

AAA 8/2/13

MEMORANDUM

To: Arthur A. Anselene, Town Manager

Through: Elizabeth M. Gilleran, Director of Community Development 

From: Dana E. Heiberg, Senior Planner 

Date: July 31, 2013

Subject: Public Shared Parking - Program Summary and History

Program Background: Many source documents dating back nearly 20 years are cited in the text of this memorandum. Also appearing at the end of this memorandum is a list of 13 ordinances, resolutions and other key documents that are available upon request.

A review of the Community Development Department files indicates that the program originated in the early 1990s with involvement of Town Council members, Planning Commission members, the Town Manager, the Town Attorney, the Director of Community Development and others. An April 29, 1994 Memorandum from Councilman Downer to Mayor Rust indicates that the 60 percent Developer/40 percent town cost share structure originated with a PD-MU committee that was meeting during that time period. The program became formalized with Town Council resolutions 94-G-72 (June 14, 1994), 94-G-127 and 94-G-128 (both from November 8, 1994).

These resolutions provide a framework for the program to provide shared parking through a "parking availability fee," a term for the capital cost share. Resolution 94-G-128 states that the cost share was to be based on a total capital cost of \$5,445 plus an annual maintenance fee of \$156 per space. This yielded a 60 percent of cost basis developer share at \$3,267. Documents in the file show that various cost levels had been advocated. Public Shared Parking was to be an option available to new PD-MU development (mixed use forerunner of current PD-D zoning district) as well as to existing CCD (Central Commercial District) properties that might generate an additional increment of parking. The text of Resolution 94-G-72 includes "Assumptions: (a) overall, existing parking is viewed as adequate to serve existing structures..." implying that legacy downtown structures would not be retroactively required to meet the current zoning requirements for parking. Resolution 96-G-163 of December 10, 1996 provided some extension of the earlier resolutions (94-G-127 and 94-G-128) and established the James Building and Station Street parking lots as public shared parking with advancement of the concept of establishing a 300-space parking structure north of Elden Street.

In accord with the structure contained in the formative memoranda and resolutions, the town has collected capital contributions for the purpose of developing parking facilities. The town has acquired land and built multiple surface parking facilities. The town has strived to stay ahead of the contractual commitments upon which the capital contributions were based in terms of insuring that parking facilities are on the ground prior to the construction of development projects. The town has not yet realized major downtown redevelopment with structured

parking, despite attempts by major developers during the last several years and the efforts of the town to enter into specific agreements.

Parking facilities inventory. The town owned the James Building and parking lot dating back to a purchase from Fidelity American Bank dated January 12, 1979. The town sold the property to Steven Mitchell via a contract dated April 12, 1995. However, the town retained possession of the parking lot portion of the property as part of this sale. The lot currently includes 36 public parking spaces, after it was reduced slightly for a dumpster enclosure several years ago. The town purchased the Station Street parking lot property (16-2-002-20B) from the Paul Brothers for \$375,130 as evidenced by the Town Attorney's memorandum of November 23, 1994 to the Mayor and Town Council. The lot contains 120 parking spaces and it was constructed by the town in 1996. The adopted FY1996-2001 C.I.P. indicates that \$210,000 was provided for design and construction of the Station Street lot. Therefore, total land and construction costs were approximately \$4,875 per parking space. The town purchased another Paul property in 2003 (16-2-002-20C) at a cost of \$500,000 and constructed a 42-space parking lot. Town Council Resolution 04-G-150 of November 9, 2004 declared this "Center-Vine Street Lot" at 726 Center Street as Public Shared Parking.

The town also expanded the amount of parking on Lynn Street as part of the 2007 Downtown Streetscape VDOT Enhancement Grant Project. Town Council Resolution 9-G-30 of March 10, 2009 designated 8 of the newly created parking spaces as Public Shared Parking. The town also owns the small Vine Street parking lot property. A 20-space gravel parking lot exists on the site, but will be removed in the relatively near future assuming the approved Vinehaven residential development that is part of a contract of sale approved by the Town Council in 2013 moves to construction. Thus the current inventory of Public Shared Parking as designated by Town Council resolution consists of the following:

James Building Lot, Tax Map 16-2-002-301C1– 36 spaces

Station Street Lot, Tax Map 16 -120 spaces

Vine Street Lot, Tax Map 16-2-002-15B - 20 spaces (this land under contract for Vinehaven project in accord with Town Council ordinance approving sale of land on January 10, 2012 and ZMA #12-102 approved by Town Council February 26, 2013)

Center-Vine Street Lot –Tax Map 16-2-002-20C -42 spaces

Lynn Street diagonal parking – Tax Map 16-2-002 - 8 spaces

Ahmed Leased Lot – Tax Map 16-2-002-290 -20 spaces (Resolution of June 11, 2013)

HMC surface lot - 8 spaces (Resolution of June 11, 2013)

TOTAL CAPACITY OF DESIGNATED P.S.P.: 254 SPACES

TOTAL PROGRAM COMMITMENTS TO DATE: 211 SPACES

While the current availability at June 11, 2013 is $254-211=43$ parking spaces, the town has the Vinehaven site under contract and advancement of the development in the near future will cause the 20-space Vine Street Lot to be removed from the program. This will reduce the availability to a net of 23 spaces with the total inventory reduced to 234 spaces.

Program participants with brief description of each contract. Public Shared Parking Participants are shown on the attached spreadsheets (two pages). All of the participants to date except for the Ahmed property bought into the program at the rate of \$3,267 per parking space as the developer 60% share of a total cost basis of \$5,445. The following is a summary of each of the participants.

1. Ahmed property. The history of this property at the corner of Station Street and Lynn Street (Tax Map 16-2-002-290) and the agreement for parking is unusual because the contract predated the actions cited at the beginning of this memorandum and was based on a developer share at \$4,650 per space as part of a 1991 PD-MU proffered rezoning. This is partly explained by the fact that various cost levels had been advocated prior to the formal Town Council actions establishing the parking program. The Ahmed development has never moved to construction or attained an approved site plan. Substantial payments were made toward the parking capital cost. Page 2 of the attached spreadsheet "Public Shared Parking Program Participants" dates the Ahmed agreement to August 9, 2002, but this action was an effort to clarify and carry out the unfulfilled proffer which actually dated to 1991 and ZMA #91-104. The 1991 ordinance of rezoning stated that the net parking requirement for the development was 48 spaces at a cost of \$223,200. The Town Attorney provided the Town Council with a confidential memorandum on March 20, 2009, addressing the unfulfilled proffer.

2. Mitchell/Corky -James Building property on Station Street. The Mitchell agreement was the second public shared parking agreement and records show it was dated August 10, 1995. The Corky agreement followed shortly thereafter on October 24, 1995. The Mitchell agreement purchased 28 spaces for the James Building and the Corky agreement purchased 6 spaces for a separate Station Street address for the Great Harvest Bread Company. By January 1994, the Town Council had indicated in a work session that it wanted to sell the James Building but did not want to sell the parking lot, as stated in a January 21, 1994 memorandum from Bibber to Stalzer. At this time there are 36 spaces being maintained as public shared parking by the town at the James Building parking lot.

3. Nachman Partnership. 2 parking spaces were purchased for the Nachman Partnership/712 Lynn Street at December 1997. The records note that the parking was for 1,596 square feet of office space being converted into retail space. At a later date an additional 8 spaces were purchased in order to provide 10 spaces total based on the conversion of additional office space to retail space. This property also has a unique consideration in that the Nachman's agreed to a significant dedication of street right of way for the Downtown Streetscape project. A December 19, 2008 letter from the Director of Community Development documents that the property benefits from 24 nonconforming parking spaces and the property has a legal nonconforming status; no additional spaces were to be required unless a use within the structure were to change to a more intensive use or if the building were expanded or the site redeveloped. The letter stated that a change in use to a retail operation required the purchase of 8 spaces of public shared parking and subsequently this purchase was made by the Nachmans. This is one of two properties where the Public Shared Parking requirements were applied because of a change to a more intensive use, even though a major rehabilitation or new construction activity was not involved.

4. Colon, Edwin and Hilda. This property is the Upholstery Shop at 757 Elden Street with a purchase of 10 parking spaces in May 7, 1997. This building does not appear to have involved any new construction or building addition. However, documents indicate the building was vacant for a long period of time, triggering the requirement to address the parking nonconformity. This is the second of two properties where the Public Shared Parking requirements did not relate to a major construction rehabilitation or addition type of activity.

5. Ashley and Associates. (D. Wallace, 779 Station Street, Dairy Queen Restaurant) This project was a rezoning to PD-MU. This was a building addition and rehabilitation project and as of February 7, 2000, the property purchased 10 public shared parking spaces.

6. Landau, Douglas and Melissa. (797 Center Street, law office use). This project was a rezoning to PD-MU to support a rehabilitation and adaptive use of a former residence, which was advanced and occupied. Eleven parking spaces were purchased at March 1, 2002.

7. Herndon Commerce Center (originally William Lauer/Tetra Partners property). Corner of Elden and Station Streets. This is the largest project by far that participated in Public Shared Parking with a purchase of 88 spaces. The property was rezoned to PD-MU as per ZMA #01-104. The parking for the entire mixed use building per the proffered rezoning consisted of Public Shared Parking. An agreement was concluded October 8, 2002 and payments began at that time. The capacity of the program at the time included 186 spaces on the ground and the Herndon Commerce Center project brought the total commitments to 203 spaces. The purchase of the Paul Property (16-2-002-20C) at Center and Vine Street was approved by the Town Council and went to closing at the end of February 2003. Construction within the year by the town brought the Center-Vine lot on-line with an additional 42 parking spaces.

8. Diamond Hotel/Retail. The Diamond LLC Zoning Map Amendment #07-101 was approved by Town Council on November 11, 2008. This rezoning included a plan by the developer to obtain 15 Public Shared Parking spaces to supplement parking to be constructed on-site, to provide sufficient parking for the retail component of the project. However, the project never advanced to the point of a site plan or a contract for Public Shared Parking. At this time, the town is not committed to provide available parking for the project, although the staff would work with the Town Council to possibly make a commitment if the project were to be revived.

Summary:

Property owner / date / address / total cost (all contracts at \$3,267/space except Ahmed)

1. Mitchell, 8/10/95, James Building, 781/783 Station St., 28 spaces, \$91,476
2. Corky, 10/24/95, James Building, 785 Station St., 6 spaces, \$19,602
3. Nachman, 12/97 and 1/09, 712 Lynn St., 10 spaces total, \$32,670
4. Colon, 5/7/97, 757 Elden Street, 10 spaces, \$32,670
5. Ashley and Associates/Wallace, 2/7/2000, 779 Station St., 10 spaces \$32,670
6. Landau, 3/1/2002 797 Center Street, 11 spaces, \$35,937
7. Ahmed, 8/9/2002, Ahmed Building (plan), Station Street, 48 spaces, \$223,200
8. Lauer/Tetra Partners, 10/8/2002, Elden and Station Streets, 88 spaces, \$287,496

Preliminary Analysis: It is not clear whether there was a full recognition during the early 1990s that the program would experience a challenge when moving from the modest cost basis associated with surface parking to the much higher cost basis of structured parking. There are some references in the files to indicate that this was understood by decision makers.

The cost structure since the inception of the program has been based on a cost share of 60 percent developer/owner and 40 percent Town of Herndon. The original cost basis of \$5,445 per parking space was an estimation of construction costs for surface parking on land owned by the town. The developer/owner share was therefore \$3,267/space. This cost structure was in place from the early 1990s to 2009, when the cost basis was adjusted by Town Council. Based on the same cost share of 60 percent/40 percent, the cost basis was adjusted by the Town Council on March 10, 2009 to \$14,700 per space. The developer share changed to \$8,820 per space, with the town share at \$5,880. At the time, the Diamond LLC hotel/retail project had moved through a rezoning and was planning to purchase 15 spaces of Public Shared Parking for retail, in accord with development proffers. The cost structure increase was approved by council in part to insure that Diamond and other large projects would be contributing an appropriate share to reflect a transition to structured parking.

One consideration with respect to where the program stands today is the more recent history involving the review of three major multi-block downtown redevelopment proposals that were presented to the town in the 2005 to 2009 time frame- Clark Ventures, Herndon Station LLC and JPI. The greater focus was on these projects as a complete solution to downtown parking in terms of an end result representing something close to build-out of the downtown. The issue of the small business change of use to a greater intensity or the adaptive use of an older structure requiring the provision of parking has not been the subject of discussion by council. The effort in reviewing major mixed use proposals was focused on insuring that some capacity for expansion of public shared parking would be included in any large multi-block project, so that there would be a modest supply available for small adaptive use or change of use.

On the issue of small business activity and changes of the use of older structures, the program as it stands along with the zoning regulations may have an impact on adaptive use. Although older businesses are grandfathered as far as not being required to fulfill parking requirements, changes of use to a business with a more intensive parking requirement or expansion of a business have been required by the zoning administrator to provide parking for the increased increment. Since most properties do not have options to construct parking, the town provides the option of buying into public shared parking. However, the cost was considered high by small businesses prior to the 2009 cost increase to reflect structured parking. For developers involved in major new development, the staff has not heard any comments that the cost is high. For these developers the cost is probably considered reasonable, especially compared to the typical costs of structured parking or the cost of land plus surface parking.

Comparative information from other jurisdictions shows a pattern of grandfathering for small businesses while providing multiple municipal parking solutions including stand-alone garages and public parking within private garages. Examples include the following:

1. The City of Fredericksburg works to provide parking at a fee of \$5,500 per space for new businesses or for change of use when the change is to a more intensive use (i.e. office to restaurant). However, certain features assist the truly small businesses. The city zoning ordinance Section 78-119 allows credit for existing on-street parking spaces abutting the property and the zoning administrator is able to waive the requirements for up to 5 parking spaces. A recent city parking garage project provided public parking in a 297-space garage. The project was advanced partly to attract a hotel, which was developed and eventually purchased 80 parking spaces within the 297-space garage. The freestanding parking structure cost \$5.8 million (\$19,529/space) and includes brick facades. It was financed with general obligation bonds. The city provides no specific facilities or guarantee of space to participants. An additional parking structure is in the planning stages.

2. The City of Fairfax has evolved a creative program with agreements that a number of private facilities that are used for daytime-oriented office development are available for evening and weekend public parking. One recent project provides a 558-space garage with a portion open to the public at all times and the entire garage available to the public during evenings and weekends. There are multiple surface parking lots as well as structured parking for the county library that includes public parking without restriction in the evenings and on weekends. The city's approach to parking includes flexible features built into the Old Town Fairfax Redevelopment Option, Section 110-1161 of the city zoning ordinance. Parking requirements may vary under this structure, and shared parking, mixed use and pedestrian facilities are encouraged. Flexibility for small businesses is contained with the city's zoning ordinance Section 110-154. This ordinance establishes that within "Parking District A" of the Old Town area that "no parking shall be required for improvements or expansions of existing structures that generate additional parking demand of seven or fewer spaces or for changes of use of existing structures."

3. The Town of Leesburg has a downtown parking program including the Town Hall parking garage, a 300-space garage of mainly unassigned parking that is free for the evenings and weekends. On weekdays, the first two hours are free with parking validation and the charge thereafter is 50 cents per hour up to \$5.00 maximum. The town also offers to the small businesses the rental of reserved space within this garage at a cost of \$60.00 per month, or unreserved at a cost of \$40.00 per month. The Leesburg zoning ordinance Section 11.4.3 also provides special features for change of use or expansion of a use in the downtown H-1 Overlay District. A payment in lieu for required off-street parking can be made and the fee is established from time to time by the Town Council. Leesburg staff states that the fee is currently \$3,000 per parking space. Any off-street parking satisfied in this manner runs with the land and any subsequent change in use that requires more off-street parking requires subsequent action to satisfy additional parking requirements. No refund of parking payments is made when there is a change of use that requires less parking.

Conclusions: To date the town's parking program has satisfied small scale development needs and provided some flexibility for development. As the town works to transition from surface parking to structured parking, the increased cost structure moving forward becomes more

difficult for small businesses. The town should look at impacts on existing businesses that may want to expand or change the type of use to a use with a higher parking requirement.

Options:

1. Continue with the current program and format.
2. Continue with the program while implementing a waiver for the smallest businesses or for minor expansion projects. For instance, situations requiring 7 or fewer parking spaces could be exempted from the requirement to provide an increment of parking. As an example, a building addition of 2,000 square feet when coupled with the requirement for 3.3 parking spaces per thousand square feet would yield a requirement of less than 7 added parking spaces.
3. Develop a program option that allows properties to lease parking on a short-term basis, as an alternative to the purchase of parking. Perhaps a lease structure with annual renewals and a monthly payment schedule could be developed.

Please let me know if you have any questions at this time.

Package of key source documents that are available upon request:

1. Memorandum from Councilman Downer to Mayor Rust, April 29, 1994 (1 page)
2. Town Council Resolution 94-G-72, Downtown Public Parking Program, June 14, 1994 (3 pages)
3. Town Council Resolution 94-G-127, Downtown Public Parking Program, Guidelines for Implementation, November 8, 1994 (5 pages)
4. Town Council Resolution 94-G-128. Downtown Public Parking Program, Guidelines for Fiscal Management, November 8, 1994 (2 pages)
5. Town Council Resolution 96-G-163. Designation of Downtown Public Shared Area on Station Street and Update of Downtown Public Parking Program. December 10, 1996 (5 pages with attachments including "Policy Guidelines for a Contingency-Based Public Parking Program" and map)
6. Memorandum from Richard B. Kaufman to Town Council, Paul Brothers Contract, November 23, 1994 (1 page)
7. Town Council Resolution 04-G-150, Declaring 726 Center Street as Public Shared Parking, November 9, 2004 (1 page)
8. Town Council Resolution 09-G-30, Designating 8 parking spaces reconstructed on Lynn Street as Public Shared Parking, March 10, 2009 (3 pages)

Memorandum from Dana E. Heiberg, Senior Planner
July 31, 2013
Page 8

9. Town Council Resolution 13-G-39, Adding HMC and Ahmed parking lot spaces to Public Shared Parking, June 11, 2013 (1 page)

10. Downtown Public Shared Parking Participants as of June 12, 2012 (2 pages)

11. Memorandum from Director of Community Development Bibber to Town Manager Stalzer, January 21, 1994 –Sale of James Building, Parking Considerations (2 pages)

12. Letter from Director of Community Development Gilleran to Nachman Partnership, L.P., December 19, 2008 (3 pages)

13. Town Council Ordinance 09-O-06, March 10, 2009, Amending the Cost Basis of the Public Shared Parking Program (2 pages)

c: Richard B. Kaufman, Town Attorney
Mark K. Tuohy, Director of Finance