Report Type: Action Items  
Meeting Date: 4/27/2022

Summary Title: Action Item: Downtown In-Lieu Parking Ban

Title: PUBLIC HEARING: Recommendation for City Council adoption of an Ordinance Amending Palo Alto Municipal Code Section 18.52.070 (Parking Regulations for CD Assessment District) to Continue a Temporary Ban the Eligibility of Commercial Office Uses Above the Ground Floor to Participate in the Downtown Parking In-Lieu Program and Making Clerical Amendments to PAMC Section 16.57.010 (Applicability) in Chapter 16.57 (In-Lieu Parking Fee for New Nonresidential Development in the Commercial Downtown (CD) Zoning District).

From: Jonathan Lait

Recommendation
Staff recommends the Planning and Transportation Commission (PTC) recommend City Council adopt an ordinance (Attachment A) amending:

a. Palo Alto Municipal Code (PAMC) Section 18.52.070 (Parking Regulations for CD Assessment District) to continue a temporary ban on the eligibility of commercial office uses above the ground floor to participate in the Downtown Parking In-Lieu Program; and

b. PAMC Section 16.57.010 (Applicability) in Chapter 16.57 (In-Lieu Parking Fee for New Nonresidential Development in the Commercial Downtown (CD) Zoning District) in Title 16 (Building Regulations) to be consistent with PAMC Section 18.52.070.

Report Summary
The City currently has a temporary ban on the eligibility of commercial office uses above the ground floor to participate in the City’s downtown parking in-lieu program. The temporary ban is set to expire on August 1, 2022. The Council requested that the PTC evaluate the effects of the ban on the downtown in-lieu parking program. This report summarizes the evaluation of
the ban and outreach to stakeholders. For consideration is whether the City should let the temporary ban lapse, continue the temporary ban, or permanently discontinue the eligibility of commercial office uses above the ground floor from participating in the existing downtown parking in-lieu program.

The staff proposed ordinance amendments (Attachment A) would continue the temporary ban for three years from August 1, 2022 to August 1, 2025. This recommendation reflects the City’s significant policy and design activity currently underway for downtown. If the PTC were to recommend making the temporary ban permanent, ordinance amendments reflecting this alternative recommendation are also included in this staff report (Attachment B). No other changes are proposed to PAMC Section 18.52.070 or to the development standards for commercial office uses in other PAMC sections. Minor clerical amendments are proposed to PAMC Section 16.57.010.

**Background**

On April 1, 2019, the City Council adopted an ordinance amending the municipal code to enact several new housing policies.1 Included in this ordinance was a temporary ban on the eligibility of commercial office uses above the ground floor from participation in the City’s downtown in-lieu parking program. When enacting the ban, the City Council directed the PTC to study the effects of the City’s parking policy on housing production downtown and requested that staff return to the Council within one year with recommendations.

Due to staff vacancies in the Long-Range Planning program and with available Department resources advancing other Council priorities, staff was unable to conduct the requisite analysis for PTC review within the original timeframe. In both 2020 and 2021, Council acknowledged these circumstances, as well as the ongoing Department work to focus on many COVID-19 pandemic related priority assignments. Council supported two subsequent extensions of the temporary ban by adopting temporary ordinances, ultimately extending the temporary ban to August 1, 2022.2 3

**Downtown Parking In-Lieu Program Overview**

The University Avenue Parking Assessment District (Parking District) was established in 2001. The downtown in-lieu parking program recognizes that requiring new on-site parking could be unduly restrictive for some sites in the already built out area. Past and ongoing participation in the Parking District allows property owners to pay a fee toward parking that serves the district, in-lieu of constructing parking spaces on site. The in-lieu fee is currently set at $115,404 per parking space.4

There are reasons why the downtown in-lieu parking program itself could be considered beneficial. At minimum, an in-lieu parking program can do the following:

- Support an urban design framework that aggregates parking resources;
- Support development and implementation of a robust public parking strategy; and
- Increase feasibility and options for redevelopment of property.

However, the parking in-lieu program can also be the subject of critique, such as:

- When the cost of constructing a new parking space exceeds the in-lieu fee charged;
- If the timing of demand for parking arrives before a parking space is constructed; and
- Keeping pace with evolving policy debates about how much auto parking is ideal or necessary for the downtown being adjacent to a major public transportation hub.

The PAMC states that the in-lieu parking program applies to only nonresidential development within the Parking District. The boundaries of the Parking District are shown in Attachment C. The nonresidential development must meet the following eligibility criteria outlined in PAMC Section 18.52.070(d):

1. Construction of on-site parking would necessitate destruction or substantial demolition of a designated historic structure;
2. The site area is less than ten thousand square feet and it would not be physically feasible to provide the required on-site parking;
3. The site is greater than ten thousand square feet, but of such an unusual configuration that it would not be physically feasible to provide the required on-site parking;
4. The site is located in an area where city policy precludes curb cuts or otherwise prevents use of the site for on-site parking; and
5. The site has other physical constraints, such as a high groundwater table, which preclude provision of on-site parking without extraordinary expense.

One likely scenario for participation in the parking in-lieu program is for a property owner to apply for a development entitlement that requires additional on-site parking. If the property met the eligibility criteria in PAMC Section 18.52.070(d), the owner could concurrently propose to meet parking requirements through participation in the in-lieu parking program. If approved through the application review process, the property owner would submit a new or an additional payment to cover the cost of any new parking spaces required. In practice, many

4 Fiscal Year 2022 Adopted Municipal Fee Schedule:
commercial downtown properties already participate in the existing parking in-lieu program. New participation in the parking in-lieu program is most likely to come from redevelopment of a property or adding on to an existing building.

**Discussion**

Downtown Palo Alto has continued to see little office or housing development in recent years. Historically, downtown property owners have little financial incentive to redevelop their property into housing. Enacting the temporary ban, when combined with adopted housing policies, was originally viewed by Council and staff as a possible strategy to begin to tip the balance toward housing production downtown.

**Commercial and Housing Trends in the Downtown Parking Assessment District Area**

Staff evaluated downtown development activity before and after the effective date of the temporary ban (May 2, 2019). General findings include:

- Before and after the temporary ban, downtown projects included a range of remodels and tenant changes.
- Since the start of the temporary ban, no new commercial participation in the downtown parking in-lieu program occurred. This indicates that ground floor commercial uses, which remain eligible to participate, have not taken advantage of the program.
- Prior to the start of the temporary ban, only three non-residential remodel projects utilized the downtown parking in-lieu program in years immediately before the start of the temporary ban, including 450 Bryant (Avenidas) in 2017, 620 Emerson (Nobu) in 2018, and 250 University (California Energy Solutions New Electric Vehicle Charging Stations) in 2019.
- Since the start of the temporary ban, no new downtown housing applications were received by the Planning Department. For comparison:
  - Downtown: Only a few downtown projects with a housing component were submitted before the start of the temporary ban, including 429 University in 2014 and 565 Hamilton in 2018.
  - Near Downtown: The Planning Department did receive applications near to downtown that included housing, including 190 Channing in 2018, 486 Hamilton in 2019, 955 Alma in 2021, and 660 University in 2021.

In summary, the temporary ban did not result in applications for new housing downtown. However, given the concurrent COVID-19 pandemic and associated construction and supply chain influences, it is unknown if any new housing applications would have otherwise been submitted for downtown. Furthermore, downtown development applications that included housing were not frequently received before the ban.

**Potential Effects of the Parking In-Lieu Ban**

There may be circumstances where the ban may help or hinder advancing the City’s policy initiatives for the downtown. These policy initiatives include ways to address the ‘jobs/housing balance’, to promote efficient ‘parking management’, to promote historic and seismic
rehabilitation of existing buildings, and to implement the Comprehensive Plan goals and policies affecting the downtown. The following summarizes the potential effects of the parking in-lieu ban and stakeholder input on these themes.

1. **Financial Feasibility Relative to Jobs/Housing Balance.** Given that the financial return on commercial office investment is higher than for residential housing, the ban somewhat lessens competition between building above ground-floor office space and building housing. With the ban, neither above ground floor office uses nor housing qualify for eligibility to use the downtown parking in-lieu program. Therefore, the ban may help to address Palo Alto’s existing citywide jobs/housing imbalance. The ban maintains the status quo until other tailored regulatory tools for housing production City-wide and in the downtown become outlined.

   Some stakeholders suggested that allowing above-ground office uses to use the in-lieu parking program could help make a mixed-use redevelopment project with additional floors of housing more financially feasible, although staff did not learn of any potential downtown projects during outreach efforts that included a housing component.

2. **Previous Market Conditions and Overall Development Flexibility.** The ban reduced property owner/developer flexibility for redevelopment with an above ground floor office component, including cases where only a small number of new parking spaces would be needed for new office area. The ban changed previous market conditions in general for new office uses above the ground floor.

   Some stakeholders indicated a preference for as much development flexibility as possible. Additionally, some stakeholder indicated that the ban also reduces incentive to undertake seismic rehabilitation and historic rehabilitation through the existing Transfer of Development Rights (TDR) program for downtown, given that the ban requires parking for new office floor area to be provided on-site. A summary of the TDR program is described later in this report.

3. **Reduced Funding for New Public Parking Downtown.** The ban reduces one potential funding stream to build more or a larger public garage(s) that helps to consolidate downtown area parking.

   Some stakeholders suggested that parking downtown is still difficult to find, and that demand remains for more public parking downtown from residents, employees, and other visitors.

4. **Complements Office Cap.** The ban complements the City’s Office Cap policy; the ban reduces new above ground floor office space to downtown sites that either can provide on-site parking or that already participate in the parking in-lieu program at a rate that covers associated parking requirements.
5. **Supports Development of Overall Downtown Parking Management Goals.** The ban reduces the amount of potential new public parking spaces necessary to build until the City identifies the design and capacity of a new downtown parking garage through the public process and until the Office of Transportation finishes current work on promoting efficient management of the existing parking resources downtown.

6. **Use of Other Regulatory Tools.** Instead of the ban, there may be other regulatory tools, incentives, or policies that achieve any current or future City policy desired outcomes, such as balancing the demand for new office uses versus the demand for housing in the downtown.

Staff recognizes the importance of office uses in downtown Palo Alto. Currently, the City is also well underway with other initiatives that examine the overall future of downtown Palo Alto, including regarding land uses, circulation, and development standards. These initiatives include, but are not limited to:

- the Housing Element Update process,
- the University Avenue Streetscape project,
- strategies for managing overall parking downtown, and
- the design of a new downtown parking garage.

There will also be further initiatives, such as the staff response to Council’s March 21, 2022 request for staff to return to Council for direction on reducing commercial floor to area ratios (FAR) in combination with increasing housing FAR in downtown as part of the Housing Element site selection strategies.\(^5\) Additionally, on April 18, 2022, Council initiated a local planning process to prepare a housing plan for downtown.\(^6\)

On balance, staff recommends maintaining the status quo and continuing the temporary ban on the eligibility of commercial office uses above the ground floor to participate in the existing downtown parking in-lieu program. Staff suggests extending the temporary ban for three years, to August 1, 2025 to account for the aforementioned significant policy and design activity currently underway for downtown.

Given that housing is not currently eligible to use the downtown parking in-lieu program and that staff has not received any new housing development applications since the ban took effect, staff interprets the current temporary ban as less of a pro-housing policy and more as a City policy relative to office land uses and overall parking management. Furthermore, if new

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\(^5\) March 21, 2022 City Council Action Minutes: [https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/city-council-agendas-minutes/2022/20220321/20220321amccs.pdf](https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/city-council-agendas-minutes/2022/20220321/20220321amccs.pdf). Council requested staff to return to the Council for discussion and direction on modifications reducing commercial floor to area ratios (FAR) in combination with increasing housing FAR with a focus on properties in the El Camino Real zone and the two Downtowns.

housing downtown is a City goal, once new above-ground floor new offices are constructed, the likelihood of near-term redevelopment to include housing would be very low.

Staff recognizes the influence of the existing ban as it relates to existing and potential future floor area generated through the current Transfer of Development Rights (TDR) program, as outlined in PAMC Section 18.18.080. The purpose of the TDR program is to implement the Comprehensive Plan by encouraging seismic rehabilitation and historic rehabilitation of properties that are City-owned or in the Downtown Commercial (CD) zoning district. Development rights are transferred from one property to another through a sale or conveyance agreement. Any TDR floor area utilized is subject to the City's parking requirements. The downtown parking in-lieu program is therefore helpful to properties using TDRs, given that the seismic rehabilitation and/or historic rehabilitation usually involves maintaining all or most of the original building walls and other site features, which in turn sometimes makes providing parking on-site difficult. As a recent example of TDR sales, Council approved the sale of TDRs from the City-owned Avenidas and from the City-owned College Terrace Library in 2018.

Given that there are existing TDRs in the marketplace, the PTC might consider a recommendation that exempts use of existing TDRs-only from a temporary or an ongoing downtown parking in-lieu ban. In turn, that exemption would allow a project exclusively using TDRs for new above ground floor office floor area to access the downtown parking in-lieu program. The PTC might also consider a further alternative that recommends an exemption from the ban for all downtown applications that propose generation of TDRs for either use on site or to be sold such that projects proposing seismic rehabilitation and/or historic rehabilitation downtown could remain incentivized.

**Stakeholder Outreach**

Staff conducted initial stakeholder outreach in February and March 2022 to receive feedback on the effect of the temporary ban. Staff also coordinated with other city departments where the temporary ban had potential effects to their program initiatives. Staff will continue to conduct outreach ahead of returning to Council with the PTC recommendation.

Community outreach focused on the following four broad stakeholder groups:

- Downtown property owners,
- Downtown business community,
- Downtown residents, including members of the public that have expressed prior interest in downtown area parking management, and
- Community members in general.

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Staff sent notification emails in February and March 2022 to inform stakeholders of staff work to evaluate the ban and solicit feedback, staff contact information, and to announce a forthcoming PTC meeting. Staff also held a virtual community meeting on March 23, 2022. This meeting was noticed through use of email contacts for Palo Alto Neighborhood Association (PAN), Chamber of Commerce, and property owners and downtown businesses in the downtown Business Improvement District, and subscribers to the City’s Residential Parking Permit program for Downtown and University South. Notice was placed in the local newspaper and notice postcards were sent to all property owners and tenants/residents in the downtown parking assessment district. Staff conducted a few additional interviews. Staff also received correspondence from interested parties (Attachment D). Staff anticipates additional community feedback after publication of this staff report and at the PTC meeting.

Most stakeholder feedback were incorporated into the Potential Effects of the Parking In-Lieu Ban section of this report. Additional themes from the outreach included:

- The importance of considering if the in-lieu parking program itself creates a financial or other burden or risk upon the City and if the program itself unlinks direct business responsibility for constructing parking downtown.
- The City might not yet be able to understand the effect of the temporary ban on downtown development due to the concurrent presence of the COVID-19 pandemic and recession.
- Despite the ban being focused on new commercial office development, the effect of the ban might extend more widely to affect retailers, such as potentially signaling to retailers that the number of new office employees and their shopping needs might not increase beyond current capacity.
- The ban might be felt more sharply for those property owners with smaller sized parcels or parcels with historic structures where it would be more challenging to provide on-site parking.
- Aside from what is provided on-street, it would be valuable for the ban to be considered relative to whether it is preferable for parking downtown to be provided in a consolidated manner for the district overall, site by site, or somewhere in between.
- Regardless of which decision is made on the ban, it is important to stakeholders that the decision is based upon City goals and policy for downtown.

**Environmental Review**

The ordinance is subject to the California Environmental Quality Act (CEQA). The environmental effects of temporarily banning in-lieu parking, along with other elements of the Housing Work Plan, were analyzed in the Final EIR for the Comprehensive Plan Update, which was certified and adopted by Council Resolution No. 9720. The same analysis is relevant for the recommended action of recommending continuation of the current temporary ban or adopting a permanent ban.

**Public Notification**
The Palo Alto Municipal Code requires publication of a notice of this public hearing in a local paper at least ten days in advance of the meeting. Notice of the PTC public hearing was published in the *Daily Post* on April 15, 2022, which is 12 days in advance of the meeting.

**Next Steps**

The PTC recommendation will be forwarded to City Council. Council will be scheduled for consideration of the policy such that any policy decision would be in effect on or ahead of August 1, 2022 when the existing temporary ban expires.

**Alternative Actions**

In addition to the recommended action, the Planning and Transportation Commission may:

1. Recommend permanently discontinuing the eligibility of commercial office uses above the ground floor from participating in the existing downtown parking in-lieu program; or
2. Recommend lapse of the temporary ban.
3. Recommend incorporation of an exemption for existing or existing and future Transfer of Development Rights into a permanent or a temporary ban.

**Report Author & Contact Information**

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**PTC9 Liaison & Contact Information**

Rachael Tanner, Assistant Director  
(650) 329-2167  
rachael.tanner@cityofpaloalto.org

**Attachments:**

- Attachment A: Draft Ordinance Amendments - Temporary Ban Alternative (PDF)
- Attachment B: Draft Ordinance Amendments - Permanent Ineligibility Alternative (PDF)
- Attachment C: Downtown Parking Assessment Properties (PDF)
- Attachment D: Community Member Feedback Emails Received by Staff (PDF)

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9 Emails may be sent directly to the PTC using the following address: planning.commission@cityofpaloalto.org
Ordinance No. __

Ordinance of the Council of the City of Palo Alto Amending Palo Alto Municipal Code Section 18.52.070 (Parking Regulations for CD Assessment District) in Chapter 18.52 (Parking and Loading Requirements) in Title 18 (Zoning) to Temporarily Extend Ineligibility of Certain Uses to Participate in the University Avenue In-Lieu Parking Program and Making Clerical Amendments to PAMC Section 16.57.010 (Applicability) of Chapter 16.57 (In-Lieu Parking Fee for New Nonresidential Development in the Commercial Downtown (CD) Zoning District).

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and declarations. The City Council finds and declares as follows:

A. The City of Palo Alto (City) is a job center with among the highest housing prices and greatest jobs to housing imbalances in the Bay Area, resulting in a housing shortage that threatens the city’s prosperity, diversity, stability, environment, quality of life, and community character.

B. A variety of policies result in incentives for office development over housing, including the availability of the University Avenue In-Lieu Parking Program.

C. On April 1, 2019, the Palo Alto City Council adopted Ordinance 5460, which included a temporary ban on eligibility to participate in the University Avenue Parking In-Lieu Program for certain uses, pending further study and recommendation from the Planning and Transportation Commission (PTC).

D. The prolonged nature of the COVID-19 pandemic has precluded the collection of data and further study of parking strategies in the University Avenue downtown area, requiring several extensions of the temporary ban.

E. On May 11, 2020 the City Council introduced, and on October 5, 2020 adopted, Ordinance 5506 to extend the temporary ban until February 1, 2021.

F. On December 7, 2020 the City Council introduced, and on January 11, 2021 adopted, Ordinance 5513 to extend the temporary ban until August 1, 2022.

G. On April 27, 2022, the PTC recommended that the City Council continue the existing temporary ban on the eligibility of commercial office uses above the ground floor to participate in the existing University Avenue In-Lieu Parking Program to maintain the status quo pending further study by City Staff and the PTC.
SECTION 2. Section 16.57.010 (Applicability) of Palo Alto Municipal Code Chapter 16.57 (In-Lieu Parking Fee for New Nonresidential Development in the Commercial Downtown (CD) Zoning District) in Title 16 (Building Regulations) is hereby amended to read as follows:

16.57.010 Applicability.

The in-lieu parking fee regulations set forth in this chapter shall apply only to nonresidential development within the University Avenue parking assessment district which meets the eligibility criteria set forth in subsection (d) of Section 18.52.070 of this code. Section 18.18.090 of this code. In accordance with Section 18.52.070 subsection (a) of Section 18.18.090 of this code, provision of a parking space or payment of the fee established by this chapter shall be a condition of the approval of or permit for any new development, any addition or enlargement of existing development, or any use of any floor area that has never been assessed under any Bond Plan G financing pursuant to Title 13 of this code.

[. . .]

SECTION 3. Subdivision (d) of Section 18.52.070 (Parking Regulations for CD Assessment District) of Chapter 18.52 (Parking and Loading Requirements) of Title 18 (Zoning) is hereby amended to read as follows:

18.52.070 Parking Regulations for CD Assessment District

[. . .]

(d) In-lieu Parking Provisions

In connection with any expansion of the supply of public parking spaces within the CD commercial downtown district, the city shall allocate a number of spaces for use as "in-lieu parking" spaces to allow development to occur on sites which would otherwise be precluded from development due to parking constraints imposed by this chapter. Off-site parking on such sites may be provided by payment of an in-lieu monetary contribution to the city to defray the cost of providing such parking. Contributions for each required parking space shall equal the incremental cost of providing a net new parking space in an assessment district project plus cost for the administration of the program, all as determined pursuant to Chapter 16.57 of Title 16 of this code, by the director, whose decision shall be final. Only sites satisfying one or more of the following criteria, as determined by the director, shall be eligible to participate in the in-lieu parking program:

(1) Construction of on-site parking would necessitate destruction or substantial
(2) The site area is less than ten thousand square feet and it would not be physically feasible to provide the required on-site parking;

(3) The site is greater than 10,000 square feet, but of such an unusual configuration that it would not be physically feasible to provide the required on-site parking;

(4) The site is located in an area where city policy precludes curb cuts or otherwise prevents use of the site for on-site parking; or

(5) The site has other physical constraints, such as a high groundwater table, which preclude provision of on-site parking without extraordinary expense.

Office uses above the ground floor shall not be eligible to participate in the in-lieu parking program for one year from the effective date of Ordinance No. 5460 through August 1, 2025. from the effective date of Ordinance No. 5460 through August 1, 2022.

[...]

SECTION 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. The Council finds that the potential environmental impacts related to the Housing Workplan Ordinance, including the amendments enacted herein were analyzed in the Final EIR for the Comprehensive Plan Update, which was certified and adopted by the Council by Resolution No. 9720 on November 13, 2017. This Ordinance is consistent with and simply continues the implementation of the program evaluated in the EIR.
SECTION 6. This Ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

____________________________   ____________________________
City Clerk       Mayor

APPROVED AS TO FORM:   APPROVED:

____________________________   ____________________________
Assistant City Attorney   City Manager

____________________________
Director of Planning & Development Services
Ordinance No. ___

Ordinance Amending Palo Alto Municipal Code Section 18.52.070 (Parking Regulations for CD Assessment District) to Ban the Eligibility of Commercial Office Uses Above the Ground Floor to Participate in the Downtown Parking In-Lieu Program and Making Clerical Amendments to PAMC Section 16.57.010 (Applicability) in Chapter 16.57 (In-Lieu Parking Fee for New Nonresidential Development in the Commercial Downtown (CD) Zoning District).

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and declarations. The City Council finds and declares as follows:

A. The City of Palo Alto (City) is a job center with among the highest housing prices and greatest jobs to housing imbalances in the Bay Area, resulting in a housing shortage that threatens the city’s prosperity, diversity, stability, environment, quality of life, and community character.

B. A variety of policies result in incentives for office development over housing, including the availability of the University Avenue In-Lieu Parking Program.

C. On April 1, 2019, the Palo Alto City Council adopted Ordinance 5460, which included a temporary ban on eligibility to participate in the University Avenue Parking In-Lieu Program for certain uses, pending further study and recommendation from the Planning and Transportation Commission (PTC).

D. The prolonged nature of the COVID-19 pandemic has precluded the collection of data and further study of parking strategies in the University Avenue downtown area, requiring several extensions of the temporary ban.

E. On May 11, 2020 the City Council introduced, and on October 5, 2020 adopted, Ordinance 5506 to extend the temporary ban until February 1, 2021.

F. On December 7, 2020 the City Council introduced, and on January 11, 2021 adopted, Ordinance 5513 to extend the temporary ban until August 1, 2022.

G. On April 27, 2022, the PTC recommended that the City Council create an ongoing ban on the eligibility of commercial office uses above the ground floor from participation in the existing University Avenue In-Lieu Parking Program.

SECTION 2. Section 16.57.010 (Applicability) of Palo Alto Municipal Code Chapter 16.57 (In-Lieu Parking Fee for New Nonresidential Development in the Commercial Downtown (CD) Zoning District) in Title 16 (Building Regulations) is hereby amended to read as follows:
**16.57.010 Applicability.**

The in-lieu parking fee regulations set forth in this chapter shall apply only to nonresidential development within the University Avenue parking assessment district which meets the eligibility criteria set forth in subsection (d) of Section 18.52.070 of this code. In accordance with Section 18.52.070 subsection (a) of Section 18.18.090 of this code, provision of a parking space or payment of the fee established by this chapter shall be a condition of the approval of or permit for any new development, any addition or enlargement of existing development, or any use of any floor area that has never been assessed under any Bond Plan G financing pursuant to Title 13 of this code.

[. . .]

**SECTION 3.** Subdivision (d) of Section 18.52.070 (Parking Regulations for CD Assessment District) of Chapter 18.52 (Parking and Loading Requirements) of Title 18 (Zoning) is hereby amended to read as follows:

**18.52.070 Parking Regulations for CD Assessment District**

[. . .]

(d) In-lieu Parking Provisions

In connection with any expansion of the supply of public parking spaces within the CD commercial downtown district, the city shall allocate a number of spaces for use as "in-lieu parking" spaces to allow development to occur on sites which would otherwise be precluded from development due to parking constraints imposed by this chapter. Off-site parking on such sites may be provided by payment of an in-lieu monetary contribution to the city to defray the cost of providing such parking. Contributions for each required parking space shall equal the incremental cost of providing a net new parking space in an assessment district project plus cost for the administration of the program, all as determined pursuant to Chapter 16.57 of Title 16 of this code, by the director, whose decision shall be final. Only sites satisfying one or more of the following criteria, as determined by the director, shall be eligible to participate in the in-lieu parking program:

(1) Construction of on-site parking would necessitate destruction or substantial demolition of a designated historic structure;

(2) The site area is less than ten thousand square feet and it would not be physically feasible to provide the required on-site parking;
(3) The site is greater than 10,000 square feet, but of such an unusual configuration that it would not be physically feasible to provide the required on-site parking;

(4) The site is located in an area where city policy precludes curb cuts or otherwise prevents use of the site for on-site parking; or

(5) The site has other physical constraints, such as a high groundwater table, which preclude provision of on-site parking without extraordinary expense.

Office uses above the ground floor shall not be eligible to participate in the in-lieu parking program from the effective date of Ordinance No. 5460 through August 1, 2022.

[...]

SECTION 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. The Council finds that the potential environmental impacts related to the Housing Workplan Ordinance, including the amendments enacted herein were analyzed in the Final EIR for the Comprehensive Plan Update, which was certified and adopted by the Council by Resolution No. 9720 on November 13, 2017. This Ordinance is consistent with and simply continues the implementation of the program evaluated in the EIR.
SECTION 6. This Ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

_________________________________________  ____________________________
City Clerk       Mayor

APPROVED AS TO FORM:

_________________________________________
Assistant City Attorney

APPROVED:

_________________________________________
City Manager

____________________________
Director of Planning & Development Services
Good evening Palo Alto Community Members,

I am a member of the City’s Long-Range Planning (LRP) team. We are contacting you because we understand that you might be interested in parking policies in Downtown Palo Alto.

We are interested in your feedback regarding the following temporary City policy affecting the University Avenue Parking Assessment District:

- **Office uses above the ground floor shall not be eligible to participate in the in-lieu parking program for one year from the effective date of Ordinance No. 5460 through August 1, 2022 (Palo Alto Municipal Code Section 18.52.070(d)).**

We are especially interested in learning why you might believe it is helpful or unhelpful to have a temporary or an ongoing ban on above ground floor office eligibility for downtown parking in-lieu program. We are also interested in whether or not there are properties or businesses in downtown that currently want to utilize the downtown parking in-lieu program as part of proposing an office redevelopment or expansion project.

Given that the temporary ban is set to expire August 1, 2022, we will bring forward recommendations with initial community feedback and staff analysis to the Planning & Transportation Commission (PTC) in Spring 2022. We will take the PTC’s recommendation to the City Council for action on whether the ban should remain temporary, become ongoing, or should lapse. The temporary ban was last discussed at PTC on November 18, 2020 and by City Council on December 7, 2020.

If you have any feedback on this temporary policy or would like to be removed from this email list, please feel free to contact me at rebecca.atkinson@cityofpaloalto.org. We will continue to use this email list as part of our staff outreach efforts. These efforts would include an announcement of any forthcoming PTC, Council, or virtual community meetings on this topic.

Thank you.

Regards,

Rebecca

Rebecca Atkinson, PMP, AICP, LEED Green Associate Planner Planning & Development Services (650) 329-2596 | rebecca.atkinson@cityofpaloalto.org www.cityofpaloalto.org
From: Steve Pierce <pierce@zanemac.com>
Sent: Wednesday, April 13, 2022 9:09 AM
To: Atkinson, Rebecca <Rebecca.Atkinson@CityofPaloAlto.org>
Subject: Ban on In-Lieu Program

Rebecca,

I wish to register that I do NOT support continuation of the ban and would like to see it expire 8/1/22.

Thank you

S

From: Sue at Watercourse Way <sue.wcw@gmail.com>
Sent: Saturday, February 26, 2022 6:59 PM
To: Atkinson, Rebecca <Rebecca.Atkinson@CityofPaloAlto.org>
Subject: Re: Requested Feedback on City Temporary Policy Soon Expiring: Office Uses Above Ground Floor Not Eligible to Participate in the Downtown Parking In-Lieu Program

Hi Rebecca,

I do not support the current temporary ban on downtown above ground floor office eligibility for the downtown parking in-lieu program.
Palo Alto needs a balanced approach to business in downtown, replacing the rather lopsided partial support from residents that treat business as unnecessary. These vocal residents do not represent every citizen of Palo Alto.
A balanced approach would recognize that office use is not uniformly a negative thing. Being eligible for parking would be a good thing, just as it would be for non-office use businesses.
Most businesses in Palo Alto, if they were lucky to survive the pandemic thus far, would probably tell you that they have felt unjustly harassed.
If the approach was to find a creative solution a ban would not be necessary.

There are hardly any cars on the streets let alone parking issues in the neighborhoods. Vacant buildings do not have parking needs.

I also do not support the ground floor retail requirement.

Thank you for listening.

Susan
After further consideration I think optimal use of private and public parking is not feasible until the city transportation department and council have full authority of public parking permits and pricing for the entire commercial core for University and Calif Ave commercial areas. This authority when combined with RPP pricing and permit allocation would rationalize parking. Then greater improvement can be gained via negotiation with private parking capacity.

Furthermore, both commercial cores should have their own RPP district to address housing parking policy within the commercial cores. For example, in the Downtown RPP residential zones 1-10 are completely unable to accommodate spillover parking from the amount of new housing desired by current city council.

California Avenue commercial core and RPP has greater capacity to optimize this parking demand issue than University Avenue because the parking assessment district has powers to negate optimization.

Thank you again for this opportunity to comment. The discussions during last two council meetings demonstrate the need for better parking policy such as above.

Neilson Buchanan
155 Bryant Street
Palo Alto, CA  94301

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I have closely worked with Allen Akin for several years and have been involved with Downtown and Calif Ave RPPs for over 10 years. I support Allen comments.

Although I am more associated with commercial parking intrusion from University Ave commercial core into neighborhoods, my passion has been finding balance between the commercial core and its neighborhoods.

The first issue is adherence to the current comprehensive plan for Palo Alto. It establishes intent to promote commerce but not at the expense of residential neighborhoods. This is good guidance for finding new balance.

The second issue for University Avenue and its adjacent neighborhoods is a process to achieve balance. There is insufficient staff and financial resources to create a specific area plan to address gravely imbalanced goals such as

- housing
- offices
- neighborhood serving commerce (modern retail, food services and personal services)
- transit, esp biking, mass transit, grade crossings, pedestrian and devilish SOV
- city administration and departments empowered to help City Council achieve balance

The third issue is a 3-year commitment for new balance and reducing downside risks to the core and its neighborhoods. The margin for error is a narrow since Palo Alto has a history of spreading itself thin.

#1 Eliminate the in-lieu program altogether. It is illustrates outdated and irrational incentives.
#2 Take advantage of the current budgeting process for FY23 and FY24. How can current budget allocations to key departments be improved despite the profound uncertainties of covid recovery and national tensions?
#3 Make sure city services are in solid, operational levels and then identify what is most important, most practical departmental programs to balance goals during the next 36 months.

I personally think that the Council and its Finance Committee have the best concentration of skills and information to sort out the flood of informed and political opinions of how Palo Alto can balance its goals.

Neilson Buchanan
155 Bryant Street
Palo Alto, CA  94301
Hi, Rebecca. Thanks for reaching out!

My first preference would be to eliminate the in-lieu parking program altogether. My second would be to extend the current restrictions.

The program transfers the responsibility for building parking from the business entities that depend on that parking to the City.

This weakens the crucial economic connection between the parties who bear the costs and the parties who enjoy the benefits. That in turn leads to less-efficient allocation of scarce resources (particularly land).

It also transfers the financial risk of increases in the cost of building parking from business entities to the City. This strikes me as fiscally unwise.

Finally, it imposes opportunity costs on the City. The City has limited land and Staff resources which arguably would be better-employed on priorities other than building parking.

If my reading of the Ordinance is correct, most of the reasons given for its adoption are still valid, and also apply in the long term.

Just for clarity, it's not my intent to argue that new parking shouldn't be built as businesses expand; I see that as a distinct and much more complicated issue. I'm arguing that it shouldn't be trivially easy to pass the burden of resolving that issue onto the City.

Best regards,
Allen Akin
Hi Rebecca --

Thanks for your inquiry.

The problem with in-lieu fees in general is that they don't address the requirements that are written into the Municipal Code. Payment of a fee instead of providing parking for employees, customers, or residents does not address the need for parking. Whatever "public benefit" the fee represents, it fails to address the requirement in the Code or the needs of the community that the requirement represents.

If the City had a plan for providing parking financed by in-lieu fees, there would be a significant rationale to support their use. There may be reasonable circumstances, although infrequent, where it is simply not possible to provide the mandated amount of parking. But in the common case, in-lieu fees just represent an additional cost to the builder which is passed on in the form of higher rents. The builder trades off the cost of providing parking, which does not generate income, for in-lieu fees which are offset by the increase in rentable space. More rentable space means higher income every year as well as higher appreciation when the property is sold, compared with a single one-time payment of a fee which is recouped by the increased rents.

Failure to provide adequate parking, which is what in-lieu fees allow, places additional burdens on the community. The City's decision whether to build additional parking is disconnected from the demand represented by the parking deficit caused by in-lieu fees. In many cases, having paid in-lieu fees, the builders (or the tenants) then feel justified in demanding parking in the residential neighborhoods. In the end, it is the residents near commercial districts which bear the cost, direct and indirect, of the parking deficit, which the in-lieu fees do nothing to ameliorate.

To get to the specific question you asked, I oppose the use of in-lieu parking fees for offices above the ground floor.

--
Michael Eager
Hi Rebecca,

Thanks for getting back to me. Your email explains what I was after.

I strongly support development in general for the economic health of the City. I advance that the developer needs as much flexibility as possible, especially if a small number of parking spaces is all he needs to get his project passed/approved. Eliminate the ban; but encourage developers to provide on site parking.

Elizabeth

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Hi Rebecca,

If I understand this email correctly, I believe that parking should be reserved for ground floor businesses and employees. There is already a shortage of available parking spots at affordable rates for staff who work at local businesses serving the community.

Thank you,
Nancy
Given the fact that TDR’s are so limited in numbers I think it makes sense to allow 2nd floor office to be able to use the in-lieu program. I think it can befit the city in a couple of ways.

1) it can allow for the construction of more parking in downtown. In non covid times parking is still very tight. Given the fact that the many restaurant workers are parking in the neighborhoods because there is no were else to park. It can reduce congestion on our city streets in those neighborhoods. If the parking is paid for by in-lieu fees we can reduce the cost of parking for everyone and encourage more people to shop and dine in downtown increasing sales tax revenue for the city.

2) By adding additional office space it makes the project more viable to add a housing element. **The office rents are what makes it worth building the project to begin with in downtown because construction costs are so high.** If you get nothing else from this email understand that. Then you can add 1 to 2 floors of residential on top and it makes it economically feasible. We need to add affordable housing to the city. Downtown is the best place to add it because its where the people work and the transportation network is there (caltrain, bus station). Its like TDR’s, by giving property owners an incentive it makes it worth while to make the improvements the city is seeking. Property owners will never build housing if they lose money doing it. By allowing them to build an element that is profitable it makes sense to add other elements that are not as profitable or at least they can break even on.

thanks,

rick barry
Hi Rebecca and Sheldon. In case we keep missing each other and you need to wrap up your work for Clare and Jonathan, I want to share a few facts with you that I know are shared by many in the retail and business community. I am still happy to discuss live so let’s keep trying.

The broad community is seeking ways to support the recovery of our downtown. The council is asking the question in many ways. The bottom line is that a vibrant retail core needs as many shoppers/customers as possible. The city survey almost two years ago confirmed that +70% of retail sales dollars collected in the downtown were from the daytime office population and its many visitors, partners, service providers, etc.

A few years ago, when the residential communities around the downtown voiced that it was downtown office workers’ cars that were filling the streets, the City responded with RPP and the ban on in-lieu parking for new office space. These are contradictory legislations. If you want cars out of the neighborhood, you need new parking structures paid for by in-lieu fees and assessment district bonds. Most who studied the complaint found that the cars in the residential neighborhoods were primarily from Caltrain parkers, PAMF, Stanford, Town & Country, and the many employees of downtown retailers who needed to walk a few blocks to find free parking for their entire work shift.

It should be noted that the downtown parking assessment district is a “co-op” which paid for all off street parking lots and structures including the one under City Hall. The theory is simple; most downtown lots are too small to build on site parking, therefore the logic is clear for the in-lieu fee to pay for common structures offsite. If the in-lieu fee is not available for office above ground floor it is tantamount to eliminating mixed-use refresh in the downtown.

The ban on office development has been most detrimental as it has sent a message to the market that Palo Alto does not want office space. This reinforced the NYT article:

“Message to Tech Firms from Palo Alto Mayor: Go Away. Please.” by Thomas Fuller August 30, 2016

This makes even staying in - much less relocating to - Palo Alto a difficult decision for businesses as no one wants to invest in their space, employees, and culture when they know they have an antibusiness City Council that does not want them downtown. Office is the very use that drives downtown retail and hotels. The moratorium also signaled to retailers that Palo Alto is not going to freshen the retail and office inventory. That their sales base is locked in and capped. This is nothing but a slide past mediocrity to the basement of downtowns. Today the City has reported the worst retail sales recovery of its neighboring communities. Today, the retailers of our downtown are begging for growth, for office workers to come back to work, for business travelers to come back, and for there to be new offices with new employees calling downtown their daytime “home”.

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Additionally, the City’s decision to impose the moratorium is even more impactful as it is gutting some very basic core community values:

1) TDR’s are the community’s incentives for commercial property owners to maintain Historic buildings and to improve the older seismically deficient ones. Palo Altans value historic architecture for its beauty and character and strong sense of place. TDR’s are the City’s offering of an incentive to property owners who work and invest to achieve these goals. TDR’s originally carried a parking exemption which made them valuable. The more valuable they are the more work that could be justified to undergo to historically renovate/rehabilitate and to make buildings safer. It was a win-win. Then the City removed the parking waiver from the TDR’s which diminished their value and ultimately made using the TDR’s virtually impossible since using them onsite is almost categorically impossible - adding onsite parking to a downtown historic building is not financially feasible nor even practically possible. Adding underground parking garages to existing historic buildings is not going to happen.

2) Being environmentally savvy is not easy in construction but by requiring each site to build its own underground garage the City is pushing for the least environmentally sensitive construction to happen to provide the least efficient parking to its downtown. The amount of resources used and energy consumed to build small relatively inefficient parking garages on individual sites for the private exclusive use of that site is counter to what the City says it wants. Aggregating in-lieu fees and using the money to build highly efficient larger scale public parking garages that serve the offices, retailers, visitors, residents, etc. is by far the best solution. Just as the Parking Assessment District did years ago, the City should repeat.

**Bottom line:**

- A vibrant downtown needs office workers and we need to encourage and not make impossible the rare opportunities for new offices to be built. Additionally, we are losing quality employers in this market to neighboring communities as they have new state of the art efficient and healthy office spaces to lease.

- To affirm Palo Alto’s commitment to the value of Historic buildings and to Seismically safer buildings, the value of TDR’s must be restored.

- Palo Alto needs to aggregate and build public parking structures in the downtown as it has discussed and planned for years. This can be done expeditiously and directly result in the parking our retailers already feel the need for. It must be sized to fill the identified gap in the City’s Dixon reports as well as the spaces lost to parklets and closed streets and for additional as we plan for the future and hope to see some offices built that will pay a reasonable in-lieu fee.

**Actions:**

1) End the moratorium

2) Restore the parking exemption for TDRs

3) Support retail recovery and vibrancy with new public parking garage construction

4) Welcome and facilitate new development in the downtown
Thanks, John

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