



CITY OF
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ALTO**

CITY COUNCIL Staff Report

From: City Manager

Report Type: INFORMATION REPORTS

Lead Department: Planning and Development Services

Meeting Date: June 19, 2023

Report #: 2302-0933

TITLE

Update on State Law AB 2097 and Local Implementation Informational Report.

RECOMMENDATION

Receive report.

EXECUTIVE SUMMARY

Assembly Bill 2097¹ exempts most development projects from providing minimum on-site parking when a site is located within one-half mile from a major transit stop. This state law has implications for local land use policies and may affect development potential in the California Avenue area and University Avenue Downtown areas. Existing land use policies related to transferred development rights and in-lieu parking among other considerations are also addressed in this report.

BACKGROUND

In November 2022, the City Council received a legislative update from Townsend Public Affairs, the City's state lobbyist, on new laws for 2023. One bill, Assembly Bill 2097 (AB 2097) became effective January 1, 2023 and restricts local governments from imposing parking requirements on certain residential and commercial development. More specifically, development projects located within one-half mile of a major transit stop, as defined in the regulation, are exempt from minimum on-site parking requirements. The bill does not apply to transient lodging and does not exempt a developer from meeting local requirements for electric vehicle supply equipment or parking spaces accessible to persons with disabilities.

Local implementation of state law is currently in effect. Staff has prepared a map based on the legislative requirements of the law and other local and regional data sources including from the Valley Transportation Authority and the Metropolitan Transportation Commission. While AB

¹ AB 2097 Text: https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB2097.

2097 applies to two or more intersecting major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods, there is only one location in Palo Alto that meets this requirement and it located at the University Avenue transit center. Effectively, for Palo Alto, the requirements of AB 2097 generally apply to fixed rail station locations, though the map takes into consideration the slightly offset location of the bus transfer service station near the University Avenue transit stop. Development projects on property depicted within the shaded radius circles on the attached map are exempt from minimum parking requirements.

This law has implications a number of local land use policies beyond the basic requirement for minimum parking standards requirement.

ANALYSIS

With few exceptions, AB 2097 exempts development projects from minimum parking standards. "Development project" is not defined in the bill, but is defined elsewhere in state law to mean any project "involving the issuance of a permit for construction or reconstruction but not a permit to operate." In coordination with the City Attorney's Office, staff has interpreted AB 2097 to apply to any activity that requires a building permit. This includes new commercial office buildings and a change or expansion in land use to a more (parking) intensive use, such as a conversion from retail to restaurant. It also has implications for the City's downtown in-lieu parking program, transferred development rights, coordinated area plans and housing.

California Avenue

For many years land uses in the commercial areas of California Avenue near the rail station have remained relatively static and there has been little new building construction activity. Local requirements for retail preservation, small parcel sizes, and the need for on-site parking for new or more intense land uses limit or preclude redevelopment. With AB 2097, the constraint to redevelopment, required parking, has been eliminated. Accordingly, staff anticipates California Avenue may experience increased development pressure for new building construction. At a minimum, staff expects an increase in requests to change retail to restaurant use, or other more intensive land uses both on California Avenue and nearby commercial streets. California Avenue's proximity to the Caltrain station may encourage new housing or mixed-use development. Providing on-site parking requires a significant amount of space to meet parking stall and drive aisle dimensions. Smaller lot sizes in this area make on-site parking cost prohibitive due to ramping requirements that leave little area available for parking spaces and increase construction costs. For this reason, the adopted Housing Element does not identify a significant amount of housing inventory sites in this area. However, with AB 2097, new mixed-use housing with ground floor commercial and multi-family units at upper levels may be seen as more feasible by some property owners or developers.

University Avenue and In Lieu Parking

University Avenue has experienced some redevelopment in recent years. Downtown benefits from a blended parking rate where each land use is assumed to generate a demand for parking of one space for each 250 square feet of floor area; this is not the case for any other part of the City. The blended rate was derived from a parking assessment that was prepared and implemented several decades ago. Accordingly, changing from one lower intensity land use to a higher intensity land use is not problematic as long as it is a permitted or conditionally permitted land use. Moreover, Downtown has an in-lieu parking program. When a developer cannot feasibly construct new required parking on-site, the developer could participate in the in-lieu parking program and pay a fee to the City in-lieu of having to construct parking on-site. With AB 2097, a developer would not need to participate in the in-lieu parking program and staff anticipate little to no further contributions to that fund. The City is exploring using the remaining funds in that program to support the establishment of net new Downtown parking spaces. A recent request for information has received responses for a potential affordable housing and public parking partnership; staff is expected to share these results with Council in the summer.

There is currently a temporary ban that prohibits participation in the in-lieu parking program for office uses above the ground floor. This ban is set to expire on August 1, 2025. There are about 30 properties between Lytton and Forest Avenues adjacent to or near Webster Street that extend beyond the half-mile AB 2097 radius. Staff recommends the in-lieu parking ban be allowed to expire without further action. Moreover, when the City updates its zoning code (currently not planned or resourced), staff will consider recommendations on how to address the in-lieu parking program for future use or discontinuance.

Transferred Development Rights

The municipal code includes provisions that allow property owners in the Downtown and South of Forest Avenue Coordinated Plan Area to receive approval to transfer development potential from one property and apply it to another qualifying property. This typically occurs when an owner voluntarily upgrades seismically vulnerable buildings to a safer standard or preserves an historic resource, or both. The program initially allowed transferred development rights, or TDRs, to be exempt from providing required parking as an incentive to encourage safer buildings and preservation efforts. Concern about the impact of new commercial floor area, particularly office, prompted a change to that policy, and subsequent, newly created TDRs were required to be parked at one space per 250 square feet of floor area. With a variety of local policy changes related to commercial land uses generally and office space specifically, combined with the limitation to participate in the in-lieu parking program above the ground floor, the result has been very few new commercial projects being proposed downtown. With AB 2097, TDRs may again become an important transactional consideration for new Downtown development – as it essentially returns TDRs to a parking-exempt status for those properties included within the mapped radius.

If the City Council was interested in revising TDR-related policies, staff would need direction at an agendaized public meeting to receive that direction.

Residential Preferential Parking Programs

Residential parking programs are intended to limit commercial intrusions into nearby residential areas by limiting parking access without a permit or through established time-limited parking restrictions. All but one (Crescent Park) of the City's residential parking program boundaries are included wholly or partially within the AB 2097 radius. No changes are required to the residential parking programs at this time. If future parking impacts arise, the municipal code includes a provision for residents adjacent to a residential parking area to petition for inclusion.

Single Family Zoning (R1, R2, RMD)

AB 2097 not only applies to multi-family housing or mixed-use or commercial developments, but also single family residences too. Parking for accessory dwelling units is already exempt by state law. AB 2097 would allow a residential property owner located within one-half mile of a major transit stop to apply for a building permit to convert an existing garage area into habitable space, eliminating on-site parking. While this can already occur with a conversion to an ADU or junior ADU, this state law would allow the conversion without potentially costly upgrades for plumbing and cooking facilities.

North Ventura Coordinated Area Plan

As staff continues its work on the NVCAP, one of the recommendations embedded in that plan is to remove any parking requirements (loading zone and bicycle parking still apply). The half mile radius from the Caltrain station effectively covers half of the NVCAP area. As the Planning and Transportation Commission considers the final draft concept plans, discussion on whether to extend the parking exemption to the rest of the NVCAP area, as proposed by staff, will be evaluated before sending a recommendation to Council.

Portions of the South of Forest Avenue coordinated area plan near Downtown are also included in the AB 2097 parking-exempt radius.

Circumstances that Allow Jurisdictions to Require On-Site Parking Pursuant to AB 2097

As noted earlier, AB 2097 does not exempt development projects from providing electric vehicle supply equipment and accessible parking spaces. Because these spaces are typically required as a percentage of on-site parking, some jurisdictions are implementing AB 2097 to only require them when a developer voluntarily provides parking. This is also the approach endorsed by staff for Palo Alto. It is also possible, however, to interpret the bill to require the number of electric vehicle supply equipment and accessible parking spaces that would have been provided if AB 2097 did not exist. This latter approach would be difficult to implement

because it is not clear how many spaces would actually have been provided on-site in the absence of AB 2097 when parking reductions or in-lieu fees may be available.

In addition, State law provides that a local jurisdiction could impose or enforce minimum parking requirements on a project within a half mile radius of a major transit stop if the agency makes written findings within 30 days of receiving a completed application that not imposing or enforcing the parking requirements on the development would have a substantially negative impact, supported by a preponderance of the evidence in the record on any of the following:

- (1) The jurisdiction's ability to meet its share of the regional housing need in accordance with Section 65584 for low- and very low income households.
- (2) The jurisdiction's ability to meet any special housing needs for the elderly or persons with disabilities identified in the analysis required pursuant to paragraph (7) of subdivision (a) of Section 65583.
- (3) Existing residential or commercial parking within one-half mile of the housing development project.² [Emphasis added]

The statute goes on to stipulate that the provision above does not apply to housing development projects that satisfy any of the following:

- (1) The development dedicates a minimum of 20 percent of the total number of housing units to very low, low-, or moderate-income households, students, the elderly, or persons with disabilities.
- (2) The development contains fewer than 20 housing units.
- (3) The development is subject to parking reductions based on the provisions of any other applicable law.

Based on the foregoing restrictions and the limited time to conduct the analysis (30 days from the filing of a complete application), staff does not envision being able to make required findings that would compel a project to meet minimum on-site parking requirements. Such analysis would need to occur in advance of the City receiving a qualifying application and then be applied to the project. Unless the City Council provides this direction at a noticed public hearing, this advanced analysis is not envisioned being conducted and use of this provision is not expected to be applied to qualifying projects in Palo Alto.

POLICY IMPLICATIONS

This report details the implications of AB 2097 to Palo Alto. Very few development proposals have taken advantage of this provision to date but in conversations with developers there is

² A housing development is defined as a project consisting of residential units only; a mixed-use development consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use; or, transitional or supportive housing. An affordability requirement is not included in the definition.

interest. As it has only been six months since implementation, staff anticipates more project applicants will seek to take advantage of this state law.

This informational report is intended to highlight the related land use policy implications of AB 2097. It is anticipated that California Avenue in particular will likely experience changes due to this policy. At a minimum, more or expanded restaurant land uses may occupy tenant spaces when they become available. Commercial recreation uses may also seek to locate on nearby streets. Redevelopment with new housing or mixed-use projects is anticipated and would not likely include any significant on-site parking.

Downtown is another area where existing land use policies may need to be revisited. This report highlights considerations related to transferred development rights and the City's in-lieu parking program. If significant redevelopment occurs utilizing the provisions of state law, some residential neighbors may seek to be included in existing residential parking programs.

FISCAL/RESOURCE IMPACT

The recommendation for this informational report has no fiscal or resource impacts. Implementation of AB 2097 is expected to curtail future contributions to the City's in-lieu parking fund and may impact the production of new parking resources Downtown.

STAKEHOLDER ENGAGEMENT

Staff is posting the attached map online and sharing it with developers when requested. A discussion regarding state law is anticipated to be scheduled for the Planning and Transportation Commission in coming months. Staff does not anticipate advancing a standalone ordinance to codify this state law but may incorporate it into future ordinances if applicable.

ENVIRONMENTAL REVIEW

No California Environmental Quality Act review is required for an informational report.

ATTACHMENTS

Attachment A: Map of Major Transit Stops per AB 2097

APPROVED BY:

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