



CITY OF
**PALO
ALTO**

Item # 8

**CITY OF PALO ALTO
MEMORANDUM**

TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER

**DEPARTMENT: PLANNING AND
COMMUNITY ENVIRONMENT**

AGENDA DATE: FEBRUARY 29, 2016

ID#: ~~6421~~6484

**SUBJECT: HAZARDOUS MATERIALS ORDINANCE AMENDMENT AND DRAFT
AMORTIZATION ORDINANCE**

Attached please find one of the two documents that were not included in your packet of February 18, 2016. As explained in the staff report, this Attachment C provides a possible revised amortization ordinance that could be considered as an alternative to the ordinance included in Attachment B.

The possible alternative ordinance references a potential agreement between the City and CPI, noting that such agreement would have to be executed before the effective date of the ordinance (30 days after a second reading).

The terms of this potential agreement are being negotiated at this time. Staff will be prepared to provide the City Council with an oral update at the meeting on Monday, February 29. Staff anticipates returning to Council for consideration of the terms of the agreement on a future agenda.

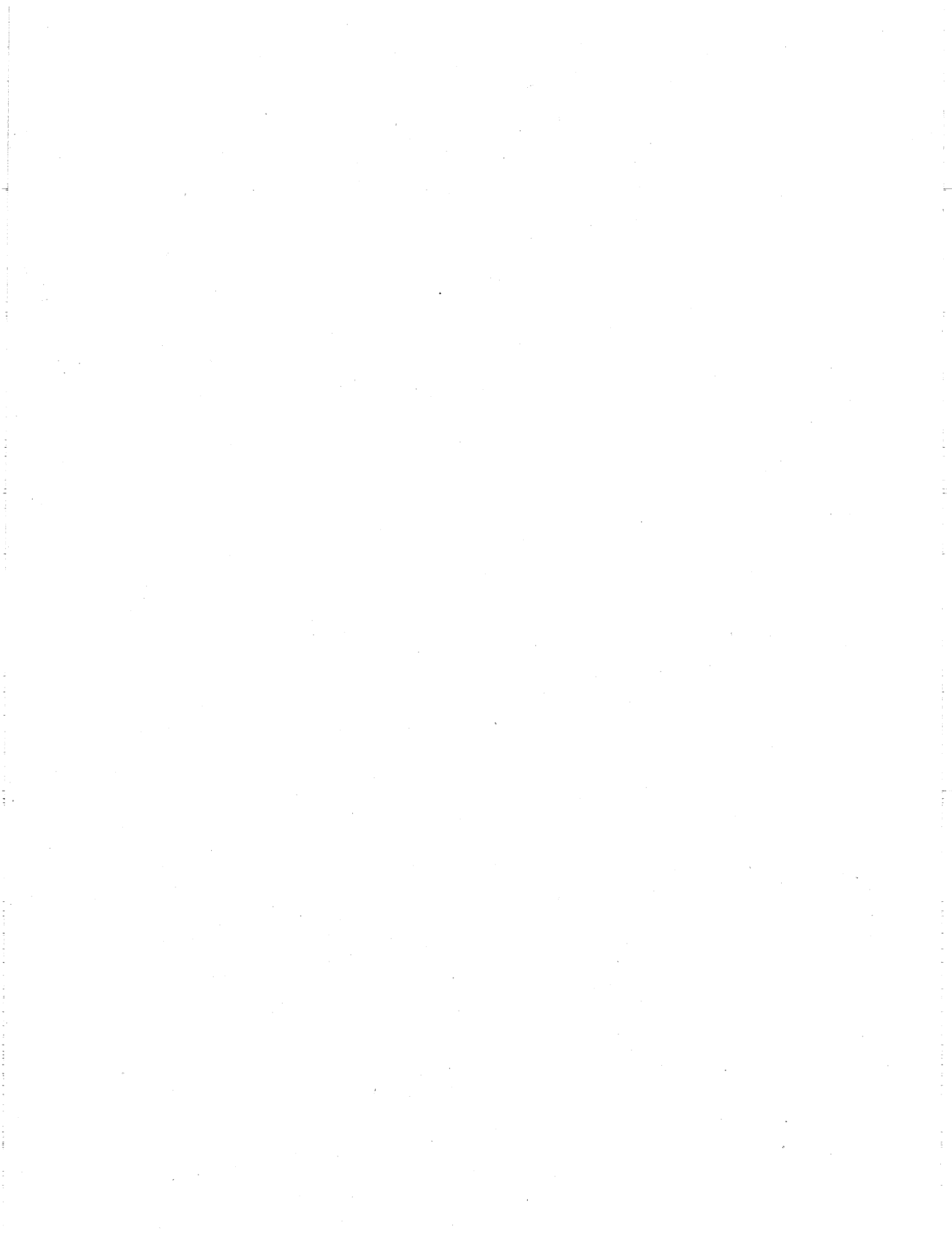


HILLARY E. GITELMAN
Director
Planning and Community Environment



JAMES KEENE
City Manager

Attachment



NOT YET APPROVED

Ordinance No. _____
Ordinance of the Council of the City of Palo Alto
Amending Zoning Regulations to Amortize Non-Conforming Hazardous Materials
Uses at Communications & Power Industries LLC, Located 607-811 Hansen Way

The Council of the City of Palo Alto does ORDAIN as follows:

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

A. The City of Palo Alto is committed to ensuring the quality of life, including public health, safety, and welfare, of its residential neighborhoods, as evidenced by Goal L-3 of the City's Comprehensive Plan, which calls for the protection and enhancement of safe, attractive residential neighborhoods.

B. There are facilities within the City that because of the types and quantities of hazardous materials used, handled, and/or stored may pose offsite health, safety, and welfare effects. One such facility is Communications & Power Industries LLC (CPI), 607-811 Hansen Way. CPI is located within the Stanford Research Park and is also immediately adjacent to a residential neighborhood.

C. In 2007, the City Council amended the Palo Alto Municipal Code to prohibit new businesses that have acutely hazardous materials above thresholds identified in Title 19 of the California Code of Regulations within 300 feet of residential zoned properties or existing residential properties within a non-residential zone. In 2007, CPI used and stored acutely hazardous materials above the Title 19 thresholds. Subsequently, CPI reduced its use and storage of hazardous materials.

D. In February 2016, the Council amended the Municipal Code to further address potential risks presented by uses that involve hazardous materials that do not exceed thresholds identified in Title 19, but that nonetheless may present a risk of offsite health, safety and welfare effects, particularly if they are located within proximity to land uses such as residences, schools, daycare centers, elder care facilities and similar uses whose occupants may be more susceptible than the general population to the adverse effects of exposure to toxic chemicals and other pollutants.

E. The Council established a minimum distance between users of acutely hazardous materials that are defined as toxic or highly toxic by the California Fire Code Chapter 2 in the City's industrial zoning districts, and sensitive receptors, defined as residences, schools, daycare centers, elder care facilities and similar uses.

F. The uses in buildings 1A, 1B and 2 at CPI are subject to this regulation and are legal and non-conforming under its terms. Under the Municipal Code, CPI may not expand or intensify the non-conforming uses. In addition, the Council wishes to establish a schedule to phase out the non-conforming uses through amortization.

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G. In 2011, the City retained the real estate economics firm CB Richard Ellis to prepare a study to determine when CPI's plating shop use could be terminated. The study concluded that 20 years from the date of the studied investments, or 2026 would provide a reasonable amortization period.

H. CPI subsequently retained another consultant to provide a separate study of this issue, concluding that the plating shop could not be separated from the rest of the facility, and that approximately 40 years would provide a reasonable amortization period for the entire facility.

I. The City retained an additional consultant, AECOM Inc., to assist the City with various tasks related to hazardous materials regulation, including conducting a peer review of the prior amortization studies. AECOM found the methods and conclusions of both studies to be generally valid, subject to several assumptions and clarifications.

J. In the interest of promoting the health, safety and welfare of residents, the City desires to encourage CPI to terminate or relocate the non-conforming hazardous materials uses associated with the plating shop out of Palo Alto at the earliest feasible date.

SECTION 2. Section 18.70.070 (Nonconforming use – Required termination) of Chapter 18.70 (Nonconforming Uses and Noncomplying Facilities) of the Palo Alto Municipal Code is hereby amended to add Subsection (b)(2)(G) as follows:

(G)

- 1) The non-conforming hazardous materials uses located within the plating shop in Building 2 and the associated chemical storage area at 811 Hansen Way shall terminate or be relocated greater than 300 feet from sensitive receptors and residentially zoned parcels on or before December 31, 2026. The non-conforming hazardous materials uses located within Buildings 1A and 1B at 607 Hansen Way shall terminate or be relocated greater than 300 feet from sensitive receptors and residentially zoned parcels on or before December 31, 2052.
- 2) As an incentive for the owner of the facilities at 811 Hansen Way to pursue new technologies and terminate the non-conforming hazardous materials uses in the plating shop in Building 2 and the associated chemical storage area rather than relocating them on site to a location greater than 300 feet from sensitive receptors and residentially zoned parcels, the owner may elect in writing, no later than December 31, 2021, to terminate the non-conforming hazardous materials uses in the plating shop in Building 2 and the associated chemical storage area rather than relocating them on the site. The election shall be irrevocable. If the owner makes the election above, the termination date shall be extended to and the termination shall occur no later than December 31, 2031. The City may enforce the termination of the uses effective December 31, 2031 by injunctive relief or other lawful means. This subsection 18.70.070(b)(2)(G)(2) is contingent on the City and the owner entering

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into a binding implementation agreement no later than the effective date of this ordinance.

SECTION 3. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be held invalid.

SECTION 4. The City Council finds that this ordinance falls under the California Environmental Quality Act (CEQA) exemption found in Title 14 California Code of Regulations Section 15308 (Class 8, Actions for Protection of the Environment), because it is designed to assure the maintenance, enhancement, or protection of the environment and involves procedures for the protection of the environment aimed at reducing risks to sensitive receptors associated with potential accidental releases of hazardous materials.

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

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Mayor

APPROVED:

City Manager

Director of Planning and Community
Environment

Director of Administrative Services