



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** County Executive  
Office/Public Works  
**Department No.:** 990/054  
**For Agenda Of:** November 10, 2009  
**Placement:** Admin – Set Hearing  
**Estimated Tme:** 20 Minutes on  
December 1, 2009  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Mike Brown, County Executive Officer  
Director(s) Scott McGolpin, Director, Public Works Department (x3010)  
Contact Info: Dave Matson, Assistant Director, Redevelopment Agency (x2068)  
Dace Morgan, Deputy Director, Public Works Department (x3064)  
**SUBJECT:** Isla Vista Outdoor Dining Program Ordinance, Third Supervisorial District

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Other Concurrence:** Risk Management

As to form: Yes

**Recommended Actions:**

That the Santa Barbara County Board of Supervisors:

- A. Set a public hearing for December 1, 2009, to introduce the Isla Vista Outdoor Dining Program Ordinance (Attachment 1) amending Chapter 28 of the Santa Barbara County Code pertaining to the Use of County Sidewalks and Rights-Of-Way for Dining Purposes in Isla Vista;
- B. Consider a Resolution to set a fee for the use of County Right-of-Way for Dining Purposes in Isla Vista (Attachment 2);
- C. Conduct a second hearing on December 8, 2009, to adopt the attached Ordinance, amending Chapter 28 of the Santa Barbara County Code, pertaining to the Use of County Sidewalks and Rights-of-Way for Dining Purposes in Isla Vista.

**Summary Text:**

This item is on the agenda to consider adoption of the Isla Vista Outdoor Dining Program Ordinance, to establish a fee structure for use of outdoor dining areas that extend into the public right-of-way (ROW), and to streamline the permit approval process for business owners who voluntarily choose to use County ROW for outdoor dining purposes.

The proposed Ordinance and Resolution would establish an Outdoor Dining Program applicable only to commercially zoned properties in the Isla Vista downtown business area and would allow business owners the opportunity to enter into an agreement with the County to use a portion of the public ROW for outdoor dining purposes only. In exchange for use of the ROW, fees would be paid to the Public Works Department and used for program operating expenses in downtown Isla Vista including, landscape maintenance, decorative lighting, sidewalk cleaning, and other activities necessary for the general upkeep of a downtown commercial area. These services to be performed will be dependent on the amount of fees paid.

Outdoor Dining Enclosure Design Guidelines (Guidelines) have been developed and reviewed by the South Board of Architectural Review (SBAR), the Public Works Department, and Planning & Development to guide location and design of outdoor dining areas and ensure consistency with accessibility requirements and standards associated with the American's with Disabilities Act (ADA).

The initial program fee will be discounted to \$0.50 per gross square foot of right-of-way per month with contract terms through December 31, 2010 to encourage participation in the program. Starting January 2011, the Isla Vista Outdoor Dining ROW use fee (Annual License Fee) is proposed to be \$0.75 per gross square foot of right-of-way per month.

**Background:**

The Outdoor Dining Program supports Isla Vista Master Plan goals to create a vibrant downtown, engender public-private economic development partnerships, and foster community efforts to build a strong local identity. Isla Vista's proximity to the Pacific Ocean and UCSB coupled with the temperate year-round climate, create an exceptional opportunity for outdoor cafés to thrive. Approximately 37,000 people live in Isla Vista and its surrounding area and thousands more live or work in the Goleta Valley. The community's proximity to the University allows it to share in the over 100,000 annual visitors to educational, sports and cultural events on campus.

The Outdoor Dining Program will enhance the ability of local businesses to offer destination dining opportunities that cater to students, local residents and visitors alike. This, in turn, provides an opportunity to capture new public revenue to be dedicated to maintaining and improving public areas throughout Isla Vista.

The recently completed Pardall Road Enhancement project was the first step toward creating a distinct identity for Isla Vista's downtown area. To that end, the primary economic development goal behind the Pardall project was to create a "main street" business core that could successfully promote the private sector investments necessary to stabilize downtown businesses. The project widened sidewalks to create space for outdoor cafés and improved the downtown environment by planting over seventy trees, installing street lighting, providing secure and convenient parking for over 250 bicycles, new recycle and trash bins, and making improvements to the Pardall storm water management system and

utilities. Accordingly, the Outdoor Dining Program is an extension of the Pardall project as it enables businesses and the community to directly utilize these recent streetscape and infrastructure improvements for economic development purposes.

**Outdoor Dining Design Guidelines:** To provide a foundation for program expectations, the Redevelopment Agency, Planning and Development, and Public Works have drafted a set of Outdoor Dining Design Guidelines (Guidelines). The purpose of these Guidelines is to assist property owners and commercial tenants within the Isla Vista Commercial and Community Mixed Use zones with installing well-designed and attractive outdoor dining areas that contribute to the dynamic and lively atmosphere of downtown Isla Vista. The Guidelines provide for a streamlined process through which no Coastal Development Permit is required for the installation of non-permanent fixtures including tables, chairs, and other appurtenances in the prescribed outdoor dining area. The Guidelines also ensure uninterrupted public access to the sidewalks by requiring clear demarcation of dining areas with planters, decorative posts and railings. Importantly, the document also includes a set of SBAR pre-reviewed and recommended materials and design parameters for dining enclosures. Enclosures that meet the spatial and materials standards, as well as follow the application requirements outlined in Section 2.0 of the Guidelines, are therefore exempt from further design review. Alternative materials and designs are allowed under the program; however, further SBAR review may be required for proposals that diverge from the Guidelines.

**Permitting of Outdoor Dining in the Right-of-Way:** The standards in the Guidelines apply to the design, location and construction of dining enclosures that extend into areas of the public ROW along Pardall Road and the Embarcadero Loop (Embarcadero Del Mar and Embarcadero Del Norte commercial areas). Use of the ROW requires an encroachment permit from Public Works. The Redevelopment Agency will review the proposed project and design for consistency with the Guidelines. The Planning and Development Department, Public Works Department, and County Counsel have reviewed the proposed program for consistency with County policies and regulations and with consideration for the public safety, welfare and general public benefit.

**Use of County Right-of-Way:** Upon Public Works Department approval of a business's permit application, they may issue an encroachment permit for use of the public right-of-way. The permit will specify the date of the outdoor dining commencement and renewal, the area for which the use is defined, the applicability of building codes and other law, and such other terms required by the Board of Supervisors. This permit will require proof of insurance that indemnifies the County and payment of an annual fee based on the gross square footage of the area to be used within the public right-of-way. The Isla Vista Foot Patrol or the Public Works Department may revoke the permit for violation of conditions. Any use permit with three violations of conditions in a single year can be revoked by the Public Works Director.

**Proposed Fees/Penalties:** Outdoor dining space is not generally utilized at the same rate as primary restaurant space, due to variations in temperature, weather conditions, and customer preferences during mornings and evenings. An April 13, 2006 study conducted for the City of Santa Barbara, appraised rental values for sidewalk dining, concluding that 50% of interior lease rate would be appropriate for a ROW lease program. Accordingly, the Isla Vista Outdoor Dining ROW use fee (Annual License Fee) is proposed to be \$0.75 per gross square foot of right-of-way per month, or approximately 43% of the average interior lease rate for Isla Vista. Staff believes this is reasonable and appropriate given the limitations of outdoor use, fluctuation of available space from business to business, and the range of

revenue generation opportunities afforded under typical lease agreements. The full right-of-way use fee of \$0.75 per gross square foot of right-of-way per month will begin January 1, 2011, with contract terms up to one year. In order to encourage early entry into the program, the initial program fee will be discounted to \$0.50 per gross square foot of right-of-way per month with contract terms through December 31, 2010. The County may increase the annual fee with notice provided to permittee at the time of renewal. The fee structure may be annually updated by the Public Works Director, consistent with the change in the Consumer Price Index (Los Angeles-Riverside-Orange County, CA – all items, September to September).

The Annual License Fee shall be charged based on the calendar year (January 1 – December 31). Annual License Fees for Outdoor Dining Permits issued after January 1 of any year shall be appropriately pro-rated based on the number of months remaining in the current calendar year. The fee will apply to the entire month in which the permit is effective, regardless of the date, through the end of the calendar year. After the first year, the Annual License Fee is for the entire term of contract regardless of the date the permit is obtained. A late fee of not more than 10% of the total lease amount will be applied to contracts that are delinquent, incomplete, or do not include all fees due by December 1<sup>st</sup> prior to the new contract year. Penalty fees may be decreased or dismissed at the discretion of the Public Works Director for good cause shown. Failure to submit a complete renewal application and all fees including any late processing fees by December 31<sup>st</sup>, will result in the removal and forfeiture of any structure or equipment incidental to the lease contract and located in the public right of way. There shall be no fee refund for the early termination or revocation of the permit.

This Isla Vista Outdoor Dining Program provides a low-cost incentive and economic advantage to business owners located within the Isla Vista Redevelopment Area. As a regional comparison, the City of Santa Barbara Outdoor Dining, Landscape Pots and Street Furniture program charges an annual license fee of \$501 for a table and two chairs. In the Isla Vista program, the lease rate for the space needed to accommodate a table and two chairs would be approximately \$90 annually, through December 2010, and \$135 annually after January 1, 2011.

**Revenue Projections:** Revenues are projected based on the likely use of ROW for outdoor dining and the proposed use fee. Based on known interest and current use of the ROW, it is projected that the program will generate approximately \$29,700 annually the first year and \$44,600 annually the second year. The initial participants are expected to be primarily the businesses on the recently improved Pardall Road and those on the Embarcadero Loop that are currently using the County ROW without license. It is anticipated that Public Works administration costs for the program will be \$10,000 annually. The items of work that can be accomplished with this revenue will be prioritized, as the amount of revenue will not be sufficient to honor every request for maintenance. If the full revenue projected is received, it is anticipated that quarterly sidewalk steam-cleaning and quarterly landscape maintenance could be performed the first year. These services could increase in the second year, if funds are available. Future RDA projects are anticipated to include sidewalk and streetscape improvements on the Embarcadero Loop and portions of the cross streets that encompass the downtown commercial area. These projects are anticipated to expand sidewalk space, which could support an expansion of the Outdoor Dining Program in downtown Isla Vista.

**CEQA:** Environmental review of the project under the California Environmental Quality Act (CEQA) has been adequately disclosed pursuant to CEQA Statute Section 21090(b) [Redevelopment Plan Deemed Single Project] as the environmental impact report for a redevelopment plan (IVMP EIR 03-

EIR-008) is a project EIR and all public and private activities or undertaking pursuant to, or in furtherance of a redevelopment plan shall be deemed a single project. Additionally, the events specified in CEQA Statutes Section 21166 have not occurred with respect to Outdoor Dining project including:

- a) Substantial changes are not proposed in the project, which will require major revisions of the environmental impact report.
- b) Substantial changes will not occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.
- c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, has not become available.

Therefore, the Isla Vista Master Plan EIR satisfies the project's environmental review and no further environmental review is required.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Narrative:**

Program revenues are anticipated to offset program costs. Development of the Outdoor Dining Program was included in the Redevelopment Agency budget. Costs for establishing a particular Outdoor Dining area are the responsibility of the private property owner or business owner. Program fees are estimated to generate approximately \$29,700 the first year and \$44,600 the second year, with annual increases that would offset the costs of Public Works Department program management, estimated at \$10,000 annually. Revenues are to be programmed for Public Works maintenance activities within the Redevelopment Agency program area that are otherwise unfunded.

**Special Instructions:**

Please return a copy of the signed Ordinance and Resolution, with a certified, stamped minute order to the Redevelopment Agency, attention: Jeff Lindgren, x2069.

**Attachments:**

- Attachment 1 – Ordinance for the Isla Vista Outdoor Dining Program
- Attachment 2 – Resolution for the Isla Vista Outdoor Dining Fee
- Attachment 3 – Isla Vista Outdoor Dining Enclosures Design Guidelines

**Authored by:**

David Matson and Jeff Lindgren (x2069), County Redevelopment Agency

**cc:**

Mary McMaster, County Counsel  
Michael Ledbetter, County Counsel