



# COUNCIL REPORT

**DATE:** May 9, 2023

**CATEGORY:** Public Hearing

**DEPT.:** Public Works,  
Community Development

**TITLE:** **Downtown Outdoor Patio and Sidewalk  
Café Program**

## **RECOMMENDATION**

1. Find the proposed amendments to Chapters 15 (Food Establishments, Restaurants, and Mobile Vendors), 25 (Neighborhood Preservation), 26 (Public Amusements), 27 (Streets and Sidewalks), and 36 (Zoning) of the City Code and Downtown (P-19) Precise Plan text amendments to be exempt under California Environmental Quality Act Guidelines Section 15061(b)(3) (the “common sense exemption”) as the amendments modify design guidelines and procedures to already-existing outdoor activities, with some modification thereof, and make other minor amendments, including those for consistency.
2. Introduce 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, to be read in title only, further reading waived, and set a second reading for May 23, 2023 (Attachment 1 to the Council report).
3. Introduce an Ordinance of the City of Mountain View Repealing Article III (Merchant Vendors in Downtown Area) of Chapter 15 and Adding a New Section to Chapter 27 (Streets and Sidewalks) to Repeal the Sidewalk Café and Merchant Vendor Provisions and Replace Them with a New Outdoor Patio Program in the Downtown Area; and Amending Chapter 25 (Neighborhood Preservation), Chapter 26 (Public Amusements), and Chapter 27 (Streets and Sidewalks) for Consistency, to be read in title only, further reading waived, and set second reading for May 23, 2023 (Attachment 2 to the Council report).
4. 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, to be read in title only, further reading waived (Attachment 3 to the Council report).

5. Adopt a Resolution of the City Council of the City of Mountain View Adopting the Downtown Mountain View Outdoor Patio Standards/Guidelines and Authorizing the Public Works Director to Make Minor Amendments to the Standards/Guidelines, to be read in title only, further reading waived (Attachment 4 to the Council report).
6. Adopt a Resolution of the City Council of the City of Mountain View Amending the City of Mountain View Master Fee Schedule by Repealing and Replacing Sidewalk Café and Merchant Vendor Fees with Outdoor Patio Application and Rental Fees, to be read in title only, further reading waived (Attachment 5 to the Council report).
7. Adopt a Resolution of the City Council of the City of Mountain View Repealing Resolution No. 18546 and All Subsequent Amendments Thereto, Including, but not Limited to, Resolution Nos. 18577, 18631, and 18726, which Suspended Sidewalk Café Program Requirements and Authorized Application of the Castro StrEATs Outdoor Dining Program Throughout Downtown, Effective November 1, 2023, to be read in title only, further reading waived (Attachment 6 to the Council report).
8. Approve recommendations for Castro Street/Dana Street and Castro Street/Villa Street intersection operations.

## **BACKGROUND**

### **Existing Programs**

#### *Downtown Sidewalk Café Guidelines*

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 a successful interim sidewalk café and facade improvement program. The Sidewalk Café Program has been administered by the Planning Division in coordination with Fire, Building, Forestry, Code Enforcement, and Finance and Administrative Services.

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) of commercial streets in the Downtown Precise Plan (see Figure 1 on following page). The program allows 32 sidewalk cafés within parking stalls in the public right-of-way. Prior to the COVID-19 pandemic, there were 27 operating sidewalk cafés within parking spaces and 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.

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 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 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 location 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 café license can be renewed annually by City staff administratively.

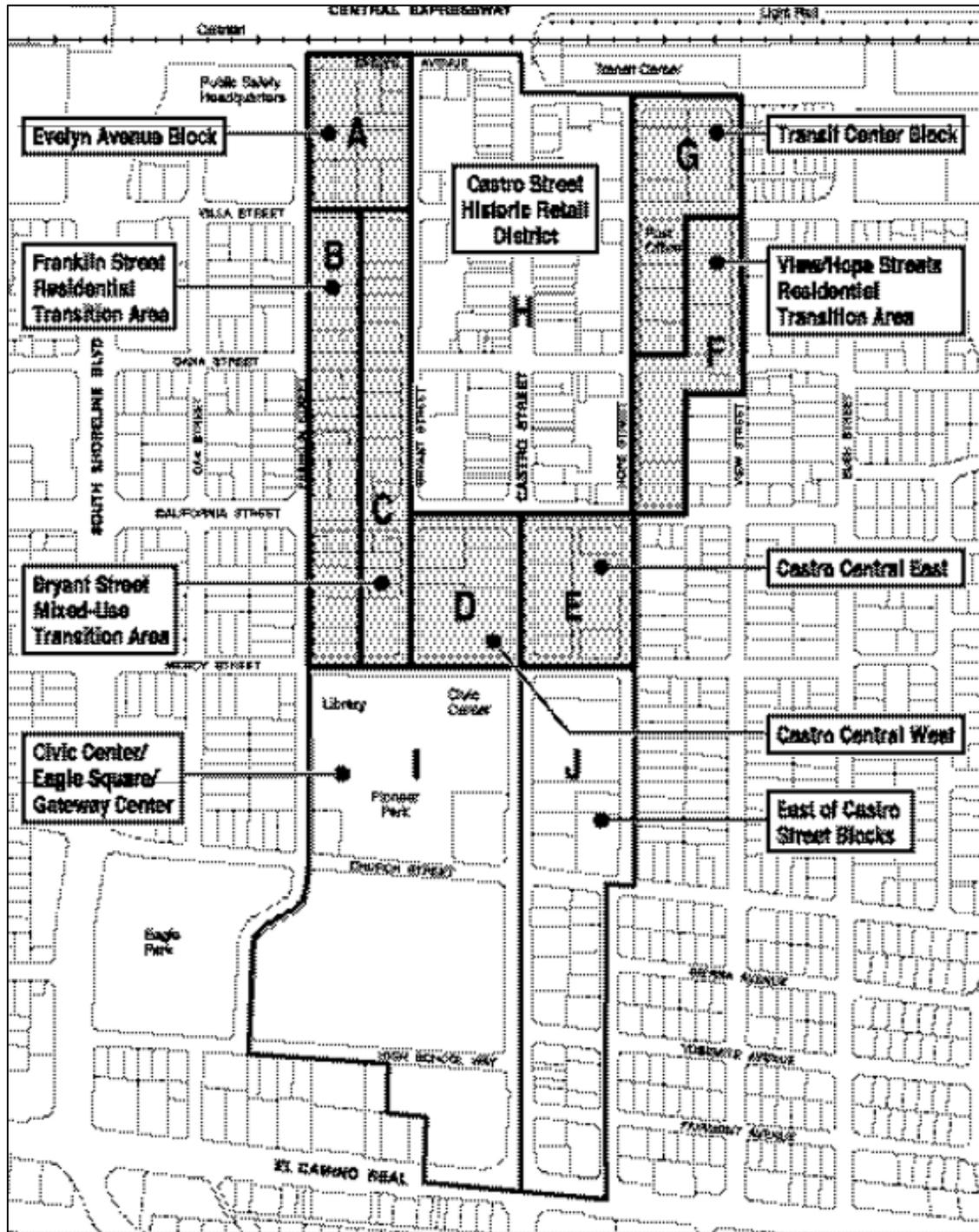


Figure 1: Downtown Precise Plan Boundaries

### *Castro StrEATs Program*

In June 2020, Castro Street, between West Evelyn Avenue and California Street, was temporarily closed to vehicular traffic in response to the COVID-19 pandemic to support local businesses by facilitating outdoor dining within the City's right-of-way under the Castro StrEATs program (Attachment 7—[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 certain requirements for sidewalk cafés and waived the annual renewal fees and instead required compliance with the Castro StrEATs outdoor dining program requirements. Fees are waived through April 30, 2024. The temporary suspension of the Sidewalk Café Program and application of the Castro StrEATs outdoor dining program sunsets on January 3, 2024.

This program was a temporary solution to keep businesses operational during the COVID-19 pandemic 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 a pedestrian mall along Castro Street.

### *Castro Street Pedestrian Malls*

On [October 25, 2022](#), the City Council adopted an ordinance establishing pedestrian malls on Castro Street between West Evelyn Avenue and California Street (see Figure 2 on following page and Attachment 8—[Council Report Dated October 11, 2022](#)). For purposes of this report, pedestrian malls may be referred to as a singular pedestrian mall. Because design and construction of a permanent pedestrian mall will take several years, interim pedestrian mall improvements were identified for implementation in 2023. These interim improvements are designed to articulate the layout of the space, provide a clear set of standards and guidelines, and identify interim infrastructure needs as the street closure transitions from pandemic response to a permanent closure.



**Figure 2: Pedestrian Mall Boundaries**

**Prior Meetings and Outreach**

*Council Ad Hoc Committee*

In August 2022, a Council Ad Hoc Subcommittee was created to review and provide direction on new design standards and guidelines along with an implementation plan for the Interim Castro Street Pedestrian Mall. The current membership of the Ad Hoc Committee includes Mayor Hicks, Councilmember Matichak, and Councilmember Abe-Koga.<sup>1</sup> The Ad Hoc Subcommittee met four

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<sup>1</sup> Councilmember Abe-Koga replaced Councilmember Lieber in January 2023.

times with City staff to discuss the Pedestrian Mall details. The agenda, meeting materials, and video recordings of all virtual meetings are available on the City website at [MountainView.gov/PedMall](https://MountainView.gov/PedMall).

On March 20, 2023, the Council Ad Hoc Subcommittee considered the following three main agenda items:

1. Pedestrian Mall Outdoor Patio Standards/Guidelines for Business Use of the Outdoor Patio Areas—The Ad Hoc Committee recommended Council approve the Standards/Guidelines with some minor edits that are discussed further in this report. While the Committee’s recommendation was specific to the Castro Street Pedestrian Mall, City staff recommends having the proposed design requirements and outdoor activities within the Pedestrian Mall apply to the larger Downtown Precise Plan area to create an attractive and cohesive streetscape environment and with specific design expectations for both public and privately used spaces. The requirements for privately owned spaces are coordinated with this approach and are addressed in the Chapter 36 and Downtown Precise Plan amendments discussed later in this report.
2. Interim Pedestrian Mall City Furnishings—The Ad Hoc Committee reviewed and commented on staff proposals for the City-provided tables and play equipment in the public areas (also known as social eddies) on each block of the Pedestrian Mall. The Committee also reviewed the options for the Outdoor Patio barriers to be provided by the City, the central walkway surface treatments, and portable Americans with Disabilities Act (ADA) ramps to provide improved accessibility within each block. The Committee selected a preferred patio barrier option and provided specific comments about the City furnishings, play equipment, and portable ADA ramps. The Committee also noted an interest to increase place-making opportunities through incorporation of art design treatments in public areas, such as within the social eddies and central walkway. While official public art will be included in the permanent Pedestrian Mall project, the interim pedestrian mall can include some artistic decorative street pavement treatments that would be temporary in nature. Staff is following Ad Hoc Subcommittee guidance for the selection of the City furnishings, play equipment, and ADA ramps and plans to consult with the Visual Arts Committee on pavement painting designs for the central walkway or other possible social eddy design treatments. No Council action is requested related to these items.
3. Intersection Operations at Castro Street/Villa Street and Castro Street/Dana Street—The Ad Hoc Subcommittee recommended that Council approve signals for the ongoing operations of these intersections as described further in this report.

### *Other Council Actions or Considerations*

On [February 28, 2023](#), the City Council authorized a midyear budget for additional downtown maintenance and programming for summer 2023 that includes bringing music downtown to provide further ambiance. The music program will run once a week from May through September. Music events will be small groups, such as soloists, duets, and small music groups. Utilizing smaller groups within the Castro Street Pedestrian Mall provides the City flexibility to move the event to another location.

Also on the May 9 Council agenda is a proposal for allocating \$500,000 in American Rescue Plan Act (ARPA) funds for small businesses. Two of the four proposals by staff may aid downtown businesses with near-term improvements supporting the interim pedestrian mall, including:

1. A program establishing \$5,000 microgrants to businesses to support the replacement of outdoor furnishings, including tables, chairs, heaters, and umbrellas, at a total amount of \$200,000; and
2. A small business building facade grant program that provides matching grants of up to \$15,000, at a total amount of \$200,000. The facade grant program will be made available for small businesses to improve signs, awnings, add exterior paint, windows, and doors.

### *Community Outreach*

Since the establishment of the Pedestrian Mall in October 2022, staff has conducted the following outreach and engagement activities to receive feedback from businesses, property owners, Downtown Business Association (DBA), Downtown Committee, and the Chamber of Commerce on the new Outdoor Patio Standards/Guidelines:

- [December 8, 2022](#): The Council Ad Hoc Committee held a virtual meeting where the Committee reviewed the interim Pedestrian Mall Design Standards/Guidelines framework. Staff sent a newsletter to downtown businesses announcing the meeting. Meeting materials are available on the project website at [MountainView.gov/PedMall](https://MountainView.gov/PedMall).
- [January 18, 2023](#): Staff conducted in-person office hours on the 100, 200, and 300 blocks of Castro Street to present and receive feedback on the Outdoor Patio Standards/Guidelines framework from downtown businesses and property owners. Staff notified downtown businesses and property owners via email about the meeting. The meeting summary, including list of attendees, is available on the project website at [MountainView.gov/PedMall](https://MountainView.gov/PedMall).
- [January 19, 2023](#): Staff held a virtual meeting to present and receive feedback on Patio Standards/Guidelines framework from downtown businesses and property owners. Staff

notified downtown businesses and property owners via email about the meeting. The meeting summary, including list of attendees, is available on the project website at [MountainView.gov/PedMall](https://MountainView.gov/PedMall).

- [February 1, 2023](#): Staff presented at the Downtown Committee meeting the draft Outdoor Patio Standards/Guidelines framework to receive feedback on the interim pedestrian mall.
- [February 21, 2023](#): Staff presented the draft Outdoor Patio Standards/Guidelines framework at the DBA meeting to receive feedback on the interim pedestrian mall.
- [March 20, 2023](#): The Council Ad Hoc Subcommittee held an in-person meeting where the Committee reviewed Pedestrian Mall Outdoor Patio Standards/Guidelines. Meeting materials are available on the project website at [MountainView.gov/PedMall](https://MountainView.gov/PedMall).
- [April 12, 2023](#): Staff provided an in-person overview of the Outdoor Patio Standards/Guidelines along with other updates on downtown activities at the DBA monthly meeting.
- [April 19, 2023](#): Staff conducted in-person office hours on Castro Street (100, 200, 300 blocks and 600 block) presenting and receiving feedback on Outdoor Patio Standards/Guidelines from downtown businesses and property owners. The meeting summary, including list of attendees, is available on the project website at [MountainView.gov/PedMall](https://MountainView.gov/PedMall).
- [Ongoing](#): Staff has continued to provide monthly updates to Downtown Committee and Chamber of Commerce.

#### *Environmental Planning Commission*

On [April 19, 2023](#), the Environmental Planning Commission (EPC) held a public hearing to review text amendments to Chapter 36 (Zoning) of the City Code and Downtown Precise Plan (P-19) to repeal the Sidewalk Café Program and replace it with a new Outdoor Patio Program as applied to private property and in conformance with the proposed Outdoor Patio Guidelines (Attachment 8—[EPC Staff Report Dated April 19, 2023](#)).

EPC raised concerns on the following matters related to the Outdoor Patio Standards/Guidelines:

- [Outreach](#): The EPC report was focused on the zoning ordinance amendments and did not include information pertaining to the entire Castro Pedestrian Mall project, such as the community outreach conducted. The EPC requested this information be provided in the Council report, including available information on meeting attendance and summary findings. This information is included in the Community Outreach section of this Council report.

- Outdoor Patio Standards/Guidelines: The EPC voiced concerns regarding the 8' sidewalk clearance requirement for businesses on the side streets of Castro Street, which could effectively prohibit outdoor dining for businesses that currently have outdoor dining. The EPC requested staff study the impacts of reducing the sidewalk clearance requirements to less than 8' if it resulted in the retention of outdoor dining for these businesses while maintaining appropriate clearances for pedestrians. Staff's review of the sidewalk clearance requirements and the resulting revision to recommend 6' sidewalk clearance on side streets and 8' sidewalk clearance on Castro Street is discussed in the Analysis section below.

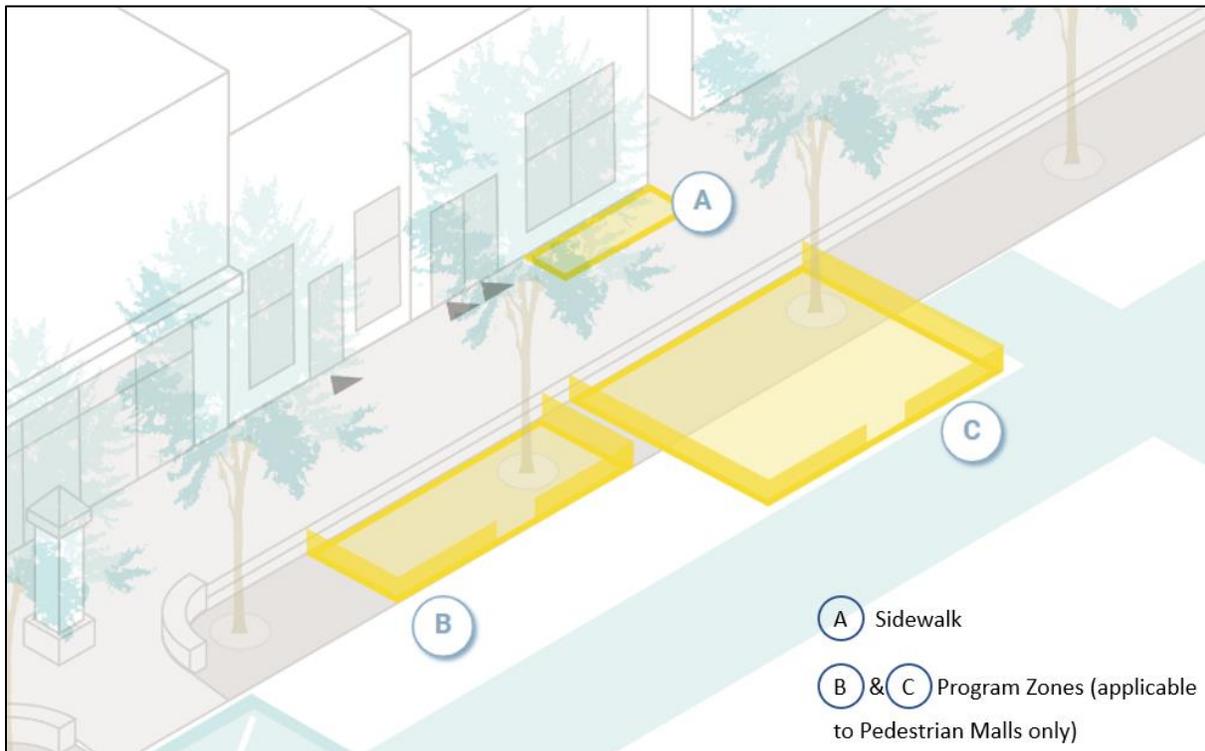
At the meeting, one public speaker voiced support of the guidelines and the City's outreach to date. One written comment was received with concerns regarding the electric heater prohibition, live entertainment hours, and on-street retail transactions. The EPC unanimously supported staff recommendation with direction for staff to evaluate modified sidewalk clearance width requirements for the side street businesses.

## **ANALYSIS**

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

Staff developed the new outdoor patio program based on the existing Sidewalk Café Program, which includes design standards/guidelines that are simple, unobtrusive, and convey the look and feel of an attractive, cohesive, and vibrant area across the three blocks of the Castro Street Pedestrian Mall and throughout the downtown area (see Attachment 4, Exhibit A).

The new guidelines, called the Outdoor Patio Standards/Guidelines ("Guidelines"), will provide requirements on the placement and design of furniture 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 or on private property. Outdoor patios can be located on sidewalks and program zones (Figure 3). Program zones are within the street right-of-way and are applicable to Pedestrian Malls only.



**Figure 3: Potential Patio Layouts**

Below is the framework for businesses to operate outdoors within the Pedestrian Mall:

- All furnishings must be freestanding; nothing may be permanently installed to the ground.
- All furnishings must be easy to move; businesses should be able to easily remove the furnishings for street cleaning or special events. Businesses are responsible for storing the furnishings and not blocking the public right-of-way during such events.
- To comply with Alcohol and Beverage Control (ABC) regulations, the seating area for businesses providing alcohol service must be physically separated from any adjacent outdoor dining areas of other establishments.
- Patio spaces shall be compliant with ADA regulations and provide an accessible path of travel and accessible seating.
- Businesses shall provide trash, recycling, and composting receptacles within the outdoor patio spaces in compliance with the City Code Section 16.103.
- Furnishings shall not encroach into the central walkway or the sidewalk accessible path of travel.

- Electricity may not be strung between the patio and place of business. Only solar- or battery-powered lighting on tabletops is permitted.
- Structures and platforms are not permitted.
- Floor coverings (e.g., synthetic turf) are not permitted.
- Amplified music is not permitted.

During the review process for the Guidelines, the Ad Hoc Subcommittee, EPC, and public provided some specific comments that led to the following refinements to the Guidelines since the Ad Hoc Subcommittee meeting on March 20, 2023:

- *Why are electric heaters not allowed?* (Ad Hoc and public comment)—Language was added on the “Portable Heaters” page that solar or battery-powered electric heaters are permitted.
- *Why are no monetary transactions allowed in the patio space for retail uses?* (Public comment)—The intent was to avoid cash registers that require an electrical power source. References to monetary transactions have been deleted from the Guidelines, and language added that no power cords shall be pulled in from the business and generators are not allowed in the outdoor patio area.
- *Provide busing carts guidance.* (Ad Hoc comment)—Language was added on the “other amenities” page that busing carts shall be kept clean and brought indoors at the end of the business day. In addition, busing carts are only allowed in program zones, not on the sidewalks.
- *Provide improved trash can guidance.* (Ad Hoc comment)—Language added on “Trash Cans” page to comply with City and other applicable regulations with a photo showing a trash bin that provides sorting consistent with City Code.
- *Why no dancing?* (EPC and public comment)—Removed reference to “no dancing” in the Guidelines. The Guidelines now say “no dance floors,” which is consistent with the general requirements that no floor coverings are permitted.
- *Why is live entertainment not permitted after 8:00 p.m.?* (EPC and public comment)—This guidance is for live entertainment inside the patio space and follows the Thursday Night Live time limits. The intent is that this an ancillary permitted activity as a pilot to see if it creates issues for neighboring patio spaces or other businesses. Staff will review and revise in the future as needed.

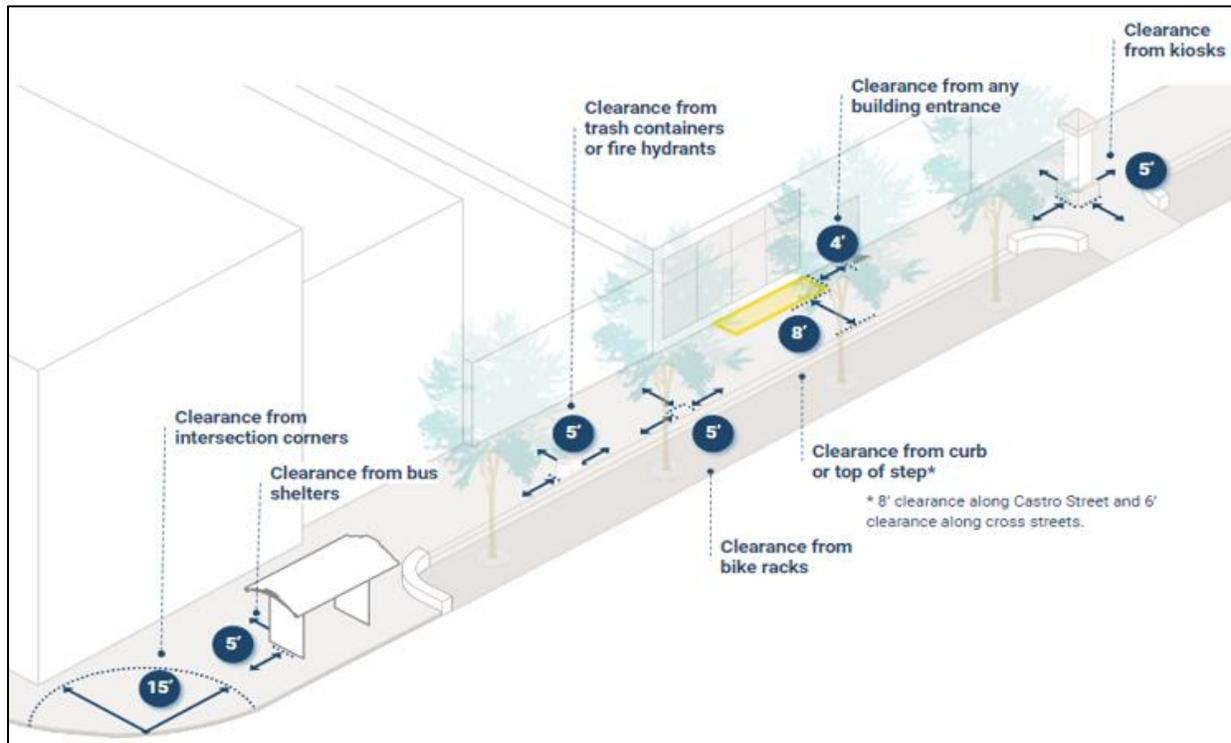
- *Concerns about changing sidewalk clearance from 4' to 8'.* (EPC comment)—As requested by the EPC, staff reviewed the potential impact on businesses that have operated under the existing Sidewalk Café Program. Outside the Pedestrian Mall, there are two businesses (Starbucks and Mediterranean Grill) along Castro Street operating outdoors on the sidewalk under the existing Sidewalk Café Program. Because of the wider sidewalks in these locations, businesses will be able to continue to operate on the sidewalk with the 8' clearance requirement. Other businesses operating outdoors are located within the private property and would not be affected with this requirement.

Under the existing Sidewalk Café Program (pre-COVID), two businesses (Red Rock Café and Dana Street Roasting Company) operate on the sidewalk along Dana Street. Staff recommends a minimum of 6' clearance requirement on the cross streets within the Downtown Precise Plan area to provide a pedestrian-friendly, walkable downtown. Staff confirmed that with a 6' clearance requirement, Red Rock Café and Dana Street Roasting Company may continue to operate on the sidewalk with two-person tables. There are other businesses that have placed tables on the sidewalks along the cross streets who did not obtain permits under the Sidewalk Café Program. Staff will work with these businesses to obtain Outdoor Patio licenses as long as they can maintain 6' clearance.

#### *Key Design and Procedural Changes*

Below are the key changes from the previous Sidewalk Café Program and existing City Codes to the new. To address both private property and public rights-of-way, modifications to the procedures for implementing the new guidelines and regulations are also recommended.

- Changes to Guidelines—The new Guidelines provide more clarity on design standards, including modifications to the types of outdoor furnishings allowed and increasing minimum sidewalk clearances from 4' to 8' along Castro Street and from 4' to 6' along cross streets within the Downtown Precise Plan area (see Figure 4).



**Figure 4: Sidewalk Patio Minimum Clearances**

- Changes to Permitted Outdoor Activities—The Sidewalk Café Program currently only permits outdoor dining. Additionally, Chapter 15 (Food Establishments, Restaurants, and Mobile Vendors) of the City Code currently permits outdoor merchandise display. As part of the proposed regulatory update, staff recommends:
  - Repealing 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 in amendments to Chapter 27 (Streets and Sidewalks) that include the new Outdoor Patio Program and authorize outdoor dining and merchandise displays in the public right-of-way, or are included in the new Guidelines for the public right-of-way; and
  - Removing references for consistency in Chapters 25, 26, 27, and 36 of the City Code related to sidewalk cafés and merchant vendors.

Overall, the proposed Outdoor Patio Program will retain outdoor dining and merchandise displays as permitted activities. In addition, live entertainment is already a provisionally permitted use on private property in the Downtown Precise Plan, and it would also be permitted as an ancillary activity under the recommended Guidelines in program zones of

the Pedestrian Mall. 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	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 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. Merchant vendors are allowed on sidewalk areas. 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 adjacent to commercial/mixed-use areas. Merchandise displays from vendors, however, will only be allowed on private property adjacent to commercial/mixed-use areas and within the program zone outdoor patio areas of the Pedestrian Mall. Table 2 summarizes where activities are permitted within the Pedestrian Mall and greater Downtown Precise Plan area.

**Table 2: Permitted Outdoor Activities Based on Business Location**

Permitted Activity by Location	Pedestrian Malls			Downtown Precise Plan Area, Except Pedestrian Malls		
	Dining	Retail	Live Entertainment	Dining	Retail	Live Entertainment
Sidewalk	Yes	No	No	Yes	No	No
Program Zone	Yes	Yes	Yes	Not Applicable outside of Pedestrian Malls		
Private Property*	Yes	Yes	Yes	Yes	Yes	Yes

\* Subject to a Development Review Permit (DRP) from the Planning Division.

- Changes to Program Patio Size—With the street closure, the new outdoor patio areas within the Pedestrian Mall, outside the sidewalk area, may be larger than the single parallel parking space 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 (DRP). Such activities will require a one-time DRP permit that must comply with the new 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. Both applications will be required to be submitted at the same time and will reviewed concurrently to ensure efficiency and consistency. 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.

The recommended Guidelines that would apply to permitted outdoor activities in the Precise Plan are the same as those reviewed and recommended by the Council Ad Hoc Subcommittee for the pedestrian mall. As proposed by staff, these Guidelines would be expanded to apply to permitted outdoor activities on private property throughout the Downtown Precise Plan area. These activities have previously been permitted through other sections of the City Code but need to be codified in the Downtown Precise Plan due to changes in permitting as discussed above.

The proposed resolution to adopt the Guidelines would also authorize the Public Works Director to make minor amendments consistent with the newly added Outdoor Patio section of the City Code and as needed to implement and administer the Outdoor Patio program to ensure the protection of the health, safety, and welfare of the public.

## **City Code and Downtown Precise Plan Amendments**

### *City Code Amendments*

Staff recommends the following City Code amendments to implement the new Outdoor Patio Program:

1. Repeal Article III of Chapter 15 related to Merchant Vendors in the downtown area—Merchant vendors will be permitted to operate in the future pursuant to the proposed code amendments in Chapters 27 and 36 and pursuant to the Downtown Precise Plan amendments, discussed below. Redlined changes are shown in Attachment 2.
2. Repeal the Sidewalk Café Program and other minor amendments in Chapter 36 as shown in Attachment 1 and listed below:
  - 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, and amend Article XII (Signs) to make minor modifications to signage requirements for umbrellas in the Downtown Precise Plan.
  - 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.
3. Amendments to Chapter 27, Streets and Sidewalks, to add a new section, “Outdoor Patios in Downtown Area,” as shown in Attachment 2. The proposed amendments define the activities in the downtown area that are permitted in conformance with the Guidelines. In addition, the amendments establish procedural requirements to implement the Program.
4. Minor amendments to Chapter 25, Article I, Neighborhood Preservation, Chapter 26, Article VI, Newsracks, and Chapter 27, Article I, Streets and Sidewalks, to make minor edits for consistency. Redlined changes are shown in Attachment 2.

### *Downtown Precise Plan Amendments*

The following modifications are recommended for the Downtown (P-19) Precise Plan, with redlined changes shown in Attachment 3—Resolution for Downtown Precise Plan Amendments:

- Remove all references to sidewalk cafés and replace with outdoor dining.

- Clarify permitted outdoor activities on private property to allow outdoor dining and merchandise displays that conform with the Design Guidelines of the 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 section references to the Zoning Code with the updated references (this is a Code cleanup and not related to the subject of this report).

**STAFF RECOMMENDATION 1:** Based on the Council Ad Hoc Subcommittee and EPC recommendations, staff recommends Council approve the California Environmental Quality Act (CEQA) exemption, adopt a resolution approving the Outdoor Patio Standards/Guidelines and Downtown Precise Plan Amendments, and adopt ordinances to amend various Chapters of the City Code (Attachments 1 through 4).

### **Outdoor Patio Fees**

On April 13, 2021, Council adopted Resolution No. 18546 to waive sidewalk café permit fees in response to COVID-19. Council amended the resolution several times as COVID-19 recovery occurred, extending the fee waiver until April 2024. With the new Outdoor Dining Program, staff recommends replacing the sidewalk café application fee and rental fees associated with the use of the public right-of-way (e.g., parking spaces and sidewalk) with new patio application fees and rental rates, which are consistent with the methodology used for other City real property license agreements. Staff conducted a review of rental rates of peer cities that provide an outdoor patio program, which are summarized in Table 3.

**Table 3: Peer City Rental Rates Comparison**

<b>Fees</b>	<b>Mountain View (existing Sidewalk Café)</b>	<b>Palo Alto</b>	<b>San Mateo</b>	<b>Redwood City</b>	<b>Burlingame</b>
<b>Initial Application Fee</b>	\$865	\$2,000 to \$2,250	\$500	\$2,226	\$0
<b>Annual Renewal Fee</b>	\$230	\$750 to \$1,000	\$0	\$583	\$0
<b>Inspection Fee</b>	\$0		\$0		\$0
<b>Annual License Fee (per square foot)</b>	\$7.98/\$6.75*	~\$24.00**	\$1.56	\$10.16	\$5.00
<b>Refundable Deposit</b>	\$0	\$3,000	\$0	\$0	\$0
<b>Cleaning Fee</b>					\$3,000

\* Average per-square-foot cost use of flex zone is \$7.98, while \$6.75 per square foot is for sidewalk use.

\*\* The Palo Alto City Council has left the rental rate up to staff to determine. Staff estimates the rate will be approximately \$24 per square foot annually.

Staff reviewed neighboring jurisdiction information along with current retail lease rates in Mountain View and balanced the cost of providing various City services and allocated overhead costs throughout the City departments. The City seeks to achieve and maintain financial stability through reasonable cost recovery where appropriate to allow the City to continue to provide cost-effective services.

Staff recommends the following fee structure in Table 4:

**Table 4: Mountain View Recommended Fee Structure for Outdoor Patios**

Title of Fee	Current Fee	Proposed Fee	Fee Basis
Patio License Annual Rent	N/A	\$10.00	Per square foot of licensed area
New Application Fee	\$865	\$608.00	Flat

The one-time application fee supports both Public Works and Planning staff review of the Outdoor Patio application within the Pedestrian Mall areas. The application fee proposed is lower than previous rental rates under the Sidewalk Café Program as the review process has been modified and streamlined. The Patio License Annual Rent are proposed to be increased annually by 5% as part of the budget process.

**STAFF RECOMMENDATION 2:** Staff recommends Council adopt a resolution establishing the outdoor patio application and rental fees with initial fees as outlined in Table 4 and Attachment 5.

### **Termination of Castro StrEATs Program**

As noted in the Background section of this report, Council temporarily suspended certain requirements for sidewalk cafés since 2020, instead requiring compliance with the Castro StrEATs outdoor dining program requirements. The temporary suspension of the Sidewalk Café Program and application of the Castro StrEATs outdoor dining program sunsets on January 3, 2024.

With the proposed amendments to the City Code to repeal sidewalk cafés and approve a new Outdoor Patio Program, staff recommends repealing the resolution, as subsequently amended, that temporarily suspended the Sidewalk Café Program and applied the Castro StrEATs outdoor dining program in the downtown area, effective November 1, 2023.

**STAFF RECOMMENDATION 3:** Staff recommends Council adopt a resolution to repeal the sidewalk café program suspension and application of the Castro StrEATs outdoor dining program (Attachment 6).

### **Intersection Improvements of Castro Street at Villa Street and Dana Street**

The establishment of a Castro Street Pedestrian Mall between West Evelyn Avenue and California Street requires the traffic-control operations at cross-street intersections be modified due to elimination of vehicle access on Castro Street and increased pedestrian activity. The cross-street intersections include:

- **Castro Street and Evelyn Avenue**—This intersection will be modified as part of the Transit Center Grade Separation and Access Project. The two legs of Evelyn Avenue will be connected to provide a new through route adjacent to downtown.
- **Castro Street intersections at Villa Street and Dana Street**—These intersections have only east-west vehicle traffic intersecting with pedestrian activity along Castro Street.
- **Castro Street and California Street**—With the north leg of Castro Street converted to a pedestrian mall, this intersection will have three approaches, east-west travel along California Street, northbound movement along Castro Street, and crosswalks across all three approaches. A modern roundabout is recommended for this location.

The intersections of Castro Street at Villa Street and Dana Street will serve east-west through traffic and only pedestrian movements along Castro Street. The proposed intersection improvements need to support convenient and safe pedestrian movement within the mall blocks. This can best be accomplished by shortening the Castro Street pedestrian crossing distance and consolidating the existing two crosswalks into a single-centralized crossing.

From June 2020 to fall 2022, the signals at these intersections were turned off and were set to flashing red, acting as stop-controlled intersections. As part of the Castro Street Crossings Traffic Signal Reactivation Pilot Project, staff reactivated the signals in fall 2022 to observe traffic conditions and pedestrian crossings to help inform a staff recommendation regarding the stop- or signal-controlled options. Data was collected in December during dry-weather days to observe and study the intersection conditions (Table 5).

**Table 5: Pedestrian/Vehicle Counts at Castro Street/Villa Street and Castro Street/Dana Street Intersections**

<b>December 2022 Total Vehicle and Pedestrian Counts—8:00 a.m. to 11:00 p.m.</b>			
<b>Day</b>	<b>Mode</b>	<b>Castro Street/ Villa Street</b>	<b>Castro Street/ Dana Street</b>
Thursday, December 8, 2022	Vehicle	6,566	2,649
	Pedestrian	6,717	5,823

<b>December 2022 Total Vehicle and Pedestrian Counts—8:00 a.m. to 11:00 p.m.</b>			
<b>Day</b>	<b>Mode</b>	<b>Castro Street/ Villa Street</b>	<b>Castro Street/ Dana Street</b>
Thursday, December 15, 2022	Vehicle	6,621	2,567
	Pedestrian	7,028	5,933
Friday, December 16, 2022	Vehicle	6,879	3,051
	Pedestrian	9,774	8,533
Saturday, December 17, 2022	Vehicle	5,759	2,626
	Pedestrian	11,072	10,657
Sunday, December 18, 2022	Vehicle	6,566	2,396
	Pedestrian	6,717	9,229

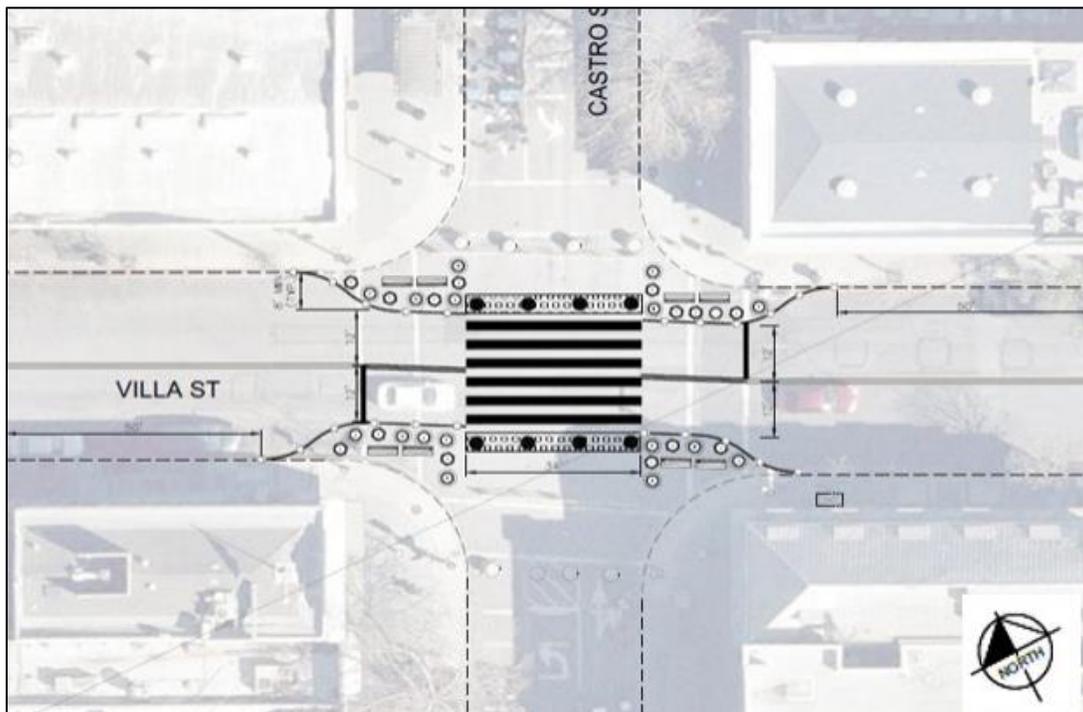
Pedestrian signal warrant analysis was conducted based on the above counts. The analysis indicated that warrants are met on all days at Castro Street/Villa Street intersection and at three of five days at Castro Street/Dana Street intersection (Table 6).

**Table 6: Pedestrian Signal Warrant Analysis**

<b>Day of Count</b>	<b>Castro Street/ Villa Street</b>	<b>Castro Street/ Dana Street</b>
Thursday, December 8, 2022	Warrant Met	Warrant Not Met
Thursday, December 15, 2022	Warrant Met	Warrant Not Met
Friday, December 16, 2022	Warrant Met	Warrant Met
Saturday, December 17, 2022	Warrant Met	Warrant Met
Sunday, December 18, 2022	Warrant Met	Warrant Met

**Staff recommends that signalization be used for the ongoing operations of both intersections.** On March 20, 2023, the Council Ad Hoc Subcommittee supported staff's recommendation. Change of signal control (i.e., stop or signals) is not considered an impact under CEQA; therefore, the Council adoption of a Negative Declaration for the Castro Street Pedestrian Mall ([Resolution No. 18717](#)) does not change.

The improvements at these two intersections will be developed in two phases due to the need to relocate or install new traffic signal equipment. The initial 2023 phase will continue to use the existing signalized crosswalks with enhanced pavement treatments. Bollards or other temporary barriers would be installed to direct pedestrians to the crosswalks. The second phase (Figure 5) will include converting to a single centralized crossing with new pedestrian signals and other traffic signal upgrades and constructing other curb modifications. The second improvement phase will follow in the next two to three years and will also include the California Street roundabout.



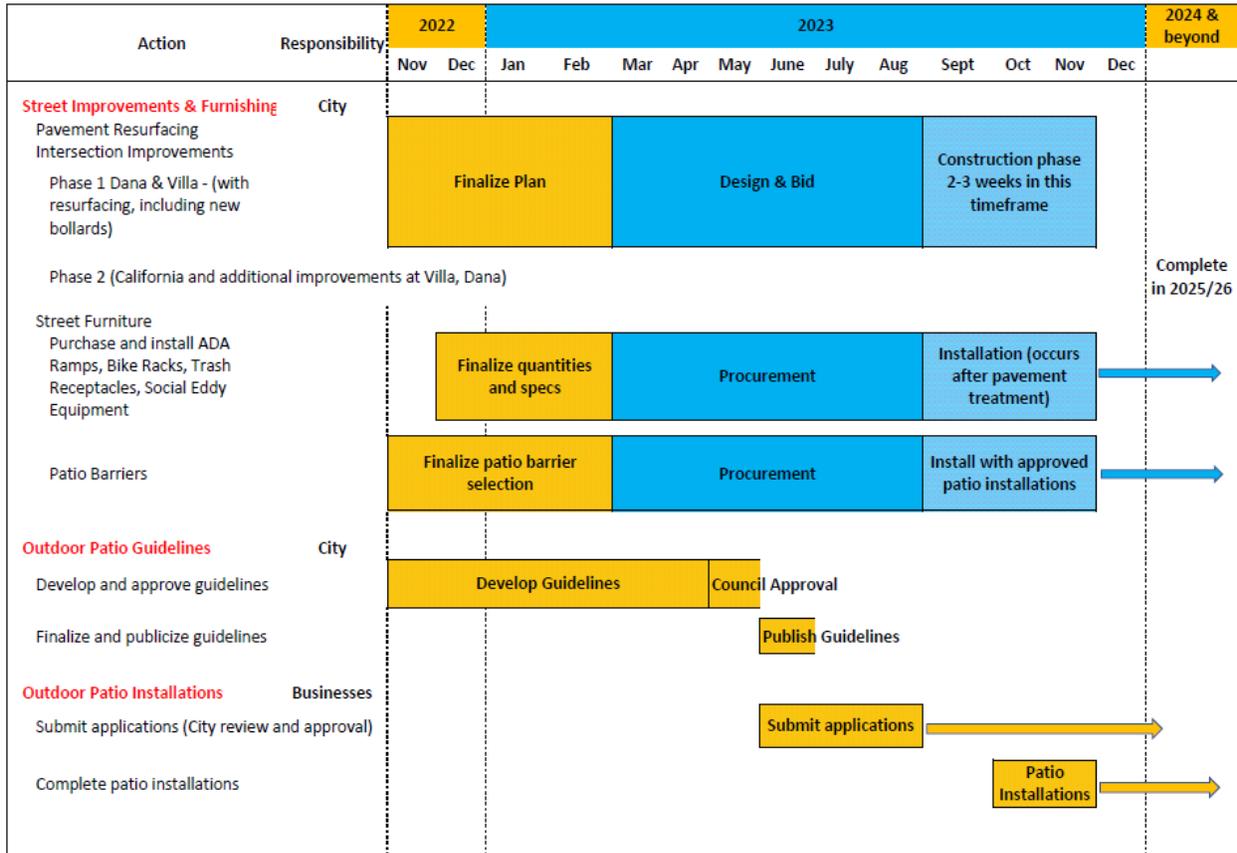
**Figure 5: Phase 2 Signal-Controlled Intersection Improvements for Castro Street at Villa Street and Dana Street**

**STAFF RECOMMENDATION 4:** Staff recommends Council approve signalization for the ongoing operations of the Castro Street/Villa Street and Castro Street/Dana Street intersections.

#### **Implementation Schedule for Interim Pedestrian Mall**

Staff continues to coordinate the timing for implementation of infrastructure projects in the downtown area to minimize impacts to the businesses. The pavement resurfacing project (slurry seal) requires two to three weeks to complete construction, requiring businesses to remove their outdoor patios during this period. Access to businesses will be maintained during the construction period. Several businesses requested pavement resurfacing to occur in late summer to minimize disruptions during the peak demand time (typically June through August). Given the

Art and Wine festival on September 9 and 10, 2023, staff recommends that the paving project occur late September/October followed by the full implementation of the new outdoor patio areas and license agreements. The implementation schedule for the Interim Pedestrian Mall, as reviewed by the Ad Hoc Subcommittee, is provided in Figure 6.



**Figure 6: Interim Pedestrian Mall Implementation Timeline**

Based on this schedule, staff recommends the new Outdoor Patio Standards/Guidelines and the associated ordinances be effective on November 1, 2023. This timeline minimizes disruption to the businesses and provides time for businesses to apply for and execute license agreements with the City and procure furniture and other amenities that are in compliance with these Design Standards/Guidelines. If the City Council approves allocation of ARPA funds toward microgrants for businesses, this schedule allows qualified businesses to apply for and receive grants toward purchasing furnishings.

**ENVIRONMENTAL ANALYSIS**

The proposed amendments are exempt from environmental review pursuant to 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.

### **FISCAL IMPACT**

To implement the licensing of outdoor patios within the Downtown Precise Plan area for private businesses to use public right-of-way, staff recommends repealing the merchant vendor fees and sidewalk café application and rental fees and adopt new application and rental fees for Patio License Agreements. The new application fee of \$608 covers staff time associated with reviewing and processing applications by members of Public Works and Planning. This fee would replace the \$865 for the Sidewalk Café License application fee. The decrease in the fee results from a streamlining of the agreement process. In addition, staff recommends \$10 per square foot for the annual patio license fee. The fee would be applicable to both the sidewalk and program zone when used by private businesses. The fee applies to eligible businesses within the Downtown Precise Plan.

### **NEXT STEPS**

The street pavement resurfacing project (slurry seal) within the Pedestrian Mall is planned for late September/October 2023, weather permitting. Because of the estimated construction dates, staff anticipates businesses will operate under the new program beginning November 1, 2023. This will provide time for businesses to apply for and execute license agreements with the City and procure furniture and other amenities that are in compliance with the Guidelines.

Staff continues to work with businesses to declutter their outdoor dining spaces and address any questions or concerns from the business community to provide for more attractive spaces over the summer. Several items have been removed or tagged for removal, such as broken planters, broken tables/chairs, and unused furnishings. Concurrently, the City is ramping up the street maintenance efforts by increasing the frequency of power washing within the Castro Street Pedestrian Mall beginning this spring. The summer weekly music program will begin in May.

### **ALTERNATIVES**

1. Approve the Code amendments, Outdoor Patio Standards/Guidelines, and fees with modifications.
2. Do not approve the Code amendments, Outdoor Patio Standards/Guidelines, and fees.
3. Provide other direction.

## **PUBLIC NOTICING**

The agenda was posted, notices were placed in the local newspapers (*Daily Post*), email notifications were sent to neighborhood associations and the project subscription list, and mailers were sent to property owners and tenants within a 750' radius of the Downtown Precise Plan boundary.

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202778

- Attachments:
1. Ordinance for Chapter 36 Amendments
  2. Ordinance of Chapters 15, 25, 26, and 27 Amendments
  3. Resolution for Downtown Precise Plan Amendments
  4. Resolution Establishing Outdoor Patio Standards/Guidelines
  5. Resolution Establishing Outdoor Patio Application Fees and Rental Rates
  6. Resolution to Terminate Castro StrEATs
  7. [Council Report Dated June 9, 2020](#)
  8. [Council Report Dated October 11, 2022](#)
  9. [EPC Staff Report Dated April 19, 2023](#)