

**CITY OF MOUNTAIN VIEW**

ENVIRONMENTAL PLANNING COMMISSION  
STAFF REPORT  
APRIL 19, 2023

**5. PUBLIC HEARINGS**

- 5.1 Code Amendments to Chapter 36 (Zoning) of the City Code and the Downtown (P-19) Precise Plan to Repeal the Sidewalk Café Program and Replace it with a New Outdoor Patio Program as Applied to Private Property to Allow for Outdoor Dining and Merchandise Displays in Conformance with Proposed Design Guidelines of the Downtown Mountain View Outdoor Patio Standards/Guidelines that Will Apply to the Public Right-of-Way**

**RECOMMENDATION**

That the Environmental Planning Commission recommend the City Council:

1. Find the proposed amendments to Chapter 36 (Zoning) of the City Code and the Downtown (P-19) Precise Plan text amendments to be exempt under California Environmental Quality Act Guidelines Section 15061(b)(3) as the amendments modify design guidelines and procedures to already-existing outdoor activities and make other minor code reference updates to be consistent with Chapter 36.
2. Adopt an Ordinance of the City of Mountain View Repealing Article XV of Chapter 36 (Zoning) of the Mountain View City Code to Repeal Sidewalk Cafés in the Downtown Area; Amending Section 36.44.65 (Development Review Procedures) Related to Outdoor Dining and Merchandise Displays; and Amending Other Sections of Chapter 36 for Consistency and Minor Amendments (Exhibit 1 to the EPC Staff Report).
3. Adopt a Resolution of the City Council of the City of Mountain View Amending the Downtown (P-19) Precise Plan to Add an Outdoor Activities Section Authorizing Outdoor Dining and Merchandise Displays on Private Property, Repeal and Replace Sidewalk Café References with Outdoor Activities, and Make Other Minor Amendments (Exhibit 2 to the EPC Staff Report).

**PUBLIC NOTIFICATION**

The Environmental Planning Commission's (EPC's) agenda is advertised on Channel 26, and the agenda and this staff report appear on the City's website. All property owners and tenants within a 750' radius of the Downtown Precise Plan area and other interested

stakeholders were notified of this meeting, including the Downtown Business Association and the Chamber of Commerce.

## **BACKGROUND**

### **Sidewalk Café Program**

In 2000, the City Council adopted an ordinance and guidelines for a downtown Sidewalk Café Program to enhance the appearance and maintenance of outdoor seating/café areas, following the success of an interim program. Since adoption, the Sidewalk Café Program has been administered by the Planning Division in coordination with the following City departments/divisions: Fire, Building, Forestry, Fire and Environmental Safety, Code Enforcement, and Finance.

The Sidewalk Café Guidelines and regulations set forth in Chapter 36 establish permitting requirements and design guidelines for restaurants to use the adjoining parking spaces along Castro Street and the sidewalk areas (which includes the area extending from the edge of the building face to the curb) in the Downtown Precise Plan (see Figure 1 on the next page and Exhibit 3—[Sidewalk Café Guidelines](#)).

The program allows 32 sidewalk cafés within parking stalls in the public right-of-way. Prior to the COVID-19 pandemic, the City had 27 cafés operating in parking spaces with five others operating on sidewalk areas only. Many of the existing sidewalk cafés are in the 100 to 300 blocks of Castro Street, with a handful in the 600 block of Castro Street and cross streets.

Additionally, the program requires an annual application and license renewal process to ensure ongoing compliance with the Sidewalk Café Guidelines and collection of an annual license and rental fee for use of the public right-of-way. While the Sidewalk Café Guidelines apply to all outdoor dining areas with an annual agreement, whether on private or public property, only those cafés within the public right-of-way are subject to annual license and rental fees. The Planning Division implements the program on a coordinated schedule with annual renewals due the second Friday of April and processed by April 30 each year. Any new restaurant locations wishing to add a sidewalk café within an existing parking space where one did not previously exist is required to obtain a Sidewalk Café License, which is reviewed at an Administrative Zoning (ZA) public hearing. New licenses on private property or sidewalk areas are approved at staff level. Once approved, a Sidewalk Café License and any associated rental fee can be renewed annually by City staff administratively.

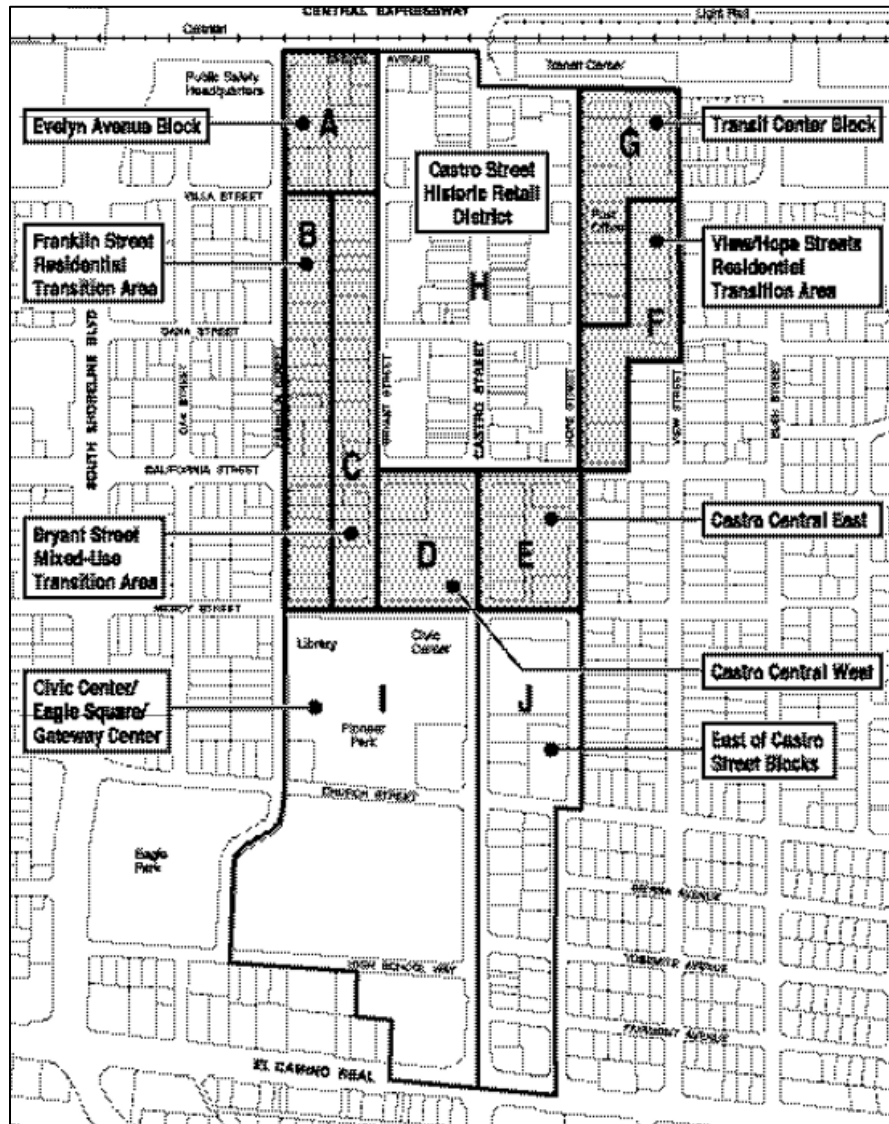


Figure 1: Downtown Precise Plan Boundaries

**Castro StrEATs and Street Closure**

As a result of the COVID-19 pandemic and the County of Santa Clara’s Local Emergency Order on prohibiting indoor dining, Council approved the temporary closure of the 100 to 400 blocks of Castro Street, between West Evelyn Avenue and Mercy Street, to vehicular traffic to allow for outdoor dining within the public right-of-way, known as Castro StrEATs (see Exhibit 4—[Council Report Dated June 9, 2020](#)).

To facilitate a consistent outdoor dining program in the downtown area, through a series of actions beginning in April 2021, Council temporarily suspended the Sidewalk Café Program and waived the annual application and renewal/rental fees, thereby requiring

compliance with the Castro StrEATs outdoor dining program requirements. The temporary suspension of the Sidewalk Café Program and waivers of requirements will sunset on January 3, 2024 and April 30, 2024, respectively.

This program was a temporary solution to keep businesses operational and did not include design requirements. Many restaurants utilized existing or easily obtained furnishings and equipment to quickly meet outdoor dining demands. Despite the temporary nature, the program has gained wide support from community members and led to Council establishing pedestrian malls along Castro Street from West Evelyn Avenue to California Street in 2022.

### **Pedestrian Mall**

On October 25, 2022, Council adopted an ordinance to establish three pedestrian malls on each block of Castro Street between West Evelyn Avenue and California Street, which resulted in the permanent closure of these blocks to vehicular traffic, as shown in Figure 2 (see Exhibit 5—Council Report Dated [October 11, 2022](#)—where Council discussed this item).

In preparation of adoption, a Council ad hoc committee was created to review and provide direction for the design standards and guidelines for the Castro Street Pedestrian Mall. On March 20, 2023, the Council ad hoc committee reviewed the following items and recommended approval to the City Council:



**Figure 2: Pedestrian Mall Boundaries**

- Intersection improvements at Castro Street/Villa Street and Castro Street/West Dana Street;

- City-maintained street furnishings and parklet areas; and
- The Pedestrian Mall Standards/Guidelines, which identify permitted outdoor activities and furnishing designs for commercial businesses as drafted by staff.

The draft guidelines on the Pedestrian Mall are available as Exhibit 6, Excerpts of Pedestrian Mall Standards/Guidelines, to this Staff report.

## ANALYSIS

### **Downtown Mountain View Outdoor Patio Standards/Guidelines**

The Pedestrian Mall Standards/Guidelines recommended by the Council ad hoc committee are specific to the Pedestrian Mall. However, City staff is proposing the design requirements and outdoor activities apply to the larger Downtown Precise Plan area, including on private property, to create a consistent streetscape environment and design expectation. These new guidelines, called the Downtown Mountain View Outdoor Patio Standards/Guidelines (“Guidelines”), will provide locational requirements, furnishing, and operational guidelines for outdoor patio areas located in the public right-of-way. “Outdoor Patios” is the new terminology that identifies areas in which private businesses can operate in the public right-of-way, with a set list of permitted uses, or on private property. Within the Guidelines are design activities and guidance on patio elements and furnishings (“Design Guidelines”). Currently, the Guidelines identify three permitted activities within the outdoor patios, including outdoor dining, merchandise displays, and live entertainment.

#### *Key Design and Procedural Changes*

Below are the key changes associated with the new Guidelines from the previous Sidewalk Café Program and existing City Codes. Some of the items listed are related to the public right-of-way, which are beyond the EPC’s purview and are provided as background information.

- Changes to Design Guidelines. The new Design Guidelines provide more clarity on design standards to the outdoor patios, including modifications to the types of outdoor furnishings and increasing minimum sidewalk clearances from 4’ to 8’. These Design Guidelines are referenced in the proposed text amendments under review by the EPC.
- Changes to Permitted Outdoor Activities. The previous Sidewalk Café Program only permitted outdoor dining. Additionally, Chapter 15 (Food Establishments, Restaurants, and Mobile Vendors) of the City Code currently permits outdoor

merchandise retail display. As part of the regulatory updates, City staff is proposing to:

- Repeal Article XV of Chapter 36 (Sidewalk Cafés in the Downtown Area) and Article III of Chapter 15 related to Sidewalk Cafés and Merchant Vendors as these regulations are now being proposed in amendments to Chapter 36 (Zoning) of the City Code or the Downtown Precise Plan for private property or are included in the new Guidelines for the public right-of-way;
- Remove references for consistency in Chapters 25, 26, 27, and 36 of the City Code related to sidewalk cafes and merchant vendors;
- Replace the previous Sidewalk Café provisions with a new Outdoor Patio Program in Chapter 27 (Streets and Sidewalks) to authorize outdoor dining and merchandise displays in the public right-of-way; and
- Revise Chapter 36 and the Downtown Precise Plan to replace Sidewalk Café references with outdoor patios and clarify outdoor dining and merchandise displays are permitted on private property in conformance with the Design Guidelines.

Overall, the proposed Outdoor Patio Program will retain outdoor dining and merchandise displays as permitted activities. In addition, live entertainment is proposed to be permitted in a portion of the pedestrian mall's public right-of-way, which is already a provisionally permitted use on private property in areas of the Downtown Precise Plan. Table 1 summarizes the current and proposed location of these key regulations within the City Code, Downtown Precise Plan, and Guidelines.

**Table 1: Comparison of Regulation Location**

Regulations	Current Location			Proposed Location		
	City Code	Downtown Precise Plan	Sidewalk Café Guidelines	City Code	Downtown Precise Plan	Downtown Mountain View Outdoor Patio Standards/ Guidelines
Design Guidelines			X			X
Outdoor Dining	X		X	X	X	X
Merchandise Vendors/Display	X			X	X	X
Live Entertainment		X			X	X

- Locational Changes for Permitted Outdoor Activities. Sidewalk cafés and merchant retail vendors are currently allowed on sidewalk areas and in parking stalls along all of portions of Castro Street, subject to a maximum of 32 parking spaces for sidewalk cafés. As proposed, the new Outdoor Patio Program would eliminate the use of parking stalls along Castro Street outside of the pedestrian malls for outdoor patios. However, outdoor dining will continue to be allowed on the sidewalk and on private property throughout the Downtown Precise Plan along Castro Street and cross streets. Merchandise displays from vendors, however, will only be allowed on private property along Castro Street and cross-streets and within the outdoor patio areas of the pedestrian mall. Table 2 summarizes the where permitted activities are permitted within the pedestrian mall and greater Downtown Precise Plan area.

**Table 2: Proposed Locations for Permitted Outdoor Activities**

Regulations	Pedestrian Mall			Remainder of Downtown Precise Plan Area		
	Public Street	Public Sidewalk	Private Property	Public Street	Public Sidewalk	Private Property
Outdoor Dining	X	X	X		X	X
Merchandise Retail Display	X		X			X
Live Entertainment	X		X			X

- Changes to Outdoor Dining Area Sizes. Due to the street closure, the new outdoor patio areas located on the public street within the pedestrian mall may be larger than a single parallel parking space previously allowed under the Sidewalk Café Program. While sidewalk areas can still be used for outdoor dining, due to the additional width of sidewalk clearance required by the new Guidelines, some existing sidewalk dining areas will need to be modified to comply.
- Modifications to Permitting. Under the new program, outdoor patios located in the public right-of-way will be licensed by the Public Works Department. The majority of the existing sidewalk cafés are located in the public right-of-way and will, therefore, be reviewed and processed by the Public Works Department under the proposed new Outdoor Patio Program. The same City departments previously involved in the review of Sidewalk Café permits will continue to review applications under this new program. Permitted outdoor activities located on private property will remain under the review of the Planning Division through the issuance of a Development Review Permit. Such activities will require a one-time permit that must comply with the new Design Guidelines. In some cases, a business may need to submit for both a Development

Review Permit and a license with the Public Works Department for initial installation of an outdoor patio that straddles both private and public properties. Upon initial approval of all outdoor patios, subsequent licenses will be required annually by the Public Works Department. All annual rental fees for use of the public right-of-way will be collected by the Public Works Department in tandem with the license application.

### **Text Amendments**

The proposed City Code and Precise Plan amendments for EPC review are to repeal the Sidewalk Café Program from Chapter 36 and authorize outdoor dining and merchandise displays in the Downtown Precise Plan, in conformance with the Design Guidelines of the Downtown Mountain View Outdoor Patio Standards/Guidelines, and subject to a Development Review Permit. The proposed Design Guidelines that would apply to permitted outdoor activities in the Precise Plan have been reviewed and recommended by the Council ad hoc committee for the pedestrian mall. As proposed by staff, these Design Guidelines would apply to permitted outdoor activities on private property throughout the Downtown Precise Plan area. All of these activities have previously been permitted through other sections of the City Code but need to be codified in the Precise Plan and Chapter 36 due to implementation changes resulting from the new Outdoor Patio Program discussed above.

### *Zoning Amendments*

The following modifications are proposed to Chapter 36, with red-lined changes shown in Exhibit 1—Ordinance of Zoning Amendments:

- Repeal Article XV (Sidewalk Cafés in Downtown Area) in its entirety.
- Amend Article XVII (Definitions) to remove sidewalk café reference in the definition of *Outdoor Retail Sales, temporary*.
- Amend Article XVI, Division 2 (Development Review Process), to clarify administrative procedures apply to outdoor dining, including those located within the Downtown Precise Plan, and remove reference to Sidewalk Cafés; and require administrative procedures for merchandise displays as authorized by the Downtown Precise Plan.

### *Downtown Precise Plan Amendments*

The following modifications are proposed to the Downtown (P-19) Precise Plan, with redlined changes shown in Exhibit 2—Resolution of Downtown Precise Plan Amendments:

- Remove all references to Sidewalk Cafés and replace with outdoor activities.



- Clarify permitted outdoor activities on private property to allow outdoor dining and merchandise displays that conform with the Design Guidelines of the Downtown Mountain View Outdoor Patio Standards/Guidelines. This will help ensure consistency of design standards and furnishings in the downtown area, regardless of location within or outside of the public right-of-way.
- Replace inaccurate City Code section references to the Zoning Code with the updated references.

### **ENVIRONMENTAL REVIEW**

The proposed amendments are exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3). The activity is covered by the general rule (“common sense” exemption) that exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. No physical development is proposed as part of the project, and the project would not result in the potential for substantially increased allowed density, areas of new development, or new allowed land uses within the City of Mountain View as only minor procedures, guidelines, and activities are being permitted in the public right-of-way and private property adjacent to the right-of-way.

### **NEXT STEPS**

Following a recommendation from the EPC at this public hearing, the proposed amendments and the EPC’s recommendation will be presented to City Council at a public hearing tentatively scheduled for May 9, 2023. Council, at that time, will review and consider for adoption the City Code and Precise Plan amendments in addition to all other regulatory updates and the new Design Guidelines of the proposed Downtown Mountain View Outdoor Patio Standards/Guidelines.

### **CONCLUSION**

Staff recommends the EPC recommend the City Council approve the proposed text amendments to Chapter 36 and the Downtown Precise Plan to repeal the Sidewalk Café Program and references and replace it with references to the new Outdoor Patio Program for private property in the Downtown Precise Plan area and other procedural clarifications for outdoor dining and merchandise display on private property, in conformance with the Downtown Mountain View Outdoor Patio Standards/Guidelines.

## ALTERNATIVES

1. Recommend approval of the zoning text and Downtown Precise Plan amendments with modifications.
2. Do not recommend approval of the zoning text and Downtown Precise Plan amendments.

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KP/2/CDD  
828-04-19-23SR

- Exhibits:
1. Ordinance for Chapter 36 Amendments
  2. Resolution for Downtown Precise Plan Amendments
  3. [Sidewalk Café Guidelines](#)
  4. [Council Report Dated June 9, 2020](#)
  5. [Council Report Dated October 11, 2022](#)
  6. Excerpts from Pedestrian Mall Standards/Guidelines