

PHILADELPHIA CITY PLANNING COMMISSION  
November 20, 2007

PRESENT: Marcia Moore Makadon, Acting Chair  
Lynette Brown-Sow  
Duane Bumb, representing Stephanie Naidoff  
Patrick J. Eiding  
Peggy VanBelle, representing Vincent Jannetti

ABSENT: David Adelman  
Loree Jones  
Gloria Levin

Executive Director  
Deputy Executive Director

Janice Woodcock, AIA, AICP  
Gary Jastrzab

Acting Chair Marcia Makadon convened the City Planning Commission Meeting of November 20, 2007 at 1:17PM.

1) Executive Director's Update

Janice Woodcock stated that she has three items for her update. They are as follows: the Waterfront Plan, the Laying the Foundation, and a proposed ordinance for Transit Oriented Development at Frankford.

1. On November 14, 2007 the Civic Vision for the Central Delaware Plan was greatly received at the Convention Center. The plan included the history of the waterfront, the interim stages of putting trails in to experience the waterfront in a new way, and habitat restoration near the Wal-Mart. The centerpiece of the plan is the green space at Penn's Landing. Ms. Woodcock indicated that staff will review the recommendations and the plan can be presented in greater detail at a later time.

2. Last July, PCPC launched, "Imagine Philadelphia Laying the Foundation." PCPC has received two grants, one from DVRPC, and the other from the State, to be announced soon. The project manger will be Alan Urek, and we will hold a series of public meetings this December and January. The first session is December 4 at 2407 S. Broad Street, and the December 5 at 5501 Old York Road. The next session is December 12 at 2228 Cottman Avenue, and December 13 at 5120 Chestnut Street.

3. Transit-Oriented Development been added to the Executive Director's report and may be moved onto the Agenda if the Commission desires. Richard Redding provided an overview of the bill. Bill No. 070907 would add a new classification to the Philadelphia Zoning Code, "Transit-Oriented Development District," and would map the district along Frankford Avenue in Frankford.

Ms. Woodcock indicated that the TOD land use classification legislation and mapping in Frankford was combined in one bill, and therefore property owners whose land was the subject of the legislation did not receive proper notice. She asked if the Commission would like to add this to the agenda and make a recommendation.

Upon motion by Ms. Brown-Sow, seconded by Mr. Eiding, the City Planning Commission approved to place Bill No. 070907 on the Agenda.

The sponsor of the bill, Councilman Dan Savage spoke in favor of the bill because Community leaders are support of this proposal, it is based on a previous plan, and he has been involved in the process since 2006. This zoning would reinforce his actions related to investing in streetscape improvements and striking of streets.

Mr. Bumb stated that while Transit Oriented Development is important, there should be a separate ordinance to map the legislation. Mr. Kramer verified that a short title indicating the location of the mapping would include "Frankford" in the title.

Ms. Brown-Sow asked if we could approve the legislation with the instructions to change it.

Ms. VanBelle replied that there is not time since it goes before City Council on Monday.

Mr. Bumb replied that while we support TOD and we do want to see a Bill for Frankford, there should be a generic Bill for rezoning and then another Bill for each neighborhood mapped under the ordinance. Mr. Bumb made a motion in support of Bill recommending TOD pending a new Bill for the specific neighborhood at another time.

Councilman Savage indicated he felt Frankford could be the first TOD and that the Zoning Code Commission would not be done with its work for a number of years.

Councilman Savage replied that the Bill could set up the TOD for Frankford and there have been meetings letting the community know. The bill was co-sponsored by Councilmembers Krajewski and DiCicco as portions of Frankford are in their district.

Ms. Brown-Sow replied that the issue of notification should be correct; the neighborhood may have been informed, but this notification was not in keeping with the legal methods usually followed.

Upon motion by Mr. Bumb, seconded by Ms. VanBelle, the City Planning Commission approved to support the concept of the Transit Oriented Development but not the specific geography for the Bill.

Mr. Eiding asked Councilman Savage what does it do for you time wise.

Councilman Savage replied that he will be out of office in January, therefore time wise it is not good for him.

Mr. Eiding abstained.

2) Minutes of the Meeting of October 16, 2007.

Upon motion by Ms. VanBelle, the City Planning Commission approved the minutes of October 16, 2007.

3) Act 94 Condemnation of five properties: 1737 Belfield Avenue, 1636-38 Church Lane, 1914 Dennie Street, 4344 Germantown Avenue, and 4346 Germantown Avenue. Purpose: community development projects in Nicetown, Upper Nicetown, and East Germantown. (8<sup>th</sup> District – Councilmember Reed Miller)

Cornell Pankey, Community Planner for North Philadelphia, stated this item is a finding of blight for five properties in the northwest section of the city. One of the conditions must be met as a requirement for blight under State Law PA Bill #881 of December 2005. We like to prove 2 or more conditions exist. The 2 findings of blight for this area are: 1) vacant; and 2) tax delinquent. All properties will be for new housing developments. The City Planning Commission staff recommendation is approval for the finding of blight.

Upon motion by Ms. Brown-Sow, seconded by Mr. Bumb, the City Planning Commission approved the finding of blight for the five properties: 1737 Belfield Avenue, 16-36-38 church Lane, 1914 Dennie Street, 4344 Germantown Avenue, and 4346 Germantown Avenue under Act 94 Condemnation.

- 4) Preliminary Plat – 9260 Bustleton Avenue. The subdivision for 22 single-family dwellings.

Sarah Chiu, Development Planner, stated this item is a preliminary plat for 9260 Bustleton Avenue in the far northeast section of the city. It is located on the northwest corner of Bustleton Avenue and Scotchbrook Drive, south of Welsh Road. The party at interest is the Inter-County Development Corporation. The purpose is to subdivide a 2.15-acre parcel of land to allow for the construction of 22 single-family dwellings fronting on Bustleton Avenue. Each of the proposed residential dwellings will have 2 off-street parking spaces. The front access driveway, 6-ft wide landscaping buffer easement along Bustleton Avenue, and the stormwater management system will be owned and maintained by the homeowner association. This parcel was a part of the original subdivision final plat that was approved by the City Planning Commission in 1983. The plat was revised and approved in 1984 for 376 residential lots for duplex structures and 8 commercial lots. This parcel was open space for a 25-year term. They meet all qualifications. The City Planning Commission staff recommendation is approval.

Mr. Bumb ask Ms. Chiu a question.

Upon motion by Mr. Eiding, seconded by Mr. Bumb, the City Planning Commission approved Preliminary Plat for 9260 Bustleton Avenue.

- 5) Preliminary Plat – 259 Cinnaminson Street. The subdivision of one lot into 6 lots for the construction of 5 new single-family dwelling units.

William Erickson, of the Development Planning Division, stated that this a preliminary plat for 259 Cinnaminson Street located in the Germany Hill neighborhood in northwest Philadelphia. Most streets are paper streets and not on the City Plan. Silverwood Street is not legally opened. Cinnaminson Street not legally opened on the City Plan. Cinnaminson Lane is legally opened and on the City Plan. The purpose is to allow for the subdivision of one lot containing one-single family dwelling zoned "R-5" Residential into 6 lots with 5 new single-family detached dwelling and one existing home. The City Planning Commission staff recommendation is approval with the following conditions:

1. That all lots have a deed restriction that requires owners to provide a deed of dedication to the city of Philadelphia at no cost for the beds of the streets adjacent to the lots.
2. That lots 2 and 3 be restricted in building area to locate the front of the building at the front setback line.
3. That all building lots are restricted to the maximum amount of coverage as approved in the Philadelphia Water Department conceptual approval.
4. All building, retaining walls, and stormwater structures must conform to the Geotechnical report.

5. The developer must enter into a private cost contract with the Philadelphia Water Department for the placement of new water lines and sewers prior to the Final Plat approval.

A brief question and answer session ensued between Ms. Makadon, Mr. Erickson, and Mr. Eiding.

Upon motion by Mr. Eiding, seconded by Ms. Brown-Sow, the City Planning Commission approved with the staff's provisos the Preliminary Plat for 259 Cinnaminson Street.

- 6) Bill No. 070955 – A zoning change bill for an area bounded by Burholme, Napfle, Hartel, Hasbrook, Central, Filmore, and Shelmire Avenues. It will expand the Fox Chase Cancer Center IDD. This is both a zoning change, as well as, the amendment of the Master Plan for the Fox Chase Cancer Center IDD. (Introduced by Councilmember O'Neill on November 1, 2007)

Paula Brumbelow, of the Development Planning Division, stated this is a zoning change Bill for Fox Chase Cancer Center for a zoning change in the Master Plan Amendment located at Burholme, Napfle, Hartel, Hasbrook, Central, Filmore, and Shelmire Avenues. The purpose of this Bill is to remap a block of land from 'REC' Recreation to "IDD" Institutional Development District to extend Fox Chase Cancer Center. Bill No. 070956 allows the City to enter into a lease agreement with Fox Chase Cancer Center for the 19-acre site. The campus will expand in five phases over a 25-year period increasing employment from the current 2,500 to approximately 6,300 permanent jobs. The City Planning Commission staff recommendation is approval.

Mr. Fred Maurer read a statement to the Commission. (Exhibit A)

Ms. Gavin of the Public Forum, and Mary Tracey, Executive Director of SCRUB and the President of the Fairmount Park Advisory Council stated their opposition to this Bill.

Carl Primavera, attorney for Fox Chase Cancer Center, made a statement to the Commission in why they should approve this Bill.

Upon motion by Mr. Bumb, seconded by Mr. Eiding, the City Planning Commission approved Bill No. 070955.

- 7) Bill No. 070934 – To amend the Philadelphia Zoning Maps to change the area bounded by Walnut, 43<sup>rd</sup>, Sansom, and 42<sup>nd</sup> Streets from "R-5" Residential to "C-3" Commercial. (Introduced by Councilmember Blackwell on November 1, 2007)

Ms. Brumbelow stated the purpose of this Bill is to remap a block of land from various zoning designations including "R-5" and "R-9" Residential, and "C-2" and "C-3" Commercial to "C-2" and "C-3" Commercial. The applicant is the owner of Rite Aid, and he want to take it out of residential use. Staff feels that "C-3" Commercial district is too dense for this area. This is especially true since no specific plan has been forwarded to us at this time. Zoning the block to "C-2" Commercial will still encourage

the mixed uses that are currently within the block and allow the existing commercial properties to market their properties appropriately. After relaying the staff's concerns about this Bill, the applicant agreed to amend the Bill so that the entire block will be zoned to "C-2" Commercial. The City Planning Commission staff recommendation is approval and that it be amended to be zoned entirely "C-2" Commercial.

A question and answer session ensued between Ms. Brown-Sow, Ms. Brumbelow, Ms. Makadon, Mr. Bumb, and Ron Patterson, attorney for the applicant.

Upon motion by Mr. Bumb, seconded by Mr. Eiding, the City Planning Commission approved with City Planning Commission's staff recommendation Bill No. 070934.

- 8) Bill No. 070913 – Amending Section 14-1605 of the Philadelphia Code, entitled "Regulated Uses", by adding a Take-out Restaurants and Small Retail Food Establishments to the list of designated regulated uses, all under certain terms and conditions. (Introduced by Councilmember Clarke and Council President Verna on October 25, 2007)

Martin Gregorski, Zoning Planner with the Philadelphia City Planning Commission's Development Division, stated this Bill will redefine "Take-out Restaurants" and define "Small Retail Food Establishments," then add these uses to the list of Regulated Uses.

The current definition of Restaurant (Take-out) reads:

"A use engaged in the preparation and retail sale of food and beverages which serves food and/or beverages in disposable packaging and/or containers for consumption off the premises, including but not limited to delicatessens and/or a restaurant with twenty-nine (29) or less seats."  
(Bill No. 040999, 2/16/2005)

The proposed definition will read:

"An establishment engaged in the preparation and retail sale of food and beverages which serves food and/or beverages in disposable packaging and/or containers for consumption by patrons on or off the premises, including but not limited to delicatessens and/or a restaurant with thirty or less seats."

This Bill also proposes to define, "Small Retail Food Establishment":

"An establishment having less than 5,000 square feet of floor area, including but not limited to candy stores and drug stores with out soda fountains, grocery, meat markets, and other food stores.

No Regulated Use is permitted within 1000' of any other existing Regulated Use or within 500' of any residentially zoned district, IDD, church, monastery, chapel, synagogue, convent, rectory, religious article or apparel store, residential home,

apartment buildings, hotel, or Convention or Civic center, school, public playground/park/pool or public library. If take-out restaurants were added to this list, we would not have any more in the city. The City Planning Commission staff recommendation is disapproval.

The staff has a number of serious concerns regarding this Bill. First, this Bill attempts to insert a second definition for take-out restaurants that conflicts with the existing definition, which is not proposed to be removed. Secondly, the definition for "Small Retail Food Establishment," reads in such a manner as to include EVERY establishment having less than 5,000 square feet of floor area. This would include every small mom and pop retail and service stores running the gambit from professional offices to tailor shops. Third, this Bill would effectively prohibit the placing of a new take-out restaurant within the City. This may not be sustainable in the courts. Additionally, the original list of Regulated Uses was created based on a study that found that a concentration of these uses could lead to blight. The addition of these uses is unsupported by the Legislative Findings of Fact. Lastly, Philadelphia City Planning Commission and the newly formed Zoning Code Commission has been working to reduce cases before the Zoning Board of Adjustment. This Bill would make more cases before the Zoning Board of Adjustment.

Ms. Woodcock asked Mr. Gregorski a question.

Upon motion by Mr. Eiding, seconded by Mr. Bumb, the City Planning Commission disapproved Bill No. 070913.

- 9) Bill No. 070948 – Amending Section 14-102 of the Philadelphia Code, entitled, "Definitions," by amending the definition of "Night Club," all under certain terms and condition. (Introduced by Councilmember DiCicco on November 1, 2007)

Mr. Gregorski stated that the purpose of this Bill is to redefine the term, "Night Club," in an effort to minimize the unintended consequences of the existing definition.

"Night Club" is currently defined as:

"A use engaged in the preparation and retail sale of food and/or beverages which includes live entertainment, a disc jockey or a self-contained sound system providing music; with or without amplified sound and which may or may not provide for dancing by guests and patrons."(Bill No. 903, 11/25/1994)

The proposed new definition will read:

"An establishment where 50 or more people congregate, which may or may not serve food to patrons, has a Disc Jockey and/or live entertainment, and has an area(s), permanent or temporary, set aside as a dance floor for the purpose of dancing by the patrons of the establishment."

One of the major problems with the current definition is that any restaurant that has a self-contained sound system is considered a night club. Night clubs are not permitted as a matter-of-right in any zoning classifications, so they all must go to the

Zoning Board of Adjustment for variances. The City Planning Commission staff recommendation is approval.

Upon motion by Ms. Brown-Sow seconded by Mr. Eiding, the City Planning Commission approved Bill No. 070948.

- 10) Street Striking Bills:
  - A) Streets Bill No. 070822 – An Ordinance to strike and vacate from the City Plan the legally open portions of Witte Street from Westmoreland Street to Ontario Street. This is to allow the owner of both sides of the street to consolidate his parcel. (Introduced by Councilmember DiCicco on October 4, 2007)

Mr. Erickson stated that the purpose of this Bill is the striking and vacating of Witte Street from Westmoreland Street to Ontario Street on City Plan. This action will consolidate two parcels into one parcel and allow the owner of Marano Trucking to consolidate the property by removing the legal encumbrance. The property is to be then subdivided to allow Penske Trucking to acquire the rear portion of the property adjacent to their existing business to allow for future expansion. The City Planning Commission staff recommendation is approval.

- B) Streets Bill No. 070904 – An Ordinance to strike from the City Plan and vacate Cuthbert Street from 32<sup>nd</sup> Street to 33<sup>rd</sup> Street and reserve a right-of-way for drainage and utilities purposes. (Introduced by Councilmember Blackwell on October 25, 2007)

Mr. Erickson stated this purpose of this Bill is the striking and vacating of Cuthbert Street from 32<sup>nd</sup> Street to 33<sup>rd</sup> Street from the City Plan, in order to make permanent the temporary security measures placed in the right-of-way by the Philadelphia Armory located at 3200 Cuthbert Street. The Armory is owned by the Commonwealth. The street is physically improved but is currently blocked off at both ends by concrete barriers. The existing utilities within the bed of the street are to remain and that is the reason for the right-of-way. The City Planning Commission staff recommendation is approval.

- C) Streets Bill No. 070818 – Authorizing the abandoning of a portion of a 64' wide drainage right-of-way in the area bounded by Rowland Avenue, Ryan Avenue and Sandyford Avenue. (Introduced by Council-member Krajewski on October 4, 2007)

Mr. Erickson stated the purpose of this Streets Bill is to allow the School District of Philadelphia to construct a new Lincoln High School at this location and replace the existing old building with new ball fields. The existing zoning classification is "R-3" Residential. The City Planning Commission staff recommendation is approval.

Upon motion by Mr. Eiding seconded by Ms. VanBelle, the City Planning Commission approved Bill Nos. 070822, 070904, and 070818.

Ms. Makadon adjourned the City Planning Commission Meeting of November 20, 2007 at 2:58PM.

## SUMMARY

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- 1) Executive Director's Update
- 2) Bill No. 070907: Amending the Philadelphia Zoning Code by adopting a new zoning classification entitled, "Transit-Oriented Development District," to be mapped along Frankford Avenue in Frankford. Approved the concept of TOD, not the geography
- 3) Minutes of the Meeting of 10-16-07 Approved
- 4) Act 94 Condemnation of 5 properties: 1737 Belfield Ave., 1636-38 Church Ln., 1914 Dennie St., 4344 Germantown Ave., & 4346 Germantown Ave. Purpose: community dev. Projects In Nicetown, Upper Nicetown, East Germantown. (8<sup>th</sup> District – Councilmember Reed Miller) (Cornell Pankey) Approved
- 5) Prelim Plat – 9260 Bustleton Ave. The subdivision for 22 single-Family dwellings. (Sarah Chiu) Approved
- 6) Prelim Plat – 259 Cinnaminson St. The subdivision of one lot into 6 lots for the construction of 5 new single-family dwelling units. (William Erickson) Approved w/conditions
- 7) Bill # 070955 – A zoning change bill for an area bounded by Burholme, Napfle, Hartel, Hasbrook, Central, Filmore, & Shelmire Aves. It will expand the Fox Chase Cancer Center IDD. This is both a zoning change, as well as, the amendment of the Master Plan for the Fox Chase Center IDD. (Introduced by Council-Member O'Neill on 11-1-07) (Paula Brumbelow) Approval
- 8) Bill #070934 – To amend the Phila. Zoning Maps to change the area Bounded by Walnut, 43<sup>rd</sup>, Sansom, Approved

& 42<sup>nd</sup> Sts. from "R-5" Residential to "C-3" Commercial. (Introduced by Councilmember Blackwell on 11-1-07) (Paula Brumbelow)

- 9) Bill #070913 – Amending Sect. 14-1605 of the Phila. Code, entitled, "Regulated Uses," by adding Take-out Restaurants and Small Retail Food Establishments to the list of designated regulated uses, all under certain terms & conditions. (Introduced by Councilmember Clarke & Council President Verna on 10-3-07) (Martin Gregorski) Approved
- 10) Bill # 070948 – Amending Sect. 14-102 of the Phila. Code, entitled, "Definitions," by amending the definition of "Night Club," all under certain terms & conditions. (Introduced by Councilmember DiCicco on 11-1-07) (Martin Gregorski) Approved
- 11) Street Striking Bills:
- A. Streets Bill #070822 – An Ordinance to strike & vacate from the City Plan the legally open portions of Witte St. from Westmoreland St. to Ontario St. This is to allow the owner of both sides of the street to consolidate his parcel. (Introduced by Councilmember DiCicco on 10-4-07) (William Erickson) Approved
- B. Streets Bill # 070904 – An Ordinance to strike from the City Plan & vacate Cuthbert St. from 32<sup>nd</sup> St. to 33<sup>rd</sup> St. & reserve a right-of-way for drainage & utilities purposes. (Introduced by Councilmember Blackwell on 10-25-07) (William Erickson) Approved
- C. Streets Bill #070818 – authorizing the abandoning of a portion of a 64' wide drainage right-of-way in the area bounded by Rowland Ave., Ryan Ave., & Sandyford Ave. (Introduced by Councilmember Krajewski on 10-4-07) (William Erickson) Approved