



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: September 17, 2019

TO: Christine Daniel, City Manager

FROM: Charles S. Bryant, Community Development Director

SUBJECT: **Study Session on Planning Regulations Amendments to Eliminate Minimum Parking Requirements**

RECOMMENDATION

Staff requests that the City Council review the information contained in this staff report and provide comment.

BACKGROUND

At the March 5, 2019 City Council meeting, the Council directed that the Planning Regulations be amended to eliminate the minimum parking requirement, while still retaining the limitation on allowable maximums. Upon further review, staff has noted other provisions of the Planning Regulations that are related to the minimum parking requirements, and which therefore must also be amended. Staff has also taken this opportunity to address other parking-related issues. A “red-line” version of the proposed amendments to the Planning Regulations is attached for reference. In the discussion below, relevant code sections are noted.

The Planning Commission held a study session on these issues at its July 25, 2019 meeting, and provided a number of thoughtful comments. Please see “Planning Commission Comments”, below.

The City’s current off-street parking requirements were adopted as part of the new Planning Regulations, which were enacted by Ordinance No. 13-001 on February 5, 2013, and which took effect on March 7, 2013. They are contained in Article 4 of Chapter 4 of the Planning Regulations, which are Title 9 of the Emeryville Municipal Code (EMC).

The off-street parking requirements provide for a range of allowable parking spaces for each use, from a minimum to a maximum, based on an “estimated parking demand”. The minimum number of spaces required is 33% less than the estimated parking demand, and the maximum number of spaces allowed is 10% more than the estimated parking demand. For example, office uses have an estimated parking demand of 2.4 spaces per 1,000 square feet. The minimum requirement is 1.6 spaces per 1,000 square feet (33% less than 2.4) and the maximum number of spaces allowed is 2.64 spaces per 1,000 square feet (10% more than 2.4). For residential uses, the estimated parking demand is 1 space per unit (not including guest parking, if required). The minimum requirement is therefore 0.67 spaces per unit, and the maximum is 1.1 spaces per unit. The first 1,500

square feet of floor area is deducted when calculating the parking requirement for a non-residential use, so uses of less than 1,500 square feet are not required to provide parking. All parking requirements (minimum and maximum) are reduced by 50% in the TH Transit Hub Overlay Zone, and local-serving uses having a gross floor area of 5,000 square feet or less are exempt from parking requirements in the NR Neighborhood Retail Overlay Zone.

The parking minimum may be reduced or waived, and the maximum may be increased, upon the granting of a conditional use permit by the Planning Commission. To grant a conditional use permit to reduce or waive the minimum parking requirement, the Planning Commission must find that adequate measures will be put in place to reduce parking demand such as promoting use of public transit, bicycling, and walking, and allowing modified working hours and telecommuting, and that the reduction or elimination of the required parking spaces will not result in parking impacts on adjacent uses due to overflow parking. To grant a conditional use permit to provide more than the allowed maximum number of parking spaces, the Planning Commission must find that the applicant has convincingly demonstrated that the additional parking is required to meet the anticipated parking demand of the proposed uses, and that the provision of the additional parking will not result in an over dependence on automobiles and will not adversely affect transit, bicycle, or pedestrian access to the site or other adjacent uses.

DISCUSSION

Consistency with General Plan

Elimination of the minimum parking requirement, while still allowing property owners and developers the option of providing parking if they wish to, is consistent with the General Plan concept of reducing dependence on automobiles and promoting alternative modes of transportation.

General Plan Guiding Principal 5, “A diversity of transportation modes and choices”, states:

“The General Plan fosters and provides incentives for alternative transportation modes, including transit, car/vanpooling, bicycling, walking, and telecommuting. Residents will be able to access stores, offices, the waterfront, or regional transit networks without needing a car. Land uses capitalize on Amtrak, AC Transit, and Transbay bus lines, and proximity to BART, and are integrated with the Emery Go-Round that extends to within walking distance of most locations. Bicycle paths link housing, activity centers, and recreational amenities, and are buffered where feasible from automobiles to further safety.”

General Plan goals and policies related to off-street parking include:

- Transportation Goal T-G-8: A balanced parking supply system – Parking supply that balances economic development, livable neighborhoods,

environmental and energy sustainability, and public safety, while reducing dependence on the automobile.

- Transportation Policy T-P-49: Quality of life and business viability will be promoted by maintaining an adequate supply of parking to serve growing needs, while avoiding excessive supplies that discourage transit ridership and disrupt the urban fabric.
- Transportation Policy T-P-51: The City supports parking supply and pricing as a strategy to encourage use of transit, carpools, bicycles, and walking.
- Transportation Policy T-P-52: Flexible parking standards are encouraged that reflect calculated parking demand for proposed land uses and that allow for appropriate offsets to reduce parking demand and encourage walking, bicycling, carpooling, and transit use.

No General Plan amendment is required to implement the proposed modifications to the Planning Regulations.

Elimination of Parking Minimums

The principal changes that must be made to the Planning Regulations to implement the Council's direction are to Section 9-4.404(g), which stipulates the minimum and maximum number of parking spaces, and Section 9-4.404(h), which sets forth the required findings to provide less than the required minimum or more than the allowed maximum number of parking spaces.

Specifically, Section 9-4.404(g)(1) states that the minimum number of parking spaces required is 33% less than the estimated parking demand, while 9-4.404(g)(2) states that the maximum number of parking spaces allowed is 10% more than the estimated parking demand. The minimum requirement in Section 9-4.404(g)(1) would be deleted, while the maximum in Section 9-4.404(g)(2) would be retained.

Section 9-4.404(h) sets forth the conditional use permit requirements and findings to provide parking that is less than the minimum (Section 9-4.404(h)(1)) or more than the maximum (Section 9-4.404(h)(2)). The requirements and findings for parking less than the minimum would be deleted, while the requirements and findings for parking more than the maximum would be retained.

These sections would be consolidated and renumbered as appropriate, as indicated in that attached proposed Planning Regulations amendments.

Similar provisions related to the minimum parking requirement in Sections 9-3.406 and 9-4.402(d) regarding the TH Transit Hub Overlay Zone, and in Section 9-5.1407 regarding Accessory Dwelling Units, would also be deleted.

The findings in the current code for providing less parking than the minimum include “That adequate measures will be put in place to reduce parking demand such as promoting use of public transit, bicycling, and walking, and allowing modified working hours and telecommuting.” Staff feels that this is an important concept to keep in the code. Therefore, it is proposed to add a provision that projects that provide less parking than the estimated demand may be conditioned, as appropriate, to require that adequate measures be put in place to reduce parking demand such as promoting use of public transit, bicycling, and walking, and allowing modified working hours and telecommuting. This will allow the decision makers to include such a condition of approval if the situation warrants. (Proposed Section 9-4.404(g).)

Off-Street Parking Would No Longer Be Required

While it may not be immediately obvious, eliminating the minimum parking requirement, while still allowing parking to be provided, has the effect of making off-street parking optional and no longer mandatory. Therefore, all mandatory language in the Planning Regulations related to parking, such as “parking requirements” and “required parking” needs to be changed to make it clear that off-street parking would not be mandatory.

References to parking “requirements” would be changed to appropriate non-mandatory language, depending on the context, or the word “required” would simply be removed. For example:

- In Section 9-4.401(e): “The purposes of the off-street parking and loading regulations are to: ... Offer flexible means of minimizing the amount of land area devoted to parking of automobiles by allowing reductions in the number of ~~required~~ parking spaces in transit-served locations, ...”
- In Section 9-4.402 (a): “**New Development.** Unless otherwise specified, the parking and loading ~~requirements~~ provisions of this Article apply to all new buildings and to all new conditionally permitted uses in existing buildings.”
- In Section 9-4.402 (b): “**Enlargements and Expansions.** Unless otherwise specified, the parking and loading ~~requirements~~ provisions of this Article apply whenever an existing building or use is enlarged or expanded to include additional dwelling units, floor area, seating capacity, employees or other units of measurement used for establishing off-street parking and loading ~~requirements~~ provisions for that use. Additional off-street parking and loading spaces are ~~required~~ intended only to serve the enlarged or expanded area.”
- In Section 9-4.402(c): “**Damage or Destruction.** When a use that has been involuntarily damaged or destroyed is re-established, off-street parking and loading facilities ~~must~~ may also be re-established or continued in operation in an amount equal to the number maintained at the time of such damage or destruction. It is not necessary, however, to restore or maintain parking or loading facilities in excess of those ~~required~~ allowed by this Article.”

There are approximately 30 instances of such mandatory language concerning parking in the Planning Regulations that would need to be modified.

Bicycle Parking

Under the current regulations, bicycle parking requirements are tied to automobile parking requirements, so eliminating the minimum automobile parking requirement has the effect of making bicycle parking non-mandatory. To remedy this, staff proposes to uncouple the bicycle parking requirement from the automobile parking requirement.

For nonresidential uses, the long-term bicycle parking requirement (i.e. secure interior parking) and the short-term requirement (i.e. exterior bike racks) is one space for every ten automobile parking spaces. Staff proposes to tie this requirement to the estimated demand for automobile parking in Table 9-4.404, stipulating that the long-term and short-term bicycle parking requirements would each be one space for every 10 automobile spaces of estimated demand, regardless of whether or how much automobile parking is actually proposed to be provided. (Sections 9-4.408(e) and (f).)

For residential uses, the long-term bicycle parking requirement would remain at one space per unit, while the short-term requirement would be one space for every 20 units, rather than the current requirement of one space for every four visitor automobile parking spaces. (Sections 9-4.408(e) and (f).)

Staff also proposes to take this opportunity to make a few other minor improvements to the bicycle parking requirements, including:

- Modifications to bicycle parking standards (not number of spaces) may be made by the Director, Planning Commission, or City Council, as the case may be, because of the nature of the use or design of the project. This mirrors a similar provision in the existing regulations for loading. (Proposed Section 9-4.408(d)(3).)
- For non-residential uses of 3,000 square feet or less where interior long-term bicycle parking is not feasible due to physical limitations, short-term bicycle parking spaces may be substituted on a one-for-one basis. (Proposed Section 9-4.408(f)(2)c.)

Parking Substitutions and Credits

Certain provisions related to substitutions or credits for required parking would need to be modified or deleted, since parking would no longer be required. These include:

- In order to encourage the preservation and reuse of significant structures, the current code stipulates that projects that convert a significant structure that has a legal nonconforming parking deficiency to a different use shall receive a parking credit equal to the number of required automobile parking spaces unmet by the

previous use. Since parking would no longer be required, such an incentive would be moot, and this section would therefore be deleted. It should be noted, however, that demolition of a significant structure requires City Council approval, while its preservation and reuse requires only a minor conditional use permit, which in itself is an incentive to preserve and reuse the building. (Section 9-4.404(d), proposed to be deleted.)

- A credit of one required automobile parking space for every four motorcycle spaces is allowed under the current code. Staff proposes to modify this to stipulate that, when calculating automobile parking, every four motorcycle spaces would count as one automobile space, although the automobile parking would not be “required”. As in the current code, there would be a limit on motorcycle parking of five percent of the total number of automobile parking spaces. (Section 9-4.404(e), proposed to be relettered (d).)
- The current code allows for the payment of a parking in-lieu fee rather than providing the required parking on-site. Since parking would no longer be required, the parking in-lieu fee would be moot, and this provision would be deleted. The parking in-lieu fee would also need to be removed from the Master Fee Schedule. It should be noted that the parking in-lieu fee has never been used, so this change is not significant. (Section 9-4.407(d), proposed to be deleted.)

Existing Parking

The current code generally requires existing parking to be retained and not to be reduced below the number of spaces that would be required. This would be modified to allow existing parking to be reduced or eliminated altogether. (Section 9-4.403(a).)

Under the current regulations, nonconforming uses may be expanded or altered, provided that any existing parking is not reduced below the number of spaces that would be required. Since parking would no longer be required, these provisions would be modified to allow existing parking to be reduced or eliminated. They would also be clarified to stipulate that, if existing parking is proposed to be reconfigured, it must comply with the requirements for parking design (i.e. dimensions of parking spaces and maneuvering aisles, etc.). (Sections 9-5.1009(c) and 9-4.403(d).)

Any use allowed under a previous planning entitlement, such as a conditional use permit, design review, variance, or Planned Unit Development, is subject to the conditions included in its approval, which may include parking. Staff proposes to add a provision to allow the parking requirements of such a previously approved use to be reduced or eliminated with a minor conditional use permit. (Sections 9-5.1003(f) and proposed Section 9-4.403(a)(1)a.)

Other Modifications

Additional modifications to the Planning Regulations necessary to implement the elimination of mandatory parking include the following:

- Under “Location of Parking Areas”, it is stipulated that “no off-street parking spaces shall be located between the front lot line and the front wall of a building or its projection across the lot, except upon the granting of a conditional use permit”. One of the findings for such a conditional use permit needs to be modified to clarify that this parking is allowed but not required: “That the proposed number of parking spaces are required by this Article. does not exceed the maximum number allowed pursuant to Section 9-4.404(f) unless a conditional use permit to exceed the maximum is granted pursuant to Section 9-4.404(h).” (Section 9-4.406(b)(3)a.)
- Similarly under “Alternative Parking Plan”, which requires a conditional use permit, an additional finding is proposed: “That the proposed number of parking spaces does not exceed the maximum number allowed pursuant to Section 9-4.404(f) unless a conditional use permit to exceed the maximum is granted pursuant to Section 9-4.404(h).” (Proposed Section 9-4.407(a)(3).)
- Required off-street parking is identified in Section 9-2.702(k) as a “use that is always an accessory use”, but that parking in excess of the requirements can be operated as the principal use of “Parking” (i.e. a commercial parking lot not associated with another principal use). This section is proposed to be modified as follows: “Off street parking, with or without a fee, that is intended to meet the parking requirements provisions of Article 4 of Chapter 4. Parking in excess of such requirements the needs of the principal use with which it is associated may be operated separately as the principal use of Parking described in Section 9-2.343.”
- In the Conditional Use Permits portion of the Administration and Permits chapter of the Planning Regulations, the reference to a conditional use permit for parking less than the required minimum would be deleted. (Section 9-7.502(e)(1).)

Other parking-related modifications to the Planning Regulations that staff proposes to make include:

- Under “Applicability” in the Parking and Loading provisions it is proposed to add a Section clarifying that “The parking and loading provisions of this Article apply only to principal uses and not to accessory uses.” (Proposed Section 9-4.402(d).)
- In Section 9-4.406(b) regarding location of parking spaces in front of a building, the required finding that “there is no other feasible way to provide the required parking” is proposed to be replaced with “the proposed parking spaces would result in an effective design solution improving livability, operational efficiency, or

appearance". This would allow more flexibility, and mirrors a similar finding for Exceptions to Standards.

- In Section 9-4.406(c)(2)a., "Vehicle Flow" under "Driveways and Access", it is proposed to add a requirement that "Dead-end maneuvering aisles shall be designed with sufficient room at the end for a motor vehicle to turn around."
- Section 9-4.406(l), "Electric Vehicle Charging Stations" is proposed to be amended to reference the requirements of the California Green Building Code. The Planning Regulations currently require that three percent of spaces be electric vehicle (EV) charging stations for Multi-Unit Residential and Lodging: Hotels and Motels uses, which reflected the requirements of the Green Building Code in effect when the Planning Regulations were adopted. However, in the 2019 California Green Building Code, which will take effect on January 1, 2020, this requirement has been increased to 10 percent, and may increase further in future codes. To ensure that the Planning Regulations maintain consistency with the State code, it is proposed to amend this Section to simply require whatever the Green Building Code requires, for all uses.

Staff Comments

Staff has researched the codes of other cities that have eliminated parking requirements in certain areas or in the entire city. The cities identified by staff include San Francisco (citywide); Oakland (downtown); Fremont (Warm Springs/South Fremont); Mountain View (North Bayshore); Sacramento (citywide for retail, restaurant and service uses); Portland, Oregon (downtown); Jersey City, New Jersey (various areas); Mexico City (citywide); and Oakville, near Toronto, Ontario (downtown).

The staff-level Development Coordinating Committee discussed the proposed amendments to the Planning Regulations on July 10, 2019. Staff unanimously supported the elimination of the minimum parking requirement, and made many useful suggestions that have been incorporated into the proposed code modifications, as discussed above.

Planning Commission Comments

The Planning Commission discussed the above issues at a study session on July 25, 2019. While the Commissioners expressed general support for reducing the minimum parking requirement, of the six Commissioners present, only two Commissioners supported its total elimination. Concerns were expressed about the ability to require parking for projects where it appeared to be needed, the need for disabled parking and electric vehicle charging stations, a need for shared public parking and transit alternatives, a need for free secure bicycle parking, and accommodation of micro-mobility, such as scooters, and Transportation Network Companies such as Uber and Lyft. Each of these concerns is addressed below.

Minimum Parking Requirement. While the Commissioners expressed support for promoting alternative transportation, most of them expressed reservations about totally eliminating the minimum parking requirement. However, they all appeared to support a reduction in the minimum below the current level of 33% less than the estimated demand. One Commissioner suggested making the minimum 66% less than the estimated demand. If some minimum amount of parking were still required, then mandatory language in the Planning Regulations related to parking, such as “parking requirements” and “required parking”, and other provisions related to required parking, would not need to be changed, because some parking would still be required. Alternatively, some Commissioners suggested that if the minimum parking requirement were eliminated, developers may choose to spend money on other things such as resident amenities and higher quality building materials.

Requiring Parking Where it Appears to be Needed. Commissioners expressed concern that some projects may appear to need parking, and the City would have no ability to require it if the parking minimum were eliminated. Staff acknowledged that this would indeed be the case, and noted that, since parking is not considered a CEQA issue, parking cannot be required as a mitigation measure. It was noted that staff is proposing an optional condition of approval for projects that provide less parking than the estimated demand to require that adequate measures be put in place to reduce parking demand such as promoting use of public transit, bicycling, and walking, and allowing modified working hours and telecommuting. It was also noted that most developers would probably choose to voluntarily provide some parking to meet market demand. (In recent development applications, parking above the maximum has been an issue more often than parking below the minimum.)

Disabled Parking. One Commissioner who recently suffered an injury voiced a new-found appreciation for disabled parking spaces. Staff noted that disabled parking is required by the Building Code, not the Planning Regulations, and is a percentage of all parking spaces that are provided. The Commission expressed concern that the elimination of the minimum parking requirement would effectively also eliminate any requirement for disabled parking. It was suggested that the Planning Regulations could require projects of a certain minimum size to provide at least one disabled parking space. It should be noted that, if the minimum parking requirement were eliminated, disabled spaces would still be required as a percentage of any parking spaces that a developer provides voluntarily.

Electric Vehicle Charging Stations. Likewise, the requirement for EV charging stations is a percentage of the number of parking spaces provided, so elimination of the minimum parking requirement would effectively also eliminate any requirement for EV charging stations. One Commissioner noted that the California Green Building Code requirement is only for “EV Capable” spaces, not for fully-equipped EV charging stations, and that, if the requirement were tied to the State code, as recommended by staff, it should be stipulated that the spaces are to be fully equipped, not just “EV Capable”. It was suggested that the Planning Regulations could require that projects of a certain minimum size provide a minimum number of EV charging stations. It should also be noted that a number of businesses have voluntarily installed EV charging stations that were not required by code in various locations in the City.

Shared Public Parking and Transit Alternatives. Some Commissioners expressed a need to provide strategically located shared public parking for small businesses where customers may not have convenient access to public transportation at the origin of their trips. It was noted that eliminating the minimum parking requirement would not preclude the City from providing shared parking facilities if it chose to do so, but that the Planning Regulations are not the tool for accomplishing that. It was suggested that, as a follow-up to this exercise, the City should explore funding sources and develop a strategy for shared public parking.

Bicycle Parking, Micro-mobility, and Transportation Network Companies. One Commissioner expressed a desire for the Planning Regulations to be amended to require some short-term bicycle parking to be in secure lockers, in addition to bike racks. (Long-term bicycle parking is required to be in an enclosed, covered, locked area that is restricted to bicycle parking users.) It was also suggested that designated safe parking areas for scooters be provided, and that designated loading zones be provided for Transportation Network Companies such as Uber and Lyft so that they do not block traffic while picking up and dropping off passengers.

DISCUSSION QUESTIONS

Staff requests the Council's direction on the following discussion questions:

1. Does the Council support the total elimination of the minimum parking requirement? Alternatively, does the Council support a reduction to the minimum parking requirement below the current level of 33% below estimated demand?
2. Does the Council support a requirement for projects of a certain size to provide a minimum number of disabled parking spaces?
3. Does the Council support a requirement for projects of a certain size to provide a minimum number of electric vehicle charging stations?
4. Does the Council support a requirement for a certain amount of short-term bicycle parking to be in secure lockers, in addition to bike racks?
5. What are the Council's thoughts on the Planning Commission's other comments and proposals related to the parking provisions of the Planning Regulations?
6. Does the Council have any comments or suggestions on the other Planning Regulations amendments proposed by staff?
7. Does the Council have any additional proposals for modifications to the Planning Regulations related to parking?

CONCLUSION

Following this study session, staff will prepare an ordinance with proposed modifications to the Planning Regulations, based on the Council's direction, for future consideration by the Planning Commission and City Council.

APPROVED AND FORWARDED TO THE CITY COUNCIL OF THE CITY OF EMERYVILLE:



Christine Daniel, City Manager

Attachment: Proposed Planning Regulations Amendments (red-line)