



Information Item

Date: October 25, 2011

To: Mayor and City Council
From: Andy Agle, Director of Housing and Economic Development
Subject: Outdoor Dining

Introduction

This Information Item addresses questions raised by the City Council on [February 22, 2011](#) regarding outdoor dining.

Background

On [February 22, 2011](#), Council authorized staff to:

1. Prepare a resolution to implement adjustments to the monthly license fees charged to restaurants for Outdoor Dining, effective July 1, 2013. The resolution adjusting the monthly license fee was prepared and approved as part of the Fiscal year 2011-2012 budget approved by Council on June 21, 2011; and
2. Prepare necessary regulatory amendments to allow the existing permanent enclosures for sidewalk dining on Ocean Avenue to remain, provided there is no intensification or expansion of use. As of this writing, regulatory amendments have not been prepared although discussions have occurred on the best approach including simply returning to Council for approval of a new license agreement when the existing licenses expire in 2013.

As part of its direction, Council asked staff to review four questions, as follows:

1. How can the pedestrian-orientation/visual connection of the fully enclosed outdoor dining areas be improved?
2. What is the potential impact to the Colorado Esplanade project by allowing the fully enclosed outdoor dining area at 1551 Ocean Avenue (northeast corner of Ocean and Colorado Avenues) to remain?

3. What would be the potential economic impact of requiring fully enclosed outdoor dining areas to conform to Ocean Avenue Outdoor Dining Standards upon transfer of ownership?
4. Are the new rates for outdoor dining influencing the number of establishments that are willing to offer outdoor dining?

Until recently, three restaurant locations on Ocean Avenue offered outdoor dining from permanently enclosed portions of the public sidewalk. The Il Fornaio location (in the Paseo del Mar development), at 1551 Ocean Avenue (on the northeast corner of Ocean Avenue and Colorado Avenue), was granted an outdoor dining easement in 1982. The Ivy restaurant location, at 1535 Ocean Avenue (on the east side of Ocean Avenue between Broadway and Colorado Avenue), was first authorized to construct outdoor dining through an easement approved in 1987. Both easements pre-date the existing outdoor dining standards, which were adopted in 1992. In 2003, upon expiration of the easement agreements, each restaurant was granted a ten-year license agreement. The license agreement for the Ivy allowed existing improvements to remain, but required that alterations to those improvements be brought into conformance with the Ocean Avenue Outdoor Dining Standards. The license for Paseo Del Mar permitted the existing outdoor dining enclosure to remain unless the City determined that the existing enclosure created a safety risk. Additional alterations to the existing enclosure or any new enclosure improvements were required to conform to the Ocean Avenue Dining Standards. The license allowed the City to require the licensee to remove any enclosure upon termination of the license.

The third restaurant location, 1501 Ocean Avenue (at the southeast corner of Ocean Avenue and Broadway), I Cugini recently closed. Plans to close the restaurant were made earlier and are not related to the rate adjustment for outdoor dining. Seasons 52, the new restaurant that has signed a long-term lease for the I Cugini space, has submitted preliminary outdoor dining plans to the Planning Division. The preliminary plans indicate demolition of the existing permanent enclosure on the sidewalk and

reconstruction of the outdoor dining area with a semi-permanent barrier in conformance with the current Ocean Avenue Outdoor Dining Standards (Standards) adopted [June 9, 1992](#). Planning Commission approval for the Seasons 52 project is tentatively scheduled in the coming weeks. Once the plans are approved, Seasons 52 will be issued a new outdoor dining license.

Discussion

Pedestrian-Orientation/Visual Connection

At its meeting on [February 22, 2011](#), the Council directed staff to return with recommendations on how to enhance the visual connections between pedestrians, street activity, and the fully enclosed outdoor dining license areas, as called for in the Standards. The Standards were intended to reserve sufficient sidewalk space for pedestrians, limit the height of barriers that separate the dining area from the remainder of the sidewalk, and maintain visual connection between the outdoor dining space and the public sidewalk.

The two remaining fully enclosed outdoor dining areas on Ocean Avenue do not conform with the current Standards as they relate to barrier installation and height; however, staff believes that the visual connection can be improved without demolishing any permanent structures, simply by having the proprietors trim the vegetation adjacent to the barriers. Staff has contacted each proprietor to explain the goals of the Ocean Avenue Outdoor Dining Standards and has requested their cooperation by trimming the vegetation.

Planned Colorado Esplanade at Ocean Avenue

The City has hired Peter Walker and Partners Landscape Architecture for design, construction, document preparation and construction administration services for the Colorado Esplanade Project, extending from 17th Street to Ocean Avenue. The purpose of the project is to enhance the pedestrian experience for users of the Light Rail and to enliven the street frontage, through various means, including providing areas for sidewalk dining. The scope of work, as currently defined, includes expanded sidewalks

and other improvements on Colorado Avenue between 4th Street and Ocean Avenue, and on the west side of Ocean Avenue south of Colorado Avenue.

It is difficult to assess whether the existing encroachment of Paseo del Mar onto the public sidewalk will impinge on the future Colorado Esplanade improvements as no streetscape design plan has been prepared for this area. However, the sidewalk on the east side of Ocean Avenue from Colorado Avenue to Arizona Avenue is approximately 20 feet wide and the outdoor dining for the two nonconforming restaurants encroaches onto the sidewalk from the building line no more than 12 feet, which is in accordance with the Standards. The sidewalk on the north side of Colorado Avenue, just east of Ocean Avenue, is 10 feet wide from the edge of the curb to the exterior wall of Paseo del Mar, and the outdoor dining at the corner of Colorado Avenue and Ocean Avenue leaves an unimpeded pedestrian pathway that is 10 feet wide.

As part of the planning process, staff is continuing to hold meetings with Colorado Avenue business owners to inform and update them on the evolution of the Colorado Esplanade plans. Pedestrian orientation and flow envisioned for the Colorado Esplanade may be improved at the corner of Colorado Avenue and Ocean Avenue as the sidewalk could be widened to the south away from the outdoor dining on Colorado Avenue.

Transfer of Ownership Alternatives for Permanent Enclosures on Ocean Avenue

Council's direction to staff was to allow those Ocean Avenue outdoor dining areas that do not conform to the Ocean Avenue Outdoor Dining Standards to remain "as-is" if they have not ceased operation for six months or longer, and if the existing configuration is not expanded or intensified. Because these licenses do not conform to the Ocean Avenue Outdoor Dining Guidelines, the City Manager is not authorized to execute them. Therefore, when the existing licenses expire in 2013, given Council's direction, staff will submit new licenses to Council for approval, provided there have been no changes or cessation of operations for more than six months. This approach has no economic

impact on the restaurateur. Council's direction will be achieved through the execution of a long-term license agreement.

In addition, Council directed staff to evaluate the potential quantitative and qualitative implications of discontinuing the nonconforming sidewalk dining uses at change of ownership. Staff has identified the following options which could be considered during a future Council meeting.

1. Require code compliance at change of ownership

Instead of allowing the permanent enclosures to remain, the City could require reconstruction of the outdoor dining area to comply with the Standards at the time of change of ownership. Staff could track a change in ownership through bimonthly business license status reports.

If this option were considered, the buyer of a restaurant would factor into the negotiations the impact that this requirement would have on costs and revenues. Based on staff's analysis, it does not appear that the cost to reconstruct an outdoor dining area to conform to current Standards would impose an undue economic burden upon the operation. As shown in Attachment A, the cost of reconstructing a conforming outdoor dining area would be recovered through savings from paying the lower fee for a partially enclosed area within 3.4 years.

A question that remains is whether the restaurant operator would generate as much revenue from a partially enclosed outdoor dining space as from a fully enclosed space. The advantage of fully enclosed outdoor dining areas is that they can be used in most weather conditions and afford more privacy for private parties than is possible with the partially enclosed areas. In addition, the fully enclosed outdoor dining areas of the two remaining restaurants have an identity and brand closely associated with the existing outdoor dining configuration that is difficult to assess in terms of value and reputation.

2. Limit the life of the permanent enclosures

Alternatively, the City could authorize the nonconforming sidewalk dining uses to remain for a finite, limited period (e.g. 10 years). After such time, the sidewalk dining spaces would be required to come into compliance with the current standards. If the existing restaurants continue to operate in these locations, the termination of their existing outdoor dining areas could undermine central elements of the restaurants' operations and amenities.

Status of New Outdoor Dining License Agreements in Downtown Santa Monica

The new outdoor dining rates are scheduled to go into effect on July 1, 2013. Since Council approved the new rates for outdoor dining on [February 22, 2011](#), staff has received and approved six new outdoor dining license agreements for terms extending until 2015. The new license agreements include the rate adjustment that will take effect on July 1, 2013. Based on the small number of license renewals, it is too early to determine whether the new rates are affecting restaurants' willingness to provide outdoor dining. Staff will continue to monitor impacts on license renewals.

In addition, staff continues to reach out to other restaurants that currently do not have outdoor dining to encourage them to consider outdoor dining as the *al fresco* dining experience enhances the City's character and enlivens its sidewalks, creating a mutually beneficial experience for both customers and restaurateurs.

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Attachment A: Payback Period Based On Reduced Expenses for Outdoor Dining License Fees

Attachment A
 Payback Period Based on Reduced Expenses
 For Outdoor Dining License Fees

Economic Assumptions	Generic High-Performing Restaurant
Outdoor Dining Sq. Ft.	1,000
Annual license fee at the fully-enclosed rate of \$5.83/sf/mo	\$69,960
Annual license fee at the partially-enclosed rate of \$2.92/sf/mo	\$35,040
Annual savings with partially enclosed area	\$34,920
Estimated cost to demolish non-conforming outdoor dining area and reconstruct new area to conform to Standards based on \$100/sf + 20% for design and contingency	\$120,000
Years required to amortize construction costs through savings in license fees	3.4