



# City of Palo Alto

## City Council Staff Report

(ID # 11237)

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**Report Type: Action Items**

**Meeting Date: 5/11/2020**

**Summary Title: Downtown In-Lieu Parking Office Ban Expiration**

**Title: PUBLIC HEARING: Recommendation to Allow Expiration of a One-Year Ban on Office Uses Above the Ground Floor From Participating in the City's Downtown Parking In-Lieu Program. Environmental Assessment: Exempt Pursuant to California Environmental Quality Act Guidelines Section 15601(b)(3).**

**From: City Manager**

**Lead Department: Planning and Development Services**

### **Recommendation**

Staff recommends that Council decline to adopt the attached ordinance extending a ban on commercial office uses above the ground floor from participating in the City's downtown in-lieu parking program. This allows the ban to expire and restores the municipal code's prior standard.

### **Background**

On April 1, 2019, the City Council adopted an ordinance amending the municipal code to enact several new housing policies. 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 Planning and Transportation Commission (PTC) to study the interaction between the City's parking policy on housing production and return to the Council in one year with recommendations.

As stated in a February 3<sup>rd</sup> report to Council regarding an [update on the City's housing workplan](#), staff noted then they were unable to schedule this item for PTC review within the Council-directed timeframe due to staff vacancies in the long-range planning program and with available resources advancing other Council priorities. To extend this temporary ban another year and enable this policy discussion, the City Council would need to adopt the attached

ordinance; the ban is set to expire on May 1, 2020. However, in light of recent circumstances associated to the coronavirus pandemic and subsequent public health and economic impacts, staff recommends this ban be allowed to expire restoring the municipal code to its prior (April 1, 2019) standard allowing all commercial uses to continue participating in the in-lieu parking program.

## **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.

Enacting the ban on commercial office spaces from participating in the City's in-lieu parking program was seen, when combined with the housing policies enacted last year, as a possible strategy to begin to tip the balance toward home production and away from office development.

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 onsite. There are a number of reasons why in-lieu parking is beneficial from an urban design perspective, public parking implementation strategy and, for property owners redeveloping property, an economic perspective. Conversely, there has also been some public criticism of the in-lieu parking program and 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, which meant the City was not receiving the full amount to actually build those 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 and there has been no new commercial development that was not previously approved or exempted from the ban. There are likely many factors that influence the lack of development, including opportunity, construction costs, and time it takes to design an application for submittal, but 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 had an opportunity to consider changes to its housing policies to promote more home building. This discussion has not started and, once started, it is unlikely to conclude in the near future because of the City's need to respond to the coronavirus outbreak. 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.

Prior to the County's shelter in place order, staff was preparing to send a draft ordinance to the PTC extending the ban, which expires on May 1, for one year. Since the public health order, and to preserve the Council's ability to extend the ban if desired, staff recommends invoking a provision of the municipal code ([PAMC Section 18.18.090](#)) that allows the Council to temporarily amend the zoning code when necessary for the public health, safety or welfare. This action allows the Council to act on the ordinance without requiring PTC review.

While initially supportive of extending the ban to allow for a discussion with the PTC, staff now recommends the ban be allowed to lapse and, in essence, restore the municipal code standard that had existed previously – allowing commercial office to participate in the in-lieu parking program. There are several reasons staff supports this direction:

- The shelter in place order has exacted a significant toll on the local, regional and global economy. Discouraging redevelopment of commercial property at this time when there are other sufficient policies in place that implement community values to limit office development and associated impacts appears unwarranted.
- The ban creates uncertainty for downtown property owners and developers who are unable or unwilling to move forward on projects until their ability to participate in the in-lieu parking program is resolved.
- Among all the land use and housing priority assignments directed to staff, this discrete ban is one of the least impactful and may actually discourage home building in mixed use projects downtown.
- Staff vacancies in the long-range planning program reported in February have not resolved. And, while interviews were about to commence, hiring these positions is now uncertain. The limited long-range planning resources that existed prior to the shelter in place order are further constrained as the City continues to respond to the coronavirus pandemic.
- The concern that in-lieu parking disincentivizes home building is now off-set by the City Council's willingness to consider housing-related planned community zoning – housing projects may be more competitive with office because zoning concessions such as adjustments to floor area, parking and height are now available.

Staff proposes retaining the broader policy discussion on the housing workplan to evaluate how parking policy influences home building and can tie this discussion to other direction received from Council to evaluate the appropriate balance of commercial to residential floor area and possible adjustments to the hotel floor area ratio.

If a majority of the Council determines a ban on commercial office participation in the in-lieu parking program is necessary, a motion to adopt the attached ordinance is appropriate. Otherwise, no action is required to allow the ban to expire on May 1.

### **Summary of Key Issues**

The City Council enacted a temporary (one year) 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 being asked to decide to continue the ban or allow it to lapse.

### **Policy Implications**

Lifting the ban may encourage more downtown property owners to redevelop their property, which may result in net new office floor area. Secondly, it may also encourage more housing production. The recommendation in this report is not anticipated to result in any significant increase in commercial development activity. However, much is unknown at this time due to the present public health and economic impacts associated with the coronavirus.

### **Resource Impact**

This action has no significant budget or fiscal impact. It will likely result in additional contributions to the City's in-lieu parking fund as Downtown properties redevelop, but amounts and timing are unknown.

### **Timeline**

If no action is taken, the ban prohibiting commercial office above the first floor will lapse on May 1, 2020. If the ordinance is adopted, extending the ban, staff would return in a few weeks with a second reading of the ordinance; this ordinance would be effective on the 31<sup>st</sup> day following adoption. There would be a brief lapse in the regulation from May 1<sup>st</sup> to the new effective date, but this is anticipated to be inconsequential as there are no pending applications that would be subject to this ordinance.

### **Stakeholder Engagement**

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

### **Environmental Review**

The staff recommendation to allow the temporary ban to expire is exempt from the California Environmental Quality Act (CEQA) because CEQA does not apply to project denial. Alternatively, if the Council elects to adopt the attached, ordinance, 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 - Amending PAMC Section 18.18.090 Parking and Loading**

Ordinance No. \_\_\_\_\_

Ordinance of the Council of the City of Palo Alto Amending Section 18.18.090 (Parking and Loading) of Chapter 18.18 (Downtown Commercial District) 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 limits activity, travel, and business functions to only the most essential needs.
- G. In an effort to reduce the spread of COVID-19, the City has cancelled several meetings of the PTC in March and April 2020, eliminating opportunities for PTC consideration prior to the expiration of the initial temporary ban on May 1, 2020.

- H. 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 temporarily extended to maintain the status quo pending further study by City Staff and the PTC.

**SECTION 2.** Subdivision (d) of Section 18.18.090 (Parking and Loading) of Chapter 18.18 (Downtown Commercial (CD) District) 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 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 of planning and community environment, whose decision shall be final. Only sites satisfying one or more of the following criteria, as determined by the director of planning and community environment, 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 10,000 square feet, but of such an unusual configuration that it would not be physically feasible to provide the required on-site parking;
- (3) The site is greater than 10,000 square feet, but of such an unusual configuration that it would not be physically feasible to provide the required on-site parking;
- (4) The site is located in an area where city policy precludes curb cuts or otherwise prevents use of the site for on-site parking; or
- (5) The site has other physical constraints, such as a high groundwater table, which preclude provision of on-site parking without extraordinary expense.

Office uses above the ground floor shall not be eligible to participate in the in-lieu parking program for ~~one year~~ two years from the effective date of Ordinance No. 5460, from May 2, 2019 through May 1, ~~2020~~ 2021.

[. . .]

**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.

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**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