

Commissioners:

John Binswanger, Greater Philadelphia Chamber of Commerce
Frances Burns, Department of Licenses and Inspections
Graciela Cavicchia, The Reinvestment Fund
Varsovia Fernandez, Greater Philadelphia Hispanic Chamber of Commerce
Councilman Bill Green, City Council
Michael Hnatkowsky, Electrical Workers, IBEW Local 98
Ann Hoskins-Brown, St. Christopher's Foundation for Children
Gary Jastrzab, Philadelphia City Planning Commission
Emanuel Kelly, Kelly Maiello Architects
Peter Kelsen, Blank Rome LLP
Councilman Brian O'Neill, City Council
Anne Papageorge, University of Pennsylvania
Greg Pastore, Bella Vista Town Watch
Guy Pigliacelli, Local 1050 Carpenters and Joiners Union
Glenn Romano, Northeast Philadelphia Chamber of Commerce
Sherman Toppin, African-American Chamber of Commerce
Stella Tsai, Archer & Greiner, PC
Julie Wong, Asian-American Chamber of Commerce (Alternate)

Agenda Item: Call to Order

- Chairman Alan Greenberger called the meeting to order at 8:00 am.

Agenda Item: Opening Remarks (Alan Greenberger)

- Chairman Greenberger opened by introducing Sherman Toppin, the new representative from the African-American Chamber of Commerce.
 - Commissioner Toppin is a real estate attorney and broker in Philadelphia, whose law practice involves all variety of real estate transactions, real estate litigation, and receivership.
 - He is currently the 60th President of the Barrister's Association of Philadelphia.
 - In addition, he is an adjunct faculty member in Temple University's Real Estate program and has appeared on HGTV's show "Bang for Your Buck" as a real estate expert.
- Chairman Greenberger then reported on the timeline for *Philadelphia 2035*, the City's comprehensive plan. The PCPC has extended the public comment period by 30 days until April 30th. The PCPC will seek approval of the plan during its May meeting and hold a release event on June 7th.
- Next, Chairman Greenberger reported that staff and Commissioners have continued to reach out to both new and old stakeholder groups since the March 2nd meeting. Eva Gladstein and Stella Tsai will highlight these activities in their reports.
- He then presented the agenda for today's meeting. The first part is a presentation showing instances where the new code treats uses differently than the current code. Don Elliot will review selected use charts and discuss the reasoning behind changes in uses.
 - This information is available in greater detail in a comprehensive packet that has been posted on the ZCC website for the last month. These are included in the Commissioners' packets.
 - After the presentation, the floor will be open briefly to Commissioners for questions.
- The second part is a presentation in which Mr. Elliott will report on a set of proposed changes to the *Draft Preliminary Report*, as recommended by the Work Plan Committee and the ZCC's internal review working group.
 - Commissioner and Work Plan Chairman Peter Kelsen will provide a brief overview of the basis for these changes in his Work Plan Report.

- Lastly, Chairman Greenberger reminded the Commission that the ZCC will vote on a Preliminary Report to send to City Council at its May 11th meeting.
 - ZCC staff will post a copy of the *Preliminary Report* and circulate information on any new changes around ten days before the meeting.
 - He expects that there will be additional recommended changes to the *Draft Preliminary Report* that arise from continuing activities such as the ZCC Stakeholder X-Changes and meetings with the Bar Association and the BIA. If this is the case, the ZCC will review these additional changes on May 11th, prior to voting on the Preliminary Draft that same day.
 - The ZCC may also need to offer amendments to the *Preliminary Draft* while it is being reviewed by City Council.

Agenda Item: Adoption of Minutes

- The Commission adopted the minutes of the March 2, 2011 meeting.

Agenda Item: Executive Director's Report (Eva Gladstein)

- Eva Gladstein updated the Commission on content that has been posted on the ZCC website:
 - All Work Plan Committee Minutes, since January 2010, are now available.
 - A packet showing any difference in uses between the current code and new code for the most common zoning districts, based on land area.
- With regard to administrative business:
 - The hearings on the ZCC's operating budget are scheduled for 2 pm today.
 - Commissioners' financial disclosure forms are due in May. Ms. Gladstein encouraged the Commissioners to contact her if there are any questions about how to complete the forms, which are required of all ZCC Commissioners.
 - The Commissioners' packets include includes comments received from the public since the March 2nd meeting: several on the City Avenue overlay; use controls in Old City (Old City Civic Association; Franklin Bridge North Neighbors); on natural resources from Judy Stepenaskie; on development standards from the Design Advocacy Group; two from the Crosstown Coalition on the green-lined code; from the Outdoor Advertising Industry; and from Northern Liberties Neighbors Association and Fishtown Neighbors regarding the timeline for neighborhood meetings.
- As Chairman Greenberger mentioned, the ZCC has continued its civic engagement activities:
 - There have been meetings with the Wister NAC, Next Great City Coalition, Bar Association, BIA, and Philadelphia2035 Open House.
 - The ZCC will also give presentations to 10 civic association meetings in Northeast Philadelphia, two of which occurred earlier this week in Somerton and East Torresdale.
 - ZCC staff has reached out to all members of City Council and prepared briefing packets tailored to each City Council District.
 - So far, ZCC staff and Commissioners have met with six members of Council, or their staff, with another meeting scheduled with one more Councilmember. Two Council members requested the briefing packet but did not set up a meeting.

Agenda Item: Civic Engagement Committee Report (Stella Tsai)

- Commission Tsai was happy to report that the ZCC has completed four of its seven ZCC Stakeholder X-Changes. She thanked the Commissioners who have attended and participated in the conversations as these have been effective tools to encourage dialogue on components of the new zoning code.
- The X-Changes have provoked some new ideas and recommendations that were forwarded to the Work Plan Committee for review.

- The first X-Change, on March 16th, focused on the role of community organizations and public notice and had 40 attendees.
- The second X-Change, on March 22nd focused on ZBA hearings and appeals and had 35 attendees.
- The third X-Change, on March 30th, focused on districts and overlays and had 35 attendees.
- The fourth X-Change, on April 15th, focused on uses and had 15 attendees.
- She reminded the Commissioners that the next three X-Changes will take place on April 19th (dimensional standards), April 27th (development standards) and May 3rd (parking and signs).
- Lastly, Commissioner Tsai circulated the ZCC's "Top Ten Things You Should Know about Philadelphia's New Zoning Code" list and briefly read the list.

Agenda Item: Work Plan Committee Report (Peter Kelsen)

- Commissioner Kelsen reported that the Work Plan Committee has met twice since the March 2nd meeting, and it is planning several additional meetings before the May 11th ZCC meeting. Additionally, the Committee convened a meeting on the Center City Overlay, met with BIA representatives and participated in a meeting with the Bar Association.
- The Work Plan Committee also reviewed recommendations from the Internal Review Committee, comprised of members of the Law Department, PCPC, and L&I.
- Commissioner Kelsen added that the recommended changes that Mr. Elliott will present today arise from a combination of these sources, and the Committee is eager to receive feedback.
- Lastly, he encouraged everyone to review the minutes of the Work Plan Committee which are posted on the ZCC's website.

Agenda Item: Review of Differences in Uses between Current Zoning Code and Proposed Zoning Code (Don Elliott)

- Mr. Elliott prefaced his presentation by noting that most cities do not offer such detail on proposed use changes. In his estimation, the comprehensive packet goes down to a level of detail that he has never seen.
- Mr. Elliott began by recounting the guiding principles for the ZCC's treatment of uses in the new code:
 - First, it considered whether the proposed use is appropriate for the intended character of the district.
 - Second, the ZCC broadly embraced the regulation of uses by category as opposed to the current regulation by individual uses. However, any specific use that requires further regulation than its category has been separated and regulated appropriately.
 - Last, the use regulations should support the purposes of the Zoning Code. The ZCC has permitted many uses, but ensured that they comply with the spirit of the Zoning Code through their respective use-specific regulations. For example, instead of prohibiting certain commercial uses, the Code allows the use and minimizes its potential harm to public environment through regulations.
- There are three types of differences in uses.
 - First, the Code has new uses, which were necessary because the current zoning code is 40 years old.
 - Second, the Code is "more permissive" of given uses when these uses have evolved to have fewer impacts or use-specific standards can mitigate such adverse impacts.
 - More permissive means that a formerly prohibited use is now allowed by right or with a special exception approval, or that a use formerly allowed by certificate is now permitted.

- Third, the Code is “more restrictive” of given uses when these uses have become obsolete or are no longer compatible with the district. Additionally, the Code may prohibit a use subcategory, but allow one highly specific use within that use subcategory.
 - More restrictive means that a formerly permitted use is now prohibited or requires special exception approval, or that a use formerly allowed by certificate is now prohibited.
- Mr. Elliott moved on to discuss the differences in uses in residential districts. He noted that there are only two pages of changes and invited interested parties to select either a use or zoning district and read down the row or across the column to find out any changes.
 - Generally, in residential districts, the Code is more permissive of Public, Civic, and Institutional uses. In addition, Home Occupations as an accessory use are permitted because the nature of workplace has changed as more people able to work from home.
 - The Code is more restrictive of single-room residences and day care uses.
- There are four pages of commercial use tables which show that the Code is more permissive of many uses. This trend is indicative of the ZCC’s goal of encouraging more commercial investment in all types of enterprises throughout the City.
 - Generally, in commercial mixed use districts, the Code is more permissive of Public, Civic, and Institutional uses, on-premise dry cleaning, and gasoline stations.
 - The Code is more restrictive on major utilities and services and car and bus barns.
 - In auto-oriented commercial districts, the Code is more permissive of active recreation, assembly and entertainment, building services, and parking lots and garages.
 - The Code is more restrictive of various residential uses.
- There are three pages of industrial use tables, and Mr. Elliott noted that these are more complex and require interested parties to conduct a close review.
- Next, Mr. Elliott discussed trends in the new uses that the Code has prescribed.
 - Family community homes are now permitted to conform to Federal regulations.
 - Community garden, market farms, and animal husbandry are part of the City’s embrace of urban agriculture. Mr. Elliott added that Philadelphia is often cited as a model city for this movement.
 - Artist studios and artisan industrial arose out of the recommendation of the PIDC to provide low intensity industrial uses, which are consistent with the realities of new economy.
- The ZCC opened the floor up to Commissioners for questions:
 - Councilman O’Neill asked whether duplexes will be zoned in multi-family or two-family districts. If they are zoned multi-family, then does the new code make it possible for a greater number of units to be placed into a property that was formerly only allowed two units?
 - Ms. Gladstein responded in RM-1, the lowest density multi-family district, the number of units is determined by lot square footage.
 - Councilman O’Neill posed a hypothetical: if a current RSA-5 lot has two apartments, how many will be allowed under the new code?
 - Commissioner Kelsen responded that the number of units could increase if the lot is large enough. He suggested that staff put together a document that uses current properties as examples to show how the permitted number of units may change under the new code.
 - Councilman O’Neill then asked the implications of merging C7 – a district that allows smaller auto-oriented retail centers – into the more intense CA-1 district.
 - Ms. Gladstein noted that page 33 of the use packet details the changes in uses as C7 becomes CA-1.

- Councilman Green continued on Councilman O'Neill's point by asked whether C7 could become CMX-2.5.
 - Mr. Elliott responded that all lots in the C7 district will become CA-1. Only certain commercial lots in neighborhood commercial overlay districts will be converted to CMX-2.5. However, it is possible that a C7 parcel will be remapped CMX-2.5 in the future.
- Councilman Green asked if it is possible to add a two-family use so that there is a residential use between single and multi family uses.
 - Mr. Elliott responded that there are several ways, one of which is to create a two-family district, but the ZCC should consider how disruptive it will be to add a two-family district at this late stage in the process.

Agenda Item: Review of Proposed Changes to *Draft Preliminary Report* based on public comments and other input (Don Elliott)

- Mr. Elliott reviewed proposed changes to the *Draft Preliminary Report* based on the recommendations of stakeholders, Work Plan Committee, and internal review.
- Chapter 14-200: Definitions
 - The definitions of story, basement, and cellar have been cleaned up. A cellar does not count as story, and a basement is a story since it is less than 50% below ground.
 - The definitions of attached, semi-detached, and detach housing has been revised to reference "walls at or on property lines" in place of "party walls."
- Chapter 14-300: Administration and Procedures
 - In 14-301 (Reviewers and Decision-Makers), paraphrased text referencing other laws was replaced with "incorporated by reference."
 - In 14-302 (Procedures Summary Table), information on the types of notice required is now explicitly stated in the text.
 - 14-303 and 14-304 (General and Specific Procedures)
 - Provisions regarding zoning permits, special exceptions, and variances have been moved from "specific" to "general procedures."
 - Flowcharts for special exceptions, variances, and CDR now include Registered Community Organization (RCO) meetings.
 - 14-303(1) (RCOs)
 - Some of the criteria for establishing RCOs are being moved to the PCPC regulations.
 - This section will be revised to say that the ZBA cannot convene hearings until the applicant and RCOs have convened and documented their CDR meeting, or 45 days, *whichever is less*.
 - Additionally, the ZCC reinstated the mistakenly omitted provision that says if an application requires both CDR and ZBA approval, only one neighborhood meeting is required.
 - 14-303(4) (Application Materials and Forms)
 - The provision that L&I can waive application material requirements was removed because it was deemed unnecessary.
 - Text has been added to confirm that L&I will post application materials on the City's website application materials that it requires for review of an application for compliance with the zoning code.
 - 14-303(6) (Complete Application Required) was removed because it is no longer necessary given recent refinement to the neighborhood meeting timeline.
 - 14-303(8)(Notice)
 - Newspaper notice provisions now reference Charter requirements.
 - Text preventing L&I from determining that an application is complete unless a copy of the notice to the RCO and PCPC are included has been deleted.
 - 14-303(9) (Hearings)

- The quorum language was revised to match recent legal changes.
 - The language on variance burden of proof was removed because it is already covered in the variance section.
 - The provision allowing the ZBA to suspend an attorney's right to practice was deleted because only the courts can regulate the behavior of attorneys.
 - The ZBA's power to issue subpoenas now includes the right to require production of documents related to the request.
 - 14-304(3)
 - The requirement for the Water Department to sign off on amendments to master plans before the PCPC in SP-INS districts was deleted since this process applies to zoning permits, not plan amendments.
 - 14-304(4)(Special Exception) was revised to say that ZBA "shall consider" the comprehensive plan to be parallel with standards for other decisions.
 - Additionally, the Law Department is revising language on "initial burden" and "subsequent burden of proof" in response to public input.
 - 14-304(8) (Variances)
 - For dimensional variances, the language was revised to require "minimum variance necessary" rather than the 25% limit. Also the text now clarifies that multiple factors may be considered by the ZBA in determining the need for a variance.
 - For use variances, the 25% limit on the expansion of uses approved by variance was removed.
 - 14-304(9)(Zoning Permits) now clarifies that applications for zoning permits in master plan districts must be approved by the PCPC before L&I may issue a permit.
 - 14-305(1)(Non-conformities)
 - The purpose statement was revised to reference "regulation" of non-conformities, not "accommodation."
 - 14-305(5)(Non-Conforming Uses)
 - The upper limit of expansion reduced from 25% to 15%, compared to 10% in the current code.
 - Also, text was revised to say that in determining a discontinuance L&I considers whether the owner or lessee no longer intend to use the property for a non-conforming use.
 - L&I will make a notice of the discontinued use in the property's file.
- Chapter 14-500: Overlay Districts
 - Legends will now indicate where a control area affects only certain types of properties.
 - For example, sky plane encompasses an area of Center City, but only lots in CMX-4 or CMX-5 are subject to its provisions.
 - In the CTR Overlay, spacing requirements between towers on JFK Blvd and Market St. were removed.
 - A new Ridge Avenue overlay was added consistent with recently passed legislation.
 - Regarding Neighborhood Conservation Overlays in 14-504, the text was revised to clarify that NCOs address only design, not permitted uses.
 - In the City Avenue Overlay, provisions were added requiring that facades of parking structure facing City Avenue be "wrapped" with other uses.
- Chapter 14-600: Use Regulations
 - Stables will be separated out as a use subcategory under Animal Services.
 - Changes were made to better distinguish the uses in the Wholesale, Distribution, and Storage use category.
 - Beer distributors cannot be separated out because of state laws that govern alcoholic beverage uses and sales.
 - Several changes were made to the Use Tables in 14-602

- Funeral and Mortuary Services are now “N” in CMX-2.5
- Wireless Antennas are now “Y” in RMX-1 if co-located on an existing structure and “S” if a new structure.
- Uses in RM-1 and C-districts are still under evaluation.
- Chapter 14-700: Development Standards
 - In 14-703 (Form and Design) the change of materials and colors has been removed as options for varying facades. Also, methods for measuring “surface features” based on linear distances have been refined.
- Chapter 14-800: Parking
 - In 14-703, the provision to provide “openings” as a permitted way to meet the 30% façade requirement for parking garages was removed.

Agenda Item: Discussion

- Chairman Greenberger noted that the purpose behind new provisions regarding the permitted size of an RCO is not to disenfranchise those who do not are part of an RCO. Neighborhood residents, regardless of membership in an RCO, may protest or support potential developments, variances and special exception permits.
 - The purpose of an RCO is to reward communities that organize themselves with the benefits of added notice of large developments, variance and special exception permits in an RCO’s given geographical area.
- Commissioner Romano asked whether the newly added “lessee” language in Section 14-305(5), Nonconforming Uses, includes “licensee” or “concessionaire.” He felt that both of these terms should be included since they relate to potential users of a property.
 - Mr. Elliott responded that these are not currently included, but they can be added.
- Commissioner Hoskins-Brown asked how the deletion of (formerly) Section 14-303(6), Complete Application Required, affects the 45-day timeline within which an applicant must schedule a meeting with a neighborhood group for projects requiring CDR.
 - Ms. Gladstein responded the timeline will begin when L&I informs an applicant that his or her project requires CDR.
- Commissioner Pastore asked if there should be spacing standards for special exception uses. He noted that this issue has come up in a number of meetings with community groups.
 - Ms. Gladstein responded that the ZCC should look at this, but it needs to consider legal issues.
 - Commissioner Pastore asked to gauge the opinion of the ZCC at this meeting.
 - Commissioner Kelsen suggested that staff and the Law Department look into the issue and then bring it to Work Plan once it is properly vetted.
 - Commissioner Pastore agreed with this approach, but asked that the discussion be shared with the entire ZCC.
- M. Shikomba, a community representative, raised two points:
 - First, it should be clarified that one meeting is the minimum for projects requiring CDR.
 - Second, the new code uses the terms “rowhouse” and “attached house” interchangeably, although they are different.
- Gary Spahn, a community representative, noted that a recently promulgated L&I bulletin about roof decks used language from the proposed code. He was troubled that parts of the proposed code are being incorporated into City bulletins although it has not been passed by City Council.
 - Chairman Greenberger added that L&I is free to draw from a variety of sources when drafting its bulletins and, as such, he did not perceive this as a backhanded way to incorporate the new code before it has been approved by Council.

Agenda Item: Adjourn

- The meeting was adjourned at 9:45 AM.