

REVISED REPORT*City Council Memorandum*

To: Mayor Fasbender & City Councilmembers
From: John Hinzman, Community Development Director
Date: May 18, 2020
Item: Resolution: Temporary Changes for Operation of Businesses Effected by COVID-19 Restrictions - **REVISED REPORT**

Revisions to Original Report - Final DBA Plan

The original staff report contained an earlier draft plan of the DBA Plan for Downtown. The Final DBA Plan has been included in the revision. I have included a summary of changes from the original request below.

1. Parklets

- Request ability to serve alcohol in parklets
- Square footage of parklets are given – locations are the same:
 - 1 parklet = 3 parking spaces on 2nd Street roughly 575 sq feet; there would be 2 parklets per block on 2nd Street
 - 1 parklet = 1 parallel spot in front The Onion Grille on Sibley St, roughly 200 sq ft
 - 1 parklet = 1 parallel spot in front of Artspace on Tyler St., roughly 200 sq ft
- Cost estimates given for parklets - \$1,500-\$2,000 for large parklets and \$700-\$1,000 given for parklets on Sibley and Tyler. City estimate for parklet cost is around \$8,600 for a 200 s.f. parklet (finished product including materials and labor)
- Added statement that City construction would provide uniformity
- Looking at using HEART Grant for construction.

2. Bumpouts

- Seek to use bumpouts for to-go alcohol consumption

3. Courtyard under Bridge

- Seek to use for to-go alcohol consumption
- Request additional trash receptacles.

4. Smoke Free Downtown

- No changes

City Role

- Increased traffic and safety presence
- Extra garbage cans near parklets

Maps

- Bumpout locations now noted.

Additional City Attorney Review

Additional review by the City Attorney has been incorporated into the text of the document. New information and changes are noted in **red**

HEDRA Allocates Money for Parklets

The Hastings Economic Development and Redevelopment Authority (HEDRA) voted to allocated \$25,000 towards the construction of parklets at the May 14th Meeting. Commissioners discussed the desire for funding to be disbursed as a reimbursement rather than being constructed by the City. Funding is subject to City Council approval for parklets and the establishment of policies and permits for construction.

Council Action Requested:

Consider adoption of the attached resolution outlining temporary changes for business operation due to the effects of the COVID-19 pandemic. A simple majority is necessary for action.

Background Information:

Operation of commerce has been severely restricted through emergency orders issued by the governor to prevent the spread of COVID-19. Upon resumption of commerce, businesses will need to implement social distancing measures which limit the number of on-site customers. Businesses are looking at alternative ways to serve customers outside the footprint of their building.

DBA Plan for Downtown Businesses

The Downtown Business Association (DBA) has submitted a Plan for Downtown Businesses (attached) requesting the following:

- 1) **Parklets.** Parklets are the temporary conversion of on-street parking areas into private commercial areas for the use of neighboring businesses. They involve construction of a raised platform flush with the level of the curb with installation of barriers along the edges to demarcate the space. Parklets are generally used as table space for restaurants and can be found throughout many larger cities.
- **Request** - City construction of the platforms for six parklets located within the downtown. Businesses could decorate and personalize the parklet to their liking. List of businesses wanting parklets to be delivered to City on May 20th with construction of base completed on May 22. Parklets would be removed by November 1st. **Seek permission to serve alcohol in parklets. City construction would maintain uniformity. Seek to use HEART grant for expenditure. Seek additional garbage cans at parklets. Parklets would be located as follows:**

Location	Size	DBA Cost Estimate
2 nd Street - 4 parklets (2 per block)	3 parking spaces - 575 s.f.	\$1,500 - \$2,000
Sibley Street (Onion Grill)	1 parking space - 200 s.f.	\$700 - \$1,000

Staff Analysis - Supportive of the concept, but more detail is needed prior to permission being granted. The Council may choose to amend the resolution to grant City Staff the authority to approve parklets upon development of procedures and addressing the following questions:

- Parklets could not be used for the table service by restaurants under the current Executive Order. A target date of June 1st has been established by the Governor for allowance of restaurant service.
- Parklets could be used by the public at large to consume to-go orders under the current Executive Order, however alcohol consumption would not be allowed under City regulations banning alcohol consumption in the public right-of-way.
- Alcohol service would not be allowed within parklets. Liquor licensing requires that there be a delineated “compact and contiguous” area that is covered by the liquor license and insurance. The physical separation of a sidewalk between the main establishment and the parklet would not allow for alcohol service. Staff is aware that other cities may have allowed alcohol service in parklets and has reached out to Minnesota Alcohol Gambling Enforcement Division (AGED) for clarification. At this time AGED has confirmed the requirement that alcohol service in outdoor areas must be contiguous.
- Use of a parklet exclusively by one restaurant should be accomplished through the existing Sidewalk Café Ordinance including a license for new operators or amendment of an existing license.
- City payment of parklets that are designated for exclusive use of a particular business use would not likely meet the public purpose requirement for expenditure and is not expressly authorized in statutes or elsewhere. HEDRA’s authorization is different and is allowable.
- Need to ensure safety of parklets from collision of motor vehicles. If a vehicle was driven into a parklet area causing injury or death to one or more individuals, the City would have significant risk of liability and the decision of what barriers the City required would certainly be scrutinized in a negligence claim.
- City estimate for parklet cost is around \$8,600 for a 200 s.f. parklet (finished product including materials and labor)
- Use of HEART Grant for funding would be consistent with program guidelines. The grant budget for a specific business would need to be modified to reflect the change.
- How wide is support among downtown business owners
- Social distancing requirements will limit the amount of use.
- Will need to have permission of neighboring effected businesses.
- Need to ensure a minimum level of appearance - aesthetics
- Prefer parklets to be completely privately constructed
- Businesses would need to indemnify the City of Liability.
- Need to ensure emergency ingress and egress to buildings.
- Cannot extend any further out towards travel lanes than existing parking stall distance from curb and preferably less to allow buffer space to moving vehicle traffic.

- Cannot be constructed over utility access panels, manhole covers, storm drains or fire hydrant shut off valves

1a) Use of Sidewalks for Commerce. Allow businesses to use a portion of the sidewalk in front of their business for the display of merchandise or to conduct commerce.

Staff Analysis - Recommend approval as follows:

- Council can grant special permission for use under City Code 90.11
 - a) Requirement that persons aggrieved by the use can petition City Council for a hearing.
 - b) Would not include food or alcohol service (this is covered under Sidewalk Café Ordinance).
 - c) Businesses must provide a corridor or no less than four (4) feet along the sidewalk, building entrances and ADA accessible ramps.
 - d) Sidewalk display areas must be kept neat and tidy.
 - e) City would create a simplified form (similar to the Sidewalk Café License) to be completed by a user with correct and complete business names of the building owners and operators, and the description of the area that will be used along with a waiver of indemnity from the business' insurance.

2) Use of Bumpout Areas - Large Flower Planters. Bumpouts are the extended sidewalk and plaza areas at street intersections within the downtown. Most of them contain a larger flower planters. Request that the planters be used as a base for a table and that the City provide\construct a tabletop. The tables would be used bistro dining. **Seek permission to use for to-go alcohol consumption.**

Staff Analysis - Recommend approval as follows:

- City payment for improvements that are designated for exclusive use of a particular business use would not likely meet the public purpose requirement for expenditure and is not expressly authorized in statutes or elsewhere.
- Staff assumes bumpout areas would be open to the general public and not for the exclusive use an individual business.
- Service of alcohol would be prohibited per City Code and AGED
- City would not construct, but would allow private construction
 - a) Need a plan to ensure uniform design before construction could begin.
 - b) Cannot impair ingress and egress or ADA accessibility
 - c) City\HEDRA could consider reimbursement for construction upon submittal of cost estimate from DBA.
 - d) Chairs and maintenance to provided privately.
 - e) **Need to ensure permanent damage to the planters is avoided.**
- Locations and number of flower planters to be identified

3) Courtyard Under the Bridge. Request city install additional tables, two portable toilets, and two handwashing stations in the plaza beneath the TH 61 Bridge. **Permission to consume alcohol requested.**

Staff Analysis - Recommend approval as follows:

- Placed to conform with social distancing best practices.
- Ensure adequate number of waste receptacles.
- No commercial activity.
- **Service of alcohol would be prohibited per City Code and AGED**

4) Designation of a Smoke and Vape Free Downtown.**Staff Analysis:**

- Would require an amendment to the City Code
- Not sure if this would fall under the emergency ordinance provisions.

5) Installation of Rubber Speed Bumps on 2nd Street.**Staff Analysis:**

- Installation of temporary speed bumps\humps has not been implemented in the past.
- Bumps will cause frustration for through traffic, which will translate into increased aggressiveness by motorists between them and between blocks.
- Increase in activity through return of customers, extension of sidewalk use, and parklets will help to slow traffic.

Other Temporary Changes for Operation of Businesses

In addition to the requests of the DBA Plan, staff recommends the adoption of the following temporary measures:

1) Increase the number of picnic tables along the riverfront and downtown

- Relocate other City tables to these areas
- Could ask public to “lend us their picnic table” for the summer
- Restaurants could offer delivery of food to tables

2) Allow Conversion of Private Parking Lots into Outdoor Dining, **Drive-thru, or pick-up and delivery area for take out orders**

- **Plan for conversion must be submitted to the Community Development Department.**
- Allow conversion of up to 25% of required parking into outdoor dining areas
- Does not apply to public parking lots.
- Liquor license would need to be amended.

3) Enforcement of temporary signage requirements will be not be prioritized

- Signs cannot impair visibility at intersections
- Enforcement of the placement of numerous temporary signs in multiple locations throughout the City will continue.

Financial Impact:

The DBA request for City participation in construction of parklet platforms, tabletops on bumpout flower pots, and portable toilets\handwashing stations will involve City expense.

Advisory Commission Discussion:

The Hastings Economic Development and Redevelopment Authority (HEDRA) is scheduled to discuss potential contribution towards construction of parklets at the May 14th meeting.

Council Committee Discussion:

N/A

Attachments:

- Resolution
- DBA Plan for Downtown Business

**HASTINGS CITY COUNCIL
RESOLUTION NO. _____**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HASTINGS
APPROVING TEMPORARY MEASURES FOR OPERATION OF COMMERCE**

Council member _____ introduced the following Resolution and moved its adoption:

WHEREAS, Minnesota Executive Order 20-01 Declaring a Peacetime Emergency and Coordinating Minnesota's Strategy to Protect Minnesotans from COVID-19 was executed by the Governor on March 13, 2020 in response to the COVID-19 Pandemic; and

WHEREAS, subsequent Executive Orders executed by the Governor have restricted operation of commerce, causing financial hardship to the local economy; and

WHEREAS, on March 16, 2020 the City of Hastings declared a Public Health Emergency resulting from imminent health conditions caused by the presence of the Coronavirus Disease (COVID-19); and

WHEREAS, restrictions on the operation of commerce will be removed over time; however, adherence to social distancing requirements are likely to remain for some time; and

WHEREAS, the City Council seeks to adopt temporary measures to provide additional opportunities for the operation of commerce that adhere to social distancing requirements; and

WHEREAS, Hastings City Code Chapter 90.11 allows for the private use of public streets and parking lots including sidewalk areas.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF HASTINGS AS FOLLOWS:**

That the City Council of the City of Hastings hereby approves the following temporary measures:

- 1) **Use of Sidewalks for Commerce.** Businesses may use a portion of the public sidewalk in front of their business for the display of merchandise or to conduct commerce as outlined under Hastings City Code Chapter 90.11 under the following conditions:
 - a) Any service of food and beverages must adhere to Hastings City Code Chapter 90.16 - Sidewalk Cafes.
 - b) Businesses must provide a corridor or no less than four (4) feet along the sidewalk, building entrances and ADA accessible ramps.
 - c) Sidewalk display areas must be kept neat and tidy.
 - d) Must provide City with a waiver of indemnity from the businesses' insurance.

- e) Completion of a Sidewalk Use Form with correct and complete business names of the building owners and operators, and the description of the area that will be used along with a waiver of indemnity from the business' insurance.
- 2) **Conversion of Public Downtown Planters to Table Seating.** Large public planters located within the right-of-way may be converted by neighboring business owners into a tabletop platform under the following conditions:
- Construction would be done privately.
 - Submittal of a plan to the City to ensure stability and design.
 - Cannot impair site visibility at the intersection or ingress/egress consistent with the American with Disabilities Act (ADA)
 - Avoidance of permanent damage to the planter.
 - Consumption of alcohols shall be prohibited.
- 3) **Use of TH 61 Bridge Plaza.** City will install additional tables, portable toilets, and hand washing facility in the plaza area under the TH 61 bridge. The City will determine if additional waste receptacles are needed. Use of the tables and space for commercial activity shall be prohibited. Consumption of alcohols shall be prohibited.
- 4) **Increase the number of picnic tables along the riverfront and downtown.** City staff will relocate picnic tables from other areas to the Mississippi Riverfront and downtown to increase opportunities to enjoy take-out orders from restaurants.
- 5) **Allow Conversion of Private Parking Lots into Outdoor Dining, Drive-thru, or pick-up and delivery area for take-out orders.** Allow conversion of up to 25% of required parking into outdoor dining areas subject to the requirements of City Code Chapter 90.16 - Sidewalk Cafes and upon submittal of a plan to the Community Development Department.
- 6) **Enforcement of temporary signage requirements will be not be prioritized.** Signs cannot impair visibility at intersections. Enforcement of the placement of numerous temporary signs in multiple locations throughout the City will continue.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF HASTINGS: The measures identified within this resolution shall expire on November 1, 2020 unless further extended by the City Council.

Council member _____ moved a second to this resolution, and upon being put to a vote it was adopted by all Council members present.

Adopted by the Hastings City Council on May 18, 2020, by the following vote:

Ayes:
Nays:
Absent:

Mary Fasbender, Mayor

ATTEST:

Julie Flaten, City Clerk

I HEREBY CERTIFY that the above is a true and correct copy of resolution presented to and adopted by the City of Hastings, County of Dakota, Minnesota, on the 18th day of May 2020, as disclosed by the records of the City of Hastings on file and of record in the office.

Julie Flaten, City Clerk

(SEAL)

This instrument drafted by:
City of Hastings (JH)
101 4th St. East
Hastings, MN 55033

Plan for Downtown Businesses

For City of Hastings review/approval on May 18 City Council Meeting

X-B-01

To: Hastings City Council

From: Hastings Downtown Business Association

Date: May 13, 2020

Subject: Downtown Businesses Plan in Response to the Impact of COVID-19

Background

During this unprecedented time as everyone deals with COVID-19 pandemic, small business owners have suffered greatly. While being safe and not allowing to open doors to customers and clients, the economic impact to small businesses is astounding. It's imperative that the Hastings downtown businesses and other businesses can open for business as soon as possible with the appropriate safety precautions in place. If Hastings businesses succeed, the City of Hastings succeeds.

Proposal

According to Tripadvisor, visitors to Hastings like its quaint and cute downtown, the ease of parking, the antique stores, and being able to shop and eat/drink. The Hastings Downtown Business Association (HDBA) proposes a plan in response to the COVID-19 impact that includes an open concept allowing customers and clients to sit outside of businesses, go inside businesses, and continue curbside pickup. This would be implemented via:

1. **Parklets.** Parklets are a unique concept that are getting more visibility in other cities with positive reviews (see attached Minneapolis parklet review). Parklets allow businesses to extend their seating and/or retail on the sidewalk in front of their stores and some continue as a patio into one or more parking spaces. If the hosting business has a liquor license to serve alcohol to their customers, you would be able to drink alcohol during their serving hours.



With the parklet concept in mind, Hastings downtown businesses would have the discretion of using the space in front of their businesses for extra seating and/or retail, allowing for appropriate walking areas, and the option to utilize three parking spaces in front of their businesses for parklets; handicapped parking spaces would remain as is. Parklets would be for downtown businesses on Second St, Ramsey St to include The Onion Grille, and Tyler St to include Artspace:

1 parklet = 3 parking spaces on 2nd Street roughly 575 sq feet; there would be 2 parklets per block on 2nd Street

1 parklet = 1 parallel spot in front The Onion Grille on Sibley St, roughly 200 sq ft

1 parklet = 1 parallel spot in front of Artspace on Tyler St., roughly 200 sq ft

Cost Estimate would be roughly \$1500-\$2000 for the large parklets on 2nd Street, and \$700-\$1000 for the parklet on Sibley and Tyler Streets for base materials.

Attached is a map of the downtown indicating where the parklets would be.

Given the economic reality of downtown businesses, HDBA is requesting that the City waive fees and allow businesses to extend their areas onto the sidewalk and parking spaces (for parklets). Fee forgiveness would include any additional Sac and Wac Fees that come from additional outdoor seating.

In addition, businesses in other cities are being supported by their city governments as their city governments are constructing the footprint of a parklet. This would involve the city setting up 2" x 4"s with cement blocks for the businesses that would be utilizing parklets, this would also keep the parklets looking uniform if we have a set design and are constructed by the same party. We are also looking into funding using the HEART Grant program. The businesses can then decorate and personalize the parklet to their liking.

A list of businesses wanting parklets would be provided to the City by May 20 with the hopes of these being in place by May 22 to have them in place for Memorial Day Weekend.

For those businesses wanting to extend into the sidewalk and not do a parklet, we envision something like this:



2. **Best Usage of Bump Out Areas.** The bump out areas on Second Street have been used to display flowers in the large flower pots. We are in a different time now, and the businesses need to use that valuable space for seating. The downtown businesses recommend that seating, like a bistro style, be allowed in the bump out areas. That along with creating a covering for the flower pots so they can be used as a base for a table constructed by the city, this would allow chairs to be used for additional seating. This saves the city from planting and maintaining flowers for the summer. The HDBA will be responsible for providing the seating in the bump out areas, cleaning/sanitizing, and a mechanism to reduce theft. In addition to having these areas for take out seating we would like to allow customers of local restaurants that choose to use the take out/curbside option the ability to enjoy their food and contained alcoholic beverages that the state has allowed businesses to sell for take out/curbside in these areas.



3. **Courtyard Park Under Bridge.** This is a space that the City invested in with beautiful murals, landscaping rock and pavers and virtually goes unused. The HDBA requests that the city appoints this hidden gem as a park, move in some picnic tables so residents and tourists can have another space for seating to enjoy take out for area restaurants or just get out of the sun during a hot summer day. In addition to having this area designated as a park and having seating, we would like to allow customers of local restaurants that choose to use the take out/curbside option the ability to enjoy their food and contained alcoholic beverages that the state has allowed businesses to sell for take out/curbside in these areas. The HDBA requests that the city provide picnic tables, Garbage receptacles, 2 portable toilets and 2 handwashing stations for this area, this would help eliminate the use of business' restrooms if customers choose to social distance and stay outside.
4. **Designate our beautiful Historic Downtown as “Smoke & Vapor-Free Downtown”.** We feel now is the perfect time for another change and that means helping out our business', let us keep our doors open so customers feel welcome and safe but we can not do this without the smell of smoke that comes along with it. This can only be accomplished if we designate our beautiful downtown as Smoke free!



Downtown Business Role

- Appropriate liability insurance from the businesses that use the majority of a parklet and will be serving food/beverage and also the Downtown Business Association.
- Keep the parklet and the surrounding area clean and clear of debris
- Maintain landscape, weeding, watering within parklets
- Secure furniture and other movable items as deemed appropriate after business hours
- Operation, management, maintenance of parklet
- Provide listing of businesses/locations where parklets would be by May 20

City of Hastings Role

- Waive fees for extension of businesses onto sidewalk and for parklets, including any SAC/WAC fees.
- Coverage of the flowerpots to create a table.
- Construction of the 2"x4"s boards & concrete parklet, installation (on May 22) and removal of parklet (on Nov 1)
- Picnic tables for courtyard under bridge
- 2 portable toilets and 2 handwashing stations for courtyard under bridge
- rubber speed bump to help slow traffic throughout 2nd street
- Increased Traffic and safety presence
- Extra garbage cans by parklets

Timeframe

The HDBA believes that this concept would be throughout the summer and fall to give businesses the best opportunity to try to regain lost business due to the COVID-19 closure. The plan would be in place as soon as possible to incorporate Memorial Day weekend, beginning May 22 and ending Nov 1.

Disclaimer

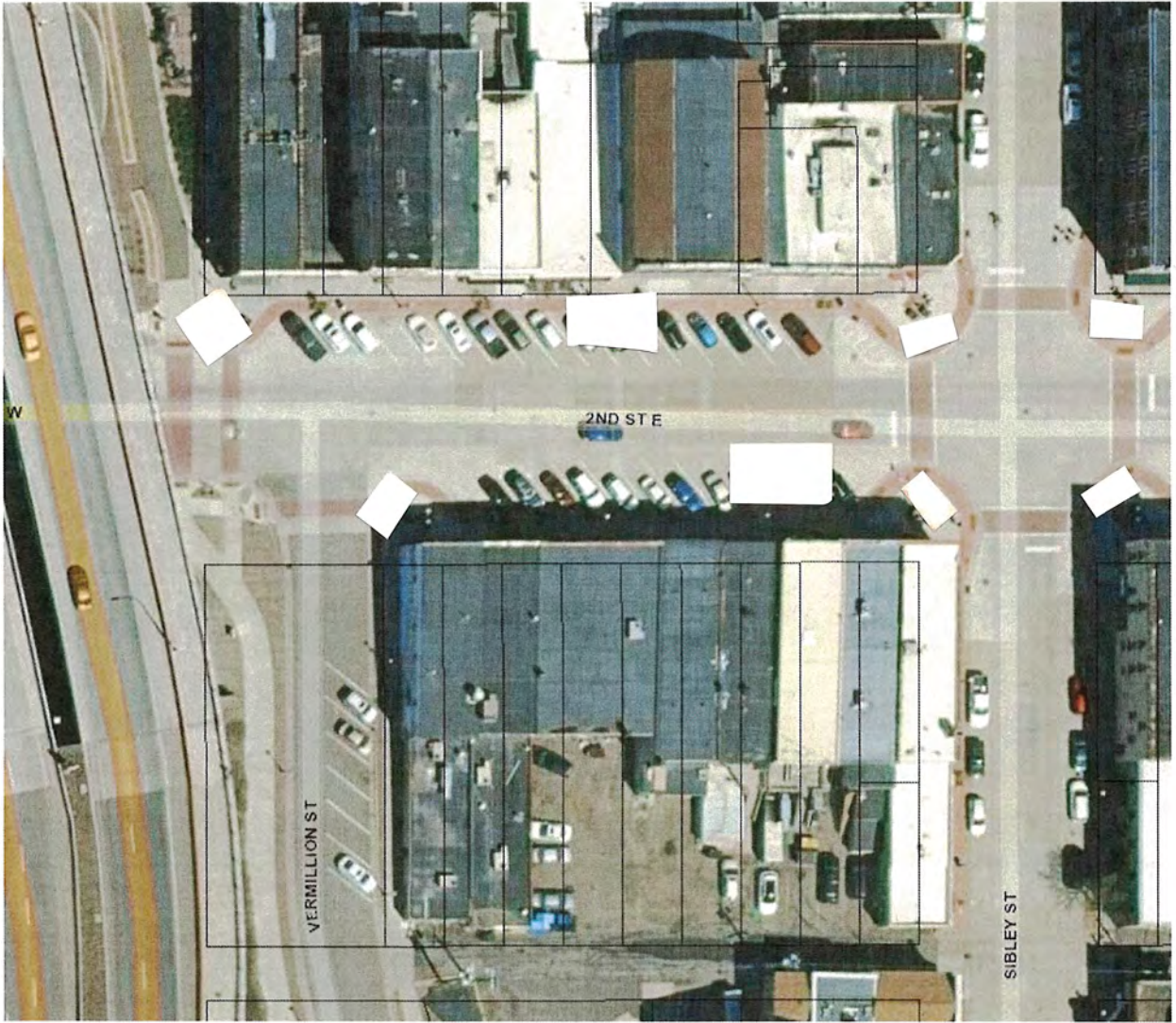
All the downtown businesses are trying to survive and are looking for ways that will help bring business as well as be unique and keep the momentum going that we have worked so hard to achieve after all the downtown construction over the past few years. We understand that this is the first time to try something new and we can't possibly cover all the details. However, time is of the essence and we hope the City of Hastings will keep this in mind and work with us to approve our proposal as soon as possible to help our downtown survive. Thank you for your consideration.

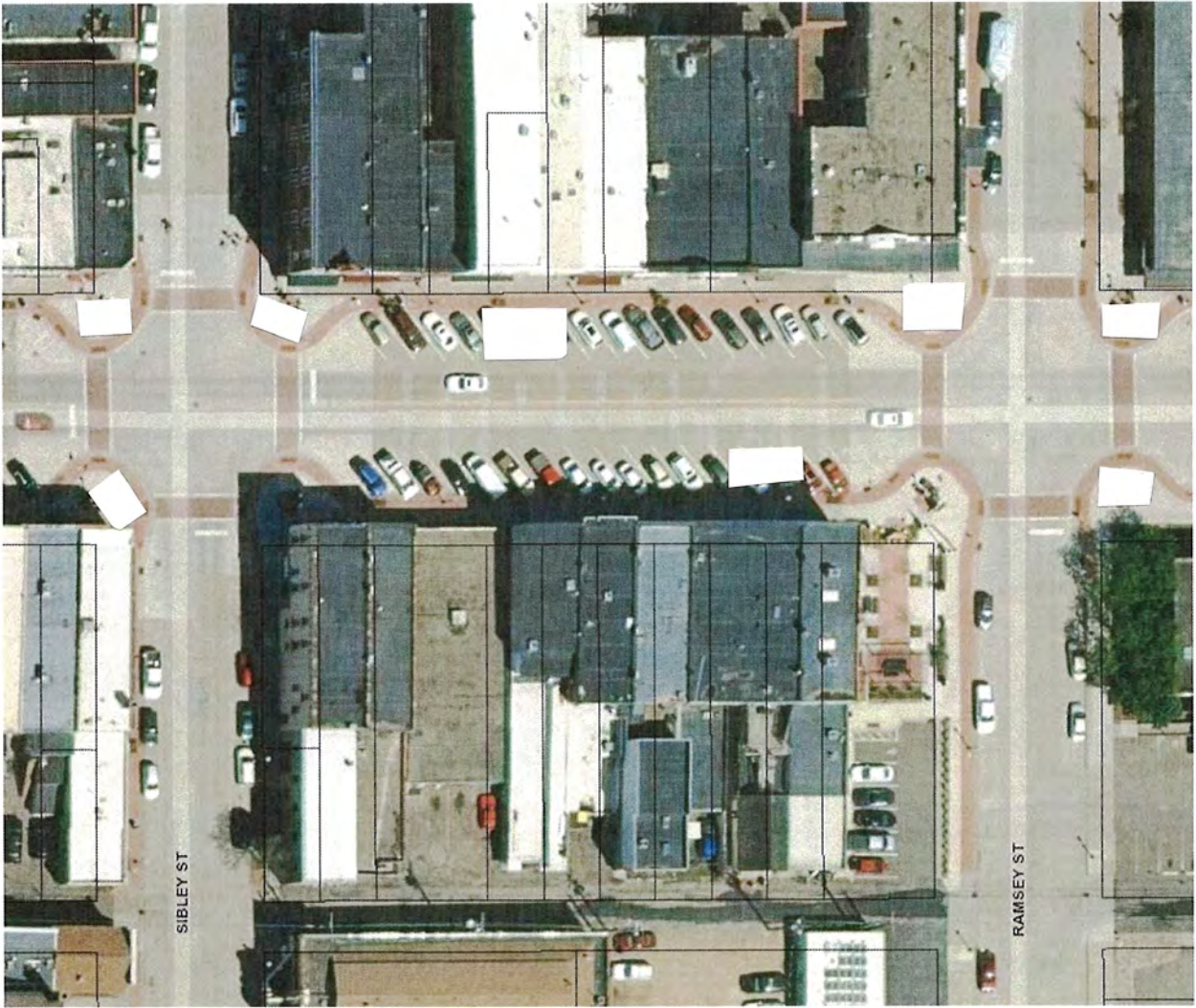
Hastings Downtown Business Association

Attachments:

Minneapolis Parklet Review

Downtown Map











2017 Parklet Season Review

"The City of Minneapolis' Public Parklet program adds *beauty, color, and vibrancy* to the City streetscape."

"The Parklet program also *made it possible for my small business to have outdoor seating*, something that is cost prohibitive without underwriting or City support."

"It gets people out....meeting place. Curiosity. Promotes walking. Slows down traffic. *Gives a sense of a Main Street.*"



"*Streetscapes get a big boost* when parklets find a spot on the road."

"My contacts at the City and all other personnel were *friendly, professional, on time, and efficient.*"

"For a small business that has it's slower time in the summer, the parklet changed everything for us. Our all-to-go place became a sit down location. *The added income balanced our year.*"

For more info on how to host a parklet, contact Kelsey Fogt at 612-673-3885 or kelsey.fogt@minneapolismn.gov.

Results of Host Survey

Five businesses hosted public parklets in 2017. A post-season survey showed broad support for the program.

- 100%** recommend parklets to another business or organization
- 100%** agree the parklet was well and actively used
- 100%** agree the parklet enhanced the street and neighborhood identity
- 80%** agree the parklet increased the visibility of their business from the street
- 80%** agree the parklet increased the likelihood that patrons would visit more often
- 80%** agree the parklet provided valuable benefits outweighing the loss of parking spaces
- 0** zero reported crashes