Common Ground for Building Our City: Developers, the Public and the Zoning Code

FINAL REPORT

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Penn
Project for Civic Engagement

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▶ 1. Introduction

The Philadelphia chapter of the American Institute of Architects (AIA) (under the umbrella organization of the Center for Architecture) joined with the Penn Project for Civic Engagement (PPCE) to design and convene a set of three workshops with the cooperation of the Zoning Code Commission (ZCC). WHYY was the media partner.

The purpose was to gather input from major stakeholders about what forms public participation should take under the development review process in the new zoning code.

That process governs how proposed new buildings, repurposed existing buildings, and new uses are reviewed by the City. The first building block of that process is the zoning code, which tells what can be built where, and defines the physical limits of the project.

The ZCC was formed in 2008. It grew out of a strongly supported 2007 ballot initiative that asked voters whether the city's antiquated zoning code should be updated. The Commission has made robust public engagement part of its work, including online surveys and public meetings. In this way, the ZCC has demonstrated a commitment to transparency, public input and outreach to diverse stakeholders.

These public engagement efforts continued with the release in September 2009 of its draft recommendations for the new zoning code. The ZCC heard strong reactions from diverse stakeholders, who recognized that the new code—by making more projects "as-of-right" and leaving fewer projects in need of a variance—would dramatically alter the status quo.

A lot is riding on the new process for development review—both its underlying principles and its specific procedures. The draft zoning code will come before City Council for an up or down vote in the fall of 2010. A stakeholder group unhappy with the proposed process could derail the entire zoning reform movement, if it were able to sway enough City Council members. One angry civic group leader said that it will come down to money (campaign contributions from developers) or votes (pressure from civic groups), and he was betting on votes.

This is the context in which the *Common Ground* project took place. Its assignment was to zero in on the issue of public input inside project review. Finding (or perhaps creating) some common ground across stakeholder groups—civic groups, developers and others—could reap significant benefits. That common ground could assist in the drafting of a new code that answers the needs of stakeholders, while helping to foster a vision of the city as a whole.

The ZCC asked for input on a list of specific issues:

- At what points in the development process (e.g., pre or post application) should these meetings occur? Are there points during which different kinds of meetings are necessary?
- For which projects (e.g., based on size, scale, and need for variance) should such meetings be required?
- What should be the scope of these meetings (e.g., adherence to design guidelines, operations, traffic and parking impacts)?
- What type of notice (e.g., how many days, delivered through what method, to whom) should be required?
- How should the results of these meetings be documented?
- Are there benefits of a project review within the context of "of right" projects and projects that require variances?
- Should the zoning applicant/neighborhood meeting process be conducted in accordance with a specific timeline?

Participants in all three workshops discussed these questions in various ways. In Section 2, Common Ground Principles, these questions are explored, using a framework that grew out of the themes and concerns voiced in the first two workshops. In Section 3, the details of the process are explained. In Section 4, some possible next steps are offered.

▶ 2. Common Ground Principles

The final workshop was structured around eight themes that emerged from the two earlier workshops. Each theme touched upon points of common ground, as well as tensions, among stakeholder groups.

For each theme, a common ground principle emerged through deliberative discussion at the final workshop. Each principle articulates a point where the views of civic groups and developers converged. This report presents eight such principles, along with a list of suggested actions that could put each principle into practice. These are actions that generated some enthusiasm or general assent at the workshops.

After listing the possible actions under each principle, we offer a detailed account of the points of common ground and the points of tension that underlie the principle.

An overview of the processes that lead to the final workshop can be found in Section 3. Moderator reports of each small group are included in Appendix A, B and C. A summary of the eight tasks assigned for small group work at the final workshop is also included in Appendix C.

PRINCIPLE 1

Every neighborhood should have a similar, widely known way to convene civic groups and concerned individuals for input into project review.

POSSIBLE ACTIONS

1| Designate for each neighborhood a Convening Civic Group (CCG) to take the lead in convening public input sessions for project review. Choosing the CCGs would likely be a Philadelphia City Planning Commission (PCPC) function, in consultation with district council members and other city agencies. Each CCG would receive formal, early notification of every project proposed within its area.

The CCG could have the following responsibilities:

- Ensure that all associated civic groups and near neighbors get notices of proposed development.

- Convene neighborhood meetings to share information and gather input on projects, making sure all known civic entities (even "difficult" ones) and concerned individuals are notified and invited.

- Keep a thorough, transparent record of any sessions it convenes.

- Where possible, develop a common position for the neighborhood to be presented to city agencies. But invite and include dissenting positions as part of its report.

- Educate individuals and groups in the neighborhood about zoning, processes, etc.

2| Evaluate each CCG regularly to ensure that it is acting inclusively and performing its notification and convening duties well. If it is not doing so, another group could be asked to step forward to take its place.

3| Establish the proposed PCPC Citizens' Institute, and use it as a vehicle for identifying, certifying and training civic groups capable of playing this role. (Overall, there was strong enthusiasm for the idea of establishing such an institute.)

4| In neighborhoods where no viable candidate for the role of CCG emerges, assign the duties temporarily to the Community Planner for that neighborhood. The PCPC would have an affirmative responsibility to work with civic groups in that neighborhood over time to help one develop the capacity to serve as CCG. (Representatives from some civic groups with sophisticated teams for zoning and planning work said the institute could be a vehicle for them to share experience and expertise with other neighborhoods.)

5| Assign city planners the task of coordinating communication among CCGs for projects whose scope and impact crosses neighborhood boundaries.

COMMON GROUND

Many participants—both civic and developer—commented on the frustrations of a system where a developer and citizens can reach general agreement at one meeting, only to have it collapse at the next meeting when different people show up. Neighborhoods that include a number of different civic groups, Community Development Corporations (CDCs) and business associations are prone to this problem, as are areas without organized groups.

Almost everyone agreed that no system can or should silence an individual with a legitimate reason to question a project. But most agreed that a robust framework for early civic engagement would make it more likely that those individuals could be heard early on, and their concerns recorded and duly considered.

A number of developers stressed that their primary interest was in having one set of rules for public input that operates consistently from neighborhood to neighborhood, and is well understood by neighborhood groups. "Level playing field" was a

common phrase. A common complaint was that opposition raised very late in the project review process often carries the day; this was cited by developers as a prime risk factor of doing projects in Philadelphia.

Surprisingly often, civic group leaders—particularly from groups proud of their hard-won expertise on zoning and planning issues—also complained about splinter or Johnny-come-lately groups asserting themselves late in the game as "the voice of the neighborhood."

Sometimes, civic leaders said, these non-representative groups are hand-picked by developers, or politicians. As one participant put it, "People come out of the woodwork."

While the problem of competing neighborhood voices might be defined differently from the vantages of developer or established civic group, the common ground was clear: Things would go better if a representative, well-equipped civic group had responsibility from the get-go to organize informational sessions and public input on a project.

TENSIONS

Designating a CCG obviously would be complicated and potentially controversial in neighborhoods with multiple active groups. Enthusiasm for the idea came mostly from leaders of civic groups who clearly thought their group was the obvious choice in their neighborhood.

The situation would be just as fraught for projects whose boundaries or impacts crossed neighborhood lines.

Lively discussions occurred about how it would be determined which group should represent the neighborhood. Civic leaders split about whether there should be set criteria (e.g. size, inclusiveness, training, transparency) for groups eligible to serve as CCG.

Another difficult issue would be the standards by which an established civic group might lose its status as convener, and who would make that decision.

An acknowledged tension: The interests of the larger neighborhood can conflict sometimes with interests of the neighbors most affected by a project. While the appeal of a more orderly, timely process was clear to both sides, many citizens were concerned that the right of individuals to defend their particular interests not be trampled.

Conversely, some developers were skeptical about the ultimate value of the CCG, in that no amount of early process can guarantee that a project approval won't be appealed by an aggrieved individual.

Developers also said that, while they definitely would like to have a more stable sense of "who speaks for the neighborhood?", some worried that a CCG designation might give a group a sense that it wielded an absolute veto.

PRINCIPLE 2

All projects of a certain level of impact, whether as-of-right or requiring variances, would benefit from public input.

POSSIBLE ACTIONS

1| Set up a clear process with a reliable timetable, consistent from neighborhood to neighborhood, for early public input into projects that will require variances.

2| Set up varying levels of input depending on project impact.

3| For as-of-right projects determined to have significant impact, set up a process for advisory public input at the neighborhood level, early in the timetable. Or …

4| Alternatively, for as-of-right projects of significant impact, set up a new regulatory process led by the PCPC and clearly defined in the zoning code. This process could be triggered by an impact evaluation upon intake by PCPC, which would also monitor the process.

5| Make the process for public input to the ZBA more predictable, structured and transparent.

6| Create new guidelines for ample, structured community input to the PCPC when it is engaged in project review.

COMMON GROUND

Stakeholders broadly agreed that all major projects and all parties could benefit from early input from the community. The neighborhood would add value by expressing its best thinking on its hopes and needs, and by exploring how the initial development concept can support those hopes and needs. The developer would benefit by being able to understand the "pulse" of the neighborhood, leading to the likelihood of a more profitable project once completed.

As is clear in the *Transparency* section below, participants generally agreed that all processes should be documented, and be consistent, predictable, and with a clear format for all to follow.

Developers indicated they would welcome change to the review process if it establishes them as partners in neighborhood growth, not adversaries.

Many participants felt that as-of-right projects warrant review if they have a significant impact on the community. This sentiment was particularly strong among civic leaders, given the likelihood that fewer projects will seek variances once their neighborhood is zoned and mapped in a way that reflects its current character. In discussing impact, there was general agreement that if standards for triggering review are set, they should be different for the various zone districts.

Many developers agreed that public input can be useful even on as-of-right projects, *if* the projects rise to a level of significant impact. However, most want that input to be advisory, as part of a mechanism to test and improve their as-of-right proposals—not part of a regulatory review that could lead to rejection of a proposal.

Each constituency agreed on the need to improve and clarify the ZBA process. (More on this under later principles dealing with notification and transparency.) Many developers seem to welcome the possibility of a more structured form of neighborhood input into the ZBA process; some commented on the need to "unclog" the system.

Both sides in general welcomed a greater role for the planning commission. Developers appreciate the professionalism of the staff; many neighborhoods have had good experiences with their PCPC Community Planner. This sentiment was especially prevalent in the neighborhoods with fewer local professionals (lawyers, planners, etc.) to draw on for pro bono services.

TENSIONS

In that the Common Ground project focused on forms of public input into the development approval process, not on the process itself, participants were not asked to propose new regulatory processes.

So, as civic leaders discussed their wishes to offer input on as-of-right projects of significant impact, it was not always clear how they saw such input fitting into a larger regulatory scheme. To a degree, civic group leaders have spent so much time learning how to give input on projects as part of a variance process that they have a hard time imagining a city where many more projects are deemed as-of-right.

That said, it's clear that, even for as-of-right projects, neighborhood groups would prefer substantive input into a city review process that could still stop a project whose impact was deemed too negative.

Developers generally want as-of-right to mean just that. While many were willing to accept advisory input from neighborhoods on as-of-right projects, they were cool to any new regulatory powers for city agencies over such projects.

Developers would like any input process for major as-of-right projects to have clear ground rules as to its advisory nature and a timetable with an endpoint.

Both constituencies remain unclear and anxious about how a new code with would affect other forms of project review by City agencies e.g. PCPC, historical commission, art commission. Overlap of review responsibilities may cause tension.

Some civic leaders commented that "the scale is not balanced" when the ZBA is the regulatory forum, as many neighborhoods lack time, expertise and political influence, and they noted that meetings are held at inconvenient times for working people. They commented that the ZBA's decisions sometimes seem arbitrary and capricious.

While many civic leaders said they'd welcome a larger role for the PCPC (a sentiment largely based on good working relations with community planners), several worried that the commission right now makes far less structured and robust provision for community input than the ZBA. They worry that the "two-minute prepared statement" approach will not sufficiently express neighborhood views or protect neighborhood interests.

Some civic leaders wished to be able to request a regulatory review on a case by case basis, when they could not reach a private agreement with the developer. (Some developers referred to such practices in the past as getting close to "extortion.")

PRINCIPLE 3

When assessing a project's impact, go beyond size to look at how a project impacts or fits into its surroundings.

POSSIBLE ACTIONS

1| Create clear criteria for distinguishing levels of impact among projects. Differing levels could trigger different types of review. Factors affecting impact might include:

- Use
- Square footage, for renovations, additions and new construction
- Location (some cities have lower thresholds of review for projects near the waterfront)
- Importance (This would have to be quantifiable, with some room for judgment by PCPC. Factors might include a zoning anomaly, or proximity to a significant historic landmark or natural feature.)

- Fit with the PCPC Comprehensive Plan and neighborhood plans
- Traffic

2| Convene stakeholders to discuss the impact of a project as early in that project as possible, with PCPC staff as part of the process.

3| Consider a process whereby concerned citizens in a neighborhood could, upon gathering a set number of signatures, petition the PCPC to reconsider a determination that a project was of "minor" impact.

COMMON GROUND

There was broad and deep agreement that the impact of a project on a neighborhood or community is both important and difficult to determine.

Several developers said they recognized that, no matter the size, projects involving certain uses (e.g. group homes) have an impact that argues for consultation with the neighborhood.

Most (not all) participants agreed that projects of minor impact should proceed on a simpler, quicker track—thereby clearing the docket to afford more time to assess high-impact projects.

TENSIONS

Some civic groups still want a chance to review all projects, no matter how small.

Developers worry that even designation of a project as "minor," with a faster track for approval, would not eliminate the chance of opposition from a vocal minority, and possible appeals.

PRINCIPLE 4

Issues of design and aesthetics should be reviewed, but on a basis separate from the parameters of zoning.

POSSIBLE ACTIONS

1| Create a Design Review Committee made up primarily of architects, similar to the make up of the Architectural Committee of the Historical Commission, acting in a similar advisory capacity. In addition to the professionals, include one or two rotating seats for representatives of the neighborhood of the project under consideration.

2| Define which areas of impact would be subject to PCPC review (use, traffic, parking requirements, environmental issues, conformance to PCPC plans, etc.) and what architectural features are subject to design review.

3| Carefully craft design review guidelines to have substance, but to also maintain the applicant's Fifth Amendment rights to due process; the reviewers would be able to apply objective criteria to the project under review. Design review guidelines would vary by zone district, with neighborhood input into the creation of the guidelines.

4| Set up timetable and procedures for the Design Review Committee to convey to the ZBA and PCPC its judgment on any design issues raised by projects seeking a variance or PCPC approval.

COMMON GROUND

Most agreed that design issues could and should be reviewed separately from other types of impact, such as use, traffic, parking requirements and environmental issues. Design review might cover such issues as quality of materials, contribution to the pedestrian experience, parking disposition, lighting and types of landscaping.

There was agreement that PCPC staff should play a role in establishing relationships, coordinating meetings and keeping a record of decisions.

TENSIONS

Some participants worried about neighborhoods trying to agree about style. Others were concerned that too many opinions on design would stifle creativity and foster "timid architecture." Some suggested that design review guidelines would need to define "character" broadly, and not require mimicking of historical architecture.

A developer commented that having zoning and design issues "all thrown in the same pot" impedes quality development.

PRINCIPLE 5

Early and effective notification about project proposals helps improve outcomes both for the neighborhood and the developer.

POSSIBLE ACTIONS

1| Require the first notification to the neighborhood (meaning both the Convening Civic Group and individual neighbors within the closely affected area) to occur as soon as a developer first notifies any city agency of intent to develop.

2| Extend the concept of "early notification" to cover advance warning to neighbors and the neighborhood CCG before

any ZBA or PCPC hearing. Set a number of days that constitute sufficient advance notice to the Convening Civic Group. This time period should allow time for neighborhood groups to convene an inclusive group for input.

3| Take full advantage of new media, as well as old, for notifying neighbors and civic entities.

Methods of notification could include:

- Orange posters—One group had an idea for adding public participation opportunities to the information on the orange sign. This idea would require that the posting period for the signs be significantly longer than it is now.

- Email from the ZBA or PCPC to the CCG, along with email to individuals who have registered to be on the notification list (similar to the current practice of the Historical Commission). It should be relatively easy to also generate notices through such social networking utilities such as Facebook and Twitter.

- A web site with geo-coded listings of proposals, with dates of upcoming meetings and hearings, and links to background data. Allow parties to register with this Web site for automatic notification via email or other social media of any new projects in their designated "watch area" or any changes in status or scheduled meetings re: projects they are tracking. Software already exists to provide this type of service.

- Notices from the CCG in libraries and other public places in the community (e.g., food markets) and perhaps fliers

- Certified letter from the developer to adjacent property owners, coordinated by the CCG.

4| Hold input meetings in the affected community. Some civic leaders thought meetings should be held at different times of day so people working different shifts or with children to care for can participate.

COMMON GROUND

Few topics garnered more support than the notion of early notification.

Neighborhood leaders believe that inclusive early notification —both early in the development process and early in each successive stage of the process—is essential to meaningful input. Civic groups have limited volunteer resources, and their members have work and domestic responsibilities, so they need time to respond to requests for meetings.

Developers favored inclusive early notification for complementary reasons. They want community feedback from diverse sources, providing a variety of useful perspectives early on, to develop positive relationships with civic groups and near neighbors. They also cited the need to get notification out broadly and early so that concerned citizens state their concerns at the stage in a project when it is still feasible to address them.

TENSIONS

No mechanism currently in place would foster the broad and early participation envisioned by participants for early notification. Setting one up would take an investment of time and energy; each side wondered whether the city could or would take the lead in this effort.

Some civic groups have suspicions that some developers prefer to advance quietly to the stage of architectural plans, so as to present the neighborhood with a *fait accompli*. Still, most developers who attended the workshops praised the idea of early notification. Their concern was with how much of the burden of early notification would fall upon them. Ideas such as the Convening Civic Group and the geo-coded Web site with electronic notification of all who register should relieve some of the burden on developers.

As noted above, some developers were willing to endorse early notification with a chance for public input even for as-of-right projects of significant impact. But developers' notion that meetings would be purely informational, and the civic input purely advisory, might clash with the expectations of some civic groups. This tension remained unresolved in the workshops.

PRINCIPLE 6

The project review process should be more transparent and predictable, in ways that inform, invite and engage constructive participation.

POSSIBLE ACTIONS

1| Publish information about projects, meetings and hearings on-line in a consistent and readily available way. Publish project applications on-line, including forms and drawings. Use social networking sites like Facebook and Twitter.

2| Provide assistance through the CCG and the public libraries to interested parties who are unable or unaccustomed to using a computer.

3| Provide project information directly to community newspapers, neighborhood groups or individuals, much as the Historical Commission does now.

4| Publish transcripts or audio records of ZBA and PCPC hearings, including presentations and testimony.

5| Make it ZBA policy to provide a written explanation of decisions, recording who voted for and against. Publish reasons for decisions regardless of appeal status.

6| Treat as public information any communications—personal, telephone, email or letter—regarding projects under review sent to the ZBA or PCPC by any Council member, or any elected or appointed city official, who is seeking to influence a project review decisions.

7| Engage the community in the development of any criteria for triggering project review and in Design Review guidelines.

COMMON GROUND

Issues of transparency ran through every discussion in all three workshops. Transparency—typically defined as civic groups, developers and the City making their respective work public and easily accessible—was seen as a key to community confidence in project review.

In the ideal, developers would be transparent about their intentions and keep the neighborhood informed about those intentions and their evolution. Civic leaders and individuals would be transparent about their intentions and keep the developer informed of those intentions and their evolution. These are reciprocal responsibilities. Participants felt strongly that they should be honored.

Discussion at the three workshops revealed three areas of transparency:

- *Transparency in the process:* A clear and public process for project review is in place. Meetings are well publicized and held in convenient locations. No deals are made behind closed doors.

- *Transparency in the product:* Documents—applications, plans, etc—that developers, civic groups, individuals and City agencies create during the development process are readily available to all parties. This might include publication of third party private agreements, such as Community Benefit Agreements, although the City would not have jurisdiction over them.

- *Transparency in the decision:* All regulatory decisions that are made at different steps are made public. Decisions by regulators would include a short narrative about reasons for the decision.

TENSIONS

An interesting tension arose as civic leaders tried to imagine a zoning code under which fewer projects would be reviewed. Some thought that would be an advantage to all, as fewer projects would be heard, considered and documented in greater detail and transparency. Others thought the more projects reviewed the better, and that the system would have to build in means to ensure transparency even under a heavy caseload.

PRINCIPLE 7

Clear review timelines should be set as part of a predictable public input process. This would reduce uncertainty and cost for the developer while ensuring the community gets sufficient time to assess, discuss and comment.

POSSIBLE ACTIONS

1| Create general project review timelines for different kinds of projects (by size, impact, location, zone district). Within the general project review timeline, developers would consult with civic groups to develop specific project review timelines.

2| Specify points at which neighborhood engagement is required; for example, in-concept, first revision, final schematic design. PCPC staff could be responsible for monitoring compliance of final project documentation with the approved final schematic design, if the review is part of a regulatory process.

3| Set deadlines (in keeping with the Transparency principle) for parties to make public the minutes of all meetings included in the project review timeline. A summary of the minutes could be included as part of all applications for variances. Minutes could include record of decisions, minority opinions and discussions of trade-offs.

COMMON GROUND

Groups in all three workshops agreed that realistic, clear and predictable timelines would go a long way to supporting the goals of the referendum passed in 2007, particularly in promoting economic development and protecting the character of neighborhoods. While civic leaders and those in the development community had different reasons for supporting clearer timelines, those reasons complemented each other.

For developers, a timeline with a clear starting point and a clear starting point reduces time, cost and risk.

For civic leaders, a predictable and realistic timeline would help them husband precious volunteer resources.

TENSIONS

Civic groups and individual neighbors have their own jobs and domestic responsibilities. What seems to a developer to be an unreasonably long period for neighborhood comment might be what is needed for a group to do outreach, schedule meetings and respond to a proposal.

In development, time costs money. This means that developers often express a sense of urgency even during a first meeting with neighborhood groups. This makes it appear to the neighbors as if the project is a "done deal" and their input is just a box to be checked by the developer—and any real concerns they have are viewed just as a stumbling block. This automatically creates a yes-no, win-lose atmosphere.

Given all that, even with the promising consensus around the idea of a consistent timeline for project review, actually setting up such timetables will entail finding a middle path between how a developer might define "plenty of time" for input, and how a civic group might.

PRINCIPLE 8

The role of City Council members in zoning and project review should be made explicit and transparent.

POSSIBLE ACTIONS

1| Increase transparency in Council activities when related to zoning decisions.

2| Make public all communication related to project reviews between Council members and the ZBA or PCPC.

3| As a matter of policy, set a time deadline (e.g. X number of days before a scheduled, advertised hearing) for a Council member to send the ZBA or PCPC a written opinion on a project review. If the Council members miss the deadline, the ZBA or PCPC should be free to ignore their input.

4| Similarly, require that written communication to spell what, if anything, the Council member did to solicit public input regarding the project in question.

5| Request that Council members share such communications as a matter of course with the Convening Civic Groups in their district.

6| Inform the CCG any time a Council member introduces a zoning ordinance before city council. Notification should be early enough to give ample time for the CCG to contact its associated neighborhood groups and concerned individuals.

In addition to these steps, the following helpful roles for Council members were discussed:

7| Serve as the clearing house for information about zoning and project review in a district.

8| Designate a staff person in each district Council office to serve as liaison with the CCG in that district.

COMMON GROUND

Agreement was broad that district City Council members, as the elected officials closest to neighborhood concerns, play an essential role in the zoning process. Concern was intense, however, over the way some Council members have played this role in the past.

Both sets of stakeholders agreed that Council members sometimes exercise their influence over development decisions in ways that are not transparent. Some neighborhood participants felt that Council members had favorite groups that were deployed as pawns in development controversies, and that those groups were not always broadly representative of the neighborhood.

A developer cited Council influence as part of the "paralyzing uncertainty" of the current development climate in Philadelphia.

Few thought that it was either realistic, or desirable, to talk about eliminating a Council role in development decisions.

That explains the stress on defining the role more clearly, and setting up rules that encourage the role to be played in a more transparent way.

TENSIONS

It was noted that an action that one side cites as Council meddling might be cited by others as an example of Council leadership. Many participants from civic organizations fear that a modern code with fewer variance applications will lessen their influence in the approval process. Some of these civic groups have found their Council members to be very effective advocates for their group's interests, and don't want to lose that sense of having a politically powerful voice on their side.

In other Council districts, where some civics have tense relationships with their district representative, skepticism emerged about any suggestion to have the Council member play a key role in coordinating community input into project review. Some civic leaders said flatly that their Council person did not have the capacity or the relationships with civic groups to play a helpful role.

Developers did tell stories of some Council members being very helpful in enabling projects to happen, but most regarded the tradition of councilmanic privilege over zoning and project approval as one of the impediments to development in the city.

Most realized that "Councilmanic privilege," like filibuster in the U.S. Senate, is a political tradition that isn't subject to change by outside action, unlike a charter provision or ordinance that can be amended or abolished. But some said abuses of councilmanic privilege could be hedged in via ZBA and PCPC policy and practice.

▶ 3. Project Overview

PROJECT STRUCTURE

Common Ground was a series of three workshops that engaged participants in deliberative dialogues about the development review process for the new zoning code.

By deliberative, we meant that the events were not set up as debates where one side or the other would "win," but as a shared exploration of key topics, with the hope of increasing understanding of the pros and cons of various positions. At times, common ground principles emerged, pointing to shared values that underlie even differing positions on technical questions.

As part of their deliberations, participants also clarified tensions and trade-offs inherent in the development review process.

As is clear from Section 2—Common Ground Principles—participants were able to find ways to address some of those tensions and trade-offs, but not others.

These workshops brought together two major stakeholder groups: the development community and civic leaders. The first two workshops were homogeneous groups—that is, the development community and civic leaders each met separately. The different constituencies came together for the third "consolidation" workshop:

- **Development Community – noon to 3:00 p.m., January 19, 2010**
  THE UNION LEAGUE

  Invitations were sent out to more than 150 organizations representing the development community. Each organization was asked to choose only one representative. Attendance totaled 62. See Appendix A for details on what organizations were represented.

- **Civic Leaders – 9:00 a.m. to 3:00 p.m., January 23, 2010**
  TEMPLE UNIVERSITY MEDICAL SCHOOL STUDENT FACULTY CENTER

  Invitations were emailed to leaders of more than 258 neighborhood based organizations, with follow-up phone calls and letters send by U.S. mail to many we could not contact by email. As with the development community, we invited them to nominate one representative per organization. Attendance totaled 86, with wide representation across the city. See appendix B for details on what organizations and areas of the city were represented.

- **Consolidation Session – 6:00 p.m. to 9:30 p.m., January 27, 2010**
  ARCH STREET FRIENDS MEETING HOUSE

  Participants in each of the first two workshops were invited to the consolidation session. Attendance totaled 52, including 12 from the development community and 40 civic leaders, almost all participants from the earlier workshops. Participants integrated the work from the two earlier workshops into a set of common ground principles while also identifying where there are tensions and trade-offs and potential ways to address them. See appendix C for details on what organizations were represented.

  We worked with our advisory group to develop a set of criteria for participation. Those criteria were as follows:

  - For the development community workshop: developers, zoning lawyers, architects and Community Development Corporations (CDCs), with the common characteristic of appearing before the Zoning Board of Adjustment as part of their profession.

  - For the civic leaders workshop: neighborhood based civic associations, CDCs, Neighborhood Action Councils (NACs), business improvement districts, and chambers of commerce that serve a specific area of the city. The decision to limit participation to neighborhood-based groups reflected the sense that these are the groups most active and most often deemed to have standing in zoning reviews.

  Several city-wide advocacy groups sought to participate, but were declined due to the advisory board's neighborhood-based criterion.

GOALS AND OUTCOMES OF THE PROJECT

The primary goal of this project was to provide useful guidance to the Zoning Code Commission (ZCC) on its work, based on the deliberative dialogues among stakeholders. Secondary goals included increased knowledge-sharing and better communications among civic organizations, and between the civics and the development community.

The project is purely advisory to the ZCC. It did not result in fully-formed recommendations for a project review process, nor was it designed to do so. At the start of each workshop, we quoted *Pirkei Avot* (Ethics of the Fathers): "It is not upon you to complete the work, but neither are you free to desist from it." Substantively, our goal was to develop a set of common ground principles, and perhaps some useful specific ideas, for the public input piece of project review.

The ZCC agreed to respond to the yield from this civic dialogue as follows:

- "Here is what we heard you say about principles and specific ideas."
- "Here is what we have done in response to what you said, and why."

This response does not imply any commitment or obligation by the ZCC to incorporate any particular piece of input into its draft code. It does, in our view, entail a promise by the ZCC to explain to the public which parts of this report it has adopted, how and why, and which it has decided not to adopt and why—and what it proposes instead and why.

ADVISORY GROUP

As part of the project we formed an advisory group of twelve people including ZCC members, leaders of civic/neighborhood associations, CDCs and other stakeholder groups, with the Executive Director of the ZCC as an ex officio member. See appendix F for a list of participants in the advisory group.

The advisory group met three times during the project—December 18, January 13, January 25—and helped with a variety of issues, including:

- Identifying potential participants for each of the workshops
- Communicating with their peers in support of this work
- Helping us anticipate particular challenges, etc.
- Commenting on the design of the workshops

PROCESS SUMMARY

Each workshop alternated between plenary sessions and breakout session with groups of 12-18 people, with each group led by two moderators trained by the Penn Project for Civic Engagement.

The first two workshops had slightly different, though complementary goals as follows:

Development Community Workshop

- Identify the hallmarks of a development review process that, in developers' views, encourages high quality development.
- Identify the pitfalls of a development review process that, in developers' views, will impede quality development.
- Develop common ground development for project review that reflect developers' hopes and concerns.

Civic Leaders Workshop

- Identify what participants now value in their neighborhoods, where those values overlapped across neighborhoods and where they were different.
- Identify hallmarks of a development review process that supports neighborhoods' best interests.
- Identify how the development review process might interfere with neighborhood best interest.

- Develop common ground principles to support neighborhood interest in the development review process.

The work of the first two workshops was centered around telling and analyzing stories in which either a) the current process worked well or b) it didn't work well. By analyzing the stories together, participants moved beyond established positions to identify the underlying values that good process supports and that deficient process inhibits. As the end of each workshop, participants developed a set of principles they believed would contribute to productive public participation in the development review process.

Consolidation Workshop

The consolidation session tested whether the varying principles and input from the two constituencies could be melded into a single set of common ground principles, connected to a shared set of specific recommendations.

We also wanted to identify those places were common ground could not be reached, and why—as another form of useful input to the ZCC.

In preparation for this meeting the project team, with support from the advisory group, reviewed the work from the first two workshops and identified eight broad areas of common ground. We termed four of those "low hanging fruit," meaning they touched on issues where significant common ground existed between the two workshop groups. We thought it possible the blended group could fairly easily clarify the common ground principles at work there and link them to specific recommendations.

We identified the other four as "gut-wrenchers", or issues on which there seemed to be some common ground in the workshops but that we believed would require considerable adjustment of positions on both sides. See Appendix C, Group Work Summary, for a list of those issues.

Participants spent the bulk of the evening in four small groups of 12-15, each with a pair of PPCE moderators. Each small group worked on one low hanging fruit and two gut-wrencher issues. In a final plenary, the small groups shared and compared the work they'd done, to firm up our sense of principles and recommendations that truly represented common ground.

▶ 4. Next Steps

The *Common Ground* project began with several goals in mind:

- To provide the Zoning Code Commission and the residents of Philadelphia with useful guidance, based on deliberative dialogues among stakeholders, on how public input should be incorporated into a new development review process.
- To increase communication and knowledge-sharing among civic organizations in our city.
- To initiate a model for ongoing communication among stakeholders (developers and neighborhood organizations).

The eight principles in Section 2, along with the related actions steps, common ground and tensions, distill what we heard from the nearly two hundred participants in the three workshops. These principles represent areas of common ground that can inform the ZCC's work as it drafts the Administration and Procedures section of the new zoning code.

As noted earlier, the ZCC will decide how best to use those principles. It has promised to report back to the *Common Ground* project team and the residents of Philadelphia, explaining how it made use of the input. Beyond that anticipated response from the ZCC, four possible next steps emerged from the three workshops:

1| PUBLIC INPUT IN AS-OF-RIGHT PROJECTS

However willing they might be to listen to neighborhood input, developers clearly don't want to create another regulatory hurdle. Yet civic leaders don't want to waste their time structuring and getting neighbors to attend "input" sessions that developers are free to ignore. The question remains, then: Where is the common ground in their interests? The timetable for these workshops did not allow enough space to explore fully this tough issue.

The most important direct follow-up to the *Common Ground* project would be to reconvene developers and civic leaders to discuss the difficult topic of civic input on as-of-right projects, with members of the ZCC included directly in the discussions. We believe that it is possible to bring the constituencies back together to develop some mechanism that each will find useful and productive.

2| EXPANDED ROLE FOR THE PROPOSED CITIZENS INSTITUTE

PCPC intends to create a "Citizens Institute" as a way to support the ongoing education of Philadelphians about the zoning code—what it does and does not say, what rights it provides for residents and developers, how to use it and more. The *Common Ground* workshops revealed enthusiastic support for the idea of the Citizens Institute, as well as some further possible missions for it. Civic groups in particular would like the institute to go beyond top-down technical education in zoning to perform several other functions. One mentioned in the Common Ground Principles/Actions section above was to be a vehicle for civic groups to attain certification as a Convening Civic Group. Here were two others:

Knowledge sharing and skill building

During the workshops leaders from neighborhoods across the city shared expertise and experiences – successes in dealing with different city agencies, how they worked with different developers, and how they organized around controversial projects. In talking about problems encountered, they shared ideas on how to overcome challenges, and how (and with whom) to advocate for community issues and concerns. And they talked about how they gained access to human resources—lawyers who would help pro bono, people with expertise in dealing with city agencies, etc.

At the end of the Consolidation Workshop, one community leader was roundly supported when he suggested that people share e-mail and other contact information so they could continue this kind of sharing. The idea that the Citizens Institute could serve as a clearinghouse through which civic groups made these kinds of connections seems promising.

Training in leading community dialogue

One clear need, voiced at the all workshops community workshop and at the Civic Leader Workshop, is for civic leaders and residents to learn how to lead productive meetings with developers. All too often, those meetings are more about posturing and yelling than looking for solutions. Developers spoke repeatedly of neighborhood meetings that were adversarial in nature, where participants simply attended to make demands.

The Citizens' Institute could train community leaders and residents in models, skills and techniques of interest-based deliberation, rather than position-based argument. Participants—developers and civic leaders alike—told us they enjoyed the Common Ground workshops and were pleased at how productive they were. Some civic leaders said that they would like to learn these skills so they can have more productive dialogues in their own neighborhoods.

3| TOOL KIT FOR CONVENING NEIGHBORHOOD MEETINGS

The right format and structure can increase the likelihood neighborhood meetings with developers will be productive. It might be a useful to develop a Project Review Meeting Tool Kit for civic groups. Training in the tool kit could be part of the Citizens Institute.

While there is no single structure for all of the different kinds of meetings anticipated by the *Common Ground* findings, it's possible to teach about several basic steps that promote a successful meeting, such as:

- Definite start and end times

- Clear tasks for the meeting—with desired outcomes

- A process that is appropriate for the task (such as the "values" activity in the civic leaders workshop for this project)

- Ground rules that ensure all have a chance to be heard, that different perspectives will be discussed, and that disagreements will be explored and, if possible, addressed

- Someone to publicly document the work as it is being conducted, giving participants the opportunity to correct errors in documentation during and after the meeting

- Publicly posted results of the meeting that are accessible to all participants

Such a tool kit would also include a variety of different processes that could be used for different tasks. For example, the "values" activity used in the civic leaders workshop or the story telling activity used in both workshops.

4| NEIGHBORHOOD PARTICIPATION IN THE MAPPING PROCESS

In 2011 PCPC will have a comprehensive plan in place for the whole city, and will begin the remapping process. Every address in the city will be part of a new zone district. Those zone districts will in many cases closely resemble the existing ones. However, some will change to reflect the current character of the area.

Getting the remapping done right is crucial. Much of the concern with the new code is based on the recognition that it will lead to more as-of-right projects and fewer variances. Currently, some neighborhood groups use out-of-date zoning to their advantage, since the need for variances gives them leverage with developers. The approval of the neighborhood group is very important to the applicant when he or she appears at the ZBA. When this situation changes, some civic groups are concerned that they will lose all control over what gets built in their neighborhoods.

Done well, the remapping could alleviate those concerns. The extensive professional expertise at PCPC can be informed by the detailed knowledge of neighborhood character provided by residents.

One important next step to build on the Common Ground project could be to integrate community input into the remapping process. The steps might include:

- Develop a model for civic engagement in remapping based on best practices in community dialogue. This model would include, but go beyond, an educational component so that residents can learn more about different kinds of zone districts and how they might apply to where they live. In addi-

tion, ensure that appropriate expertise is available to community residents throughout the mapping process.

- Meet with existing neighborhood groups and individuals to develop deliberative input into the zoning designation for that neighborhood. If the CCG described earlier is in place, it could be the convener for the meetings. In those neighborhoods without existing community groups, PCPC community planners would work with neighborhood leaders (e.g., in schools, churches, etc.) to schedule and hold remapping workshops.

- Include a section on the Zoning Matters website for individuals to record what they value about their neighborhood, or even about just their own street. Those values could be included in the discussions. Those added to the web site after the meetings would be available to PCPC as additional input. This recording could even be supported by the local library as part of an oral history of the neighborhood.

- Follow the principles of notification, timeliness and transparency.

▶ 5. Appendices

APPENDIX A

Material from the Development Community Workshop
January 19, 2010
Union League

This Appendix includes material from the Development Community Workshop held on January 19, 2010 at the Union League. As noted earlier, 62 developers, zoning lawyers, architects and representatives of CDCs participated in this three hour lunch time workshop.

This Appendix contains the following:

- A list of groups participating in the workshop.
- Excerpts from the opening remarks by project co-director Kiki Bolender, welcoming participants and explaining the genesis and goals of the project.
- The opening remarks by project co-director Harris Sokoloff, describing the tasks for the workshop, ground rules for those tasks and how the workshop will contribute to the rest of the project.
- Reports from the moderators of the four workgroups.
- The report of the closing plenary session.

Organizations

Universal Companies
1260 Housing Development Corp
806 Capital
Agoos Lovera Architects
AMC Delancey Group, Inc.
Amerimar Realty Company
Archer & Grenier PC
Askot, Weiner & Cohen
Asociacion De Puertorriquenos en Marcha
Athenian Properties LLC
Ballard Spahr LLP
Blank Rome LLP
Bower Lewis Thrower Architects
Brandywine Realty Trust
Capital Access, Inc.
Cecil Baker & Associates
Cope Linder Associates
Cozen O'Connor
Dale Construction Company
Domani Developers LLC
Dranoff Properties
Drexel University
Econsult Corporation
Erdy McHenry Architects
Falcon Properties
Fineman Krekstein & Harris
Fox Rothschild, LLP
G2 Inc
Grasso Holdings
GVA Smith Mack
H.A.C.E. (Hispanic Association of Contractors & Enterprises)
Hersha Hospitality Trust
Interface Studio Architects, LLC

Interface Studios
JK Roller Architects
Law Office of Ralph S. Pinkus Attorney
Mignatti Companies
Mitco Corporation
Neducsin Management
Norris Square CDC
Norris Square Civic Association
Obermayer Rebmann Maxwell & Hippel LLP
Onion Flats, LLC
Pennoni Associates
Philadelphia Industrial Development Corporation (PIDC)
Pennsylvania Real Estate Investment Trust (PREIT)
Redevelopment Authority
Renaissance Properties
Sam Sherman Associates
Schelter & Associates
Sherick Project Management, Inc
St. Joseph's University
Temple University
Teres Holdings, LLC
The Enterprise Center
Toll Brothers, Inc.
U3 Ventures
Universal Companies
University of Pennsylvania
Urban Engineers Inc.
Walter Toliver, PC
Weinstein Properties, LLC
Westrum Development Company
Women's Community Revitalization Project

Excerpts from Remarks
Kiki Bolender, AIA, LEED AP
19 January 2010
Development Community

There are five things I would like to mention briefly before Harris describes the process for our discussions today. This is a ferociously talented group assembled here today, with extensive knowledge and experience with the project development. As I am not an expert in any of these matters, I would like to offer, with some trepidation, a few ideas to consider.

THE FIRST IS DESIGN THINKING

Two weeks ago the New York Times ran a story on the front page of the Sunday Business section that shot to the top of the most emailed list. The story is about changes in business school curricula—Stanford, Yale, Virginia, and especially the Rotman School at Toronto, run by Roger Martin. He was quoted as saying that students need, "to learn how to approach problems from many perspectives and to combine various approaches to find innovative solutions." David Garvin at Harvard says, following what he calls a "seismic downturn" in the economy, "I think there's a feeling that people need to sharpen their thinking skills, whether it's questioning assumptions, or looking at problems from multiple points of view."

They are talking about creative thinking that is the opposite of searching out the most obscure loophole in a given situation. It is instead holistic and synthetic.

Design thinking is the reason that the AIA is pursuing this issue. We believe in design and designers, but we don't think that any one group has a monopoly on creativity. And creativity isn't about a winner and a loser. As Brant Carson, a 2009 Toronto graduate says in the Business Section article: "I constantly hear Roger's voice in my head reminding me that everything doesn't have to be an either/or solution."

SECOND, HOW MUCH REGULATION IS THE RIGHT AMOUNT OF REGULATION?

Last Friday on WHYY, Steve Itsky was talking about Christopher Dodd's retirement as chair of the Senate Banking Committee. He quoted one economist as saying, in reference to the recent failures in the financial system, "We've seen what happens with too little regulation. But too much regulation stifles creativity."

THIRD, WHAT ABOUT TRANSPARENCY

One writer on modern zoning battles said that there is no longer any such thing as a marketing problem. There are real problems, with real solutions and real solutions come from people sharing information, not hoarding it. Professor Joseph Stiglitz of Columbia University won the Nobel Prize in Economics in 2001 for research into the inefficiencies that arise when two parties don't share the same information. You don't get the Nobel Prize in Economics for fuzzy thinking, so he must be onto something. A free exchange of information would go far to reduce the mistrust that exists between neighborhood groups and developers —a mistrust that cuts both ways, and would result in real efficiencies in the system.

FOURTH, THE LAW CAN HELP US (EVEN WHEN IT DOESN'T FEEL THAT WAY)

One opportunity we have in the city right now is around the issue of standing. In August of last year, the state Supreme Court ruled in Spahn v. the City of Philadelphia that in order to give testimony in Commonwealth Courts, a party must have a palpable clear nexus of potential damage, thus severely limiting potential input from citizen groups.

The Supreme Court ruling does not apply to the ZBA (Zoning Board of Adjustment), and the new code can direct the ZBA as to how it should regard standing. One of your colleagues suggested that because of the lack of standing in the appeal courts, it is even more incumbent on the ZBA to hear breadth and depth of testimony in considering its cases.

FINALLY, THINGS CAN GET BETTER

Maybe you watched television late last year and saw the celebrations for the twentieth anniversary of the tearing down of the Berlin Wall. Various groups had made dozens and dozens of huge decorated dominoes that were collapsed in a long triumphant line. Anyone Harris's or my age would never have thought it possible that a city with a wall through its middle could ever be whole again.

Here at home, Inga Saffron has just written about the accomplishments of our Philadelphia Four, who are well represented here today, and the week before she wrote that cities are sexy. The number of residents and households increased last year in Philadelphia and to lots of twenty somethings (and older) this is a might cool place to live.

The possibilities for making things better are enormous when people of good will work together, as you are going to do today. So, in honor of my dear late Aunt Judi, an intrepid reporter for a suburban newspaper who first told me the meaning of NIMBY, lets just say that it doesn't have to be…CAVE (citizens united against virtually everything), BANANA (build absolutely nothing anywhere near anything) or NOMP (not on my planet).

1:45

We're just going to take a few minutes to talk about ZONING REFORM IN PHILADELPHIA and comparisons with other cities.

In May of 2007, 80% of the voters approved a ballot question that created a commission to reform the zoning code:

> Shall the Philadelphia Home Rule Charter be amended to provide for the creation, appointment, powers and duties of an independent Zoning Code Commission which would recommend amendments to the Philadelphia Zoning Code to make the Code consistent and easy to understand, and to enhance and improve Philadelphia's city planning process while encouraging development and protecting the character of Philadelphia's neighborhoods?

PROCESS

The Commission started work in the fall of 2007. "Draft Recommendations" for the new code were published in September 2009. The drafts of the new code will be presented in three sections:

- Module 1: Administration and Procedures – February 10
- Module 2: Districts and Uses in April
- Module 3: Development Standards in July

In October 2010 the new code, as written by professional consultants hired by the Zoning Code Commission will be presented to City Council, which will accept or reject it in its entirety. If citizens feel that the code does not adequately address their concerns, and they put enough pressure on enough council members, all the work of the last three years will have been for nothing.

COMPARISONS WITH CODES IN OTHER CITIES

You will see in your packet very abbreviated summaries of the approval processes in four other cities—Chicago, Boston, New York and Seattle, and you will see how they deal with the issues listed in the ballot question. Notice that they differ in the triggers for development review, and in the inclusion of three kinds of meetings: community meetings, design review public meetings, and public hearings. There are differences in how neighborhood group input is structured.

New York has 59 Community Boards as mandated by its charter that deal with zoning along with other issues like the city budget and municipal services. Boston creates a new Impact Advisory Group for each project, with members chosen from the community by the State Senator and State Representative, the Mayor and Council at Large members. (And you thought it was political in Philadelphia!) Seattle has a very extensive system of neighborhood reviews that offer a high level of citizen involvement, but get the thumbs down from some architectural critics, who say that the system is expensive and cumbersome and leads to cheap buildings with a middle of the road sameness about them.

Chicago puts a great deal of the approval process in the hands of the planning commission staff, and emphasizes a speedy process. Both Boston and Chicago have special controls with much lower triggers for review along the waterfronts.

The cities interact with City Council and the Mayor in different ways. You might wish to discuss Councilmanic Prerogative in Philadelphia and how it compares to other cities.

The Boston IAGs were formed in response to private contracts with neighborhood groups—Community Benefit Agreements—along the waterfront. Many of you have experience with private agreements here and elsewhere, and could offer your thoughts.

Finally, the question of design review is dealt with in different ways. In the fall of 2008 the Philadelphia City Planning Commission proposed that a Design Review Committee be established to act in an advisory capacity to the commission. The structure or existence of that committee has not been finally decided. The basic question is whether there are aspects of buildings that impact the quality of life in a neighborhood that are not adequately addressed by zoning.

In 1993, the state courts of Washington ruled that design review was a legitimate extension of zoning authority in the case of Anderson v. City of Issaquah. But Issaquah's particular standards were struck down under the "void for vague" doctrine. They required buildings to be "harmonious", have "appropriate proportions", to be "interesting" and to avoid "monotony". Under due process, regulations must be capable of being objectively applied, and the court ruled that such standards could be created, but that Issaquah's had missed the mark.

Opening Remarks
Harris J. Sokoloff, Ph.D.
19 January 2010
Development Community

Thank you Kiki, and let me add my welcome and thanks to all who have come today.

We are going to try something in this project that is rarely done. It is not unusual for leaders to bring people together to get input to on how to structure public policy. We are taking an additional step: we have officials (the ZCC) who have agreed to respond to the input we give them. They'll tell us what they heard and what they did with what they heard. Our goal is to build on the civic engagement that the ZCC is doing with the help of Portfolio Associates while also going deeper into one specific area: how to structure public involvement in the project or development review process.

Our review of other cities attempts at this show just how daunting this task of structuring public input in the most productive ways can be. And we don't really expect to solve in three sessions what others have yet to solve. But to quote some ancient sages—

We are not required to complete the task, but neither are we free to desist from it…

So, our goals today are a bit more modest that to solve the problem. Rather, our goals are to

- Identify key aspects of the project review process that developers believe will encourage high quality development
- Identify key aspects of the process that developers believe will impeded development
- Develop common ground principles that underlie developer interests in the project review process.

We'll do this in both larger and small group. When in small groups, you'll be led by a pair of moderators trained by PPCE for this work. They are:

- Kiki and Joan
- Ted and Cassandra
- Ellen and Carolyn
- Loretta and Josh

We're going to do this by starting with stories and then analyzing the stories. We'll first ask you to think about a story of when the project/development review went well, and one where it didn't go so well.   We'll need short stories so all can tell one… an executive summary of a sentence or two about the project, why there was a review (what triggered it), when did the review happen, how did this help/inhibit the project, what you learned from this case.

After we've heard a few stories, we'll analyze those looking for

- Factors participants said contribute to productive public participation in the project/development review process.
- Factors participants said impede quality development.

And perhaps even some characteristics/elements to include in a new project/development review process, and why

In all cases, the "why" is as important as the "what" – what interests, goals and values does the project/development review process help us attain or advance.

Indeed, this will be part of our challenge today, and in the project: to move from positions to underlying interests, to focus on underlying values and then to developing principles for project/development review that support those interests and values.

We understand that what we do cannot eliminate all the times when there are competing interests. But if we can uncover principles that support a transparent, inclusive process that clarifies those differences and that points to ways of addressing them, we will have gone a long way to addressing our current challenges.

Some ground rules can help us along the way:

- Listen to each other… it's as important as talking
- Talk to each other, not the moderator. Moderator will guide the deliberations, yet remain impartial

- Everyone is encouraged to participate – to tell a story, to help analyze the stories of others. Speak your mind freely, and invite others to speak as well.
- Make the talk deliberative rather than argumentative.
- Help to develop one another's ideas. Ask clarifying questions.
- Explore disagreement. Search for common ground.
- Work toward making a decision about principles to involve the public in the project review process.

We are joined today by some observers – from the ZCC, planning commission, our advisory group and some others – as well as by several representatives of the media. Just as we have ground rules for our work, there are some ground rules for their work:

- they are here to listen, not join in
- media will not quote anyone in small or large groups – they understand that you will be trying on some ideas, floating trial balloons as it were. If they want to quote you, we've asked that they talk with you after the event.

Since Penn is a partner, there has to be some research component. Two parts: 1 is the survey in your packet; the second is a more in-depth study of modes of argument, deliberation and conversation in the small groups. As part of this research they'd like to tape each of the small group discussions. If you don't want to be recorded, please let your moderator know.

By the end of the session, we hope to have a set of principles that you believe will contribute to productive public participation in the project/development review process (and help avoid public involvement that might impede quality development).

We'll post the results of today's work on several websites within 48 hours – PPCE, AIA, WHYY, Zoning Matters. Perhaps more importantly, we'll be using what we do here today as part of the basis for the work we do on Jan 27th, when we attempt to consolidate your work with the work we'll do with civic leaders on Saturday, Jan 23rd.

For the evening of the 27th, we'll need volunteers who can be with us on the from 6-9:30 on Jan 27th and who can bring the sense of your group to that consolidation session, who can represent the views/sense of your group and of the day. Please let your moderators know if you are both interested and available.

Before we move into the small group work, let's share one or two stories in this plenary session. Please think of a story in which the public review process went smoothly, in which it helped improve the project, or helped the project succeed.

2 minutes reflection time

Will someone volunteer to share a story – a short story, perhaps 2 or 3 sentences about the project, why there was a review (what triggered it), how the review went, etc.

Anyone have a story that builds on that theme or that is similar to that one?

Things to listen for:
- Relationships
- Goals
- At what points in the development process
- For which projects (e.g., based on size, scale, and need for variance)
- Scope of these meetings (e.g., adherence to design guidelines, operations, traffic and parking impacts)?
- What type of notice
- Results documented?
- Benefits of project review within the context of "of-right" projects and projects that require variances?
- A specific timeline?

Development Community Workshop
19 January 2010
Group 1

Moderators: Chris Satullo & Joan Davis

Group Overview: This group had 15 participants, all male except a lone female representative from the Norris Square Civic Association. The rest were industry professionals: 3 Developers, 1 specific to mixed-use; 5 Attorneys; 2 University Affiliates – Temple University, Director of Facilities and University of Pennsylvania, Real Estate Dept.; 3 Urban Design/Development Professionals; and 1 Architect.

Their conversation revealed similar experiences and concerns. Of common interest was finding ways to reliably minimize the risk of development projects. Describing the current process as a "paralyzing uncertainty", the group repeatedly called for replacing the current influence-based process with reasonable standards and "by right" designations, and a predictable project review process timeline and lifecycle. Another topic that generated great energy was how difficult it is to identify the true voice of the public.

KEY QUESTIONS REMAINED UNANSWERED FOR THIS GROUP:

- Who should speak for the community?
- What determines "common good?

PRINCIPLES/FACTORS PARTICIPANTS SAID CONTRIBUTE TO PRODUCTIVE PUBLIC PARTICIPATION IN THE PROJECT/DEVELOPMENT REVIEW PROCESS.

- A predictable process. Important elements include:
- the duration of process is known in advance;
- the outcome is not dependent on the personalities involved;
- the sequence of activities is known in advance;
- it should rely on "planning", not an ad hoc, reactive process.
- Transparency.
- Codifying the process produces a reliably consistent outcome and a process that is understood by all stakeholders.
- Appropriate notification for variances is also an aspect of transparency.
- If a proposed project is developing to standards, that should mean approval.
- If a proposed project requires variances, approval should be based on consideration of benefits versus detriments as well as hardships.
- Useful public input.
- Public input has value to developers and needs to be heard and addressed. However having a voice should differ from having influence or veto power.
- Project success is often dependent on being able to get to the right group together.
- Development professionals can play a role by vetting public input, and ensuring citizens are able to articulate their issues.

PRINCIPLES/FACTORS PARTICIPANTS SAID IMPEDE QUALITY DEVELOPMENT.

- Timid architecture. Inventiveness is discouraged and design is compromised in the absence of professional leadership setting the standards.
- Paralyzing uncertainty.
- The public process gets close to "extortion". Acquiescing to a "community group wish list" should not be a part of the process.
- The few can derail huge investments; individual weight to veto should be eliminated.
- The process lacks finality.
- Councilmatic Privilege that's absolute.

- The process lacks a timetable.
- The duration of negotiation narrows public participation. Can end up with just the immediate neighbors, who may have the ear of local council.
- Once council approval is needed, the duration extends more.
- Developers are unable to determine which public voice has the greatest weight.
- Failure of officials to govern unrealistic expectations from the community.
- Limited public notification decreases participation and access to information for those directly impacted but not locally notified.
- Only the zoning hearing supports voicing community concern. There should be other venues and entry points.

CHARACTERISTICS/ELEMENTS TO INCLUDE IN A NEW PROJECT/DEVELOPMENT REVIEW PROCESS, AND WHY.

- Recognize the necessity to streamline development projects and have a predictable project review timetable.
- Elevate the role of the Planning Commission.
- Model after the 'find a way attitude' exhibited in the development of public housing. Make the private housing process just as expeditious [with emphasis on market rate housing].
- Promote efficiency with a minor claims process. Minor zoning issues don't hold up / delay major projects.
- An efficient project review process has a positive impact on community involvement and investor/developer's risk.
- Create an environment of standards-based outcomes.
- Maintain consistency to a "Grand Plan".
- Limit whimsical power of other players (i.e. Council). There should be no "automatic veto".
- Accurately reflect "By Right" in the zoning code. This would lessen the developer's exposure to rejection.
- Understand that capital will not invest in a "crap shoot".
- For national builders to be willing to build in the City despite tax issues and union costs, the project review process must reliably minimize developers' risks.
- Have a strong comprehensive development plan based on robust, informed public input.
- Understand who will benefit from the project and who is of direct concern.
- Mediate the concerns of directly impacted entities.
- Must ensure that By Right projects are not missing the community voice.
- Gather "useful input" from the public to improve development plans. The public can help developers understand what may fly in a community.
- If a proposed project requires variances, base approval on consideration of benefits versus detriments as well as hardships.
- Development professionals within city should take a more active role as mediators.
- City professionals can help neighbors understand the zoning rules.
- Get the right people in the room early in the process.
- A proposed "Major Plan" plus a By Right situation should invoke the requirement for public notice. This could trigger an early opportunity for public input.
- Historical Commission should gets its say right up front – not at the tail end of the process.
- The process should include clarification of what is meant by "Community" interests.
- Identify the legitimate community voices of direct concern.
- Avoid being overly influenced by the "loudest voice".
- When the cast of characters shifts so do the critical issues, impacting investment and development

timelines, often causing projects to derail.

OTHER AREAS OF AGREEMENT.

- Don't empower the noisy few to dictate results for the entire community.
- The public should provide input to the process, not control it.
- Communities that tend to presume "veto power" were identified as Northern Liberties, Society Hill, Queen Village, and Center City.
- Don't change the rules from one administration to another.
- Don't put the sole burden for communication on the developer.

Development Community Workshop
19 January 2010
Group 2

Moderators: Ted Enoch & Cassandra Georges

Group Overview: We worked with Group #2. There were approximately 15 people. The vast majority were developers, with a handful of planners. In terms of demographics, there were 4 women and 1 African American man. The group was talkative, with one third of the group being frequent contributors. The major topics of discussion were: early and ongoing communication with public, defined roles and rules, objective/uniform standards, standing, influence of public and politicians, effective leadership and building consensus, and consistent management of rules/process.

PRINCIPLES/FACTORS PARTICIPANTS SAID CONTRIBUTE TO PRODUCTIVE PUBLIC PARTICIPATION IN THE PROJECT/DEVELOPMENT REVIEW PROCESS.

- Get clear written list of values/principles from community beforehand
- Have strong Planning Commission with professional leadership that is willing to make tough decisions, address NIMBY/kneejerk resistance to change
- Get stakeholders involved early. Developer should introduce project to community before taking any steps in the process.
- Create objective/uniform standards
- Lay out ground rules, just like at today's forum
- Have clear timing and deadlines – Know the start date and end date upfront
- Focus on binding determination, clarity, and predictability.
- Permit use. Default answer should be "Yes, you can develop _____."
- Everyone (Public, Commission, politicians, Board) must define/distinguish their rights and responsibilities. Everyone must know and be educated about everyone else's boundaries and limitations.
- Get engaged early and keep them engaged
- Get to know demographics and anticipate what public wants

PRINCIPLES/FACTORS PARTICIPANTS SAID IMPEDE QUALITY DEVELOPMENT.

- Disallows all use. Default answer is "No, you can develop."
- Very subjective process
- Heavy influence of political/special interest group agendas
- Late stage/ last minute community input
- Too many conflicting voices
- Too much costs and time
- Abuse of discretion and jurisdiction (multijurisdictional)
- Disparate levels of sophistication – different communities have different levels of experience with the process

CHARACTERISTICS/ELEMENTS TO INCLUDE IN A NEW PROJECT/DEVELOPMENT REVIEW PROCESS, AND WHY.

- Talks should involve same players, because it preserves progress. Whoever made agreements in the beginning should be there in the end. Avoid late stage "do-overs" or demands to start over.
- Talks should be ongoing and start very early, because it costs much time and effort to make changes once invested
- Process must be transparent and predictable. Someone/something owns and manages process
- Public can comment on projects at any point, especially early in the process. However, public's ability to control project is limited to the beginning.

- Talks, like a ratchet, can only move forward. Participants should not be able to change mind or go back on already agreed up terms.
- Councilmembers should play an active role in tracking new leaders of community, because they are closer and should know their neighbors (promote consistency)
- Increase "by rights"

OTHER AREAS OF AGREEMENT.

- The current system does not work.
- Zoning process should be comparable to a football game. The rules are set upfront. Players are recognizable. Everyone knows the rules. Nothing changes mid-game. Have controlled points of entry and exit.
- There should be standards, but participants were not focused on shaping the standards. They seemed willing to accept whatever the community decided, so long as the standards were clear, available at the beginning and unchanging.
- They want an efficient process without redundancy, delays.
- Public should decide what to build, and developers decide how to execute.
- Community should have unified and strong civic group with known objectives and clear leader
- Who has standing? Participants acknowledged that even if dissenters do not have standing, they can still cause disruptions. Find out who the players and potential players are.
- Community should invest time beforehand to create values. Public should not be allowed reactively say I'd just don't like it. Tell us what you want and what you value beforehand. When developers present project that reflects the pre-outlined values, public should approve.
- Group differentiated trust - trust between people vs. trust in the process
- Communities tend to reject contemporary, creative, or different designs
- There are challenges reaching all the appropriate stakeholders in the community. Some groups only represent some of the people. There will be people left out. Electronic invitations won't reach people without computer access. Group suggestion - Add participation info to orange zoning sign and list the alterative ways to get involved. An individual who isn't a community leader, but is very passionate about project can sign up for updates/permission for standing. Ensure everyone who wants to be in the loop can be.
- The more people you speak to, the less chance of reaching agreement
- Suburbs don't want you (developers), but know how to deal with you. Urban areas do want you, but don't know how to deal with you.
- The stack of guidelines governing developer behavior should be equal to stack for community members

ADDITIONAL MATERIAL

- Positive
- Long term view vs. short term
- Role of nonprofits
- Importance of trust
- Inappropriate use – getting rid of nuisance = supported
- Be uncontroversial
- Anticipate what public wants
- Input helps with marketing – get to know audience demographics
- Rejected for lack of parking lot
- Zoning board doesn't understand its role or interjecting personal beliefs
- Political considerations

- City Planning Commission – attach to other projects because it is faster and easier
- Help develop strategic plan
- Get engaged early and keep them engaged
- Ongoing conversations with same players
- Unified and strong civic group with known objectives and clear leader
- Beware second group with different agendas
- Find out who the players and potential players are
- Transparent predictability

- Who has standing? Who does not, but can still cause disruptions?
- How do you call/contact the groups?
- Who is on your radar? Electronic invitation won't reach everyone
- Put notice on orange zoning sign and list the alterative ways to get involved
- Some groups only represent some of the people. There will be people left out.
- Suburbs don't want you (developers), but know how to deal with you. Urban areas do want you, but don't know how to deal with you.
- Do you speak to everyone in the community? The more people you speak to, the less chance of reaching agreement
- Educate zoning board. Define their responsibilities.
- When to exert the will of the developers and the will of the public – early vision
- Zoning code should entice developers
- Public input increases time and money of a project
- Code should be regularly updated and reflect public will early
- Have public say inherent in process and early

- Public ability to comment on projects vs. to control projects
- Beware of changes to design after public has approved
- Developer concerns over expenses of late changes
- Educate the people who are engaged
- Community may prefer older models vs. contemporary styles
- System is designed to push cases to Board
- Planning Commission
- Preservation – become antiques/obsolete because they stay the same
- Input of professionals/ people who are educated
- Developers aka Investors
- Just tell me where I can build and what I can build. Don't micromanage – tell me how to build
- Establish each side's powers. Know them upfront
- Increase "by rights"
- Developers should not be bound by changing whims of people
- Don't tell me how to do my job

- Abuse of discretion and jurisdiction
- Clear rules about where public is invited
- Update master plan every few years and public gets to see

- Regulate how community groups are formed and communicated with. Ensure everyone who wants to be in the loop can be.
- Late speakers/dissents should have to go through community group system.
- Establish rules AND manage the process.
- Consistent management of rules/process
- Do we have 100 small groups interpret code for own community or do your standardize and consolidate groups?
- Disparate levels of sophistication – different communities have different levels of experience with the process
- Project may last through 2 or 3 different leadership changes in the community.
- Keep up with who is in charge in the community.
- Use councilmembers as part of the system to promote consistency and keep track of new leaders.
- Create neutral space/even playing field for players to discuss.
- Define role of councilmembers. Be predictable and transparent.
- Issues with multijurisdictional projects – conflict interests/approvals.
- The stack of guidelines governing developer behavior should be equal to stack for community members.
- Project would take forever if developers had to host a meeting with every block/community.

HELPFUL HINTS
- Lay out ground rules, just like at today's forum.
- Have professionals involved in planning commission
- Exert public will early in the process, and only let public comment during the end.
- The relationship between developers and community is transient. Trust is not the appropriate word.
- Getting something does should not rely solely upon trust between developers and community.
- Differentiate trust - trust between people vs. trust in the process (compared to fair elections. You may vote for different candidates, but if votes are properly counted, everyone accepts the winner.)
- Developers don't live in community of their projects. Community wants developers to look out for them and vice versa.

IDEAL PROJECT PROCESS
- Clear written list of values/principles from community beforehand
- Strong Planning commission with professional leadership that is willing to make tough decisions
- Early communication and input
- Concrete goals – tell me why (you want project) not how (to execute)
- Finding common ground
- Run process through Planning Commission. Avoid vocal minority derailing talks
- Create standards. Get facts/data early on.
- List specific deadlines and plan to mitigate any concerns.
- Get the stakeholders involved
- Binding determination/ clarity/ predictability
- Have clear timing deadlines – Know the start date and end date upfront
- Define what and who you let into process.
- Someone owns process and manages it
- Keep process simple. Avoid late stage "do-overs" or demands to start over.

- Compare process to a football game. You set the rules upfront. You know the players. Everyone will play by the rules. No one can change rules mid-game. You can't add players anytime you want. There won't be a free for all.
- Developer should introduce project to community before taking any steps in the process.
- Have correlation between what public wants and what is provided (Public may demand traffic studies, but you can address concerns in a different way)
- Community should invest time beforehand to create values. Public should not be allowed reactively say I'd just don't like it. Tell us what you want and what you value beforehand. Then when developer's present project that reflects the pre-outlined values, public should approve.
- Have professionals/politicians participate to avoid kneejerk resistance to change (NIMBY).
- Have controlled negotiations. Planning Commission lays framework for talks. Once you start the game, can't change the rules or players.
- Insert adult supervision. Don't leave participants to own devices.
- Controlled points of entry and exit.
- Changing rules impacts community understanding. The few community people that have figured out the current system will need to start over and relearn process.
- Let community sit in on conversations.
- Remap all community zones with neighbor input
- Objective/uniform standards
- Permit use. Default answer should be "Yes, you can develop _____."

POOR PROJECT PROCESS
- Late stage/ last minute community input
- Use process as a weapon – (NIMBY)
- Cut and paste other cities' policies as Philly Code. We have different costs and lower demand.
- Deter development
- Too much cost and time
- Too many conflicting voices
- Very subjective process
- Heavy influence of political/special interest group agendas
- Disallows all use. Default answer is "No, you can develop."

Development Community Workshop
19 January 2010
Group 3

Moderators: Carolyn T. Thompson and Ellen Petersen

Group Overview: There were fourteen participants in the group - eleven white men, one black man, and two white women. (Demographic information is based on observation rather than self identification.) Most of the participants were developers though there were two or three architects and two lawyers.

PRINCIPLES/FACTORS PARTICIPANTS SAID CONTRIBUTE TO PRODUCTIVE PUBLIC PARTICIPATION IN THE PROJ-ECT/DEVELOPMENT REVIEW PROCESS.

- Clear rules regarding when a developer must/doesn't need to go through a public process
- Clear public review process
- Clarity on who, how and when input is given
- Timeline
- Clear decision-making authority
- Clear process for seeking variance
- Clear rules for developers, neighbors, and the city
- Developers having design flexibility
- Involve community early (flexibility decreases as the project progresses)
- Set expectations for community groups
- Educate the community about where the developers are/are not flexible
- Be clear on financials and basic plan before approaching the community
- Educated and organized community groups that:
- Understand their decision-making power and limits, and limits in general
- Provide a clear path for developers to follow

PRINCIPLES/FACTORS PARTICIPANTS SAID IMPEDE QUALITY DEVELOPMENT.

- When there is no civic association to speak with; too many is a problem but lack of go to organization also stops projects from moving forward.
- Community groups that are fragmented or not sophisticated
- Community groups that are solely there to stonewall the process
- No community standards to work with as "book ends" so everything comes into play
- No enforcement of rules already in place (garbage collected in the middle of the night or one design agreed upon while another is built) Bad enforcement leads to civic associations which are wary and use their muscle
- No common understanding of a good design review process
- Confusion of zoning and design issues-all thrown in the same pot
- Zoning needs to get it acts together - have rules which are enforced and less variances
- No definition of who is at the table and who is not (for broad group of stakeholders)
- Don't know if dealing with the right "community group." Maybe need to certify or require a group to have a number of signatures or other criteria
- Need definition of near neighbor

CHARACTERISTICS/ELEMENTS TO INCLUDE IN A NEW PROJECT/DEVELOPMENT REVIEW PROCESS, AND WHY.

- Have an "all stakeholder" meeting so everyone is forced to air and resolve their issues at the same table

- Start at planning commission table for a common foundation of approach and process and perhaps an effective facilitation or honest broker role
- The community association should meet with "near neighbors" prior to meeting with developers to ensure they can speak to each group's interest or can honestly represent association as one group
- There needs to be a near neighbor meeting in general prior to a broader group meeting to ensure their special interests are heard
- Clear definition of who has a seat at the table
- The public owns the land they are regulating and discuss the changes they have a stake in
- Code recognizes key stakeholders and clearly defines who they are and the procedures they follow
- Priority status for process may be assigned based on goals of city (e.g.in some cities urban renewal projects take precedence)
- A clear master plan for the city so developers and citizens know what is expected and can address those expectations and head off problems
- Have threshold rules and certain triggers for when involvement is necessary
- Create standards that are objective
- Look at N.Y. practice in assigning a certain number of community groups and definition for that designation
- Give designated community groups a template that they need to work from
- Chicago's speed is a plus-see what it is attributed to: ability to use influence, good working political relationships?
- Separate zoning and design issues and process
- Waterfront process had standards but for they were not done timely or in advance so could not be used by developers
- Create a clear code and where there are planning rules provide a reason for rules so they can referred to for future purposes
- Create requirements or suggested expertise for appointees to the commission
- Have a robust design review process which is separate from any zoning discussion
- Look at zoning districts which may have different rules/process based on the character of the district
- Institutionalize process but maintain the diversity of the different neighborhoods
- Look at core values of clean air, safety, public space
- Goal of process should include both a strong private market as well as an informed and educated community
- Best practices should consider the current economic environment and ways to make projects positive and viable
- Role definition and keep everyone playing the right role. Developers are not city planners, council people are not zoning experts

OTHER AREAS OF AGREEMENT.

- The lack of uniformity across neighborhoods is challenging, yet also gives each neighborhood character

Development Community Workshop
19 January 2010
Group 4

Moderators: Loretta Raider and Josh Warner

Group Overview: Group 4 had a well-rounded, flowing conversation, and was made up of 13 members. Two participants were female, and one was African-American. Many were developers, two were lawyers, and there was one architect. Most members of the group were in the 40-50 age range, but a few were in their 30s, and some were older.

PRINCIPLES/FACTORS PARTICIPANTS SAID CONTRIBUTE TO PRODUCTIVE PUBLIC PARTICIPATION IN THE PROJECT/DEVELOPMENT REVIEW PROCESS.

- Having pre-determined zoning (as-of-right, or recently updated in an area plan)
- Working in downtown areas that don't have many residents or civic groups
- *Having a long time frame, which allows developer to gather input and support
- Getting stakeholders involved early in the process
- Having an organized community upfront, instead of splinter groups and factions
- Having a designated contact or "case manager" from a community group to organize community input from residents and usher in support
- Having a City Councilperson on board with the project from the beginning
- Having a defined timeline for public input
- Having different stages of public review for different stages or portions of a project

PRINCIPLES/FACTORS PARTICIPANTS SAID IMPEDE QUALITY DEVELOPMENT.

- *Taking a long time with support gathering or appeals can cause the project to "miss the market" or lose funding commitments
- Frivolous appeals. There is "cheap" veto power
- No standard for what constitutes the "community voice." Is it civic groups? Individuals? Councilpersons?
- Lack of transparency in the approval and denial processes
- Councilmanic Privilege
- Community groups often use projects to leverage other projects or improvements in their neighborhood
- Large projects have a fairly clear (but broken) process for approval, but small projects have no such system and can be impeded by individual persons
- A few neighbors can de-rail a project, even if a developer has done much groundwork and gathered stakeholder and civic group support

CHARACTERISTICS/ELEMENTS TO INCLUDE IN A NEW PROJECT/DEVELOPMENT REVIEW PROCESS, AND WHY.

- As of right Zoning
- Well defined rules (zoning code, exceptions have a clear process to follow)
- Appeals have consequences if they are found to be frivolous, or appeals forced to follow certain standards
- Planning document that defines the "civic values" and "objectives" determined and agreed upon by the community. (answers the questions why this is "good for the community"
- Changes to the original plan have a specific process to follow
- Time line for final approval
- Identify stakeholders and define Community groups

  - the process defines who is in the community groups
  - could be elected or appointed
  - important to have consistent know groups and individuals involved
- Involve stakeholders and Community groups upfront (clarity is needed regarding who speaks with the community)
- Any interested party can comment

  △ standardized format

  △ comments need to be in the form of issues and costs and benefits
- Meetings with stakeholders are cooperative and collaborative and end with "a deal"
- Well defined timeline – speed, certainty built in
- Decision making process in place throughout the process
- Trigger for development review (size, conformity to plan, public give back, zoning, % of area for example zip code)

OTHER AREAS OF AGREEMENT.

- Councilmatic Privilege was uniformly considered unfair by the group, but none of the members could imagine it being removed as a legislative power
- Knowing and involving the councilperson is key – both for developers and for civic groups
- "Support" can come in many different forms. Just because the councilperson supports the project does not mean it has 100% support
- 100% support is an unachievable goal. It is not valid
- There is little cost / little downside to appealing a ZBA decision: "cheap" veto power
- Anyone in the city has "standing"
- Who are the "right" stakeholders? Competing groups or organizations, or splinter civic associations can always challenge the notion of "community support"
- Every person is entitled to due-process, but there should be some standards, costs, and/or controls on the appeals process
- The notion of a civic group "speaking" for all the neighborhood is un-democratic, as they have not been elected, or appointed by elected officials. No accountability for civic groups
- Concerning Washington DC's elected neighborhood zoning committees, the group thought this was both a good idea and a bad one. Good, in that the committees are elected by local residents, but bad that it adds more layers of politics/bureaucracy
- The group briefly discussed a "review process" for any/all appeals of a Project approval. If projects are scrutinized and reviewed, appeals of their approval should be too.
- "On what should the community have input" was a question brought up by the group. Discussion revolved around public input being organized or staged, and how input could be broken down in parts (use/bulk, design review, infrastructure, community benefits, etc.) to follow the different stages of project approval.

Closing Plenary Discussion
Development Community Workshop
19 January 2010

At the end of the Development Community Workshop, participants participated in a "gallery walk," reviewing the flip charts of the other small working groups. This was a way to get a sense of what the other groups came up with.

We then held a plenary discussion in answer to the general question "What did you notice?" The point of this question is to find out what participants thought was most salient in their work and the work of the other groups. They could focus on areas of similarity and overlap, or areas of difference and tension.

Here's what they noticed:

EVERYBODY WANTS A TIME LINE

- Adhered to…
- Not to long…
    △ Can be long if it is predictable (without setbacks)
- It's important because:
    △ Time is money
    △ Help us manage risk

THE REVIEW PROCESS SHOULD BE UNIFORM

- Level the playing field
- Clarity of what we have to do in each case
- Fairness
    △ Everyone feels respected
    △ Process should apply to everyone, neighbors/civics as well
- Achieve your intended goal

OBJECTIVITY IN DESIGN STANDARDS

- Question: should this be in the zoning code?
- Varies by community
- Clearly state what development can and cannot do
- Act as a trigger

MESSAGE TO INVESTORS: ONE UNIFORM PROCESS FOR PRIVATE AS WELL AS INSTITUTIONAL DEVELOPERS

HOW TO ENCOURAGE INVENTIVENESS

- Standards to be set by PCPC, not just NIMBY

STANDING- A PLACE "AT THE TABLE"

- Need to have a way of recognizing civic groups
- Anyone can be heard as long as it is early in the process

APPENDIX B

Material from the Civic Leader Workshop
January 23, 2010
Faculty Student Center, Temple Medical School

This Appendix includes material from the Civic Leader Workshop held on January 23, 2010 at the Temple University Medical School Faculty Student Center. As note earlier, 86 neighborhood organizations — civic associations, NACs, CDCs, BIDs and neighborhood-based chambers of commerce—participated in this six hour workshop. This Appendix contains the following:

- A list of groups participating in the workshop.
- Excerpts from the opening remarks by project co-director Kiki Bolender, welcoming participants and explaining the genesis and goals of the project.
- The opening remarks by project co-director Harris Sokoloff, describing the tasks for the workshop, ground rules for those tasks and how the workshop will contribute to the rest of the project.
- Reports from the moderators of the four workgroups.
- The report of the closing plenary session.

Organizations

52nd St Business Association

African American Business and Residents Association

Ashton Square Civic Association

Belfield Area Neighbors Association

BLue Bell Civic Association

Brewerytown/Sharswood Community Civic Association

Burholme Business Association

Burholme Civic Association

Business Association of West Parkside

Busleton Civic League

Callowhill Neighborhood Association

Cathedral Park Neighbors

Cedar Park Neighbors

Center City Residents

Chestnut Hill Community Association

East Falls Community Council

East Kensington Neighbors Association

East Passyunk Crossing

Fairmount CDC

Fairmount Civic Association

Fishtown Action

Fishtown Neighbors Association

Francisville NDC

Frankford Civic Association

Frankford Community Development Corporation

Friends of Summerdale Civic Association

Germantown Community Connection

Glenwood CDC

Greater Bustleton Civic League

Greater Germantown Business Association & Liberation Fellowship CDC

Haddington/Cobbs Creek CDC

Handy White CDC

Hispanic Association of Contractors and Enterprises

Holme Circle Civic Association

Holmesburg Civic Association

Hunting Park NAC

Juniata Action Committee

Juniata Park Civic Association

Kensington Area NAC

Kensington South NAC

Lansdowne Ave Merchants Association

Logan Square Neighborhood Association

Lower Moyamensing Civic Association

Mill Creek Community Partnership

Mt. Airy USA

New Kensington CDC

Newbold South Civic Association

Nicetown CDC

Norris Square CDC

Norris Square Civic Association

Northeast Chamber of Commerce

Northern Liberties Neighborhood Association

Ogontz Area Revitalization Corporation

Old City Civic Association

Old City District

Old Kensington Neighborhors Association

Overbrook Farms Club

Overbrook Park Civic Association

Pennsport Civic Association

Philadelphia Chinatown Development Corporation

Point Breeze CDC

Port Richmond Industrial Development Enterprise

Project H.O.M.E.

Queen Village Neighborhood Association

Residents of Shawmont Valley

Society Hill Civic Association

South of South Neighbhood Association (SOSNA)

South Broad Neighborhood Assoc.

Southwark Civic Association

Southwest Community Enrichment Center

Strawberry Mansion Business Association

Strawberry Mansion CDC

Strawberry Mansion NAC

Tacony Business Asscociation

Tenth Memorial NDC

West Girard Community Council

West Poplar NAC

West Powelton Concerned Citizens

Wissahickon Neighbors Civic Association

Women's Community Revitalization Project

Yorktown Community Association /The Resolute Alliance of Yorktown

Youth Study Center Advisory

Excerpts from Remarks
Kiki Bolender, AIA, LEED AP
23 January 2010
Civic Leaders

9:20

One day when I was going on about some zoning case in the office, my partner looked at me and said, "You know, you are running the risk of becoming the most boring person in the world."

So, in this room we can all relax and talk freely about the fascinations of zoning without being accused of being the most boring people in the world. As we start the discussion, we would like you all to think about something called DESIGN THINKING.

Two weeks ago the New York Times ran a story about changes in teaching at business schools – Stanford, Yale, Virginia, and especially the Rotman School at Toronto, run by a fellow named Roger Martin, who literally wrote the book about design thinking. He was quoted as saying that students need, "to learn how to approach problems from many perspectives and to combine various approaches to find innovative solutions." David Garvin at Harvard says, following what he called a "seismic downturn" in the economy, "I think there's a feeling that people need to sharpen their thinking skills, whether it's questioning assumptions, or looking at problems from multiple points of view."

They are talking about creative thinking that is the opposite of searching out the most obscure loophole in a given situation. It is instead holistic and synthetic.

Design thinking is the reason that the American Institute of Architects is pursuing this issue. We believe in design and designers, but we don't think that any one group has a monopoly on creativity. And creativity certainly isn't about a winner and a loser. As Brant Carson, a 2009 Toronto graduate says in the Business Section article: "I constantly hear Roger's voice in my head reminding me that everything doesn't have to be an either/or solution."

We're all designers today. We believe that people of good will and creativity can design their way out of a problem, even one as complex as the role of the citizen in the building of the city. Harris is going to introduce the kind of work we are going to do, introduce the rest of our team, and talk about some ground rules.

11:15

It really is good to be in this like-minded group, because we can mention the history of zoning and zoning law without hearing you groan out loud.

Why is it that the City of Philadelphia is allowed to tell anyone what people can or cannot build on their properties? The answer is in the police power of the state. This is not about uniformed officers, but about the power of the state to protect and promote the public's health, safety and general welfare. All powers of city governments come to them through enabling legislation passed by the state. The state has conferred power over land use decisions to cities and townships. Hence the resolution to create the ZCC was an amendment to the Home Rule Charter given to Philadelphia by the Commonwealth of Pennsylvania – a big deal.

In 1926, the village of Euclid, Ohio created a zoning code to keep the industrial uses at the edges of Cleveland from expanding into the town. Ambler Realty owned 68 acres that could not be developed for industry any longer, so they sued the village. The Supreme Court upheld the right of the village, setting the stage for the Standard Zoning Enabling Act of 1926. So this type of code is called "Euclidean Zoning" and it is not, after all, named for the Greek mathematician.

Some modern zoning codes get much more specific about the facades of the buildings and how they relate to the street and to adjacent buildings. Inevitably, they reach into the questions of style. No historic, complex cities like Philadelphia have this kind of code. Rather, most cities like ours have some version of a project review process to deal with those issues of quality in buildings and quality of life on the surrounding streets.

ZONING LAW

Of the four basic types of law, we just talked about two of them. Statutory Law is how the state says that a city is allowed to impose a zoning code. Administrative (Regulatory) Law is how that right is carried out. It is the zoning code, which tells just how the city's right to regulate the use of land will take place. It is an expression of the state's power to protect and promote the public's health, safety and general welfare.

But things get really interesting when you start to talk about the other two types of law – constitutional law and common law. If you don't find this fascinating, and you are already nodding off to sleep, I will know about it, because my husband is the master of subtle sleeping. My girls call it "being lost in prayer" when he takes a snooze at church. He has the posture of an extremely devout man, but he is in fact, asleep.

Constitutional Law (U.S. and Pennsylvania), are the basic contracts between the government and the governed. They establish rights and protections, give power and limit what governments can do, and I'll bet that all of them come up in your discussions today. Important principles are:

Due Process protects our rights to a fair process. Procedural due process in zoning includes notification, the right to be heard in a case that affects you (we will talk about standing a little later), the right to see documents in a case (freedom of information) and issues of undue influence on decision makers. Decision makers must be unbiased and objective, so laws, or regulations need to be written in a way that they can be consistently applied.

Issues of design review are included in due process for that reason. In the fall of 2008 the Philadelphia City Planning Commission proposed that a Design Review Committee be established to act in an advisory capacity to the commission. The structure or existence of that committee has not been finally decided, but the basic question is whether there are aspects of buildings that impact the quality of life in a neighborhood that are not adequately addressed by zoning.

In 1993, the state courts of Washington ruled that design review was a legitimate extension of zoning authority in the case of Anderson v. City of Issaquah. But Issaquah's particular standards were struck down under the "void for vague" doctrine. They required buildings to be "harmonious", have "appropriate proportions" for window, eaves, etc., to be "interesting" and to avoid "monotony". These are all nice ideas, but under due process as guaranteed by the 5th Amendment, regulations must be capable of being objectively applied. The court ruled that such standards could be created, but that Issaquah's had missed the mark.

Freedom of Expression and Religion are protected under the First Amendment. For our purposes, it is interesting that in a commercial district porn shops can be heavily regulated but probably not banned outright. Citizen concerns about traffic around a proposed controversial church might come under extra scrutiny to see if the protest is partially or wholly against the type of church.

Takings are enumerated in the 5th Amendment…"nor shall private property be taken for public use, without just compensation". To those on the far end of the opinion spectrum, any regulation of land use is a "taking" of part of the value of the land. Eminent domain is the taking of private property for public use. Typically, eminent domain would be used to acquire land for roads, airports, etc. A more recent use of eminent domain is for economic development.

The most famous recent case of eminent domain for economic development is the sad story of Kelo v. The City of New London. New London, Connecticut, had always been a one-industry town. They went from whaling to ship building to submarines. Then the government contracts went away and the city was hurting, badly. Pfizer Pharmaceuticals came to town and built a huge facility on the riverfront, across the street from Fort Trumball, a residential neighborhood. Was it a high quality, sensitively designed building? I suppose opinions might vary. Were the people of New London desperate for jobs? Definitely.

Pfizer wanted a mixed use development of condos and offices in Fort Trumball as part of the deal. By this time, the city was partially under state control, so the state and state-hired planners stepped in with a large scale plan for the whole area, and all the houses were condemned as "blighted". A few home owners held out, and their case went all the way to the Supreme Court, where in 2005 the city's action was upheld by the Supreme Court. The homeowners lost, inspiring backlash in many states against all kinds of city planning and economic development.

According to one writer, "They started their civic engagement in the courts." Who can say if a more robust public review process would have led to a better outcome? But there are no heroes or winners in this story – everyone lost. The state and city were heavy handed, but thought they were acting in the best in-

terests of the citizens. The professional planners were ambitious, but perhaps too much in love with their plans on paper. The homeowners took up with the ultra-right wing Institute for Justice, only to be trounced by the liberal side of the Supreme Court.

And the end of the story? Pfizer left New London as part of a global restructuring, so the whole area is deserted.

It is very common in Philadelphia and other cities for civic groups and developers to make private contracts, Community Benefit Agreements (CBAs) outside of the City approval process. Going back to basic issues of law, two people or parties are free to make agreements with one another, as long as they are not agreeing to do something illegal, ie, they could not agree to build a commercial building in a residential zone (regulatory law), or to include discriminatory clauses in their leases (constitutional law - equal protection under the 14th Amendment).

The city of Boston set up a civic review process in response to these private negotiations that were taking place along the waterfront. When a developer gives a large sum of money to a civic group to ensure their support for a project, issues of the public good in the neighborhood or the city as a whole cease to be part of the discussion.

On the other hand, CBAs and eminent domain can lead to economic development that replaces blight and gives jobs and better housing to local people. Opinions on Community Benefit Agreements from both developers and civic groups will be of great interest to us.

The fourth kind of law, after statutory, administrative and constitutional law, is Common Law otherwise known as case law or judicial law. This is law found in judicial decisions, the law of cases and precedents at the city, state or federal level. The most talked about case lately in Philadelphia is "standing" decision by the Pennsylvania Supreme Court in August 2009 – Spahn v. the City of Philadelphia. This case is quite important for our work.

The decision limits the standing of individuals to be entitled to give testimony in Commonwealth courts to only those who are directly and substantially aggrieved. For instance, if Harris lives two miles away, he can't sue Chris over the nature of his house addition just because Chris really just generally annoys him.

This puts citywide advocacy groups at a severe disadvantage at the appeals level. But it does not limit standing at the Zoning Board of Adjustment (ZBA), where appeals to zoning department decisions are heard. Since the decision, lawyers have used it as an argument, and the ZBA complied for a short time after the decision, but the new code can instruct the ZBA otherwise. (Currently the ZBA has been instructed to follow a broader interpretation of standing.) This is important. One prominent zoning lawyer suggested that since the decision, it is even more important than ever for the ZBA to hear breadth and depth of testimony in order to make fair decisions.

That is pretty much my entire knowledge of zoning history and law, but there are just three other things I would like you to think about in your stories.

FIRST, WHAT ABOUT TRANSPARENCY

One writer on modern zoning battles said that there is no longer any such thing as a marketing problem. There are real problems, with real solutions and real solutions come from people sharing information, not hoarding it. Professor Joseph Stiglitz of Columbia University won the Nobel Prize in Economics in 2001 for research into the inefficiencies that arise when two parties don't share the same information. You don't get the Nobel Prize in Economics for fuzzy thinking, so he must be onto something. A free exchange of information would go far to reduce the mistrust that exists between neighborhood groups and developers – a mistrust that cuts both ways, and would result in real efficiencies in the system.

SECOND, THERE ARE PLENTY OF THINGS THAT ZONING CAN'T FIX.

We have heard from civic groups whose biggest problems are with absentee landlords who do not maintain their buildings. But there are other things like trash and permitted street parking that could be solved through policy, and we have heard from civic groups working on just these things with the City as matters of policy.

FINALLY, THINGS CAN GET BETTER

Maybe you watched television late last year and saw the celebrations for the twentieth anniversary of the tearing down of the Berlin Wall. Various groups had made dozens and dozens of huge decorated dominoes that were collapsed in a long triumphant line. Anyone my age or the age of several of you in this room, would never have thought it possible that a city with a wall through its middle could ever be whole again.

Here at home, Inga Saffron has just written that cities are sexy. The number of residents and households increased last year in Philadelphia and to lots of twenty somethings (and older) this is a mighy cool place to live.

So now you are going to tell one another your zoning stories, and Harris is going to start that part of the work.

1:15

ZONING CODE REFORM IN PHILADELPHIA, AND COMPARATIVE PRACTICES IN OTHER CITIES

We're just going to take a few minutes to talk about ZONING REFORM IN PHILADELPHIA and comparisons with other cities.

In May of 2007, 80% of the voters approved a ballot question that created a commission to reform the zoning code in order to:

> Shall the Philadelphia Home Rule Charter be amended to provide for the creation, appointment, powers and duties of an independent Zoning Code Commission which would recommend amendments to the Philadelphia Zoning Code to make the Code consistent and easy to understand, and to enhance and improve Philadelphia's city planning process while encouraging development and protecting the character of Philadelphia's neighborhoods?

PROCESS

The Commission started work in the fall of 2007. "Draft Recommendations" for the new code were published in September 2009. The drafts of the new code will be presented in three sections:

- Module 1: Administration and Procedures – February 10
- Module 2: Districts and Uses in April
- Module 3: Development Standards in July

In October 2010 the new code, as written by professional consultants hired by the Zoning Code Commission will be presented to City Council, which will accept or reject it in its entirety. If citizens feel that the code does not adequately address their concerns, and they put enough pressure on enough council members, all the work of the last three years will have been for nothing.

COMPARISONS WITH CODES IN OTHER CITIES

You will see in your packet very abbreviated summaries of the approval processes in four other cities – Chicago, Boston, New York and Seattle, and you will see how they deal with the issues listed in the ballot question. Notice that they differ in the triggers for development review, and in the inclusion of three kinds of meetings: community meetings, design review public meetings, and public hearings. There are differences in how neighborhood group input is structured.

 New York has 59 Community Boards as mandated by its charter that deal with zoning along with other issues like the city budget and municipal services. Boston creates a new Impact Advisory Group for each project, with members chosen from the community by the State Senator and State Representative, the Mayor and Council at Large members. (And you thought it was political in Philadelphia.) Seattle has a very extensive system of neighborhood reviews that offer a high level of citizen involvement, but get the thumbs down from some architectural critics, who say that the system is expensive and cumbersome and leads to cheap buildings with a middle of the road sameness about them.

Chicago puts a great deal of the approval process in the hands of the planning commission staff, and emphasizes a speedy process. Both Boston and Chicago have special controls with much lower triggers for review along the waterfronts.

The cities interact with City Council and the Mayor in different ways. You might wish to discuss Councilmanic Prerogative in Philadelphia and how it compares to other cities.

We wanted to call this section Best Practices, but couldn't because no city that we looked at really seemed to have figured this out. We have a few minutes for comments, so I'm wondering if any of you have experienced a good process in some other city or town.

Opening Remarks
Harris J. Sokoloff, Ph.D.
23 January 2010
Civic Leaders

Thank you Kiki, and let me add my welcome and thanks to all who have come today.

We are going to try something in this project that is rarely done. It is not unusual for leaders to bring people together to get input to on how to structure public policy. We are taking an additional step: we have officials (the ZCC) who have agreed to respond to the input we give them. They'll tell us what they heard and what they did with what they heard.

Our goal is to build on the civic engagement that the ZCC is doing with the help of Portfolio Associates while also going deeper into one specific area: how to structure public involvement in the project or development review process.

Our review of other cities' attempts at this show just how daunting this task of structuring public input in the most productive ways can be. And we don't really expect to solve in three sessions what others have yet to solve. But to quote some ancient sages –

We are not required to complete the task, but neither are we free to desist from it…

So, our goals today are a bit more modest that to solve the problem. Rather, our goals are to

- Identify how the development review process can support neighborhood best interests.
- Identify how the development review process might interfere with neighborhood best interest.
- Develop common ground principles to support neighborhood interest in the development review process.

We'll do this in both larger and small group. When in small groups, you'll be led by a pair of moderators trained by PPCE for this work. They are:

- Chris Satullo and Gwynne Smith Scheffer
- Joan Davis and Brian McHale
- Josh Warner and Jean Disabatino
- Loretta Raider and Beth Perry
- Ted Enoch and Kiki Bolender
- Carolyn Thompson and Louise Giugliano
- Cassandra Georges and Ellen Greenberg
- Ellen Petersen and Franne McNeal

We're going to do this in several steps:

Step 1 will focus on identifying what people value in their neighborhoods – and where those values overlap across neighborhoods and where there is some tension in those values.

This first task is designed to help us get some clarity or specificity of what each neighborhood means when talks about the "character of the neighborhood or community." Some of this work will be descriptive – what is the current character. And part of this work is about aspirations – what we hope our neighborhoods can become more of.

Step 2 will focus on telling stories about the development or project review process: stories of when that process worked to support the community's values and stories of when it did not. We'll want short stories, so all can tell at least one… an executive summary of a sentence or two about the project, why there was a review (what triggered it), when did the review happen, how did this help/inhibit the project, what you learned from this case.

After we've heard a few stories, we'll analyze those looking for

- Factors participants said contribute to productive public participation in the project/development review process.
- Factors participants said impede quality development.

- And perhaps even some characteristics/elements to include in a new project/development review process, and why

In all cases, the "why" is as important as the "what" – what interests, goals and values does the project/development review process help us attain or advance.

Indeed, this will be part of our challenge today, and in the project: to move from positions to underlying interests, to focus on underlying values and then to developing principles for development review that support those interests and values.

We understand that what we do cannot eliminate all the times when there are competing interests. But if we can uncover principles that support a transparent, inclusive process that clarifies those differences and that points to ways of addressing them, we will have gone a long way to addressing our current challenges.

Some ground rules can help us along the way:

- Listen to each other… it's as important as talking
- Talk to each other, not the moderator. Moderators will guide the deliberations, yet remain impartial
- Everyone is encouraged to participate – to tell a story, to help analyze the stories of others. Speak your mind freely, and invite others to speak as well.
- Make the talk deliberative rather than argumentative.
- Help to develop one another's ideas. Ask clarifying questions.
- Explore disagreement. Search for common ground.
- Work toward making a decision about principles to involve the public in the project review process.

We are joined today by some observers – from the ZCC, planning commission, our advisory group and some others – as well as by several representatives of the media. Just as we have ground rules for our work, there are some ground rules for their work:

- they are here to listen, not join in
- media will not quote anyone in small or large groups – they understand that you will be trying on some ideas, floating trial balloons as it were. If they want to quote you, we've asked that they talk with you after the event.

Since Penn is a partner, there has to be some research component. Two parts: 1 is the survey in your packet; the second is a more in-depth study of modes of argument, deliberation and conversation in the small groups. As part of this research they'd like to tape each of the small group discussions. If you don't want to be recorded, please let your moderator know.

By the end of the session, we hope to have a set of principles that you believe will contribute to productive public participation in the project/development review process.

We'll post the results of today's work on several websites as quickly as we can – PPCE, AIA, WHYY, Zoning Matters. Perhaps more importantly, we'll be using what we do here today as part of the basis for the work we do on Jan 27th, when we attempt to consolidate your work with the work we did with some of the development community (developers, zoning lawyers, architects) on Tuesday, Jan 19th.

For the evening of the 27th, we'll need volunteers who can be with us from 6-9:30 on Jan 27th and who can bring the sense of your group to that consolidation session, who can represent the views/sense of your group and of the day. Please let your moderators know if you are both interested and available.

Now it is time to start working in small groups – to identify what you value in your neighborhood – and to see where those values overlap, and where there might be some important differences.

[Move into small groups to do values work followed by plenary discussion of small group work. Then Kiki will do a small introduction to Zoning].

AFTER KIKI discussion of zoning…

Kiki, thank you for that brief overview of a very complex set of issues and practices.

Earlier today we identified a set of common ground values and a set of values that were in some tension with the common ground values.

We're about ready to start the second of our tasks—telling and stories about the development review process that we can analyze to identify factors that contribute to a more productive process and those that might get in the way of a productive process.

Before we move into the small group work, let's share one or two stories in this plenary session. Please think of a story in which the public review process went smoothly, in which it helped improve the project, or helped the project succeed.

2 minutes reflection time

Will someone volunteer to share a story – a short story, perhaps 2 or 3 sentences about the project, why there was a review (what triggered it), how the review went, etc.

Anyone have a story that builds on that theme or that is similar to that one?

[Model the work, soliciting and then analyzing one or two stories]

So, that's what we're going to be doing in the next part of our work. You'll be working in your small groups again, taking a break for lunch when it makes most sense. We'll get back together around 1:15 to learn about what other cities are doing and how that can help us think about what would be best for Philadelphia.

Some ground rules can help us along the way:

- Listen to each other… it's as important as talking
- Talk to each other, not the moderator. Moderators will guide the deliberations, yet remain impartial
- Everyone is encouraged to participate – to tell a story, to help analyze the stories of others. Speak your mind freely, and invite others to speak as well.
- Make the talk deliberative rather than argumentative.
- Help to develop one another's ideas. Ask clarifying questions.
- Explore disagreement. Search for common ground.
- Work toward making a decision about principles to involve the public in the project review process.

Civic Leaders Workshop
January 23, 2010
Group 1

Moderators: Chris Satullo and Gwynne Smith Scheffer

Group Overview: Group 1 had nine participants, four white males and five African-American women. Neighborhoods represented were Old City, Center City, East Kensington, Strawberry Mansion, Francisville and 52nd Street business corridor. All four men and one of the women had deep experience and considerable sophistication about zoning issues; the others were more like newcomers to this set of issues. But the group showed good respect for the views and experiences of its less-experienced members, though some of the zoning-war veterans had to struggle not to dominate dialogue. Some in the group were far more comfortable with concrete, specific proposals than discussions of values.

WHAT PARTICIPANTS VALUE IN THEIR NEIGHBORHOODS:

- Walkable without dependence on cars (with tension around parking – needed, but how can it be limited to ensure walkable neighborhoods). Also, street trees contribute to walkability.
- Proximity to amenities - commercial and residential areas in proximity, but with little tension between them – this also promotes safety
- Available mass transit
- Diversity along ethnic and economic lines – but often accompanied by unity, because in close knit neighborhoods people know each other – and have for a long time
- Affordable housing (but can it remain so?)
- Lots of commitment from the grassroots to make the neighborhood work
- The historic architecture and scale – building should fit as to size and to their visual style
- Open space and parks

PRINCIPLES/FACTORS PARTICIPANTS SAID CONTRIBUTE TO PRODUCTIVE PUBLIC PARTICIPATION IN THE PROJECT/DEVELOPMENT REVIEW PROCESS:

- Early notification of potential plans
- Members of civic association with expertise in planning, law and architecture, and the time and willingness to attend numerous meetings
- When civic has existing, considered ideas about what fits in its neighborhood – and can evaluate project objectively in light of those.
- Willingness to compromise on both sides
- Using a disputed project as a catalyst for fostering community involvement, education and alliances with other groups with a stake in neighborhood e.g. NAC, CDC, business improvement district.
- Luck i.e. if a neighbor stumbles upon signs of a project early enough, and has enough sense and energy to ask questions (e.g. Strawberry Mansion story)
- Neighborhood Advisory Councils and CDCs that act as a resource to community
- Savvy neighborhoods can negotiate a "community benefit agreement" – but see below for downsides.
- Council people who listen for and heed will of community, instead of favoring their captive groups or developers.

PRINCIPLES/FACTORS PARTICIPANTS SAID IMPEDE GOOD PROCESS LEADING TO QUALITY DEVELOPMENT:

- Developers who disguise or dissemble what their true intentions are
- Developers who use threat of unwelcome "of right" development as a club to get neighborhood to back their variance requests
- Developers who try to blunt community opposition by agreeing to "provisos" which they later ignore and which the zoning board has no power/inclination to enforce.

- Late notification
- Poorer neighborhoods lack knowledge, clout, sophistication and resources to protect themselves.
- On many points, code lacks clear standards that would foster an objective review of project.
- Attitude by zoning officials, and city in general, that the burden of proof in a variance case is on the neighborhood, not on the developer. "And that's backwards."
- Default attitude of city seems to be that every zoning variance should be approved.
- Planning commission is not obligated to follow the zoning code nor to have a dialogue with the community. (Citizens seemed to fear larger role for planning commission for this reason, even though they would like to see more professional, objective project view.)
- Erroneous perception that zoning code allows for little "of right" development, so that any new development requires variances.
- Some factors that the community thinks should be considered in zoning project review are not deemed by ZBA to be zoning-related e.g. adding shade trees to street.
- Zoning board rulings seem arbitrary and inconsistent, a problem accentuated by lack of any rule requiring a written explanation of rationale for a ruling.
- Developers try to divide and conquer, by making deals with some neighbors or one civic group, while ignoring voice of larger, established groups. Some even try to create phony civic groups that are in their pocket.
- Council people and other political power brokers can wield undue power over zoning decisions, out of public view.
- Council people sometimes have pet civic groups that don't represent a majority, but which they describe to the zoning board as representing the will of a neighborhood.
- City can't enforce Community Benefit Agreements; you have to sue if developer does not live up to one. Also CBAs sometimes allow unwise development in return for benefits or goodies that have nothing to do with protecting character of neighborhood.
- There's no clear definition of when demolition of a sound building is OK.
- City agencies – planning, zoning, and council offices – seem to all have different ideas on what type of density is OK when.

CHARACTERISTICS/ELEMENTS TO INCLUDE IN A NEW PROJECT/DEVELOPMENT REVIEW PROCESS:

- Early and full notification is key. Ideas: Set up registry of recognized civic groups who would be notified of proposed projects on their turf, as soon as city learns of them. Use robocalls, Web site and social media, in addition to posted notices, to inform neighbors. Posted notices are seen by too few, too late.
- Burden of proof about a variance should be on the developer, not the community.
- Developers should agree to audio and video taping of meetings where they present project plans to groups. This would increase transparency and discourage dissembling or false promises.
- More objective standards in code that neighborhood leaders can decipher and refer to.
- If planning commission proceeds with new "work plan" approach to project approval, it needs to create clear standards for early notification and meaningful community input.
- Create provision in new code for a community input meeting on even "of right" projects – a la Portland, Ore.
- City-sponsored training of civics in essentials of new zoning code and how to get involved effectively in project review.
- Clarify and add transparency to city council members' role in project approval; council person should not be able to ignore or overturn will of community on major project (e.g. casino in Chinatown).
- Zoning board should have to give a written rationale for every decision – build up case law that civic groups can learn from and rely on.

- Civics with strong expertise and resources should help out civics in less well-situated neighborhoods. So should NACs and CDCs.
- There needs to strong, timely community involvement in the mapping – so that the mapping reflects community desires, and so that neighbors can accept decisions based on new code that go against some of their wishes.
- Would be better to have a community-based master plan in place before doing zoning map.
- Have different review processes for small projects of only very local influence, and large ones of major implications. Even "of right" large projects should have a review.
- Create a design review board, which interacts with the community.

AREAS OF TENSION:

- There was a desire to limit or even eliminate role of council people in zoning review – because is often perceived to be mischievous and damaging. But other voices warned that eliminating accountability of elected official, and leaving it hands of professionals and bureaucrats, could be risky too. Group agreed that Councilmanic privilege should apply to introduce zoning amendments and overlays, but council people shouldn't have secretive, feudal control over all development in their districts.
- Lots of discussion over how exactly to qualify community groups to be on the early notification registry. Some people wanted civics to submit data to prove they were established, ongoing, representative and transparent. They told of phony civics organized by political leaders or developers outweighing voice of legit civic.
- Some discussion of times when a civic group gets an idea in its head that really isn't necessarily the best planning or design idea.

Civic Leaders Workshop
January 23, 2010
Group 2

Moderators: Bryan McHale and Joan Davis

Group Overview: Our group was composed of 4 women and 5 men, representing civic organizations from neighborhoods all over the city – Wissahickon, East Falls, Bustleton, Far Northeast, Kensington, Brewerytown, South of South, Queen Village, and Old City.

As the group introduced themselves for the day's work they noted hopes they have for the future of the city. Prevalent themes included growing a middle class from within; improve the social fabric and vibrancy of our neighborhoods with increasingly diverse connections; and achieving a balance between growth and not displacing the existing community. Their stories of experiences with the project review process described powerful grass-roots movements and a critical role for civic associations as ambassadors for their neighbors and local advisors for developers.

Topics with the most energy included:

- actions for informing the public on development proposals
- the negative impact of delays in the project review process
- lack of compliance with zoning regulations and rulings

Some participants expressed concern that the common ground reached through these forums won't be in time to make a difference; others hoped that there would be positive consequences, as experienced with other PPCE events. There was also some frustration from feeling the need to better understand the current project review process in order to suggest improvements. After a process briefing from one of the participants they were able to settle back to work, creating a viable framework for triggering public involvement in zoning matters.

WHAT PARTICIPANTS VALUE IN THEIR NEIGHBORHOODS:

- Architectural history.
- Cultural / developmental history (why a community was founded or a community group was formed, the social ties established as the community grew, etc.).
- Personal networks in the community.
- Improving open space, green development.
- Mixed-use development.
- Diversity:
  - △ Ethnic / Cultural / Socio-Economic / people of varied backgrounds
  - △ Jobs – wide variety of options within a neighborhood between blue and white collar, industrial and service, small business and larger firms valued to protect the community
  - △ Preserving the neighborhood against gentrification, radical shifts in jobs, population, traffic, etc.
  - △ Preserving or improving affordability
- Easy access to services / transit / entertainment.
  - △ Scale of neighborhoods
  - △ Walkability

VALUES AROUND WHICH THERE WAS DISAGREEMENT ACROSS NEIGHBORHOODS:

- Some neighborhoods have public "faces" where most of the interaction with people from outside of the neighborhoods occurs (maybe major thoroughfares or shopping districts), which is different from the private faces of the community where most of the interaction occurs between local residents. This is valued as an ability to maintain a more intimate connection within the community and yet still have a place which attracts those from outside.
- Some neighborhoods which are devoid of children seek to attract families and schools in part because

it implies a better neighborhood. People bring their children to a neighborhood they believe is safe to raise their family, that has amenities for them, and that has a good quality of life. People who are bringing their children into a community are also more likely to stay in that community as long as the child is in the local school.

TENSIONS:

- How much input should those outside of a community have on what goes on within a community?
- There are developments and issues which are clearly good for the city and not for the neighborhood and vice-versa. How are these pressures balanced?
- Should the city have the final say or should the neighborhood?

PRINCIPLES/FACTORS PARTICIPANTS SAID CONTRIBUTE TO PRODUCTIVE PUBLIC PARTICIPATION IN THE PROJECT/DEVELOPMENT REVIEW PROCESS:

- Proactive community organizations, not reactive. Their power is attributable to:
  - △ large public participation
  - △ a united effort
  - △ assertiveness on behalf of the community
  - △ representatives that know their rights
- When civic associations work together their success influencing the outcome of a development proposal is improved.
- There is value in having a game plan for community / neighborhood involvement:
  - △ A plan for managing civic involvement
  - △ How impacted people communicate with each other
- Civic associations taking a proactive role to inform directly impacted, surrounding neighbors to help address concerns, even initiate design changes.
- Having "master plan" in place for the area that addresses "new urbanism" - retaining and creating compact, walkable, mixed-use neighborhoods.
- The project review process includes rules that, when complied with, pave the way for development improvement through community input.
  - △ Rules around variances force developers to have a conversation with the community.
  - △ Notifications are important for broad public awareness.
  - △ Developers and community groups negotiating in good faith.
  - △ Zoning Board is obligated to listen to community input; better projects result when they pay attention to community interests.
  - △ Zoning Board issues a continuance if not all impacted parties have been allowed time to be heard.
  - △ If the Zoning Board ignores community interests, civic groups can rely on their legal right to appeal.
- Tensions around Appeals:
  - △ Appeals work both ways, and can give leverage to either community interests or developers by extending the zoning process.
  - △ Cost impacts a community group's ability to successfully appeal, causing inequities for some neighborhoods based on socio-economic factors.
  - △ Projects often proceed while under appeal. If the appeal is heard too late, Courts are reluctant to reverse a project that's already started; the Court will uphold the original zoning decision in favor of developers.

PRINCIPLES/FACTORS PARTICIPANTS SAID IMPEDE A GOOD PROCESS LEADING TO QUALITY DEVELOPMENT:

- Absence of community input.

△ Developers collaborating with community groups under duress.

△ Approved without proper notice. With insufficient time to collect broad input to the community's letter of support or non-opposition, the quality of public input to ZBA decisions is impacted.

△ Cannot ignore "minor" cases.

- Crisis-driven community input.

  △ Always a sense of urgency.

  △ Impacts ability to share information.

  △ Impacts attendance at civic meetings (short notice).

- "Over-the-counter" permits contradict the public review process; cell towers were referenced as an example.

- Lack of enforcement of zoning regulation.

  △ Rules for advance notice are not enforced and the hearing takes place with too short public notification.

  △ L& I enforcement of zoning rulings is lax.

- Playing field is not level.

  △ ZBA actions are inconsistent with the rules and plans for the area.

  △ The role of politics can offset and override public view, particularly on big projects.

  △ Big projects can mean a big fight [in the courts]; some developers start building anyway, before resolution of community issues, offering an "apology instead of permission" once armed with permit.

  △ Whether or not the project review process is followed deviates by socio-economic demographics.

- Process delays impede project quality.

  △ Delays caused by the appeal process.

  △ Not negotiating in good faith; the duration of negotiation can cause the developer to withdraw in order to cut losses, rather than adjust proposal.

  △ If there isn't a quorum at ZCC they send everyone home.

CHARACTERISTICS/ELEMENTS TO INCLUDE IN A NEW PROJECT/DEVELOPMENT REVIEW PROCESS:

- Information sharing early is a win-win. The earlier the public is informed of a project the sooner the community gets accurate details on what's planned and developers become aware of issues. Suggestions included:

  △ Council shares the monthly Zoning Hearing List with Community Groups (website or e-mail).

  △ Create a liaison role within the Zoning Board to support educating community groups on zoning rules and regulations. Better informed community groups know their rights.

  △ Show proposals to community groups before zoning change decisions are made. Continue to collect and respond to community input throughout the review process.

  △ Strength and integrity of design can be introduced with a design review committee of local professionals (not elected) presenting at local zoning meetings.

- Codify community groups and contacts. Suggestions included:

  △ Create a role within the City's Zoning / Planning departments to manage a database of area community groups and contacts.

  △ Create a process for community groups to add new coalitions and change contacts.

- Tensions around what constitutes the "community":

  △ When should the minority or dissenting non-group member be able to derail a project?

  △ New code should address the definition of "standing". We need ground rules for participation in the review process.

△ Should there be "qualification" of community groups?

- If the re-mapping is done well the zoning process gains efficiencies with automatic approval on "of right" development.

  △ The format of Neighborhood Conservation Districts was posed as a good example of protecting neighborhood interest. A form-based ecological model was also suggested; e.g. like-height restrictions.

  △ The re-mapping should include putting community representatives into committee with the Zoning Commission to ensure attention to the unique characteristics of each neighborhood. Compensation would encourage local professionals to participate.

- "Large" projects are an exception and should never have automatic approval – i.e. should always come under public review.

- A proposed change in land use should generate a variance, triggering community involvement.

- The impacted community should contribute to variance approval language.

- The trigger for development review should not just be variances. Public notice and review should be triggered by any of the following factors, regardless of "of right" zoning:

  △ More than 1 address involved.

  △ Large parcel - square footage basis.

  △ Dollar value basis.

  △ Multi-family housing.

  △ Type of impact to community.

- Applicants are responsible for posting notices. Enhance the existing on site posting requirement with the following notification vehicles:

  △ Local Councilman places a call to leaders of impacted community groups.

  △ E-mail notice to impacted community groups.

  △ Posting to newspaper; create a standard place to find zoning notices.

  △ A website specific for zoning projects.

  △ Flyers distributed to directly impacted neighbors.

OTHER AREAS OF AGREEMENT:

- Do not weaken community notices and involvement just because the variance volume is down through rezoning.

- Address inequities and inefficiencies in the project review process:

  △ Notification periods must be enforced; no hearing without the required 12 day notice.

  △ Zoning Board should have alternates to fill in a quorum; should not cancel hearing for a missing board member and send hundreds home.

  △ It's not fair to have more rights when represented by an attorney; e.g. can cross-examine.

  △ There should not be "administrative permission" by staff; the impacted community should always be informed and given a chance for a hearing.

  △ Council should not have the power to bypass zoning process or overrule zoning decisions.

- "Greening" requirements need to be included in development plans. Increased density must be considered when adding housing to a neighborhood, and offset with new green space for existing residents.

Civic Leaders Workshop
January 23, 2010
Group 3

Moderators: Josh Warner & Jean di Sabatino

Group Overview: Group 3 was comprised of 10 members, 6 female and 4 male. Four group members were African American, and the rest were Caucasian. The civic groups represented in Group 3 were well spread out across the city, with representation from North, South, and West Philly, Far Northeast, Northwest, and several of the waterfront neighborhoods. All were well versed in the zoning/development process, and two were also CDC/community developers.

THE KEY NEIGHBORHOOD COMMON GROUND VALUES:

- Peace and Safety
  △ Social connections, mutual respect, neighbors helping each other out and giving back
- Neighbors looking out for one another, helping and working toward common goals
- Residents having (more) input to the zoning / project review process
- Residents being informed (transparency, notification, involvement, education)
- Green Space, parks
  △ Active and passive spaces, recreation, quiet
  △ Open spaces aiding in stormwater management
- Preserving "the sense" of the neighborhood, while welcoming and integrating new residents
- Diversity, in all its forms (race, class, incomes, job types)
- People are equally as important as Property
- Public Transportation and access
- Residential home ownership
- Walkability

VALUES AROUND WHICH THERE WAS TENSION ACROSS NEIGHBORHOODS:

- Property Values
  △ Agreement that property values should be stable and rise steadily
  △ Tension on how to handle large projects that dramatically raise values, and how vacant properties are both an opportunity and a detriment
- Renters, as compared to home owners
  △ How to welcome and support all income levels, but still have home ownership be the majority or stabilizing force in the neighborhood (this was especially prevalent for neighborhoods experiencing an influx of new residents)

PRINCIPLES/FACTORS PARTICIPANTS SAID CONTRIBUTE TO PRODUCTIVE PUBLIC PARTICIPATION IN THE PROJECT/DEVELOPMENT REVIEW PROCESS:

- Strong community organization the includes "vigorous land use committee with clout"
- Developers meeting face to face with community organization from conception of plan throughout the process and during construction. This is particularly critical when variances are required.
- Adequate, timely and widely disseminated public notice
- Overall agreement on quality plan
- Support for, agreement on needed-variances
- Community organizations with leverage
  △ Ability of organization to devote time and muster resources e.g. pro-bono council

△ History of strong relationships with Council-person, specifically Nutter, Verna and DiCicco. Relationships strengthened by seeing eye-to-eye on content of developers plan e.g. design.

△ Members are knowledgeable of zoning regulation, process and nuances

- Vigilance on part of neighbors and organization members
- History of Community Benefits Agreements that benefit the entire community as reasonable retribution for negative impact of development
- The role of the community being codified/acknowledged
- Community being informed of all projects proposed/happening

△ "Community group" being clearly defined

- Long standing community groups being heard
- Neighborhood Plans, with community input and support, as the mechanism to change zoning for an area
- Adherence to existing zoning classifications, thereby limiting variances
- Periodical combined community/organization/developer/city meetings

PRINCIPLES/FACTORS PARTICIPANTS SAID IMPEDE QUALITY DEVELOPMENT.

- History of inefficient, slow or non-existent oversight and accountability once construction begins. Lack of response to permit violations.
- Not all parties knowledgeable of rights and process
- Lack of community consensus re. merits of project, agreements that benefit one group within the community over another, lack of strategies for mediation
- Lack of resources to support community opposition
- Incomplete applications for variances
- Ability of developers who depart from permit guidelines to claim hardship as rationale for allowing variance violations or construction outside of permit guidelines, e.g. evicting tenants housed in illegal apartment conversions
- Lack of notification
- State superseding or over-reaching, "done-deals"
- Lack of adequate 'impact research'
- Issues of power, no operating values that honor the fair and equitable
- History of developers hiring support within neighborhood
- Conflict of competing community groups
- Long standing groups being superceded by new groups with special interests or "conflict of interests"
- Ward leaders having their own CDCs
- Zoning board members being appointed without qualifications being published or known

△ Zoning board members unknowledgeable in planning/design/zoning/law

- Big developers deciding on a project before meeting with the community, as in "done deals"
- Illegal building before permits are issued
- Continued lack of due process
- Unacceptable design of buildings, signage, etc.
- Original designs (after being approved) are changed during construction
- Mapping and information not up to date
- Lack of transparency in the approval process

CHARACTERISTICS/ELEMENTS TO INCLUDE IN A NEW PROJECT/DEVELOPMENT REVIEW PROCESS:

- Different triggers for different project types or situations (notion that "one size does not fit all" when it comes to triggering public input)
  △ Trigger categories should be clearly defined
- Neighborhood groups involved early on, before project goes to the ZBA
- Ongoing neighborhood review is required throughout the process (e.g., variance, code violation, approval, etc.)
- Application denials must go to the community group
  △ To get to the zoning board, applicant has to go to the community first
- Community groups should be clearly defined without conflicts of interest (e.g., developer establishing their own community group)
- Transparency (notice and information) is a right that must be afforded to all community/residents
- City has the obligation to inform community and individual residents that will be "reasonably impacted"
- For neighborhoods that are not represented by an organization, the city should require the developer (with proof) to notify residents and provide reasonable opportunity to review plans
- Counter clerks at L&I should not be allowed to make on the spot decisions
- Zoning board membership should broadly represent locations, communities, experts, and stakeholders
- Process for variance review contains accountability and requires community review
- All zoning board decisions must be routinely published in a timely manner, leaving ample time for any appeals
- Consistent public review process for large projects, and consistent different process for small projects
- Treating new construction different form existing buildings or use changes
- ZBA should have set standards for how it judges cases

OTHER AREAS OF AGREEMENT:

- The group felt very strongly about the unfairness and non-transparency of "government sponsored" developments, such as the casinos and the Youth Study Center, where various levels of government or other interests are involved and make deals/impose projects without resident and community group involvement
- Enforcement was a common thread in the conversation. The group did not mention specific agencies or tools of enforcement, but the topic did come up as important in many stages of the development and development review process (permits, notification, construction, etc.). The following enforcement principles were listed by the group:
  △ Permits, as written, should be followed verbatim
  △ Illegal construction or use should be cased or removed, and status quo ante restored before any permits are issued
  △ Grandfathered uses cannot continue upon change of owner or occupant (including liquor licenses)
- Project designs, as finalized by the ZBA, shall be adhered to, without changes

Civic Leaders Workshop
January 23, 2010
Group 4

Moderators: Beth Perry and Loretta Raider

Group Overview: Group #4 had seven members, six from community groups stretching from Point Breeze and North Philadelphia to Holmesburg and Overbrook, and one member from an industrial development group in Port Richmond. Three were women and four were men; two were African American and five were white. All seven wanted to preserve the good features of their neighborhoods from negative outside forces, but at the same time wanted to lift the worst areas of the city from 'heart-breaking' blight and to have the freedom to move through all city neighborhoods without constraint. Each person had stories to tell and questions to ask of their fellow participants. High energy continued from morning to afternoon.

WHAT PARTICIPANTS VALUE IN THEIR NEIGHBORHOODS:

- Preserve the character (history, architecture, green space, diversity) of the neighborhood. Do not allow industrial buildings to be turned into condos, or schools or churches into condos. Maintain industrial properties to attract new businesses. "Condos don't create jobs."
- Safe corridors; safe passages for seniors and for children; police presence; attention to visual environment to improve impression of safety.
- Open green space; parks and recreation; walking-friendly environment.
- Value zoning classification and adherence to the zoning code (few variances). Control over the counter permits.
- Neighborhood services within walking distance.
- Church as a community meeting space.

VALUES AROUND WHICH DISAGREEMENT OCCURRED:

- Busing brought out differences. Some saw local schools with no busing as important for preserving the character of the neighborhood. Others saw their children going to magnet, private, and charter schools around the city and had no problem with busing.
- Some differences in defining 'keeping the character of the neighborhood' and 'maintaining' the neighborhood

PRINCIPLES/FACTORS PARTICIPANTS SAID CONTRIBUTE TO PRODUCTIVE PUBLIC PARTICIPATION IN THE DEVELOPMENT REVIEW PROCESS:

- Early community involvement.
- Legal standing.
- Trust and transparency; credibility.
- Project is seen by the community as a benefit.
- Good notification process (e.g. automatic notification from L& I to the community; post on the internet; role of the council person)
- Consider unintended consequences; good problem solving.
- Know how to approach Council person.

PRINCIPLES/FACTORS PARTICIPANTS SAID IMPEDE GOOD PROCESS LEADING TO QUALITY DEVELOPMENT:

- Zoning board too permissive with variances.
- Zoning board meetings not accessible according to time and place.
- Political involvement impinging on zoning board decisions.
- Zoning board lacking needed expertise.
- Unequal resources (particularly legal) – community versus developers.

CHARACTERISTICS/ELEMENTS TO INCLUDE IN A NEW PROJECT/DEVELOPMENT REVIEW PROCESS:

- Community right to request project impact review.
- Consideration of protecting existing access to sunlight, unobstructed view, freedom from wind gusts.
- Issues of new electronic signage – visible from great distance; issues of local 'standing'.
- Notification. "More rather than less'. Use internet. Variance requests to ZBA and to L & I should go out routinely to community groups and to individuals.
- Make-up of Zoning Board – community group input; community group representation; community group confirmation power.
- Cooperative agreements with developers lead to enforceable agreements with developers (stronger than 'provisos').
- Design help and legal help on call for community groups.
- Adequate technical and legal support for the Zoning Board.
- Or, Professional Zoning Board – paid fulltime positions, with creative recruitment. Question: What is the experience in other cities? Needs further study.
- Retain current community group review process -- at minimum.
- Test run new process before finalizing.
- Include 'design' in L & I building plan review process. Note Seattle "Neighborhood Specific Design Process".
- Zoning board follows zoning code.
- Variance not approved 'as a right'.
- Grant for variance must have substantial support.
- Expect compliance with zoning code from developers; (handle 'self-imposed hardships').
- Seattle ecological model.

Civic Leaders Workshop
January 23, 2010
Group 5 & 7

Moderators: Ellen Greenberg, Cassandra Georges, Ted Enoch

Group Overview: On Saturday, January 19th, an amazing, diverse and effective group of 15 Philadelphians, (groups 5 and 7, who combined with such excellent results) were one of 7 small groups who worked together in three sessions throughout the day. This group was split nearly equally among men and women. Members came from nearly every region and corner of the city. Most of the group members appeared to be in the 30's, 40's and 50's, though one or two may have been a bit older or younger. There was a good balance of African American and white group members, as well as (a seemingly) broad selection of members from different socio-economic backgrounds. Other ethnicities may have been present, but were not easily noticed by observers.

This was an exciting group. One could just feel and see how each were leaders in their own communities, and group members were very eager to learn from and teach one another. Nearly everyone brought some pertinent experience or expertise to the group, and everyone listened and deliberated with respect and enthusiasm. All three moderators were inspired by the group and had rarely seen a group come into existence so quickly and function so well. This particular writer felt a strong sense of optimism for Philadelphia after working with the distinguished, generous and thoughtful group.

WHAT PARTICIPANTS VALUE IN THEIR NEIGHBORHOODS:

- Preserve our historic components. (It was noted that this can lead to a reluctance to change, and can create tension in communities.)
- Open/green space is important.
- Transportation (and access to it) is important.
- Having a voice in zoning matters in the neighborhood and beyond. (Several group members asked that this be noted as very important. To star it. To underline its importance…)

    This voice allows for a flexible and creative response in developing communities.

- Desire to cooperate with councilperson. They are our servants, not vice versa. They need to support community goals.
- Have consistent enforcement of codes and variances.
- Educate community on process and options. Make a more welcoming process.
- Support space and buildings for families and children.
- Preserve character through time.
- Value diversity. One participant stated that, "we like it all in our neighborhood."

NOTE: After these final two values were named, one wise man from West Powelton pointed out that it is very hard to achieve these last two without conflict. Then most group members agreed that this was very challenging. One person stated that, "we can't displace people just to make room for new comers to arrive."

PRINCIPLES/FACTORS PARTICIPANTS SAID CONTRIBUTE TO PRODUCTIVE PUBLIC PARTICIPATION IN THE PROJECT/DEVELOPMENT REVIEW PROCESS:

- Communication:
    - △ Early
    - △ People talking to each other
    - △ Meeting with each other
    - △ Having a forum and an opportunity to meet and talk
    - △ Time (to organize and plan)
    - △ With the city

    △ Logistics are communicated
- Process:
  - △ Starts negotiations
  - △ Taking each other access
- Knowledge of the process
  - △ What's going on
  - △ How things are supposed to happen
  - △ Come to an agreement before you reach the ZBA
- Persistence
- Relationships
  - △ Respect of all parties' needs
  - △ Willing to compromise
- Merit of the project is the most important thing (as opposed to a political win)
- Politically wise: elected officials need to know that the first line of support is the community
- Education
- CBA access

PRINCIPLES/FACTORS PARTICIPANTS SAID IMPEDED GOOD PROCESS LEADERSHIP TO QUALITY DEVELOPMENT:

- Political connections
- Negative experience can lead to bad blood
- Council person can take a position against community wants
- Lack of organized community based organization
  - △ No communication
  - △ No notice
- ZBA doesn't always make good decisions
- Procedures choked up little stuff related to the way the code is written
  - △ CBA or neighborhood agreement no longer attached to proviso (no longer official/enforceable)
- Scale is not balanced when you go in front of ZBA ($, time, power, politics, language rapport, etc.)
- Not knowing the process
- Takes time
- Meetings don't happen at convenient time/location
- Lack of time to prepare
- Lack of communication about when things are happening
- ZBA is the final say – why doesn't the planning commission have more to say?

CHARACTERISTICS/ELEMENTS TO INCLUDE IN A NEW PROJECT/DEVELOPMENT REVIEW PROCESS:

- Inclusiveness
- Communication
- Oversight
  - △ ZBA, Community, City Council, Developer all communicate early and often.
  - △ Early/timely process – Have input early enough so that changes can be made
- Efficiency – Get easy items process within the community (i.e. nuisance violations).
  - △ Get simple variances handled within community. Approval could be property owner getting signed petition from neighbors.
  - △ Should you need variance for roof deck at an individual home?

△ Create fast track process.

△ Maintain some footprint – Unclog ZBA. Removing simple cases from ZBA means more space for complex cases. Homeowner replacing room that was already there, but was not approved under City records, could be grandfathered in.

- Balance of power/Level the playing field – big vs. little, attorney vs. pro se

△ Resources to act on community behalf

△ Educated supporters/civic group

△ Final decisions should be made by depoliticized, nonbiased group including professionals

△ Hire an independent mediator/administrative law judge instead of using city employees to resolve disputes, as done by Chestnut Hill

△ Educate applicants on zoning – Very often applicants ask the ZBA for things that are not possible. They should know all options before hand.

- Depoliticize the process.

△ City council intimidation/ withholding info

△ Set term limits on City Council to reduce

- Consistency across the city.

- Welcoming, accessible process:

△ City's process listed as easy-to-reed steps. Post on web.

△ Make Code available online

△ Hearings – Make them citizen friends, i.e. ensure that hearings are not repeatedly postponed

- Neutrality

PRINCIPLES FOR FAILURE

- Community Groups overreach their responsibilities/powers
- Lack of transparency
- Indefinitely drawn out process
- Overly weighted special interests
- Acrimony and Divisive subgroups
- Venue shopping
- Too many voices or can't find leader/united voice
- Ignore voices
- Seek false unity
- Create dissention.
- Lack of process, plan, and organization
- No repercussions for bad actions – Get away with it (ignoring procedures, breaking agreements, etc.)
- Lack of enforcement
- Heavy handed forces – Too many hoops to jump through
- Overuse of overlays
- Political influence

Civic Leaders Workshop
January 23, 2010
Group 6

Moderators: Carolyn T. Thompson and Louise Giugliano

Group Overview: The eight member group was highly engaged and participatory. Most were from neighborhood based civic groups. The group was made up of five white women, one black woman and two white men, with an age range of approximately middle aged through retirement. (Demographic are based on visual observation rather than self identification.)

WHAT PARTICIPANTS VALUE IN THEIR NEIGHBORHOODS:

- Citizen Engagement (shared commitment to bettering the community)
- Institutions
  - △ They define, anchor, influence and can be used to leverage communities
  - △ Public and private schools; recreation areas and parks; religious institutions; health and wellness
  - △ Preserve historic architecture
- Commerce
  - △ Brings: money, jobs, resources
  - △ Increases: pride in community, property values, police presence (decreased crime)
- Safety
  - △ Techniques: cooperation between community and police (public service areas help); foot patrol; town watch; neighbors report suspicion; crime maps; online place to share information
  - △ Difficult Situations: homelessness and prostitution (they have rights and their presence impacts the neighborhood)
- Green Space
- Common Space for Community Dialogue
- Housing Stock
- Diversity (broadly defined)
- Mobility (access to public transportation)

PRINCIPLES/FACTORS PARTICIPANTS SAID CONTRIBUTE TO PRODUCTIVE PUBLIC PARTICIPATION IN THE PROJECT/DEVELOPMENT REVIEW PROCESS.

- Transparent, open communication among all parties (including full disclosure of the impact a project will have on the community)
- Engagement of the community early in the process
- Involvement of city planning department
- Strong civic group that addresses the needs of the whole community

PRINCIPLES/FACTORS PARTICIPANTS SAID IMPEDE GOOD PROCESS LEADING TO QUALITY DEVELOPMENT:

- Pay to Play (ZBA influenced by people in power and personal relationships)
- Lack of user-friendly information on the process, especially the appeal process
- Timing of the process
  - △ Not enough time to prepare
  - △ Timing of hearings: during the work day, only given twelve days notice to request time off from work, take time off only to be told that the hearing has been rescheduled
- ZBA
  - △ Lack of diversity

△ Doesn't represent the community

△ Doesn't explain their decisions to the community

- Requirement of legal representation of community to question opposition (financial barrier)

CHARACTERISTICS/ELEMENTS TO INCLUDE IN A NEW PROJECT/DEVELOPMENT REVIEW PROCESS:

- A vibrant, informed civic association/community group in every neighborhood
- Requirements that make developers proactive
  △ Engage community (especially adjacent property owners) early in process
  △ Notify council person of development
- City Planning Department engaged in community and understands proposed development
- Required communication between civic association, developer, planning and ZBA
- Guidelines for:
  △ Timely communication at the conception of the design
  △ Community meeting with developer to discuss known pros and cons of project
  △ Ongoing communication throughout the project
  △ Code and provision enforcement
  △ Assurance that development starts in a timely manner
  △ ZBA to educate civic group
- District zoning boards
- Written expected supports and oppositions to specific types of development (so that we don't have to start from scratch every time)

OTHER AREAS OF AGREEMENT.

- Look into Portland, Oregon's zoning laws – they are progressive

GROUP 6: ADDITIONAL INFORMATION

ANALYSIS OF SUCCESSFUL STORIES:

- Needs of the community (especially immediate neighbors), council and ZBA were known and addressed
- Everyone understood the laws and process
- Concerns were addressed early on in the visioning state of the project
- Everyone involved was open-minded
- Relationship with the city planner provided information to civic group; his approval was essential
- Good relationship between civic group and city council person
- Understood funding stream and the strategy needed because of it
- All parties demonstrated a commitment to follow through

ANALYSIS OF UNSUCCESSFUL STORIES:

- ZBA wasn't doing its job
  △ Members weren't knowledgeable/qualified
  △ No discussion or debate took place
  △ Biased
  △ Pay to play/influenced by people in power or personal relationships
  △ Didn't vet the information they were given
- Community organization expected to pay bond for lost revenue for developer

- Community contacted too late in the process
- Attitude of "not in my backyard"
- Process wasn't transparent
- Told it was a "done deal"
- Council flexed muscle/slighted community group
- Agreements weren't enforced

Civic Leaders Workshop
January 23, 2010
Group 8

Moderators: Ellen Petersen and Franne McNeal

Group Overview: Of the eleven participants in the group, there were ten males: one Asian, one Hispanic, and one African American. There was one African American woman. Two male participants were under 30; the other participants had ages ranging from 45-60. These community association leaders came from throughout the city: Mount Airy, Pennsport, Fishtown, West Philadelphia, Bella Vista, North Philadelphia, Northern Liberties Neighborhood Association and Chinatown.

The conversation was inclusive though the males from Bella Vista, Pennsport and Mount Airy did a lot of talking and had good insights to share.

KEY NEIGHBORHOOD VALUES WERE CITED AS:

- Diversity in a variety of forms-different people who had common behaviors of respect, tolerance and ability to listen to one another, businesses, housing to include both renters and owners
- "Spirit of the neighborhood"
- Inclusion in processes that impact the neighborhood-organization, government and a process to discuss and resolve issues
- Neighborhood self determination to have a role in defining neighborhood character and influencing wealth
- Power: need to define what that means and how to get it
- Common good orientation
- Communication-can air opinions, ideas, disagreements and create a path forward
- Respect for family values-children, schools, playgrounds
- Families in different configurations
- Safety: to include community meetings on safety issues of interest
- Access to support groups
- Basic Services available and working-water, sewage, transportation, schools, medical services
- Good information (trustworthy) and knowing where to get it from-council person, communication and alert services
- Support of local businesses-jobs and money stay local (neighborhood), generate a neighborhood economy, businesses give back to neighborhood
- People in neighborhood value their power to vote for the politician that will represent their neighborhood interests (versus vote along party lines, etc and complain that council person doesn't represent their issues)

PRINCIPLES/FACTORS PARTICIPANTS SAID CONTRIBUTE TO PRODUCTIVE PUBLIC PARTICIPATION IN THE PROJECT/DEVELOPMENT REVIEW PROCESS:

- Story regarding a Mount Airy building of historic significance which had been a retirement home and vacated. There were different developers, neighborhood groups and the process was messy but the positive attributes were as follows:
    △ Multiple voices on multiple levels who contributed to plans
    △ Messiness was advantageous though not always pleasant
    △ People were insistent on involvement and were not cut out
- Story regarding Jefferson Square, a new community replacing the old community. The developers went to the university grads and asked them what kind of housing would get them to stay in Philadelphia. The housing sold out quickly and has been a great asset to the neighborhood. The positive attributes were as follows:

△ Question of housing was taken to the community and current individual owners to be displaced were individually interviewed

△ Everyone was included in the dialog and process

△ The community input was gotten early-it was a two year process

△ There was political support and funding by the city and state for displaced homeowners

△ Accommodation of neighbors-There was tension amongst group and some homeowners who didn't want to relocate. There was a customized housing solution (lower scale and more afford-able) for them and out of the box thinking by rehabbing other houses in the neighborhood for them

△ Rules to ensure rehabbed houses couldn't be turned over to speculators-length of occupancy, etc.

• Story regarding the Piazza at 2nd and Girard. It was originally zoned as a shopping center big box but there were new ideas by neighbors and the developer and a better solution was generated. The positive attributes were as follows:

△ Everyone stayed on track

△ There was lots of volunteerism-a key to community success

△ There needs to be a "go to" person in the community to mobilize others and disseminate the cor-rect information to others

• *After the workshop, the participant noted that his comments included aspects of the process that didn't work:* Interestingly, part of my story where it didn't work included our experience with the Planning Com-mission and our reaching out to them for help—and specifically, Richard Redding...That's what happened and I think what's pertinent here is how a process can work and not work simultaneously. Bottom line, as I said that day, is the lesson we learned—which is how to stay ahead of a project and not get caught unprepared when a hearing is coming up at the ZBA—that was the point I was mak-ing and that's exactly what happened.

• Story regarding Chinatown housing and community interest in ensuring affordable housing options along with the new condo development. A better solution was generated than initially established for the condos. The positive attributes were as follows:

△ A collaboration between the community and developer where a percent of condos were allocated for median income community members

• Story regarding West Philly church preservation. It was not only saved but was expanded to include other religious denominations and a theater. The positive attributes were as follows:

△ There was dialog with everyone in the room. E-mails were not an appropriate channel for issues requiring discussion or concerns

△ Everyone was educated on what could and could not do according to the regulations and laws

△ Community members who had expertise as lawyers, architects, and finance professionals gave their time and were a part of the process

△ There was inclusion of different opinions which balanced each other out

PRINCIPLES/FACTORS PARTICIPANTS SAID IMPEDE GOOD PROCESS LEADING TO QUALITY DEVELOPMENT:

• Story regarding a dilapidated road house which was slated for development. The negative attributes were as follows:

△ Developers stood firm on their "rights"

△ City didn't stop developers and enforce agreed upon parameters (between developer and neigh-borhood association) when the agreement was violated. Neighborhood association was told ZBA doesn't enforce certain things like design

△ Neighborhood association got run around

△ If there wasn't a variance the neighborhood would have had no say at all

△ Using zoning as a tool or trigger for a quality development process

• Story regarding an industrial lot and the ease in getting a variance for residential use (which doesn't

address issues of height, space) versus getting a residential variance in a residentially zoned building where all those issues are put on the table and considered. The negative project attributes are as follows:

△ The irony of different standards of zoning variances based on the current zoned use versus the projected use

△ There was no trigger for the neighborhood and its involvement. This could have been based on size, distance from neighbors, a petition with a certain number of people, etc.

△ Regulations and codes and processes that an average person can't understand without a lawyer

△ Lack of community group resources

• Story regarding a building in West Philadelphia with squatters. The negative project attributes are as follows:

△ Difficult to communicate with the community and mobilize them-no set process

△ "Ghost developers" who may be listed on a sign but can't be contacted or found

CHARACTERISTICS/ELEMENTS TO INCLUDE IN A NEW PROJECT/DEVELOPMENT REVIEW PROCESS:

• Getting complete information early to all stakeholders in community and government, etc.

• Education to all as to what the boards and commissions do and don't do, what the process is and the roles and responsibilities of all

• Transparency so it will level the playing field and cut across political and other connections

• Feedback from L&I on status of projects, site visits

• Licenses and Inspections should post information on the internet

• Add all zoning permits by zip code to already established internet site Everyblock.com which already lists restaurant violations, etc. by neighborhood

• The postings need to have more than a 12 day window; this is not sufficient time for communication and action

• Current community alert systems exist but don't provide access to all and are not enough

• Citizens should be given established authority in the process and it should be a more democratic process not based on council people

• Knowledge of the system has to be imparted and expertise as a lawyer, etc. should not be a criteria. Education of the process should be inclusive

• The system should be made less complicated so an average person can understand and navigate it

• Educate high school students and others as part of a civics lesson, use the charter school of architecture and other institutions as well and field visits, trips, projects to create interest and knowledge

• Leverage communication through technology

• Developers must be accessible to the community and their contact information must be disseminated, valid and clear. (Too many "ghost" developers)

• Roles and responsibilities of council, developer and neighbors/association

• A process triggered by "community impact" not by variance

• Ability for the community to dialog with the decision makes, including the zoning final decision makers.

• Hours for meetings that are geared to working people-not 9 to 5

• Community needs met for resources and advocacy

• People should be educated about the available resources (e.g. existing community planner in Philly or Mt. Airy clerk paid to do zoning research)

• Alliance should be formed of neighborhood groups to share information, be given access to information and liaison with the city (e.g. Rick Sauer, CDC model)

- Make community input part of the permit review
- As part of the zoning approval process, include neighborhood association "check off box" like the box assigned to L&I or other departments before the developer gets approval. Council person can designate who is neighborhood liaison or association is for developer to contact
- Automatic mailings should be generated to citizens in neighborhood, paid for by developer (already in practice in some places)
- Create a process for communities that have no organization established

Closing Plenary Discussion
Civic Leaders Workshop
January 23, 2010

There were two plenary discussions to consolidate work across small working groups during the Civic Leader Workshops. The first was after small groups developed common ground values. The second was at the end of the day, developing common ground principles for public input into the project review process.

EARLY PLENARY SESSION

The workshop started by asking participants to respond to the following prompt:

Think about the community or neighborhood covered by the organization you represent today. What do you value in that community or neighborhood?

They worked first as individuals and then in small groups to develop a list of common ground values. They also noted where values were different in different neighborhoods.

In plenary, participants participated in a "gallery walk," reviewing the flip charts of the other small working groups. This was a way to get a sense of the work of the other groups.

We then held a plenary discussion in answer to the general question "What did you notice?" The point of this question was to find out what participants thought was most important in their work and the work of the other groups. They could focus on areas of similarity and overlap, or areas of difference and tension.

Here's what they noticed, first common values, then tensions:

COMMON VALUES

- Diversity
- Unity among diverse neighbors (income and ethnic diversity)
- History of community
- Green space – we value it, but don't think city does
- Walkability – getting away from car culture
- Take care of seniors
- Less gentrification
- Business corridors
- Better say for public
- Keep industry and jobs
- Preservation of historic architecture
- Good commercial corridors – having shopping near where we live
- Home ownership strengthens community
- Educating community about rules/regulations
- Police and safety
- Communication with others
- Needs of children

TENSIONS

- Bussing - neighborhood schools vs. bussing kids to better schools
- Historic architecture in neighborhoods
- Diversity and affordability vs. gentrification
- Preserve owner-occupied housing while also wanting to support renters

△ Tension of people vs. property: want homeowners who take care of homes, but also want to welcome new people and renters

△ Renters increase density

- Residential and commercial uses
- Commercial corridors – where they are located and how they are defined
- Over-the-counter permits
- Freedom to use your property as you wish vs. set community standards
- Cars vs. people

CLOSING PLENARY SESSION

The rest of the day was spent focusing on stories of public input into the project review process that worked well, and those that didn't go so well, and then analyzing the two.

At the end of the Civic Leader Workshop, participants participated in a "gallery walk," reviewing the flip charts of the other small working groups. This was a way to get a sense of what the other groups came up with.

We then held a plenary discussion in answer to the general question "What did you notice?" The point of this question is to find out what participants thought was most salient in their work and the work of the other groups. They could focus on areas of similarity and overlap, or areas of difference and tension.

HERE ARE SOME COMMENTS PEOPLE HAD ON THE STORIES.

- Inclusiveness – all parties involved
  - △ Notification by paper, web, email (broad), send notice to neighborhood groups
  - △ Outreach should be passive (postings) and active (email and other notices sent)
- Design review guidelines
  - △ Include neighbors/ neighborhood representatives on the design review board
- Real input – Substantive
  - △ Once stated, it matters
  - △ Informed
  - △ Full disclosure of all support and opposition (so we don't have to invent ideas each time)
  - △ Provide "tech" support – design, legal
  - △ An initial community review that has the same status as reviews by the Streets Department and the Water Department
  - △ Adapt the Portland, OR "neighbor contact" model
  - △ The "trigger" for community input should be the beginning of the project
  - △ Need ways to overcome "undue" political influence
    - ◆ Prevent Council from overruling ZBA decisions
    - ◆ ZBA should be required to explain all decisions
    - ◆ Have a 3rd party mediator to decide on the merits of the case
    - ◆ Need to have details of the rights of neighborhood groups at ZBA
  - △ Should be criteria for neighborhood group inclusion
  - △ Real input requires education, relationships, knowledge of plans
    - ◆ Informed decisions are possible if we understand the process

APPENDIX C

Material from the Consolidation Workshop
January 27, 2010
Arch Street Friends Meeting House

This Appendix includes material from the Consolidation Workshop held on January 27, 2010 at the Arch Street Friends Meeting House. As note earlier, 52 people participated in this 3.5 hour workshop, including 12 from the development community and 40 civic leaders.

This Appendix contains the following:

- A list of groups participating in the workshop.
- Excerpts from the opening remarks by project co-director Kiki Bolender, welcoming participants and explaining the genesis and goals of the project.
- The opening remarks by project co-director Harris Sokoloff, describing the tasks for the workshop, ground rules for those tasks and how the workshop will contribute to the rest of the project.
- Tasks assigned at the workshop
- Reports from the moderators of the four workgroups.
- The report of the closing plenary session.

Organizations

52nd St Business Association
Askot, Weiner and Cohen
Asociacion Puertorriquenos en Marcha
Blank Rome LLP
Binswanger Corporation
Brandywine Realty Trust
Center City Residents
Chestnut Hill Community Association
Cozen O'Conner
East Falls Community Council
East Kensington NA
East Passyunk Crossing
Fairmount Civic Association
Fishtown Action
Fishtown Neighbors Association.
Francisville NDC
Germantown Community Connection
Juniata Action Committee
Logan Square Neighborhood Association
Lower Moyamensing Civic Association
New Urban Ventures
Norris Square CDC
Northern Liberties Neighborhood Association

Old City Civic Association
Old Kensington Neighbors Association
Overbrook Farms Club
Philadelphia Association of CDCs
Schelter and Associates
South of Sough Neighborhood Association (SOSNA)
Society Hill Civic Association
South Broad Neighborhood Association
Southwark Civic Association
Southwest Community Enrichment Center
Tacony Business Association
The Resolute Alliance in Yorktown (TRAY)
West Philadelphia Financial Services
West Mount Airy Neighbors
Westrum Development Corportation
Wissahickon Neighbors Civic Assoc.
Women's Community Revitalization Project
Youth Study Center Advisory
Yorktown Community Oraganization

Excerpts from Remarks
Kiki Bolender, AIA, LEED AP
27 January 2010
Consolidation Workshop

I hope some of you had the chance to hear Radio Times this morning, hosted by Chris on WHYY. Penelope Giles, Sam Sherman and Alan Greenberger were the guests and, as my mother would say when I would call Arizona from Canada or some other far off place, "They sounded like they were just in the next room!" And tonight they are all here in this room.

Penelope's first comment reminded me of some of the strong and poetic responses that have come out of our workshops. She said about her neighborhood, Francisville, "Devastation created the potential" in the community. In that area of lower North Philadelphia the devastation has had an ugly face over much of its history, based on class, race, and people not wanting to live near certain other groups of people. Another workshop participant called it "heartbreaking blight".

But Penelope sees opportunity for growth in that devastation. She lived abroad at various times for many years, and came back to live full time in the neighborhood of her birth, unshackled by the pessimism that infects many long time residents. Linda is a new resident of only a few years, said after the show that she thinks Philadelphia has such potential to be a world class city.

So what makes a world class city? Don't most of the cities people love around the world have a great sense of place, or rather a sense of many places within one? Can't being a great City of Neighborhoods lead the way to being a world class city? When I travel, I'm always kind of jealous of the people who are out walking their dogs or hanging with their friends at a café. They are lucky enough to live in this city that I like enough to travel far for a visit.

So what makes a great neighborhood? If you look at the lists posted in the moderator reports, you will see lots of attributes. The ones that jumped out at me in listening to the groups had to do with spirit and the Common Good.

Like the civic group in a neighborhood where a group home for adults was proposed – adults who need to live under supervision. The civic group convinced the near neighbors that these folks would be good neighbors, and settled their fears, and it was a good result for all. Or like my neighbor who opposed her civic group when they wanted to ask the police for extremely harsh treatment of homeless people.

How can the way we administer our zoning code—the basic template of how we live in proximity to one another—make us better neighbors? How can it encourage us to act as our "civic best selves"?

Sam Sherman made a comment on the radio show this morning that made me think of other neighbors. He said that the unpredictability of development approvals is especially hard on small businesses. Someone who is going to do a small building or group of buildings is much less likely to have the deep pockets of a major developer who might be able to ride out the delays.

These are the business people who are more likely to be our neighbors. Many of them want, as Sam expressed, to be proud of what they have done when they go home at night. They want to act towards the neighbors out of a sense of respect and good business.

Not all of these neighbors are small businesses. Jack Wolgin died yesterday. He was involved in the usual amount of controversy as a developer, but he was a patron of art in the city and gave us the Clothespin.

Once again tonight, we are going to ask you to set aside the either / or, winner / loser way of thinking. To see if there is a way for a developer to propose a fifteen story building because that is his vision for the site, not because he really wants a ten story building and is waiting to be beaten down by five stories. Or a way for a civic group to say "yes" to questions about a project without the fear that the next time their "no" won't be heard.

None of this is easy, and you will be faced with very difficult discussions tonight. We just ask that you think of yourselves as citizens of a world-class city.

Opening Remarks
Harris J. Sokoloff, Ph.D.
27 January 2010
Consolidation Workshop

Thank you Kiki and thanks again to all of you who have committed yet another block of your time to helping clarify and specify how the public should be involved in the project/development review process.

Our work tonight, simply put (but not so simply accomplished) is to take the work from two separate workshops – one for the development community and one for civic leaders – and see how we can put that work together into a set of recommendations for the ZCC.

In preparation for this meeting the project team – Kiki, Chris and I – as well as our advisory group of community members, developers, two members of the ZCC and others reviewed the work from those two workshops and identified broad areas of common ground. You have a list of eight of those areas in your booklets – four we've called "low hanging fruit" (an issue where we heard significant common ground and that may not cause great pain to either developers or neighborhood groups) and four we've called "gut wrenchers" (in which we heard some common ground in the workshops and that we believe will require considerable adjustment of positions on both sides).

As we do our work tonight we want to remember our goals:

- To provide input from neighborhood groups and the development community to the Zoning Code Commission on the form, structure and content of public participation in the development review process.

- The recommendations will consist of a clear expression of common ground principles in eight areas, with specific steps to achieve each common ground principle.

- This will allow the Commission to respond specifically on both the principles and which recommendations they will incorporate into the code, and which they will not, and why.

As last time, we'll work in both smalls and as a group-of-the-whole. And as we did last week, the work will require that we move from positions (e.g., a desired action or solution) to underlying interests.

We'll divide into 4 small groups, each led by a moderator from the Penn Project for Civic Engagement:

> Group 1: Chris Satullo and Cassandra Georges
>
> Group 2: Joan Davis and Brian McHale
>
> Group 3: Loretta Raider and Josh Warner
>
> Group 4: Ellen Petersen and Carolyn Thompson

Each small group will work on low hanging fruit and two gut wrencher issues for about 1:45

Then we'll come back into a plenary session to integrate the small group work. We'll do a quick review of what each group did on the low hanging fruit, and then focus on the gut wrenchers. Two groups will have worked on each gut wrencher and our task will be to see what common ground – in principle and action – there is across those two groups and how to use that as the basis for a recommendation to the ZCC.

Finding common ground principles can be difficult, particularly on the gut wrenchers. But let me remind you of two things.

- First… what we mean by common ground (hokey pokey)

- Second… to quote yet again from Pirkei Avot: "It is not upon you to complete the work, but neither are you free to desist from it."

Two last thoughts before we get into the work for this evening.

As you engage with each other in this work tonight, please keep in mind that you're here in three roles:

- To represent the interests of a stakeholder group – your development company, your law practice, your civic association, CDC, business group, etc.

- To represent the interests of the people you worked with in either the development community or civic leader workshop last week.

- To represent your personal interests – as a parent, spouse, neighbor, etc.

In doing this, let's again follow the ground rules that served us so well in the earlier workshops:

- Listen to each other… it's as important as talking
- Talk to each other, not the moderator. Moderator will guide the deliberations, yet remain impartial
- Everyone is encouraged to participate – to tell a story, to help analyze the stories of others. Speak your mind freely, and invite others to speak as well.
- Make the talk deliberative rather than argumentative.
- Help to develop one another's ideas. Ask clarifying questions.
- Explore disagreement. Search for common ground.
- Work toward making a decision about principles to involve the public in the project review process.

Consolidation Workshop
January 27, 2010
Group 1

Moderators: Chris Satullo and Cassandra Georges

LOW HANGING FRUIT: PROJECT IMPACT

- Basis of comparison- square footage?
- What is the project- rehab vs new building
- Want efficiency and simplicity- unclog system
- Major vs. minor how- to define impact on community, size
- Graded system, how much concern is triggered
- Major vs. minor vs. all vs nothing- Are there more paths
- Pick different jargon
- Can you know major/minor before project is created
- Developer- size/footage
- Facilities that are physically small but big in controversy (i.e. group homes)
- Review only if it does not fall within current zoning codes can't derail group home if property is properly zoned already
- Dealing with subjectivity
- Quality of life standards- you had privacy and with new project won't
- How many people have to be impacted? Just one enough?
- How impact community as whole- remove green space
- Create list of criteria/character/impact/square foot and calculate
- Developer and civic ideas are not mutually exclusive- can want the same thing
- All stake holders should be at table at same time
- Common good- character of neighborhood
- Review only if enough signatures on petition to object
- Find 20 neighbors to sign off (to start vs to stop vs to start discussions)
- To whom do you appeal? Planning comm. vs. neighbors vs ZBA
- Rational code
- Factor in use as criteria (see overlays)
- Distance from project- gradation
- Minor project can be moved into major- if community
- Do you need to stand in the gap for tiny process?
- Host community meeting. Circulate pamphlets to alert neighbors
- City planning community has staffers assigned to different neighborhood. Use them for info fathering—What is current layout/issues/demographics
- Time limit on objections
- Redo mapping - C1. C2
- Revisited code may lead to less hearing / more of rights
- Developers always look to neighbors, understand impact, consult with professionals.
- No petitions against=approved
- More communication between planning and zoning
- Be ambassadors and educators

GUT WRENCHER: WHO SPEAKS FOR NEIGHBORHOOD?

- People come out of the woodwork
- Should be a legit group
- Should be criteria / guidelines
- Should be a charter that says- hey we speak for the neighborhood
- A legit non-profit or NGO-registered with city
- Civics agree that there should be a registry
- Craig S. won't make a difference
- Nothing about this stops a person from hiring a lawyer and filing an appeal like starting over
- But 90% of variances are approved
- What happens when civics rupture?
- Maybe what we have is as good as we get - Don't want anyone excluded
- Zoning flows out of a plan- some neighbors near CC- have overreached
- Pretending to own major civic institutions
- If you want voice, need to go through some kind of educational process ** common ground
- Aligned with matrix of low, medium, high, impact project
- Goal that every neighborhood has at least one recognized civic group that has zoning function **common ground

SOLUTIONS:

1. Sit down early
2. Use local planner to kick start input process - civic community
3. Don't help less-organized communities by taking away from well organized
4. It's in everyone's best interest to know early who opposed
5. Non profit similar to PACDC for civics
6. Sophisticated groups- should try to get to yes- not BANANA / manipulate
7. Planning conversation to ensure public input where civic not there

GUT WRENCHER: COUNCIL PRIVILEGE

- Why do people meet behind closed doors- political supporters
- Distinguish executive from legislative
- Role=facilitate communication
- Take away power to address overlays
- District council can veto any power changes
- Create planning processes. Move from individual concerns to plan for larger community
- Each district has had different experiences
- Funding / deadlines – still go through city council
- Like projects as "of right"
- Some leaders would support reform
- Not about corruption
- Get everyone involved over several years; tell developers their rights
- Concerns over expensive appeals
- Council members say they support the community - no reasoning given for change in support
- Checks and balances

- Everything should be on the record (track broken promises)
- How to address less sophisticated communities
- Council members should play role in educating
- Record talks with community
- Council members should notify community if change mind/support
- Notify community of supports and rejection
- Should Council members have to explain themselves?
- Council members should be accountable for actions (stop construction, remove power)
- At Large Council members don't usually comment on other Councilmanic district
- Maybe zoning board does not take (consideration) of Council member's letter of support if he or she did not notify community
- Council members should post letters to website so anyone can review it
- Ethical considerations

GUT WRENCHER: FINAL THOUGHTS

- Beware 2 minus ic times leads to low quality input ???
- Plan of development - work on process so that input is substantial
- Product of all groups brought to PCPC
- More should happen at PCPC. No just one time at microphone
- Top down mandates - failure to explore parking because someone thought that neighborhood had ample transit options
- Mixed use building - changing views of community: don't want mixed but 10 years later wonder why high traffic and taxes
- Community vs comprehensive planner v. developers
- Vision / creativity of developers but shouldn't erode what is already under way.
- Youth study center just dropped in neighborhood - no preparation, system didn't work, no. opportunity for civic group to get up to speed

Consolidation Workshop
January 27, 2010
Group 2

Moderators: Loretta Raider / Josh Warner

Group Overview: Group 2 had nine members – four female and five male. Two members were African American, one was Hispanic, and the rest Caucasian. Of the nine, two were developers, with one developer from an organization that was also a civic group. The group was well coordinated in their conversations, and no one monopolized the deliberation. Group members often referred to their personal stories of the project review process, as well as recounting conversations in their small group work at the civic group or developer's workshops. Most all of the topics in the low hanging fruit and gut wrencher categories were discussed at least briefly, and the group found common ground and named several actions for each of their assigned questions. The group demonstrated respect for one another and excellent listening skills.

LOW HANGING FRUIT: TIMELY NOTIFICATION

The group first shared ideas about the benefits and importance of early notification, as well as the negative implications when timely notification does not occur.

THE DISCUSSION INCLUDED:

- The desire on the part of the community that the developer provide information on what they want to build and where they want to build before plans go to an architect
- Civic groups need an opportunity to provide feedback
- 30 day notice seemed to be an appropriate amount of time
- The importance of a variety of communication methods to be utilized

COMMON GROUND PRINCIPLE:

"Timely notice 30 days prior to the date of hearing, in the early design phase (before ZBA) a variety of communications are made to include civic groups."

ACTIONS:

- Invite the community early into the design process
- Send fliers
- Send certified mail to all adjacent property owners
- Invite community to 2-3 meetings (A question was raised that the # of meetings is dependent on the nature of the project)
- ZBA holds hearings locally
- ZBA posts the hearing online
- The applicant is responsible for the notice (Enforcement by the ZBA)
- The orange poster must be kept for 30 day

GUT WRENCHER 1: WHICH PROJECTS ARE REVIEWED?

The group took a fair amount of time to hash out some ideas, tell stories, and basically get their arms around this question. They did come to a common ground principle after exploring several of the options and opinions set out at the start of the conversation.

The first ideas and opinions stated involved "as-of-right" uses and the role of the zoning code, as related to comprehensive plans and neighborhood plans:

- "As-of-right" zoning should be just that, since it has been reviewed and considered 'appropriate' for a given area by definition
- Community input is or should be involved in making the actual zoning code (both classifications and zone districts)

- There are existing master plans and neighborhood plans (and some in the works) that are built on public input and describe the land use wishes/vision of the community
  - △ Here there was some tension or skepticism at just how much community involvement and input there was or is to these plans

Next, several group members proposed some principles that were deliberated on and considered for the common ground principle:

- Only projects that need a variance should be considered for public input/review
  - △ There was strong tension here, in that several group members considered as-of-right to be as-of-right, and several others noted that a project, even if allowed in an area, could warrant some level of public review, given certain circumstances
- Any projects other than single family residential should require public review
  - △ There was tension here, as some members felt that would be unfair for business uses and commercial buildings, and also that some single family residential projects might need public input/review
- There would exist a trigger for public input/review within each zoning classification (e.g., project square footage, use of multiple addresses/properties for the project, or if there is 'character change')
  - △ This was well received by the group, but again the topic of discussion came back to: "as of right zoning should mean 'go pick up your permit.'"

Here, the group proposed what would eventually become the common ground principle:

"Projects can be as-of-right, but if there are impacts on the area, they can trigger public review."

This was eventually finalized as the common ground principle:

[added wording]

COMMON GROUND PRINCIPLE:

"Projects can be as-of-right, but if there are impacts on the [character of the] area, they can trigger public review."

  - △ There was strong sentiment from the developers in the group that the word 'impact' was a "slippery slope." Impacts would have to be clearly defined and standardized in the code
  - △ All group members agreed that clear, understandable, and standardized triggers should be determined for the concept of "impact"

The group finished out the discussion (and arrived on the above final common ground principle) by discussing and deliberating the following opinions/ideas:

- There are differences between use variances and scale/dimensional variances
- It must be clear in the code, the triggers and/or uses that cause public review
- If the triggers are too minute, civic associations may be overwhelmed by too many "little things" to consider
- When considering "the character of the area," should the code be divided into geographic regions or neighborhoods, with a specific "character" or "characters" for each one?
- For the "character" trigger to be tripped, there must be a clear difference with the community character
- What about the new zoning code and re-mapping process? Won't the community character be defined within the zoning code itself?

ACTIONS:

- Zoning re-mapping must incorporate much public input
- Clearly define what is as-of-right in the code
- City responsible for a large-scale education campaign, and must garner participation
  - △ The group considered education paramount for the zoning remapping process, and for how to

navigate as-of-right vs. variance projects. Educating individual citizens as well as civic groups as a whole

- There should be clear triggers for public input/review for as of right projects
  - △ Triggers having to do with scale of project (multiple single family homes), size of project, etc.
- Zoning maps must be updated regularly
- Zoning overlay system should be preserved
  - △ But there was some tension here between keeping the overlays and thus adding complexity and 'layers' of regulation vs. enabling the community to go through a public process to amend/change the actual zoning for the given area (emphasis on community process, as opposed to the councilperson amending the zoning)

Overall, the group agreed that this question was quite confusing (as asked on the handouts).

GUT WRENCHER 2: HOW ARE PROJECTS REVIEWED?

The discussion was lively with diverse perspectives expressed.

- People really care about design, the community needs a voice
- Maybe there needs to be an aesthetic group in each neighborhood
- Design and Zoning are two separate issues
- Design and Zoning are not two separate issues
- The community must review designs (A question was raised, "What happens when the community doesn't agree on design")
- Traffic and environmental studies need to be addressed by the city and shared at public hearings
- Sustainability needs to be incorporated into the code.
- Scale and mass factors must be also be considered

After a fair amount of discussion and active listening the group agreed on the following principle.

COMMON GROUND PRINCIPLE:

Separate design out of the commission and include public input

ACTIONS:

- Ground rules must be developed
- Each neighborhood has input into a citywide design commission
- Meetings are held to review and discuss design
- Neighborhoods develop plans of what they want to retain
- Materials, facades and other aesthetics must be judged (similar to the art commission).

Consolidation Workshop
January 27, 2010
Group 3

Moderators: Bryan McHale and Joan Davis

Group Overview: Group 3 had 11 participants, composed of 8 male, 3 female representing civic and developer interests. The neighborhood affiliations represented the broad character of the City … Logan Square North, East Kensington, Olde Kensington, Fishtown, Juniata, Moyamensing, West Philadelphia. They were organized in various ways to support their neighborhoods, including business, neighborhood, and civic associations; zoning and action committees. Meeting these civic participants on common ground were the "developers" – some overlapping a civic role - bringing a wealth of professional experience in Regional Planning, Development, Zoning & Land Use, Legal, Architect, Community Development Corps. (CDCs), Congress for New Urbanism, and Philadelphia Historical Commission.

Group 3 was hopeful that this process would result in improved clarity, transparency, and communication between developers, communities, and the city. Everyone was interested in rebuilding the city and in respecting the urban form of Philadelphia as well as in not only rebuilding neighborhoods physically but also building organizations within neighborhoods which could lead to stronger communities as a whole. Above all everyone was optimistic that this process meant that something would actually happen.

LOW HANGING FRUIT: REVIEW TIMELINE

Common ground principle—There should be a review timeline which allows for a predictable length of time for the developer while also giving the community a sufficient amount of time to comment.

- Developers – Developers are looking for a predictable, constrained timeline. "Time is money," is the mantra. As projects get larger, the risk to the developer also increases and the amounts of money which can be lost if everything collapses in the latter stages is prohibitive. At the same time in many cases the developers are coming to the community with fully mature concepts that it can become costly and time consuming to change if there is conflict.

- Community – Community groups and individual neighbors have their own jobs and their own lives. Even the most organized of community groups does not have the ability to inform their community, have discussions, settle disputes, and put together a response in a two week period, to say nothing of communities which have no real advocacy organization or have multiple. At the same time developers are coming at them with full-fledged projects talking about deadlines and seeking variances or permits. This automatically creates a yes-no, win-lose atmosphere.

ACTIONS:

- The dialog with the community should occur before a developer even gets to the official city bureaucracy and should be a required first step as part of an application process similar to Portland.

- Preferably the developer will talk with the community in the initial idea stage or present an in-concept report which allows the community to input on the generalities without the developer having invested fully into a detailed design.

- In this initial community process the developer and community should agree to a schedule. First this allows the community the time to properly absorb any plans. Second it allows the developer an expectation of timeliness from the community so that it isn't simply an open-ended process.

- 3 waypoints may be ideally right for a community dialog (an in-concept, a first revision, and a final plan). Other meetings may or may not exist but these seem the most relevant.

- The District planner should certainly be an invited participant/observer in the process, and all of the meetings should be documented and both copied to the city and included as part of the application for variances/permits/etc; including if there are any tensions/disagreements.

- If this sort of public process is adopted as a entryway to development, then the official governmental process should be a predictable one on a timeline. The various agencies which have their public meetings should do so in a ordered fashion, taking more public input along the way as is their responsibility, but making definitive decisions.

FUTURE:

- One of the main issues was the levels of organization in communities and the ability to take time to deal with zoning/planning. In the future, organizations should be encouraged to have a regularly set time to handle zoning/planning so developers can plan around that and to relieve the burden on the community group to have to spontaneously deal with issues as soon as they come up.

- In the cases of communities with little or no capacity to deal with its own zoning it may be that a neighboring group, or an citywide umbrella group, or the city can facilitate a regular time for those issues to be handled and to build that capacity.

ROUND-UP:

- "This should be seen as a process not a timeline" was mentioned several times in the discussion, but they did not preclude each other. With the emergence of comprehensive and neighborhood plans along with Historic Districts and Neighborhood Conservation Districts, developers need to see talking with the community as at the very least a matter of due-diligence. As is suggested in Gut Wrencher 2 – How do we review projects, there will be more significant standards going forward which developers need to be aware of as neighborhood planning grows and community groups become more sophisticated. The community is increasingly becoming interested not just in receiving development in their neighborhood but in pro-actively finding developers who fit what they want for the future of their neighborhood. If a developer has plans radically counter the community, at least this sort of process will allow them to understand where those differences are ahead of time and marshal their arguments accordingly, or decide that it isn't worth the financial exposure.

- By the same token, if the developers are involved in such an extensive community dialog in the beginning – and the city is receiving all of that dialog both positive and negative as a part of the application – then they should be able to depend on a timely set of meetings and responses from the various agencies. Ultimately the ZBA and other permitting agencies have to be able to take that information and make a timely decision. It also becomes extremely problematic if both sides can go through this entire process only to have someone show up and file a suit at the end as is referenced at the end of Gut-Wrencher 2.

GUT WRENCHER #1 – WHO SPEAKS FOR THE COMMUNITY?

COMMON GROUND PRINCIPLE(S):

The ideal for development projects is full participation amongst those with a vested interest. If the most impacted public can be brought together into the collaborative process with developers, there will be fewer surprises later in the zoning process, decreasing objection and litigation. Developers are assured they are presenting to the complete body of interests and will be able to gather all community concerns at once. Finally, neighborhood input that is considered in decision-making by zoning officials will be a transparent and holistic perspective of local impacts and opinions.

There are three aspects of "impacted public" that need to be addressed:

1. Neighbors that are not members of a civic organization.

   Civic organizations should take responsibility for outreach to directly impacted neighbors, then convene, document & characterize zoning objections and who is impacted. (Note that design issues are specifically excluded from zoning objections; refer to Gut Wrencher #2 "How are Projects Reviewed?") This does not take away from the "informing" responsibilities of developers and city agencies, but instead adds a local channel for information sharing.

2. Neighborhoods supported by multiple civic organizations or when a project crosses neighborhood boundaries.

   End the unpredictable nature of dealing with individual civic groups and increase the breadth and quality of public input by joining forces. Civic organizations should be expected to collaborate with each other when they share an interest in a development project. Understand there won't be 100% agreement, and develop processes for resolving differences of opinion.

3. Neighborhoods that have no civic organization.

Create a level playing field for public input and grow capacity where there is none. It is our joint duty to ensure these interests are informed and their voices heard when a development project will impact a community without organized civic support.

ACTIONS TO ACHIEVE THE COMMON GROUND PRINCIPLE(S):

- Develop a mechanism to bring all impacted parties together with developers at the initiation of a project. Include concern for the individual and the voting power of near neighbors in civic plans and zoning opinions.

Topics that couldn't be resolved:

△ Can the process legitimately exclude those who refuse to participate in the collaborative process?

△ How would that be enforced?

△ Can there be a cut off time after which no new voices are permitted?

- Citizens' Planning means two-way information flow. Make it the practice to meet early in the conceptual stage to gain knowledge of developers' plans and give insights into local impacts and issues. This aligns with the Low Hanging Fruit "Review Timeline" discussion on triggers for public involvement.

- Formalize the role of civic organizations taking steps to involve directly impacted neighbors in dialogue with developers – members and non-members alike. This action had some tension for the civic representatives as they considered the effort needed to perform the appropriate outreach. This tension became a tradeoff as they acknowledged that individuals have rights in this process too. Emphasizing that this doesn't take the burden off developers and zoning officials to communicate with impacted parties, but now civic organizations will need to expand their member duties to include canvassing and informing the directly impacted neighbors about a development initiative and how they can join the discussion.

- Where a neighborhood is supported by multiple civic organizations or a project impacts multiple neighborhoods, the impacted groups will take steps to join forces and improve chances of a predictable project outcome. They will share information about what's coming and jointly participate in planning and zoning discussions.   Recognizing tension around potentially competing interests, some specific suggestions were submitted to handle those circumstances:

△ Create a role for District Planner as coordinator / mediator.

△ Impacted groups form a zoning subcommittee who work together to find common ground.

△ Defer to Council when there's a difference of opinion. This suggestion connects to the Gut Wrencher topic "What about Councilmanic Privilege?" and identifies a role that Council might play in the public process.

A topic that was left unresolved as time ran out:

△ Should city-wide groups have equal input?

- Record how decisions are made, and include information about the public process in zoning communications to the city (and courts) as evidence of due diligence. Include differing minority opinions when submitting recommendations. These actions support inclusiveness and transparency, characteristics that both developers and civic representatives in our group agreed were beneficial for development projects. Their conclusion connects to the Low Hanging Fruit topic on " Transparency", and suggests formalizing the way civic organizations report on behalf of their neighborhood.

- For areas without civic organizations, level the playing field. City [NAC / Council] will perform outreach to directly impacted parties and ensures proper notifications are made. Neighborhood stakeholders will work with the ZBA to vet zoning issues. This suggestion connects to the Gut Wrencher topic "What about Councilmanic Privilege?" and identifies another role that Council might play to support their constituents in neighborhoods that have no representative public presence.

There was some tension around the outreach issue and how to connect with all concerned parties. With a sense that more should be done to help these neighborhoods to become organized, the group moved on due to time constraints. Initially left unresolved, participants returned to this topic after discussing the 2nd Gut Wrencher topic, feeling it was an important issue to overcome. They developed some specific actions to grow capacity where there is none:

    △ Community Planners visit these districts with a twofold purpose:

- Provide zoning education. Ensure members of these communities understand their rights.

- Help design a local plan. Correlating with the group's conclusions under the Gut Wrencher "How are projects reviewed?", a neighborhood plan is an important tool for working with developers and gaining support from city officials. Each neighborhood should have a local plan that aligns with the overall city plan.

    △ Find funding alternatives to support the formation of civic organizations and their operating costs; e.g. NAC funding.

    △ "Chain up skill sets". Develop civic association leaders from those already giving back to their neighborhood; e.g. block captains, volunteers for clean up days. The city should provide a framework for these seeds to grow. Well-organized civic organizations could contribute mentoring and learning from their own experiences.

- More mature civic organizations could play a different role in the future, encouraging development that implements their neighborhood plan.

    △ Take a proactive role in development, and invite proposals. This extends the concepts from the earlier Low Hanging Fruit topic "Review Timeline", to now bring civic organizations to the very beginning of the process, initiating developer interests in a concept that furthers the neighborhood plan.

    △ Pair developers with community representations before project conception to explore the potential of the neighborhood.

GUT WRENCHER #2 – HOW ARE PROJECTS REVIEWED?.

COMMON GROUND PRINCIPLE(S):

Do not let "happiness issues" interfere with resolving matters of zoning code. Zoning review is not the correct forum for design issues. Instead, a Design Forum should take place outside of the zoning process, enabling a public discussion of aesthetic and other non-zoning impacts with design professionals at the table. Guidelines for design review include:

- "Design Respect" - Neighborhood Plans are honored.

- Acknowledgement that design is a matter of taste. The decision process needs to have room for diversity of style.

For true zoning matters, shift the burden to the developer to justify why a variance is good for the neighborhood. Reverse the current practice that a variance is approved unless the public proves why it shouldn't be.

ACTIONS TO ACHIEVE THE COMMON GROUND PRINCIPLE(S):

- Use City Planning Commission to help align proposed design with neighborhood and city plans.

    This action had some tension around the fact that the City Planning Commission role doesn't address community needs today, and therefore a shift in this function would be required. The group was unsure this was within the scope of forum influence.

- Create a city-wide Design Review Committee with rotating seats for neighborhood input. This committee would have an advisory role on design and make recommendations to the Planning Commission.

This action again raised an earlier tension around the Gut Wrencher 'who represents the neighborhood?", bringing up factors of background and professional orientation of civic association members. A city effort to select and educate a representative from each neighborhood got some discussion but no conclusions were drawn.

TOPICS THAT WERE LEFT UNRESOLVED:

- What skills are required to represent the neighborhood on design issues?

- Who dictates style?

- Neighborhoods need to create guidelines for design that reflect neighborhood character. Encourage neighborhoods to create their Neighborhood Plan using Neighborhood Conservation Districts as a model. Some guidelines for this activity were identified:

  △ Recognize that this is a large, multi-year effort for a community.

  △ The neighborhood plan should reflect "civic values" – what we want the City to look like.

  △ The neighborhood plan should not be so rigid as to squelch creativity.

- Educate the public on non-zoning issues and how to handle those matters with developers.

- Having early design conversations between civic associations and developers will smooth the way, serving as a vetting process when issues are known in advance. Address other areas of impact (traffic, noise, etc.) up front in the development collaboration process, so that all stakeholders are ready to handle any issues at initial public meeting. This aligns with the earlier Low Hanging Fruit topic "Review Timeline", where the common ground emphasized broad, early local involvement.

- There was tension around how to separate out non-zoning issues from zoning decisions in city hall, but there was agreement that the city should reform the practice of rolling design and other non-zoning issues into zoning decisions. We need to find creative ways to resolve non-zoning impact issues. For example, explore car reduction options to resolve parking issues, such as a sponsored Philly Car Share agreement.

- Reflect a change in the Zoning Approval Process to place the burden of proof on the developer for variance approval. Make it the developer's responsibility to explain why a variance is best for community.

- The subject of fewer variances once "of right" zoning is fixed, brought tension around how to ensure continued public input without ZBA intervention. The solution again linked back to earlier conclusions under the Low Hanging Fruit topic "Review Timeline",. Through a collaborative approach to development there is community input up front and ongoing community involvement throughout the planning process, followed by developers and city hall honoring the plan, there will be a reduction in conflict and tensions. The end result will be a shift to a less adversarial relationship between the public and developers.

- The topic closed with a sense of frustration over appeals. Anyone can file an appeal, with merit or not, and there's no fine or consequence for filing frivolous appeals. An appeal typically takes over a year to get through commonwealth court and can squash a project that was otherwise approved by all impacted parties. The issue remains unresolved.

Consolidation Workshop
January 27, 2010
Group 4

Moderators: Carolyn T. Thompson and Ellen Petersen

Group Overview: Group 4 had 13 participants: 7 men and 6 women; 5 people of color (Black and Latino), 8 white people; nearly all were middle aged. Of the participants, three were developers, one of who was a lawyer. The remaining ten participants represented civic groups, yet many mentioned that they also had some connection to development. There was a great deal of disagreement among the group, particularly between a few individuals. It took a great deal of work, but in the end the group was able to reach consensus on several items.

LOW HANGING FRUIT: TRANSPARENCY

Common Ground Principle: A defined process that is transparent, predictable and informs, invites and engages participation.

ACTIONS IDEAS TO ACHIEVE COMMON GROUND PRINCIPLE:

- Publish transcript of hearing (or put on-line)
- There is an ability to see and make public the application summary, presentation, testimony
- An explanation is provided of the decision, why it was made, and who was for and against it
- The decision complies with the criteria for decisions, zoning code, and it is detailed and publically provided
- Fewer cases may lead to greater transparency (note: there was a great deal of disagreement on this idea)
- Zoning Board required to disclose all forms of contact (phone calls, e-mails, other conversations) related to cases before the Board
- Ethics or other codes of conduct (applied to Judges or other officials) should be applied to zoning officials
- Clearer zoning code with fewer variances needed should lead to a more transparent process (note: this sentiment was not shared by everyone in group)
- Code must be enforced to confirm transparency of and commitment to process
- Publish reasons for decision regardless of appeal status
- Engage the community in the process of deciding new rules and "of right" and have a process of engaging the community in any future changes
- The code book should be there in hearing room and available to the public for reference during the hearing
- A legal representative should be at the hearing to ascertain the city's position
- Other non city stakeholders should have legal representation at the hearings
- Other non city stakeholders should have legal representation at the hearings
- Make public presentations available for and posted to the community. May publish in community newspapers
- Community groups should have all documents to be presented at the hearing in advance of the meeting with enough time to review them or the documents should not be admissible
- Community groups should be able to cross examine at the hearing without a lawyer (Note: this was not agreed to by broad group and there was mention of a concern of filibuster)
- Due process should be followed (as in a courtroom)
- Need a predictable process

GUT WRENCHER #1: WHICH PROJECTS ARE REVIEWED?

COMMON GROUND PRINCIPLES:

- Philadelphia needs a new code that is predictable and projects both community interests and development rights.
- If a project doesn't conform to the existing code, it should be reviewed; if a project is to code (assuming a new and better code) the community should still be involved.

ACTIONS IDEAS TO ACHIEVE COMMON GROUND PRINCIPLE:

Towards the end of the meeting, the group divided into two subgroups. One subgroup reached consensus on the common ground principle above and the additional "areas of consensus" listed below. The other subgroup worked on Gut Wrencher #2. Both subgroups had development and civic leadership represented.

AREAS OF CONSENSUS

- All projects should have a mandatory wait period (10 days was mentioned) in order to allow for community input.
- Community input needs to be given in a manner that is structure and predictable.
- There needs to be a process for notifying and engaging the community from the very beginning, when the project is just an idea.

ADDITIONAL IDEAS

Triggers for Review

- All projects should have some kind of community involvement, but not necessarily a review
  - △ This should be triggered by the filing of an application
  - △ Type of review/involvement should vary by the type of project
- Review needs to take place before it is a "done deal"
- Projects with the following qualities should be reviewed:
  - △ There is significant community interest
  - △ Large project
  - △ Has material impact
  - △ Is a disruptive or change of use project
  - △ Is outside of the neighborhood plan
  - △ Impacts the value of the neighborhood, quality of life or density

REVIEW PROCESS

- Create a process to register community groups (and individuals), then notify those groups whenever an application is filed
- Tiered system with three options:
  - △ 1: have a quick review because there is no community interest
  - △ 2: involve the community but they wouldn't have objection rights because the project was "of right"

  * There was a lot of discussion about this idea. Participants generally liked the idea, but feared that it wouldn't work because the community wouldn't "have any teeth." It was pointed out that this option doesn't currently exist and if we created it, it could build trust between developers and civic groups.
  - △ 3: community has right to review and potentially overrule
- Post all applications (including "of right" projects) online so that everyone can see them. Additional ideas to support this included:

△ Creating a virtual map of the community

△ Having a clearing house for information (there was disagreement in the group about if the clearing house should be decided by council person, councilmanic district or zip codes; it was also noted that more clearly defined districts would be needed)

△ Whatever the process is, it needs to be consistent

GUT WRENCHER #2: COUNCILMANIC PRIVILEGE

Principle or Common Ground Statement: Council doesn't have a "privilege" but instead has a "role."

SOME OF THE ATTRIBUTES OF THIS PRINCIPLE WOULD BE:

• The council person is responsible for informing, engaging and communicating with all the stakeholders (developers, community), perhaps facilitating the process, or acting as a clearinghouse

△ Any time a council person introduces or changes a zoning ordinance before City Council he/she must notify the community, perhaps in a posting similar to what is required for zoning variances

△ After new map and zoning rules, there is no "privilege" unless mandated by legislative amendment

△ No state representative privileges should exist either

△ There is a clear process by the council person and transparency around who she/he supports and why

△ Council person does not advise the zoning board

Closing Plenary Discussion
Consolidation Workshop
January 27, 2010

GUT WRENCHER: WHO SPEAKS FOR THE NEIGHBORHOOD?

GOAL/COMMON GROUND PRINCIPLE:

(Group 1)Every neighborhood/community has one recognized civic group for others. It is their responsibility to convene all the groups (and individual voices and outliers) for project/ development review and related issues. Part of their job is education.

A caution: while it is important to help the underserved civic groups (and to help communities without civic groups), we must do so in a way that does not undercut established civic groups or communities with established groups.

ACTIONS:

(Group 3) Disagreements within and across civic groups should be documented and sent to the ZBA, as well as agreements.

(Group 4) Similar to Group 1, but we weren't sure how to include upstart groups. Need a set of criteria for this.

(Group 1 and 4) City should create a way to recognize groups.

Build capacity of less sophisticated groups to match those of the more sophisticated groups

PCPC may have to take leadership responsibility for convening people in neighborhoods lacking civic groups.

GUT WRENCHER: WHICH PROJECTS ARE REVIEWED?

GOAL/COMMON GROUND PRINCIPLE:

(Group 2) If a project, whether "of right" or not, has impact on the character of the neighborhood, review it.

(Group 4) Public should have input into as of right project

Actions:

(Group 2) Civic groups and individuals participate in zoning mapping work

(Group 2) Need different types of triggers in different zoning classifications.

(Group 2) Overlay is modified zoning

(Group 4) New code must be predictable and respect character of neighborhoods

(Group 4) Need a mandatory waiting period after there is an application – should be sufficient time for community to meet and comment

(Group 4) Public input must be structured

(Group 4) Input/dialogue should begin right away

In the discussion, it became clear that there are certain principles that were common across groups: early notification, transparency from the start and during the approval process, the "other side" has (both sides have) access to all information, explicit ethics (code of conduct) for commissioners.

(Group 3) Community and developer work together to set up the schedule for input and approval process

(Group 3?) Audio recording for all developer and community meetings

(Group 2) Impact triggers review

(Group 1) Some combinations that impact neighborhood trigger review

(Group ?) Community petitions if they find impact.

(Group ?) Overlays are important

(Group ?)   a recipe for a simpler code: early meetings

GUT WRENCHER: HOW ARE PROJECTS REVIEWED?

GOAL/COMMON GROUND PRINCIPLE:

(Group 3) There should be a separate commission/committee for design review – including facades, materials, etc.

Actions:

(Group 3) There should be a mix of neighborhood people and design professionals on the design review commission/committee

(Group 3) It should be city-wide with rotating seats for local neighborhood representatives, from civics in area of development

(Group ?) Neighborhood develops their own design guidelines

GUT WRENCHER: Councilmanic privilege?

GOAL/COMMON GROUND PRINCIPLE:

ACTIONS:

(Group 1) Timely submission of Council letters to ZBA

(Group 4) A transparent clearinghouse, perhaps run through council offices, facilitating when needed.

SOME THOUGHTS ABOUT THE REPORT:

- We may mix issues with input from various groups. That is, since transparency came up in various groups in addition to the one who had it as a LHF, we'll draw on what other groups said about transparency as well.
- We'll note areas of tension as well as areas of agreement.
- What help do we need with future advocacy?

APPENDIX D

Comparison with Other Cities

This Appendix includes material from the Consolidation Workshop held on January 27, 2010 at the Arch Street Friends Meeting House. As noted earlier, 52 developers, zoning lawyers, architects and others participated in this three hour lunch time workshop.

This Appendix contains the following:

- Excerpts from the opening remarks by project co-director Kiki Bolender, welcoming participants and explaining the genesis and goals of the project.
- The opening remarks by project co-director Harris Sokoloff, describing the the tasks for the workshop, groundrules for those tasks and how today's workshop would contribute to the rest of the project.
- Reports from the moderators of the four (8) workgroups.
- The report of the closing plenary session.

How are citizens involved in development review in other cities?
Example review processes from Chicago, Boston, New York and Seattle

CHICAGO—PLANNED DEVELOPMENT REVIEW

SUMMARY

The Plan Commission and City Council review all Planned Developments, informed by a recommendation from the Planning Department. To encourage efficient development, the review process is tied to a required timeline for each step.

UNIQUE CHARACTERISTICS

- Review speed is emphasized. The administrative review must be completed in a week and the Plan Commission must schedule and complete their review in 60 days unless the applicant waives this right. City Council must reach a decision in 6 months.
- Chicago Plan Commission membership. In comparison to typical Planning Commissions, the 22-member Plan Commission has unusually strong ties to the mayoral administration. Membership includes the mayor, 9 mayoral appointees, 5 department and commission heads and 6 aldermen.

TRIGGER FOR DEVELOPMENT REVIEW

- Size of development (varies by zoning district) or location within 100 feet of a waterfront.
- Each zoning district has specific building heights, number of residential units and projects areas that trigger the Planned Development Review. Heights range from 75 feet in residential neighborhoods to 600 feet downtown and number housing units range from 30 to 400.

MEETING NOTIFICATION AND RECORDS

- Notices of hearings must be published in the newspaper and posted.
- The Plan Commission uses a court reporter to record the proceedings. Transcripts are public.
- Plan Commission meeting minutes, with proposals and decision only, can be downloaded from the city's website.

DEVELOPMENT REVIEW PROCESS

	Community Meeting	Design Review Public Meeting	Public Hearing
1. Department of Zoning and Land Use Planning recommendation			
2. Plan Commission Hearing			**X**
3. City Council Committee on Zoning Hearing			**X**
4. City Council Hearing			**X**

How are citizens involved in development review in other cities?
Example review processes from Chicago, Boston, New York and Seattle

BOSTON—LARGE PROJECT REVIEW

SUMMARY

Major development review is centralized, with the final decision made by the 5-member Boston Redevelopment Authority Board (BRA). The BRA negotiates with developers over project impact mitigation while the Boston Civic Design Commission reviews the project design.

UNIQUE CHARACTERISTICS

- The Boston Redevelopment Authority reviews all development projects. All powers of the City Planning Board were transferred to the Boston Redevelopment Authority in 1960.
- Impact Advisory Groups. When a development will have a major impact on the surrounding neighborhood, the BRA forms an Impact Advisory Group (IAG). Fifteen members are nominated from community residents, local businesses and community organizations by the district City Councilor, State Representative, and State Senator, with input from the Mayor's Office of Neighborhood Services and at-large City Councilors. IAGs were created in response to private negotiations between community groups and developers along the waterfront.

TRIGGER FOR DEVELOPMENT REVIEW

- 50,000 sq. ft. of gross floor area in new construction or 100,000 square foot additions (most major development)
- 10,000 sq. ft. projects near the Boston Harbor
- Changes in use of over 50,000 sq. ft.

MEETING NOTIFICATION AND RECORDS

- Publication in the newspaper
- Meeting notices are sent to the Neighborhood Council or similar community group for the project area
- BRA staff notify interested parties about Boston Civic Design Commission meetings
- BRA meeting minutes are posted on the web

DEVELOPMENT REVIEW PROCESS

	Community Meeting	Design Review Public Meeting	Public Hearing
1. Pre-proposal informal community meetings recommended	X		
2. BRA Scoping-determines project impacts to be addresses by developer			X
3. Impact Advisory Group meetings (advisory to the BRA)	X		
4. Boston Civic Design Commission meetings (advisory to the BRA)		X	
5. Project Impact Report review – assessment of impacts and proposed mitigation by developer			X
6. Cooperative Agreement signed – commits developer to dates for mitigation completion			
7. BRA Design Review			X

How are citizens involved in development review in other cities?

Example review processes from Chicago, Boston, New York and Seattle

NEW YORK—UNIFORM LAND USE REVIEW

SUMMARY

The Uniform Land Use Review process begins in one of 59 Community Boards. Projects are also reviewed by the City Planning Commission and may be reviewed by City Council and the Mayor. Community Board comments and recommendations are considered at by all reviewing bodies.

UNIQUE CHARACTERISTICS

- Community Board review of Special Permit applications. There is a Community Board in each of New York's 59 Community Districts with up to 50 voting members and staff provided by the city. Community Boards have an advisory role land use and zoning, the city budget, municipal service delivery and other community issues. Members are appointed by the Borough President from Council Member, Community Board and civic and community groups nominations and 50% of appointees must be from Council Member nominations.

- The triple-no: City Council review triggered by Community Board and Borough President opposition. If the Community Board and Borough President initially recommend disapproval but the Planning Commission approves a project, the Borough President can again recommend disapproval. This 'triple-no' leads to a review by City Council.

TRIGGER FOR DEVELOPMENT REVIEW

- Development proposals requiring a Special Permit to significantly modify building bulk, use or parking.

- Examples: transfer of air rights from an adjacent landmark or floor area bonuses in return for public amenities.

MEETING NOTIFICATION AND RECORDS

- Community Board hearing: Must be published in the City Record and on the Comprehensive City Planning Calendar. Community Boards are encouraged but not required to publicize hearings in newspapers, websites etc.

- Planning Commission Hearing: Same plus a notice mailed to the concerned community board, Borough President and borough board.

DEVELOPMENT REVIEW PROCESS

	Community Meeting	Design Review Public Meeting	Public Hearing
1. Planning Department review			
2. Community Board meeting (NYC has 59 Community Boards)	X		
3. Borough President review (NYC has 5 boroughs)	X		
4. City Planning Commission Hearing Disapproval is usually final)			X
5. City Council Hearing – CC may choose to hear approvals and must hears a 'triple-no' (see above)			X
6. Cooperative Agreement signed – commits developer to dates for mitigation completion			
7. City Council veto override -2/3 vote			X

How are citizens involved in development review in other cities?
Example review processes from Chicago, Boston, New York and Seattle

SEATTLE—MASTER USE PERMIT

SUMMARY

Design review is one portion of a Master Use Permit application. The review begins during conceptual design and developers present 3 alternate proposals at a public Design Review Board Meeting meeting. The final design is also reviewed at a Design Review Board meeting and the DRB recommendation is one factor in the Planning Director's Maser Use Permit approval.

UNIQUE CHARACTERISTICS

- Neighborhood specific design guidelines reflect the character of individual neighborhoods. Design review is guided by guidelines applying to the whole city in combination with 16 neighborhood specific guidelines. Developers are permitted to vary from underlying zoning to some degree if they demonstrate that their proposal meets the design guidelines.

- Seven district Design Review Boards. Seattle is divided into 7 districts that each has a five member Design Review Board. Each district includes multiple neighborhoods. With seven boards meeting regularly, there is sufficient time to complete two phases of design review – early conceptual design and final design.

TRIGGER FOR DEVELOPMENT REVIEW

- Size of commercial or multifamily development, varies by zoning district.

- Housing units: Downtown and mid-rise zones 20 dwelling units. Low-rise zones, 8 dwelling units.

- Building size: Downtown, 20 to 50,000 sq.ft. - Mid-rise zones 14,000 sq.ft.- Low-rise zones 4,000 sq.ft.

MEETING NOTIFICATION AND RECORDS

- Meeting notices are posted online, mailed to residents and property owners within 300 feet of the site and posted on the site.

- Design review submission materials are available online.

- Major elements of recommendations are available on the web in a database that tracks projects throughout land use and building permitting.

DEVELOPMENT REVIEW PROCESS

	Community Meeting	Design Review Public Meeting	Public Hearing
1. Pre-submittal meeting with Planning Department staff			
2. Early Design Guidance Design Review Board Meeting – developer must submit 3 design alternatives		X	
3. Environmental Impact Statement (if necessary, based on proposal)			X
4. Public meetings are held if requested in writing by 50 people	X		
5. Recommendations Design Review Board Meeting – final design		X	
6. Planning Dept. Director Decision			

APPENDIX E

"Zoning 101"
Kiki Bolender, AIA, LEED AP
23 January 2010

Why is it that the City of Philadelphia is allowed to tell anyone what people can or cannot build on their properties? The answer is in the police power of the state. This is not about uniformed officers, but about the power of the state to protect and promote the public's health, safety and general welfare. All powers of city governments come to them through enabling legislation passed by the state. The state has conferred power over land use decisions to cities and townships. Hence the resolution to create the ZCC was an amendment to the Home Rule Charter given to Philadelphia by the Commonwealth of Pennsylvania – a big deal.

In 1926, the village of Euclid, Ohio created a zoning code to keep the industrial uses at the edges of Cleveland from expanding into the town. Ambler Realty owned 68 acres that could not be developed for industry any longer, so they sued the village. The Supreme Court upheld the right of the village, setting the stage for the Standard Zoning Enabling Act of 1926. So this type of code is called "Euclidean Zoning" and it is not, after all, named for the Greek mathematician.

Some modern zoning codes get much more specific about the facades of the buildings and how they relate to the street and to adjacent buildings. Inevitably, they reach into the questions of style. No historic, complex cities like Philadelphia have this kind of code. Rather, most cities like ours have some version of a project review process to deal with those issues of quality in buildings and quality of life on the surrounding streets.

Of the four basic types of law, we just talked about two of them. Statutory Law is how the state says that a city is allowed to impose a zoning code. Administrative (Regulatory) Law is how that right is carried out. It is the zoning code, which tells just how the city's right to regulate the use of land will take place. It is an expression of the state's power to protect and promote the public's health, safety and general welfare.

But things get really interesting when you start to talk about the other two types of law – constitutional law and common law. If you don't find this fascinating, and you are already nodding off to sleep, I will know about it, because my husband is the master of subtle sleeping. My girls call it "being lost in prayer" when he takes a snooze at church. He has the posture of an extremely devout man, but he is in fact, asleep.

Constitutional Law (U.S. and Pennsylvania), are the basic contracts between the government and the governed. They establish rights and protections, give power and limit what governments can do, and I'll bet that all of them come up in your discussions today. Important principles are:

Due Process protects our rights to a fair process. Procedural due process in zoning includes notification, the right to be heard in a case that affects you (we will talk about standing a little later), the right to see documents in a case (freedom of information) and issues of undue influence on decision makers. Decision makers must be unbiased and objective, so laws, or regulations need to be written in a way that they can be consistently applied.

Issues of design review are included in due process for that reason. In the fall of 2008 the Philadelphia City Planning Commission proposed that a Design Review Committee be established to act in an advisory capacity to the commission. The structure or existence of that committee has not been finally decided, but the basic question is whether there are aspects of buildings that impact the quality of life in a neighborhood that are not adequately addressed by zoning.

In 1993, the state courts of Washington ruled that design review was a legitimate extension of zoning authority in the case of Anderson v. City of Issaquah. But Issaquah's particular standards were struck down under the "void for vague" doctrine. They required buildings to be "harmonious", have "appropriate proportions" for window, eaves, etc., to be "interesting" and to avoid "monotony". These are all nice ideas, but under due process as guaranteed by the 5th Amendment, regulations must be capable of being objectively applied. The court ruled that such standards could be created, but that Issaquah's had missed the mark.

Freedom of Expression and Religion are protected under the First Amendment. For our purposes, it is interesting that in a commercial district porn shops can be heavily regulated but probably not banned outright. Citizen concerns about traffic around a proposed controversial church might come under extra scrutiny to see if the protest is partially or wholly against the type of church.

Takings are enumerated in the 5th Amendment…"nor shall private property be taken for public use, without just compensation". To those on the far end of the opinion spectrum, any regulation of land use is a "taking" of part of the value of the land. Eminent domain is the taking of private property for public use. Typically, eminent domain would be used to acquire land for roads, airports, etc. A more recent use of eminent domain is for economic development.

The most famous recent case of eminent domain for economic development is the sad story of Kelo v. The City of New London. New London, Connecticut, had always been a one-industry town. They went from whaling to ship building to submarines. Then the government contracts went away and the city was hurting, badly. Pfizer Pharmaceuticals came to town and built a huge facility on the riverfront, across the street from Fort Trumball, a residential neighborhood. Was it a high quality, sensitively designed project? I suppose opinions might vary. Were the people of New London desperate for jobs? Definitely.

Pfizer wanted a mixed use development of condos and offices in Fort Trumball as part of the deal. By this time, the city was partially under state control, so the state and state-hired planners stepped in with a large scale plan for the whole area, and all the houses were condemned as "blighted". A few home owners held out, and their case went all the way to the Supreme Court, where in 2005 the city's action was upheld by the Supreme Court. The homeowners lost, inspiring backlash in many states against all kinds of city planning and economic development.

According to one writer, "They started their civic engagement in the courts." Who can say if a more robust public review process would have led to a better outcome? But there are no heroes or winners in this story – everyone lost. The state and city were heavy handed, but thought they were acting in the best interests of the citizens. The professional planners were ambitious, but perhaps too much in love with their plans on paper. The homeowners took up with the ultra-right wing Institute for Justice, only to be trounced by the liberal side of the Supreme Court.

And the end of the story? Pfizer left New London as part of a global restructuring, and the whole area is deserted.

It is very common in Philadelphia and other cities for civic groups and developers to make private contracts, Community Benefit Agreements (CBAs) outside of the City approval process. Going back to basic issues of law, two people or parties are free to make agreements with one another, as long as they are not agreeing to do something illegal, ie, they could not agree to build a commercial building in a residential zone (regulatory law), or to include discriminatory clauses in their leases (constitutional law - equal protection under the 14th Amendment).

The city of Boston set up a civic review process in response to these private negotiations that were taking place along the waterfront. When a developer gives a large sum of money to a civic group to ensure their support for a project, issues of the public good in the neighborhood or the city as a whole cease to be part of the discussion.

On the other hand, CBAs and eminent domain can lead to economic development that replaces blight and gives jobs and better housing to local people. Opinions on Community Benefit Agreements from both developers and civic groups will be of great interest to us.

The fourth kind of law, after statutory, administrative and constitutional law, is Common Law otherwise known as case law or judicial law. This is law found in judicial decisions, the law of cases and precedents at the city, state or federal level. The most talked about case lately in Philadelphia is "standing" decision by the Pennsylvania Supreme Court in August 2009 – Spahn v. the City of Philadelphia. This case is quite important for our work.

The decision limits the standing of individuals to be entitled to give testimony in Commonwealth courts to only those who are directly and substantially aggrieved. For instance, if Harris lives two miles away, he can't sue Chris over the nature of his house addition just because Chris really just generally annoys him.

This puts citywide advocacy groups at a severe disadvantage at the appeals level. But it does not limit standing at the Zoning Board of Adjustment (ZBA), where appeals to zoning department decisions are heard. Since the decision, lawyers have used it as an argument, and the ZBA complied for a short time

after the decision, but the new code can instruct the ZBA otherwise. (Currently the ZBA has been instructed to follow a broader interpretation of standing.) This is important. One prominent zoning lawyer suggested that since the decision, it is even more important than ever for the ZBA to hear breadth and depth of testimony in order to make fair decisions.

APPENDIX F

**Common Ground For Building Our City:
Developers, The Public and The Zoning Code**

ADVISORY GROUP

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APPENDIX G

**Common Ground For Building Our City:
Developers, The Public and The Zoning Code**

BALLOT QUESTION

In May of 2007, 80% of the voters approved a ballot question that created a commission to reform the zoning code.

> Shall the Philadelphia Home Rule Charter be amended to provide for the creation, appointment, powers and duties of an independent Zoning Code Commission which would recommend amendments to the Philadelphia Zoning Code to make the Code consistent and easy to understand, and to enhance and improve Philadelphia's city planning process while encouraging development and protecting the character of Philadelphia's neighborhoods?

The Commission started work in the fall of 2007. "Draft Recommendations" for the new code were published in September 2009. The drafts of the new code will be presented in three sections:

- Module 1: Administration and Procedures in February
- Module 2: Districts and Uses in April
- Module 3: Development Standards in July

In October 2010 the new code, as written by professional consultants hired by the Zoning Code Commission will be presented to City Council, which will accept or reject it in its entirety. If citizens feel that the code does not adequately address their concerns, and they put enough pressure on enough council members, all the work of the last three years will have been for nothing.