



City of Palo Alto City Council Staff Report

(ID # 6162)

Report Type: Action Items

Meeting Date: 10/5/2015

Summary Title: Parking Exemptions Ordinance

Title: PUBLIC HEARING: Adoption of an Ordinance Making Permanent the Interim Measures to Eliminate Certain Parking Exemptions Within Downtown by Amending Chapters 18.18, Downtown Commercial (CD) District and 18.52, Parking and Loading Requirements; The Planning and Transportation Commission Recommended Adoption

From: City Manager

Lead Department: Planning and Community Environment

Recommendation

Staff and the Planning and Transportation Commission (PTC) recommend that Council adopt an Ordinance (Attachment A) to amend PAMC Chapters 18.18, Downtown Commercial (CD) District, and 18.52 (Parking and Loading Requirements), to permanently eliminate certain parking exemptions within the downtown area previously adopted by Council via Interim Ordinance No. 5214 that will otherwise “sunset” on November 4, 2015.

Executive Summary

On November 4, 2013, the Council adopted a series of code modifications via Interim Ordinance No. 5214 that will expire or “sunset” on November 4, 2015. The proposed Ordinance (Attachment A) would make these changes permanent, eliminating three parking exemptions related to bonus floor area in the Downtown as well as an esoteric parking exemption for once-vacant buildings. The changes in this ordinance are consistent with the previous Council direction and action.

Given the continuing parking shortage Downtown and Council’s direction to address it through a variety of strategies, staff recommends the permanent elimination of these parking exemptions. The Planning and Transportation Commission also reviewed these changes to the zoning regulations, and recommended that Council adopt the ordinance.

Background

On March 18, 2013, the Council gave direction on several items related to parking policy. This included directing staff to review and provide recommendations on Municipal Code parking

exemptions and the City's Transfer of Development Rights (TDR) program.

On October 21, 2013, the City Council held a public hearing to consider two ordinances relating to parking exemptions. The first ordinance made permanent the elimination of a parking exemption for one level of existing FAR, known as the 1:1 parking exemption. The second ordinance was a two year interim ordinance eliminating a variety of other Parking Exemptions available in the Downtown only (Attachment B). The most substantive of these parking reforms deleted Section 18.18.090(b) which previously had exempted from parking requirement the bonus floor area derived from seismic or historic rehabilitation. Council also asked staff to return with replacement incentives (other than parking) for historic and seismic bonus.

On August 12, 2015, the Planning and Transportation Commission (PTC) conducted a noticed public hearing on whether to implement these parking reforms on a permanent basis. There was no public opposition to the permanent ordinance, and the PTC recommended that Council adopt the ordinance.

Discussion

The proposed ordinance makes permanent the interim changes that focused on several parking exemptions that only affect downtown properties zoned Commercial Downtown (CD), whether inside or outside the assessment district.¹ Below is a summary of the proposed code changes necessary to permanently eliminate the parking exemptions subject of the interim ordinance as well as a description of some additional clarifying amendments staff is recommending.

1. Elimination of 200 Square Foot Bonus: Modify Section 18.18.070(a)(1), and delete Sections 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to eliminate the parking exemption for the 200 square foot Minor Floor Area Bonus for buildings not eligible for Historic or Seismic Bonus.
2. Elimination of Parking Exemption for On Site Use of Historic and Seismic Bonus: Eliminate the parking exemption for on-site use of Historic and Seismic Bonus Floor Area by deleting Sections 18.18.090(b)(1)(B) (Historic and Seismic), 18.52.070(a)(1)(B) (Seismic) and 18.52.070(a)(1)(C)(i) (Historic).
3. Elimination of Parking Exemption for Off Site Use of Historic and Seismic Bonus Amend Section 18.18.080(g) and (h), respectively, to:
 - a. Remove the off-site parking exemption for floor area bonuses derived through historic and seismic upgrades via the transfer of development rights

¹ Within the SOFA 2 Plan Area are four sites within the Downtown Assessment District. The sites are located north of Forest Avenue, between Alma and Emerson Streets. The SOFA 2 Plan allows for parking reductions and exemptions. Residential Transition (RT) zoned sites in the SOFA 2 area are allowed to participate in the City's TDR program by transferring bonus floor area achieved via historic and seismic rehabilitations to CD zoned receiver sites. Bonuses can also be used within the SOFA 2 area with parking exemptions. This ordinance does not make any modifications to the SOFA 2 regulations and policies.

(TDR) program (where up to 5,000 square feet (SF) of floor area for each type of upgrade is allowed for receiver sites in the CD or downtown PC zoning districts), and

- b. Correct the Architectural Review chapter number referenced in the interim ordinance to Chapter 18.76.
4. Elimination of Vacant Property Exemption: Amend Section 18.52.070(a)(3) to disallow 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.
5. Additional Clarifying Language: Amend Section 18.18.070(a) (2), (3) and (4) to add language clarifying that the bonus floor area is not exempt from parking requirements, and citing the code-allowed options to meet parking requirements.

PTC Review

On August 12, 2015, the PTC reviewed the draft ordinance. The Commission clarified that the interim ordinance did not appear to have any significant impact on pending development and that in lieu parking fees would be available to satisfy parking requirements associated with Floor Area Ratio (FAR) bonuses. The Commission unanimously voted (4-0-3) to recommend approval to the Council. The excerpt minutes are attached to this report (Attachment C).

Policy Implications

The Transportation Element of the Palo Alto Comprehensive Plan contains a primary goal regarding parking to provide attractive, convenient public and private parking facilities. To implement this goal, Policy T-45 states: "Provide sufficient parking in the University Avenue/Downtown and California Avenue business district to address long-range needs." The proposed changes to the zoning regulations to eliminate some of the exemptions to the existing parking requirements will improve parking availability in these areas and would be consistent with the goals and policies of the Transportation Element of the Comprehensive Plan. (Refer to Attachment E, Transportation Element Goals and Policies regarding Parking).

The Land Use and Natural and Urban Environment Elements contain the following policies and programs which encourage the use of incentives to preserve historic buildings and encourage seismic retrofits.

Land Use Element:

Policy L-56: To reinforce the scale and character of University Avenue/Downtown, promote the preservation of significant historic buildings.

Program L-59: Allow parking exceptions for historic buildings to encourage rehabilitation. Require design review findings that the historic integrity of the building exterior will be maintained.

Program L-60: Continue to use a TDR Ordinance to allow the transfer of development rights from designated buildings of historic significance in the Commercial Downtown (CD) zone to

non-historic receiver sites in the CD zone. Planned Community (PC) zone properties in the Downtown also qualify for this program.

Program L-66: Revise existing zoning and permit regulations as needed to minimize constraints to adaptive reuse, particularly in retail areas.

Natural And Urban Environment Element:

Program N-70: Continue to provide incentives for seismic retrofits of structures in the University Avenue/Downtown area.

Staff believes the proposed permanent changes remain consistent with the policies above, as historic rehabilitation incentives would still be provided through the provision of additional floor area associated with the TDR program. Furthermore, the proposed ordinance would still allow historic buildings to be renovated and restored to retain their “grandfathered” status.

Resource Impact

This ordinance can be implemented within the currently approved work program of the Planning and Community Environment Department.

Timeline

In order for these provisions to stay in effect, the permanent ordinance will need to be adopted by the City Council 31 days prior to the expiration (November 4, 2015). City Council action on an Ordinance requires two actions, an introduction of the ordinance and a second reading.

Environmental Review

The proposed Ordinance eliminates certain exemptions to the parking regulations within the Downtown, 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 these proposed ordinance will have a minor impact on existing facilities.

Attachments:

- Attachment A: Parking Exemptions Ordinance (PDF)
- Attachment B: Council Reports and Minutes of Oct 21, 2013 and Nov 4, 2013 (PDF)
- Attachment C: Excerpt Verbatim Minutes of P&TC August 12, 2015 (PDF)

NOT YET APPROVED

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 ~~18.76.020~~~~16.48.120~~ 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);~~

~~(DB)~~ 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. 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



City of Palo Alto

City Council Staff Report

(ID # 4139)

Report Type: Action Items
Meeting Date: 10/21/2013**Summary Title: Parking Exemptions Code Ordinances**

Title: Parking Exemptions Code Review: Review and Recommendation to City Council to Adopt: 1. Ordinance to Repeal Ordinance 5167 and Amend the Palo Alto Municipal Code to Delete Sections 18.52.060(a)(2) and 18.52.060(c) Related to Parking Assessment Districts to Eliminate the “Exempt Floor Area” Parking Exemption Which Allows for Floor Area up to a Floor Area Ratio (FAR) of 1.0 to 1.0 to be Exempt From Parking Requirements Within the Downtown Parking Assessment Area and Floor Area up to an FAR of 0.5 to 1.0 to be Exempt Within the California Avenue Area Parking Assessment District. 2. Interim Ordinance to Amend Chapters 18.18, Downtown Commercial (CD) District, and 18.52, (Parking and Loading Requirements) to Make the Following Changes to be Effective for a Period of Two Years: a. Delete Sections 18.18.070(a)(1), 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to Eliminate the 200 Square Foot Minor Floor Area Bonus and Related Parking Exemption for Buildings not Eligible for Historic or Seismic Bonus. b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to Eliminate the Parking Exemption for On-site Use of Historic and Seismic Bonus. c. Amend Section 18.18.080(g) to Remove the On-site Parking Exemption for Historic and Seismic Transfer of Development Rights up to 5,000 Square Feet of Floor Area to a Receiver Site in the CD or PC Zoning Districts. d. Amend Section 18.18.120(a)(2) and (b)(2) Related to Grandfathered Uses and Facilities to Clarify that a Grandfathered Use May be Remodeled and Improved, But May Not be Replaced and Maintain its Grandfathered Status. e. Amend Section 18.52.070(a)(3) Related to Remove the Sentence Allowing Square Footage to Qualify for Exemption That Was Developed or Used Previously for Nonresidential Purposes but was Vacant at the time of the Engineer's Report. These actions are exempt from the California Environmental Quality Act (CEQA) under Section 15061 and 15301 of the CEQA Guidelines.

From: City Manager

Lead Department: Planning and Community Environment

Recommendation

Staff and the Planning and Transportation Commission (PTC) recommend that Council adopt:

1. An Ordinance to amend the Palo Alto Municipal Code (PAMC) to permanently delete Sections 18.52.060(a)(2) and 18.52.060(c) related to Parking Assessment Districts to eliminate the “Exempt Floor Area” parking exemption which allows floor area up to a floor area ratio (FAR) of 1.0 to 1.0 to be exempt from parking requirements within the Downtown Parking Assessment Area, and floor area up to an FAR of 0.5 to 1.0 to be exempt within the California Avenue area parking assessment district (Attachment A); and
2. An Interim Ordinance (Attachment B) to amend PAMC Chapters 18.18, Downtown Commercial (CD) District, and 18.52 (Parking and Loading Requirements), to make the following changes, to be effective for a period of two years:
 - a. Delete Sections 18.18.070(a)(1), 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to eliminate the 200 square foot Minor Floor Area Bonus and related parking exemption for buildings not eligible for Historic or Seismic Bonus.
 - b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to eliminate the parking exemption for on-site use of Historic and Seismic Bonus.
 - c. Amend Section 18.18.080(g) to remove the on-site parking exemption for floor area bonuses derived through historic and seismic upgrades via the transfer of development rights (TDR) program (where up to 5,000 square feet (SF) of floor area for each type of upgrade is allowed for receiver sites in the CD or downtown PC zoning districts).
 - d. Amend Sections 18.18.120(a)(2) and (b)(2) related to Grandfathered Uses and Facilities to clarify that a grandfathered use/facility may be remodeled and improved while maintaining ‘grandfather’ status, but that the floor area may not be demolished and replaced onsite while maintaining such ‘grandfathered’ status.
 - e. Amend Section 18.52.070(a)(3) to disallow 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.

Executive Summary

The Palo Alto Municipal Code (PAMC) Chapter 18.80 sets forth the process for amendments to the City’s zoning regulations. The attached ordinances would amend the City’s zoning regulations related to exemptions from provision of parking spaces for the development of new floor area. The ordinances are recommended unanimously by the PTC and staff and would

become effective 31 days following Council adoption. The City Council is requested to consider and adopt the first ordinance (Attachment A) before mid-November, as it amends Chapter 18.52 to address “Exempt Floor Area parking exemption” in both the Downtown and California Avenue Parking Assessment Districts. Adoption by mid-November would allow this ordinance to become effective before the end of the current moratorium on Exempt Floor Area Parking Exemptions, December 28, 2013. The Interim Ordinance (Attachment B) addresses parking exemptions related to floor area bonuses, and is proposed to expire in two years (sunset) from the date of Council action unless the ordinance is replaced by a permanent code change or otherwise modified.

Pursuant to Section 18.80.090, the attached Ordinances include findings as to why the public interest or general welfare requires these amendments. The findings cited to support the urgent need for limiting parking exemptions in the Downtown Assessment District include the increase in development within the past five years, including eight projects approved between 2008 and 2012 which included seismic, historic and minor floor area bonuses totaling 28,676 square feet with parking exemptions granted equivalent to 115 parking spaces. In addition, as of October 1, 2013, there are three additional projects pending in the downtown totaling approximately 77,788 square feet and requesting exemptions equivalent to 100 parking spaces. Also, there have been no new parking structures added to the City’s inventory since 2003 and there has been a drop in the downtown commercial vacancy rate from a high of 6.39 per cent in 2008-2009 to a 1.6 per cent rate in the 2011-2012 reporting period. The Downtown Parking Survey conducted in Spring of 2013 shows that within the downtown core area, the on-street parking occupancy between 12:00 noon and 2:00 p.m. reached 87.9 per cent overall, and parking in hourly public lots and garages was at 87.2 per cent occupancy, while permit parking was at 65.9 per cent occupancy. The parking surveys also show that compared to previous years, on-street parking use has increased in the Downtown North, Professorville and South of Forest Avenue neighborhoods.

Background

Planning and Transportation Commission Review

On September 25, 2013, the Planning and Transportation Commission (PTC) reviewed and recommended, by a 5-0-2 vote (Commissioners Tanaka and Martinez absent), the two attached ordinances relating to parking exemptions in the zoning code. The PTC Report and meeting minutes are provided as Attachments F and G. The Commissioners noted that the ordinances are a step in the right direction. They discussed how charging higher in-lieu fees for not providing required parking on a site could incentivize providing parking on site, and how an update to the parking ratio and further progress in transportation demand management, such as looking at incentives for other modes of transportation to bring fewer cars downtown and using a business registry to obtain mode data from businesses, are needed. The PTC wanted to ensure there are clear guidelines for what constitutes “remodel”, given that the interim ordinance was written to disallow only replacement of grandfathered facilities. Commissioners

also noted that the parking exemptions were put in place as incentives based on conditions at that time; however, based on current conditions they are no longer needed. The Commissioners would like to see the long term planning efforts, such as the update of the Comprehensive Plan and the California Avenue Concept Plan move forward to provide guidance on development and parking issues.

There were four public speakers, including three residents of Professorville or Downtown North and one property owner with a planning application pending review by the Architectural Review Board (scheduled October 17, 2013). The residents noted concern with destruction of neighborhoods and the applicability of the California Environmental Quality Act (CEQA) and that the intrusion of parking into the neighborhoods has increased over the years. Two of these speakers asked that the City stop approvals of all permits via a moratorium. The property owner (of 636 Waverley) noted that his project would be directly affected by a moratorium. He also noted that his project included a 200 sf bonus floor area. Staff looked into this and can confirm that the bonus floor area is requested for additional residential area above the 1:1 allowable residential floor area. However, it is not associated with exemption for parking since residential parking is determined by the number of bedrooms; i.e. two or more bedrooms require the provision of two covered parking spaces on site, not total floor area.

Council Direction

On July 16, 2012, the City Council considered the status of ongoing parking efforts for the Downtown and directed staff to look at a variety of approaches to address the concerns of businesses and neighbors. Council requested an evaluation of existing zoning regulations, and an assessment of realistic parking ratios and the desirability and viability of parking exemptions. Following that meeting, staff identified one particular parking exemption, applicable to the Downtown and California Avenue assessment districts likely to exacerbate the parking problems without providing a public purpose. This provision had allowed exemptions from parking requirements for any property within the two parking assessment districts; specifically, up to a 1:1 floor area ratio (FAR) in the Downtown Assessment District and up to a 0.5:1 ratio in the California Avenue Assessment District.

On October 15, 2012, the City Council adopted an Interim Urgency Ordinance that established a 45-day moratorium on the use of this “Exempt Floor Area” parking exemption pending further study of Downtown and California Avenue parking issues (refer to Attachment C, CMR Report and Minutes Excerpt dated October 15, 2012). On December 10, 2012, the City Council adopted another Interim Urgency Ordinance to extend this moratorium for a period of one year through December 28, 2013 (refer to Attachment D, CMR Report and Minutes Excerpt dated December 15, 2012).

On March 18, 2013, the Council gave additional direction on several items related to parking

policy. This included directing staff to review and provide recommendations on Municipal Code parking exemptions and the City's Transfer of Development Rights (TDR) program. Since that time, staff has examined the Municipal Code, and is recommending the subject changes. It is important to note that this is the first step. Staff will most likely have additional recommendations in the coming year. While the staff recommended interim suspension of the subject parking exemptions is narrowly focused in the Downtown area, future recommendations may be citywide and/or more comprehensive in nature. Furthermore, the subject "interim" changes may or may not be recommended for permanent inclusions after additional analysis is conducted during the two-year, interim stage.

Description of Proposed Ordinances

There are two types of ordinances under review. The first is a standard ordinance revision permanently eliminating the Chapter 18.52 definition and rules for "Exempt Floor Area" within the boundaries of the City's two assessment districts. The ordinance would permanently eliminate the use of this parking exemption for floor area of *a building* "at or nearest grade". This would affect the Downtown and California Avenue Parking Assessment Districts.

The second ordinance focuses on several parking exemptions that only affect downtown properties zoned Commercial Downtown (CD), whether inside or outside the assessment district. This is an interim ordinance which would be in effect for a trial 2-year period.

Ordinance to Eliminate the Exempt Floor Area Parking Exemptions: The first ordinance would make permanent the elimination of the "Exempt Floor Area" parking exemptions related to the Downtown and California Avenue Parking Assessment Districts. There is currently a one year moratorium on the use of this exemption that expires on December 28, 2013. In the Downtown Assessment District Area, this zoning code section allows floor area equal to the lot size to be "un-parked". For example, on a 10,000 sq. ft. property, the first 10,000 sq. ft. of building would have to provide zero parking spaces. This provision was originally included in the zoning code in the 1980s to encourage downtown development by providing a benefit to offset the parking assessments enacted at that time. This was also done at the same time when properties were downzoned within the downtown area. This strategy was successful in its time, but the downtown area is now thriving and the exemption is no longer needed to encourage development.

In the California Avenue Assessment District Area, this code section allows floor area equal to half the lot size to be un-parked. For example, on a 10,000 square foot lot in the California Avenue area, the first 5,000 sq. ft. of building would have to provide zero parking. Given that there is no longer a need to incentivize development in the Downtown and California Avenue areas and parking shortages are prevalent, the permanent elimination of this unnecessary parking exemption is recommended.

Interim Ordinance to Eliminate other Parking Exemptions within the Downtown Area: Since the Council direction given in March, staff identified four (4) key areas where additional code changes could be made to eliminate future use of parking exemptions for properties in the Downtown area zoned CD. The second ordinance would be an interim ordinance for a period of two years to eliminate the following four code provisions related to floor area and parking only within the CD zone district.

1. Parking Exemptions Associated with the Transfer of Development Rights (TDR) Program: The TDR program encourages seismic and historic rehabilitation of buildings within the CD district by allowing for the transfer of certain development rights to eligible CD-zoned sites that are not historic properties. These provisions include both transfer of bonus floor area to another site and provisions for exempting some of the bonus floor area from parking requirements. The program has been successful and has resulted in seismic and historic restoration of many older buildings in the Downtown area. However, staff believes an incentive can still be provided through bonus FAR area, without increasing nearby parking issues. The Interim Ordinance, therefore, would prohibit the creation of new bonuses as they relate to parking. Specifically, 5,000 SF of transferred bonus floor area to a site would no longer be exempt from on-site parking requirements. This exemption has been applied to floor area transferred to a receiver site within a CD or PC district from another CD-zoned site or even from an RT zoned site within the SOFA district. TDRs that have already been approved and earned under existing zoning code provisions before the effective date of this ordinance would still be allowed to be utilized. Likewise, “receiver” properties could still utilize TDRs for parking exemptions that were transferred after the effective date of the ordinance provided they came from qualifying “sender” sites that had earned the TDRs before the effective date of the ordinance. Eliminating the use of already approved and earned TDRs would likely be subject to judicial challenge under a “takings” or “vested rights” legal theory. Staff is expecting to address the provision of parking related to already earned TDRs during future recommendations.
2. Minor Exemptions for Buildings Not Eligible for Historic or Seismic Bonus: The CD zone district regulations also contain an exemption that allows a one time 200 square foot floor area bonus increase for any building that does not qualify for the seismic or historic bonuses. This increase, which has been used to increase floor area in both new buildings and existing buildings, does not count towards the site’s gross floor area (GFA) and floor area ratio (FAR), and is exempt from on-site parking requirements. Although it is minor, any CD zoned property not eligible for the other bonuses may request it and the impacts have been and will continue to be cumulative. The Interim Ordinance proposes to eliminate this 200 square foot minor floor area bonus.

3. Grandfathered Uses and Facilities: The CD Zone District contains provisions for “grandfathered uses and facilities” that allow continuation of uses and rebuilding of facilities that were in place prior to August 28, 1986 but which are no longer conforming to the standards of the district. One of the provisions allows that the grandfathered uses/facilities are permitted to remodel, improve or replace site improvements on the same site as long as it is within the same footprint and does not result in an increase in floor area, height, building envelope or building footprint. Because the existing code language allows replacement of a grandfathered facility’s “site improvements”, this provision has been used when completely rebuilding a structure to allow the same amount of floor area without providing parking for the replacement floor area that is considered “grandfathered”. Any additional square feet beyond that grandfathered must be served by on site parking. The Interim Ordinance proposes to clarify that one may remodel or improve the grandfathered floor area and keep the parking exemption, but the floor area may not be demolished and rebuilt into a replacement structure. Staff believes that this exemption will not be proposed for permanent elimination in entirety after the interim ordinance as it could “lock” property owners into older buildings that do not function well for modern businesses. However, during this interim period, staff would like to quantify the impact of building modernization, particularly in terms of parking, so that suitable impact fees, conditions and/or municipal code provisions can be incorporated.
4. Unoccupied/Vacant Floor Area Exemption: This portion of the interim ordinance would eliminate, with respect to properties within the CD assessment district, a sentence in Section 18.52.070(a)(3) allowing exemption for existing floor area developed or used previously for nonresidential purposes but unoccupied at the time of the engineer’s report for the parking district assessment. In other words, as currently written, the Municipal Code allows for floor area that was unoccupied at the time the Downtown Assessment District was created, and therefore not assessed, to be “grandfathered” for rebuilding purposes. These properties are not responsible for providing or paying for additional parking when a building is razed and rebuilt, even though payments were not made to the assessment district for the previously unoccupied square footage. The interim ordinance will eliminate this existing inequity in the Code.

Discussion

TDR Categories

In 1986, the City enacted its TDR program designed to encourage private property owners to upgrade seismically unsafe buildings and to encourage preservation of known historic buildings in the downtown area zoned CD. Lacking the financial resources to provide monetary incentives for safety upgrades and historic preservation, the City instead adopted development regulations that would provide property owners in the downtown area incentive to upgrade and preserve their properties through a bonus program. In 2002, the TDR program was expanded to the

SOFA 2 area.

According to City records, the downtown has approximately 78 buildings that are eligible for a seismic or historic bonus under the TDR program. These buildings fall into three general categories: (1) properties which have applied for and received TDRs under the City's ordinance; (2) properties which have been seismically or historically upgraded, but which have not applied for or received TDRs and (3) properties which may be eligible for TDRs, but which have chosen not to upgrade.

Table 3 summarizes the potential TDR bonuses and parking exemptions of the 78 eligible historic and seismic buildings previously identified by the City. (Note that some of the City's records are incomplete and therefore this table is subject to further refinement.)

Table 3: TDR Bonuses for Originator Sites by Entitlement, October 2013

Origination Type	Floor Area	Parking Exemptions	Number of Properties
<i>Properties with Documented Bonuses & TDRs</i>			
Downtown	123,783	471	32
SOFA	7,813	31	3
City Owned	7,500	30	3
Sub-Total	139,095	532	38
<i>Property Upgraded, No Claim</i>			
Downtown	29,307	117	11
SOFA	7,500	30	3
City Owned	0	0	0
Sub-Total	36,807	147	14
<i>Eligible Properties but not Upgraded</i>			
Downtown	65,976	264	25
SOFA	2,500	10	1
City Owned	0	0	0
Sub-Total	68,476	274	26
GRAND TOTAL	244,378	998	78
<i>Notes:</i>			

1. City Owned properties include three properties outside of the Downtown area that could only be used in the Downtown area. Properties included: Children's Library, College Terrace Library, and Sea Scout Building.
2. TDRs generated in the SOFA may be used on site or transferred into the downtown area. Assumption is that SOFA current remaining 5,000SF (20 parking) TDRs will be transferred into the downtown area.

Thus, if all TDR bonuses were in fact utilized, there would be a total of 244,378 additional square feet added to the downtown and a total of 953 exempt parking spaces.

While all properties in fact did not take advantage of the TDR program, the City's data collected to date shows that the TDR program was successful in incentivizing the private redevelopment and upgrade of historic and seismically unsafe buildings in the downtown. Table 4 summarizes the TDRs that were created, the TDRs that were transferred to a receiver site, the TDRs that were used on site and finally the TDRs that were created but which still remain. (Again note that some of the City's records are incomplete and it is expected that these numbers will be further refined.)

Table 4: Documented TDR Bonuses Used in the Downtown Area by Origin, October, 2013

	Floor Area	Parking Exemptions	Number of Properties
<i>Properties with Documented Bonuses & TDR's By Origination</i>			
Downtown	123,783	471	32
SOFA	7,813	31	3
City Owned	7,500	30	3
Total	139,095	532	38
<i>TDR's Transferred</i>			
Downtown	57,926	212	14
SOFA	2,000	8	1
City Owned	2,500	10	1
Total	62,426	230*	16
<i>TDR's Used On Site</i>			
Downtown	47,586	219	20
SOFA	2,000	8	1
City Owned	0	0	0
Total	58,022	229*	21

<i>TDR's Remaining</i>			
Downtown	10,334	40	7
SOFA	3,313	13	2
City Owned	5,000	20	2
Total	18,647	73	11
*Some FAR transferred was not eligible for parking exemption.			

Thus, according to the City's records there are currently 18,647 square feet of TDRs that have not been used and 73 available parking space exemptions.

Approved and Pending Projects

The Council has fairly broad discretion to decide how new regulations should be applied to projects that have begun planning review but not received final planning entitlements. (These pending projects are generally referred to as "pipeline" projects.) However, under State law, projects that have obtained their entitlements and building permits and have begun work in reliance on the building permit are largely exempt from new zoning provisions. (This is sometimes referred to as the "vested rights doctrine.") A key issue raised when the moratorium on use of the "exempt floor area" parking was adopted in 2012 was the applicability of the ordinance to projects that were in process (on file, pending decisions by the Director, Council or building permit issuance). At that time, Council elected to exempt projects that had received building permits, and those who had received Planning Permit approval. Planning projects that had been submitted, but not yet approved, were subject to the moratorium. While Council is required to exempt projects receiving building permits, it is a policy call whether to exempt projects that are in earlier phases of entitlement review. As noted in the table below, there are a number of projects that have received recent planning approval or are currently under planning review.

Table 5 – Summary of Approved Planning Entitlements with Parking Exemptions

Address	Description	Subject Parking Exemptions Applied (# of spaces)	Planning Entitlement Status	Building Permit Status
135 Hamilton	A four-story 28,085 square foot mixed-use building (19,998 square feet commercial and two residential units) and below grade parking on a vacant lot. Zone: CD-C(P) <i>(exemption using 5000 Sf TDR and 200 SF exemption)</i>	TDR 20 Bonus <u>1</u> Total 21	Approval Effective 2/7/13	Building Permit under review. It is expected that this permit will be issued prior to ordinance adoption.
611 Cowper	A 34,703 square foot four-story mixed use building (three floors commercial and one floor residential) with below grade parking, replacing two buildings totalling 7,191 SF commercial floor area and 1,270 SF residential floor area. Zone: CD-C(P) <i>(Exemption using grandfathered spaces, 10,000 SF TDR exemption and 400 SF exemptions for two parcels)</i>	Grandfather: 11 TDR 40 Bonus <u>2</u> Total 53	Approval Effective 8/16/13	No Building Permit Application submitted to date

Table 6 – Summary of Pending Applications Requesting Subject Exemptions

Address	Request	Subject Parking Exemptions Applied (# of spaces)	Planning Entitlement Status	Building Permit Status
240 Hamilton	A 15,000 square foot mixed use building, replacing an (approx.) 7,000 SF building (building plus mezzanine). Zone: CD-C(P) <i>(Exemption using 4,327 SF TDR exemption, 200 SF bonus, and “grandfathered” floor area, including 2,000 that was not assessed)</i>	Grandfather: 8 TDR 17 Bonus <u>1</u> Total 26	Approved 7/23/13 but Appealed to Council. Hearing to be scheduled.	Not Applicable
261 Hamilton	Application for relocation of basement SF in retail storage use to third story office atop an historic category III, “grandfathered” commercial building (over 3.0:1 FAR) having 38,926 SF (37,800 SF assessed for parking); 37,800 SF retail/office at end. Zone: CD-C(GF)(P). <i>(requesting creation of 15,000 SF FAR TDR via rehabilitation).</i>	No Subject Exemptions Applied – Bonus Floor Area to be used off site equal to 60 parking space exemption	Formal ARB submitted 6/18/13	Not applicable

Address	Request	Subject Parking Exemptions Applied (# of spaces)	Planning Entitlement Status	Building Permit Status
429 University	22,750 SF building with below grade parking for 29 cars, replacing “grandfathered” building. Zone: CD-C(GF)(P). <i>(exemption using 5,000 SF TDR, 200 SF bonus and grandfathered building).</i>	Grandfather: TBD ¹ TDR 20 Bonus 1 Total TBD ²	Prelim ARB submitted 9/12/13	Not applicable
261 Hamilton	Application for relocation of basement SF in retail storage use to third story office atop an historic category III, “grandfathered” commercial building (over 3.0:1 FAR) having 38,926 SF (37,800 SF assessed for parking); 37,800 SF retail/office at end. Zone: CD-C(GF)(P). <i>(requesting creation of 15,000 SF FAR TDR via rehabilitation).</i>	No Subject Exemptions Applied – Bonus Floor Area to be used off site equal to 60 parking space exemption	Formal ARB submitted 6/18/13	Not applicable
640 Waverley	ARB application for a new 10,463 SF mixed use building with 2 dwelling units and 5,185 SF commercial area (replacing 1,829 SF of “grandfathered” floor area) providing 17 spaces. Zone: CD-C(P). <i>(exemptions grandfathered, mixed-use parking reduction and 200 SF bonus).</i>	TBD ³	Prelim ARB submitted 9/16/13	Not applicable
500 University	Three-story 26,806 SF commercial building replacing 15,899 SF previously assessed for 64 spaces not provided on site; includes 24 parking spaces below grade. Zone: CD-C(GF)(P). <i>(Exemption using grandfathered building, TDR and 200 SF bonus).</i>	TDR 20 Bonus 1 Total 21	Prelim ARB reviewed. No formal submittal.	Not applicable
301 High	Addition and remodel of existing building. Proposes 6,706 SF (including existing 6,255 SF plus bonus an ADA area). Zone: CD-N(P). <i>(requests 200 SF bonus).</i>	Bonus 1	Formal ARB Submitted 5/20/13	Not applicable

¹ TBD = To be determined; project was recently submitted and floor area and parking determination are still under review.

² Ibid.

³ Ibid.

In light of Council's previous policy decision on this issue, staff makes the following recommendations for pipeline projects:

- 1:1 Exemption Elimination: Apply new ordinance to all pipeline projects that have not received final planning entitlement approval
- 200 Square Foot Bonus Exemption Elimination: Apply interim ordinance to all pipeline projects that have not received final planning entitlement approval
- On and Off site use of TDR Parking Exemption: Only apply to newly created TDRs. TDRs approved and created before effective date of interim ordinance eligible for on or off site parking exemption. TDRs created after effective date of ordinance would be eligible for square footage bonus, but not parking bonus.
- Grandfather Exemption Elimination: Apply interim ordinance to all pipeline projects that have not received final planning entitlement approval
- Vacant Building Exemption: Apply to all pipeline projects that have not received final planning entitlement approval

Next Steps

The Interim Ordinance is proposed to be in place for a period of two years, during which time staff will study the impacts on development of permanently removing these floor area bonuses and parking exemptions. Much of this will be done during the policy recommendation phases of the Downtown Development Cap Study. The following are some of the items that have been identified for further analysis and consideration: residential parking program, in-lieu parking provisions, adjustments to parking requirements, SOFA 2 parking exemptions (additional details below), and other, city-wide parking exemptions. Other adjustments to the Municipal Code may also be considered. Furthermore, historically made interpretations of the Municipal Code may be taken to the PTC for consideration and recommendation to Council.

SOFA 2 Plan Area Policies and Programs:

Within the SOFA 2 Plan Area are several sites within the Downtown Assessment District. The sites are located north of Forest Avenue, between Alma and Emerson Streets. The SOFA 2 Code allows for parking reductions and exemptions. Residential Transition (RT) zoned sites in the SOFA 2 area are allowed to participate in the City's TDR program by transferring bonus floor area achieved via historic and seismic rehabilitations to CD zoned receiver sites. Bonuses can also be used within the SOFA 2 area. The same parking exemptions are currently available for bonus floor area generated in the SOFA 2 area. Following Council action on the proposed ordinances, the SOFA 2 regulations and policies related to incentives for bonus floor area may need to be reviewed in light of the proposed ordinances.

Policy Implications

The Transportation Element of the Palo Alto Comprehensive Plan contains a primary goal regarding parking to provide attractive, convenient public and private parking facilities. To implement this goal, Policy T-45 states: “Provide sufficient parking in the University Avenue/Downtown and California Avenue business district to address long-range needs.” The proposed changes to the zoning regulations to eliminate some of the exemptions to the existing parking requirements will improve parking availability in these areas and would be consistent with the goals and policies of the Transportation Element of the Comprehensive Plan. (Refer to Attachment E, Transportation Element Goals and Policies regarding Parking).

The Land Use and Natural and Urban Environment Elements contain the following policies and programs which encourage the use of incentives to preserve historic buildings and encourage seismic retrofits.

Land Use Element:

Policy L-56: To reinforce the scale and character of University Avenue/Downtown, promote the preservation of significant historic buildings.

Program L-59: Allow parking exceptions for historic buildings to encourage rehabilitation. Require design review findings that the historic integrity of the building exterior will be maintained.

Program L-60: Continue to use a TDR Ordinance to allow the transfer of development rights from designated buildings of historic significance in the Commercial Downtown (CD) zone to non-historic receiver sites in the CD zone. Planned Community (PC) zone properties in the Downtown also qualify for this program.

Program L-66: Revise existing zoning and permit regulations as needed to minimize constraints to adaptive reuse, particularly in retail areas.

Natural And Urban Environment Element:

Program N-70: Continue to provide incentives for seismic retrofits of structures in the University Avenue/Downtown area.

Staff believes the proposed changes remain consistent with the policies above, as historic rehabilitation incentives would still be provided through the provision of additional floor area associated with the TDR program. Furthermore, the proposed ordinance would still allow historic buildings to be renovated and restored to retain their “grandfathered” status.

Resource Impact

The zoning evaluation work would be done within the currently approved work program of the

Timeline

The Ordinance establishing the moratorium on the use of Parking Exemptions within the Downtown and California Avenue Parking Assessment areas will expire on December 28, 2013. In order for these provisions to stay in effect the permanent ordinance will need to be adopted by the City Council 31 days prior to the expiration ((by November 27, 2013). City Council action on an Ordinance requires two actions, an introduction of the ordinance and a second reading.

Environmental Review

The proposed Ordinances eliminate certain exemptions to the parking regulations within the Downtown and California Avenue areas 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, these ordinances are 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 these proposed ordinances will have a minor impact on existing facilities.

Attachments:

- Attachment A: Ordinance for Elimination of 1 to 1 Parking Exemption (PDF)
- Attachment B: Interim Ordinance to Eliminate Certain Parking Exemptions within the Downtown Area (PDF)
- Attachment C: CMR and Excerpt Minutes dated October 15, 2012 (PDF)
- Attachment D: CMR and Excerpt Minutes dated December 15, 2012 (PDF)
- Attachment E: Transportation Element Parking Goals & Policies (PDF)
- Attachment F: Excerpt Minutes of the September 25, 2013 Planning and Transportation Commission Meeting (DOCX)
- Attachment G: September 25, 2013 Planning and Transportation Commission Staff Report (PDF)



REDACTED CITY OF PALO ALTO CITY COUNCIL MINUTES

Special Meeting
October 21, 2013

The City Council of the City of Palo Alto met on this date in the Council Conference Room at 5:34 P.M.

Present: Berman, Burt, Holman, Klein, Kniss, Price arrived at 5:57 P.M.,
Scharff, Schmid, Shepherd

Absent:

ACTION ITEM

11. Public Hearing: Parking Exemptions Code Review: Review and Recommendation to City Council to Adopt: 1. Ordinance to Repeal Ordinance 5167 and Amend the Palo Alto Municipal Code to Delete Sections 18.52.060(a)(2) and 18.52.060(c) Related to Parking Assessment Districts to Eliminate the "Exempt Floor Area" Parking Exemption Which Allows for Floor Area up to a Floor Area Ratio (FAR) of 1.0 to 1.0 to be Exempt From Parking Requirements Within the Downtown Parking Assessment Area and Floor Area up to an FAR of 0.5 to 1.0 to be Exempt Within the California Avenue Area Parking Assessment District. 2. Interim Ordinance to Amend Chapters 18.18, Downtown Commercial (CD) District, and 18.52, (Parking and Loading Requirements) to Make the Following Changes to be Effective for a

MINUTES

Period of Two Years: a. Delete Sections 18.18.070(a)(1), 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to Eliminate the 200 Square Foot Minor Floor Area Bonus and Related Parking Exemption for Buildings not Eligible for Historic or Seismic Bonus. b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to Eliminate the Parking Exemption for On-site Use of Historic and Seismic Bonus. c. Amend Section 18.18.080(g) to Remove the On-site Parking Exemption for Historic and Seismic Transfer of Development Rights up to 5,000 Square Feet of Floor Area to a Receiver Site in the CD or PC Zoning Districts. d. Amend Section 18.18.120(a)(2) and (b)(2) Related to Grandfathered Uses and Facilities to Clarify that a Grandfathered Use May be Remodeled and Improved, But May Not be Replaced and Maintain its Grandfathered Status. e. Amend Section 18.52.070(a)(3) Related to Remove the Sentence Allowing Square Footage to Qualify for Exemption That Was Developed or Used Previously for Nonresidential Purposes but was Vacant at the time of These actions are exempt from the California Environmental Quality Act (CEQA) under Section 15061 and 15301 of the CEQA Guidelines.

Aaron Akin, Acting Director of Planning and Community Environment, reported Staff recommended the Council not proceed with Section 2d of the proposed Ordinance related to the grandfather status, which uses facilities to clarify that a grandfathered use may be remodeled and improved, but may not be replaced and maintain its grandfathered status. After meeting with the City Attorney, Staff believed additional review was necessary and would return with a recommendation. In the Downtown area, the Exempt Floor Area Ordinance allowed properties to build an amount of square footage equal to the lot size without providing parking. Approximately one year ago, the Council enacted a moratorium on use of the Ordinance, which would expire at the end of December 2013. Staff recommended the Ordinance be permanently deleted from the Municipal Code. The Ordinance applied to a lesser degree to California Avenue. The Planning and Transportation Commission (PTC) recommended the Ordinance be permanently deleted. The Minor Floor Area Exemption was a 200-square-foot exemption applied to any property that was not eligible for a historic or seismic rehabilitation bonus. Staff recommended deletion of the exemption for the two-year interim period in order to study potential impacts. Transfer of Development Rights (TDR) sites were eligible for either historic or seismic rehabilitation. With rehabilitation, property owners were allowed a 2,500-square-foot bonus onsite for either category to build floor area beyond the amount allowed under current Code provisions without providing parking. Staff recommended elimination of the parking exemption associated with the floor area bonus. Transfer of rights to a receiver site would be allowed for the

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floor area provision and not the parking provision. The Vacant Space provision allowed property owners to tear down vacant space and rebuild without providing parking. The value of the Minor Floor Area Exemption would equal approximately \$60,750, the price of the current in-lieu fee. The value of the bonus TDR was approximately \$600,000. Transfer or use of the maximum amount was valued at approximately \$1.2 million. The Vacant Space was valued at \$500,000 or less. When the moratorium was enacted for the 1.0 to 1.0 Floor Area Exemption, the Council did not subject projects with planning entitlements to the moratorium. Projects in the pipeline were subject to the moratorium. Staff proposed a similar policy in that projects with planning entitlements would not be subject to the interim ordinance.

Public Hearing opened at 8:53 P.M.

Matthew Harris requested the Council create a blue ribbon task force with respect to planning and design.

Herb Borock noted in Attachment B the recommended sunset provision counted the effective date as 31 days from the first reading, rather than 31 days from the second reading. He suggested the correct date be included at the time of the second reading.

Ken Alsman welcomed the proposed changes. If the Council adopted the proposed Ordinance, then it needed to take three additional steps. One was to stop all existing construction projects in the pipeline, because the projects would add another 200-400 cars in the neighborhoods. Second, the Council should stop providing full credit in the Assessment District for a 1.0 to 250 ratio. Third, the Council had to stop accepting California Environmental Quality Act (CEQA) conclusions of no impact.

Elizabeth Wong indicated the parking shortage needed to be resolved by all stakeholders with costs shared by property owners in Downtown and surrounding areas. The proposals would not solve the parking shortage, but would prevent retailers from coming to Palo Alto.

Dr. Paul Karol stated the parking situation was borderline critical at the current time. After completion of projects in the pipeline, the parking situation would become a disaster. He requested the Council gather data before making any decisions.

Katie Morganroth believed the proposed Ordinance was unfair and one-sided. Neighbors and developers were working toward a plausible solution. The proposed Ordinance would result in the loss of square footage for her commercial project, the breaking of commitments with tenants, and the loss

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of four jobs. She asked the Council to exclude pipeline projects from the proposed Ordinance and to postpone a vote until February 14, 2014.

Ken Hayes believed many projects would not have been developed without seismic or historic bonuses. Residents, businesses, commercial property owners and parking advocates should collaborate to find a creative solution. The proposed Ordinance was one-sided and unfair. He requested the Council postpone its vote for a defined period while stakeholders developed a creative solution fair to all.

David Kleiman reported his project was fully parked and compliant with all City Codes, but would be severely impacted by the proposed Ordinance. The Council did not have sufficient time to receive adequate input on the economic effects of the proposed Ordinance. The solution should include increased availability of parking spaces, access to an offsite lot for lower-paid employees, permit parking in key neighborhoods and metered parking.

James Lin felt the proposed Ordinance did not solve the parking problem and was unfair. He asked the Council to exclude pipeline projects from the proposed Ordinance.

Jaime Wong stated developers followed the City's rules to add value and provide a vibrant and exciting Downtown. Without development, the City would lose businesses. Developers could be creative and could compromise.

Andrew Wong indicated the proposed Ordinance was patently unfair. Staff did not address the benefits provided by the exemptions. He proposed the Council not apply the proposed Ordinance to pipeline projects. The proposed Ordinance did not address the parking issue.

Jason Holleb asked the Council not to impact the defined pipeline projects. The Council should allow time for development of a parking solution.

Neilsen Buchanan spoke regarding saturated parking in neighborhoods. If the Council passed the proposed Ordinance, it would receive goodwill and collaboration.

Michael Griffin urged the Council to eliminate the parking exemptions adopted to encourage development in the Downtown area. The price of a vibrant Downtown was parking issues in surrounding neighborhoods.

Stephanie Munoz suggested the Council refund fees paid by projects in the pipeline. The Council should take back the parking obligations.

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Eric Rosenblum felt removing the parking exemptions would be bad for the neighborhood and harmful to Palo Alto's interests. Parking should be decoupled from buildings, and parking cash-outs could be used to allow greater capacity for residents in under-utilized buildings.

Robert Moss suggested the Council pass the proposed Ordinance with a few modifications. First, projects which received Council approval should be allowed to proceed. Second, the Council should set a time limit to provide a corrective action. Third, the Council had to determine long-term methods for improving parking.

Adina Levin, Friends of Caltrain, reported Palo Alto was moving towards requiring self-parking of buildings. An unintended consequence was increased driving. The development community was willing to work towards a solution.

Sal Giovanotto did not believe the moratorium was fair. The City was fine without any changes.

Public Hearing closed at 9:31 P.M.

Council Member Kniss inquired about the general impact on the six projects in the pipeline.

Mr. Akin indicated Table 5 on page 11 of the Staff Report showed the projects with planning entitlements. Those projects would not be subject to the proposed Ordinance. Table 6 showed other projects in the pipeline without approval. Those projects would be subject to the proposed Ordinance. The project affected by the most impacts would be 240 Hamilton Avenue with nine spaces. The remaining projects would have no impact or a one-space impact in terms of fees. The majority of projects used grandfather square footage paid into the Assessment District or existing TDRs. Those would not be subject to the proposed Ordinance.

Council Member Kniss requested Staff address the 200-square-foot former exemption.

Mr. Akin believed the Ordinances adopted in 1986 initially allowed small expansions to a building, not necessarily a new building. The exemption was now applied to new projects. Staff's recommendation was to eliminate the exemption, because the incentive was not needed for new buildings.

Council Member Kniss asked if projects other than 240 Hamilton Avenue were running one or two spaces.

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Mr. Akin responded yes.

James Keene, City Manager, suggested Staff clarify impacts to projects.

Mr. Akin reported that the proposed Ordinance did not prevent projects from proceeding. Projects would have to pay an in-lieu fee equivalent to the amount of the exemption. One parking space was equivalent to \$60,000. The 240 Hamilton Avenue project was impacted by more than \$500,000.

Mayor Scharff inquired whether pipeline projects would lose 200 square feet of Floor Area Ratio (FAR) and have to redesign projects or if projects simply have to pay for parking spots.

Mr. Akin stated yes, as currently drafted.

Mayor Scharff asked if projects would have to be redesigned to deal with that issue.

Mr. Akin answered yes. If projects were over the FAR amount, applicants would have to redesign projects or buy existing TDRs to backfill that amount.

Council Member Klein inquired whether the two projects in Table 5 were excluded from the proposed Ordinance.

Mr. Akin indicated they would be excluded as recommended by Staff.

Council Member Klein asked if the two projects could proceed.

Mr. Akin replied yes.

Council Member Klein counted seven projects in the pipeline.

Mr. Akin noted the 261 Hamilton Avenue project was shown twice in the table; therefore, only six projects were in the pipeline.

Council Member Klein asked if the six projects could proceed if the applicants paid the parking in-lieu fee.

Mr. Akin needed to determine whether applicants would have to reduce overall square footage in terms of FAR when the 200 square feet was applied to both floor area and the parking situation. From a parking standpoint, the applicants could pay the in-lieu fee and proceed with the project.

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Council Member Klein inquired whether the project at 240 Hamilton Avenue would be exempt from 26 spaces under previous law.

Mr. Akinin answered yes.

Council Member Klein requested an explanation of the lower fee for the project at 240 Hamilton Avenue.

Mr. Akinin reported the applicant could proceed with the project because of existing TDRs. With respect to actual parking exemptions, the grandfathered mezzanine level accounted for eight spaces and the bonus FAR accounted for one space. With those reductions, the lower fee amount was correct. The mezzanine level would also be removed from FAR; therefore, the applicant would have to reduce the building by that square footage as well.

Council Member Klein asked if the applicant for the project at 429 University Avenue would be charged for the 20 spaces covered by the TDR.

Mr. Akinin indicated that the applicant paid that amount to someone else, so it would not pay the City anything for those.

Council Member Klein inquired whether the applicant would be charged a parking in-lieu fee for one space at \$60,000.

Mr. Akinin replied yes.

Council Member Klein requested comment on the project at 640 Waverley Street.

Mr. Akinin explained that the project was covered by the 200-square-foot bonus. The project was also grandfathered, which Staff did not propose to remove in the current recommendation. The project also had a mixed-use parking reduction, which Staff did not propose to remove. The project would have to comply with the 200-square-foot bonus.

Council Member Klein understood the project at 500 University Avenue had the same situation.

Mr. Akinin agreed. The applicant recently submitted an application indicating construction of an additional floor underground; therefore, the project would be over-parked by approximately 21 spaces.

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Council Member Klein did not understand the furor as the impact appeared to be at most \$60,000 to two or three projects. He asked if the changes had been explained to everybody.

Mr. Akin remarked that adding \$60,000 in a pro forma was a major concern for developers. A second issue was likely related to the FAR itself. The Council could determine that the bonus would remain for FAR but not for parking. In that case, developers would lose 200 square feet.

Council Member Klein had difficulty understanding the majority of the applicants' concerns. He assumed each and every applicant met with Staff.

Mr. Akin talked to a handful of people who provided comments.

Council Member Klein inquired whether pipeline projects were being treated consistent with past Council actions.

Molly Stump, City Attorney, reported in 2012 the Council faced a considerable pipeline issue when it suspended use of the 1.0 to 1.0 exemption. In that case, the actions were consistent with proposed actions for this item. Legally, the vested right applied only once a building permit was pulled and substantial work performed under the building permit. None of the projects in either Table 5 or Table 6 were at that point. Staff proposed projects in Table 5 proceed with no change. The remaining projects had submitted applications but had not received final planning entitlement.

Council Member Klein recalled that in 2012 the Council applied a different standard for pipeline projects than in previous years.

Ms. Stump understood that actions taken a year ago were a change from the traditional approach.

Council Member Klein inquired about the impact to projects contained in Table 6 if the pre-2012 pipeline policy was applied to them.

Cara Silver, Senior Assistant City Attorney, indicated that in the seven to eight years prior to 2012, the Council exempted projects that filed an application. All projects in Table 6 had formally filed an application, but had not received planning entitlement approval.

Council Member Klein asked if other projects could be included in Table 6 under the old standard.

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Mr. Akin was not aware of any other projects.

Vice Mayor Shepherd noted the tentative Council schedule included a Residential Parking Permit (RPP) Program, and inquired about the timing for that discussion.

Mr. Akin reported Staff was working on the framework for a Citywide opt-in Ordinance. Staff hoped to present it to the Council by the end of 2013.

Vice Mayor Shepherd agreed some of the Ordinances needed to be amended; however, she questioned whether the amendments should be contemporaneous with other relief. She understood that a TDR could still be utilized for a project not in the pipeline if the developer had already purchased a TDR but not designed it into a building.

Mr. Akin concurred.

Vice Mayor Shepherd understood a developer could not sell a TDR if the Council enacted the proposed Ordinance with the parking exemption. The TDR purchaser would have to pay for the parking exemption when he made the application.

Ms. Stump explained that TDRs created as of the effective date of the proposed Ordinance could be used under the old rules.

Vice Mayor Shepherd requested an explanation of "created."

Ms. Stump indicated the TDR was certified because work had been performed to seismically or historically rehabilitate the building even if the TDR had not been sold.

Vice Mayor Shepherd stated a TDR could be sold if the building was not seismically retrofitted; however, the developer would need to provide parking onsite or pay an in-lieu fee.

Ms. Stump agreed. New seismic or historic projects would not be able to generate parking relief. They would generate the FAR.

Vice Mayor Shepherd inquired whether the proposed RPP Program would apply only to Professorville or also to Downtown North.

Mr. Akin reported the goal was to offer first a Citywide opt-in Ordinance. He believed the first neighborhoods to opt into the Ordinance would be the residential neighborhoods surrounding the Downtown area.

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Council Member Price asked if neighborhoods around California Avenue would be allowed to participate in the RPP Program.

Mr. Akin believed neighborhoods surrounding California Avenue would follow shortly after the Downtown area once a Citywide opt-in Ordinance was enacted.

Mr. Keene explained that a Citywide Program would have metrics associated with parking intrusion. Neighborhoods would have to meet performance criteria to be eligible for an RPP Program.

Council Member Price requested Staff clarify public comments regarding additional architectural and design fees.

Mr. Akin indicated the primary concern was reducing the building size by a certain amount of square feet. For example, the 240 Hamilton Avenue project would spend additional architectural fees for new drawings to reduce the building if the applicant was not allowed to rebuild the 2,000 square foot mezzanine level into normal floor area and not allowed to build the new 200 square feet.

Ms. Stump noted the Ordinance as drafted deleted both the 200 square feet and the parking from the Code. The Council could retain the 200 square feet and indicate the project had to be parked.

Mr. Keene stated the developer would pay the \$60,000 parking in-lieu fee and the 200 square feet would remain in the building.

Mayor Scharff asked if that could apply to the 2,000 mezzanine as well.

Council Member Price felt the concept of cash-out for parking was a valid approach. She asked if the Council could discuss that approach in the current item or if Staff would review that as part of a Transportation Demand Management (TDM) Program for the private sector.

Mr. Akin indicated that approach would be part of a TDM strategy. It was a proven strategy that worked well. A cash-out approach was separate from the current discussion.

Council Member Price recalled that a number of community members were willing to engage with the City regarding these items. She inquired about a method for Staff to utilize the expertise and enthusiasm offered by stakeholders.

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Mr. Akin suggested stakeholders participate in the Downtown Development CAP process and contact him to schedule meetings.

Council Member Price requested Mr. Akin provide his phone number and email address.

Mr. Akin stated his email address was aaron.akin@cityofpaloalto.org and his direct line was 650-329-2679.

Council Member Burt did not believe the proposed Ordinance would encourage people to utilize modes of travel other than driving. Projects other than the 500 University Avenue project involved small amounts of change. He inquired whether Staff assumed applicants would pay in-lieu parking fees rather than make design changes.

Mr. Akin answered yes. He did not have exact numbers about how the 200 square foot FAR would affect projects. As the City Manager and the City Attorney mentioned, the Council could proceed with the FAR bonus separate from the parking exception.

Council Member Burt requested Staff explain how the Staff recommendation with respect to the 200 square foot exemption would change parking issues.

Mr. Akin explained that Staff wished to review parking exemptions to determine which ones were no longer necessary to incent development. The 200-square-foot exemption in particular was originally directed at minor building expansions.

Council Member Burt inquired about the net impact for pipeline projects if the Council did not include the 200-square-foot exemption.

Mr. Keene suggested there would be no real impact as long as the parking in-lieu fee payment was retained. The applicant kept the square footage but paid the in-lieu parking fee.

Council Member Burt recalled that Ken Hayes implied that the impacts of these changes would be much more significant than Staff indicated. He asked Mr. Hayes to clarify the impacts to projects given Staff's clarifications and retention of the 200-square-foot exemption for pipeline projects.

Mr. Hayes indicated his clients were concerned that projects in the application process were in jeopardy to a certain extent. The issues were

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not knowing whether TDRs would continue to be exempt from parking and whether that would apply to projects in the pipeline.

Council Member Burt asked Mr. Hayes to focus his response on the impact to pipeline projects if the Council retained the 200-square-foot exemption along with a parking in-lieu fee.

Mr. Hayes stated the impact on all the projects in which he was involved, with the exception of the 240 Hamilton Avenue project, would be payment of in-lieu fee, the \$60,000.

Council Member Burt inquired whether Mr. Hayes was interpreting the impact the same as Staff.

Mr. Hayes responded yes.

Council Member Burt commented that engagement of Downtown property owners was a positive development. The impact of the proposed Ordinance was nominal compared to the impact of RPP Programs and a TDM Program. There was a need to fund and construct an additional garage Downtown; however, he did not want to see the parking garage increase the number of trips to Downtown. There would be some degree of crisis with implementation of an RPP Program if Downtown property owners did not identify a solution.

Council Member Holman agreed that engagement of commercial property owners was positive. Payment of in-lieu fees did not solve the parking problem. In theory cash-outs were a good idea; however, they were not effective without monitoring and enforcement. Parking saturation in neighborhoods affected property values. Once TDRs were created, they were entitled entities. She asked if TDRs were a real asset.

Ms. Silver explained that TDRs were created at the time that the building was certified as historically renovated or seismically retrofitted. At that point, the City recorded a document that required historic rehabilitation and seismic retrofitting to remain in place and created the TDR. Under Staff's proposal, any TDR that was formally created following the effective date of the proposed Ordinance could be transferred or used onsite for bonus square footage; however, it would not have the additional parking incentive.

Council Member Holman understood that if a project used a TDR, the City could not charge the project in-lieu fees because the TDR was an asset that had been paid for.

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Ms. Silver indicated that was not the analysis. The Council had some discretion on the issue. Staff recommended that certification was an appropriate dividing line. If the Council wished to change that benchmark, Staff would evaluate it. It was not entirely clear where the benchmark should be as a legal matter. It was more of a policy matter.

Council Member Holman asked if Staff considered the impact of eliminating the parking exemption for bonus square footage and TDRs related to Planned Community (PC) projects. She inquired whether the Council's granting of additional square footage as part of a PC destroyed the value of TDRs and bonus square footage.

Ms. Stump understood Council Member Holman's question to relate to the TDR program and bonus square footage. That consideration was not within the work performed for the item. The item responded to Council direction to proceed with parking issues in the near term.

Council Member Holman simply wanted to voice her concern and consider possible unintended consequences.

Council Member Berman inquired about the timeline for someone paying in-lieu fees.

Mr. Akin stated the applicant paid in-lieu fees at the time it obtained a building permit.

Council Member Schmid noted that Tables 3 and 4 provided the TDR bonuses used. The 532 amount of parking exemptions seemed to be the number of TDRs used in Downtown.

Mr. Akin agreed.

Council Member Schmid asked if 147 TDRs were originated but had not yet been used.

Mr. Akin answered yes.

Council Member Schmid inquired whether 274 TDRs would be originated under the new terms without the parking exemptions.

Mr. Akin explained that eligible properties were on either a seismic list or a historic property list, but the improvements had not been made. Those properties would not be able to claim the parking exemption, only the FAR exemption.

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Council Member Schmid asked if the middle group, the 147, could still claim the parking exemption.

Mr. Akinin replied yes.

Council Member Schmid referenced the parking exemptions in Attachment C of the March 5, 2012 report, and asked about a cause for the gap between 323 exemptions and 532 TDRs.

Mr. Akinin noted the March 5, 2012 report was part of the annual report to the Council. Staff performed the most in-depth analysis of TDRs that had ever been performed in preparing the Staff Report.

Council Member Schmid inquired whether the annual reports might have some questionable data.

Mr. Akinin indicated that the annual reports considered parking that came online since the TDR. The table within the Staff Report only showed the number of TDRs used. It did not show any offset from parking built Downtown.

Council Member Schmid was interested in the dynamics of the current situation. People from Downtown North and Professorville indicated there was a dynamic in the neighborhoods that was quite different than in the past. He asked if the gap between exemptions reported in the annual reports and in the Staff Report was a possible explanation of the changing dynamic.

Mr. Akinin suggested the change in dynamic was affected more by the change in occupancies within buildings than by the new floor area. Downtown Palo Alto contained approximately 3.5 million square feet of non-commercial area in 1986. The growth rate was less than 10 percent over the last 30 years. Obviously the parking problem grew by more than 10 percent. A change in use had a greater proportional effect than TDRs on the overall parking situation.

Council Member Schmid commented that the Council could proceed with the proposed Ordinance; however, the future would bring bigger issues. Good data would be critical to making good decisions.

Mayor Scharff asked how Section 3 related to losing 2,000 square feet of FAR as it only mentioned parking. Section 2e disallowed the parking

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exemption; whereas, Section 2a mentioned the floor area bonus and related parking.

Ms. Stump suggested the problem was in the drafting of the proposed Ordinance. After additional review, Staff now recommended the Council separate those two pieces. It was a matter of drafting an Ordinance quickly and working through the language of the Code.

Mayor Scharff assumed Staff could amend an Ordinance in any manner with appropriate Council direction.

Ms. Stump indicated the vacant property piece was slightly more complex, because Staff could not provide the implications in the Downtown Commercial (CD) Zone for that exemption.

Mayor Scharff asked why the Council could not simply require the applicant to park the project.

Ms. Stump stated in theory the Council could require that. Staff could do that as a policy matter if the Council wished to make that policy direction.

Mayor Scharff inquired whether deleting "and selected" from Section 2a would allow retention of the 200-square-foot exemption.

Ms. Stump recommended the Council describe changes in conceptual terms in a Motion and allow Staff to work through the Code. There were places where the Code looped around on itself. Staff requested the opportunity to ensure an Ordinance was drafted correctly.

MOTION: Mayor Scharff moved, seconded by Council Member Burt to adopt:

1. An Ordinance to amend the Palo Alto Municipal Code (PAMC) to permanently delete Sections 18.52.060(a)(2) and 18.52.060(c) related to Parking Assessment Districts to eliminate the "Exempt Floor Area" parking exemption which allows floor area up to a floor area ratio (FAR) of 1.0 to 1.0 to be exempt from parking requirements within the Downtown Parking Assessment Area, and floor area up to an FAR of 0.5 to 1.0 to be exempt within the California Avenue area parking assessment district (Attachment A); and
2. An Interim Ordinance (Attachment B) to amend PAMC Chapters 18.18, Downtown Commercial (CD) District, and 18.52 (Parking and Loading Requirements), to make the following changes, to be effective for a period of two years:

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- a. Delete Sections 18.18.070(a)(1), 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to eliminate the parking exemption related to the 200 square foot Minor Floor Area Bonus for buildings not eligible for Historic or Seismic Bonus (keep sq footage but eliminate parking exemption).
- b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to eliminate the parking exemption for on-site use of Historic and Seismic Bonus.
- c. Amend Section 18.18.080(g) to remove the on-site parking exemption for floor area bonuses derived through historic and seismic upgrades via the transfer of development rights (TDR) program (where up to 5,000 square feet (SF) of floor area for each type of upgrade is allowed for receiver sites in the CD or downtown PC zoning districts).
- d. Amend Section 18.52.070(a)(3) to disallow 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. (keep sq footage but eliminate parking exemption).

Mayor Scharff felt it was important to eliminate out-of-date ordinances. The Council wanted to move toward projects fully parking themselves, a robust TDM program, an RPP Program and a parking garage. Holistically, those were the components of a resolution for the parking issue. With respect to grandfathering projects, last year the Council did not grandfather in the two projects. It would be unfair for the Council to treat pipeline projects in 2013 differently than it treated pipeline projects in 2012. It became a money issue in terms of paying in-lieu parking fees as opposed to redesigning the project.

Council Member Burt recalled in July 2012 the Council gave a general notice of intention to change regulations. In March 2013 the Council provided additional direction. He was interested in why colleagues would not second the Motion.

Council Member Kniss inquired whether the project at 240 Hamilton Avenue was on appeal.

Mr. Aknin responded yes.

Council Member Kniss noted the Council would discuss several items related to parking. The amendments along with an RPP Program and a TDM Program should be considered together. The five pipeline projects would pay a total of \$300,000 for in-lieu parking fees.

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Mr. Aknin indicated a couple of pipeline projects had zero impact.

Council Member Kniss felt the only pipeline project affected by a major impact was 540 Hamilton Avenue at approximately \$540,000. She was undecided regarding the Motion and wished to hear colleagues' comments.

Vice Mayor Shepherd requested the Mayor split Motion Items One and Two for purposes of voting.

Mayor Scharff agreed to split the Motion for purposes of voting.

MOTION SEPARATED FOR THE PURPOSE OF VOTING: Mayor Scharff bifurcated the Motion to allow separate votes for Item Numbers One and Two.

BIFURCATED MOTION: Mayor Scharff moved, seconded by Council Member Burt to adopt:

1. An Ordinance to amend the Palo Alto Municipal Code (PAMC) to permanently delete Sections 18.52.060(a)(2) and 18.52.060(c) related to Parking Assessment Districts to eliminate the "Exempt Floor Area" parking exemption which allows floor area up to a floor area ratio (FAR) of 1.0 to 1.0 to be exempt from parking requirements within the Downtown Parking Assessment Area, and floor area up to an FAR of 0.5 to 1.0 to be exempt within the California Avenue area parking assessment district (Attachment A); and

MOTION PASSED: 9-0

BIFURCATED MOTION: Mayor Scharff moved, seconded by Council Member Burt to adopt:

2. An Interim Ordinance (Attachment B) to amend PAMC Chapters 18.18, Downtown Commercial (CD) District, and 18.52 (Parking and Loading Requirements), to make the following changes, to be effective for a period of two years:
 - a. Delete Sections 18.18.070(a)(1), 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to eliminate the parking exemption related to the 200 square foot Minor Floor Area Bonus for buildings not eligible for Historic or Seismic Bonus (keep sq footage but eliminate parking exemption)
 - b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to eliminate the parking exemption for on-site use of Historic and Seismic Bonus.

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- c. Amend Section 18.18.080(g) to remove the on-site parking exemption for floor area bonuses derived through historic and seismic upgrades via the transfer of development rights (TDR) program (where up to 5,000 square feet (SF) of floor area for each type of upgrade is allowed for receiver sites in the CD or downtown PC zoning districts).
- d. Amend Section 18.52.070(a)(3) to disallow 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. (keep sq footage but eliminate parking exemption)

Vice Mayor Shepherd expressed concern about the possible unintended consequences of incentivizing people to seismically retrofit their historic buildings. She wanted to understand whether the amount of in-lieu fees was appropriate. Generally she disagreed with moratoriums. She also was having difficulty with not allowing the 540 Hamilton Avenue project to proceed.

Mr. Keene remarked that use of a parking exemption as an incentive was outdated. He recommended the Council direct Staff to return separately with other incentives related to historic and seismic improvements. There might be other credits the City could offer.

Vice Mayor Shepherd questioned whether the revisions should be delayed and presented with a TDM Program. She could support a Motion with better incentives and inclusion of a TDM Program.

Council Member Holman did not agree with delaying revisions, but did agree that other programs needed to be brought forward. She inquired about the reason for a two-year effective period.

Mr. Akin explained that the Downtown Development CAP Study Phase 1 and Phase 2 would require one to two years.

Council Member Holman recalled reading in PTC Minutes that Phase 1 would require six months and asked if 1 1/2 years were needed for Phase 2.

Mr. Akin indicated between one and two years was needed.

Mr. Keene stated the application, interpretation and policy changes generated by Phase 2 would take time.

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Council Member Holman requested a timeline for presentation of the RPP and TDM Programs.

Mr. Akin reported Staff planned to provide an Ordinance regarding an RPP Program to the Council in December 2013. Some time in spring to early summer 2014 a program could be implemented. He did not have an estimate for a TDM Program. The initial portion could be effective sometime in 2014. It would take time to provide a thorough TDM Program.

Council Member Holman inquired about better utilization of parking garages.

Mr. Akin stated Staff was issuing a Request for Proposal (RFP) for attendant parking at Lot R. Staff would consider different methods throughout 2014.

Council Member Holman was sensitive to bonus square footage for seismic and historic improvements and TDRs. The City Manager mentioned consideration of other ways to incentivize improvements and TDRs. She asked about the difficulty of pipeline projects to park required spaces rather than paying in-lieu fees.

Mr. Akin noted the 500 University Avenue project was now fully parked. The 240 Hamilton Avenue project was utilizing lifts to provide parking for residents. To provide that incremental space or two might require digging further into the ground, which would add a disproportionate amount of cost. Within Downtown, it would be best to have parking spread out.

Council Member Holman requested Staff consider cooperative use of private garages.

Council Member Schmid favored proceeding with the proposed Ordinance. The Council should give the public a clear signal that these issues were important.

Council Member Berman was inclined to support the Motion. These measures were the beginning of a solution. He wished to ensure that Council decisions did not cause applicants to redesign projects. This process was similar to past processes in similar situations. Removing the grandfather issue mitigated the negative consequence for applicants. The increased number of single-occupancy drivers was the cause of parking problems. He did not wish to incentivize single-occupancy car trips.

AMENDMENT: Council Member Klein moved, seconded by Vice Mayor Shepherd to exempt the pipeline projects at 240 Hamilton Avenue, 261

MINUTES

Hamilton Avenue, 429 University Avenue, 640 Waverley Street, 500 University Avenue, 301 High Street as listed in Table Six of the Staff Report.

Council Member Klein wished to refute the Mayor's arguments with respect to pipeline projects. He was concerned because the City's integrity was at stake. The City had a policy that projects in the application process had some rights, and the Council should not change that policy to remove those rights. The Council had an overriding obligation to be fair to people.

Vice Mayor Shepherd did not support giving away free parking. The Council needed to adjust to the knowledge-based economy by building garages in Downtown and building up Downtown infrastructure.

Council Member Kniss commented that consistency and predictability made a City successful. The City apparently did not know how to handle success and needed a long-term solution to a cyclical problem.

Council Member Holman felt it was reasonable to support the Motion. The Council had a practice, rather than a policy, not to include pipeline projects. The practice as changed in 2012 was appropriate to follow in this situation. Fairness was important. With the Council's discussion of parking issues over the past year, applicants had to know changes were coming.

Mayor Scharff concurred with Council Member Holman's comments. If the Council moved forward with the new approach, then people would have the sense of consistency. It was important for the Council to address parking solutions. Each project should pay its fair share for parking.

AMENDMENT TO MOTION FAILED 4-5 Klein, Shepherd, Kniss, Price yes

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND THE SECONDER to add to 2b and 2c "to have Staff return with replacement incentives for historic and seismic bonus" to read as follows:

- b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to eliminate the parking exemption for on-site use of Historic and Seismic Bonus and to have Staff return with replacement incentives for historic and seismic bonus.
- c. Amend Section 18.18.080(g) to remove the on-site parking exemption for floor area bonuses derived through historic and seismic upgrades via the transfer of development rights (TDR) program (where up to 5,000 square feet (SF) of floor area for each type of upgrade is allowed for receiver sites in the CD or downtown PC zoning districts)

MINUTES

and to have Staff return with replacement incentives for historic and seismic bonus.

Council Member Burt inquired whether Vice Mayor Shepherd was adding language to the Motion.

Vice Mayor Shepherd responded yes.

Council Member Holman suggested that language should also apply to 2c

Ms. Stump agreed that 2b and 2c were a pair.

Council Member Klein felt the Council should not wait for other aspects to be presented. The proposed Ordinance would not change the main problem, but was the beginning step.

MOTION AS AMENDED PASSED: 8-1 Kniss no



City of Palo Alto

City Council Staff Report

(ID # 4211)

Report Type: Consent Calendar

Meeting Date: 11/4/2013

Summary Title: Second Reading - Parking Exemptions Code Ordinances

Title: SECOND READING: 1. Adoption of an Interim Ordinance to Amend Chapters 18.18, Downtown Commercial (CD) District, and 18.52, (Parking and Loading Requirements) to Make the Following Changes to be Effective for a Period of Two Years: a. Delete Sections 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to Eliminate the Parking Exemption related to the 200 Square Foot Minor Floor Area Bonus for Buildings not Eligible for Historic or Seismic Bonus. b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to Eliminate the Parking Exemption for On-site Use of Historic and Seismic Bonus. c. Amend Section 18.18.080(g) to remove the On-site Parking Exemption for Historic and Seismic Transfer of Development Rights up to 5,000 Square Feet of Floor Area to a Receiver Site in the CD or PC Zoning Districts. d. Amend Section 18.52.070(a)(3) to Remove the Sentence Allowing Square Footage to Qualify for Exemption That Was Developed or Used Previously for Nonresidential Purposes but was Vacant at the time of the Engineer's Report. 2. Adoption of an Ordinance to Repeal Ordinance 5167 and Amend the Palo Alto Municipal Code to Delete Sections 18.52.060(a)(2) and 18.52.060(c) Related to Parking Assessment Districts to Eliminate the "Exempt Floor Area" Parking Exemption Which Allows for Floor Area up to a Floor Area Ratio (FAR) of 1.0 to 1.0 to be Exempt From Parking Requirements Within the Downtown Parking Assessment Area and Floor Area up to an FAR of 0.5 to 1.0 to be Exempt Within the California Avenue Area Parking Assessment District. These actions are exempt from the California Environmental Quality Act (CEQA) under Section 15061 and 15301 of the CEQA Guidelines (First Reading: October 21, 2013 PASSED: 8-1 Kniss no)

From: City Manager

Lead Department: Planning and Community Environment

Recommendation

Staff recommends that Council adopt on second reading the following:

1. Adopt an Interim Ordinance (Attachment A) to amend PAMC Chapters 18.18, Downtown Commercial (CD) District, and 18.52 (Parking and Loading Requirements), to make the following changes, to be effective for a period of two years:
 - a. Delete Sections 18.18.090(b)(1)(C) and 18.52.070(a)(1)(D) to eliminate the parking exemptions related to the 200 square foot Minor Floor Area Bonus for buildings not eligible for Historic or Seismic Bonus.
 - b. Delete Sections 18.18.090(b)(1)(B), 18.52.070(a)(1)(B) and 18.52.070(a)(1)(C)(i) to eliminate the parking exemption for on-site use of Historic and Seismic Bonus floor area.
 - c. Amend Section 18.18.080(g) to remove the on-site parking exemption for floor area bonuses derived through historic and seismic upgrades via the transfer of development rights (TDR) program (where up to 5,000 square feet (SF) of floor area for each type of upgrade has been allowed without having to be “parked” for receiver sites in the CD or downtown PC zoning districts).
 - d. Amend Section 18.52.070(a)(3) to disallow 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.
2. Adopt an Ordinance to amend the Palo Alto Municipal Code (PAMC) to permanently delete Sections 18.52.060(a)(2) and 18.52.060(c) related to Parking Assessment Districts to eliminate the “Exempt Floor Area” parking exemption which allows floor area up to a floor area ratio (FAR) of 1.0 to 1.0 to be exempt from parking requirements within the Downtown Parking Assessment Area, and floor area up to an FAR of 0.5 to 1.0 to be exempt within the California Avenue area parking assessment district (Attachment B).

Background

On October 21, 2013, the City Council approved, with amendments to the original staff recommendation, an interim ordinance to be effective for a period of two years to eliminate parking exemptions related to the following:

1. 200 square foot Minor Floor Area Bonus.
2. On-site use of Historic and Seismic Bonuses.
3. Floor Area Bonuses derived through historic or seismic upgrades via the transfer of development rights (TDR) program.

4. 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.

Per staff's recommendation at the Council hearing, the Council did not modify the existing building replacement provision of code section 18.18.120(a)(2) and (b)(2) pertaining to grandfathered uses and facilities as originally proposed. In addition, the Council modified the ordinance to keep the 200 square foot Minor Floor Area Bonus for buildings not on the City's list of historic resources or seismic categories, but to eliminate the parking exemption associated with this bonus. In addition, Council clarified that this bonus must be parked and that if it cannot be parked on site, it can pay in lieu parking fees. A revised Interim Ordinance which reflects Council's action is included as Attachment A.

The Council also approved an Ordinance to Repeal Ordinance 5167 and amend Palo Alto Municipal Code related to Parking Assessment Districts to eliminate the "Exempt Floor Area" parking exemption which allows for floor area up to a floor area ratio (FAR) of 1.0 to 1.0 to be exempt from parking requirements within the Downtown Parking Assessment Area and floor area up to an FAR of 0.5 to 1.0 to be exempt from parking requirements within the California Avenue area parking assessment district (Attachment B). There had been a moratorium on the use of this ordinance since October 2012.

Discussion

At the October 21, 2013 Council hearing on the proposed ordinances, there were a number of public speakers, including residents of the neighborhoods surrounding the downtown area, and developers and commercial property owners with projects pending review that could be impacted by the Council's action on the interim ordinance. The residents expressed concern with the intrusion of parking into the neighborhoods, indicating data has been collected to document the increased impacts of parking in the area. Developers with projects in the pipeline (submitted for planning review but not yet approved) expressed concern that the rules would change in the middle of the process and asked that Council consider exempting the pipeline projects from the interim ordinance.

After some discussion, the Council determined that the projects that had received final planning approvals and/or building permits (refer to Table 5 in Attachment C, Council Report Parking Exemptions dated October 21, 2013) would be exempt from the interim ordinance. The Council also determined that the pipeline projects listed in Table 6 of the October 21st CMR Report, reduced to five projects given the at-places memo (Attachment D) regarding project changes for one of listed projects, would be subject to the provisions of the Interim Ordinance. These projects would either need to be revised to reduce floor area, provide the required parking spaces on site or pay the in-lieu fees (if in the assessment district). Staff has already spoken to several of these applicants, who now intend to provide additional parking onsite

and/or pay in-lieu fees.

Timeline

The Interim Ordinance to eliminate certain parking exemptions for a period of two years would become effective 31 days after Council's adoption. The interim ordinance would be in effect for two years from its effective date unless amended or made permanent by Council. The Ordinance establishing the moratorium on the use of Parking Exemptions within the Downtown and California Avenue Parking Assessment areas will expire on December 28, 2013. In order for the current provisions to stay in effect, the permanent ordinance will need to be adopted by the City Council 31 days prior to the expiration (by November 27, 2013).

Environmental Review

The proposed Ordinances would eliminate certain exemptions to the parking regulations within the Downtown and California Avenue areas 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. Each development project submitted under the revised regulations will be subject to its own environmental review. Consequently, these ordinances are 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 these Ordinances may have a significant effect on the environment. Further, the actions are compliant with Section 15301 in that these proposed ordinances will have a minor impact on existing facilities.

Attachments:

- Attachment A: Interim Ordinance Parking Regulations (PDF)
- Attachment B: Ordinance to Eliminate 1 to 1 Parking Exemption (PDF)
- Attachment C: CMR Parking Exemptions dated October 21, 2013 (PDF)
- Attachment D: Parking Exemptions At Places (PDF)
- Attachment E: October 21, 2013 City Council Action Minutes (DOC)

Planning and Transportation Commission
Verbatim Minutes
August 12, 2015

EXCERPT

Parking Exemption Ordinance - The Planning and Transportation Commission will Consider a Recommendation to the City Council for Adoption of an Ordinance to Amend Chapters 18.19, Downtown Commercial (CD) District and 18.52, Parking and Loading Requirements, to Eliminate Certain Parking Exemptions within the Downtown Area. This ordinance will make permanent the following parking exemptions previously eliminated by interim ordinance: (1) parking exemptions related to Transferrable Development Rights (TDRs); (2) 200 square foot exemption available for downtown projects and (3) exemption for properties that were "vacant" at the time the assessment district was formed. This ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant section 15061(b)(3) and section 15305 of the CEQA Guidelines. For more information contact Jonathan Lait at jonathan.lait@cityofpaloalto.org

Acting Chair Fine: Alright, let's reconvene this meeting. We have one last item, Number 4, which is the Parking Exemption Ordinance. Sorry. And in short this is to make permanent removal of a number of parking exemptions. Would staff like to give a brief presentation? We have nobody to listen (interrupted)

Cara Silver, Senior Assistant City Attorney: Thank you; Cara Silver, Senior Assistant City Attorney. This will be a very brief presentation. The recommendation here is to adopt the ordinance attached as Exhibit A to the packet, make a recommendation to Council to make that ordinance permanent. By way of background this ordinance deals with a series of parking regulations that the City Council put into place in 2013 to try to shore up some parking exemption loopholes in the zoning code. This related this particular ordinance related to four often used parking exemptions in the Downtown area. The interim ordinance will expire on November 4, 2015, and so this ordinance is, must be adopted before November 4, 2015, to have a seamless transition.

So I wanted to summarize the four parking exemptions that this ordinance will permanently eliminate. First of all there is a 200 square foot (sf) parking exemption that is given to properties in the Downtown area that do not receive a seismic or a historic bonus. That 200 sf bonus can only be used onsite and previously it was also parking exempt. This ordinance will eliminate that exemption.

Second, this ordinance eliminates the parking exemption associated with the bonus given for seismic retrofitting of buildings and historic preservation of buildings. You can get up to a 5,000, I believe it's 5,000 sf bonus for those types of rehabilitation and previously those bonuses were parking exempt. This ordinance will eliminate the exemptions for those types of developments. And again this ordinance will, the parking exemptions will be eliminated for use of the bonus onsite and also for offsite transfer of the bonus known as a TDR.

And then finally the ordinance eliminates the parking exemptions for property where the floor area was used previously for nonresidential use and the property was vacant at the time the original parking assessment district was formed in the Downtown area. That was sort of a historic exemption. It has not been used very often, but it's been identified as sort of a loophole and so this will eliminate that exemption.

And then finally there are a couple of sort of clarifying and clerical changes made in this permanent ordinance. That one other note on this is that in connection with the interim ordinance Council also directed staff to look at whether by eliminating the parking exemption for historic and seismic renovations whether that would disincentivize those types of rehabilitations. And staff did look at that and the thought is that as long as the bonus is still there, the square footage bonus itself serves as an incentive and the parking exemption is not needed as an additional incentive. That concludes our report.

1
2 Acting Chair Fine: Thank you so much. I'd like to open it up for any questions on the Commission.
3 Commissioner Downing.

4
5 Commissioner Downing: Quick question. So once these exemptions are removed those parking
6 requirements can then be met with in lieu fees?

7
8 Ms. Silver: Yes they can. Yes, in Downtown. In the Downtown area, yes.

9
10 Commissioner Downing: But not?

11
12 Ms. Silver: Actually the exemptions only apply to the Downtown. So they will be available, yes.

13
14 Commissioner Downing: Ok, that's what I thought.

15
16 Ms. Silver: In lieu.

17
18 Acting Chair Fine: Commissioner Michael.

19
20 Acting Vice-Chair Michael: So the as I recall these exemptions are subject to a temporary moratorium at
21 the moment? What's the experience the City's having under the temporary status of the moratorium?

22
23 Ms. Silver: So let's see, can you speak to any of the historical during the two year period we have had a
24 few projects that have come forward I know with requests for bonuses and some of the parking actually
25 has been accommodated. All of the parking has either been accommodated onsite or a parking in lieu
26 fee has been paid. So it doesn't appear to be impacting projects.

27
28 Acting Vice-Chair Michael: So maybe to put it another way you're not seeing a significant amount of
29 problems with the, with this approach?

30
31 Ms. Silver: Correct.

32
33 Acting Vice-Chair Michael: Ok.

34
35 Acting Chair Fine: Any other questions from the Commission? Would anyone like to make a Motion?
36 Commissioner Michael.

37
38 MOTION

39
40 Acting Vice-Chair Michael: I would like to make a Motion that we, that the Commission recommend to
41 Council adopting an ordinance permanently amending Chapters 18.18 and 18.52 to eliminate certain
42 Downtown parking exemptions as noted in the staff report.

43
44 Acting Chair Fine: Thank you. Is there a second?

45
46 SECOND

47
48 Commissioner Downing: Second.

49
50 VOTE

51
52 Acting Chair Fine: Seconded by Commissioner Downing. Are we ready to vote on this? All those in
53 favor? All those against? None. The Motion passes four to nothing and that concludes Item 4.

54
55 MOTION PASSED (4-0-3, Commissioners Tanaka, Rosenblum, and Gardias absent)

1 **Commission Action:** Motion to adopt staff recommendations, making permanent the removal of
2 parking exemptions downtown. Motion by Commissioner Alcheck, seconded by Commissioner Downing.
3 Motion passed unanimously (4-3)
4 \