

Good Zoning Should not Be a Matter of Privilege

By David Feldman

The applause for Philadelphia's new zoning code has barely died down among planners, architects, developers, neighborhood organizations, and everyone interested in a clearer, fairer, more consistent process for building buildings in Philadelphia. But already City Council has introduced a rush of bills that attack core elements of the new law and restore some of the outdated, problematic elements of the former, fifty-year-old code that they had finally modernized.

This comes despite the fact that, when City Council approved the new zoning plan, it specifically called for a one-year period of observation, analysis, and evaluation before it would consider any significant changes to this code, which had been carefully crafted, with broad public input, over four years. Yet, just a few months after the new code was enacted, several Council members have introduced separate bills that fly in the face of the principles established in the new system. Although that legislation was the result of a lengthy, very open public process, the latest bills were introduced out of the blue and are being rushed through Council with little public input. Negative testimony is being tamped down, and the members of the public who testify are being derided by the very members of Council who claim that they are seeking to increase public input.

The new bills would enlarge the territory of "councilmanic privilege" in two important and damaging ways. First, they would increase the number of times when applicants must win the backing of a District Council member, even for projects that the new code allows "as of right." Second, they would let Council members define what is and what isn't the kind of community group that can make comments on projects on a case by case basis. These changes would undermine the openness and fairness and the consistency of design standards that are the hallmarks of the new code.

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It's particularly distressing, having attended most of the 51 public Zoning Code Commission meetings, to see that a few members of Council are now tearing apart work that was crafted by a City Council-designated Commission that included 15 members who were directly appointed by members of Council and which was distinguished by the near perfect attendance records of Councilmen O'Neill and Green over the four year public process.

Across the city, I have also encountered widespread dismay about another newly proposed change—a reversal of the zoning code's treatment of commercial corridors. This was designed to promote walkable commercial streets in row house neighborhoods. Opposition is almost as strong to the proposed changes to the Resident Community Organization (RCO) definition and process, especially the proposal to allow RCO service boundaries to be like shifting sands, changed to suit every project that comes up. New legislation would also senselessly block the public voices of citywide organizations that have expertise on matters relevant to zoning applications—e.g. trade groups, business associations, the Building Industry Association, the American Institute of Architects, and of course, DAG.

Related to City Council's undoing of the new zoning code a spot zoning proposal now under consideration in City Council that similarly ignores the spirit of the new legislation. This bill, which would link Council approval of a blatantly offensive, energy-wasting, seven-story digital wall wrap on the Electric Factory building to contributions to the Spring Garden, Kearny and McCall elementary schools, uses children as pawns in the zoning process. It also jeopardizes millions of dollars in federal funds that comes to the city.

As the treasurer of the Home and School Association of my daughter's public high school for four years, I know the pressures on parents to raise funds to pay for activities not covered by the school's budget. But, to dangle before parents and students the potential carrot of a lucrative billboard—which is over a mile away from the benefited schools (further than a student can walk or the eye can see) is to take advantage of those in need. It diverts schools from making real partnerships that could provide better support, tugs on public heart strings, and distracts caring members of Council from the harmful character of a giant sign project that has no real relationship to a school.

It's also especially risky to link a "community benefit" (the support for the schools) to what is defined as "projected net revenue." This was done when increased parking meter fees were proposed by the state-controlled Parking Authority, with the prediction that the projected net revenue from that Council-approved action would amount to about \$25 million a year, earmarked

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for the School District. Because PPA added an additional 300 (Republican) patronage jobs, voila!-there was no new “net revenue” to be shared. It was two or three hard-fought years later before the schools saw a penny.

We need to find real support for schools, maintain real protection for the public realm, and be very, very wary of strange proposed couplings that will very likely leave the students high and dry, having pinned their hopes and expended their energies on “promised” revenues, while leaving the city with eyesores--like a seven-story, bright, changing, 24/7, wall wrap digital billboard.

The new code was designed to keep developers from being held hostage by confusing requirements and special interests and to relieve neighborhoods from the exhausting chore of remaining constantly vigilant as each new project was negotiated on a case-by-case basis. The new code is a national model of an open, inclusive process that serves the residents and businesses of its city well. It sets design standards that are appropriate for neighborhoods as we actually live in them in the 21st century, with features that will continue to encourage human and economic investment in a city that has had its first population growth in six decades. We cannot let retrograde, back room politics re-emerge and block out the light of the new code in its infancy.

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