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# CITY OF CAMBRIDGE

Community Development Department

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To: Planning Board

From: Community Development Department (CDD) Staff

Date: April 11, 2023

Re: **Craig Kelley, et al., Zoning Petition**

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## Overview

Petitioner: Craig Kelley, et al., (group of at least 10 registered voters)  
Zoning Articles: 2.000 (Definitions), 4.000 (Use Regulations), 6.000 (Parking and Loading Requirements)

Petition Summary: To amend Article 4.000 of the Zoning Ordinance by adding the following new use categories: "M. Shared Vehicle" and "N. Publicly-accessible, Privately-owned Electric Vehicle Charging System," with definitions included for "Shared Vehicle" and "Publicly-accessible, Privately-owned Electric Vehicle Charging System,"; and to insert "Yes" next to all such uses in all zoning districts except Open Space; and to amend Section 6.20 "Offstreet Parking Regulations" to add as follows: "6.21 (a). Publicly-accessible, Privately-owned Electric Vehicle Charging Systems may be installed in any parking space conforming to the dimensional and other requirements of Article 6.000, or, if not, are lawfully nonconforming."

Planning Board Action: Recommendation to City Council

Memo Contents: Summary of the proposed zoning, background information on the topic of the Petition, and considerations and comments from staff.

## Summary of Petition

The stated intent of the Petition is to “further Cambridge’s efforts to decarbonize transportation and to decrease parking demands by changing the City’s zoning to 1. Allow owners of private EV charging systems to make those charging systems, and associated parking spots, available for rent via an internet-based platform for up to 10 hours to charge EVs; and 2. Allow owners of private automobiles parked on private property to offer those automobiles for rent via an internet-based platform (such as Turo.com).”

The Petition proposes to create two new land use categories in Article 4, both of which would be permitted by-right in all zoning districts except for Open Space districts:

- a. Shared Vehicle
- b. Publicly-accessible, Privately-owned Electric Vehicle Charging System

In addition, the Petition proposes to amend Section 6.20 *Off Street Parking Regulations* by inserting a new Section 6.21(a) which states that “Electric Vehicle Charging Systems may be installed in any parking space conforming to the dimensional and other requirements of Article 6.000, or if not, are lawfully non-conforming.”

Definitions for the proposed use categories as well as “Electric Vehicle” are included in the Petition.

## Background

The Planning Board previously discussed similar [zoning petitions](#) in 2019 and 2022. In both petitions, the Planning Board elected to forward a report to the City Council with no positive or negative recommendation. While Planning Board members generally supported the overall goal of promoting more innovative and sustainable modes of transportation and making efforts to divest from greenhouse gas-emitting vehicles, Board members also raised questions about the appropriateness of zoning as the tool to address this issue and whether some provisions would be enforceable.

Staff have included information below from previous staff memos on this topic that are relevant to the current petition. The Planning Board’s most recent report on the topic is also copied for reference.

## Planning for Mobility

### *Envision Cambridge (2019)*

The City’s comprehensive plan, *Envision Cambridge*, establishes several policy goals related to transportation, mobility, and sustainability:

- Reduce transportation-related greenhouse gas emissions.
- Expand access to sustainable transportation choices and the physical reach of sustainable transportation infrastructure.
- Enhance existing sustainable transportation infrastructure to be more convenient, reliable and resilient.
- Adjust land use policy to support sustainable transportation choices.
- Establish new regulatory frameworks to prepare for tech-driven changes to in-mobility systems.

### *Electric Vehicle Charging*

CDD has devoted significant attention to how the city will need to adapt in order to adequately accommodate increasing demand for electric vehicle (EV) charging. Unlike fueling stations for automobiles that run on petroleum, EV charging stations or “EVSE” (Electric Vehicle Supply Equipment) tend to be installed as ancillary fixtures in parking lots and garages or on public property along the curb. EV charging is less noxious or hazardous than petroleum fueling, and it tends to take a longer amount of time to recharge than to refuel.

The City is currently taking steps to expand the EV charging network within the City. Beyond increasing the number of [City-owned public charging station locations](#), the City has worked with developers of parking facilities subject to Planning Board Project Review Special Permits to provide a minimum of 25% of new spaces to have EVSE, with infrastructure in place to make 100% of spaces ready for future EV charging capabilities. The City also convened a [working group](#) which established a goal of installing 100 new, publicly-available EV charging ports within the City by 2027.

### **Current Zoning for Shared Transportation Systems**

#### *Carsharing*

The City Council adopted zoning amendments to enable carsharing services in 2016 (Section 6.24 of the Zoning Ordinance). Carsharing programs – not to be confused with “ridesharing,” which means carpooling or “ride-hailing,” which refers to services such as Uber and Lyft – offer members access to a fleet of automobiles that can be reserved for short periods of time using an online or app-based system. These programs offer an alternative to car ownership for people who only need to use them occasionally. Carsharing programs are typically operated as private ventures, unlike bikeshares such as Bluebikes where the system is owned by the City.

Carsharing programs can generally fall into one of four categories:

- 1) Round-trip carsharing: payment for the hour, mile or both where users begin and end a trip in the same location.
- 2) One-way/free-floating carsharing: users begin and end trips at different locations, and is more often used for shorter trips/periods of time and rental fees are charged on a time-basis (e.g., \$/minute).
- 3) Peer-to-peer carsharing: privately-owned vehicles are made available for rent by others for a certain period of time, and the vehicle fleet is a virtual fleet made up of vehicles from participating owners. This is not currently permitted in Cambridge because per the definition of “carsharing vehicle” in the Cambridge Zoning Ordinance, all vehicles must be owned by a Carsharing Organization, which is defined as a “membership-based entity with a distributed fleet of carsharing vehicles that charges a use-based fee related to a specific vehicle.”
- 4) Fractional ownership: users co-own a vehicle and share its cost and use (this is not currently regulated by zoning in Cambridge).

State law permits vehicles that are part of a carsharing fleet to display plates issued by the RMV and to operate on public streets. The provisions in Section 6.24 of the Cambridge Zoning Ordinance allow

properly registered carsharing vehicles to be parked within different types of off-street parking facilities, with limitations.

## **Considerations for Proposed Zoning**

### *Shared Vehicles*

The Petition defines a “Shared Vehicle” as “Any privately-owned vehicle that is licensed and registered for operation on public and private highways, roads, and streets. A shared vehicle does not include Carsharing Vehicles and Organizations as regulated in Section 6.24 .” The following are some issues raised by this approach:

- Regulation of Vehicles as a Land Use – While “Shared Vehicle” is a defined term, its inclusion as an allowed use in all zoning districts except Open Space districts is not specific as to what exactly is allowed. The existing Carsharing regulations in Section 6.24 clarify how parking facilities (as a principal or accessory use) can be used for Carsharing, but no such regulations are proposed for Shared Vehicles. Instead, the proposed zoning treats a Shared Vehicle as a principal land use, which is conceptually difficult to regulate and enforce because vehicles are not “attached” to land in the same the way as buildings or parking lots. Because no process of registering Shared Vehicles is proposed, there would be no way to enforce where Shared Vehicles are located at any given time or how they are used, by whom, and whether there are any restrictions or regulations related to such use.
- Differentiation from Carsharing – The stated intent of the petition regarding shared vehicles is to “allow owners of private automobiles parked on private property to offer those automobiles for rent via an internet-based platform (such as Turo.com),” suggesting the “Shared Vehicle” use is intended to govern peer-to-peer carsharing programs as described above. Though the proposed definition specifies that a Shared Vehicle would not include a Carsharing Vehicle as regulated in Section 6.24 of the Zoning Ordinance, the definitions of Shared Vehicle and Carsharing Vehicle are very similar. In many real-life cases, it could be difficult to distinguish between the two. Also, it would be difficult to identify, regulate and enforce the use of Shared Vehicles.

The intent of the proposed zoning is to allow peer-to-peer carsharing programs throughout the city. However, it remains unclear whether zoning, which is a tool that is primarily used to regulate real property (i.e., buildings and land) is the appropriate legal tool for regulating the use of streets.

### *Publicly-accessible, Privately-owned Electric Vehicle Charging Systems*

The Petition suggests that both an EVSE system and “its attendant parking spot located on privately owned property” would be allowed to be made available, “for free or through a financial transaction, to members of the general public for the sole purpose of charging an electric vehicle owned by an entity other than the property owner.” The proposed definition further limits the use of an EV charging system to ten (10) hours when not in use by the charging system owner and states that vehicles “must be actively charging”. As stated in previous memos from staff, allowing privately-owned EV charging to be made available for use by others raises some important issues:

- Parking Regulations – Because the Petition proposes to allow both EVSE and parking to be made more broadly available, it may conflict with other parking regulations in the Zoning Ordinance, the Parking and Transportation Demand Management (PTDM) Ordinance, and the Commercial Parking Ordinance and associated “parking freeze” which sets an EPA-mandated cap on the total number of commercial parking spaces in the City. CDD is undertaking a [study](#) of these regulations to consider changes to meet current transportation goals, including EV charging and other mobility issues. This study is focusing on issues such as social equity and accessibility. We set this study up as a comprehensive planning process, but due to staffing constraints will not be able to resolve many details by the original schedule we set for ourselves. The community engagement portion of this process has been completed. The [Draft Report is here](#). Staff are now creating a recommendation for which actions to move forward now, and which will require more detailed study.
- Transportation Impacts – Even if it is permissible, making EVSE and parking spaces available to the general public could have transportation impacts. For example, if residential property owners have the ability to lease parking spaces to commuters with EVs, it could increase traffic in residential neighborhoods and throughout the City in general if it encourages more EV-owning commuters to drive, especially commuters with vehicles not registered in Cambridge, exposing it to legal challenge.
- Enforcement - Though the Petition adds restrictions on how a charging system may be used and by whom, it is not clear how that standard could effectively be monitored and enforced, especially since there is no proposed requirement to register the use with the City. Additionally, further clarification on the 10-hour use limit is needed to understand whether that limit is measured per charging session, per day, etc. There are also no clear regulations about where an EVSE can be installed, such as inside or outside the dimensions of a parking space. Likewise there are no clear regulations regarding the size, height, lighting, safety measures, and other physical characteristics of an electric vehicle charging station.
- Ambiguity – The new Section 6.21(a) which is proposed to be inserted states that “Electric Vehicle Charging Systems may be installed in any parking space conforming to the dimensional and other requirements of Article 6.000, or if not, are lawfully non-conforming.” This language is ambiguous and therefore confusing. If such installation is permitted, it is not “lawfully non-conforming.” We therefore recommend if the Council wishes to amend the Ordinance as proposed that this language be revised to remove the phrase: “, or if not, are lawfully non-conforming.”

## Conclusions

As articulated in the Envision Cambridge report, it will be important to support innovations in transportation that will advance the City’s climate goals.

A common issue among the two different parts of the Petition is the limited effectiveness of zoning in regulating transportation systems. The primary effect of zoning is to regulate where and how different types of vehicles may be parked in off-street lots. It might seem reasonable to be more permissive in

order to promote more climate-friendly technologies, but there could be broader land use implications related to traffic and congestion, which can have climate impacts as well.

In the case of Public Bicycle Sharing, the City adopted zoning only after the policy framework was established for what is now the Bluebikes system. The effect of the zoning was simply to allow stations to be sited in off-street locations as a supplement to on-street locations. In the case of carsharing, the City adopted zoning that used terminology defined in state law, and only after studying the topic and conducting community outreach to weigh the pros and cons of carsharing systems. The effect of that zoning was to permit carsharing vehicles to be parked in a range of different off-street facilities across the city, but with limitations in response to community concerns. As a land use regulation, the Zoning Ordinance does not say what types of vehicles may use public streets or how they can be fueled. Zoning requirements for new mobility systems will have a limited effect without a larger policy framework for how those systems will operate, both at the state and local level.

Similarly, staff believes that the best way to enable innovative transportation solutions is to begin with a holistic view of the issue, understanding all of the policy considerations, and then determine what zoning (or other) regulatory interventions are necessary to advance the desired outcomes.