such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of the agenda item.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date.

FISCAL IMPACT:

The fiscal impact summary in this report is for a permanent parklet on Caltrans ROW as identified in the adopted budget for Fiscal Year 2022-23 Capital Improvement Plan. For parklets on local streets, it is assumed that private funding would be provided since the parklet would be for the benefit of a particular business fronting the parklet.

Pre-Design

The approved CIP budget includes a budget of \$35,000 for preparation of the parklets design guidelines (pre-design) and project management. This budget assumes the City will prepare the environmental documentation. Expenses will be coded to 700-23-50-9901 CP0424-02201, funding source 103-00-00-4999.

Construction

The approved CIP budget includes a budget of \$50,000 for final design, construction, and inspection of a permanent parklet on Caltrans ROW. Expenses will be coded to 700-23-51-9901 CP0424-02201, funding source 103-00-00-4999.

Annual Operating and Maintenance Costs for Year 1

For the first year, it is assumed that the City will pay for rent and provide maintenance. In Year 2 and beyond, the City would strive to secure private funding from businesses to pay for those costs, as a condition of keeping the parklet in place. The costs in Table 2 would need to be approved by Council and would be from the General Fund. This could be included as a mid-year budget request, depending on timing.

Table 2 City O&M costs, Year 1

Description	Cost	Comments
Annual rent	\$6,000.	3.5% increase per year
Caltrans coordination	\$2,500.	Permit acquisition
Legal review of lease agreement	\$2,500.	
Maintenance	\$5,000.	Public Works staff
Total	\$16,000.	

Note: Year 2 could be reduced to payment of rental fee only, assuming maintenance is paid by private parties.

RECOMMENDATION:

Staff recommends the Sebastopol City Council discuss the continuing use of Parklets and address the following:

1. Should staff apply for a Caltrans encroachment permit for installing and maintaining a permanent parklet at the South Main Street location?
2. Should staff apply for a Caltrans encroachment permit for installing and maintaining a permanent parklet at the Depot Street location?
3. Should staff move forward with a parklets design guidelines for parklets on Caltrans ROW; and/or on local streets?
4. In addition to the elements generally described below and in Resolution 6033, what other elements should be included?
 - a. Design features for parklets on Caltrans ROW and local streets;
 - b. Maintenance requirements and responsibilities;
 - c. Encroachment and building permit process and requirements and restrictions for parklets on local streets;
 - d. Business restrictions on parklet use for parklets on local streets.

ATTACHMENTS:

- 1 – Exhibit showing locations of temporary parklets on State ROW
- 2 – Public Comments Received (3)
- 3 – Resolution 6033



PARKLET LOCATIONS DOWNTOWN SEBASTOPOL

From: [Jennifer Balletto](#)
To: [Kristin Thigpen](#)
Subject: Photos from car accident in the parklet
Date: Friday, August 26, 2022 10:02:29 AM

You don't often get email from glassgirl13@gmail.com. [Learn why this is important](#)

Hi Kristin,

I have attached the photos of the SUV that drove into the parklet hitting a table and chairs people were sitting on while eating in the parklet. I was an eye witness and I still can't tell you how they jumped so fast and got out of the way in time! It was amazing no one was hurt.

For this reason I am 100% against having the parklet be permanent and would prefer to have it gone ASAP as it's a dangerous area and I don't want this to happen again.

Thanks for your time!
Jen

From: [City Council](#)
To: [Toni Bertolero](#); [Mario Landeros](#); [Kristin Thigpen](#); [Dante Del Prete](#); [Reyna Ramirez](#)
Subject: FW: Parklet
Date: Tuesday, September 6, 2022 7:08:38 AM

Good morning
Please see email below,

Due to the COVID-19 Shelter in Place Orders by the County of Sonoma and State of California, City Administration Offices are closed to the public; but City staff is answering phones and emails and making in person appointments when needed. [Mary Gourley](#)

From: gregory odle <retrospect1955@gmail.com>
Sent: Friday, September 02, 2022 2:29 PM
To: City Council <citycouncil@cityofsebastopol.org>
Subject: Parklet

This is Gregory, the owner of Retrospect at 104 Petaluma ave. I am opposed to the parklet being permanent. It has been co opted by greedy business owners and only serves as Mimi's ice cream parlor.

Thank you, Gregory

Sent from [Mail](#) for Windows

From: Bare Raydiance Salon <bareraydiancesalon@gmail.com>
Sent: Monday, September 12, 2022 6:27 PM
To: Kristin Thigpen <Kristin.Thigpen@ghd.com>
Subject: Opinion about the Parklet at HWY 12/Hwy 116

Hello Kristin,

I'm sorry it has taken me a bit to respond to your email!

I own Bare Raydiance Salon at 6910 Weeks Way located in the same building as Create It, The Face Place and the Vitality center, next to the public restrooms around the corner from the proposed Parklet.

I feel making the Parklet a permanent area that ultimately only benefits one business is frankly, unfair! Myself and other tenants in this building pay top dollar per/sqft. for prime business location and we certainly do not get additional perks for parking, waiting or hanging. Since the opening of the Parklet, I regularly have to pick up ice cream garbage around my salon and see it on the surrounding streets and sidewalks. I find it in my plants, on my stairs and even melted on my handrail! Gross! With patrons of Screemin Mimi's being outside, their garbage gets dumped in public garbage cans outside their business which becomes the city's responsibility for garbage pick up not Screamin Mimi's, this is another perk!

Regarding safety....This Parklet has already had a car come crashing through it (I saw the aftermath of that accident just after it happened and it could have been much much worse!! I regularly see close calls between pedestrians and cars in that area! There are enough distractions without the Parklet being there with an already congested intersection and Sebastopol's confusing one-way streets. I fear making this Parklet permanent is another accident waiting to happen!

If this Parklet is not benefiting ALL businesses in the area then it should be removed. The CDC has issued new business guidance for in person service and Screemin Mimi's should now open their doors like the rest of the business community if they would like to continue being IN BUSINESS!

I am happy to discuss further if you have any additional questions.

Thank you

Allayna Fry
6910 weeks Way
Sebastopol CA 95472
707.829.3436

Resolution No. 6033

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL ESTABLISHING PARKLETS GUIDELINES AND PROCEDURES

Whereas, there has been substantial interest in creating allowances for ‘parklets’ via conversion of parking spaces or street areas to public spaces that can be used for outdoor seating, open space, or park space; and

On April 7, 2015, following review and comment by the Planning Commission and Complete Streets Committee as well as public comment, the City Council provided direction for drafting of a Resolution establishing policies and procedures for consideration of parklet proposals.

Now, therefore, the City Council does hereby adopt the following policies and procedures regarding parklets in the City of Sebastopol:

1. The existing Encroachment Permit process, including applicable application fee, shall be utilized for consideration of parklet proposals.
2. City staff shall develop an application packet outlining submittal requirements, the review process, and construction requirements, including insurance.
3. A preliminary concept design shall be submitted to the Public Works Department. Following staff review, the applicant shall be responsible for providing written notice (approved as to form by the City) of the proposal to all property owners and any businesses or residents on the affected block (both sides of the street). The applicant shall provide written documentation of support from affected parties in the area.
4. If the applicant does not demonstrate substantial support for the proposal by property owners, businesses or residents in the affected block, the Public Works Department may deny the application. Such decision may be appealed to the City Council using the Planning appeal process/fees.
5. Not more than two parking spaces in any block (both sides of street) may be utilized for parklets.
6. Parklets shall be for general public use, and shall not include commercial use, display, or advertising.
7. Parklet permits shall be valid for up to a one-year period from start of construction, and shall be subject to annual renewal. Renewal is at the City’s discretion.
8. If on the State right of way, a Caltrans Encroachment Permit shall also be required.
9. Parklet design standards shall conform to the parklet standards used by the City of San Francisco, unless the Public Works Department determines that a particular standard is not applicable. Applications not conforming to required standards shall not be approved.

Adopted by Council on the 21st day of April, 2015.

Ayes: Councilmembers Eder, Glass, Vice Mayor Gurney and Mayor Slayter
 Noes: None
 Absent: Councilmember Jacob
 Abstain: None

Approved: 
 Mayor Patrick Slayter

Attest: 
 City Clerk Mary Gourley