**Ordinance Committee**

**Tuesday, December 3, 2013**

**Draft Minutes**

**Committee**: Chip Mason (CM), Sharon Bushor (SB), Karen Paul (KP)

**Staff**: Gene Bergman (GB) (Sr. Asst. City Attorney), David White (DW) (Dir. Planning & Zoning), Chapin Spencer (CS) (Dir. Public Works), Joseph Corrow (BPD Community Service Officer), David Murrish (BPD Community Service Officer)

**Public**: Jennifer Wallace Brodeur (Planning Commission), Kelly Devine (BBA), JoAnn Nichols (Humane Society), Anna Schulz (UVM TRC)

**Call to order: 5:40 p.m.**

1. **Agenda & 10/17/13 Minutes**

CM proposed to move item 4 (Animals and Fowl) to 3. SB proposed to delay consideration of the minutes until KP was present. On SB’s motion and CM’s second the agenda was unanimously (2-0) approved as amended.

1. **Public Forum: no one present asked to speak.**
2. **Animals and Fowl – Confinement of animals in vehicles**

**(referred by City Council on 11/18/13)**

Joseph Corrow presented for the PD. The proposed ordinance mirrors the state statute to enable the city to deal with this offense as a city ticket rather than a criminal citation. It will help because now the options are limited to issuing a misdemeanor citation under the state statute or one for cruelty. He understands that the statute is not being used.

CM said this permits breaking into cars to rescue the animal so what happens to the car. Joseph Carrow said that the PD must secure the vehicle by either staying with it or moving it to a secure lot. CM said he’d received letters of support from the Humane Society. An explanation of the penalties was given to SB (1st offense in 12 mo. $100—150; 2nd offense in 12 mo. $150—250; 3rd offense in 12 mo. $250) .

**Action: On SB’s motion and CM’s 2d, the committee voted 2-0-0 (KP came in in the middle of the discussion and abstained) to approve the ordinance and recommend it back to the council for 2nd reading with a recommendation for adoption.**

1. David White, Director, Planning & Zoning –

Presentation re downtown parking & ZA 13-06

CM reintroduced the discussion, asking what the passage of the downtown parking initiative has to do with this amendment.

DW said there was a lot of related work happening since the last discussion in the ordinance committee, like the Parking Summit. The points to appreciate are that 12% of the downtown is devoted to parking and there are about 3100 unused spaces. So the question is why create more parking when we have enough and better tools to use, especially for parking management (PDM). Maintaining the status quo will continue to create unused spaces and we will not see new development downtown. Parking makes projects too expensive to build. If we give up the requirement, what do we get? We get jobs, tax revenues, development and vitality. Other communities are doing this, i.e. Albany, NY. Creating more parking is seen nationally as not working and most vibrant cities focus on mixed use development and the management of existing parking. His prior memo in the spring of 2013 summarized these points and it is important to know that PZ is working with CEDO and others on this. The ability to implement parking management strategies requires the removal of this requirement, as is proposed, which encumbers development and the freeing of the existing unused spaces for use. Another component is transportation demand management and Plan BTV talks about this and that is also being worked on. We can work on that with or independently of this proposed amendment. Cambridge, MA says that the only way development happens is by managing transportation resources. PZ is working on a transportation demand management (TDM) proposal and they are thinking of an administrative process that requires TDM based on the size of the project; the bigger projects may require financial contributions.

CM said this is a piece that concerns him. Chapin (CS) said it costs $30,000 to build a structure parking spot. CM said there are real costs that the city doesn’t have the money for and now there is no requirement for development to pay into a fund. It feels like we are getting ahead of ourselves by eliminating the parking requirement without having the TDM and PDM that supports it.

Kelly Devine said she knows the 35% vacancy rate for parking spaces is in privately held lots and structures and people involved with big developments she knows of in the downtown that were required to have parking in order to develop have told her that the required spaces are not being used, citing the Courthouse Plaza and the ICV building on Battery St. as examples. The owners have told her that they are not interested in managing parking lots.

Kelly said that on the timing of the amendment, the BBA is working on a TDM plan starting in January and she projects it to take 8 months. She’s not sure there is future development on the immediate housing.

DW said he knows of a Pine St. developer who has expressed an interest to build and they think this change is what they need. Kelly said she’s looking for these parallel lines to work together; we are already behind the curve. There is a regional planning grant that has a TDM consideration built into it and the RPC is working with CATMA on a plan. She’d hate to see the lack of residential development while we wait for a TDM plan. DW said it is important to ask how they get developers to support this work.

CM said that if parking costs are not captured in this in-between period it is a concern. He also doesn’t buy that there is an excess of parking spaces downtown. This is from his experience working downtown. If the public had a way to identify open spaces, that would be different. We’re not there yet. Without the PDM piece in place, he feels we are getting ahead of ourselves.

DW agreed but parking space sharing can’t happen now under the current law. We need to disentangle that. GB suggested a transition to allow for the disentanglement.

SB said that the Cambridge example doesn’t work for her because they have the infrastructure. The buses and T run all the time. AARP speaks of the needs of the aging population and that needs to be considered. She understands that this is market driven but if, for example, they are building assisted living or a child care center, parking needs to be available close by. If unused spaces are not close by, then she is concerned. You say that if they create the structure, the market will create the needed parking but she is not so sure that will happen with university and college housing. More thought is needed; they need to think of the clientele and what they need. If the requirement is eliminated, she hopes it would be permit specific.

DW reminded them that this is just for the downtown.

SB said that on financing, there used to be a waiver and the developer could put money into a parking fund. What is the thinking on that? Though it will cost the developer less, it will cost something.

DW said that they used to have it but the developers never elected to use it. A parking management system would be the way to do it, i.e. an impact fee where the money would be used for this; they are not far enough along on it yet, however.

Kelly said they are speaking of the downtown and the transportation survey map led them to ask how to best manage all transportation. In the short term, they will need financial support from all segments of the community. She can’t imagine a developer who won’t want to create the spaces they need to make their development successful. They need to offer the community alternatives for all. She could see people supporting paying into a fund if it was going to transportation and parking management. They need the program that is most efficient and convenient to use.

SB said that PZ and the DRB will need to be on their game because if they aren’t this will create unintended negative consequences on neighborhoods.

Jennifer Wallace Brodeur said that the PC cares a lot about this and support this change and Plan BTV. This amendment was not controversial during the Plan BTV process and it felt like an easy first step to make the downtown more dynamic. On the population who want to live downtown, she sees them as being the millenials and aging empty nesters who want to downsize. But there aren’t many options downtown from and the PC wants to create the environment for that to occur. The older folks don’t need the same parking as younger people, they need less. Requiring too much parking makes developing downtown housing too expensive. We need to create a more robust downtown environment and see the way to do that is to create more downtown housing.

SB said that she’d met with McCauly Square residents and they complained about not having enough parking there. She lived in Burlington for 4 years without a car and it is hard. You really are trapped without a car.

Jennifer Wallace Brodeur said that the experts they’ve consulted said that Burlington is fortunate to have Car Share and could use zoning changes to get more support for Car Share. She works in a building downtown where the landlord requires participation in Car Share because there is no parking in the building.

DW said that Burlington is rich in these resources and that the transportation landscape is changing.

KP said that she’s spent many hours talking about parking with DW and Kelly Devine. She asked why they need to remove the parking requirement to do a pilot TDM or PDM program. DW said he’s found no mechanism to release the existing permittees from the conditions required under the existing ordinance.

KP said she knows people who want to move downtown but none say they will be giving up their cars completely. She has told them that developers will still need to build parking. She also doesn’t buy that most empty nesters want to give up their cars and if they remove the requirement completely it will put a lot of pressure on the DRB. Still, she is willing to move forward on this if that is what they (DW & Kelly D) want.

DW said he is looking for passage as proposed but if they want an alternative, i.e. TDM, he is working on that. KP said she’s spent a lot of time on it and is comfortable with it as proposed.

SB said she is not comfortable with acting on it now.

CM said he agrees but he understands what is needed and is not interested in it dying in committee. SB said she doesn’t want it lost that she had proposed to the PC that the ordinance mandate that developers buy cars for Car Share—if a developer was proposing a development of size, there would be a requirement to participate in Car Share or to provide a car to residents. This is based on the concept of having a number of vehicles available for developments of size. DW said he’d met with Car Share and they are thinking of how this can work.

Chapin Spencer said this is too important to let die and we need to find a path to go forward. He’s seen TDM work and understands the concern that we may be giving away too much to developers and understands the impact on neighborhoods and he wants a clear direction on how to make this proposal happen. CM said he’s looking to fill the gap in the interim by TDM and PDM programs.

SB said she’s also concerned with the institutions of higher education and the impacts of their housing developments and the difference between them and developers of housing for empty nesters and young, working adults. DW said PZ looks at housing as housing without concern for the ownership. KP said she thinks we want more of a management program in this college housing area; she also said she’d prefer not to be voting on this in the last meeting in March.

GB offered to work with DW to try to come up with a proposal that addresses the concerns raised.

CM closed this item.

**V.** **Comprehensive Development Ordinance – Removal of Café Parking Requirements in Shared Use Districts #ZA 14-06 (referred by City Council on 10/21/13)**

CM explained that this amendment originate because of the problems on Pine St. with the buildings in which the cafes there had problems with parking. DW said the proposal is to eliminate the requirement for all cafes in shared use districts, which are the mixed use and enterprise districts. The reason is that cafes are local and generally accessed by foot or by bike. The districts affected are on North St., No. Winooski Ave., Riverside Ave., Pine St., the Institutional Zoning Districts, and out at the Ethan Allen Shopping Center.

SB asked how this will help if the cafes currently exist. CM said they’d be helped if they want to expand since this eliminates the requirement to add parking if they add seats. DW said that cafes are capped in size to distinguish them from restaurants. KP asked how many seats a café can have. DW said that cafes must have less than a size of gross 2,000 sf. SB asked if this will displace the parking problem. KP said she thinks that there are other nearby businesses close by so there seems to be enough parking without the requirement. SB asked if they looked at changing the ratio instead of simply eliminating the requirement. DW said no because this came from the city council. The PC was unanimous in its support of it as drafted, however.

Action: On KP’s motion and SB’s second, the committee unanimously (3-0) voted to refer it back to the council for a public hearing, second reading and adoption, with a recommendation of approval.

**VI. Any Other Business**

CM listed the items for the next meetings: park open space, no trespass, peddler, historic building materials, and dog parks.

The committee unanimously set the next meeting for **Dec. 30, 2013 at 7:30 p.m. to deal with the park open space and peddler ordinances** and the meeting after that **for Jan. 9, 2014 at 5:30 p.m. to deal with downtown parking and the trespass ordinances**. No date was set for the historic building material ordinance discussion.

**Adjournment 7:30 p.m.**