



CITY OF PALO ALTO OFFICE OF THE CITY CLERK

October 26, 2015

The Honorable City Council
Palo Alto, California

SECOND READING: Adoption of an Ordinance of the Council of the City of Palo Alto Amending Chapters 18.18, Downtown Commercial (CD) District and 18.52, Parking and Loading Requirements, to Eliminate Certain Parking Exemptions within the Downtown Area (FIRST READING: October 5, 2015 PASSED: 9-0)

This is the second reading of this Ordinance which was first heard on October 5, 2015.

ATTACHMENTS:

- **Attachment:** Attachment A: Revised Parking Ordinance (PDF)

Department Head: Beth Minor, City Clerk

Ordinance No. _____
Ordinance of the Council of the City of Palo Alto Amending Chapters
18.18, Downtown Commercial (CD) District and 18.52, Parking and
Loading Requirements, to Eliminate Certain Parking Exemptions within
the Downtown Area

The Council of the City of Palo ORDAINS as follows:

SECTION 1. Findings and Recitals. The Council of the City of Palo Alto finds and declares as follows:

A. Parking demand in downtown Palo Alto has increased since the end of the recession, with parking occupancies in the Downtown neighborhoods increasing to over 100 percent during peak noontime hours.

B. In the same period, there have been increasing spill-over impacts on nearby residential streets as employees and customers seek parking outside of the commercial core, causing the City to pursue the first ever residential preferential parking program in downtown.

C. Development of new office space has continued to occur, and existing office space is fully occupied, evidenced by the low 2.83 vacancy rate at the end of 2014, as reported by Newmark Cornish & Carey.

D. No new public parking structures have been added to the City's inventory since 2003.

E. The lack of available daytime downtown parking for employees has resulted in complaints from both merchants and other businesses about the lack of parking for their employees. At the same time, the lack of available daytime downtown parking for employees has also resulted in complaints from residents in the downtown and adjacent areas about congested parking in their neighborhoods.

F. The lack of available daytime downtown parking results in traffic seeking available parking spaces to circulate for longer periods of time, resulting in related impacts on air quality from increased emissions.

G. The Downtown Parking Code was adopted at a time when the downtown was underdeveloped and incentives for redevelopment were needed. One of the primary incentives incorporated into the Code was a series of parking exemptions. These parking exemptions contributed to encouraging both the rehabilitation of historic and seismically unsafe buildings and redevelopment in the Downtown core in general. The City is now at a point where most of the historic and seismically unsafe buildings have been renovated and the downtown has transformed into an economically thriving area.

H. Recognizing these facts, on November 4, 2013, the City Council adopted an interim ordinance eliminating a number of these parking exemptions on an interim basis. These included the parking exemption related to the 200 square foot Minor Floor Area Bonus for buildings not eligible for Historic Bonus; the Transfer of Development Rights provision that allows a 5,000 square foot floor area exemption from on-site parking requirements and for floor area transferred to a receiver site within the CD zone district; and the parking exemption for floor area developed or used previously for non-residential purposes and vacant at the time of the engineer's report during the parking district assessment.

~~I. Unless a new ordinance is adopted to permanently establish these provisions, these zoning code amendments shall "sunset" on November 4, 2015.~~

~~J.~~ The Palo Alto Zoning Ordinance Chapters 18.18 (Downtown Commercial District) and 18.52 (Parking and Loading Requirements) provide for a variety of exemptions and reductions to parking requirements within the downtown area that result in less parking being provided than the calculated demand for parking in new projects.

~~K.~~ The Transfer of Development Rights provisions for Historic and Seismic Upgrades to Structures and the minor floor area bonuses were enacted to encourage restoration of historic buildings and to make existing structures seismically safe and the program has been successful. However continued application of the parking exemptions granted by these provisions will exacerbate Downtown parking deficiencies.

SECTION 2. Subsection 18.18.070(a) (Floor Area Bonuses) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

(a) Available Floor Area Bonuses

(1) Minor Bonus for Buildings Not Eligible for Historic or Seismic Bonus

A building that is neither in Historic Category 1 or 2 nor in Seismic Category I, II, or III shall be allowed to increase its floor area by 200 square feet without having this increase count toward the FAR, subject to the restrictions in subsection (b). Such increase in floor area shall not be permitted for buildings that exceed a FAR of 3.0:1 in the CD-C subdistrict or a FAR of 2.0:1 in the CD-N or CD-S subdistricts. This bonus is not subject to transfer and must be fully parked. In addition to any applicable parking provisions, this bonus may be parked by the payment of in lieu parking fees under Section 18.18.090.

(2) Seismic Rehabilitation Bonus

A building that is in Seismic Category I, II, or III, and is undergoing seismic rehabilitation, but is not in Historic Category 1 or 2, shall be allowed to increase its floor area by 2,500 square feet or 25% of the existing building, whichever is greater, without having this increase count toward the FAR, subject to the restrictions in subsection (b). Such

increase in floor area shall not be permitted for buildings that exceed a FAR of 3.0:1 in the CD-C subdistrict or a FAR of 2.0:1 in the CD-N or CD-S subdistricts. This bonus area must be fully parked. In addition to any applicable parking provisions, this bonus may be parked by the payment of in lieu parking fees under Section 18.18.090.

(3) Historic Rehabilitation Bonus

A building that is in Historic Category 1 or 2, and is undergoing historic rehabilitation, but is not in Seismic Category I, II, or III, shall be allowed to increase its floor area by 2,500 square feet or 25% of the existing building, whichever is greater, without having this increase count toward the FAR, subject to the restrictions in subsection (b). Such increase in floor area shall not be permitted for buildings that exceed a FAR of 3.0:1 in the CD-C subdistrict or a FAR of 2.0:1 in the CD-N or CD-S subdistricts, except as provided in subsection (5). This bonus area must be fully parked. In addition to any applicable parking provisions, this bonus may be parked by the payment of in lieu parking fees under Section 18.18.090.

(4) Combined Historic and Seismic Rehabilitation Bonus

A building that is in Historic Category 1 or 2, and is undergoing historic rehabilitation, and is also in Seismic Category I, II, or III, and is undergoing seismic rehabilitation, shall be allowed to increase its floor area by 5,000 square feet or 50% of the existing building, whichever is greater, without having this increase count toward the FAR, subject to the restrictions in subsection (b). Such increase in floor area shall not be permitted for buildings that exceed a FAR of 3.0:1 in the CD-C subdistrict or a FAR of 2.0:1 in the CD-N or CD-S subdistricts, except as provided in subsection (5). This bonus area must be fully parked. In addition to any applicable parking provisions, this bonus may be parked by the payment of in lieu parking fees under Section 18.18.090.

(5) Historic Bonus for Over-Sized buildings

A building in Historic Category 1 or 2 that is undergoing historic rehabilitation and that currently exceeds a FAR of 3.0:1 if located in the CD-C subdistrict or 2.0:1 if located in the CD-S or CD-N subdistricts shall nevertheless be allowed to obtain a floor area bonus of 50% of the maximum allowable floor area for the site of the building, based upon a FAR of 3.0:1 if in the CD-C subdistrict and a FAR of 2.0:1 in the CD-S and CD-N subdistricts, subject to the restrictions in subsection (b) and the following limitation:

(A) The floor area bonus shall not be used on the site of the Historic Category 1 or 2 building, but instead may be transferred to another property or properties under the provisions of Section 18.18.080.

SECTION 3. Section 18.18.080 (Transfer of Development Rights) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

18.18.080 Transfer of Development Rights

(a) Purpose

The purpose of this section is to implement the Comprehensive Plan by encouraging seismic rehabilitation of buildings in Seismic Categories I, II, and III, and encouraging historic rehabilitation of buildings or sites in Historic Category 1 and 2, and by establishing standards and procedures for the transfer of specified development rights from such sites to other eligible sites. Except as provided in subsection (e)(1) and for city-owned properties as provided in Chapter 18.28, this section is applicable only to properties located in the CD district, and is the exclusive procedure for transfer of development rights for properties so zoned.

(b) Establishment of Forms

The city may from time to time establish application forms, submittal requirements, fees and such other requirements and guidelines as will aid in the efficient implementation of this chapter.

(c) Eligibility for Transfer of Development Rights

Transferable development rights may be transferred to an eligible receiver site upon:

- (1) certification by the city pursuant to Section 18.18.070 of the floor area from the sender site which is eligible for transfer, and
- (2) compliance with the transfer procedures set forth in subsection (h).

(d) Availability of Receiver Sites

The city does not guarantee that at all times in the future there will be sufficient eligible receiver sites to receive such transferable development rights.

(e) Eligible Receiver Sites

A site is eligible to be a receiver site only if it meets all of the following criteria:

(1) It is located in the CD commercial downtown district, or is located in a planned community (PC) district if the property was formerly located in the CD commercial downtown district and the ordinance rezoning the property to planned community (PC) approves the use of transferable development rights on the site.

(2) It is neither an historic site, nor a site containing a historic structure, as those terms are defined in Section 16.49.020(e) of Chapter 16.49 of this code; and

(3) The site is either:

(A) located at least 150 feet from any property zoned for residential use, not including property in planned community zones or in commercial zones within the downtown boundaries where mixed use projects are.

(B) separated from residentially zoned property by a city street with a width of at least 50 feet, and separated from residentially zoned property by an intervening property zoned CD-C, CD-S, or CD-N, which intervening property has a width of not less than 50 feet.

(f) Limitations On Usage of Transferable Development Rights

No otherwise eligible receiver site shall be allowed to utilize transferable development rights under this chapter to the extent such transfer would:

(1) Be outside the boundaries of the downtown parking assessment district, result in a maximum floor area ratio of 0.5 to 1 above what exists or would otherwise be permitted for that site under Section 18.18.060, whichever is greater, or result in total additional floor area of more than 10,000 square feet.

(2) Be within the boundaries of the downtown parking assessment district, result in a maximum floor area ratio of 1.0 to 1 above what exists, or would otherwise be permitted for that site under Section 18.18.060, whichever is greater, or result in total additional floor area of more than 10,000 square feet.

(3) Cause the development limitation or project size limitation set forth in Section 18.18.040 to be exceeded.

(4) Cause the site to exceed 3.0 to 1 FAR in the CD-C subdistrict or 2.0 to 1 FAR in the CD-S or CD-N subdistricts.

(g) Parking Requirements

~~The first 5,000 square feet of floor area transferred to a receiver site, whether located in the CD District or in the PC District, shall be exempt from the otherwise applicable on-site parking requirements.~~ Any additional square footage allowed to be transferred to a receiver site pursuant to this chapter shall be subject to the parking regulations applicable to the district in which the receiver site is located.

(h) Transfer Procedure

Transferable development rights may be transferred from a sender site (or sites) to a receiver site only in accordance with all of the following requirements:

(1) An application pursuant to Chapter ~~18.76 16.48~~ of this code for major ARB review of the project proposed for the receiver site must be filed. The application shall include:

(A) A statement that the applicant intends to use transferable development rights for the project;

(B) Identification of the sender site(s) and the amount of TDRs proposed to be transferred; and

(C) Evidence that the applicant owns the transferable development rights or a signed statement from any other owner(s) of the TDRs that the specified amount of floor area is available for the proposed project and will be assigned for its use.

(2) The application shall not be deemed complete unless and until the city determines that the TDRs proposed to be used for the project are available for that purpose.

(3) In reviewing a project proposed for a receiver site pursuant to this section, the architectural review board shall review the project in accordance with Section ~~18.76.02016.48.120~~ of this code; however, the project may not be required to be modified for the sole purpose of reducing square footage unless necessary in order to satisfy the criteria for approval under Chapter ~~18.76.16.48~~ or any specific requirement of the municipal code.

(4) Following ARB approval of the project on the receiver site, and prior to issuance of building permits, the director of planning and community environment or the director's designee shall issue written confirmation of the transfer, which identifies both the sender and receiver sites and the amount of TDRs which have been transferred. This confirmation shall be recorded in the office of the county recorder prior to the issuance of building permits and shall include the written consent or assignment by the owner(s) of the TDRs where such owner(s) are other than the applicant.

(i) Purchase or Conveyance of TDRs - Documentation

(1) Transferable development rights may be sold or otherwise conveyed by their owner(s) to another party. However, no such sale or conveyance shall be effective unless evidenced by a recorded document, signed by the transferor and transferee and in a form designed to run with the land and satisfactory to the city attorney. The document shall clearly identify the sender site and the amount of floor area transferred and shall also be filed with the department of planning and community environment.

(2) Where transfer of TDRs is made directly to a receiver site, the recorded confirmation of transfer described in subsection (h)(4) shall satisfy the requirements of this section.

SECTION 4. Subsection 18.18.090(b) (Exceptions to On-Site Parking Requirement) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

(b) Exceptions to On-Site Parking Requirement

The requirement for on-site parking provided in subsection (a) of this section shall not apply in the following circumstances:

(1) The following square footage shall be exempt from the on-site parking requirement of subsection (a):

(A) Square footage for handicapped access which does not increase the usable floor area, as determined by Section 18.18.060(e);

~~(B) An increase in square footage in conjunction with seismic or historic rehabilitation, pursuant to Section 18.18.070;~~

~~(C) An increase in square footage for buildings not in Seismic category I, II, or III or Historic category 1 or 2 pursuant to Section 18.18.070(a)(1);~~

~~(D)~~ Square footage for at or above grade parking, though such square footage is included in the FAR calculations in Section 18.18.060(a).

(2) A conversion to commercial use of a historic building in Categories 1 and 2 shall be exempt from the on-site parking requirement in subsection (a), provided that the building is fifty feet or less in height and has most recently been in residential use. Such conversion, in order to be exempt, shall be done in conjunction with exterior historic rehabilitation approved by the director of planning and community environment upon the recommendation of the architectural review board in consultation with the historic resources board. Such conversion must not eliminate any existing on-site parking.

(3) Vacant parcels shall be exempt from the requirements of subsection (a) of this section at the time when development occurs as provided herein. Such development shall be exempt to the extent of parking spaces for every one thousand square feet of site area, provided that such parcels were at some time assessed for parking under a Bond Plan E financing pursuant to Chapter 13.16 or were subject to other ad valorem assessments for parking.

(4) No new parking spaces will be required for a site in conjunction with the development or replacement of the amount of floor area used for nonresidential use equal to the amount of adjusted square footage for the site shown on the engineer's report for fiscal year 1986-87 for the latest Bond Plan G financing for parking acquisition or improvements in that certain area of the city delineated on the map of the University Avenue parking assessment district entitled, "Proposed Boundaries of University Avenue Off-Street Parking Project #75-63 Assessment District, City of Palo Alto, County of Santa Clara, State of California," dated October 30, 1978, and on file with the city clerk. ~~However, square footage which was developed for nonresidential purposes or which has been used~~

~~for nonresidential purposes but which is not used for such purposes due to vacancy at the time of the engineer's report shall be included in the amount of floor area qualifying for this exemption.~~ No exemption from parking requirements shall be available where a residential use changes to a nonresidential use, except pursuant to subsection (2).

SECTION 5. Subsection 18.52.070(a) (Parking Regulations for CD Assessment District, On Site Parking) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

(a) On Site Parking

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, shall provide one parking space for each two hundred fifty gross square feet of floor area, with the following exceptions:

(1) Square footage for:

(A) Handicapped access which does not increase the usable floor area, pursuant to Section 18.18.070(*CD District Floor Area Bonuses*).

~~(B) An increase in square footage granted for seismic rehabilitation, pursuant to Section 18.18.070 (*CD District Floor Area Bonuses*).~~

~~(C)~~ Category I or II Historic Structures may take advantage of the following exceptions during the life of the historic building:

~~(i) An increase in square footage pursuant to CD FAR Exceptions for Historic Structures as contained in Section 18.49.060(b)(3), and~~

(ii) A conversion to commercial use that is 50 feet or less in height and that has most recently been in residential use, if such conversion is done in conjunction with exterior historic rehabilitation approved by the director upon recommendation by the Architectural Review Board and in consultation with the Historic Resource Board. Such conversion must not eliminate any existing on-site parking.

~~(D) A minor increase of two hundred square feet or less, pursuant to CD district FAR Exceptions for Historic Structures as contained in Section 18.49.060(b)(4).~~

~~(E)~~ At or above grade parking, though included in the site FAR calculations (pursuant to CD district FAR Exceptions for non-historical/non-seismic buildings in Section 18.49.060(a)) shall not be included in the on-site parking regulations of this section.

(2) Vacant parcels subject to redevelopment shall be exempt at the time when development occurs from the on-site parking requirements of one parking space for each two hundred fifty gross square feet of floor area to the extent of 0.3 parking spaces for every one thousand square feet of site area, provided that such parcels were at some time assessed for parking under a Bond Plan E financing pursuant to Chapter 13.16 or were subject to other ad valorem assessments for parking.

(3) No new parking spaces will be required for a site in conjunction with the development or replacement of the amount of floor area used for nonresidential use equal to the amount of adjusted square footage for the site shown on the engineer's report for fiscal year 1986-87 for the latest Bond Plan G financing for parking acquisition or improvements in that certain area of the city delineated on the map of the University Avenue parking assessment district, entitled *Proposed Boundaries of University Avenue Off-Street Parking Project #75-63 Assessment District, City of Palo Alto, County of Santa Clara, State of California*, dated October 30, 1978, and on file with the city clerk. ~~However, square footage which was developed for nonresidential purposes or which has been used for nonresidential purposes but which is not used for such purposes due to vacancy at the time of the engineer's report shall be included in the amount of floor area qualifying for this exemption.~~ No exemption parking requirements shall be available where a residential use changes to a nonresidential use, except pursuant to subdivision (1)(C) of this subsection.

SECTION 6. CEQA. The proposed Ordinance eliminates certain exemptions to the parking regulations within the Downtown area of the City of Palo Alto, which will result in projects that will comply with the remaining parking regulations established in the Palo Alto Municipal Code. Further, each individual project submitted under the revised regulations will be subject to its own environmental review. Consequently, this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations since it can be seen with certainty that there is no possibility the adoption and implementation of this Ordinance may have a significant effect on the environment and Section 15301 in that this proposed ordinance will have a minor impact on existing facilities.

SECTION 7. Severability. If any provision, clause, sentence or paragraph of this ordinance, or the application to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are hereby declared to be severable.

SECTION 8. Applicability to Pipeline Projects. This ordinance shall not apply to any projects which have received all final planning entitlement approval as of the ordinance's effective date; however such projects may be subject to earlier adopted interim ordinances. Any bonus square footage certified and recorded under Sections 18.18.070 prior to the effective date of this ordinance shall continue to be exempt from parking to the extent

previously allowed under Sections 18.18.080 and 18.52.070. Staff is authorized to establish administrative regulations to administer the inventory and transfer of this bonus square footage.

SECTION 9. Effective Date. 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:

Senior Assistant City Attorney

City Manager

Director of Planning & Community
Environment