



City of Palo Alto

City Council Staff Report

(ID # 9226)

Report Type: Consent Calendar

Meeting Date: 5/21/2018

Summary Title: Annual Office Limit Ordinance (Second Reading)

Title: SECOND READING: Adoption of an Ordinance Amending Palo Alto Municipal Code (PAMC) Chapter 18.40 (General Standards and Exceptions) of Title 18 (Zoning) to add a new Section Imposing an Annual Office Limit and Setting Forth Related Regulations, and to Repeal the Respective Regulations From Chapter 18.85 (Interim Zoning Ordinances). This Ordinance is Within the Scope of the Comprehensive Plan Environmental Impact Report (EIR) Certified and Adopted on November 13, 2017 by Council Resolution No. 9720 (FIRST READING: April 30, 2018 PASSED: 5-4)

From: City Manager

Lead Department: Planning and Community Environment

RECOMMENDATION

Staff recommends that the Council conduct a second reading and adopt the attached ordinance (Attachment A).

BACKGROUND

On April 30, 2018, the City Council reviewed and adopted on first reading a draft ordinance amending Chapter 18.40 and repealing interim regulations in Chapter 18.85 of Title 18 of the Palo Alto Municipal Code ([staff report #9175](#)).

The motion below passed, moved by Council Member Scharff and seconded by Council Member Wolbach, with a 5-4 vote (DuBois, Fine, Holman, and Kou voting no).

- A. Adopt an Ordinance amending the Palo Alto Municipal Code to establish Annual Office Limit (AOL) regulations to replace the interim regulations, replacing in Section 18.40.190 (c)(2), “non-office” with “non-office annual limit land”;
- B. Find the action within the scope of the Comprehensive Plan EIR certified on November 13, 2017; and

C. Return the Ordinance to Council within two to four years.

The Ordinance has been modified to incorporate the Council's changes cited in section A above. The summary of the Action Minutes are available online at the following link: <https://cityofpaloalto.org/civicax/filebank/documents/64903> for additional details.

Attachments:

Attachment A - Ordinance Amending Annual Office Limit (PDF)

Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Adding Section 18.85.200 (Annual Office Limit) to Chapter 18.40 (General Standards and Exceptions) of Title 18 (Zoning) of the Palo Alto Municipal Code Imposing an Office Annual Limit of 50,000 Net New Square Feet in Designated Areas of City, and Repealing Those Provisions Related to the Annual Office Limit in Chapter 18.85 (Interim Zoning Ordinances)

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

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

A. The City of Palo Alto has long been considered the birthplace of Silicon Valley. With its proximity to Stanford University, its international reputation, its deep ties to technology firms, its highly rated public school system and its ample public parks, open space and community centers, Palo Alto continues to serve as a hub for technology-based business.

B. Palo Alto is considered one of Silicon Valley's most desirable office markets. Average commercial rental rates increased significantly from 2013 to 2015. In 2013 the average monthly rental rate citywide for office was \$4.57 per square foot. That rate increased to \$5.12 per square foot in 2015.

C. As a result, prior to adoption of the interim annual office limit in 2015, the City saw a steady increase of new Office and Research and Development (R&D) projects. According to data submitted by the City to support the Valley Transportation Authority's Congestion Management Plan (CMP), since 2001, the City has added 234,002 of net new square feet of office/R&D development in the California Avenue area; 315,586 in the downtown area, and 46,210 in the El Camino Real corridor.

D. The rate of change has been faster than anticipated, resulting in changes in the character of the City's commercial districts. The changes have also resulted in additional parking demand, traffic, and greenhouse gas emissions, and negatively impact the City's jobs/housing ratio.

E. Based on the CMP data, there have been six years since 2001 in which more than 50,000 net new square feet of Office/R&D development have been entitled in these districts combined, and these six years include the last two fiscal years (2014 and 2015) prior to adoption of the interim annual office limit.

F. Record high monthly rental rates for office space and low vacancy rates suggest that the rapid pace of development is likely to continue, putting pressure on sites that are not currently developed to their maximum potential, and contributing to a feeling in the community that the character of the City's commercial districts are changing too fast.

G. Based on the above findings, the City adopted interim annual office limit regulations by Ordinance No. 5357, later extended by Ordinance No. 5417, which applied to

three fiscal years (FY 2016-2018). Under these interim regulations, the pace of Office/R&D development in the covered areas has moderated.

H. Continuing the annual office limit serves the public interest and general welfare, and is consistent with the Comprehensive Plan’s goals and objectives, including improving the jobs to housing imbalance by limiting the growth of employment-generating development.

SECTION 2. A new Section 18.40.190 (Annual Office Limit) is added to Chapter 18.40 (General Standards and Exceptions) of Title 18 (Zoning) of the Palo Alto Municipal Code to read as follows:

18.40.190 Annual Office Limit

(a) Applicability

The regulations set forth in this Section shall apply to all Office Annual Limit Land Uses that are established by new construction or through the conversion of existing development

(b) Definitions

For purposes of this Section, the following terms shall have the definitions below:

(1) “Office Annual Limit Area” means the area shown in Exhibit A (attached to Ordinance No. _____), comprising portions of the commercial districts of Downtown, the California Avenue Area and the El Camino Real corridor.

(2) “Office Annual Limit Land Uses” shall include any of the following uses, each as defined in Section 18.04.030, in the Office Annual Limit Area:

- (A) Research and Development;
- (B) Administrative Office Services;
- (C) General Business Office;
- (D) Medical Office greater than 5,000 net new square feet; and
- (E) Professional Office.

(c) Office Annual Limit

No more than 50,000 net new square feet of Office Annual Limit Land Uses per fiscal year (July 1 to June 30) shall be approved by the City in the Office Annual Limit Area.

(1) The 50,000 square foot limit imposed by this Section shall not apply to exempt projects as defined in subsection (d) of this Section and such projects shall not be counted towards this limit. However, if an exempt medical office project under subsection (d)(1) or exempt City office use under subsection (d)(3) is subsequently converted to a non-exempt Office Annual Limit Land Use, the associated square footage shall be counted toward the 50,000 square foot limit for the fiscal year in which the conversion is requested or occurs.

(2) The 50,000 square foot limit shall apply to existing building area previously used by non-office annual limit land uses and converted to any of the Office Annual Limit Land Uses.

(3) The removal of existing Office Annual Limit Land Uses through demolition or conversion shall increase the amount of capacity available for allocation in that fiscal year by the amount of square footage removed.

(4) Unallocated square footage of Office Annual Limit Land Uses shall be carried over to the next fiscal year and be available for allocation until the end of that fiscal year only.

(5) Notwithstanding subsections (3) and (4) above, at no time shall the annual office limit for a single fiscal year exceed 100,000 square feet.

(6) This restriction shall be in addition to any other applicable growth restriction including but not limited to Comprehensive Plan Policy L-1.10. In the event multiple policies apply to a project, the policy most restrictive of growth shall apply.

(d) Exemptions

The following projects shall be exempt from the Office Annual Limit established by this Section, provided that only one exemption shall be permitted per project site.

(1) Small Projects. Projects comprised of 2,000 net new square feet or fewer of Office Annual Limit Land Uses, including accessory office space that is incidental to and customarily associated with a principal use or facility. This exemption shall be increased to 5,000 net new square feet or fewer where the net new square footage is devoted to Medical Office or nonprofit office use with a deed restriction to maintain the use for and by a nonprofit organization.

(2) Self-Mitigating Projects. Projects that would both: (1) provide rental housing for more workers than would be employed in the project; and (2) provide substantial transportation demand management strategies (individually or in cooperation with other projects or programs) to improve the current parking and traffic conditions.

(3) City Office Space. New office space used by the City of Palo Alto.

(e) Economic Hardship Waiver or Adjustment

An applicant may request that the requirements of this Section be adjusted or waived based on a showing that applying the requirements of this Section would effectuate an unconstitutional taking of property or otherwise have an unconstitutional application to the property.

The applicant shall bear the burden of presenting evidence to support a waiver or modification request under this Section and shall set forth in detail the factual and legal basis for the claim, including all supporting technical documentation.

Any such request under this section shall be submitted to the Director together with an economic analysis or other supporting documentation and shall be acted upon by the City Council.

(f) Allocation of Office Square Footage for Projects Subject to the Office Annual Limit

(1) Office development capacity for Office Annual Limit Land Uses shall be allocated upon approval of a planning entitlement, or a building permit or Certificate of Use and Occupancy if no planning entitlement is required, in the order that the projects are approved.

(A) If a planning entitlement approved by the Director is appealed to the City Council, the project shall be allowed to retain the office allocation provided that the Director's approval decision is upheld by City Council. If the City Council overturns the Director's approval decision and denies the project, the office allocation shall be forfeited and made available to other projects.

(B) If the planning entitlement or building permit with which the project received an office allocation expires, the office allocation shall be forfeited and made available to other projects. A project that received an office allocation at issuance of a Certificate of Use and Occupancy for the purposes of converting existing developed non-office space to one or more Office Annual Limit Land Uses, shall forfeit its office allocation if the related building permit expires and the office allocation will be made available to other projects. However, if the expiration of the planning entitlement or building permit occurs in a later fiscal year than when the office allocation was made, the forfeited office allocation will only be made available to other projects if it would not cause the annual office limit for that fiscal year to exceed 100,000 square feet.

(2) If more than one project will be considered for approval on the same day, then the project with the earliest initial submittal date shall have priority in receiving office allocation.

(3) Projects that cannot be approved due to the Office Annual Limit being reached for that fiscal year shall be considered for approval the following fiscal year.

(g) Implementation

The Director shall have the authority to adopt rules or procedures for the efficient and equitable implementation of these regulations.

SECTION 3. Sections 18.85.200 through 18.85.270, all of which pertain to the Annual Office Limit in Chapter 18.85 (Interim Zoning Ordinances) of Title 18 (Zoning) of the Palo Alto Municipal Code are hereby repealed.

SECTION 4. Supersede. This Ordinance supersedes any provision of the Palo Alto Municipal Code inconsistent with the provisions of this Ordinance.

SECTION 5. 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 6. Effective Date. This ordinance shall be effective on the thirty-first date after the date of its adoption.

SECTION 7. CEQA. The City Council finds that the environmental impacts of this Ordinance were disclosed, analyzed and evaluated as part of that certain Final Environmental Impact Report for the Comprehensive Plan Update considered and certified by the City Council on November 13, 2017, by Resolution Nos. 9720 and 9721 (“EIR”). The City Council considered the EIR prior to taking action on this Ordinance, in conformance with the California Environmental Quality Act (“CEQA”), together with state and local regulations implementing CEQA.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

APPROVED:

City Clerk

Mayor

APPROVED AS TO FORM:

City Manager

Assistant City Attorney

Director of Planning and
Community Environment