



# Planning & Transportation Commission

## Staff Report (ID # 9446)

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**Report Type:** Action Items **Meeting Date:** 7/25/2018

**Summary Title:** Downtown Cap: Repeal of PAMC Chapter 18.18.040

**Title:** Public Hearing: Recommend that the City Council Adopt an Ordinance Amending Chapter 18.18 (Downtown Commercial District) of Title 18 (Zoning) of the Palo Alto Municipal Code to Repeal Section 18.18.040 Regarding a Nonresidential Square Footage Cap in the CD Downtown Commercial Zoning District to Implement and Conform to the Updated Comprehensive Plan. CEQA: Comprehensive Plan Environmental Impact Report (EIR), Council Resolution No. 9720

**From:** Jonathan Lait

### Recommendation

Staff recommends the Planning and Transportation Commission (PTC) consider the Comprehensive Plan Environmental Impact Report (EIR) and recommend that the City Council adopt an ordinance amending chapter 18.18 (Downtown Commercial District) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) to repeal section 18.18.040 regarding a nonresidential square footage cap in the CD Downtown Commercial Zoning District to implement and conform to the updated Comprehensive Plan.

### Report Summary

Palo Alto Municipal Code (PAMC) Section 18.18.040 established a non-residential square footage cap in the CD downtown Commercial District. The code section implemented Land Use Program L-8 from the 1998 Comprehensive Plan, which included a 350,000 square foot cap for non-residential square footages downtown. Following Council direction, the Comprehensive Plan Update 2030, adopted in November 2017, replaced the previous nonresidential cap program with a citywide cap for new office/R&D square footage. A separate ordinance continuing the annual limit on new office space for the downtown, California Avenue Area and El Camino Real was also adopted on May 21, 2018, regulating the pace of growth. The proposed repeal of PAMC Section 18.18.040 would bring the Municipal Code into conformance

with the recently adopted Comprehensive Plan, reflecting the policy change to focus on limiting office/R&D growth citywide.

## **Background**

Section 18.18.040 of the Palo Alto Municipal Code codified a maximum for new nonresidential square footage in the Downtown Commercial (CD) Zoning District to implement Program L-8 of the 1998 Comprehensive Plan. Program L-8, which focused on the downtown, and the associated Policy L-8, limited new nonresidential square footage in nine monitored areas within Palo Alto. Policy L-8 and Program L-8 were both replaced in the Comprehensive Plan Update last November with a new set of policy and programs that replaced the cap on nonresidential square footage with limits for office/R&D growth only and expanded it city wide.

PAMC Section 18.18.040 states:

### **18.18.040 Repeal of Regulations**

*The department of planning and community environment shall monitor the number of square feet approved for nonresidential development in the CD district and the number of square feet approved for nonresidential development pursuant to a planned community (PC) zone if the site of the PC zone was within the CD district on the effective date of this chapter. When 350,000 square feet of nonresidential development have received final design review approval pursuant to Chapter 18.76 or have received building permits, if no design approval is required, this chapter shall be repealed and a moratorium shall be imposed. This moratorium shall prohibit the city's acceptance or processing of any application for planning approval or a building permit for new nonresidential square footage in the CD district. This moratorium shall remain in effect for one year while the city undertakes a study of what regulations would be appropriate in the CD district. The moratorium may be extended by the council until such study is completed and appropriate regulations are implemented.*

The associated 1998 Comprehensive Plan Program L-8 stated:

*Program L-8: Limit new non-residential development in the Downtown area to 350,000 square feet, or 10% above the amount of development existing or approved as of May 1986. Reevaluate this limit when non-residential development approvals reach 235,000 square feet of floor area.*

PAMC Section 18.18.040 codified a maximum growth of 350,000 square feet and stipulated that the CD development cap was to be re-evaluated when net new non-residential development reached 235,000 square feet. As required by the Comprehensive Plan and Zoning Code, City staff has monitored and prepared annual reports to the City Council regarding development activity, vacancy rates and commercial lease rates in order to evaluate the

effectiveness of these regulations. As of July 12, 2018, new downtown non-residential development has not reached the previously established cap.

## **Discussion<sup>1</sup>**

As required under PAMC Section 18.18.040, the City initiated a study in 2013 to re-evaluate the downtown cap for land use and traffic conditions and other impacts, when the total amount of new nonresidential square footage approached 235,000. The City Council awarded a contract in October 2013 for the Downtown Development Cap Study to Dyett and Bhatia Urban and Regional Planners.

The Downtown Development Cap study was proposed to be completed in two phases. Phase I focused on data collection and projection analysis, while Phase II was to be the policy analysis phase. Phase I was completed and the associated studies were submitted to both the PTC and City Council for review. The studies included existing trends and conditions, downtown development cap evaluations and a downtown business survey.

During the preparation of the Downtown Cap Study, there were two significant related land use efforts also under way: the Annual Office Limit and the Comprehensive Plan Update. In response to the concerns raised by dramatic job growth since the end of the most recent recession, the City Council adopted an interim ordinance in 2015, later extended in 2017, placing an annual limit on new office/R&D square footages in downtown, the California Avenue and El Camino Real areas. The purpose of this growth management regulation was to control the pace of growth during a trial period.

The Comprehensive Plan Update (Comp Plan), initiated in 2008, was concurrently being reviewed and discussed by the City Council during the preparation of the Downtown Cap Study. At the January 30, 2017 hearing on the Comprehensive Plan Land Use Element, the City Council adopted a motion that directed that the revised Land Use Element maintain a citywide cap focused on new office/R&D development instead of all nonresidential square footage (<https://www.cityofpaloalto.org/civicax/filebank/documents/56153>). The Council's motion also eliminated the downtown cap and directed staff to prepare an ordinance to make permanent the annual limit that was adopted. The permanent annual limit for new office/R&D square footage downtown, California Avenue and El Camino Real was approved and incorporated into the Municipal Code (PAMC Chapter 18.40.210) in May 2018. The Downtown Cap studies have been used to support these two efforts as well.

The Comp Plan Update, when approved in November 2017, included a revised growth management policy reflecting the motion from the January 30, 2017 Council motion

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<sup>1</sup> The information provided in this section is based on analysis prepared by the report author prior to the public hearing. The Planning and Transportation Commission in its review of the administrative record and based on public testimony may reach a different conclusion from that presented in this report and may choose to take an action that is different than the recommended action.

(<https://www.cityofpaloalto.org/civicax/filebank/documents/62915>). New Land Use Policy L1.10 was adopted, which stated that a cap should be placed on new office/R&D uses only.

*Policy L1.10: Maintain a citywide cap of 1.7 million new square feet of office/R&D development, exempting medical office uses in the Stanford University Medical Center (SUMC) vicinity. Use January 1, 2015 as the baseline and monitor development towards the cap on an annual basis. Require annual monitoring to assess the effectiveness of development requirements and determine whether the cap and the development requirements should be adjusted. Continue to exempt medical, governmental and institutional uses from the cap on office/R&D development.*

The associated program L1.10.1 replaced the previous downtown specific program requiring re-evaluation when new office space approaches 67% of the allowed square footage citywide.

*Program L10.1: Re-evaluate the cumulative cap when the amount of new office/R&D square footage entitled since January 1, 2015 reaches 67% of the allowed square footage, or 1,139,000. Concurrently consider removal or potential changes to the cap and/or to the amount of additional development permitted by the City's zoning ordinance.*

The proposed removal of PAMC Section 18.18.040 would be consistent with Council direction from January 30, 2017 and make the Municipal Code consistent with the growth management policies of the updated Comp Plan. Staff will monitor office/R&D growth per Policy L-10 and growth will also be limited per the annual office limit ordinance.

## **Environmental Review**

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. Specifically, 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.

## **Public Notification, Outreach & Comments**

The Palo Alto Municipal Code requires notice of this public hearing be published in a local paper at least ten days in advance. Notice of the public hearing for this project was published in the Palo Alto Weekly on July 13, 2018.

## **Next Steps**

Upon recommendation from the PTC, staff will forward the recommended ordinance to City Council for review and final action.

## **Alternative Actions**

In addition to the recommended action, the Planning and Transportation Commission may:

1. Recommend adoption of the draft ordinance to the City Council with modifications.
2. Continue the discussion to a future PTC hearing with the expectation that a recommendation to the City Council would be forwarded at that time.

**Report Author & Contact Information**

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**PTC<sup>2</sup> Liaison & Contact Information**

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**Attachments:**

- Attachment A: Ordinance Amending Chapter 18.18 (Downtown CD) to Repeal Downtown Development Cap(PDF)

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<sup>2</sup> Emails may be sent directly to the PTC using the following address: [planning.commission@cityofpaloalto.org](mailto:planning.commission@cityofpaloalto.org)

**\*\* NOT YET ADOPTED \*\***

*DRAFT*

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

Ordinance of the Council of the City of Palo Alto Amending Chapter 18.18 (Downtown Commercial District) of Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC) to Repeal Section 18.18.040 Relating to a Nonresidential Square Footage Cap in the CD Downtown Commercial Zoning District to Implement and Conform to the Updated Comprehensive Plan 2030

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 1998 Comprehensive Plan for the City of Palo Alto included a program, Land Use Program L-8, to limit new nonresidential development in the Downtown area to 350,000 square feet or 10 percent above the amount of development existing or approved as of May 1986 (the “Downtown cap”), and to re-evaluate this limit when nonresidential development reached 235,000 square feet. This program perpetuated the already existing Downtown cap adopted in 1986 by Ordinance No. 3696 which had amended the Zoning Code to add a new chapter codifying the Downtown cap.

B. Beginning in 2013, when Downtown nonresidential development was approaching 235,000 square feet, the City re-evaluated the Downtown cap, studying land use and traffic conditions and impacts, at the same time that the Comprehensive Plan update process was underway.

C. As part of Council’s process for adoption of the updated Comprehensive Plan in 2017, the Council determined to maintain a cumulative citywide cap on nonresidential development of 1.7 million square feet and apply it to office/R&D development only with certain exemptions, to continue on an ongoing basis the annual limit on office/R&D development by a separate ordinance, and to eliminate the 350,000 square foot cap on nonresidential development in the Downtown in then-existing Program L-8 and focus on monitoring development and parking demand. Accordingly, former Program L-8 is not included in the Comprehensive Plan 2030 as adopted by the Council on November 13, 2017.

D. This Ordinance, which would remove the Downtown cap from the Zoning Code, implements and is in furtherance of the updated Comprehensive Plan 2030.

**SECTION 2.** Section 18.18.040 (Repeal of Regulations) of **Chapter 18.18 (Downtown Commercial (CD) District)** of Title 18 (Zoning) is repealed in its entirety.

~~**18.18.040 – Repeal of Regulations**~~

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~~The department of planning and community environment shall monitor the number of square feet approved for nonresidential development in the CD district and the number of square feet approved for nonresidential development pursuant to a planned community (PC) zone if the site of the PC zone was within the CD district on the effective date of this chapter. When 350,000 square feet of nonresidential development have received final design review approval pursuant to Chapter 18.76 or have received building permits, if no design approval is required, this chapter shall be repealed and a moratorium shall be imposed. This moratorium shall prohibit the city's acceptance or processing of any application for planning approval or a building permit for new nonresidential square footage in the CD district. This moratorium shall remain in effect for one year while the city undertakes a study of what regulations would be appropriate in the CD district. The moratorium may be extended by the council until such study is completed and appropriate regulations are implemented.~~

**SECTION 3.** Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

**SECTION 4.** 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 5.** The Council finds that the Ordinance is within the scope of and in furtherance of the Comprehensive Plan 2030 which was evaluated in that certain Final Environmental Impact Report ("Final EIR") certified and for which findings were adopted by Council Resolution Nos. 9720 and 9721 on November 13, 2017, all in accordance with the California Environmental Quality Act ("CEQA"). Pursuant to Section 15168 of the State CEQA Guidelines, the City has determined that no new effects would occur from and no new mitigation measures would be required for the adoption of this Ordinance.

**SECTION 6.** 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 & Community  
Environment