



City of Palo Alto

City Council Staff Report

(ID # 11672)

Report Type: Consent Calendar

Meeting Date: 12/7/2020

Summary Title: 1st Reading: Downtown In-Lieu Parking Office Ban Temporary Extension to 2022

Title: PUBLIC HEARING: Adoption of an Ordinance Amending Section 18.52.070 (Parking Regulations for CD Assessment District) to Temporarily Extend Ineligibility of Certain Uses to Participate in the University Avenue In-lieu Parking Program for 18 Months

From: City Manager

Lead Department: Planning and Development Services

Recommendation

The Planning and Transportation Commission (PTC) and Staff recommend that Council adopt an ordinance extending the existing temporary ban on commercial office uses above the ground floor from participating in Palo Alto's Downtown in-lieu parking program (Attachment A).

Executive Summary

The existing temporary ban preventing upper floor office uses from participating in the City's Downtown in-lieu parking program is due to expire on February 1, 2021. The proposed ordinance does not make any changes to the details of the temporary ban, but specifically modifies the term to extend for 18 months, until August 1, 2022. The intent of the extension is to provide sufficient time (1) for staff to complete the additional analysis and hold a discussion with the Planning and Transportation Commission as requested by Council when the ban was first put into place, and (2) to return to Council for consideration.

The PTC reviewed the draft Ordinance on November 18, 2020 and recommended Council approval (6-0-1, Riggs absent).

Background

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

With available resources advancing other Council priorities, staff was unable to schedule this item for PTC review within the Council-directed timeframe. On May 11, 2020, Council acknowledged these circumstances and supported a nine-month extension of the ban with a First Reading of the respective ordinance.² For procedural clarification, the extension ordinance was considered an urgency ordinance and PTC review was not required. At the Council meeting, there was discussion regarding letting the ban lapse and removing the limitations; Council direction did not support this. Council reaffirmed prior direction to staff to do the additional analysis and get PTC input. The [staff report](#)³ and [video](#)⁴ are available for more details (see Item #8). Since the May Council meeting, Planning and Development Services staff focused on COVID-19 pandemic-related assignments. The temporary ban ends on February 1, 2021 and the proposed extension allows the temporary parking policy to continue and provides staff the time needed to perform the work.

Note: Previous ordinances enacting the temporary ban amended the text of PAMC 18.18.090; this language was recently moved and consolidated with PAMC 18.52.070, as reflected in the attached ordinance.

Discussion

Downtown Palo Alto has seen little housing development in recent years. Office rental rates in this area are among the highest in the nation and the return on commercial office investment far outpaces any return on residential housing. Historically, there has been little incentive for a Downtown property owner to redevelop their property into housing.

Council considered a strategy to begin to tip the balance toward home production and away from office development. The strategy was to ban commercial office space participation in the City's in-lieu parking program and to implement housing policies enacted last year.

¹ Council Staff Report, 04/01/19: <https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=52156.04&BlobID=69992>

³ Council Staff Report, 05/11/20: <https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=44708.52&BlobID=76435>

⁴ Meeting Video, 05/11/20: <https://midpenmedia.org/city-council-152-5112020/>

Participation in the in-lieu parking program allows developers to pay a fee toward future downtown parking that serves the district, instead of placing those parking spaces on site. There are several reasons why in-lieu parking programs are beneficial; these programs support an urban design perspective, public parking implementation strategy and, for property owners redeveloping property, an economic perspective. Conversely, there has been some public criticism of the in-lieu parking program; staff acknowledges there is controversy regarding how this policy has been implemented over the past two decades. Moreover, until recently, the in-lieu fee cost per parking space was well below current construction costs; this meant the City was not receiving the full amount to enable building those parking spaces in the future. With construction of the California Avenue area public parking garage, the fee has been since been adjusted and is more in line with today's costs (current fee: \$106,171 / space).

Despite the ban, there have been no new applications for housing development Downtown. There has been no new commercial development that was not previously approved or exempted from the ban. Aside from the pandemic, there are likely many factors that influence the lack of development. These factors include opportunity, construction costs, and the time it takes to design an application for submittal. However, the regulatory uncertainty associated with a temporary ban is also likely a significant factor.

The in-lieu parking ban was intended to pause commercial development while the PTC and Council took the opportunity to consider changes to its housing policies to promote more home building. However, this discussion has not started. Meanwhile, the City still maintains controls on office development, including a 50,000 square foot cap per year in the Downtown, California Avenue area and along El Camino Real. In five years, Downtown has had a net increase of about 18,000 square feet of new office.

Proposed Schedule

Staff plans to bring this discussion forward to the PTC in Spring and Summer 2021 with a Study Session(s). Following that, staff will host a study session with the Council to garner input regarding the ideas that staff and the PTC proposed. Staff anticipate the study session to be held in Fall 2021. Adoption of new regulations, as applicable, are anticipated to be prepared in the Winter of 2021 through the Spring of 2022. With this timeline in mind, staff propose extending the ban to provide time for thorough review, policy development, and adoption.

Planning and Transportation Commission Review

The PTC reviewed the draft Ordinance on November 18, 2020 and voted 6-0-1 to recommend Council approve the extension. PTC members expressed a desire to study the issue and prepare recommendations to Council that advance the City's goal of housing development.

Summary of Key Issues

The City Council enacted and extended a temporary ban prohibiting Downtown property owners and developers from participating in the City's in-lieu parking program for commercial office uses above the ground floor. In this report, Council is asked to approve a second extension of the temporary ban for an additional 18 months, ending August 1, 2022.

Policy Implications

Enacting the ban on commercial office space participation in the City's in-lieu parking program was viewed as a strategy to level the playing field between office and residential development in the Downtown, with the intention to disincentivize office use. As reported earlier in this report, the City has not received any new Downtown housing application since the ban went into effect in April 2019. The implications of the ban are difficult to report on due to the short timeline that it has been in place and due to the present public health and economic impacts associated with the coronavirus. Staff will provide more analysis when this returns to Council for discussion.

Resource Impact

This action has no significant budget or fiscal impact.

Timeline

If City Council adopts the ordinance on December 7, 2020 (First Reading), the Second Reading is tentatively scheduled for January 11, 2021. The ordinance will become effective 31 days following the Second Reading, February 11, 2021. There will be a brief gap of ten days in coverage.

Stakeholder Engagement

Internal coordination with applicable city staff and departments was held for this specific report and ordinance.

Environmental Review

The Ordinance is subject to the California Environmental Quality Act (CEQA). The environmental effects of temporarily banning in-lieu parking, along with other elements of the Housing Work Plan, were analyzed in the Final EIR for the Comprehensive Plan Update, which was certified and adopted by Council Resolution No. 9720.

Attachments:

Attachment A: Ordinance Extending Univ Ave In Lieu Ban (PDF)

Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Amending Section 18.52.070 (Parking Regulations for CD Assessment District) of Chapter 18.52 (Parking and Loading Requirements) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) to Temporarily Extend Ineligibility of Certain Uses to Participate in the University Avenue In-Lieu Parking Program

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

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

- A. The City of Palo Alto (City) is a job center with among the highest housing prices and greatest jobs to housing imbalances in the Bay Area, resulting in a housing shortage that threatens the city’s prosperity, diversity, stability, environment, quality of life, and community character.
- B. A variety of policies result in incentives for office development over housing, including the availability of the University Avenue In-Lieu Parking Program.
- C. On April 1, 2019, the Palo Alto City Council adopted Ordinance 5460, which included a temporary ban on participation in the University Avenue In-Lieu Parking Program for certain uses, pending further study and recommendation from the Planning and Transportation Commission (PTC).
- D. Additional time is required for the City staff and the PTC to develop a recommendation regarding permanent changes to the University Avenue Parking In-Lieu Program.
- E. On March 4, 2020, California Governor Gavin Newsom declared a State of Emergency due to the threat of Coronavirus Disease 2019 (COVID-19).
- F. On March 16, 2020, the public health officers for the six Bay Area counties, including Santa Clara County, took the unprecedented and dramatic step of issuing “shelter-in-place” orders directing county residents to shelter at home for three weeks beginning March 17 (the Shelter-in-Place Order). The Order limited activity, travel, and business functions to only the most essential needs.
- G. On May 11, 2020 the City Council introduced, and on October 5, 2020 adopted, Ordinance 5506 to extend the temporary ban until February 1, 2021.
- H. The prolonged nature of the COVID-19 pandemic has precluded the collection of data and further study of parking strategies in the University Avenue downtown area.

- I. Pursuant to Palo Alto Municipal Code section 18.80.090, the public health, safety, and welfare require that the temporary ban on participation in the University Avenue In-Lieu Parking Program be further extended to maintain the status quo.

SECTION 2. Subdivision (d) of Section 18.52.070 (Parking and Loading) of Chapter 18.52 (Parking and Loading Requirements) of Title 18 (Zoning) is hereby amended to read as follows:

18.18.090 Parking and Loading

[. . .]

(d) In-lieu Parking Provisions

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

- (1) Construction of on-site parking would necessitate destruction or substantial demolition of a designated historic structure;
- (2) The site area is less than ten thousand square feet and it would not be physically feasible to provide the required on-site parking;
- (3) The site is greater than 10,000 square feet, but of such an unusual configuration that it would not be physically feasible to provide the required on-site parking;
- (4) The site is located in an area where city policy precludes curb cuts or otherwise prevents use of the site for on-site parking; or
- (5) The site has other physical constraints, such as a high groundwater table, which preclude provision of on-site parking without extraordinary expense.

Office uses above the ground floor shall not be eligible to participate in the in-lieu parking program from the effective date of Ordinance No. 5460 through February 1, 2021 through August 1, 2020.

[. . .]

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Council finds that the potential environmental impacts related to the Housing Workplan Ordinance, including the amendments enacted herein were analyzed in the Final EIR for the Comprehensive Plan Update, which was certified and adopted by the Council by Resolution No. 9720 on November 13, 2017. This Ordinance is consistent with and implements the program evaluated in the EIR.

///

///

///

///

///

///

///

///

///

///

///

///

SECTION 5. This Ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Assistant City Attorney

City Manager

Director of Planning & Development
Services