



## MEMORANDUM

**TO:** City Council

**FROM:** Brian Pedrotti, Community Development Director

**BY:** Patrick Holub, Associate Planner

**SUBJECT:** Discussion and Consideration of Introduction of Ordinance Amending Title 16 of the Arroyo Grande Municipal Code (AGMC) Regarding a Permanent Parklet Program; Development Code Amendment 22-003; Location – Citywide

**DATE:** September 27, 2022

### **SUMMARY OF ACTION:**

Introduction of the proposed Ordinance to establish a permanent parklet program.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

Costs to support a permanent parklet program include in-house and/or contractual services for manual street sweeping, barrier adjustments, inspection and maintenance, and general program administration. Currently, there are a total of fourteen existing parking spaces displaced by existing temporary parklets. It is recommended that permanent parklet applicants fully cover the costs of the permanent parklets. These costs are listed under “Analysis of Issues,” and may be offset through permitting fees, rental costs associated with the loss of City property, and rental fees for physical barriers.

### **RECOMMENDATION:**

Introduce an Ordinance establishing a permanent parklet program.

### **BACKGROUND:**

The COVID-19 pandemic that began in 2020 created a public health crisis and unprecedented economic impacts throughout the country, State, and at the local level. In the City of Arroyo Grande (City), local businesses have been economically impacted by this public health emergency, especially restaurants, hotels, and retail establishments. This created both a significant challenge for the City - with an urgent need to support both public health and economic recovery of local businesses - as well as a unique opportunity to re-imagine how the City’s public right-of-way can be utilized to improve long-term community vibrancy and economic vitality. In response to the initial COVID-19 reopening process, the City adopted Resolution 5007 on June 23, 2020, authorizing the Community Development Director to waive application fees for encroachment permits and Minor Use

## **City Council**

### **Discussion and Consideration of Introduction of Ordinance Amending Title 16 of the Arroyo Grande Municipal Code (AGMC) Regarding a Permanent Parklet Program; Development Code Amendment 22-003; Location – Citywide**

**September 27, 2022**

**Page 2**

Permits/Temporary Use Permits for restaurants that were seeking additional outdoor dining space (Attachment 2). Starting in July of 2020, the City facilitated the installation of five temporary parklets for eight individual restaurant businesses in the Village. All of these parklets remain in use today.

Eight other businesses, both in the Village and in other City commercial areas, took advantage of the opportunity to expand outdoor dining within private parking lots, including restaurants that utilized temporary barricades (concrete K-rail) provided by the City and installed at the City's expense, in order to remain in business outdoors. All of the temporary barriers used to provide outdoor dining space in parking lots outside of the Village area have been removed. The only temporary street closure that remains in effect is the closure of Short Street between Branch Street and Olohan Alley. Council authorized the continued temporary closure of Short Street at its meeting on May 10, 2022 to provide time to evaluate options for a permanent closure and redevelopment of the area as a pedestrian plaza and park.

Existing parklets within the Village displace a total of fourteen (14) parking spaces, which include partial spaces that can only support smaller vehicles. There are a total of sixty-one (61) on-street parking spaces along East and West Branch Streets in the Village. The parking spaces lost to parklets currently account for approximately twenty-three percent (23%) of the on-street parking in the Village. Attachment 3 includes a map of the locations and photos of the existing parklets.

In late 2021 the City published a survey requesting feedback from the community regarding the existing parklets. In total, more than 600 comments were received, with the vast majority of responses indicating support for parklets. Respondents also indicated that if an outdoor dining establishment included a parklet, they were more likely to visit such an establishment by a margin of 68% to 26%, with about 6% unsure.

On November 23, 2021, the City Council held a study session on the status of the temporary parklet program and discussed the potential for a permanent parklet program. Council expressed concerns with various aspects of parklets, including the number, their proximity to each other, the safety of users, the amount of staff time dedicated to a permanent program, their consistency with the historic downtown, design of the parklets, and costs. Council directed staff to return with the framework of a program that evaluated and provided recommendations on the following issues:

1. Associated costs for application, rent, encroachment, and in-lieu parking;
2. Safety considerations;
3. Suggested design standards;
4. A cap on the number of parklets;

## **City Council**

### **Discussion and Consideration of Introduction of Ordinance Amending Title 16 of the Arroyo Grande Municipal Code (AGMC) Regarding a Permanent Parklet Program; Development Code Amendment 22-003; Location – Citywide**

**September 27, 2022**

**Page 3**

5. A proposed proximity between parklets;
6. Eligibility; and
7. Application and notification procedures

On April 12, 2022, the City Council conducted an additional study session to consider a proposed permanent parklet program. During the study session, the City Council provided comments regarding each point and asked that the Architectural Review Committee (ARC) help develop the objective design standards for the parklets. On August 1, 2022, the ARC reviewed proposed objective design standards developed by staff and made a number of recommendations, which were incorporated into the proposed Ordinance.

On September 6, 2022, a proposed Ordinance implementing the permanent parklet program was presented to the Planning Commission (PC), which provided further recommendations and forwarded it to the City Council for introduction and adoption. The recommendations from the Planning Commission included:

1. Exclude the five (5) space buffer required between parklets and remove the maximum of fifteen (15) parking spaces occupied by parklets.
2. Keep the two (2) space maximum for each individual parklet.

Minutes for each of these meetings are included as Attachments 4-7 to the staff report.

#### **ANALYSIS OF ISSUES:**

The proposed Ordinance is necessary to implement the permanent parklet program previously discussed by the City Council. In particular, the Ordinance implements performance standards, including parklet location, density, ADA compliance and design standards. These regulations are intended to ensure that parklets located in the City conform to the existing character of the area in which they are located and do not create an adverse impact on adjacent properties.

Safety concerns are at the forefront of the consideration of a permanent parklet program. The program will utilize a consistent looking physical security barrier. The dimensions of the security barriers should all be uniform throughout the City. Each of the security barriers will be purchased and owned by the City to ensure a uniform design, and leased to future applicants of permanent parklets. Furthermore, staff recommends that no visual obstructions be placed on or above these barriers to ensure a consistent appearance as well as to facilitate traffic and pedestrian safety by removing visual distractions and obstructions. Each of these recommendations is incorporated into the proposed Ordinance to implement the parklet program.

In addition to the size and location of the barriers, materials chosen for the interior of the parklets (e.g. decking, shade structures, etc.) will be consistent throughout the parklet

## **City Council**

### **Discussion and Consideration of Introduction of Ordinance Amending Title 16 of the Arroyo Grande Municipal Code (AGMC) Regarding a Permanent Parklet Program; Development Code Amendment 22-003; Location – Citywide**

**September 27, 2022**

**Page 4**

program and consistent with the character of the Village. The Village Design Guidelines specify that “all new projects shall use materials that fit within the character of the Village. Using similar materials or replicating these materials on all projects and restorations will extend the existing character extended throughout the Village” (Attachment 8).

#### Parklet Location and Density

Performance standards for parklet location have been developed through meetings with the City Council, ARC, and PC. The standards in the proposed Ordinance include requirements that parklets be located only within existing on-street parking spaces, do not obstruct pedestrian or vehicular traffic, and be located a minimum distance from street intersections and driveways to facilitate safety for all roadway users. Furthermore, parklets are prohibited in no parking and disabled parking areas, as well as any parking zone that is time-limited to less than thirty (30) minutes. Lastly, parklets shall be located in a manner that does not prevent access to any utility equipment, such as fire hydrants, or other public infrastructure. Wherever possible, the parklet shall not extend beyond the building frontage of the business utilizing the parklet.

The current placement of the parklets allows for adequate on-street parking between each of the parklets, which leaves available parking spaces for customers who wish to park on Branch Street or for those who are patronizing businesses that do not have a parklet. The proposed Ordinance includes standards that address the density of parklets and ensure that there remains space between them for continued off-street parking. Per the City Council’s direction, there is an overall cap of 25% of available on-street (Branch Street) parking for parklets, which equates to fifteen (15) parking spaces, to ensure availability of parking for all Village users. Council also directed staff to include a minimum of five (5) parking spaces, or ninety (90) feet total, between parklets, as measured on the same side of the street. The PC, at its meeting on September 6, 2022 hearing, recommended eliminating both the overall cap on parking spaces for parklets and the minimum distance between parklets. Since the PC recommendations on density are significant deviations from the City Council’s prior direction, they have been included in an alternate PC-recommended Ordinance presented in Attachment 9.

#### Parklet Design and Maintenance

Objective design standards have been developed to regulate design of the permanent parklets. Included in the proposed Ordinance are regulations that have been developed from meetings with the City Council, ARC, and PC. The proposed regulations include provisions that parklets not occupy more than two parking spaces to promote equity among businesses. Required safety barriers may not exceed forty-two inches (42”) in height and at least eight feet (8’) of vertical clearance to ensure accessibility and functionality of the parklet for users. Architectural elements associated with the parklet shall not exceed the height of the first floor of the adjacent building so views of Village

## City Council

### Discussion and Consideration of Introduction of Ordinance Amending Title 16 of the Arroyo Grande Municipal Code (AGMC) Regarding a Permanent Parklet Program; Development Code Amendment 22-003; Location – Citywide

September 27, 2022

Page 5

buildings are maintained to the greatest extent possible so as to not diminish the feel of the historic district. Parklets shall be located and designed to facilitate ADA access and compliance, which includes a requirement that parklets incorporate a flush transition between the deck of the parklet and the sidewalk. Reflective delineators are required to be provided to signify the parklet envelope and increase its visibility for motorists. Parklets must be designed to comply with the Village Design Guidelines with regards to materials and colors to be consistent with the existing built environment.

Trash storage areas must be screened from the public right of way, with trash receptacles emptied regularly by the associated business owner, and kept in a generally neat and sanitary order to ensure cleanliness. Trash around and inside each parklet will be monitored and picked up each day by the business owner. Since the use of the sidewalk area will be more intensely used as part of the parklet system, including the transfer of food and drinks to the parklet dining area, the associated business owner will steam clean the frontage section at least once a year and on an as needed basis. The City will observe the conditions of each parklet throughout the year, and if staining and/or a general uncleanness is found, a request for the business to perform steam cleaning will be made. However, self-monitoring of cleanliness and sidewalk conditions by business owners is preferred. Lastly, the gutter/drainage way at each parklet will be kept open and free of trash and other debris to allow for normal storm water drainage to occur unimpeded.

#### Definition

The proposed Ordinance states that permanent parklets are limited strictly to food service uses. The economic benefits of parklets noted in the study session and survey were generally identified as creating a vibrant and pedestrian-friendly atmosphere, making Branch Street more active and inviting. The proposed Ordinance includes a definition of a parklet as follows:

*“Parklet” means a small seating area created as a public amenity in a former roadside parking space utilized by a food service business for outdoor dining”.*

The term “food service business” is intended to include such businesses as restaurants, coffee houses, and wine tasting rooms. The proposed Ordinance does not include non-dining establishments in this definition, which would potentially create a cluttered appearance and the proliferation of obstructions in the sidewalk area, would be inconsistent with the intent of the Village Historic Overlay District, and would not achieve the benefits identified by the Council and the public.

#### Application and Approval

The proposed Ordinance includes a requirement that applicants for permanent parklets obtain a Minor Use Permit – Plot Plan Review, which is a permit process consistent with

## **City Council**

### **Discussion and Consideration of Introduction of Ordinance Amending Title 16 of the Arroyo Grande Municipal Code (AGMC) Regarding a Permanent Parklet Program; Development Code Amendment 22-003; Location – Citywide**

**September 27, 2022**

**Page 6**

other similar uses in the Municipal Code, to ensure that the parklet's placement will not have unintended consequences on neighboring businesses and property owners and will not contribute to a loss of parking that could have negative effects on the rest of the Village. There is a one-time fee of \$756 to apply for a Plot Plan Review and this permit type is an administrative approval reviewed by the Community Development Director.

In addition to the need for the approval of a Minor Use Permit, parklet owners will also need to obtain an encroachment permit to ensure liability within the parklet is transferred from the City to the business owner. City staff developed a new encroachment permit category (Encroachment Permit – Small Size) that will be applied in situations that do not require as much staff time and resources for processing as Standard projects but require more resources than Minor projects, such as installation of concrete sidewalk panels, drive approaches, and replacement of existing curb and gutters at single family residences. This fee for the Small Size Encroachment Permit totals \$180 per month and became effective as of June 13, 2022. These costs would account for the staff time required to inspect the parklets and ensure that they are not creating life safety concerns, as well as the administrative time required to process each application. The City will require that the business owners provide the City with a Certificate of Liability that covers the City in the event of any damage to City property or injury occurring within the parklet area. The liability coverage shall be in an amount no less than one million dollars (\$1,000,000) and include a CG 2012 (or approved equivalent) additional insured endorsement attached to it.

As a comparison, the cost of a standard encroachment permit is \$718 for each month that the encroachment occurs. Alternatively, the City offers a minor encroachment permit, which costs \$59 monthly. This minor encroachment permit type is generally reserved for items such as storage containers or dumpsters parked temporarily within the right of way. These minor permits are typically used in situations where little to no staff time is required to oversee the encroachment.

One additional consideration with the approval process is to recognize the previous investment and establishment of temporary parklets by some business owners. The proposed Ordinance provides for a grace period of six months from the effective date of the proposed Ordinance, if approved, for existing temporary parklets to obtain approval of a permanent parklet and/or remove the temporary parklet. The proposed Ordinance also includes a provision that these same businesses will receive initial permit priority, with the assumption that the approved Ordinance will have a cap on the number of on-street parking spaces allowed to be removed.

## **City Council**

### **Discussion and Consideration of Introduction of Ordinance Amending Title 16 of the Arroyo Grande Municipal Code (AGMC) Regarding a Permanent Parklet Program; Development Code Amendment 22-003; Location – Citywide**

**September 27, 2022**

**Page 7**

#### Notification and Appeal

Minor Use Permits require notification of administrative approval to the Planning Commission per AGMC 16.12.155. As part of this notification process, any decision made by the Community Development Director is appealable to the Planning Commission by any member of the public. Additionally, the Planning Commission may also choose to appeal such a decision with a simple consensus among them. Decisions of the Planning Commission are then appealable to the City Council pursuant to AGMC 16.12.150.

#### Expiration/Termination

The economic and social benefits of a permanent parklet program such as increased downtown vibrancy and activity, which were expressed in the community survey conducted in 2021, rely on the continuous use and maintenance of parklets. Further, having underutilized structures in the Village could have the potential to create a cluttered atmosphere. To ensure that parklet structures are not sitting vacant for long periods of time, the approval of parklets run with the approved business operator, with the use permit terminating when such business operator vacates the premises adjoining the parklet. In addition, in the Municipal Code includes revocation procedures for Minor Use Permits in the case of non-compliance with performance standards or lack of use of the parklet. These expiration provisions are included in the proposed Ordinance provided in Attachments 1 and 9.

#### Costs and Safety Considerations

Based on City Council direction and public input, parklet applicants will fully cover the costs of the permanent parklets, which utilize public space to support private business operations. Costs involved include: permitting fees; rental costs associated with the loss of City property; and the rental costs associated with the physical barriers situated between the parklet and the roadway that ensure safety of all parklet users.

In determining the rental costs to the City for the loss of on-street parking spaces, staff reviewed information created by nearby jurisdictions. The Cities of Paso Robles and San Luis Obispo both have completed research for the purpose of determining rental costs for the lost parking spaces from parklets. The City of Paso Robles indicated in a September 7, 2021 staff report that each of its downtown parking spaces generated \$1,500-\$1,600 in revenue based upon the total tax generation of the downtown businesses divided by the number of lost parking spaces. The City of San Luis Obispo, in a fiscal analysis as part of their parklet ordinance hearings on July 5<sup>th</sup> and July 19<sup>th</sup>, identified an expected a cost of \$6,760, or \$42.25 per square foot annually. Of this figure, \$4,000 was identified as the expected lost revenue from San Luis Obispo's paid parking areas and the remaining expected cost included costs for manual street sweeping; inspection and maintenance; and general program administration. Although different conditions exist

## **City Council**

### **Discussion and Consideration of Introduction of Ordinance Amending Title 16 of the Arroyo Grande Municipal Code (AGMC) Regarding a Permanent Parklet Program; Development Code Amendment 22-003; Location – Citywide**

**September 27, 2022**

**Page 8**

within Arroyo Grande, City staff believes that rental costs for the use of parking spaces in the Village should be relatively consistent with these figures.

As an alternative means to calculate the rental cost per parking space lost, the City's onetime Downtown Parking In-Lieu Fee could be referenced. Established by Resolution 3994, the City's current parking in-lieu fee in the Village is \$24,000 per space and is a cost paid by applicants unable to provide the required parking for their proposed use of a property. With no other reference point for parking revenue such as parking meter collection, staff has proposed a rate of five percent (5%) annually as commensurate with the tax generation cited in other nearby cities, resulting in a per-space cost of \$1,200 per year.

Based on the information collected and described above, staff has identified a potential rental fee amount in Table 1 below of \$100 per month (\$1,200/year). This amount was selected for discussion purposes and represents the monthly cost for the City to collect five percent (5%) of the parking in-lieu fee for each space annually.

The safety of parklet users and vehicles on Branch Street (there are portions of East and West Branch Street in the Village) is a primary concern for City staff, and was highlighted in the meetings with the City Council, ARC, and PC. In contrast with other local cities streets that contain parklets, Branch Street was designated as State Highway 227 until 2008 and remains a truck route with a fairly narrow travel way with heavy truck and agricultural equipment traffic. The narrow road way width places patrons in close proximity to traffic. Public Safety and Public Works staff have seen traffic incidents with vehicles hitting the k-rail barriers, along with evidence of tire marks at two locations that are a result of side swipes. Considering these factors, if a permanent parklet program is established, proper barriers and their location/design will be critical to increase the safety of outdoor diners, moving vehicles, bicycles, and pedestrians.

City staff have conducted a preliminary investigation regarding permanent safety barriers that could replace the existing rented k-rails that provide a vehicle barrier between the travel lanes and the parklet. One company, Bertleson Precast, manufactures a concrete safety barrier that measures ninety-six inches (96") in length, twenty-four inches (24") wide and thirty-five inches (35") in height. In order to replace the existing rented k-rails, staff has determined the need to purchase approximately twenty (20) or thirty (30) of these barriers. The manufacturer indicated a cost of approximately three thousand dollars (\$3,000) per barrier for this quantity of barriers. Staff recommends that the City purchase the necessary safety barriers dedicated for the entire permanent parklet program. This would amount to a total initial cost to the City of at least \$60,000-\$90,000 to purchase the barriers. Additional costs would be incurred for transportation and installation of the barriers, which have not been calculated by staff at this time.



**City Council****Discussion and Consideration of Introduction of Ordinance Amending Title 16 of the Arroyo Grande Municipal Code (AGMC) Regarding a Permanent Parklet Program; Development Code Amendment 22-003; Location – Citywide****September 27, 2022****Page 9**

With an average parklet encompassing two parking spaces, a total of six (6) barriers would be needed to provide adequate protection for patrons of the parklet, amounting to at least \$18,000 per parklet. Because of the large up-front cost associated with purchasing the barriers, and because the City would own and retain the barriers following purchase, staff would recommend renting the barriers to parklet owners in an amount that would enable the City to recoup its costs over a reasonable period of time. The per-barrier rental fee, if set at an annual percentage rate of ten percent (10%) of the overall cost to purchase, would be three hundred dollars (\$300) per barrier per year. This would bring the total annual cost to rent the necessary number of safety barriers for an average parklet to one thousand eight hundred dollars (\$1,800) per year. While there are other solutions to ensure the safety of the public, these barriers provide a more decorative appearance than the existing k-rails and can be customized if desired while also providing as much safety as possible to the parklet patrons.

Table 1 shows the estimated costs associated with operation of a parklet within the City's right of way.

**Table 1 – Estimated Costs**

ITEM	COST	FREQUENCY	ANNUAL TOTAL
Annual Cost			
Encroachment Permit	\$180	Per Month	\$2,160
Parking Space Rent*	\$100	Per Month (Per Space)	\$2,400
Safety Barrier Rent*	\$25	Per Month (Per Barrier)	\$1,800
Total – Monthly Costs	\$530		
Total – Annual Costs	\$6,360		
One-Time Costs			
Minor Use Permit – Plot Plan Review	\$735	One-Time	\$735
Total – One-Time Costs	\$735		

\*Annual costs are reflective of a two-space permanent parklet.

All of the fees proposed for the permanent parklet program identified above have been included in a Resolution amending the fee schedule provided for review in Attachment 10. The Resolution is proposed to be adopted with the Ordinance at a future City Council Meeting. The proposed Ordinance includes language requiring applicants to pay all applicable fees for permanent parklets as shown in the City's fee schedule.

## **City Council**

### **Discussion and Consideration of Introduction of Ordinance Amending Title 16 of the Arroyo Grande Municipal Code (AGMC) Regarding a Permanent Parklet Program; Development Code Amendment 22-003; Location – Citywide**

**September 27, 2022**

**Page 10**

#### Next Steps

If the City Council introduces the proposed Ordinance, it will be considered for adoption by the City Council at the next meeting. If adopted, the Ordinance will take effect thirty (30) days from the date of adoption. Additionally, the proposed Resolution establishing the fee schedule associated with the parklet program will be considered for with the Ordinance.

#### **ALTERNATIVES:**

The following alternatives are provided for the Council's consideration:

1. Introduce the attached Ordinance approving Development Code Amendment 22-003;
2. Modify as appropriate and introduce the attached Ordinance approving Development Code Amendment 22-003;
3. Do not introduce the attached Ordinance, and provide direction to staff on specific revisions to the Ordinance; or
4. Provide other direction to staff.

#### **ADVANTAGES:**

Introduction of the proposed Ordinance will allow the City to create a permanent parklet program to ensure that parklets located in the Village are safe and conform to the existing character of the area in which they are located and do not create an adverse impact on adjacent properties.

#### **DISADVANTAGES:**

If the proposed Ordinance is adopted, businesses with existing temporary parklets will need to come into compliance with the adopted Ordinance or remove the temporary parklets. The proposed Ordinance would result in a permanent loss of some on-street parking on Branch Street in the Village.

#### **ENVIRONMENTAL REVIEW:**

The proposed Ordinance for a permanent parklet program is categorically exempt under CEQA Guidelines Section 15301 (Existing Facilities) because the actions are limited to permitting, leasing, and minor alteration of existing public facilities.

#### **PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

**City Council**

**Discussion and Consideration of Introduction of Ordinance Amending Title 16 of the Arroyo Grande Municipal Code (AGMC) Regarding a Permanent Parklet Program; Development Code Amendment 22-003; Location – Citywide**

**September 27, 2022**

**Page 11**

**Attachments:**

1. Proposed Ordinance
2. Resolution 5007
3. Location Map and Photos
4. Minutes and staff report from the November 23, 2021 City Council Study Session
5. Minutes and staff report from the April 12, 2022 City Council meeting
6. Minutes and staff report from the August 1, 2022 Architectural Review Committee
7. Minutes and staff report from the September 6, 2022 Planning Commission Meeting
8. Village Design Guidelines
9. Planning Commission-Recommended Alternative Proposed Ordinance
10. Draft Resolution to Amend Fee Schedule