

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE OF THE WHOLE

Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, September 14, 2011
10:25 a.m.

PRESENT:

COUNCIL PRESIDENT ANNA C. VERNA
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN DARRELL CLARKE
COUNCILMAN FRANK DiCICCO
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN BILL GREEN
COUNCILMAN WILLIAM K. GREENLEE
COUNCILMAN CURTIS JONES, JR.
COUNCILMAN JAMES KENNEY
COUNCILWOMAN DONNA REED MILLER
COUNCILMAN BRIAN J. O'NEILL
COUNCILWOMAN MARIA D. QUINONES-SANCHEZ
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN FRANK RIZZO, JR.
COUNCILWOMAN MARIAN B. TASCO

RESOLUTION 110459 - Resolution authorizing the
Committee of the Whole to hold public hearings
to review the Zoning Code Proposals of the
Zoning Code Commission.

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2 COUNCIL PRESIDENT Verna: Good
3 morning, everyone. This is a public
4 hearing on Resolution No. 110459.

5 I would ask Mr. McPherson to
6 please read the title of the resolution.

7 MR. MCPHERSON: Resolution
8 authorizing the Committee of the Whole to
9 hold public hearings to review the Zoning
10 Code Proposals of the Zoning Code
11 Commission.

12 COUNCIL PRESIDENT Verna: Thank
13 you.

14 We have more than 40 witnesses
15 to testify, and I'm sure as the day goes
16 on, we're going to have a lot more. So
17 what I would like to do is at least try
18 to have a limited period for testimony so
19 that we can hear everybody that is
20 present. My suggestion is that we will
21 give each person testifying three minutes
22 to do so.

23 We do have a timer up here, so
24 when you hear a bell, you know that your
25 time is up, and at that point in time, I

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2 would ask you please to try to abbreviate
3 and conclude your remarks.

4 Thank you very much.

5 MR. McPHERSON: Our first panel
6 consists of Alan Greenberger, Eva
7 Gladstein and Don Elliot.

8 (Witnesses approached witness
9 table.)

10 COUNCIL PRESIDENT Verna: We
11 will permit you more than three minutes.

12 MR. GREENBERGER: Thank you,
13 Madam President. It won't be much more.

14 Good morning.

15 COUNCIL PRESIDENT Verna: Good
16 morning. Do we have copies of your
17 testimony?

18 MR. GREENBERGER: I'm sorry?

19 COUNCIL PRESIDENT Verna: Do we
20 have copies of your testimony?

21 MR. GREENBERGER: You should.

22 COUNCIL PRESIDENT Verna: We
23 certainly do.

24 MR. GREENBERGER: Did you find
25 it?

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2 COUNCIL PRESIDENT VERNA: Yes.

3 Thank you.

4 MR. GREENBERGER: Before I
5 start, if I could just ask members of the
6 Zoning Code Commission to stand for a
7 moment, I'd like to recognize them.

8 Thank you all for being here.

9 (Applause.)

10 MR. GREENBERGER: Thank you,
11 Madam President.

12 I'm Alan Greenberger, Deputy
13 Mayor for Economic Development, and for
14 the last several years, I've had the
15 honor of chairing the Zoning Code
16 Commission. We appreciate that Council
17 has so quickly reconvened the June 15th
18 hearings on the Zoning Code Proposals.
19 Today we will not repeat the introductory
20 information that we presented at the
21 first hearing, but would like to focus on
22 aspects of the Zoning Code Proposals that
23 have engendered questions from members of
24 City Council.

25 Last week we had the

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2 opportunity to brief members of City
3 Council for the fourth time, and that
4 briefing was very helpful in providing us
5 with a greater understanding of your
6 concerns. We are also particularly
7 appreciative of the fact that Council has
8 begun sending us specific
9 recommendations, and I want to personally
10 thank Councilmembers Green and Reynolds
11 Brown for their letters of September 7th.
12 Our Work Plan Committee has already
13 scheduled a meeting to begin substantive
14 review of these recommendations.

15 Before I discuss these issues,
16 I would like to focus briefly on the
17 reason that we as a city have endeavored
18 to reform the Zoning Code. The current
19 Zoning Code is so broken that none of us
20 trust it to provide predictable and
21 appropriate development. All of us -
22 residents, developers, elected officials
23 and administrators - are used to
24 workarounds. These workarounds are
25 sometimes in the form of use variances or

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2 drastic dimensional variances or
3 negotiated agreements with community
4 organizations or targeted text changes to
5 the Zoning Code. Our collective goal is
6 to create a new Code that is dependable
7 and that all of us will rely upon to
8 provide predictable and appropriate
9 development.

10 The Zoning Board of Adjustment
11 is burdened by approximately 1,700 cases
12 a year, far more than any city of our
13 size. For example, a review of Zoning
14 Board cases in 2009 found that Chicago
15 had approximately 700 cases, a city
16 almost twice our size, and New York City
17 had less than 1,000 cases, a city five
18 times our size. The current Code often
19 pits homeowners against developers in
20 piecemeal battles that are costly and
21 time consuming. The Code is so out of
22 date that it lists where a milliner can
23 do business or where tanneries can
24 operate, but does not recognize a
25 computer store or a community garden. We

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2 believe that the document transmitted to
3 Council is a tremendous start in fixing
4 the Code and will go a long way in
5 providing predictable and appropriate
6 development. However, there are several
7 areas of the Code discussed below where
8 we seek this body's guidance and
9 recommendation.

10 Today we're going to focus on
11 the following issues: First one,
12 potential impact of conversion to the new
13 Code with regard to the treatment of
14 uses; second, the consolidation of three
15 automobile-oriented commercial districts
16 into one new district; and, third, the
17 role of citizens in the new Code,
18 including how to manage community input
19 in those situations where there is no
20 organized community group.

21 One of the concerns Council has
22 expressed is that a small number of
23 permitted uses will change citywide when
24 the new text is adopted and that certain
25 of these uses would have negative impacts

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2 on some residentially zoned areas.

3 Example of such uses as identified in

4 Councilman Green's proposal include

5 schools, libraries and cultural exhibits,

6 bed and breakfasts, religious assembly

7 and active recreation. The proposals

8 also recommend regulating home-based

9 businesses based on whether the

10 client/customer is served remotely or the

11 service is provided in person. At the

12 same time, Councilwoman Reynolds Brown

13 has asked us to consider increasing the

14 opportunity for group day care in

15 single-family row home and residential

16 mixed-use neighborhoods.

17 We've heard concerns that

18 certain changes in permitted uses in

19 commercial areas could have a negative

20 impact in some areas. Examples of such

21 uses as identified by Councilman Green's

22 proposals include assembly and

23 entertainment, nightclubs, including

24 sit-down restaurants, variety stores and

25 hotels. At the same time, Councilwoman

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2 Reynolds Brown has asked us to consider
3 increasing the opportunity for day care
4 centers in certain commercial areas.

5 Another question regarding
6 commercial districts and uses has been
7 raised by Councilman O'Neill and relates
8 to the consolidation of three current
9 automobile-oriented commercial districts,
10 known as Area Shopping Center,
11 Neighborhood Shopping Center and District
12 C7, into one district and whether the
13 uses that are permitted in that new
14 district are appropriate for all
15 automobile-oriented commercial areas.

16 While the current Area Shopping Center
17 district is by far the predominant
18 district, the uses are broader than those
19 for Neighborhood Shopping Centers.

20 All told, we're committed to
21 working through these specific proposals
22 with Councilmembers beginning
23 immediately. We're confident that we'll
24 be able to have a constructive
25 conversation about these uses while

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2 considering the impact on neighborhoods
3 as well as the ability to enforce and
4 legally defend these regulations. Our
5 goal will be to improve upon the current
6 Zoning Code Proposals to produce revised
7 text that can be applied citywide and
8 reduce the number of neighborhood
9 specific overlays. As we move forward
10 over the next few weeks, we hope to work
11 closely with a group of Councilmembers to
12 work out these details as we continue to
13 seek your input and ultimately receive
14 your recommendations as provided by the
15 Charter.

16 After I close, Eva Gladstein,
17 our Executive Director of the Zoning Code
18 Commission, will discuss several
19 additional issues that have come up in
20 conversations with City Council, as well
21 as our timeline. After Eva's testimony,
22 Don Elliot of Clarion Associates, who has
23 led our excellent team of professional
24 consultants, will provide some national
25 context.

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2 I was pleased to hear from
3 Councilmembers at our briefing last week
4 that we share the goals of being able to
5 complete the process so that we can all
6 celebrate the approval of a new Zoning
7 Code hopefully before this Council
8 session is over. Thank you for your
9 participation to date and for your
10 careful consideration of the Zoning Code
11 Proposals.

12 COUNCIL PRESIDENT VERNA: Thank
13 you.

14 Eva.

15 MS. GLADSTEIN: Good morning.
16 My name is Eva Gladstein. I'm Executive
17 Director of the Zoning Code Commission.
18 Thank you for the opportunity to present
19 testimony today.

20 I understand that
21 Councilmembers are interested in new Code
22 provisions relating to Registered
23 Community Organizations and how community
24 input will be provided where there are no
25 organized groups. The Zoning Code

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2 Commission has been working for over two
3 years to clarify the role of citizens,
4 not just Registered Community
5 Organizations, in the zoning process. We
6 believe that we have come up with a
7 uniquely Philadelphia set of tools to
8 ensure that all residents have an
9 appropriate voice in zoning decisions
10 that will impact their quality of life.

11 First, I would like to focus on
12 how the new Code will improve the ability
13 for individuals to participate in future
14 zoning approvals. The new Code requires
15 earlier notice and better notice to
16 citizens of Zoning Board of Adjustment
17 cases, or ZBA cases. The period of time
18 for posting a notice has been increased
19 from the current 12-day requirement to a
20 21-day requirement. If, as so often
21 happens, a ZBA case is postponed or
22 rescheduled, the new Code will require a
23 new posting for that continued hearing.
24 That's not true today.

25 The contents of the posted sign

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2 have also been enhanced to include, among
3 other information, the applicant's
4 contact information, the description of
5 the project and the location of any
6 materials submitted by the applicant.
7 L&I will also continue its current
8 practice of posting on its website ZBA
9 listings so that members of the public
10 can review any applications that are of
11 interest to them.

12 For ZBA hearings, new language
13 clarifies the right of any member of the
14 public to appear before the ZBA to
15 testify and for that person to be
16 represented by an attorney, translator or
17 family member. An individual citizen
18 will have the same right as a member of a
19 Registered Community Organization to
20 present testimony. Finally, the ZBA must
21 mail its decision to any member of the
22 public who makes an appearance in the
23 case.

24 As you know, the new Code also
25 creates additional opportunities for

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2 public input. Currently, a large project
3 can proceed without any community
4 involvement if it is by right. The new
5 Code creates a Civic Design Review
6 process to consider the impact of large
7 projects on the public realm, even those
8 that are by right. When a project
9 affects a lower-density residential
10 district such as a single-family or
11 two-family district, the triggers for
12 Civic Design Review are lower. The Civic
13 Design Review Committee will be required
14 to hold regularly scheduled meetings for
15 which agendas are posted online before
16 its meetings. Similar to ZBA hearings,
17 the meetings will be open to the public
18 and provide opportunity for public
19 comment, with no restriction on the
20 rights of individuals to participate.

21 The ZCC also understood early
22 in its work that community organizations
23 in Philly play a uniquely active role in
24 the zoning process. The new Code
25 proposes that Registered Community

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2 Organization system to preserve and
3 create a set of ground rules for
4 organized community participation. For
5 projects that require ZBA approval and
6 those requiring Civic Design Review,
7 zoning applicants will be required to
8 provide early notice to RCOs, hold at
9 least one neighborhood meeting and
10 document the results within 45 days.
11 Developers and community organizations
12 will be able to hold additional meetings
13 to continue work on aspects of the
14 development, if they choose to do so.

15 The Philadelphia City Planning
16 Commission, which will administer the
17 registration of community organizations,
18 is drafting regulations that will be
19 posted shortly. I believe this week.
20 Those regulations -- they'll be in draft
21 form and be available for comment. They
22 will require RCOs to meet regularly, to
23 publicize their meetings and open their
24 meetings to the public. Similar to
25 Councilman Green's proposal, the

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2 organization's documents must establish
3 the geographic boundaries for the
4 organization's service area.

5 Councilmembers have asked what
6 will happen when there is a project in
7 the neighborhood that does not fall
8 within the boundaries of an RCO. We
9 believe that the District Council office
10 should play a key role in such cases, and
11 we look forward to working with Council
12 on the exact provisions that should be
13 included in the new Code to improve upon
14 this draft.

15 Before I close, I would like to
16 share with you some of the time
17 constraints that we are under. I feel
18 like I say this every time we meet and
19 talk, but our process is unique in that
20 we have some Home Rule Charter
21 requirements.

22 I have spoken with many members
23 of Council who share our goal of passage
24 of a new Zoning Code prior to the end of
25 this Council session. The goal is

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2 achievable if both the ZCC and City
3 Council are able to work efficiently and
4 if we each elect not to use the maximum
5 time allotted in the Home Rule Charter.

6 For example, the Home Rule
7 Charter gives Council 30 days after the
8 close of hearings to issue a resolution
9 with its recommendations. That's why we
10 are grateful that we've already begun to
11 receive recommendations and hope that
12 more will be forthcoming shortly.

13 The Charter gives the ZCC 60
14 days after the close of the hearings to
15 provide a final report to Council. We
16 will commit today to provide this report
17 back to City Council within three weeks
18 of receiving Council's recommendations.
19 We've already scheduled ZCC meetings on
20 October 12th and November 9th, and we
21 will schedule special meetings if
22 necessary. We are fully committed to
23 ensuring that Council has the
24 opportunity, if it so chooses, to adopt
25 the proposals prior to the end of

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2 Council's session and the automatic
3 expiration of all pending legislation at
4 the end of the session.

5 I would like to offer a draft
6 timeline that would enable us to meet
7 this goal. I want to emphasize that this
8 is draft, but we've been trying to think
9 through the process and I just wanted to
10 share this with you.

11 The timeline would have Council
12 closing the hearings on the Zoning Code
13 Proposals September 26th or earlier;
14 Council sending a resolution with final
15 recommendations to the ZCC by October
16 20th; the ZCC sending its final report to
17 City Council with an ordinance to be
18 introduced that day, that Council
19 session, on November 17th. I just want
20 to note that there's no Council session
21 the week before, November 10th, although
22 we could certainly get our materials to
23 you before then, but you wouldn't have
24 the ability to introduce legislation that
25 week.

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2 We could have hearings the week
3 of December 5th on the Zoning Code
4 Proposals, and then that would allocate
5 enough time for there to be a vote by
6 December 15th, which right now is the
7 scheduled last day of Council.

8 Again, I want to emphasize this
9 is a draft, but I wanted to give you a
10 sense of our time constraints. Thank you
11 for the opportunity to testify today. I
12 look forward to our continued
13 collaboration and hopefully our mutual
14 celebration of the conclusion of this
15 work in this year.

16 Thank you.

17 COUNCIL PRESIDENT VERNA: Thank
18 you.

19 MR. ELLIOT: Hello. My name is
20 Don Elliot and I'm a Senior Consultant
21 with Clarion Associates, a national land
22 use consulting firm based in Denver,
23 Colorado, with an affiliate named Clarion
24 Samuels Associates here in Philadelphia.
25 In the summer of 2008, the Zoning Code

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2 Commission selected our firm to lead a
3 highly qualified team to assist the City
4 in preparation of a new Zoning Code. The
5 other members of our team included Duncan
6 Associates, which is another firm with
7 wide experience drafting zoning
8 ordinances throughout the U.S.; Wallace
9 Roberts & Todd; Portfolio Associates;
10 Claflen Associates; CHPlanning; Dyett &
11 Bhatia; Hurley-Franks Associates; and the
12 VIC Group. Most of the core consultants
13 on this project, with the exception of
14 Clarion Associates and Duncan Associates,
15 are based in Philadelphia.

16 Clarion Associates has
17 completed over 80 different zoning code
18 projects throughout the U.S. and Canada,
19 and Duncan Associates has also completed
20 80 or more. Our projects range from the
21 drafting of a single new zoning district
22 to entire new zoning codes for large
23 cities, including Detroit, Chicago,
24 Winnipeg, Anchorage, Pittsburgh, Toledo
25 and Kansas City.

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2 From 2008 until the present
3 time, I have served as Clarion
4 Associate's Project Manager for the new
5 Zoning Code project. During that time, I
6 have attended almost all of the Zoning
7 Code Commission meetings to brief the
8 Commission and to answer questions about
9 specific zoning issues.

10 I would like to address two
11 topics from our perspectives as the lead
12 consultants - how this process has been
13 similar to those used in other large
14 cities and how it's been different.

15 What are the similarities?
16 Well, the process that Philadelphia's
17 used to develop the new Zoning Code has a
18 number of common features.

19 Focus: Almost all large cities
20 that engage in zoning reform want the new
21 code to be simpler and clearer than the
22 old one. Nobody wants a more complex
23 code. This was true in Philadelphia,
24 where the need to simplify the menu of
25 zone districts, overlay districts and

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2 permitted uses received broad support
3 both in the Zoning Code Commission and in
4 online surveys and meetings.

5 Process: In most cities, the
6 process includes a standard sequence of
7 work products such as those used here.
8 In Philadelphia, an assessment in
9 September 2009 evaluated the strengths
10 and weaknesses of the City's current
11 zoning ordinance and included a list of
12 what needs to be fixed and how to fix it.
13 The work on preliminary drafts was done
14 in three installments between the fall of
15 2009 and the spring of 2010. For the
16 consolidated draft, the consultant
17 combined all of the pieces, integrating
18 as many public and stakeholder comments
19 as possible. It is never possible to
20 include all of the requested changes,
21 because some of the comments are
22 inconsistent with others, because some
23 cannot be administered by the City with
24 its available staffing or budget, or
25 because they would reinsert some of the

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2 uncertainty and complexity that the
3 Commission intended to remove from the
4 Code. Philadelphia's consolidated draft
5 was issued in the fall of 2009. Many
6 large city zoning efforts, including
7 Denver, Miami, Detroit and Winnipeg,
8 produced additional drafts of the new
9 code before it was adopted to better
10 integrate public, stakeholder and
11 administrative comments. In
12 Philadelphia, our work produced a
13 consolidated draft in September 2010.
14 Excuse me; the earlier number was a typo.
15 September 2010, a revised draft in
16 January 2011 and finally a preliminary
17 report in May of 2011.

18 Conversion to the new code:

19 Most large cities decide to revise and
20 improve the text and usability of the
21 zoning code without trying to revise the
22 zoning map at the same time. This is
23 because combining the two steps can shift
24 the focus from policy-level discussions
25 about what is best for the city as a

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2 whole to micro-level discussions about a
3 specific property or block. Revising the
4 text of zoning districts and standards
5 that apply throughout a mapped area does
6 not result in a rezoning of individual
7 properties, but a legislative decision
8 that new standards should apply within
9 areas already mapped.

10 Instead of combining texts and
11 mapping changes, most cities develop a
12 conversion zoning map that shows both the
13 old and new names for zone districts, but
14 does not shift zoning boundary lines
15 gratuitously. When zones have been
16 combined, some internal district lines
17 are removed, and when new districts have
18 been created, such as the CMX-2.5
19 district in this case, their boundaries
20 need to be added, but the goal is to
21 create a map that will apply the revised
22 code to the existing city, without
23 getting bogged down over redrawing
24 individual district lines. Most cities
25 intend to follow up a zoning code reform

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2 effort with the remapping effort that
3 revisits whether some areas are properly
4 zoned, but they do that while the new
5 code is in effect, so the vast majority
6 of properties that do not need or want to
7 be rezoned get the benefit of the clarity
8 and predictability of the new code from
9 day one. The Philadelphia Zoning Code
10 Commission endorsed this majority
11 approach in 2009.

12 There are exceptions, however.
13 Over the past year, both Denver and Miami
14 finished radical revisions of the current
15 codes into form-based codes. The role
16 and structure of zone districts in
17 form-based codes is so different from
18 traditional codes that citywide efforts
19 usually replace every district and a new
20 map is needed to reflect that new
21 district vocabulary. The situations that
22 led Denver and Miami to remap the entire
23 city at the time a new zoning text was
24 adopted do not apply in Philadelphia.

25 Now the differences. While the

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2 basic structure of the Philadelphia
3 Zoning Code work has been very similar to
4 other large cities, there have been
5 differences, and they include the
6 following:

7 Public involvement: The level
8 of effort Philadelphia has invested in
9 public and stakeholder input has been
10 greater than that used in many large
11 cities. The public input process
12 conducted by our subcontractor, Portfolio
13 Associates, was more extensive, which
14 means more meetings and open houses, more
15 online surveys and more analysis of the
16 results than any other large city in
17 which I have worked. This input process
18 also includes meetings with stakeholder
19 groups, such as the development
20 community, park and open space advocates,
21 neighborhood groups, urban design groups
22 and industrial interests.

23 Next is focus on procedures.

24 Based on early public comments, it became
25 clear that many frustrations with the old

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2 Zoning Code centered on zoning procedures
3 and administration. Philadelphia
4 residents and builders were both confused
5 and very unhappy about how zoning
6 decisions were made, procedures for
7 citizen involvement and very heavy use of
8 the Zoning Board of Adjustment hearings
9 on matters that do not require hearings
10 in other large cities. In fact,
11 Philadelphia's ZBA is more involved in
12 what should be routine zoning matters
13 than any other large city where the
14 consulting team has worked. As a result,
15 City staff and the consulting team
16 focused significant attention on
17 simplifying, clarifying and illustrating
18 the various procedures to get development
19 review and decisions in Philadelphia.

20 Specific permitted uses:

21 Decisions about which land uses should be
22 permitted or conditional or prohibited in
23 specific zone districts were based on
24 detailed discussions by the Zoning Code
25 Commission Work Plan Committee, then

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2 presented for discussion by the full
3 Commission. There is no standard list of
4 uses that appear in large city zoning
5 codes, and the consultant team did not
6 attempt to import a list from elsewhere.
7 We advised the Commission about obsolete
8 uses that most cities have eliminated,
9 new uses that many cities are adding and
10 very similar uses that might be combined,
11 but decisions about permitted use changes
12 started from the current Philadelphia
13 Code rather than a standardized list from
14 some other city.

15 Specific dimensional standards:

16 When it comes to which land uses should
17 be allowed in which zoning district and
18 how wide and tall and long buildings can
19 be in each district, every city is
20 different. Philadelphia has lots of row
21 houses, while Chicago has fewer and
22 Denver has almost none. Philadelphia's
23 row house patterns differ from those in
24 Baltimore and Washington. In
25 Philadelphia, various working groups

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2 spent hours poring over the details of
3 required heights, setbacks, yards and
4 courts to remove regulations that were
5 difficult or impossible to administer
6 while still protecting neighborhood
7 character. We included the changes they
8 recommended. Not surprisingly, the
9 dimensional standards found in the new
10 Philadelphia Code will not be found in
11 any other code in the U.S. They are
12 unique to this city and its historical
13 development patterns.

14 Throughout this process, the
15 Zoning Code Commission has revised drafts
16 and incorporated new provisions to better
17 reflect stakeholder and public input, and
18 I hope you will do the same. While
19 continued changes to the draft Code can
20 and will occur not only now but in the
21 formal adoption process, it's important
22 to keep the process moving. If you have
23 specific changes to any aspect of the
24 draft, I hope you will express them
25 clearly to the ZCC, but I also urge you

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2 to do that promptly so that the
3 Commission can consider them, make
4 changes to the Code and begin the formal
5 adoption process. I urge you to focus on
6 the big picture, which is that you have
7 in your hands a much shorter, clearer,
8 more efficient, more predictable and more
9 user-friendly document that reflects four
10 years of work by 31 individuals chosen to
11 reflect and balance their best judgments
12 about how to fix Philadelphia's zoning
13 system. It's important to keep that work
14 moving towards the finish line.

15 Thank you.

16 COUNCIL PRESIDENT VERNA: Thank
17 you very much.

18 Are there any questions from
19 members of the Committee?

20 The Chair recognizes
21 Councilwoman Tasco.

22 COUNCILWOMAN TASCO: Thank you
23 very much.

24 Thank you all for your
25 testimony. Mr. Green -- no. This is

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2 Eva. You talk about the RCOs, Registered
3 Community Organizations, and I understand
4 that developers have to meet with the
5 Registered Community Organization if
6 they're proposing something in a
7 community. And we talked about this the
8 other day in terms of where you may have
9 a community that does not have a
10 Registered Community Organization. Is it
11 the responsibility of the developer to
12 seek community input or is it up to the
13 community to respond to the developer
14 once they see the orange sign go up?

15 MS. GLADSTEIN: We have not --
16 this is an area where I think we need
17 improvement based upon our conversations.
18 What we state right now are the
19 requirements that -- enhanced
20 requirements for notice of ZBA hearing,
21 the same way we have today with the
22 orange posters, but we have not put in a
23 requirement for a developer to notify the
24 community in general beyond that posting
25 if there's not a Registered Community

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2 Organization.

3 I think the conversation we had
4 at the Council briefing with regard to
5 potentially the District Councilperson
6 being able to step in and play that role
7 is a notion that we want to consider with
8 you. But if you look at the current
9 provisions, they relate to posting of
10 notices that everybody in the community
11 will see, but the specific targeted
12 notice and requirement of a meeting right
13 now relates only where there's a
14 Registered Community Organization. So I
15 think that's a gap that we need to fill.

16 MR. GREENBERGER: Outside of I
17 think our natural instinct, in the
18 absence of a Registered Community
19 Organization, would be to turn to the
20 District Councilperson to seek some
21 guidance, but I think as Councilman
22 Green's proposal suggests, that ought to
23 be formalized in the language, and we
24 support that.

25 COUNCILWOMAN TASC0: Because as

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2 we talk about all of this, we talk
3 about -- I was reading the paper where it
4 said New York has fewer variances than we
5 have in Philadelphia, but Philadelphia is
6 basically a row house neighborhood
7 community and New York is mostly
8 brownstones. The houses are pretty much
9 uniform, and some of the issues they may
10 experience, we don't experience here. We
11 have different issues. And certainly my
12 district is residential and the issues we
13 face are basically conversions from
14 single-family properties to multi-family
15 properties. And so you may not have a
16 zoning committee because we're not doing
17 development. Really there is very little
18 development in the district, but
19 certainly these issues of the conversions
20 or some other issue that just may be
21 related to a neighborhood community
22 doesn't -- would need -- the voters, the
23 residents, need to have a vehicle where
24 they have to be heard and that whoever is
25 doing it has to listen to that community.

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2 Let me see if I had another
3 question. I think that was my issue on
4 this issue on your testimony.

5 MS. GLADSTEIN: Thank you.

6 COUNCIL PRESIDENT VERNA: Thank
7 you.

8 The Chair recognizes Councilman
9 DiCicco.

10 COUNCILMAN DiCICCO: Thank you,
11 Madam President.

12 Good morning. And let me again
13 thank you and the Commissioners for the
14 work and time that you've put into this
15 process. It's approximately four years,
16 and I think it's important for everyone
17 to know that the folks who are sitting on
18 this Commission were in many cases
19 appointees of members of City Council and
20 others were appointed by the
21 Administration, all of whom have worked
22 very hard over the last four years, with
23 no compensation. They were all in it to
24 help make the City of Philadelphia a
25 better place to do business, and that was

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2 obviously the motivation behind the
3 original resolution that we passed four
4 years ago, which ultimately was voted on
5 unanimously by some 80 percent or some
6 high number favorably by the citizens of
7 Philadelphia. So thank you again to you
8 and all of the Commissioners.

9 My question is -- and we've
10 discussed this a little bit earlier this
11 morning -- in my district, the 1st
12 Councilmanic District, there's been a
13 flurry, if you will, of e-mails and
14 letters over the last few days related to
15 the issue of the overlay or removing
16 overlays and the protections that those
17 overlays have given to those communities.
18 And I've been, as you know, for 16 years
19 grappling with that issue. Every time a
20 developer comes that wanted to do
21 something in those overlay districts that
22 was not permitted, we went through a long
23 arduous public process, and ultimately
24 the decision was my decision as the
25 Councilperson whether to move legislation

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2 that would permit that development from
3 happening even though it was not
4 permitted in the overlay.

5 So could you just explain, as
6 briefly as you can, what is in the new
7 Code preliminary recommendations and how
8 we can give those protections in areas
9 where there is currently an overlay. And
10 the reason I'm asking you now is the
11 extensive witness list, many people in
12 this room, I suspect, will not be here
13 towards the end of the day who are very
14 interested in that one particular issue
15 in my district. Thank you.

16 MS. GLADSTEIN: I think I'm
17 going to tackle this to start. But I'd
18 like to start by saying what we did for
19 areas that do not currently have
20 overlays, because there were a number of
21 communities with and without overlays
22 that have a concern about restaurants
23 turning into nightclubs or private clubs
24 when they can go to the state, not the
25 City, and get a liquor license, and we

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2 worked closely with not just the
3 Commission but L&I and our city Law
4 Department, because we are preempted from
5 regulating alcohol sales, because that's
6 the state's business.

7 What we did is to create a
8 system that says that once an
9 establishment meets the criteria and has
10 to obtain a special assembly occupancy
11 license, because it's cleared away the
12 floor, it has music, it's doing dancing,
13 it's a club, it will be defined as a
14 nightclub. So it will no longer be
15 defined under the Zoning Code as a
16 sit-down restaurant, and that means that
17 that institution would be out of
18 compliance, because it has a use permit
19 for a sit-down restaurant and not a use
20 permit for nightclub. So that L&I and
21 our Law Department could take enforcement
22 actions around that use. So that would
23 apply citywide and it's in the
24 definitions. You'll find that in the
25 definitions for nightclub in the new Code

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2 in Chapter 600. So that is what we did
3 with regard to that.

4 Then, secondly, with regard to
5 areas that currently have overlays
6 prohibiting restaurants or nightclubs,
7 there are several areas that have
8 existing overlays, and those overlays
9 have been maintained. And that is in
10 particular in the Old City area, which
11 has -- I'll let somebody from Old City
12 testify as to this, but a very, very high
13 percentage of existing liquor licenses in
14 that area.

15 So there were some existing
16 overlays where we left those use controls
17 in place, and either those uses are
18 prohibited or in one or two cases might
19 be a special exception depending upon the
20 location of the use.

21 COUNCILMAN DiCICCO: Thank you.
22 I appreciate that. Thank you.

23 COUNCILMAN GREEN: Point of
24 information.

25 COUNCILWOMAN TASC0: Can I

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2 follow up with that?

3 What impact would that have --
4 how would that impact the neighborhood's
5 business strip relative to the same
6 issues, a club coming into a
7 neighborhood, if we don't have an
8 overlay?

9 MS. GLADSTEIN: Clubs are
10 prohibited in many of the commercial
11 districts. I'm just looking for our
12 chart to see, and I'll get to it in one
13 second. And I will tell you that
14 nightclubs are prohibited in C-1, which
15 is neighborhood commercial, like a corner
16 grocery. They're a special exception in
17 C-2, so it would require a trip to the
18 Zoning Board of Adjustment. They're
19 prohibited in this new district we
20 created for neighborhood commercial areas
21 called CMX-2.5. They are permitted by
22 right in the higher density commercial
23 district, C-3, C-4 and C-5. C-3 you
24 might find on Market or Broad. C-4 and
25 C-5 are pretty much Center City. And

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2 they would be permitted in auto-oriented
3 kind of shopping strips, but they would
4 not be permitted C-1. They would be a
5 special exception in C-2 and it would be
6 prohibited in CMX-2.5.

7 COUNCILWOMAN TASCO: Thank you.

8 MR. GLADSTEIN: You're welcome.

9 COUNCIL PRESIDENT VERNA: The
10 Chair recognizes Councilman Green.

11 COUNCILMAN GREEN: Thank you,
12 Madam Chair. Is this my point of order
13 or am I next on the list?

14 COUNCIL PRESIDENT VERNA: Your
15 point of order.

16 COUNCILMAN GREEN: Okay.

17 With respect to my point of
18 order, the recommendations sent over to
19 City Council that are presently before us
20 do not include maintaining some of the
21 overlays that you just discussed; is that
22 not correct? And after the Majority
23 Report and Minority Report, which you
24 have not testified about, came over to
25 City Council, there have then been

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2 requests by neighborhoods for overlays
3 that are not currently recommended to
4 City Council; is that correct?

5 MS. GLADSTEIN: The overlay
6 that I just discussed in terms of Old
7 City with prohibitions of restaurants and
8 nightclubs is carried over. It's in the
9 Center City District overlay. It's on
10 Page 5-27.

11 COUNCILMAN GREEN: But there
12 are other overlays that the Work Plan
13 group and others have suggested be added
14 that are not part of the current
15 recommendations. In other words, certain
16 neighborhoods have said, Wait a minute,
17 we don't want CMX-3 to allow nightclubs
18 of right in our neighborhood, and have
19 spoken up since the initial
20 recommendations.

21 MS. GLADSTEIN: Yes. That's
22 correct.

23 COUNCILMAN GREEN: And you've
24 heard this from more than one
25 neighborhood?

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2 MS. GLADSTEIN: We heard it
3 from a number of neighborhoods early on,
4 which is why they're prohibited in
5 CMX-2.5.

6 COUNCILMAN GREEN: But CMX-2.5,
7 where is that going to happen by
8 automatic conversion?

9 MS. GLADSTEIN: Our draft
10 legislation that we sent to City Council
11 in May would convert areas that currently
12 have overlays for neighborhood commercial
13 areas, would convert the C-2 properties
14 in those areas to CMX-2.5. So by
15 example, that would include East Falls,
16 it would include Chestnut Hill, it would
17 include Germantown, it would include
18 Ridge Avenue in Roxborough, a number of
19 neighborhoods that already --
20 neighborhoods that have commercial area
21 overlays.

22 COUNCILMAN GREEN: So is there
23 CMX-3 on Germantown Avenue, for example?

24 MR. GREENBERGER: I think there
25 are two spots where there are. I don't

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2 know the exact boundaries, but I think
3 that one of them is the intersection of
4 Chelten and Germantown and I think
5 there's one other spot.

6 MS. GLADSTEIN: By the R-8.

7 MR. GREENBERGER: By the train
8 station.

9 COUNCILMAN GREEN: So on
10 Chelten Avenue, there is CMX-3?

11 MR. GREENBERGER: Yeah. It
12 would be at the corner of Chelten and
13 Germantown. So it's on both streets.

14 COUNCILMAN GREEN: But then up
15 and down Germantown Avenue beyond that
16 also --

17 MR. GREENBERGER: It's not
18 CMX-3.

19 COUNCILMAN GREEN: It's not.
20 And then what about, say,
21 Castor Avenue?

22 MS. GLADSTEIN: That would be
23 C-2.

24 COUNCILMAN GREEN: That's all
25 C-2; there's no CMX-3 there?

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2 MS. GLADSTEIN: There's C-3
3 on -- tends to be more C-3 on Broad
4 Street at key intersections, along Market
5 Street at key intersections. I'm not
6 saying there's not other C-3. I know Old
7 City has C-3. But that's where it tends
8 to be.

9 COUNCILMAN GREEN: And Northern
10 Liberties has C-3, Girard and --

11 MS. GLADSTEIN: I don't know
12 the Northern Liberties zoning map to --

13 MR. GREENBERGER: Yeah. I
14 don't know it well enough either. I
15 suspect --

16 COUNCILMAN GREEN: Girard,
17 Spring Garden.

18 MR. GREENBERGER: I suspect
19 there's some C-3, but I have a feeling
20 it's mostly G-2 Industrial still.

21 COUNCILMAN GREEN: Okay. So in
22 other words, since the Majority Report,
23 people have been objecting to some of the
24 use things that would happen of right
25 automatically, and the response sometimes

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2 has been to agree at least at the Work
3 Group level with those communities.

4 MS. GLADSTEIN: There's one --
5 I know that there are groups who will
6 testify today that they want further
7 changes. There's one group where we
8 discussed an overlay that is in
9 existence, was removed and then the group
10 asked us if part of it could be
11 reinstated, and the Work Plan Committee
12 agreed to recommend that to the full
13 Commission, but the Commission hasn't
14 taken it up.

15 COUNCILMAN GREEN: Right. But
16 a lot of -- you'd also agree that a lot
17 of neighborhoods have not paid attention
18 to the application of this on the ground
19 in their particular neighborhoods?

20 MR. GREENBERGER: Probably
21 right.

22 COUNCILMAN GREEN: Okay. I
23 have a question -- I'm sorry. That was
24 my point of order. I don't know if I'm
25 next.

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2 COUNCIL PRESIDENT VERNA:

3 You're going to have to wait. Thank you.

4 COUNCILMAN GREEN: Thank you.

5 COUNCIL PRESIDENT VERNA: Can
6 you tell me how are the reentry
7 facilities addressed in the new Code?

8 MS. GLADSTEIN: We did -- this
9 had come up in several Council briefings.
10 We did create a new use category for
11 reentry facilities so they are defined,
12 and then we have them in the use chart I
13 believe as a permitted use only in --
14 I'll have to look, but I believe it's
15 only in industrial areas as a by-right
16 use, but they are separated out now so
17 that they are a distinct use from a
18 prison or correctional facility.

19 COUNCIL PRESIDENT VERNA: I'm
20 sorry. Did you say in a commercial
21 district they would be --

22 MS. GLADSTEIN: No. I said
23 that I believe they're only permitted by
24 right in industrial districts. And I'll
25 confirm that in one second as I get to

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2 that map, that chart.

3 MR. GREENBERGER: If I could
4 add both on this topic and, Councilman,
5 on the topic that you brought up a moment
6 ago, I think our sense here -- and this
7 came somewhat, I think, from your
8 proposal -- is that if there's a body of
9 uses that are particularly troublesome --
10 and there are, they're the ones that come
11 up again and again -- our instinct is to
12 recommend that we be more restrictive
13 across the board, across the board if we
14 have to rather than try to figure out
15 exactly where an individual thing is okay
16 or an individual neighborhood where it
17 might be okay, which is going to be very
18 hard to get consensus on as well as
19 manage. Our feeling is, let's just make
20 them more restrictive if we have to and
21 let's see how -- that will force things
22 into ZBA and let's see how that goes, and
23 if we don't like how it's going; i.e.,
24 it's too much burden, then we come back
25 and revisit it. But that would be our

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2 instinct, to keep this thing at a fairly
3 simple plane and be able to move ahead.

4 MS. GLADSTEIN: With regard to
5 reentry facilities, they are only
6 permitted by right in basically what's
7 least restricted now and in the new Code
8 would be called I-3. It's heavy
9 industry. They are prohibited in the new
10 district we're creating to help
11 neighborhoods that are transitioning from
12 a manufacturing base, the IRMX we're
13 calling it, industrial/residential/mixed
14 use. They are special exceptions in the
15 other industrial districts. So a special
16 exception is similar to the current
17 certificated use and would require a ZBA
18 hearing, but it's not the same standard
19 as a variance.

20 COUNCIL PRESIDENT VERNA: Thank
21 you.

22 The Chair recognizes Councilman
23 Clarke.

24 COUNCILMAN CLARKE: Thank you,
25 Madam President.

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2 Good morning.

3 MR. GREENBERGER: Good morning.

4 COUNCILMAN CLARKE: I got a
5 couple, maybe actually more than a
6 couple. I'll try to spread them out over
7 two sessions.

8 Let me start here. This is
9 probably a little premature in terms of
10 the analysis, but in your recommendation
11 it looks like there may be additional
12 regulatory processes that will change in
13 terms of signage, in terms of some of the
14 other things and monitoring.

15 Have you determined if there
16 will be an additional cost to the City or
17 there is an additional cost in terms of
18 the government monitoring some of these
19 activities? Could it conceivably be
20 offset by the lower amount of Zoning
21 Board hearings? And I say this
22 premature. If you don't have that
23 answer, I understand that, but if not --

24 MR. GREENBERGER: We haven't
25 conducted an analysis that's convincing

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2 one way or the other about it. Obviously
3 our hope is that we've tried to unburden
4 the system and we've tried to be fairly
5 careful, and this is -- I think you're
6 bringing up an interesting point where
7 we've often made judgment calls about
8 some particular decision trying to weigh
9 in the enforceability of it and the
10 burden on agencies to do it versus the
11 need to do it.

12 COUNCILMAN CLARKE: Right. I
13 understand, it's really early in the
14 process.

15 RCOs, and it's an interesting
16 concept. In the Council district I
17 represent, along with Councilman
18 Greenlee, we're co-Councilpeople for the
19 5th District, we have an interesting
20 environment. It's a pretty diverse
21 district. So as a result of that, we'll
22 have sections where you'll have as much
23 as ten community organizations in a
24 four-block area, because a lot of people
25 think if there's more than one person,

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2 sometimes even one person, they start
3 their community group. Then we have
4 other areas as referenced where they
5 don't have a community or recognized
6 community organization.

7 How will we determine who is
8 going to be that RCO recognized by the
9 government in this particular process?

10 MS. GLADSTEIN: This is
11 something we've struggled with. We
12 decided that we were not in a position to
13 anoint one group or another group.

14 COUNCILMAN CLARKE: Don't tell
15 me you're going to put it on us.

16 MS. GLADSTEIN: No.
17 Absolutely. We also were smart enough
18 not to do that.

19 MR. GREENBERGER: You don't
20 want it? All right.

21 MS. GLADSTEIN: We decided that
22 groups would register with their
23 boundaries, and there would be situations
24 where there would be overlapping
25 boundaries, and so multiple groups would

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2 coordinate in a decision on a project
3 where their boundaries overlapped.

4 What we did do, though, which
5 you'll see as we post the draft
6 regulations, is try to make sure that
7 these were groups that advertise their
8 membership, advertise their meeting. It
9 wasn't one person sitting in their own
10 living room, that they articulated their
11 boundaries in some document so that the
12 boundaries were known and they didn't
13 change every day. So we did want to make
14 sure that they were a group that would be
15 accountable back to the community and the
16 residents, but we did not try to limit it
17 to one group per area, because we did not
18 think we could do that.

19 MR. GREENBERGER: But to the
20 extent that there are, let's say,
21 multiple groups that have overlapping
22 coverage -- and there are several
23 neighborhoods in the City where that's
24 true -- what we would do is invest -- and
25 this will probably be through the

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2 Community Planning group in the Planning
3 Commission. We would invest the time to
4 try to get them all to organize the
5 required meeting together so that we're
6 not subjecting people to three and four
7 different ones of these on slightly
8 different timeframes.

9 COUNCILMAN CLARKE: All right.

10 Who is going to oversee the
11 implementation of that process? Because
12 I hear you, but the reality is, there's
13 probably a reason why there are like six,
14 seven groups, because they can't get
15 along, so they form their own group. So
16 it's suggested now they're going to --

17 MS. GLADSTEIN: It is --

18 COUNCILMAN CLARKE: Eva, you
19 worked out -- you know. You know what
20 it's like.

21 MS. GLADSTEIN: I know. We put
22 a lot of effort into this and we're going
23 to learn a lot by doing it. What's in
24 the regulations right now has the
25 registration being managed by the

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2 Planning Commission. So they would be
3 intaking applications for registration,
4 reviewing them, looking to see if the
5 kinds of requirements that I mentioned
6 previously were adhered to. The
7 community planners work closely in the
8 communities and know a lot of the groups,
9 and, frankly, we've also established the
10 Citizens Planning Institute in the last
11 year to help neighborhoods that have not
12 been well represented to help leadership
13 in neighborhoods organize and organize
14 better as well. So that's coming out of
15 the Planning Commission. So that's our
16 goal and that's how the regulations read
17 now.

18 COUNCILMAN CLARKE: Okay. With
19 respect to the change in the Zoning Code,
20 correct me if I'm wrong, is it likely
21 that in short order we'll have to do a
22 remapping of the entire City to actually
23 make this work? Because the reality
24 is -- as an example, we talked about --
25 and I know this conversation started

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2 actually, Alan, before you got here, when
3 we did the Parkway overlay and it was a
4 height overlay and basically was as
5 concern of a building that was proposed
6 and then it grew to a relatively large
7 size. And there was a conversation and
8 there continues to be, Councilman, once
9 we do the Zoning Code Commission changes
10 and once we talk about remapping, will
11 you withdraw the overlay? And I've
12 always said that makes sense, but how
13 quickly will we look at remapping as it
14 relates to something like that, which the
15 Code, to a large degree, won't
16 necessarily affect because it's a height
17 overlay?

18 MR. GREENBERGER: Right. So
19 let me start out with the piece about the
20 timing. What we have proposed through
21 the Planning Commission is what we've
22 defined as we think a five-year process
23 to do district planning throughout the
24 City, 18 different districts that we've
25 divided the City up into that are sort of

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2 multi neighborhoods at a time as opposed
3 to one small neighborhood at a time; a
4 replanning process to identify the
5 places, land uses within those districts
6 that need to change, because that's at
7 the essence of remapping, is a district
8 needs to change its land use, identify
9 those districts; get as much consensus as
10 we can around those changes and then
11 engage in a process of remapping, which
12 is, as you know, the actual writing of
13 ordinances to do that. We have a plan
14 that basically does these -- is it two
15 a --

16 MS. GLADSTEIN: It's four a
17 year, except for Center City, which will
18 be one.

19 MR. GREENBERGER: Do these at
20 four a year. And our general approach to
21 this is to try to take on the districts
22 that have been subject to the most change
23 and pressure first. An example that came
24 up earlier as a result of Councilman
25 Green's question about Northern

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2 Liberties, great example of an area that
3 was heavily industrial at a moment in
4 time, an immense amount of industrial
5 zoning sprinkled around that's not
6 industrial anymore. And some of that
7 actually is in your district as well.

8 COUNCILMAN CLARKE: Half of it.

9 MR. GREENBERGER: Those are the
10 kind of places where there's more urgency
11 about the remapping, because it's just
12 wrong. Other places are probably not
13 going to be subject to much remapping and
14 the conversion map itself will cover any
15 new regulatory issues.

16 COUNCILMAN CLARKE: All right.

17 MS. GLADSTEIN: The two plans
18 that are underway right now are Lower
19 South around the Navy Yard and the port
20 and what we're calling West Park,
21 Overbrook and parts of West Philadelphia
22 in the 4th Council District. The plans
23 that are scheduled to start in January
24 would include Center City and would
25 include Lower North, both of which are

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2 areas of great change.

3 COUNCILMAN CLARKE: Lower North
4 Philly?

5 MS. GLADSTEIN: Yeah -- no, no.
6 Let me restate that. Lower North Philly
7 is the next one. Lower Northeast. So
8 Center City and Lower Northeast would
9 start in January and about six months
10 later Lower North Philly.

11 COUNCILMAN CLARKE: Okay. Let
12 me ask one more question. I know a
13 number of members have questions.

14 Another challenging issue in at
15 least my district, probably some place in
16 West Philly, student housing. As you
17 know, we have one ordinance near Temple,
18 one pending and one possible NID pending.
19 The issue is small residential homes get
20 turned into student housing. There's
21 these challenges between the long-term
22 residents and the students, because one
23 of the groups wants to stay up to 3:00 in
24 the morning, the other group has to go to
25 work in the morning. So you know the

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2 story.

3 Is there a possibility to
4 create some sort of a category for
5 student housing that puts us in a better
6 position to regulate that? Because we
7 did in the Yorktown overlay, we imposed a
8 prohibition on student housing unless
9 it's owner occupied. The challenge
10 becomes how can you enforce it. As you
11 know, we're in court now.

12 So if there was a way both to
13 support that and if we end up doing the
14 NID, if there was a way to create a
15 category that dealt with student housing
16 that would allow us to be more diligent
17 and probably within the bounds of the law
18 as it relates to enforcing some of these
19 challenging problems we're having out in
20 these neighborhoods.

21 MS. GLADSTEIN: I'm not sure we
22 have a perfect answer to this. We looked
23 at it. The overlay for the Yorktown area
24 is in our proposals that we sent to you,
25 and we're waiting to see how the

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2 litigation results to see if there are
3 going to be any legal issues with having
4 such a regulation identifying students
5 per se.

6 We did identify and define
7 students in the new Code, because it
8 wasn't identified in that overlay, and we
9 did look to an existing -- and I'm going
10 to get the name wrong, but there's an
11 existing part of, I think it's, Title 10
12 that's in the 8th and 4th Councilmanic
13 Districts, and I think Councilman Jones
14 just recently introduced legislation to
15 revise around educational housing
16 districts. And so we did define students
17 in the Zoning Code and make that
18 definition consistent with the definition
19 for students in educational housing
20 districts.

21 The problem we encountered is
22 that a lot of the problem is really
23 having too many people in the unit, and
24 it's more building code than a zoning
25 code issue. What the Zoning Code can do

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2 is to say this is a one-family district
3 and, therefore, that's it, you can't do a
4 conversion, and then you can look to the
5 building code to say there are too many
6 unrelated adults living there.

7 Having said all of that, we did
8 try to think it through, and if you have
9 other suggestions, we'd be happy to hear
10 them.

11 COUNCILMAN CLARKE: That's a
12 significant challenge, and obviously
13 around Temple and I suspect LaSalle and
14 Saint Joe and some of the other
15 universities, out in University of
16 Pennsylvania.

17 MS. GLADSTEIN: And I just want
18 to add that I don't know how well the
19 educational housing district formulation
20 is working, because that was originally
21 created around Saint Joe's primarily,
22 because it's in the 4th and the 8th
23 Districts. I don't think -- if it's
24 working well, it may be that another
25 opportunity would be to see if it could

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2 be expanded to other districts.

3 COUNCILMAN CLARKE: My
4 understanding is the issue has to do with
5 the ability for the City to enforce.

6 MR. GREENBERGER: That's right.

7 COUNCILMAN CLARKE: That's
8 always a challenge.

9 MS. GLADSTEIN: The educational
10 housing district put more of a burden on
11 the university or institution.

12 COUNCILMAN CLARKE: That would
13 be helpful.

14 MS. GLADSTEIN: Yeah.

15 COUNCILMAN CLARKE: Okay.

16 Thank you.

17 Thank you, Madam President.

18 COUNCIL PRESIDENT VERNA:

19 You're welcome.

20 The Chair recognizes
21 Councilwoman Tasco.

22 COUNCILWOMAN TASCO: Are there
23 any special requirements for automobile
24 sales lots in residential areas?

25 MS. GLADSTEIN: They're not a

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2 permitted use.

3 COUNCILWOMAN TASC0: Beg your
4 pardon? Okay. Well, what about Broad
5 Street?

6 MS. GLADSTEIN: Depending on
7 the zoning, because Broad Street has
8 different zoning, let me just tell you
9 where they would be permitted in the
10 commercial district. Would that be
11 helpful?

12 The sale and rental of
13 commercial vehicles is not permitted,
14 except when you get to what we called
15 CA-1, which is the automobile-oriented
16 commercial; in other words, like a
17 shopping district or a strip shopping
18 mall or a shopping center. So it's
19 prohibited. Broad Street is probably
20 mostly C-2 and C-3. It's prohibited
21 there.

22 With regard to personal --

23 COUNCILWOMAN TASC0: That's the
24 new Code?

25 MS. GLADSTEIN: Right.

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2 COUNCILWOMAN TASC0: It's not
3 the current Code?

4 MS. GLADSTEIN: It's not the
5 current Code. Are you asking about the
6 current Code? I'm not an expert on that.
7 We can look it up, though. We have it
8 with us.

9 Should I go through the new
10 Code or do you just want to understand
11 about the current Code?

12 COUNCILWOMAN TASC0: Go ahead.

13 MS. GLADSTEIN: Repair vehicles
14 is -- an automobile repair shop that you
15 would bring your car to would be
16 permitted in C-2, not in C-1 and not in
17 CMX-2.5. It would be permitted in most
18 commercial districts, but outlawed in
19 C-1, which is more neighborhood based,
20 and outlawed in neighborhood commercial
21 areas or prohibited. And you would be
22 able to sell cars or car supplies in the
23 current C-3, C-4 and in the Shopping
24 Center. You'd be able to have gas
25 stations and be able to sell supplies,

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2 but, again, all of those would be
3 prohibited in C-1 and in the CMX-2.5.
4 But it would not be permitted in any
5 residentially zoned district.

6 COUNCILWOMAN TASCO: One of the
7 other issues that I raised is that --
8 well, one is the delay in the
9 conversions, multi-family dwellings,
10 until you do the remapping. It seems
11 that if we pass this zoning change, that
12 residential areas until they're remapped,
13 individuals by right would have the
14 ability to convert single-family to
15 multi-family homes.

16 MS. GLADSTEIN: That's not
17 correct. At one point in an earlier
18 draft there was one current single-family
19 district, R5-A, which would have been
20 able to be converted to multi-family.
21 That's actually single and two-family
22 district. We've changed that in the
23 version that we gave you. So every
24 district that's now a single-family
25 residential district in the new Code

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2 would be single-family residential.

3 Every district that now permits single
4 and two-family would permit only single
5 and two-family. Every district that's
6 now multi-family would be multi-family in
7 the new Code and in some cases would be
8 somewhat more restricted, because the
9 number of units that would be permitted
10 would be limited by the lot size.

11 But there's no district that's
12 now single-family that in the new Code
13 would permit two-family or multi-family.
14 You're correct that an earlier version
15 would have permitted that, but the
16 version that we gave you in May does not
17 permit that.

18 COUNCILWOMAN TASCO: It does
19 not?

20 MS. GLADSTEIN: Does not.

21 And could I raise one other
22 related question that you had asked
23 about? We also have a use in here called
24 accessory dwelling units, which it's a
25 mother-in-law suite or a mother-in-law

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2 apartment. At one point earlier we were
3 permitting those in certain housing types
4 irregardless of what zoning district it
5 was. They're now defined as a use in the
6 Code, but they are not permitted by right
7 any place. And so the only way that an
8 accessory dwelling unit would be
9 permitted is if there was a City Council
10 ordinance explicitly saying for that area
11 they would be a permitted by-right use.
12 So they're defined in here so that we
13 have the notion that they could be a use,
14 but they're not mapped any place now, and
15 require an ordinance to map them. So I
16 felt like we weren't clear about that
17 last week and I wanted to be clear about
18 that today. Thank you.

19 COUNCILWOMAN TASC0: Okay. Let
20 me just get all of my questions out of
21 here and then I'll be done.

22 The day care in the shopping
23 centers, I support day care, but I've
24 gotten some pushback from some community
25 residents about too many of them in one

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2 commercial area. Is there anything there
3 to sort of provide some control in terms
4 of not having the entire business strip
5 be day cares?

6 MS. GLADSTEIN: We do not have
7 limits on the number or spacing of day
8 care centers or --

9 COUNCILWOMAN TASCO: In a
10 business strip.

11 MS. GLADSTEIN: In a business
12 strip. So we don't have spacing
13 requirements in the Code in general,
14 because that's one of those issues that
15 becomes very difficult to enforce and
16 so -- and in some cases can raise issues
17 around -- some legal issues. So if it's
18 permitted by right, any number are
19 permitted. If it's not permitted, it's
20 not permitted.

21 COUNCILWOMAN SANCHEZ: Point of
22 information.

23 MS. GLADSTEIN: So we have not
24 addressed that.

25 COUNCIL PRESIDENT VERNA:

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2 Excuse me. The Chair recognizes
3 Councilwoman Sanchez for a point of
4 information.

5 COUNCILWOMAN SANCHEZ: Thank
6 you.

7 Is there anything in this
8 process that prohibits a Councilperson
9 from limiting or creating an overlay
10 where we've seen those situations?

11 MR. GREENBERGER: Only related
12 to federally protected uses. Otherwise,
13 no, there's nothing that stops further
14 amendment.

15 COUNCILWOMAN SANCHEZ: Okay.
16 Thank you.

17 COUNCILWOMAN TASC0: And the
18 other question in terms of bed and
19 breakfasts, I notice that you are going
20 to allow some of those. Will there be
21 any effort to try to limit the number in
22 a specific neighborhood or could you end
23 up with a whole neighborhood with bed and
24 breakfasts?

25 MS. GLADSTEIN: The same

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2 answer, in that we have not put in
3 spacing requirements for any uses.
4 Again, it could be subject to an overlay.
5 What we have done is put in standards.
6 So in certain districts, you could only
7 have up to four rooms. In other
8 districts, up to eight rooms. And I
9 think most cases they require a hearing
10 at the Zoning Board of Adjustment.
11 They're not by right. And I'll look that
12 up in one second for you.

13 MR. GREENBERGER: But I do
14 think there is an example -- and there
15 are several more, but this is an example
16 of what I was referring to before, that
17 as we've tried to strike what we thought
18 were reasonable balances here about where
19 certain things are not permitted, where
20 they're permitted by special exception or
21 where they are permitted. And typically
22 without spacing requirements, if you feel
23 that we've gone too far, we want to hear
24 that, and our instinct is to be further
25 restrictive of them across the board

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2 rather than try to say it's not so
3 restrictive over here and it is
4 restrictive over there, which is going to
5 create -- we worry about sort of layers
6 of complexity that will be extremely hard
7 to enforce and ultimately will probably
8 get out of control. We just would rather
9 be more restrictive about the whole thing
10 and say that if all these things have to
11 go to Zoning Board, then so be it.

12 MS. GLADSTEIN: And with regard
13 to B&Bs, they are special exceptions of
14 the current certificated use until you
15 get to what's current R-11, R11-A, R-12,
16 R-13. So it's basically higher density,
17 multi-family residential districts and
18 residential mixed-use districts where
19 they would be permitted by right, but R-1
20 through R-10 and some others, it would
21 require a trip to the Zoning Board of
22 Adjustment for a B&B.

23 COUNCILWOMAN TASCO: Okay.

24 Thank you.

25 Thank you, Madam President.

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2 COUNCIL PRESIDENT VERNA: Thank
3 you.

4 The Chair recognizes Councilman
5 Green.

6 COUNCILMAN GREEN: Thank you,
7 Madam Chair.

8 During this discussion, people
9 have talked about, well, it's not
10 permitted in residential areas, but it's
11 permitted in C-2. It's not permitted in
12 residential areas, but it's permitted in
13 industrial. Could you just -- I mean, in
14 a city like Philadelphia, as I think was
15 mentioned with respect to certain
16 neighborhoods, industrial can be zoning
17 right in the middle of two residential
18 districts. Industrial can be on a block
19 that is next to the row homes.

20 MR. GREENBERGER: That's right.

21 COUNCILMAN GREEN: So 2.0, for
22 example, in the new Code, CMX-2.0, is
23 often right on a larger street that is
24 surrounded by row homes in a very
25 residential area. So I just want to -- I

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2 don't want that lost on people. When
3 somebody says that's not permitted in
4 residential areas, well, it is. It's
5 right around your corner. And I just
6 wanted to clarify that for the record.

7 MR. GREENBERGER: Yeah. I
8 think there's -- it's obviously not true
9 everywhere in the City, but there are
10 neighborhoods, particularly the ones that
11 came from a more sort of 19th century
12 industrial base, where you see that.

13 COUNCILMAN GREEN: Right.

14 MR. GREENBERGER: Those do
15 exist.

16 COUNCILMAN GREEN: And that's
17 where a lot of growth is in the City.

18 MR. GREENBERGER: The ones in
19 question, I mean, places like Lower
20 Kensington, Northern Liberties, parts of
21 Germantown --

22 COUNCILMAN GREEN: Port
23 Richmond.

24 MR. GREENBERGER: Yeah.
25 Particularly going up the rivers is where

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2 you see it most clearly.

3 COUNCILMAN GREEN: So what
4 percentage of the City in industrial like
5 that could you have an adult use?

6 MR. GREENBERGER: Very little,
7 but if you want to...

8 MS. GLADSTEIN: Yeah. I guess
9 I just want to distinguish there's
10 industrial and industrial, and a lot of
11 the industrial or most of the industrial
12 that you see mixed in neighborhoods is
13 currently G-2, which is the predominant
14 industrial zoning. I don't have the
15 percentages, but we can pull it out
16 before the end of --

17 COUNCILMAN GREEN: It's 8.54
18 percent.

19 MS. GLADSTEIN: That's least
20 restricted you're talking about.

21 COUNCILMAN GREEN: Least
22 restricted, right.

23 MS. GLADSTEIN: The LR tends to
24 be in the Council President's district,
25 as you know, and Councilman DiCicco's

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2 along the rivers. South Philly tends --
3 the LR tends not to be in neighborhoods,
4 which is not to say there are not a few
5 spots where this is.

6 COUNCILMAN GREEN: Right. And
7 so where they are in neighborhoods, would
8 it make sense to restrict that up front,
9 either through what Mr. Greenberger is
10 suggesting, which is just restricted
11 everywhere and then allow it later
12 through ZBA, or -- in other words, aren't
13 we creating a situation where an adult
14 use can go into a neighborhood that we
15 cannot later remove without a taking as a
16 result of automatic conversion?

17 MR. GREENBERGER: I actually
18 don't think that -- I'm not believing
19 that that's a huge problem out there,
20 because where these regulated -- first of
21 all, there's tremendous limitations on
22 regulated uses, like adult bookstores.

23 COUNCILMAN GREEN: I didn't say
24 it's a huge problem, but it's a problem
25 if it's your neighborhood.

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2 MS. GLADSTEIN: There is a
3 spacing requirement for regulated uses,
4 that they have to be spaced from
5 residentially zoned areas and they also
6 have to be spaced from each other. I
7 just do want to point out we are not
8 making that any more possible under the
9 new Code than it is under the current
10 Code. We haven't changed the ability to
11 locate one of those uses near
12 residential. We have kept those
13 standards in place.

14 COUNCILMAN GREEN: Don, could
15 you describe the zoning reform effort
16 that happened in Chicago and where they
17 applied sort of their new zoning and
18 where they didn't apply their new zoning?

19 MR. ELLIOT: Well, we were on
20 the team in Chicago, but our consulting
21 colleague here, Kirk Bishop, was the
22 Project Manager, so I did not do that
23 project and --

24 COUNCILMAN GREEN: But you're
25 generally familiar with it?

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2 MR. ELLIOT: Generally familiar
3 with it. But I know people have been
4 calling Chicago and other cities to
5 compare this process, so please feel free
6 to add to what I say or correct me.

7 My understanding is that
8 Chicago, under the leadership of Duncan
9 Associates, came up with a set of zoning
10 recommendations, got them applied, and it
11 did apply citywide when the new text was
12 adopted, but that they carved out some
13 particular areas that they needed to look
14 at more carefully. And I can't tell you
15 if that was 2 percent or 10 percent of
16 the city. When I've asked Kirk about
17 this, Kirk's answer was, No, Don, it was
18 like the other projects you and I do, we
19 drafted a code, it was adopted, there was
20 a conversion map and it went into date on
21 X date.

22 But they had, as many cities
23 do, a follow-on process to look at this
24 area or this area or this area to try to
25 see what's needed.

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2 Now, if I've misspoken and you
3 know better, please correct me.

4 COUNCILMAN GREEN: I thought it
5 generally applied around the core and did
6 not apply in the outer areas of Chicago.

7 MR. ELLIOT: Well, that's not
8 consistent with what I've been told.

9 COUNCILMAN GREEN: Okay. So in
10 Miami, how long did it take them to do
11 the mapping process?

12 MR. ELLIOT: In Miami and
13 Denver, as I mentioned in my testimony,
14 were different because they were --

15 COUNCILMAN GREEN: I understand
16 they're both --

17 MR. ELLIOT: Each city took
18 five years and they started the mapping
19 discussion at the same time they started
20 the text discussion.

21 COUNCILMAN GREEN: So from the
22 time the text passed, how long did it
23 take Miami to map the city?

24 MR. ELLIOT: Well, no. Both
25 Denver and Miami did a different process.

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2 The same time that they hired a
3 consultant as we were to redraft the
4 text, they said you redraft the maps at
5 the same time. And it took five years
6 from the time that process started to the
7 date they adopted the map and the text
8 together. When they adopted the map and
9 the text together, it was in effect that
10 day.

11 COUNCILMAN GREEN: Okay.

12 COUNCILWOMAN SANCHEZ: Point of
13 information.

14 COUNCIL PRESIDENT VERNA: The
15 Chair recognizes Councilwoman Sanchez for
16 a point of information.

17 COUNCILWOMAN SANCHEZ: In light
18 of what Councilman Green has just pointed
19 out -- and this is one of those areas
20 we've talked a little bit about, can we
21 create a shelf where there's some things
22 that are unresolved -- would the
23 Administration be willing on a
24 Council-by-Council district look at
25 carving out some of those exceptions and

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2 saying this has to be worked out? Has
3 that happened in the past, in light of
4 the fact that we know there are certain
5 areas, and particularly the ones in
6 transition, where we may want to hold up
7 on some of this stuff? Has that been
8 done, and how would you suggest we do
9 that?

10 MR. GREENBERGER: Sort of
11 without knowing the details, it's a bit
12 hard to answer, but I would say are we
13 open to the conversation? Of course
14 we're open to the conversation. It
15 depends on the amount of carve-out and
16 the nature of the carve-out we're talking
17 about, because this then gets into the
18 question of what are we ultimately trying
19 to administer here. And this is why I
20 said -- and I apologize for repeating
21 myself -- in general we'd rather be more
22 restrictive and not have to deal with
23 this sort of bit by bit. But I think if
24 there are specific ideas, we'd rather
25 they be put on the table and we can

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2 respond to them specifically.

3 COUNCILWOMAN SANCHEZ: Okay.

4 Thank you.

5 MR. ELLIOT: If I could add to
6 that. What most cities conclude along
7 the way is that what you do not want to
8 have is two maps and two codes in use at
9 the same time. So if you create a hole
10 in the doughnut, you've got a new map,
11 but this is a hole in the doughnut. The
12 legal question is what law applies on
13 that hole in the doughnut. And what you
14 really don't want to have is to have the
15 City attorneys have to go back and the
16 citizens have to know two codes. They
17 have to know this code for the City and
18 they have to remember that code for the
19 hole in the doughnut.

20 So I would endorse what Alan
21 has said. In general, cities try to aim
22 for having a new map, which is a
23 conversion map, a new text, and if you've
24 got areas you want to look at more
25 carefully, adopt the new code so that

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2 you're not concerned about what's going
3 to happen in the interim and put them on
4 the agenda of things to revisit as you go
5 along rather than saying we have a land
6 here where the old law still applies,
7 which I think most citizens and City
8 attorneys would say is not where you want
9 to be administratively. It's really
10 confusing to the citizens to have two
11 sets of laws.

12 COUNCILWOMAN SANCHEZ: But
13 wouldn't that be a scenario where we may
14 want to say we're going to hold that for
15 remapping because of the complexities of
16 some of those things? I'm not suggesting
17 that we do 100 of those, but we want to
18 get through this, and if there's one or
19 two of these, it may be Mantua Farms in
20 the 4th Councilmanic District or some
21 other stuff that we're going to hear some
22 testimony about, I just think -- I don't
23 want to be in a situation where we're
24 held at bat, because some of this stuff
25 needs to be flushed out and it should be

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2 okay to put on a burner. This is a new
3 process for us in the City of
4 Philadelphia and one that we could
5 establish new processes nationally by
6 saying some of this stuff has to go on
7 the shelf.

8 MR. GREENBERGER: Number of
9 such districts, size of such districts,
10 complexity of such districts are very
11 germane to this conversation. A couple
12 of them may not be such a big problem and
13 particularly if they're not very big.
14 Lots of them, I think to Don's point,
15 will be a problem, and that's where we
16 would opt to be more restrictive more
17 generally.

18 COUNCILWOMAN SANCHEZ: Okay.

19 I'm sorry.

20 COUNCILMAN GREEN: That's okay.

21 Thank you. Don, when we began
22 the Zoning Code Commission process, we
23 really were very focused at the beginning
24 and had a lot of sessions on form-based
25 codes and not the text of our Code, which

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2 is what Miami and Denver opted to do, go
3 with form-based.

4 Have you ever seen a city --
5 and I'm not suggesting this. I'm just
6 really curious based on the discussion we
7 had about neighborhoods where -- and I've
8 received a number of comments, I think
9 from East Falls, I think from Manayunk
10 Development Corporation and other people,
11 that basically say it's not a particular
12 use that harms value in a neighborhood or
13 converts a neighborhood. It is the
14 aggregation of that use that destroys the
15 quality of life in a neighborhood,
16 whether it be ten group homes on the same
17 block shut out the rest of the
18 neighborhood and eliminate the
19 neighborhood feel or it be a bar on every
20 single corner for a ten-block radius, or
21 whatever it is. It's that sort of
22 aggregation.

23 Have you seen a city rather
24 than do overlays, which this Code
25 proposes and which creates the doughnut

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2 hole problem you're talking about, each
3 overlay is its own rules and is separate
4 from the Zoning Code and you have to go
5 to that and look at it, have you ever
6 seen a city combine a textural code like
7 we have but with some form-based general
8 guidelines that say -- and we do it sort
9 of in -- restricted uses can't be within
10 so many feet of each other, but I mean
11 like you have to get a variance if there
12 are more than two bars on that block or
13 some more general form-based things that
14 could be applicable on a citywide basis
15 on things that we agree on that even
16 apply to a textural code based on what's
17 on the ground?

18 MR. ELLIOT: Well, the issue
19 comes up in a lot of cities. It's really
20 unrelated to whether it's a form-based
21 code or not. It really -- yes, a number
22 of cities have a list of uses that they
23 space either from residential or from
24 each other. Detroit came up with a
25 little elaborate table of this can't be

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2 too close to another one of it and it
3 can't be too close to a different type of
4 thing.

5 COUNCILMAN GREEN: But that's
6 not really what -- and I may be
7 misremembering this because it was three
8 years ago, what I think of as form-based,
9 it was, Okay, within this area, there can
10 be 25 percent commercial. Once that 25
11 percent commercial is filled up, there
12 can't be more, because that's all the
13 commercial that the residents in this
14 area can support, and that's kind of what
15 I'm talking about, more of that kind of
16 approach.

17 MR. ELLIOT: The short answer
18 is no, and neither Denver nor Miami's
19 form-based code do that. They define the
20 types of buildings very specifically, the
21 types of uses flexibly, but they don't
22 have a kind of when it's full, it's full
23 scenario. Most cities have a hard time
24 with that, because it makes it a first
25 come, first served basis, and they are

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2 not comfortable telling the third guy in
3 that he can't do what his neighbor could
4 be. They try to figure out, get a plan
5 and get a zone that allows some of it,
6 but not --

7 COUNCILMAN GREEN: I was just
8 curious about that.

9 MR. GREENBERGER: The thing
10 that sort of comes up inevitably in that
11 kind of discussion is what about -- just
12 use your example for a second. So if
13 there was a restriction, for instance, on
14 the amount of commercial, but people are
15 unhappy with the commercial, we have
16 places where we get a lot of pushback
17 over the type of commercial that goes in,
18 and suddenly the limits hit and the next
19 one that wants to come is actually
20 something people would really like to
21 have, then we just get into another set
22 of problems.

23 COUNCILMAN GREEN: Okay. So
24 what percentage -- I know Eva did a study
25 on this or the Administration did a study

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2 that Eva has shared. What percentage of
3 the cases that come before the ZBA for
4 variances are residential and related to
5 non-conforming uses?

6 MS. GLADSTEIN: Actually, I
7 think that information came maybe from
8 Councilman O'Neill --

9 COUNCILMAN O'NEILL: Details
10 from Green.

11 MS. GLADSTEIN: Details from
12 Green. Okay. So I'm pointing right back
13 to you.

14 We have not studied that
15 recently. We looked at the number of
16 cases that are not granted by right, and
17 I think in the last few years it was 35
18 percent of cases -- permit requests
19 cannot be granted by right and require a
20 trip to the ZBA. We've known informally
21 that the number of cases that the ZBA,
22 half or more than half are around use
23 variances rather than dimensional
24 variances, but I don't know the
25 residential split. I'm sorry.

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2 COUNCILMAN GREEN: I have a
3 number in my head that it's like 90
4 percent.

5 MS. GLADSTEIN: We can look at
6 it.

7 MR. GREENBERGER: Of the use
8 variances?

9 COUNCILMAN O'NEILL: I thought
10 it was more like 80.

11 MS. GLADSTEIN: We can take a
12 sampling of the recent cases and --

13 COUNCILMAN GREEN: Stacy
14 assures me it's 80 percent.

15 MR. GREENBERGER: Just for
16 everybody else's sake or at least for my
17 sake, I just want to be clear. The 80
18 percent -- Stacy, the 80 percent
19 represents what again?

20 MS. GRAHAM: Residential
21 non-conformity.

22 COUNCILMAN GREEN: Residential
23 non-conformity.

24 MR. GREENBERGER: Right. So
25 use variances in residential districts.

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2 Is that what it means?

3 MS. GRAHAM: No.

4 COUNCILMAN GREEN: It's the
5 total of number cases that go before the
6 ZBA, 80 percent deal with residential
7 non-conformity. So what I wanted to get
8 to was some of my specific proposals,
9 proposals by Councilwoman Brown and
10 Councilman O'Neill's concerns about
11 commercial in neighborhoods. It seems to
12 me that we'll still achieve our goal of
13 eliminating a lot of the cases at the ZBA
14 even if the ZCC majority or the
15 Administration were to agree with all of
16 the proposals so far that you've heard
17 from Council. Would you agree with that?

18 MR. GREENBERGER: You're saying
19 that if we would agree, let's just use,
20 all the proposals, that this would
21 significantly cut into the ZBA caseload?

22 COUNCILMAN GREEN: Yes.

23 MR. GREENBERGER: Not sure yet.

24 COUNCILMAN GREEN: Well, how
25 many of what we propose would affect

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2 residential non-conformity?

3 MR. GREENBERGER: Well, I'm

4 just --

5 COUNCILMAN GREEN: Almost none

6 of our proposals impact that.

7 MR. GREENBERGER: Right.

8 COUNCILMAN GREEN: And that's

9 80 percent of ZBA cases.

10 MR. GREENBERGER: Okay. I see

11 where you're going. Yes.

12 COUNCILMAN GREEN: Okay. So we

13 will have achieved that major -- even

14 excepting everything we've done, we will

15 have achieved that major goal of the

16 reform of the Zoning Code?

17 MR. GREENBERGER: I believe so,

18 but I just want to emphasize that the

19 technique to do it is very important to

20 us, and that's probably where we ought to

21 have the more discussion. And this

22 relates to this business of be more

23 generally restrictive or try to do this

24 on a sort of area-by-area basis.

25 COUNCILMAN GREEN: Well, with

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2 respect to being more restrictive, it's
3 our understanding from the Law
4 Department, because we've looked at how
5 actually to apply this in our
6 recommendations back to the ZCC as we are
7 trying to think about the best way to do
8 that, and they tell us we can't be more
9 restrictive for a longer period than two
10 years because we can't, say, prohibit a
11 use or make it hard to get a use citywide
12 for, say, adult uses, for example, that
13 we may want to map in or group homes, for
14 example, that we may want to map in, but
15 the maximum period that we can actually
16 restrict any use in a zoning code reform
17 effort is two years under state law.

18 So the problem with what you're
19 proposing is, you have to combine a more
20 restrictive approach with eventually
21 allowing certain uses somewhere in order
22 to comply with state law.

23 MS. GLADSTEIN: I think we have
24 to say everything with the caveat that
25 certain uses are constitutionally

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2 protected and so they have to be
3 permitted some place in the City by right
4 where there are actual sites where they
5 can go. So even if we are more
6 restrictive, we have to -- and it's not
7 every regulated use, but it's some of the
8 regulated uses and it's some other uses.

9 So as we have this
10 conversation, we have to take that into
11 consideration. I think our goal would be
12 to see if in this period of time we can
13 actually come up with restrictions that
14 are legally defensible but still achieve
15 this goal.

16 COUNCILMAN GREEN: So if I
17 understand your vision of how you would
18 like us to proceed, it is you would like
19 us to close the hearings today, in
20 private meetings negotiate changes to the
21 Code that Council would then, what, pass
22 by resolution and then -- I mean, it
23 seems to me that whatever we agree on,
24 there ought to be an opportunity for
25 public comment to us.

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2 MR. GREENBERGER: Right.

3 COUNCILMAN GREEN: Before it
4 goes back to the ZCC. So if we close the
5 hearings, we forestall that.

6 MR. GREENBERGER: No. What we
7 propose is try to close the hearings
8 today, if we can get through everybody,
9 have a working group to look at the
10 proposals that you and several other
11 Councilmembers have made so that we can
12 figure out -- because we have a couple of
13 questions too about -- we just need
14 clarification on to make sure we
15 understand what problem we're trying to
16 solve, and see if we can then work out
17 something, basically a set of
18 understandings that would be communicated
19 to us, I guess, formally in a Council
20 response to these hearings. They would
21 be incorporated into the final Code.
22 They would come back before Council
23 basically as a zoning
24 ordinance/resolution, which would be
25 subject to the normal rules of Council,

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2 including public hearing probably, I
3 guess, at the Rules Committee probably
4 and then again final adoption. And then
5 we also want to propose -- and I don't
6 know that this needs to be -- it can be
7 in the formal resolution or not.

8 Something we want to do, whether it's
9 formal or not, is I would like to see us
10 commit, both the Administration and
11 Council, commit to a one-year period
12 after -- I'm making up a number here, but
13 something like a one-year period after
14 which we would just go back and formally
15 meet and say what's working, what's not
16 working in a kind of more systematic way,
17 because if we see a pattern of things
18 that are not working or could be working
19 better, I propose that we amend.

20 COUNCILMAN GREEN: We probably
21 should do that every year anyway.

22 MR. GREENBERGER: Well, that
23 may be true. But at least in this first
24 go-around when we've got a new document
25 on our hand, obviously the document is

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2 theory and then it has to be used.

3 COUNCILMAN GREEN: Right, and
4 applied on the ground.

5 MR. GREENBERGER: Yeah.

6 COUNCILMAN GREEN: Well, I want
7 to ask you this publicly because it's
8 been asked privately for, I think, over
9 two and a half weeks. Rick Auerbach on
10 behalf of City Council and Richie Feder
11 on behalf of City Council have asked for
12 a Word copy of the proposal so that we
13 may make our own amendments, and my
14 understanding is that to date, whoever is
15 in charge of that Word document -- and I
16 understand it's Mr. Greenberger -- has
17 been refusing to provide us with a Word
18 copy, which I respectfully request it be
19 provided to us by the end of the day
20 today.

21 MS. GLADSTEIN: It's been
22 provided both to Richard Feder and the
23 Law Department and to the City Council
24 technical staff.

25 COUNCILMAN GREEN: What was

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2 that?

3 MS. GLADSTEIN: And to City
4 Council technical staff as well.

5 COUNCILMAN GREEN: When was
6 that?

7 MS. GLADSTEIN: Two or three
8 days ago. I don't know. Rosalie might
9 be able to --

10 COUNCILMAN GREEN: I'm sorry.
11 I was told this morning that that has not
12 yet been provided.

13 MS. GLADSTEIN: No, and we had
14 even -- it's a tough document to manage
15 and we had to help work through some
16 technical issues, but I believe it's
17 working well for both parties now.

18 COUNCILMAN GREEN: Because I
19 understand document control, but we'll
20 redline. We're not going to try to hide
21 anything from you.

22 MS. GLADSTEIN: This has been
23 done. It's fine.

24 COUNCILMAN GREEN: Thank you
25 very much.

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2 COUNCIL PRESIDENT VERNA: Thank
3 you.

4 The Chair recognizes
5 Councilwoman Sanchez.

6 COUNCILWOMAN SANCHEZ: Thank
7 you.

8 I got in on a point of order on
9 most of my questions, but I had one more,
10 some concerns around the auto repair. I
11 have a lot of these in some of my G-2's
12 that are in the middle of the blocks and
13 some of the areas where I had a lot of
14 industry, and I was concerned about the
15 by-right uses, again, because in the
16 G-2's. What does the new Code do to help
17 us control that a little bit?

18 MR. GREENBERGER: That's
19 exactly where remapping comes into play.

20 COUNCILWOMAN SANCHEZ: Okay.

21 MS. GLADSTEIN: We will go
22 through the chart with you. Vehicle
23 equipment and supplies, sales and rental
24 is not permitted in the current G-2 in
25 our proposals, but that doesn't mean that

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2 would not -- other uses that are similar
3 would not be permitted. So we should
4 discuss that with you.

5 MR. GREENBERGER: And obviously
6 then to the extent that it doesn't permit
7 something that is legal now, obviously it
8 turns that into a non-conforming use, but
9 it doesn't make it go away.

10 COUNCILWOMAN SANCHEZ: And
11 that's a complicated enforcement issue.
12 We don't have the resources. I kind of
13 understand that. I'm just wondering
14 where we were going with that.

15 I just wanted to clarify. We
16 had talked a little bit about the
17 overlays and kind of this process and
18 wanted for Eva and Mr. Greenberger to
19 restate the fact that we can pass this
20 tomorrow and do an amendment the
21 following day.

22 MR. GREENBERGER: Yes, you can.
23 It's built into the Charter.

24 COUNCILWOMAN SANCHEZ: All
25 right. But I'm just glad to hear that

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2 creating a formal way for us to update
3 and revise this as we go, just because I
4 think it's important that we formalize
5 it. I don't want to get into a
6 situation, as Councilman DiCicco points
7 out, we have a 650-page document because
8 we keep doing these overlays as opposed
9 to standardizing them. So I look forward
10 to that.

11 I think most of my questions
12 were answered. Usage, recovery house,
13 multi-family. I'm fine.

14 Thank you, President.

15 COUNCIL PRESIDENT VERNA: Thank
16 you.

17 The Chair recognizes
18 Councilwoman Brown.

19 COUNCILWOMAN BROWN: Thank you,
20 Madam President.

21 Good morning.

22 MR. GREENBERGER: Good morning.

23 COUNCILWOMAN BROWN: Let me go
24 on the record also to express my
25 admiration for the work you've done thus

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2 far and for the work product that has
3 been put forth, though tentative and
4 draft form, for us to react to.

5 My issue and my interest is
6 very narrow, and you know that I reduced
7 it to writing so as to be clear about how
8 we're going to continue to look at child
9 care going forward. And so Councilwoman
10 Tasco raised the issue, but I need to
11 hear where you are for the record around
12 the issue of group day care, which is 12
13 and under, 12 children and under, and
14 center day care, which is 13 or more
15 children, where you are in the thinking
16 of that, because I've heard a couple of
17 times the term "more restrictive."

18 MS. GLADSTEIN: Thank you for
19 your recommendations. We appreciated
20 getting them. We've scheduled this and
21 several other items for review at our
22 Work Plan Committee meeting that's
23 actually this week, Friday, two days from
24 now. The Committee will review it and
25 they'll make a recommendation to the full

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2 ZCC on it.

3 COUNCILWOMAN BROWN: Repeat
4 that last step. The Committee will?

5 MS. GLADSTEIN: Will make a
6 recommendation to the full Zoning Code
7 Commission. And I think there are
8 members of the -- very informative,
9 because we have not had a committee
10 meeting. There are members of at least
11 the Work Plan Committee, all of whom have
12 received your document already, who I
13 think are interested in pursuing this.

14 COUNCILWOMAN BROWN: Okay. I
15 raise it because as you well know, we
16 were successful in getting a couple of
17 ordinances passed around child care and
18 different -- here is where I think the
19 beauty of District Councilpeople should
20 have a say and sometimes their way, in
21 that what is attractive or acceptable in
22 certain sections of the City around group
23 child care and child care for legitimate
24 reasons don't sit well with other
25 sections of the City, and that fact

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2 should be factored in when looking at
3 small businesses like child cares or
4 group child cares as an option for small
5 businesspeople.

6 MR. GREENBERGER: Agree. And
7 we recognize that there are probably a
8 handful of those kind of issues that
9 exist, and the solution, for instance,
10 that's been crafted on child care may in
11 the end simply be the right one and
12 that's just the way it is. I mean, if we
13 could simplify it, we'd love to.

14 COUNCILWOMAN BROWN: Sure.

15 MR. GREENBERGER: But if we
16 can't for totally legitimate reasons,
17 then we can't and we move ahead.

18 COUNCILWOMAN BROWN: Very well.
19 Thank you very much.

20 Thank you, Madam President.

21 COUNCIL PRESIDENT VERA:
22 You're welcome.

23 The Chair recognizes
24 Councilwoman Miller.

25 COUNCILWOMAN MILLER: Thank

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2 you, Madam Chair.

3 I have questions regarding the
4 G-2 use again. I didn't hear your
5 answer.

6 MR. GREENBERGER: I'm sorry,
7 Councilwoman. You had questions
8 regarding? I missed what you said.

9 COUNCILWOMAN MILLER: G-2,
10 industrial.

11 MR. GREENBERGER: Thank you.

12 COUNCILWOMAN MILLER: As you
13 know, in my district we have a
14 slaughterhouse that we had nothing to say
15 about. They could open up as a matter of
16 right, and they're actually in the middle
17 of a residential community. And then we
18 have one -- we have another one that
19 someone is actually trying to open up
20 again in a residential community.

21 I'm not saying a slaughterhouse
22 doesn't serve some type of purpose, but
23 it should be restricted. I mean, it
24 should not be in the middle of a
25 neighborhood. So I just think that when

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2 we're dealing with G-2, we should have
3 restrictions over where that type of
4 industrial use can open and operate.

5 MS. GLADSTEIN: We agree.

6 COUNCILWOMAN MILLER: Oh, good.

7 MS. GLADSTEIN: And
8 slaughterhouses and other uses that may
9 be permitted in G-2 we've classified as
10 heavy industrial and they would no longer
11 be permitted in G-2. They would only be
12 permitted in what we're calling I-3,
13 which is current least restricted,
14 because we have to permit them some
15 place, but we did take them out of G-2.

16 COUNCILMAN O'NEILL: Point of
17 order. I believe slaughterhouses have
18 always been in LR. Some of them pre-date
19 zoning. They've never been in G-2. G-2
20 was created much later than when the
21 slaughterhouses were around to recognize.

22 MS. GLADSTEIN: So those that
23 are going to be grandfathered in are
24 non-conforming uses, but would not be
25 permitted going forward.

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2 COUNCILWOMAN MILLER: So the
3 one that's actually trying to open now,
4 it's been like months that they've
5 been -- the community has been fighting
6 them back and forth.

7 MR. GREENBERGER: If you would,
8 after the hearing, make us aware of that
9 particular case and we'll look at that.

10 COUNCILWOMAN MILLER: Okay.
11 Will do that.

12 Let me just be clear on
13 overlay, on the position that this new
14 Code will impact the zoning overlays.
15 Most zoning overlays, when I did mine, I
16 did it for a particular reason. I didn't
17 just do it just to do it. In fact, we
18 worked with the Planning Commission,
19 because they had an idea. I delayed
20 putting an ordinance in until the
21 Planning Commission did their assessment,
22 and when they came back to me, they
23 agreed. They saw no other way to manage
24 what we were trying to manage other than
25 an overlay. This is in a commercial

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2 strip.

3 So what is the position of this
4 new Code? I'm still a little bit
5 confused about the overlay situation.

6 MR. GREENBERGER: And I know
7 exactly what you're talking about.

8 COUNCILWOMAN MILLER: I know
9 you do.

10 MR. GREENBERGER: In very
11 general terms, and then I'll get into the
12 specifics, in very general terms, what we
13 have tried to do is build standards and
14 restrictions into base zoning rather than
15 in overlays, and this is where this
16 district CMX-2.5 came from, because it
17 applies to so many of these commercial
18 strips that currently have overlays.
19 We've actually built in a lot of
20 restrictions into the base zoning and
21 then have said, let's now apply that to
22 all these places with overlays, and
23 that's simply to reduce the confusion.

24 We've also tried to make them
25 uniform, because we see the same issues

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2 coming up again and again.

3 There is a piece in the
4 Germantown overlay related to variety
5 stores that you and I know about that has
6 not been carried forward. It's a source
7 of controversy. We understand that. And
8 it may be -- it's just one of those
9 things we're going to have to work on a
10 little harder with you, because at the
11 same time that it is restricting
12 something that people don't want, it is
13 also not allowing a lot of things that
14 would be wanted. And so example just
15 to -- and I know you'll know what I'm
16 talking about. A store like C.A. Rowell,
17 which used to exist at Chelten and
18 Germantown, could not come back to
19 Germantown under this law as well. So
20 we're trying to balance a lot of issues
21 here.

22 COUNCILWOMAN MILLER: All
23 right. So then we do need to have a
24 discussion.

25 MR. GREENBERGER: Yeah.

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2 COUNCILWOMAN MILLER: Not
3 today.

4 MR. GREENBERGER: Correct.

5 COUNCILWOMAN MILLER: To talk
6 about that.

7 MR. ELLIOT: If I may just add,
8 all of the discussions -- I think there's
9 a lot of nervousness about overlays and
10 how they've been treated in general.
11 There are many places in the Code where
12 you may find that the City generalized,
13 as Alan said, the concern and tried to
14 deal with it. So from my perspective, it
15 would be most helpful instead of people
16 saying, I just want my overlay back, to
17 say, I want to make sure this doesn't
18 happen, I want to make sure that doesn't
19 happen. Because we may have taken care
20 of it in a definition, in a condition, in
21 a citywide language that applies so that
22 someone reading it would say, I don't see
23 my old language. Well, it's not there,
24 but we took care of it in a different
25 way.

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2 COUNCILWOMAN MILLER: All
3 right. Good.

4 One other thing that I need. I
5 know last week we had our briefing and
6 you gave us that nice PowerPoint. I
7 think for me what would be helpful, if we
8 had a glossary, just a list of what it
9 was and now what it's called, because you
10 just called G-2 something, something,
11 something with an X. I'm like what in
12 the world is he talking about.

13 MR. GREENBERGER: We'll get it
14 to you again.

15 COUNCILWOMAN MILLER: So we can
16 figure this stuff out.

17 MR. GREENBERGER: We have it in
18 here and we'll get it to you again.

19 COUNCILWOMAN MILLER: Thank
20 you.

21 Thank you, Madam President.

22 COUNCIL PRESIDENT Verna:
23 You're welcome.

24 I believe you testified that
25 nightclubs would require a special

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2 exception in C-2 neighborhoods. However,
3 in row house neighborhoods, some C-2
4 properties are on the end of a
5 residential block. Shouldn't a variance
6 be required for nightclubs in these
7 cases?

8 MR. GREENBERGER: Yes. They
9 are permitted right now in C-2. They are
10 not permitted in C-1. Sorry. So in C-1,
11 which is not necessarily going to be true
12 every time, but it's typically the corner
13 retail in most row house blocks, not
14 permitted. In C-2, which is generally
15 the more generalized commercial
16 corridors, it's only permitted by special
17 exception in this Code. So it would have
18 to go back to the Zoning Board.

19 COUNCIL PRESIDENT VERNA: Okay.
20 Just to make that clear.

21 COUNCILMAN O'NEILL: Madam
22 President?

23 COUNCIL PRESIDENT VERNA: I
24 think that -- I'm sorry.

25 COUNCILMAN O'NEILL: C-1 and

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2 C-2 basically are before off-street
3 parking in front of commercial in
4 neighborhoods was your two corner
5 properties, but one allows -- in the more
6 prevalent, as you would call, corner
7 store is the C-1 that allows a residence
8 upstairs, and the reason a lot of the
9 commercial strips, they don't have the
10 residential uses upstairs. Uses were
11 tended to be the same, with slightly more
12 uses allowed in C-2. I add, because I
13 have brought it up, C-7 over the years
14 with off-street parking, corner stores in
15 neighborhoods basically has the C-1 uses.
16 They're now going into a much bigger area
17 shopping center use. In fact, nightclubs
18 are allowed, was stated here today, both
19 in C-2 and in C-7. C-7 does not allow
20 them now. C-7 allows the Rite Aid, the
21 dry cleaner, the Wawa, those type of
22 things that were normally corner stores
23 with no off-street parking, and they're
24 in every neighborhood in the City now.
25 That's a correction that I believe has to

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2 be made, and there has to be a new
3 designation for neighborhood auto use, or
4 however the nomenclature turns out,
5 separate from your big area shopping
6 centers. Neighborhood Shopping Center
7 doesn't -- NSC is hardly mapped anywhere
8 in the City. Generally go either C-7 or
9 Area Shopping Center for the big ones,
10 C-7 for the neighborhood stuff. And
11 Neighborhood Shopping Center can be
12 pretty large, but there just aren't
13 enough of them to matter that much. C-7
14 is all over. And you're going to find as
15 much with C-1 as C-7 if changes are made,
16 enough of a problem.

17 So I do think that there's a
18 focus on it. It's also why I think we
19 need another hearing. And if there's a
20 possibility that the Commission, which I
21 serve on, could amend the preliminary
22 report before another hearing where
23 there's things like this that are agreed
24 upon but are just being talked about, we
25 can get to those last phases much more

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2 quickly and much more easily. I think
3 there's a path to that that is
4 understood, but I do think that using the
5 October 20th date as what we really have
6 to -- where we really have to be on
7 October 20th is really the key, and how
8 we get there is -- I just think having
9 something in writing where that word
10 document would then have the new language
11 that's less permissive, goes back to a
12 lot of the restrictions in the current
13 Code that are not causing a problem and
14 are actually welcomed in neighborhoods
15 that have the kind of zoning in those
16 residential areas is where we have to
17 get, and this will be an accomplished
18 process at the end of the year. I mean,
19 there will be something that we can all
20 be proud of. I think we're getting close
21 to it in conversation, but we've got to
22 start seeing it on paper.

23 COUNCIL PRESIDENT VERNA: Thank
24 you.

25 COUNCILMAN O'NEILL: You're

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2 welcome.

3 COUNCIL PRESIDENT VERNA:

4 Councilman O'Neill, thank you for that
5 clarification, and I believe I was about
6 to recognize you.

7 COUNCILMAN O'NEILL: Thank you.

8 Well, my first question is not
9 can the Commission amend the preliminary
10 report, because I'd rather be voting for
11 an amended preliminary report than still
12 having voted for a Minority Report and
13 not any of the Majority. So to make
14 progress, I'd like to see if we can move
15 the minority members on to something that
16 is good and is in print and we can all
17 move from.

18 Is there any reason why it
19 can't be amended at a future meeting in
20 October or November?

21 MR. GREENBERGER: I mean, I
22 think the answer is no, there's no
23 reason, but I'm going --

24 COUNCILMAN O'NEILL: You don't
25 have to agree with why I think it would

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2 be helpful, but believe me, I think it
3 would be helpful.

4 MR. GREENBERGER: Yeah.

5 COUNCILMAN O'NEILL: And I want
6 to get this done. I don't want to have
7 wasted four years.

8 MR. GREENBERGER: We are
9 totally on the same page.

10 COUNCILMAN O'NEILL: Now, I
11 just think it would be a step in the
12 right direction, that's all, and I don't
13 think there's a problem with it.

14 The three items at the bottom
15 of -- this is for the whole panel. The
16 three items at the bottom of Page 1 of
17 Alan's testimony, which is really what we
18 talked about at the briefing the other
19 day, and the only one I would add and I
20 asked the other day be added was the
21 light and medium industrial, because
22 these uses that are in place I don't
23 believe should be any more permissive
24 than they are now. Where you have a G-2
25 as part of an industrial park, it impacts

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2 on both other industrial and on the
3 adjoining residential neighborhood.
4 Where you have it in the middle of the
5 block, obviously it covers that.

6 If we had thought and
7 communities had thought there were more
8 uses that should be allowed in those
9 areas, we would be getting calls about it
10 and somebody would have at least
11 attempted to expand those uses. I think
12 if we can take those two back just in
13 terms of level playing field, what needed
14 a variance still needs a variance, and if
15 there's strong arguments for something
16 and medium, I think we can all have a
17 good conversation about it. That's the
18 only one that's not here.

19 But in the first one -- this is
20 the first bullet at the bottom of Page 1
21 of your testimonial, Alan. "The
22 potential impact of conversion to the new
23 Code with regard to treatment of uses."
24 I mean, if I weren't involved in this, it
25 would be very hard for me to figure out

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2 what you were saying. In residential
3 areas that are the de-stable, you used
4 the doughnut -- and it's really the first
5 description I heard in this process, and
6 it still fits to a large degree -- we
7 have to make sure. Just as Councilman
8 DiCicco and Councilman Green said, people
9 are concerned that their protections
10 still exist that are in the overlays, and
11 everybody understands that, I think.

12 Well, the people in neighborhoods have to
13 understand -- have to be able to know
14 that their protections that are in the
15 current Code are still in there. There's
16 absolutely no reason in a stable
17 neighborhood that has zoning cases, maybe
18 more use variances than there should be,
19 because we're the only city doing it and
20 51 percent of our cases are use
21 variances, that if anything, there's
22 going to be fewer of those, not over the
23 counter or special exception. And I
24 think just about everybody in the room
25 knows that special exception -- people in

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2 communities would rather have a variance
3 or permitted, because special exception,
4 communities go to the Zoning Board and
5 find out that it's deemed legal, no
6 burden on the applicant at all. The
7 community is there to prove something
8 that is very subjective, that it's
9 harmful to the health, welfare and safety
10 of the community. And everyone's
11 interpretation is different on that,
12 there's no objective criteria, and they
13 usually find they're wasting their time.

14 When you move from a variance
15 to that, back in the '60s here in City
16 Council, I was told by Planning
17 Commission staff when I first came that
18 most of the special exceptions were being
19 done for people that were out there
20 asking not to go through the community
21 and not have -- make it look like you
22 were, but not have the variance burden
23 where the applicant has to prove
24 hardship.

25 So I hope we can get from here

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2 to there. I think that all we have to do
3 is identify what was a variance before,
4 be able to tell people whether it's an
5 overlay or whether it's zoning in their
6 neighborhood, that these uses are still
7 requiring a variance. But that's what I
8 see that language as meaning.

9 MR. GREENBERGER: And I think
10 we can get there, by the way.

11 COUNCILMAN O'NEILL: And the
12 auto-oriented commercial district, I
13 think we're on the same page on that.

14 MR. GREENBERGER: We are on the
15 same page.

16 COUNCILMAN O'NEILL: I think
17 while we have to fine-tune it, everything
18 you've done on engaging more people,
19 codifying, community input is terrific.
20 I mean, it can always be improved.
21 Councilwoman Tasco at the briefing the
22 other day, there's always that situation
23 where there's no community group or
24 there's a split in the community group.
25 Everybody should still be able to have --

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2 but the fact that we're doing something
3 is a big, big improvement over the
4 silence in the current Code, and light
5 and medium industrial.

6 So they are the areas that I
7 think we can really move this from where
8 we were to where we need to be, in large
9 measure.

10 One of the things I wanted --
11 Don, this is on your Page 3, focus on
12 procedures. Routine zoning matters are
13 mentioned and that you don't want them to
14 go any more to the Zoning Board, because
15 routine sounds like something that
16 shouldn't go to the Zoning Board. But
17 routine for the applicant and routine for
18 the person living next door are often two
19 different things.

20 Could we get a list of the
21 routine stuff? If it's routine,
22 everybody will kind of agree. It's not
23 something that -- but if we can't agree,
24 there's oftentimes a reason that people
25 just see something differently when it's

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2 not on their block. If it's on their
3 block sometime or in their neighborhood,
4 they see it as not so routine, but
5 something very serious.

6 And, Don, in your testimony --
7 in fact, in all three presentations,
8 there was no mention of the 51 percent
9 use variances that only Philadelphia has,
10 where people wake up and they think they
11 can rely on what City Council passed and
12 put on the map, that that's a
13 single-family residential across the
14 street. An appointed body can change it.
15 You can't do it in other cities. You can
16 only do it in that fraction of one
17 percent of a case, and they make it very
18 clear and we can -- New York is the one
19 that became the easiest for me to
20 understand why they generally -- if you
21 want a use variance change, if you want a
22 change of use, you go to the legislative
23 body and you get it done. There's full
24 input. People have to run for reelection
25 after they do it. Because that's why you

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2 remap. If you want to change something,
3 you do a remapping if it's something the
4 community agrees to.

5 I asked for the New York
6 language compared to what's in here, and
7 right now we got like one line in our
8 Code. It basically is the same thing.
9 It just puts the burden on the Zoning
10 Board that is so great. If they're going
11 to grant a use variance that clearly
12 doesn't warrant it, they have to do so
13 much work to show why this is that
14 one-tenth of one percent exception, that
15 you're protected. It's not routine on
16 their part, to use that word in a
17 different context. And I think we have
18 to still focus on not having Philadelphia
19 be in the dark ages. We are trying to
20 get out of the dark ages with this Code.
21 We're doing a great job with it, but you
22 can't be in the dark ages on 51 percent
23 of the cases going to the Zoning Board
24 that are harmful to communities, use
25 variance changes that don't exist in

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2 other cities.

3 We are an island. Whether it's
4 big cities or small cities, we're an
5 island. We've got to toughen that up,
6 and toughen it up to -- I don't want to
7 have to be doing this separate in City
8 Council as a result of learning about it
9 at the Commission. It really is
10 something that should be part of this
11 document. And so I'd like to see more on
12 that.

13 And, lastly, Alan, you said
14 several times today, we want to be more
15 restrictive citywide rather than less,
16 and I think that's just generally where
17 we're all trying to be, not be more
18 permissive, and particularly in stable
19 areas where we're not dealing with areas
20 that have tanneries and the other things
21 still in the Code in their zoning
22 designations. But I think we can get a
23 lot of movement on this, but I think we
24 set up a fairly short timetable to get
25 from here to there.

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2 Thank you.

3 MR. GREENBERGER: Thank you.

4 COUNCILMAN DiCICCO: Councilman
5 Jones.

6 COUNCILMAN JONES: Thank you,
7 Mr. Chair.

8 First of all, let me commend
9 you for the man hours, person hours, time
10 commitment to this process to try to
11 codify our laws, and it is important for
12 us to be predictable and understandable
13 to those who are interested in investing
14 in our neighborhoods. And I think my
15 appointee to the Commission has done a
16 yeoperson's job. Councilman Green was my
17 appointee, and if he could just give me
18 an update every now and then, I'd be
19 happy with that. He's moving so fast
20 into the future.

21 I have a couple of small
22 questions. And, one, we spent in the
23 last Council session a great deal of time
24 to try to preserve a part of my district
25 which is pristine, called Manatawna Farms

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2 and, in so doing, to try to create an
3 overlay that would protect that farmland
4 from commercial farming and development.
5 In this process, I want to know its
6 future and will it be protected. And
7 that's an important question for me.

8 MR. GREENBERGER: It hasn't
9 been addressed in the current Code, and
10 we will address that.

11 COUNCILMAN JONES: So --

12 MR. GREENBERGER: So the answer
13 is yes.

14 COUNCILMAN JONES: I want to
15 get that on the record that we are -- we
16 fought a long time to protect it and want
17 to keep it. We don't want the baby
18 thrown out with the proverbial bath
19 water.

20 The second thing that I have is
21 a follow-up question on student housing.
22 Many of my colleagues, whether you talk
23 about Councilwoman Miller or Councilman
24 Clarke, we have town and gown issues that
25 whether it's East Falls, whether it's

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2 Overbrook Farms, whether it's Wynnefield,
3 all of us want to have a good neighbor
4 policy with institutions that mean so
5 much. We benefit from their intellectual
6 property. We benefit from the employment
7 that they generate. We benefit from
8 future residents that decide to be
9 educated and stay. So we like them to
10 that degree.

11 To the other degree, just like
12 other neighbors, we have to kind of
13 regulate how we co-exist with people that
14 their largest investment was their homes,
15 and now they find themselves with a
16 25-year-old who for the first time in
17 their life is experiencing city living,
18 and as many of us here who have
19 experienced that part of our life,
20 because I see your smile on your face,
21 sometimes we tend to overdo it a little
22 bit.

23 So how do we do an enforceable
24 Zoning Code overlay that addresses
25 student housing and that town and gown

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2 issue in particular?

3 MS. GLADSTEIN: With great
4 difficulty. We took this issue up. We
5 recognize that there's another section of
6 the Code on educational housing districts
7 which is not a zoning provision but which
8 seems to be able to do more than zoning
9 can do, because it's actually trying to
10 put some burden on the university in
11 terms of monitoring the impact of the
12 students on the community.

13 Other than -- if a property is
14 zoned single family and you have multiple
15 students, more than three unrelated
16 adults, you have hit a building code
17 issue actually and then there's an
18 enforcement, and then enforcement has to
19 take place. So obviously the building
20 code is one thing, and it already would
21 restrict more than three unrelated adults
22 if it's a single-family district.

23 In Councilman Clarke's
24 district, there was an overlay created
25 around student housing per se. That's

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2 being litigated in the court. We kept
3 that in until we can see whether the
4 courts say that that's legally defensible
5 in terms of regulating students as kind
6 of a separate class within zoning. So we
7 don't know the answer to that yet.

8 What I said just a few minutes
9 earlier to Councilman Clarke, who raised
10 a similar question, is that it may be
11 that that overlay may be able to be
12 expanded once we know that it will be
13 upheld by the courts. It may be that the
14 educational housing districts, which are
15 not in the Zoning Code, could be expanded
16 to other districts. And I know you've
17 recently worked on improving it, and
18 maybe further improvements.

19 The bottom line is, we did look
20 at this. We found it hard to get a
21 zoning angle on it, and the zoning angle
22 is the overlay that exists in Yorktown,
23 and we're not sure if that will stick or
24 not. If it sticks, then that's a
25 possibility.

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2 COUNCILMAN JONES: And I

3 appreciate you paying attention to our
4 good neighbor bill, which calls for any
5 L&I issues, three strikes, you are out
6 for three years by way of your ability to
7 rent. This is an equally important
8 question for parts of my district that
9 are impacted by renting. And so the
10 issue is not whether it's student renting
11 or absentee landlord renting, but the
12 violation aspect of it.

13 Is there a way to include in
14 the Code a tipping point, a tipping point
15 in a community where you go from
16 homeownership to rental and that would
17 kick in certain kinds of restrictions?
18 Meaning, in East Falls or in the 4th Ward
19 near Market Street, some of my divisions
20 have upwards of 60 percent rental.
21 There's a different kind of mentality,
22 activity and cost to the City by way of
23 multiple structures, trash pickup, things
24 like that that occur. And is there a way
25 to kind of futuristically plan for the

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2 orderly transition of neighborhoods?

3 Some neighborhoods probably can go to

4 rental; others probably should be

5 prevented from becoming rental. I can

6 tell you that in Overbrook Farms, that

7 would be met with pitch forks and hostile

8 resistance.

9 So is there a way to create a

10 mathematical tipping point that we then

11 automatically start to go into a closer

12 scrutiny as to the wellbeing of a

13 neighborhood and preserving that? Is

14 that something that can be considered?

15 MR. GREENBERGER: I don't

16 know -- there's a legal answer to this

17 one and I don't know what it is. I doubt

18 that it's legally possible. So that's a

19 separate question that we'll be happy to

20 ask.

21 Monitoring and enforcing is

22 probably also a pretty big issue. That's

23 less a legal issue and more of how do

24 you -- if you could do it, how would you

25 monitor and enforce this. That's

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2 probably very tough.

3 COUNCILMAN JONES: For example,
4 the number of rental licenses began to
5 pop up and draw a question.

6 I don't know how we deal with
7 this. I'd like you to consider --

8 MR. GREENBERGER: That's the
9 question.

10 COUNCILMAN JONES: -- the
11 legality of it, but whether it's a new
12 law that we may have to pass, I'm very
13 concerned as we look at the economic
14 downturn that once upon a time
15 neighborhoods that were proud
16 homeownership neighborhoods are now
17 becoming rental communities, and a lot of
18 times the -- not to say that you can't be
19 a good neighbor as a renter, but the
20 homeowner doesn't have the same vested
21 interest that maybe a property owner has,
22 and I want to take a look at that.

23 MR. GREENBERGER: We'll be
24 happy to ask the question. I just don't
25 know the legal answer to it.

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2 COUNCILMAN JONES: Then finally
3 an issue that is near and dear to many
4 people in this audience, particularly
5 Ms. Gordon, when we start to look at
6 stop-and-go's and we start to look at
7 entertainment venues, sometimes as a
8 local legislator, I almost feel helpless
9 as the bar that we protested becomes
10 legal and opens or as in one case -- and
11 I won't name it -- an owner told me, I'm
12 going to, Councilman, open up a
13 family-related restaurant, and then when
14 I took the tour of the facility, it had
15 the largest bar I've ever seen in my
16 life. And then after that, it becomes a
17 nightclub and then it becomes a strip
18 club. And I'm just concerned that we
19 don't take those things -- if we are so
20 general in our descriptions that under
21 the radar certain nuisance businesses
22 begin to slip in.

23 So how do we prevent that?

24 MS. GLADSTEIN: Unfortunately,
25 for everybody in this room probably, the

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2 state regulates alcohol licenses. But we
3 have taken a significant step, which is
4 that we changed the definition of
5 nightclub so that a restaurant that tries
6 to morph into a nightclub or private
7 club, its use would automatically be
8 defined as a nightclub or a private club,
9 and if that use was not permitted, they'd
10 be in violation, and then L&I and our Law
11 Department could enforce against them.

12 And we have -- there will be additional
13 enforcement mechanisms in place, because
14 we're saying that anything that would
15 require a special assembly occupancy
16 license is defined as a nightclub.

17 So we think that will really
18 push down the instances of something
19 calling itself a restaurant and then
20 becoming something else. We felt that
21 that is what we could do in the Code,
22 without trying to preempt the state's
23 ability to actually grant the licenses.

24 COUNCILMAN JONES: What has
25 been incredible to me in this process,

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2 whether you -- and I've met with everyone
3 from Main Street to Market Street, and
4 they have similar concerns about how a
5 restaurant truly becomes a bar and how a
6 bar becomes a nuisance in a neighborhood.

7 So in this codification of
8 code, these kinds of everyday problems
9 that residents, taxpayers face, we have
10 to have some assurance. And I know that
11 end game is predictability. The end game
12 is not to have these District
13 Councilpeople be lords of the realm, but
14 also the flip side of that is protectors
15 of the innocent and the taxpayer, because
16 the difference between where an entrance
17 is or where a floodlight is is the
18 difference between quiet enjoyment of a
19 property and being besieged by a bunch of
20 problems.

21 So these subtleties, even
22 though we want to have predictability,
23 every business, every block is unique,
24 and we have to somehow fit that in in
25 this process.

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2 MR. GREENBERGER: I think

3 you're raising a whole bunch of very good
4 and very difficult points, because as you
5 know, we hear it too. An applicant comes
6 to us and says, I want to do a -- usually
7 says family-oriented, fill in the blank,
8 restaurant, bar, and things change, and
9 that's why you have to have systematic
10 solutions, and frequently the solutions,
11 particularly the problems you're talking
12 about, Councilman, need to exist at
13 multiple levels of enforcement. So the
14 Zoning Code can do certain things. What
15 it generally can't do is control
16 behavior. So a perfectly legal use that
17 morphs because of bad behavior has to be
18 regulated and controlled elsewhere.

19 COUNCILMAN JONES: Well --

20 MR. GREENBERGER: Or we simply
21 say the type is banned entirely, and that
22 presents its own problems.

23 COUNCILMAN JONES: I agree with
24 you, because we probably have some really
25 good laws on the books. Enforcement,

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2 L&I, other kinds of issues have to be
3 addressed, and what I'm going to urge my
4 colleagues is to remember that as we
5 start to approach the budget season again
6 so that we kind of -- I'm not going to --

7 MR. GREENBERGER: This would be
8 helpful. This would be helpful.

9 COUNCILMAN JONES: We're going
10 to look at that too so that we have
11 enough enforcement so that the laws are
12 relevant, that they are impactful at the
13 day-to-day level of the citizen. All
14 right?

15 MR. GREENBERGER: All right.

16 COUNCILMAN JONES: Thank you,
17 Mr. Chair.

18 COUNCILMAN DiCICCO: Thank you.

19 Councilman Green.

20 COUNCILMAN GREEN: Thank you.

21 It has escaped me what my question was.
22 So thank you.

23 COUNCILMAN DiCICCO: Any other
24 Councilmembers have questions for this
25 panel?

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2 COUNCILMAN JONES: Just real
3 quick, Mr. Chairman.

4 COUNCILMAN DiCICCO: Point of
5 order.

6 COUNCILMAN JONES: I need my
7 colleague to remember --

8 COUNCILMAN DiCICCO: You two
9 guys ought to get together. It's obvious
10 that your comment earlier about he not
11 speaking to you, it's very obvious --

12 COUNCILMAN JONES: I know.

13 COUNCILMAN DiCICCO: It becomes
14 more obvious as the questions go on.

15 We'll move to the next panel.

16 MR. McPHERSON: The next panel
17 consists of David Perlman, Carl
18 Primavera, Jerry Sweeney and John
19 Gattuso.

20 (Witnesses approached witness
21 table.)

22 COUNCILMAN DiCICCO: Good
23 afternoon, gentlemen. As was said at the
24 outset by the Council President, we would
25 ask if your testimony could be limited to

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2 three minutes. Obviously as the last
3 panel left, their testimony was very
4 short. It was the questions that allowed
5 us to get into about two hours on the
6 first panel.

7 Among yourselves decide who
8 will be the first person to offer
9 testimony. Mr. Gattuso.

10 MR. GATTUSO: Good morning,
11 Councilman DiCicco, members of the
12 Committee of the Whole. My name is John
13 Gattuso. I'm Senior Vice-President and
14 Regional Director for Liberty Property
15 Trust, and I am before you today to state
16 our support for the creation of a clear,
17 transparent and predictable zoning
18 entitlement process in the City of
19 Philadelphia. Liberty Property Trust is
20 one of the largest industrial real estate
21 trusts in the United States, largest
22 office in industrial real estate trust,
23 headquartered in Malvern, Pennsylvania,
24 with its main urban development group
25 based here in Center City Philadelphia.

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2 Liberty owns over 800 properties in 20
3 domestic markets and the UK, encompassing
4 over 77 million square feet of commercial
5 real estate, approximately half of which
6 we have developed. This experience with
7 developing commercial real estate around
8 the country has provided us the
9 opportunity to see a variety of
10 approaches to zoning and its
11 administration. From this experience, it
12 is clear that the transparent,
13 predictable approach is consistently the
14 most successful.

15 In Philadelphia over the past
16 25 years, we have enjoyed a good working
17 relationship with the city we consider
18 our hometown. During this period, we
19 have invested over \$1.5 billion in
20 development projects within the City. We
21 have developed the Liberty Place and
22 Three Franklin Plaza office buildings in
23 Center City, the million square foot TJX
24 Distribution Center in Northeast
25 Philadelphia and the PNC Bank operation

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2 center at the Airport. Most recently, we
3 developed the 975 foot tall Comcast
4 Center and have completed or currently
5 have under construction ten buildings at
6 the Navy Yard, including the new
7 Tastykake Bakery and new state-of-the-art
8 office buildings for GlaxoSmithKline and
9 Iroko Pharmaceuticals. In fact, at
10 present, the Navy Yard represents our
11 most active location for development in
12 the nation. Significantly, these current
13 Navy Yard projects are being developed on
14 an as-of-right basis. Furthermore, it is
15 also important to note that the \$500
16 million Comcast Center was essentially
17 developed as an as-of-right project under
18 the existing Code. The Comcast Center
19 project is literally an interpretation of
20 the bonus section of the C-5 district,
21 with the exception of two minor
22 variances, including one which permits
23 paper plates in the food court area.

24 I point this out not to make
25 the case that the existing Code does not

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2 need revision, but rather to suggest that
3 these significant as-of-right
4 developments are examples of how a
5 transparent, predictable and clear set of
6 zoning rules can facilitate high-quality
7 private development by reducing
8 uncertainty, increasing speed of
9 implementation and lowering risk.

10 In the same manner, we believe
11 that constructive citizen and community
12 input is a basic foundation of a
13 well-conceived progressive zoning and
14 planning code. However, our experience
15 around the country and here in
16 Philadelphia has convinced us that the
17 time for this input is when the Zoning
18 Code's mapping and planning guidelines
19 are being formulated rather than at the
20 moment of project implementation, which
21 serves only to increase uncertainty and
22 risk and discourage precious investment
23 in the City.

24 At this time, we have not fully
25 vetted every aspect of the proposed new

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2 Code, and we fully appreciate the need to
3 move forward with care in this area.

4 However, a new zoning code which
5 possesses the above qualities and does
6 not necessitate for a large portion of
7 proposed development in the City the need
8 for approval from an uncertain zoning
9 variance process would enhance the
10 ability of the City to attract investment
11 and development.

12 Finally, we would encourage
13 Council to fully incorporate
14 sustainability into the new Zoning Code.
15 Far from discouraging new investment and
16 development, encouraging sustainable
17 building practices by, for example,
18 offering density bonuses for LEED Gold or
19 Platinum buildings and for
20 transit-oriented development, encouraging
21 green building roofs and requiring
22 landscaping in parking lots, just to name
23 a few concepts, will ultimately result in
24 a more livable and vibrant city, which in
25 turn will encourage additional new

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2 investment.

3 In closing, we want to
4 acknowledge the hard work and effort on
5 the part of many to advance the concept
6 of clear, transparent and predictable
7 zoning practices here in the City.
8 Liberty Property Trust offers our support
9 to this effort. As you go forward,
10 please be assured of our willingness to
11 assist in any way you may deem
12 appropriate.

13 We thank you for the
14 opportunity to provide comment.

15 COUNCILMAN DiCICCO: Thank you,
16 Mr. Gattuso.

17 MR. SWEENEY: Good morning.
18 Actually, it's -- well, still morning,
19 right? Actually, it's afternoon. Well,
20 good afternoon, members of the Committee.
21 My name is Jerry Sweeney and I'm
22 President of CEO of Brandywine Realty
23 Trust. Brandywine is a publicly traded
24 real estate investment trust that owns,
25 leases, manages and develops Class A

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2 office in suburban product. As you may
3 be aware, Brandywine owns over 5.8
4 million square feet of Class A office
5 space in Center City and University City,
6 including One, Two and Three Logan
7 Square, the development site at 1919
8 Market where the current pop-up garden is
9 located, the Cira Centre, the IRS
10 facility at 30th Street, as well as
11 interest in One and Two Commerce Square
12 at 20th and Market. Also, by virtue of
13 our ownership in Three Logan and the
14 garage at 30th Street and our automated
15 parking garage at Juniper Street, we are
16 the third largest owner of private
17 parking spaces in the City.

18 In this capacity, I come before
19 you to provide our perspective as an
20 owner and developer in the City regarding
21 the proposed changes to the Zoning Code.
22 Also, as a businessperson, I believe
23 Philadelphia should take every advantage
24 of an opportunity to send a clear and
25 consistent message that Philadelphia is

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2 open for business, that it is a
3 transparent, responsive, efficient place
4 in which to conduct that business and it
5 is focused on creating jobs and overall
6 economic prosperity. A properly designed
7 and consistently applied zoning code is a
8 key tactic to achieving that objective.
9 As a consequence it is from these two
10 perspectives that Brandywine is here to
11 express our strong support of the efforts
12 of the Zoning Code Commission to simplify
13 and streamline the current Zoning Code.

14 I would also like to publicly
15 commend the efforts of the members of the
16 Zoning Code for soliciting the broadest
17 possible input from a very diverse group
18 of stakeholders.

19 No zoning code will be perfect.
20 No zoning code will address every
21 sensitivity or nuance in the development
22 process, but we firmly believe that the
23 efforts currently embodied in the
24 proposed Code are a major step in the
25 right direction. As such, we applaud the

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2 effort of those involved and remain
3 enthusiastic about its adoption. That's
4 why we would encourage Council and the
5 Administration to look at the greater
6 good, to make every effort to ensure that
7 the new Zoning Code incorporates
8 sufficient flexibility and creates a
9 credible platform to both efficiently and
10 effectively address unanticipated
11 circumstances.

12 We believe that the
13 modifications to the draft Code that
14 you'll hear later today from the
15 Developers Workshop, as well as some of
16 those offered from other Councilmembers,
17 will lead to a more precise outcome that
18 will be favorably received by those
19 businesses seeking to both retain and
20 bring jobs into the City.

21 In the interest of shortening
22 my testimony, I won't list all of our
23 nuances to it, but a couple key points.
24 One, on remapping we support an
25 accelerated remapping effort that

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2 dovetails with Zoning Code

3 implementation.

4 On overlay districts, while we
5 are not opposed to overlay districts,
6 we'd prefer specific performance criteria
7 which are clear and easy to apply to a
8 given part of the zoning map.

9 On civic design, we agree with
10 the Zoning Code Commission's desire to
11 include design review in the zoning
12 process. Having this process under the
13 jurisdiction of the Planning Commission
14 provides a high level of clarity.
15 Moreover, we believe that civic
16 engagement and the design review process
17 must be carefully balanced to ensure that
18 these processes are rational
19 clearinghouses to resolve legitimate
20 outstanding differences.

21 The challenge in crafting and
22 enforcing the modified Code is to ensure
23 that this process is not permitted to be
24 used as simply a dilatory tactic to
25 achieve the objective of having no

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2 development happen or as a means merely
3 to preserve an unwanted status quo.

4 We agree that community
5 organizations are a key stakeholder in
6 the zoning process. Brandywine has
7 developed approximately \$2 billion of
8 real estate in six different states in
9 both suburban and urban marketplaces.
10 Given the breadth of that experience and
11 our philosophy, we believe that
12 development is an iterative process and,
13 as a consequence, strong community
14 engagement is an essential ingredient to
15 ensuring that high-quality development
16 occurs. The proposed changes to the
17 Zoning Code appropriately address our
18 concerns on this topic and, more
19 importantly, provide a solid platform for
20 active community engagement.

21 In conclusion, our objective in
22 testifying today is to reinforce the
23 Council that we believe the message
24 coming from the City in this economic
25 time to the development and business

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2 community is incredibly important. The
3 adoption of a proposed zoning code,
4 subject to the modifications being
5 suggested today, sends a clear message
6 that the City is focused on transparency,
7 efficiency and development quality.
8 Sending that message can only create a
9 good outcome for the City, its residents
10 and the business community.

11 Thank you very much.

12 MR. PERLMAN: My name is David
13 Perlman. I am the President of the
14 Building Industry Association, which
15 represents the regional residential home
16 builders, residential contractors and
17 suppliers. I want to thank Council
18 President Verna and all the members of
19 City Council for allowing me to speak
20 today on Resolution 110459.

21 On behalf of the BIA, I
22 strongly urge the adoption of the Zoning
23 Code Commission's report. In 2004, the
24 BIA issued a report entitled "If We Fix
25 It, They Will Come," calling for

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2 modernization of Philadelphia's Zoning
3 Code. Two years later, the BIA worked
4 with Councilman DiCicco to draft the
5 Charter change amendment that created the
6 Zoning Code Commission.

7 The need for change is clear to
8 anyone who attempts to read the Zoning
9 Code. The 624-page Code is difficult to
10 understand, often requiring lawyer's
11 translations to understand what can be
12 built on a site. Suffice it to say, in
13 Philadelphia's current system, no one
14 ever wins, because there is no certainty.
15 The Administration, Councilmembers,
16 developers and community groups are all
17 frustrated because the process is broken,
18 unpredictable and a detriment to the
19 progress of Philadelphia.

20 Modernizing Philadelphia's
21 Zoning Code will help set predictable,
22 consistent rules for development that
23 will serve to attract new residents, jobs
24 and investment while preserving the
25 unique character of our neighborhoods.

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2 While a new Zoning Code in and of itself
3 may not necessarily drive demand, it is a
4 vital proactive step needed to ensure the
5 City is responsive to the demand as it is
6 generated. Chicago, Milwaukee,
7 Pittsburgh and Detroit have all
8 overhauled their codes in the last decade
9 to clarify the rules so every resident
10 can understand what can be built on and
11 around their property. If Philadelphia
12 is to be attractive to national and local
13 developers alike, we must reform our
14 Zoning Code.

15 The BIA would like to thank
16 Councilman DiCicco for his leadership on
17 the zoning reform. We would also like to
18 thank all of the City Councilmembers who
19 have met with the BIA, Next Great City
20 and many other members of the Fix It
21 Philly Coalition. While the BIA agrees
22 the Code as drafted is not perfect, we
23 strongly believe it represents tremendous
24 progress and addresses in a fair manner
25 the compromises necessary to achieve

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2 zoning reform in Philadelphia.

3 For all these reasons, the
4 members of the Building Industry
5 Association strongly urge City Council do
6 all they can to approve the report sent
7 to them by the Zoning Code Commission and
8 push for final passage in this Council
9 session.

10 Thank you for your
11 consideration.

12 COUNCIL PRESIDENT VERNA: Thank
13 you.

14 MR. PRIMAVERA: Carl Primavera
15 from Klehr Harrison.

16 Very briefly, I think that it's
17 been a great process that will hopefully
18 move this to the goal line for zoning
19 reform. The BIA, which I've been
20 involved with for many years, as has many
21 people in City Council, has done a great
22 job of creating some interest. Then the
23 Zoning Commission came along and created
24 really a citywide initiative. And I love
25 what I heard today from Councilman Green.

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2 Maybe every year there should be an
3 agenda on seeing what we can do on a
4 yearly basis to make the Code work
5 better.

6 So, again, I'm not afraid of
7 what it means to my practice. People
8 kept saying only lawyers can figure out
9 the old Code, it works to our advantage.
10 You've heard today from capital and from
11 investors. The more that that capital
12 moves to Philadelphia because of the
13 predictability, the better for all law
14 firms, accounting firms, manufacturers
15 and employees. So this is really not
16 only about good planning, about good
17 business. So we thank you for your
18 leadership.

19 COUNCIL PRESIDENT VERNA: Thank
20 you very much.

21 Are there any questions from
22 members of the Committee?

23 The Chair recognizes Councilman
24 Green.

25 COUNCILMAN GREEN: Thank you,

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2 Madam Chair. I will be brief.

3 First of all, I want to thank
4 all of you for your testimony, especially
5 for your willingness, as three developers
6 who do a lot of business in Philadelphia,
7 your willingness to give up your
8 competitive advantages, the only people
9 who can understand possibly how to get a
10 project done in the City of Philadelphia.
11 So I'm glad you're welcoming competition.

12 I wanted to make a point that I
13 think most of you will agree with, and
14 that really is that we need to change the
15 Zoning Code. I'm committed to try to do
16 it by the end of the year, with some
17 suggestions that I have. But changing
18 the Zoning Code is not the panacea. It
19 will not bring in national and
20 international investors who want to
21 develop in the City of Philadelphia,
22 because it is, in the first instance, not
23 the Zoning Code that prevents people from
24 coming in here, it is demand, and we do
25 not have the demand for the office space

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2 that we have that provide increased rents
3 that make it possible to even pencil new
4 buildings. And isn't it really after
5 we -- and I'm committed to accomplishing
6 this, but after we accomplish this, don't
7 we need to do things to change the
8 business environment in Philadelphia,
9 whether it's taxation or other policies,
10 that are going to increase demand that
11 will really have the City take off?

12 MR. GATTUSO: Councilman, I'll
13 take the first shot at that. I think
14 that's an unassailable point. There's no
15 question that in many respects, the City
16 of Philadelphia has more competitors than
17 either Liberty Property Trust or
18 Brandywine. You're competing in a world
19 marketplace with other jurisdictions that
20 are very aggressive in trying to court
21 growth and business. So to the extent
22 that the City can continue to increase
23 its competitive position, that is only
24 better really for everyone here.

25 I would point out that in at

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2 least two projects, Comcast Center and
3 with our new development for Glaxo down
4 at the Navy Yard and, frankly, for really
5 all the development down at the Navy
6 Yard, the ability to move quickly -- and
7 I don't mean carelessly, but quickly with
8 a code that was very clear I think was
9 fundamental in making those transactions
10 occur. I think in the case of Glaxo,
11 you're talking about a transaction that
12 happened in about a 45-day period. The
13 alternative to being able to move fast
14 would have been likely to see that
15 requirement move out of the City.

16 So while there's no question
17 that good business policy to attract
18 businesses needs to happen, needs to
19 continue to happen, having clarity and
20 transparency and predictability in the
21 Zoning Code does facilitate investment
22 and job retention, certainly maybe even
23 job attraction.

24 COUNCILMAN GREEN: As long as
25 there's demand for a building like there

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2 was in the case of Glaxo --

3 MR. GATTUSO: No question.

4 COUNCILMAN GREEN: -- moving
5 quickly gets it. There's not a whole lot
6 of demand, though.

7 MR. GATTUSO: You will not
8 probably get either of us sitting here
9 saying that there is not a need on the
10 part of the City to increase demand
11 through a continual improvement of
12 business tax environment, so forth.
13 Absolutely we agree with that.

14 MR. SWEENEY: So if I could
15 just add on to that. It's why I mention
16 in my testimony that the Zoning Code is a
17 tactic that has to be viewed as part of a
18 broader strategy for the City. I'm older
19 than I used to be, but I'm not that old,
20 and since I took my first job in
21 Philadelphia out of school, college,
22 Philadelphia has lost one in four jobs.
23 There is no demand driver in the City,
24 and one of the primary reasons for that
25 is the cost of doing business.

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2 As we evaluate the cost of
3 doing business and creating investment
4 value in the City of Philadelphia,
5 simplifying the Zoning Code is a good
6 step to reduce the cost of the regulatory
7 environment. It does not address; in
8 fact, it doesn't come close to
9 addressing, the underlying root cause of
10 Philadelphia's inability to generate
11 sustainable job growth.

12 So the reason we're here today
13 and certainly the reason you'll here from
14 other folks later today is that it's an
15 incremental process. Philadelphia did
16 not get into this position overnight. It
17 took generations to develop this type of
18 tax structure. But we're hopeful that
19 the City, recognizing the limitations we
20 have on growing our job base, is a
21 catalyst for creating a positive result
22 on reducing the overall burden, both
23 directly and indirectly economically to
24 companies to both stay here and certainly
25 to be attracted here. The fundamental

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2 challenge with development in the City is
3 almost any piece of development of
4 substance has some level of public
5 subsidy. That may be a prescription for
6 development commencement. It is not a
7 prescription for creating investment
8 value.

9 COUNCILMAN GREEN: Right.

10 Which was certainly the case in Comcast
11 Center, which I think received 40 million
12 in state funds, et cetera. That's not a
13 good long-term strategy.

14 MR. SWEENEY: Certainly the
15 developments we've had underway in
16 University City are part of the Keystone
17 Opportunity Zone, which provides tax
18 abatements.

19 COUNCILMAN GREEN: As well as
20 the Navy Yard where there are tax
21 abatements.

22 MR. SWEENEY: So we support
23 broad-level tax reform. Zoning Code is a
24 good starting point.

25 COUNCILMAN GREEN: That's

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2 great.

3 So Mr. Primavera, I just have a
4 quick question for you on the record
5 about a specific legal question that is
6 in the Zoning Code. There is a way that
7 the new Zoning Code deals with the
8 category of special exceptions. I guess
9 it's been the view of some of us on
10 Council that that is inconsistent with
11 the current law under Bray and that we
12 need to change that to be consistent with
13 the current law and the way things need
14 to happen.

15 Do you agree with that or
16 disagree, and why?

17 MR. PRIMAVERA: Well, I believe
18 that what Bray says is that special
19 exceptions or, in Philadelphia
20 nomenclature, certificates are permitted
21 uses. They are presumed to be
22 appropriate, but because the nature of
23 those uses in certain situations may have
24 some potential adverse impact, they're
25 compelled to go to the Zoning Board for

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2 public input, community input, community
3 dialogue. But the starting point is that
4 that use is to be presumed to be
5 appropriate. That then obligates the
6 community not just to say, I don't like
7 it, I don't want it, but they have to
8 have specific and precise reasons for
9 saying why that use, which is otherwise
10 presumed to be appropriate, is now deemed
11 to be inappropriate because of direct
12 objective factors.

13 So I think that really is the
14 debate. I think Councilman O'Neill says,
15 Well, gee, you know, once you go to the
16 Zoning Board and you have community
17 input, maybe there should be a
18 one-size-fits-all standard, and I think
19 the Zoning Board somehow sees it that
20 way, but as lawyers, variances are
21 presumed to be inappropriate despite the
22 fact that there's such a high percentage
23 of approval, which really reflects the
24 fact of outdated Zoning Code, need to
25 remap, whereas instead of the variances,

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2 the certificates are presumed to be
3 appropriate.

4 If you go to the Zoning Board
5 as a community person and object to a
6 use, you probably don't know the
7 difference between a variance and the
8 certificate, and you probably are not
9 going to be happy if it's approved by the
10 Zoning Board, even though we as lawyers
11 say, well, that's not an irrational
12 result, because you're lucky we even had
13 a public discussion on this point.

14 So it's kind of a longwinded
15 way of saying that in the law, we're
16 trying to establish different levels of
17 review. The good thing I would say for
18 the community is, wouldn't you rather be
19 in the game and have a discussion and a
20 negotiation with the developer and have
21 it vetted publicly as an exception or as
22 a certificate rather than just to remove
23 that and make it as of right, in which
24 case you don't have any debate? I think
25 the concept that perhaps others might

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2 have to say, Well, let's get rid of that
3 special exception or certificate and make
4 it a variance, well, if we're truly going
5 into the new world and we're truly going
6 to be very protective and not look to be
7 granting a lot of use variances, if we
8 put all of these uses in the use variance
9 category, now we're in the Catch 22.

10 So I think there is a place for
11 special exceptions. I think the reality
12 is that the burden really at the end of
13 the day is on the community to say why it
14 shouldn't happen. Bray, which is the
15 caselaw, as you know, Councilman, says
16 that the developer goes in, makes kind of
17 a prima facie case to show that the use
18 is a special exception and that there is
19 nothing immediately obvious about the
20 situation that would make the use
21 inappropriate, but then the burden does
22 switch to the protestants to say why a
23 use, which is presumed to be appropriate,
24 is not inappropriate in that case, and it
25 can't be just on the fact that we don't

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2 like it.

3 COUNCILMAN GREEN: So you're
4 not going to hurt my feelings one way or
5 another, I promise. The specific
6 recommendation I had in a sort of list of
7 ideas that I put out there for people to
8 comment on, do you agree with that or
9 disagree with that?

10 MR. PRIMAVERA: I think Bray is
11 fine. If you want to make Bray the
12 standard, which it should be for special
13 exceptions, I think that that's fine. I
14 think that -- and I think special
15 exceptions may be a way to bridge the gap
16 between the obligations of Councilpeople
17 to protect communities but also the need
18 for the Zoning Code to allow things to
19 happen that are supposed to happen. I
20 just think that the public needs to
21 understand what they're doing when
22 they're going to the Zoning Board. If
23 they're there to fight a use variance,
24 the law is basically on their side from
25 the get-go. If they're coming in to

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2 discuss a special use permit or a special
3 exception, they have to realize that
4 there's a strong likelihood that despite
5 their objection, that use may be
6 approved. Now, the benefit is, the use
7 may be approved with controls, with
8 restrictions from the Zoning Board, with
9 provisos, with agreements that the
10 parties may come up with. So it's a
11 useful process to go to the Zoning Board,
12 but I keep hearing from neighbors saying,
13 Well, if we go to the Zoning Board, the
14 largest number of people should win the
15 day, or if we go to the Zoning Board and
16 we don't want it, how dare the Zoning
17 Board approve a use that we don't want.

18 There's still a lot of law in
19 the zoning process, which is a good
20 thing, because not everything can be
21 popularity driven. But I would agree
22 with you that Bray and the special
23 exceptions and the conditional uses are a
24 good way to bridge the gap between pure
25 as-of-right where there's very little

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2 civic engagement and the variances where,
3 quite frankly, the applicant goes in and
4 should have a very heavy burden to show
5 why the property needs a variance.

6 Hopefully with this new code, those
7 situations will be few and far between.

8 COUNCILMAN GREEN: Okay. And
9 also, Mr. Primavera, I know you practice
10 around the country, not just here in the
11 City of Philadelphia. There was a
12 discussion about variances and how 51
13 percent are really related to different
14 uses. You've worked in other cities.
15 From the developer's perspective, which I
16 guess is mostly who you represent as an
17 attorney, would you have any objection to
18 us using language like New York City or
19 other cities that would, once we have the
20 new code in place, just let everybody in
21 the world know you're not going to get a
22 use variance, don't waste your time or
23 our time?

24 MR. PRIMAVERA: The answer is
25 yes, if all the other pieces come

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2 together, and that means the remapping
3 and the definitions. I'll give you an
4 example inside baseball. In
5 Philadelphia, if a good quality
6 development is proposed and we look at
7 the area and we say like Northern
8 Liberties, it's zoned industrial, but
9 everyone would agree that that zoning is
10 completely outdated, I would tell the
11 client, in all likelihood with a good
12 project and the right community support,
13 working with the Councilpeople and the
14 Planning Commission, you should be
15 entitled to a variance. If there is a
16 small rump group of people for whatever
17 reason, anti-competition, they don't like
18 growth, they're mad at the developer,
19 file an appeal to the courts, now we're
20 dealing with the Commonwealth Court,
21 which is much more like other
22 jurisdictions, where they are from
23 Altoona and Shamokin and they're saying,
24 why did the Philadelphia Zoning Board
25 grant a use variance? The whole area is

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2 zoned industrial.

3 So it doesn't help us
4 representing developers to be able to say
5 we can get variances at the Zoning Board
6 because they're freely granted for the
7 right reasons if in fact there is the
8 potential that upon further appeal, the
9 less liberal view of the court is going
10 to take that away. We'd rather know up
11 front that this is a rare instance in
12 which we can not only get a variance at
13 the Zoning Board, but also have it
14 approved on appeal.

15 But, again, Councilman Green,
16 that requires the remapping, the rezoning
17 and all the bells and whistles, because
18 otherwise, if it wasn't for variances
19 over the past 30 years, the City of
20 Philadelphia would become a tenth rate
21 city, because it was only through
22 variances that we did hotels, that we did
23 Northern Liberties, that we did various
24 shopping centers, because that was the
25 only way to take completely outdated

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2 codes and outdated zoning maps and allow
3 the City to grow.

4 COUNCILMAN GREEN: That's true,
5 although the argument that you've heard
6 some Councilpeople make is in most other
7 cities, all of that happens, it's just
8 that the body that makes the decision
9 about the, quote/unquote, variance is not
10 a ZBA, an elected body, but city council
11 itself.

12 MR. PRIMAVERA: And --

13 COUNCILMAN GREEN: And that's
14 the appropriate place for use changes to
15 happen is here, not at the ZBA.

16 MR. PRIMAVERA: That's a whole
17 other discussion, because now what you're
18 doing is, you're taking all those many
19 cases at the Zoning Board --

20 COUNCILMAN GREEN: I'm assuming
21 there's a new map, the new Code is in
22 place. We're saying this is what it is,
23 and if you want to change it, it's City
24 Council, not the ZBA you have to go to.

25 MR. PRIMAVERA: Let me give you

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2 an example why I can agree with you on
3 some of what you said.

4 Despite the efforts of the Code
5 and the Commission and everything, which
6 I think are fabulous and need to be
7 approved, at the end of the day, as human
8 beings we're fairly limited in our
9 vision. As soon as the new Code and the
10 new mapping is done, some developer,
11 maybe in this room, will come up with a
12 great idea that we never anticipated for
13 something that will really be tremendous.
14 My suspicion is that the first thing I
15 would do is go to the Commission, the
16 Planning Commission, and go to the
17 Councilperson and say, I need help, I
18 probably need a special type of -- I
19 don't want to call it overlay, but some
20 type of legislative relief which will
21 allow us to have this wonderful
22 development that was not envisioned when
23 we spent the time on the new Code. So in
24 that regard, that action would take place
25 in Council, because what I don't want to

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2 do is go to the Zoning Board and, in
3 effect, make the Zoning Board now the
4 place where planning and special
5 legislation happens. Basically they
6 should be there to address very specific
7 items of relief.

8 So I don't think City Council
9 will ever be out of the game. I think
10 that there are certain places where City
11 Council needs to be. I saw earlier
12 Councilwoman Blackwell. I know how
13 helpful she was in some of the things we
14 did at 30th Street.

15 So I think you'll always have
16 that, but I don't think a rule of thumb
17 that says every use variance should come
18 to Council would work. I think that's
19 going to be overly burdensome.

20 COUNCILMAN GREEN: Isn't that
21 your experience in most other cities now?

22 MR. PRIMAVERA: Well, what they
23 have is options. In some places you can
24 either go to the Zoning Board or go to
25 the governing body, and that gets you

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2 into some more arcane issues. But I
3 would agree the general rule of thumb is
4 that use variances are to be very rarely
5 granted, because they fly in the face of
6 general good planning. Now, if you
7 haven't had good planning over the years
8 because your code is outdated, then I
9 think that justifies what we see in
10 Philadelphia, but now that we're getting
11 to the new level, there should be fewer
12 use variances. I wouldn't agree that all
13 of them should come to City Council. I
14 think the reality is --

15 COUNCILMAN GREEN: But isn't
16 the danger, though, that the current
17 language in the Code with respect to
18 granting a use variance by the ZBA will
19 drive everybody to the ZBA, no matter
20 what we do with enacting a new code and
21 remapping, because it's still in the Code
22 easy to get with a majority of the ZBA?
23 And we have to change that, if this is
24 really going to have any teeth, because
25 you're going to get, not this Mayor but

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2 some day another Mayor and some day after
3 that another Mayor, et cetera, who is
4 going to appoint a ZBA who just may get
5 us back into the position we're in today
6 where you're driven to the ZBA and you
7 can get it at the ZBA.

8 So there's no public debate
9 about -- I would argue one of the reasons
10 that we haven't adopted our Code is
11 because we said, Oh, the ZBA is handling
12 it.

13 MR. PRIMAVERA: Well, that's
14 true. They've been doing the heavy
15 lifting. The Code itself even today
16 under the old Code has the very
17 restrictive language for use variances.
18 The applicant under the letter of the law
19 has the same burden that other
20 jurisdictions have. It's been more
21 liberally granted by the Zoning Board
22 because, quite frankly, the City has had
23 no other vehicle to allow development.
24 So I would say that what should change
25 with the new Code, the Zoning Board

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2 should be more restrictive in granting
3 variances, because the excuses that we
4 now use, the property is outdated with
5 the zoning, the Code doesn't recognize a
6 use that was created after the Code.

7 So I think that at the end of
8 the day, the process can work. If the
9 Zoning Board is still willy-nilly
10 granting variances inconsistent with good
11 planning, which I don't think it would
12 ever do, I think that it would -- I think
13 it's going to be happy to be relieved of
14 a lot of the decision-making that it's
15 been forced to make because there was no
16 other place to do it, but I think there's
17 ways to address that. They are mayoral
18 appointments and City Council has a big
19 role, but I still think just as a general
20 rule, if we have to come here for use
21 variances given the fact it's the fifth
22 largest city in the United States and
23 it's not the Board Commissioners in Lower
24 Merion, not to demean them, but their
25 workload is not the same as your

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2 workload, I don't think that that's a
3 one-size-fits-all answer.

4 You may want to -- and I know
5 you've kicked this around. There may be
6 certain uses that Council may want to
7 reserve for itself given the nature of
8 those uses. Now, in doing that, you take
9 the pressure off the Zoning Board,
10 because they are so inflammatory, and you
11 create a place where that can be
12 addressed. But in many of those uses, I
13 think as Alan Greenberger mentioned
14 earlier, you're going to also be guided
15 by federal law, whether it's the ADA or
16 whether it's fair housing. And I think
17 Councilman Jones talked about some of
18 those issues. Many luckily for us and
19 for this group, there are, in addition to
20 zoning, overriding federal civil rights
21 laws that don't allow zoning boards and
22 city councils to do what they want to do.
23 So to some extent, maybe if there are
24 some hot-button issues, you carve them
25 out and reserve them for yourselves as a

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2 place to go to address those issues, but
3 now that you've done that, you have to
4 recognize that you're going to take the
5 heat for them, because by nature and
6 definition, they're unpopular, and then
7 also what you do as a legislative body is
8 going to be in many ways restricted by
9 federal laws over which you have no
10 control.

11 So I don't know if there is an
12 easy way out on a lot of these things.

13 COUNCILMAN GREEN: Well, I
14 appreciate your thoughts on that. There
15 have been characterizations about it. I
16 just wanted your opinion.

17 MR. PRIMAVERA: Sure.

18 COUNCILMAN GREEN: My final
19 question -- and you may or may not be
20 able to answer this -- is, there are two
21 specific Code provisions, new Code
22 provisions, that I'm wondering if the
23 developers have any comment on. The
24 first is the 90 foot height limit
25 restriction between 16th and 13th and

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2 Chestnut and Arch in the City and whether
3 those restrictions -- what do you think
4 of a restriction like that. And the
5 other is any comments on the sky plane
6 and how or if Comcast or other buildings
7 would have been able to be developed
8 under the new sky plane proposed limits
9 as compared to what's in the existing
10 Code, which most people say has worked
11 well with respect to sky plane. So
12 that's it.

13 Thank you, Madam President.

14 MR. GATTUSO: Councilman, I
15 would respond maybe starting with the sky
16 plane concept. We have a current project
17 that is going through the pre-development
18 process on Walnut Street where we worked
19 with the Planning Commission to sort of
20 test it against the sky plane process,
21 and I think those approaches can work. I
22 think the importance of them are that
23 they exist and they're understood and
24 they're sort of notorious. They're out
25 there so when you start to do your

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2 planning, you do it in knowledge of those
3 guidelines, if you will.

4 If they had been in existence
5 when we did Comcast Center, to my
6 understanding, we couldn't have built the
7 building that we built, but we would have
8 built something that would have been
9 hopefully a terrific project. It would
10 have just been in response to that
11 particular planning nuance.

12 So I think the issue gets back
13 to the point I was trying to make in my
14 testimony, which is as long as the
15 guidelines are out there and they're
16 understood, we can react to them and
17 drive quality projects that are in
18 response to that new planning code. In
19 fact, that's what Comcast Center actually
20 is, is a specific response to the Code
21 that existed at the time we did the
22 project.

23 So the sky plane I don't see as
24 a problem. Some people look at it as
25 complicated, but I think there's a

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2 rationale for it and we understand it, we
3 could work with it.

4 As to the limitation between
5 13th and 16th Streets, Chestnut and Arch,
6 just offering an opinion, it's not an
7 area that we currently have something in
8 planning, but I do think there are areas
9 of the City where you do want to preserve
10 some vistas and, again, to the extent
11 those are in place and you know that
12 they're there and you can respond
13 accordingly to them.

14 I think there is a problem --
15 this is not the question you asked, but I
16 do think there is a problem with the
17 overlay on top of the Market Street West
18 office district, because what that
19 basically says is you're not going to do
20 anything there. You're always going to
21 have to go through a process, and there
22 is a high risk, because you don't really
23 know how that process is going to
24 materialize. So we would support
25 ultimately with a new code the removal of

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2 that particular overlay.

3 MR. SWEENEY: I would echo a
4 lot of what John mentioned, Councilman.
5 I think from our standpoint, as long as
6 the rules are well understood, clear,
7 articulated and uniformly applied, I
8 think you can design around a lot of the
9 sky plane issues. From a pure visceral
10 standpoint is probably a restriction we
11 would not support, but I think in the
12 context of what we viewed in this Code,
13 it seems to be fine.

14 I think the key issue is making
15 sure that whatever height restrictions
16 are in place are certainly respectful of
17 important view corridors in the City and
18 certainly recognize neighborhood
19 concerns, but I would say that -- or dare
20 say that those concerns may not be
21 relevant to what the City identifies as
22 key commercial zones, where density by
23 definition given the land area is only
24 achievable through height.

25 So I think we're much more

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2 prone to a good planning process that
3 delivers a quality product that doesn't
4 have an unnatural restriction on it in
5 terms of its height limitations.

6 COUNCILMAN GREEN: Thank you.

7 COUNCIL PRESIDENT VERNA:

8 You're welcome.

9 Gentlemen, thank you all very
10 much. We appreciate your interest.

11 MR. MCPHERSON: Our next panel
12 consists of Kevin Gillen, Julie Hoffman,
13 Bryan Collins and David Feldman.

14 (Witnesses approached witness
15 table.)

16 COUNCIL PRESIDENT VERNA: Good
17 afternoon. Thank you for your patience.
18 Please identify yourself for the record
19 and proceed with your testimony, whoever
20 is first. Ladies first.

21 MS. HOFFMAN: All right. Good
22 afternoon, President Verna, Chairman
23 DiCicco and esteemed members of City
24 Council. My name is Julie Hoffman. I am
25 the current President of the Philadelphia

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2 Chapter of the American Institute of
3 Architects, a 1,700-member professional
4 organization representing architects and
5 affiliated professionals who practice in
6 the City of Philadelphia and surrounding
7 counties. I speak today on their behalf.

8 We ask you to support the
9 passage and timely implementation of the
10 proposed new Zoning Code. The proposed
11 Code has been crafted with great skill
12 and care over the past four years by our
13 Zoning Code and City Planning
14 Commissions. It is informed by
15 conscientious community outreach as well
16 as firmly grounded and state-of-the-art
17 research on how great modern cities work
18 and grow.

19 We believe the timely passage
20 and implementation of the proposed new
21 code is critical for the following three
22 reasons:

23 One, the economic and cultural
24 future of our city depends upon a modern,
25 equitable and easily understandable

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2 zoning code that will aid architects,
3 developers, property owners, community
4 groups and individual citizens in making
5 the right decisions needed to nurture and
6 support our vibrant city and their own
7 good fortunes. The proposed Code and use
8 mapping process promises to deliver
9 clarity and equity and is based on codes
10 and use mapping approaches that have been
11 proven to energize and inspire modern
12 cities.

13 Two, as architects and
14 planners, we know that the magic
15 ingredient needed to create extraordinary
16 design and planning is passionate client
17 involvement in and passionate community
18 support of the design and development
19 process. Provisions in the proposed new
20 Code for citizen and community group
21 involvement and dialogue with developers
22 and their designers will help create a
23 confident, mature and informed public
24 capability of contributing to the design
25 and planning process into the future.

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2 Three, our city deserves a
3 zoning code that mandates a transparent
4 approval process in line with modern city
5 government and urban planning principles
6 and that will define our city's
7 reputation as a great place to live, work
8 and do business. We deserve a code that
9 encourages homeowners, businessowners,
10 developers and their architects from both
11 inside and outside of the City to invest
12 their money and their vision in
13 Philadelphia, confident that they
14 understand the process that's required
15 for approval of their projects. The
16 proposed new Code provides a balanced
17 approach to a transparent approval
18 process.

19 All of us in this room treasure
20 the utopian "green country towne" so
21 brilliantly envisioned by William Penn
22 over 300 years ago, and each of us in our
23 own way works daily to support every
24 effort to continue to improve her into
25 the future. Because of the success of

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2 Philadelphia's original and unique plan,
3 we know that design truly does matter.
4 As legislation moves forward and as
5 amendments and revisions are proposed, we
6 ask that Council keep in mind the
7 principles of clarity, consensus,
8 equitable provision and transparency and
9 that you continue to respect and utilize
10 the expertise of and monumental amount of
11 research and effort invested by the
12 citizen members of the Zoning Code
13 Commission and the Philadelphia Planning
14 Commission.

15 Philadelphia is rich in
16 architects and urban planners. Many of
17 them were active participants in the
18 development of the proposed new Zoning
19 Code before you. As daily interpreters
20 of codes and key participants in the
21 creation of the built environment, we ask
22 you to continue to use architects and
23 planners as a resource as you review and
24 study the impacts of the proposed new
25 Zoning Code and the upcoming use district

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2 mapping.

3 Good luck in your
4 deliberations, and thank you for allowing
5 me to speak today on behalf of my fellow
6 members of the Philadelphia Chapter of
7 the American Institute of Architects.

8 COUNCIL PRESIDENT Verna: Thank
9 you. Thank you very much.

10 MR. FELDMAN: Good afternoon,
11 Madam President, Chairman DiCicco,
12 members of Council. Thank you for this
13 opportunity to testify on behalf of the
14 Design Advocacy Group, known as DAG, on
15 City Council Resolution 110459. I am
16 David Feldman, President of Right-Sized
17 Homes and a member of DAG. I am here
18 this afternoon to present testimony for
19 the Design Advocacy Group.

20 The Design Advocacy Group
21 represents over 1,200 members who wish to
22 improve the design of our city. DAG has
23 consistently supported zoning reform over
24 the past several years. The combination
25 of the new Zoning Code, comprehensive

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2 plan and remapping of the City presents
3 an historic opportunity to profoundly
4 change the way by which Philadelphia is
5 developed.

6 With the support of City
7 Council, these efforts will allow our
8 city to leave behind the reactive,
9 parcel-by-parcel approach to development
10 review. Instead, we will be able to
11 proactively shape the City's growth based
12 on sound planning principles that take
13 into account the future of our
14 neighborhoods, businesses and public
15 facilities. This change cannot happen
16 soon enough.

17 The Zoning Code Proposal that
18 has been forwarded to City Council
19 represents a culmination of three and a
20 half years' effort by the Zoning Code
21 Commission with participation of
22 community groups, professional advocacy
23 groups and members of the public. This
24 process has been an unusually broad and
25 inclusive one, involving hundreds of

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2 Philadelphians volunteering thousands of
3 hours of their time in the belief that a
4 new Code is essential to our collective
5 wellbeing. The results are a significant
6 improvement over our current Code. It is
7 now City Council's turn to consider the
8 issue.

9 It is imperative that Council
10 provide the Zoning Code Proposals the
11 attention they deserve now. DAG
12 respectfully requests that Council move
13 forward as expeditiously as possible with
14 the careful review and eventual passage
15 of our city's new Zoning Code.

16 Thank you.

17 COUNCIL PRESIDENT VERNA: Thank
18 you very much.

19 MR. COLLINS: Good afternoon.

20 My name is Bryan Collins. I'm the
21 Philadelphia Outreach Coordinator for
22 Citizens for Pennsylvania's Future, also
23 known as PennFuture. Briefly, we're a
24 statewide public interest membership
25 organization which advances policies to

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2 protect and improve the state's
3 environment and economy.

4 Locally here in Philadelphia,
5 we manage a project called Next Great
6 City. That's essentially an agenda of
7 what we like to think are commonsense,
8 cost-effective ideas for enhancing
9 environmental quality, improving
10 neighborhoods, increasing economic
11 competitiveness, all things that we've
12 been discussing today.

13 Our agenda, the Next Great City
14 agenda, is supported by a diverse group
15 of over 120 organizations, civic groups,
16 environmental associations,
17 congregations, labor unions and many
18 others. One of the original action items
19 listed on our agenda was a call for
20 Philadelphia adopting a modern zoning
21 code. What we are -- the Code that has
22 been put forth by the Zoning Code
23 Commission definitely is in line with our
24 recommendation.

25 You know, we've basically been

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2 sitting on our current Code for 50 years,
3 and I can't stress to you enough that
4 today and over the next couple of weeks
5 and months, you really are looking at
6 probably a decision that will affect the
7 next 50 years of our city. I'd really
8 like to just point that out. I think
9 sometimes that can get lost in the
10 minutia of all these very important but
11 very finite details that we're talking
12 about.

13 What happened with Next Great
14 City was that in 2007, it really got
15 behind the idea of promoting the creation
16 of the ZCC, and we really helped to spur
17 the effort to get the original vote, and
18 that resulted in 80 percent approval by
19 Philadelphians for forming the Zoning
20 Code Commission and starting this
21 process. Since then, dozens of community
22 groups, urban planners, development
23 experts, many of the people in this room
24 have been a part of this process, and we
25 feel that it's really reflecting the

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2 modern urban realities and just makes a
3 lot more sense to take in all of this
4 work that's been going on for several
5 years now and put it into play.

6 I'd also like to point out that
7 we've continued to support the Code, and
8 by the way that we decided to do that
9 was, we spent the summer contacting as
10 many people as we could and asking them
11 to sign a petition of support, and we've
12 actually been able to gather a thousand
13 signatures. Many of them I received by
14 email, and I hope you're impressed by
15 this stack, because as an
16 environmentalist, I was a bit conflicted
17 at printing them all out for you, but I
18 did so anyway.

19 I'll read the statement. It's
20 very sort and very clear. "Dear City
21 Council, I urge you to vote for better
22 neighborhoods, smarter development and
23 more businesses by voting for the updated
24 Zoning Code. Almost 80 percent of
25 Philadelphians voted for a change in our

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2 50-year-old Zoning Code because we wanted
3 to see a zoning code that would make more
4 sense, would be clear and fair to
5 everyone and help us make better
6 decisions about how the City will grow.
7 A new code is key to building a great
8 city. I hope I can count on your
9 support. Sincerely," 1,000
10 Philadelphians.

11 COUNCIL PRESIDENT VERNA: Thank
12 you.

13 MR. COLLINS: And just one last
14 thing I do want to mention is that at
15 PennFuture and Next Great City really our
16 wheelhouse is environmentalism, and
17 because of its age, our current Code is
18 really just silent on the many, many
19 important urban sustainability issues
20 that we need to consider. I think most
21 people in this room realize that moving
22 forward when we think about land
23 allocation and building projects, we
24 immediately need to be considering
25 protecting air, water, increasing green

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2 space, not reducing it, increasing the
3 availability of alternative forms of
4 transportation, biking, bike lanes. And
5 also we're really excited that the new
6 Zoning Code would make alternative energy
7 production like solar panels and wind
8 projects standard and a part of good
9 design, not something that has to be
10 specially considered each and every time
11 we'd like to see these advances move
12 forward. And I'll leave it at that.

13 Thank you very much for your
14 consideration.

15 COUNCIL PRESIDENT VERNA: Thank
16 you.

17 MR. GILLEN: Members of
18 Council, good afternoon. My name is
19 Kevin Gillen and I'm an economist with
20 Econsult Corporation and a research
21 fellow at the University of
22 Pennsylvania's Institute for Urban
23 Research. I've been asked to testify
24 today in support of the ZCC's proposed
25 reforms, particularly with respect to

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2 what economic research has found on the
3 link between zoning reform, economic
4 investment and job creation, and being an
5 economist, I'll try to provide some data
6 points and numbers and facts and figures
7 for you today that will hopefully help
8 persuade you.

9 While the link between zoning
10 and economic growth may be an indirect
11 one, it is nonetheless an important one.
12 To begin with, consider that
13 Philadelphia's current Zoning Code was
14 created for a city and an economy which
15 are very different today than when that
16 Zoning Code was originally created
17 decades ago. Back then, 50 years ago,
18 Philadelphia's population was
19 significantly larger by approximately
20 half a million people. Our housing stock
21 was dominated by workforce row housing,
22 row homes, and our primary employers were
23 large and mid-sized manufacturers.

24 Today, Philadelphia's
25 population is significantly smaller. Our

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2 manufacturing jobs have been replaced by
3 office and service jobs, and
4 Philadelphia's quality and type of
5 housing is a greater problem than its
6 quantity.

7 But some positive changes have
8 also occurred since the last time zoning
9 was implemented. Many office towers have
10 risen in Center City via variances. The
11 City has experienced its greatest housing
12 construction boom since the immediate
13 post-war era, adding about 12,000 new
14 units in just ten years. Our downtown
15 has experienced a significant
16 revitalization in terms of retail,
17 dining, employment and housing options.
18 And Philadelphia recently reversed its
19 trend of population decline for the first
20 time in 60 years.

21 These economic and demographic
22 shifts have manifested themselves in the
23 behavior of Philadelphia's real estate
24 market. In particular, recent research
25 by my own firm has found significant

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2 differences in the behavior of
3 Philadelphia's housing market during the
4 current housing cycle compared to the
5 last one.

6 During previous downturns,
7 house price declines in the City were
8 usually of a significantly greater
9 magnitude than house price declines in
10 the suburbs. For example, during the
11 last downturn of the early '90s, house
12 prices in the suburbs fell an average of
13 15 percent, while house prices in the
14 City fell an average of nearly 20
15 percent. Moreover, house prices in
16 Philadelphia's downtown core of Center
17 City fell a whopping average of 41
18 percent during the last severe housing
19 recession.

20 Today, that trend has been
21 exactly reversed. To date, house prices
22 in Philadelphia suburbs have fallen
23 nearly 20 percent from their peak of a
24 few years ago, while house prices in the
25 City have fallen an average of nearly 15

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2 percent from that same peak. And right
3 here in Center City, house prices have
4 fallen only 13 percent compared to
5 falling 41 percent during the last
6 downturn, and this is despite a near
7 doubling of the Center City housing stock
8 during this period.

9 In short, not only have housing
10 values in the City better held their
11 value during the current downturn
12 compared to previous ones, but they even
13 held their value better than their
14 suburban counterparts during the current
15 downturn than during the previous one.
16 That is a profound change.

17 However, despite all these
18 structural changes in its economy,
19 demographics and real estate markets, the
20 Zoning Code that governs the form, use
21 and density of Philadelphia's largest
22 asset, its real estate, has not been
23 updated to reflect these important and
24 far-reaching changes. The reforms
25 suggested by the ZCC make significant

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2 progress in that direction.

3 Consider some of the specific
4 reforms proposed and what the existing
5 body of academic has to suggest about
6 what their impact on the jobs and the
7 economy will be.

8 First, the inclusion of new
9 transit-oriented development standards
10 will provide new guidelines and
11 incentives for such development.
12 Research by my colleague Professor
13 Richard Voith at Penn has found that
14 proximity and access to transit in both
15 Philadelphia and other cities is
16 associated with a 5 to 10 percent premium
17 in property values, while at the same
18 time promoting more environmentally and
19 economically efficient land use via
20 higher-density development.
21 Additionally, by my firm's studies on the
22 economic impact of the City's two largest
23 TOD projects, the Comcast Tower and Cira
24 Centre, found a substantial economic
25 impact on these projects, including the

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2 higher rents they can command due to
3 their proximity to rail transportation.

4 Second, the proposed Code will
5 include new provisions for urban
6 agriculture as a new category of land
7 usage. A recent study that we did for
8 the City's own Redevelopment Authority
9 found that nearly 50 percent of
10 RDA-controlled vacant parcels are within
11 half a mile of an existing grocery store.
12 Additionally, we also found that the
13 majority of these same vacant parcels had
14 very low current values, approximately
15 \$12.50 a square foot, and hence were not
16 well-positioned for new development. But
17 the combination of their location and
18 value indicated that the interim use of
19 these parcels as community gardens would
20 not only provide an economic use that
21 exceeded the non-use of leaving them
22 vacant, but could also provide a low-cost
23 food source to the low-income
24 neighborhoods in which they were located,
25 while at the same time promoting the

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2 creation of social capital in these
3 neighborhoods. The adoption of the
4 current zoning proposals would help
5 facilitate that transition.

6 Third, the proposed Code will
7 also include incentives for green space
8 preservation and tree plantings. A
9 recent study that we completed for the
10 Delaware Valley Regional Planning
11 Commission found that not only did homes
12 with proximity to preserved green space
13 have higher values than comparable homes
14 further away, but that the effect was
15 actually higher for city homes than for
16 suburban homes. Specifically, homes in
17 Philadelphia within walking distance to a
18 park, community garden or other protected
19 green space were worth on average \$2,500
20 more than homes that did not enjoy
21 proximity to green space. In specific
22 cases, the effect could be substantially
23 larger. For example, we estimated that
24 the value of a home's proximity to Clark
25 Park in West Philadelphia to be nearly

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2 \$46,000. This significantly exceeded the
3 value of proximity to suburban parks such
4 as Peace Valley, Hopewell, Honeybrook,
5 Glenolden or the Perkiomen Trail.

6 Lastly, please allow me to
7 conclude with a comment on the effect
8 that these reforms would have on a
9 movement toward by-right development on
10 Philadelphia's real estate market and, by
11 extension, its economy.

12 While we have not conducted any
13 formal research into this matter, we do
14 work extensively with the real estate
15 development community both in
16 Philadelphia and in other metro areas.
17 Besides concerns over Philadelphia's high
18 taxes and high cost of construction, a
19 common refrain we hear from our clients
20 is how uncertain the development process
21 can be in Philadelphia.

22 Since development here is not
23 by right, regardless of what zoning is
24 applied, and is often subject to local
25 political conditions in its respective

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2 locales, developers must often pay a
3 premium in order to attract and secure
4 financing for their proposed projects.
5 This is an additional cost of development
6 that is added to our already above
7 average construction costs and taxation
8 levels.

9 As one developer from New York
10 conveyed to us, and I paraphrase from
11 memory, Development in New York City is
12 every bit as expensive as in Philadelphia
13 and often substantially more so.
14 However, it is also more certain,
15 straightforward and subject to an
16 objective and standardized set of rules.
17 If I acquire land and contractors bids, I
18 can secure financing and a building
19 permit in New York with much greater
20 certainty than I can in Philadelphia. As
21 such, the success of my projects in New
22 York depends much more upon the
23 underlying economic fundamentals of the
24 proposed project rather than upon the
25 political relationships I need to

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2 cultivate in order to make it happen.

3 Members of Council, there are a
4 number of sound economic reasons to adopt
5 the proposed Code from the ZCC. However,
6 if it also indirectly helps to reduce at
7 least the perception that in Philadelphia
8 it's not what you know but who you know,
9 then that will be yet another reason to
10 promote its adoption and move
11 Philadelphia forward.

12 I thank you for your time. If
13 you or any members of your staff are
14 interested in accessing research I cited
15 today, it can be found on our website at
16 econsult.com.

17 Thank you very much.

18 COUNCIL PRESIDENT VERNA: Thank
19 you. And very informative. Thank you so
20 much.

21 Are there any questions of this
22 Council?

23 The Chair recognizes Councilman
24 Green.

25 COUNCILMAN GREEN: Thank you.

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2 Mr. Gillen, I just wanted --
3 you began your testimony in general,
4 which I agree with wholeheartedly in the
5 fact that we need a new Code, and it will
6 help, as you heard the previous
7 testimony, incrementally and at the
8 margins people do business in
9 Philadelphia, but you said, I was asked
10 to come here and testify today. Who
11 asked you to come testify?

12 MR. GILLEN: The BIA, Building
13 Industry Association.

14 COUNCILMAN GREEN: And they're
15 a client of yours?

16 MR. GILLEN: They have been.
17 They are not currently.

18 COUNCILMAN GREEN: Okay. Thank
19 you.

20 COUNCIL PRESIDENT VERNA: Thank
21 you. Again, thank you so much. We
22 appreciate your patience.

23 MR. MCPHERSON: The next panel
24 consists of Tim Kerner, Sam Little, Ed
25 Panek, Steve Huntington.

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2 (Witnesses approached witness
3 table.)

4 COUNCIL PRESIDENT Verna: Good
5 afternoon. Please identify yourself for
6 the record and proceed with your
7 testimony.

8 MR. HUNTINGTON: Councilwoman
9 Verna, I'm Steve Huntington. I'm one of
10 the coordinators of the Crosstown
11 Coalition. That is a group of 13
12 neighborhood associations which banded
13 together a couple of years ago to address
14 zoning reform. We've met on dozens of
15 occasions and generated more than 100
16 pages of detailed commentary, and I hope
17 that you have distributed on your desks
18 this booklet, which has my general
19 remarks and four white papers that we
20 wrote on high rise areas, institutional
21 development districts, uses, procedures
22 ensuring community input and signage.
23 I'd like to go through them -- I'd like
24 to go through eight points briefly that
25 are discussed in more detail in the white

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2 papers, and the white papers contain many
3 more topics than I'm going to be
4 presenting this morning.

5 At the outset, I'd like to
6 state the obvious, which is I think we
7 were all younger when this process
8 started. As I have aged during the ZCC
9 process, I think each one of us in the
10 Coalition has been astounded by the
11 energy and diligence of the Commission
12 and its staff, which created the draft
13 sent to Council in May of this year. The
14 current draft is much improved. It's the
15 fourth draft, and it is definitely
16 improved from the original draft, but we
17 believe that further improvement can be
18 made.

19 Many of our individual member
20 associations will be contacting
21 Councilpeople to discuss their individual
22 neighborhood concerns about the ZCC, but
23 this morning I'm going to talk on behalf
24 of all 13 associations, because we have
25 the following thoughts which cut across

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2 all of our varied communities. And by
3 the way, the associations are Center City
4 Residents Association, East Falls
5 Community Council, East Passyunk Civic
6 Association, Logan Square Neighborhood
7 Association, Northern Liberties Neighbors
8 Association, Old City Civic Association,
9 Overbrook Farms Club, Queen Village
10 Neighbors Association, Society Hill Civic
11 Association, South Broad Street
12 Neighborhood Association, South of South
13 Neighborhood Association, SCRUB and
14 Woodland Terrace Homeowners Association.

15 The first of the eight topics
16 is overlays. Basically we are in favor
17 of overlays. Overlays customize a
18 one-size-fits-all citywide zoning code to
19 the peculiar needs of our individual
20 neighborhoods. For the most part, the
21 current draft respects the overlays in
22 our neighborhoods. I merely bring this
23 up because we regard overlays as a useful
24 tool in the City Planning toolbox.

25 My second point is controls for

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2 high rise massing. There appears to be a
3 major hole in the present draft. With
4 the exception of sky plane regulations
5 which apply to selected east/west streets
6 in Center City, bulk and mass controls
7 for other tall buildings throughout the
8 City are absent from the proposed Code.
9 The form and mass controls found in the
10 current Code don't conflict with the sky
11 plane and should be instituted in the new
12 code CMX-4 and 5 areas.

13 This is not just a Center City
14 concern. It affects neighborhoods
15 throughout the City, as the map in Tab 2
16 of our handout illustrates. The
17 potential unintended consequences of
18 removing these form and mass controls are
19 huge.

20 My third point deals with
21 institutional development districts.
22 These districts can have serious impacts
23 on adjacent neighborhoods. The peculiar
24 safeguards for each institutional
25 development district depends upon the

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2 institution involved and its
3 neighborhood. But two changes on a macro
4 level are needed. First, the minimum
5 district size is three acres.
6 Consequently, a single residential
7 property or two adjacent properties can
8 become an institutional development
9 district in the midst of an otherwise
10 purely residential neighborhood. We
11 recommend that the ten-acre standard be
12 introduced.

13 Second, the Planning Commission
14 controls approval of these IDD's so that
15 the community safeguards found in the
16 variance process such as community
17 meetings, the participation of Registered
18 Community Organizations and Civic Design
19 Review are not available. These
20 procedural safeguards should be inserted
21 in the IDD process to ensure community
22 input on issues such as traffic, parking,
23 signage, buffering and open space. And
24 we have a detailed white paper on that
25 attached.

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2 On the issue of uses, our
3 fourth point, which has been brought up
4 regularly this morning, the proposed Code
5 converts several uses from not allowed in
6 the existing Code to allowed by special
7 exception, and from requiring a zoning
8 certificate in the existing Code to
9 completely by right in the new Code.

10 This liberalization of uses occurs in
11 both residential and mixed-use districts
12 so that it has the potential to seriously
13 impact the makeup of all of the City's
14 neighborhoods. Various participants this
15 morning have identified a concern of
16 ours, which is it's not so much that one
17 use be permitted in a particular area,
18 but that by repeated exceptions, a
19 neighborhood can be transformed by a
20 concentration of multiple special
21 exception uses. While there may be legal
22 issues, the ideal code would regulate the
23 concentration of special exception uses
24 so that a residential neighborhood's
25 character couldn't be changed

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2 incrementally by exception after
3 exception after exception.

4 So when we turn from these
5 general thoughts to more particular use
6 topics, the third rail in uses seems to
7 boil down to the following categories:
8 group community homes, single-room
9 residencies, multi-family housing,
10 educational facilities, religious
11 assemblies, active recreation and
12 communication antennas. We have detailed
13 recommendations in our white paper as to
14 how each of these topics should be
15 addressed.

16 Our fifth point is community
17 input. There are two issues about
18 community input that we feel are
19 important enough to single out this
20 morning and address, although we have a
21 detailed white paper on this general
22 topic.

23 The current Code requires that
24 appeals from over-the-counter L&I
25 determinations be made within a

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2 reasonable period of time. This
3 provision creates time to appeal for
4 neighbors who first become aware of this
5 use only after the over-the-counter
6 permit is activated on the street; for
7 example, when a sign is erected or a new
8 use is instituted. The proposed Code
9 contains a 30-day appeal period as to any
10 L&I determination. The Coalition's
11 suggestion is that the provisions of the
12 current Code create two appeal clocks, a
13 30-day clock for applicants so that if
14 the applicant is unhappy with the L&I
15 determination, they've got 30 days, and a
16 reasonable time clock, which is the
17 present clock, for people who are
18 protesting the L&I determination.

19 The second community input
20 topic we'd like to deal with this morning
21 has to -- pertains to the description of
22 the permanent member in the Civic Design
23 Review Committee who feels the seat set
24 aside for, quote, one person with civic
25 association review experience. No

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2 disrespect, but Mr. Primavera, who is
3 quite competent, could qualify to sit as
4 the civic association representative on
5 this committee. We suggest that the
6 language be revised so that it calls for
7 a currently active zoning committee
8 member of a Registered Community
9 Organization.

10 The new Code contains a
11 provision for two-step zoning in the
12 permit process which is designed to make
13 development less expensive and project
14 review more predictable. We are
15 suggesting that when the two-step process
16 be utilized, there should be two
17 occasions for Civic Design Review to
18 occur. If it's a large project that hits
19 the Civic Design Review triggers and
20 two-step zoning is elected, there should
21 be two Civic Design Review occasions.
22 Otherwise you bypass neighborhood
23 involvement so as to invite missteps,
24 distrust and uninformed community
25 opposition.

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2 Signage: We've been told
3 frequently by the ZCC that it will
4 reserve the chapters on non-accessory
5 signage until further work can be done,
6 but the present draft sent to Council in
7 May contains major changes that would
8 have a dramatic and immediate effect on
9 neighborhoods and on Philadelphia's
10 skyline. We urge Council to maintain the
11 current sign regulations, including the
12 1,000 foot distance requirement of
13 animated and flashing signs from
14 residential properties, the size of
15 temporary and logo signs and the intent
16 language currently contained in Section
17 14-1604.

18 Finally, our eighth point, last
19 point, we, the Coalition, testified last
20 spring at Council's budget hearings
21 requesting that funds be allocated to the
22 Planning Commission so that the
23 Commission has the staff to do a timely
24 and thorough job in the important
25 district planning process that's about to

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2 commence, and I noted that Councilman
3 Green had that suggestion in his analysis
4 of -- in his ten-point analysis, and we
5 also believe that this is essential to
6 getting a good job done.

7 Thank you.

8 COUNCIL PRESIDENT VERNA: Thank
9 you.

10 Good afternoon. Please
11 identify yourself for the record.

12 MR. KERNER: Good afternoon.

13 My name is Tim Kerner and I've been
14 actively engaged in the zoning reform
15 process for the past five years on behalf
16 of the Center City Residents Association,
17 the Design Advocacy Group and the
18 Crosstown Coalition. I've helped write
19 some of the testimony from these groups,
20 but this statement is my own.

21 I would like to offer three
22 controversial opinions that stem from my
23 experiences as a zoning committee chair,
24 an architect, a planner and a property
25 owner. These opinions are in the form of

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2 myth busting, and I believe they are
3 relevant to the considerations now before
4 Council.

5 So myth number one: Zoning
6 variances are bad. It has been stated at
7 Zoning Code Commission meetings that we
8 should work towards the elimination of
9 the need for zoning variances. In
10 general terms, this is a good direction.
11 However, in the name of variance
12 reduction, the new Code liberalizes the
13 review requirements for several uses that
14 can have significant impacts on their
15 surroundings. These uses, as Steve has
16 itemized, include large group homes,
17 single-room occupancies, educational
18 facilities, religious assemblies and
19 communication antennae.

20 It is my sense that the
21 liberalization has gone too far. That is
22 not to say that these uses do not belong
23 in residential neighborhoods, but their
24 neighborhood impacts need to be
25 considered on a case-by-case basis. That

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2 is why we have community zoning
3 committees and the Zoning Board of
4 Adjustment. And if a specific use is
5 appropriate for a particular property and
6 it would not cause harm on the
7 surroundings, then a variance or, in some
8 cases, a special exception may be
9 appropriate.

10 And that's not a bad thing. In
11 fact, the variance review process is a
12 good thing, because it allows for the
13 assessment of specific impacts on
14 particular places. Philadelphia is a
15 complex and changing city where static
16 rules simply can't account for the
17 highest and best use of every piece of
18 land.

19 Myth number two: Community
20 review hurts development. Community
21 review of large development projects is
22 not a problem. It is a necessity.
23 Members of community zoning committees
24 hold essential and intimate knowledge
25 about their surroundings. The exchange

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2 of information at zoning review meetings
3 has the capacity to greatly enhance
4 projects, contributing to the quality of
5 the urban environment and sometimes the
6 developer's bottom line.

7 So what's the problem? The
8 problems with community review have
9 included unclear review procedures,
10 competing community groups with
11 geographical conflicts, atmospheres of
12 distrust between developers and
13 communities and, in some cases,
14 unrealistic demands by community groups.
15 These problems can be answered with a
16 registration process for community groups
17 that assigns geographic boundaries and
18 clear and fair procedural guidelines for
19 community review. These have not yet
20 been fully developed, probably because it
21 is a controversial topic. My request is
22 that these guidelines be developed with
23 meaningful input from community groups.
24 The knowledge is there. It should be
25 utilized.

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2 Myth number three: Phased
3 implementation will be easier. It has
4 been suggested that it will be easier to
5 digest the new Zoning Code if we have
6 some transition period. One to five
7 years have been mentioned, during which
8 two zoning codes will be in force. One
9 proposal suggested phasing the new Zoning
10 Code geographically, while another
11 suggested a pick-your-code time period.
12 There's nothing simple about either of
13 these proposals. It would be as if we
14 can't choose between two restaurants, so
15 we decide to dine at both simultaneously.

16 Ask an L&I examiner if it's
17 easy to figure out code compliance with
18 one code in place, and now add another
19 code for their consideration. Would
20 community reviews be easier? Would land
21 value assessments be easier? Certainly
22 not. So let's not handicap ourselves
23 with a complicated solution born from
24 timidity. Let's be brave, set a date and
25 bite the bullet. Any zoning applications

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2 received prior to that date will be
3 reviewed in accordance with the existing
4 Code, and any applications received after
5 that date will follow the new Code. It's
6 the simplest and easiest way.

7 So to recap, don't over
8 liberalize the Code simply in the name of
9 variance reduction. Currently we do rely
10 too much on the system, but it's
11 important to remember that the variance
12 review process is not a bad thing. City
13 Council should reconsider the problematic
14 use categorizations that have been
15 liberalized in the new Zoning Code.

16 Second, don't shortchange the
17 community review process. City Council
18 should assure that the zoning reform
19 includes clear and fair guidelines for
20 meaningful community review and that
21 these guidelines are derived with input
22 from the communities.

23 Lastly, there are remaining
24 issues to be resolved. Councilman
25 Green's recent amendment addresses

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2 several of these, but the new Code is a
3 significant improvement over the old
4 Code. So after correcting the remaining
5 issues, City Council should be courageous
6 and pass the new Code with a specific
7 date for a clean transfer. It's time to
8 leave the old Code behind and move
9 forward with the new Code.

10 COUNCIL PRESIDENT Verna: Thank
11 you.

12 Good afternoon. Please
13 identify yourself for the record.

14 MR. LITTLE: Madam President,
15 my name is Sam Little. I'm President of
16 the Logan Square Neighborhood
17 Association, and we also appreciate the
18 opportunity to testify today.

19 We've had more than two years
20 of working with the Zoning Code
21 Commission, and we certainly would attest
22 to both really quite a remarkable, their
23 ambition to make a fundamentally new and
24 different code, the amount they talked to
25 us and others about how to make it work,

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2 and the end product has real benefits for
3 Logan Square as a neighborhood and I
4 believe for others.

5 I just want to mention too the
6 Civic Design Review, which Tim just
7 mentioned and has been mentioned before,
8 if it is seriously undertaken can be a
9 remarkable technique to get neighbors and
10 developers together for win-win
11 solutions.

12 The second one Councilman Green
13 mentioned of sky plane. We feel this is
14 a more imaginative, innovative way of
15 doing form-based control on tall
16 buildings in the City, and what it can do
17 is provide the designers of projects with
18 more creativity, and that ultimately
19 helps the image of our city in the nation
20 and the world.

21 I think it was already
22 mentioned by Steve, we do have a problem
23 that in many tall buildings there is no
24 regulation of how they are massed, and in
25 our neighborhood, which is right north of

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2 the central business district, this means
3 that if there is not good design and lax
4 design review, that we could have a solid
5 wall of high rise buildings right next to
6 two- and three-story buildings. So we
7 think that some form of mass and control
8 really is important.

9 We have some other detailed
10 comments that we'd like to communicate
11 and share with the staff of Council or
12 Councilpeople, but I'd like to
13 concentrate really on one that I think is
14 important today for you all to consider
15 from the political aspect, and that is
16 how we work together.

17 Logan Square is a great place
18 to live. We have attractive housing
19 within walking distance of the central
20 office area, parks, rivers and all the
21 Parkway institutions. This is a great
22 attribute, but it also brings the
23 challenge of a good deal of development
24 pressure. And we've been lucky to have a
25 balance of things, which is first a

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2 neighborhood plan, a hundred thousand
3 dollar neighborhood plan, which was
4 accepted by the City and in fact
5 sponsored and helped in part by Council.
6 We have a height limiting overlay, which
7 triggers community developer dialogue,
8 which is crucial. We've had some
9 experience in working with developers and
10 I think they have with us. And, fourth,
11 we have neighborhood development
12 agreements which formalize these
13 relationships with developers on
14 particular projects.

15 This balance of input between
16 Council, the City, developer and
17 community, we've been largely successful
18 in win-win solutions, which provide
19 growth for the City while retaining the
20 character where we live. I would just
21 mention that right now there's over half
22 a billion dollars worth of development
23 underway in the Logan Square area, and
24 our community is getting better for it.

25 Finally, I would just like to

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2 say that we hope that Council will look
3 to this balance of conditions that we
4 have in Logan Square for other
5 neighborhoods as well. Everybody at this
6 table, we are from affluent communities
7 who are probably a little bit more
8 conversant in planning and zoning than
9 others, and we urge that Council look to
10 giving the benefits that we have had
11 across a broader basis of the communities
12 in the metropolitan area. In that sense,
13 we urge you to as you review the Zoning
14 Code for all the things that foster
15 community developer dialogue where
16 possible when you finalize the Code, make
17 it easy for people to protect and build
18 on the characters of their communities
19 and provide the oversight, and for
20 Council to provide the oversight and
21 resources needed for guiding district
22 planning and remapping so that
23 communities can really play a close
24 interactive role with the City as a whole
25 in making a prosperous future for us all.

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2 Thank you for the opportunity
3 to testify.

4 MR. PANEK: Good afternoon,
5 Council President Verna, members of City
6 Council. My name is Ed Panek. I am the
7 Chairman of the Zoning Committee for the
8 Logan Square Neighborhood Association.

9 First let me start out by
10 saying that I want to congratulate the
11 members of the Zoning Code Commission for
12 their many, many hours of very hard work.
13 We've been with them most of the way, but
14 they've really done an enormous amount of
15 work, and I think it's been very
16 constructive work.

17 Secondly, I want to thank them
18 for not only listening, but being
19 responsive to our concerns.

20 Number three, I'm here as a
21 member not only of Logan Square
22 Neighborhood Association, but as a member
23 of the Crosstown Coalition. You heard
24 testimony just a few moments ago from my
25 colleague Steve Huntington. I fully

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2 endorse what he had to say. You also
3 heard testimony from the President of the
4 Logan Square Neighborhood Association,
5 Sam Little. I fully endorse what he had
6 to say. And not to be left out, Tim
7 Kerner, I also endorse your testimony as
8 well.

9 I think it's important for us
10 to take a step back and say how did this
11 particular pending legislation affect
12 Logan Square Neighborhood Association. I
13 think it's probably fair to say it
14 affects different neighborhood
15 associations in different ways, but we
16 have been blessed for a number of
17 reasons, because as Mr. Little has said,
18 we have a neighborhood plan in place
19 which has been largely supported and
20 adopted by the City Planning Commission
21 and by City Council, and that plan was
22 respected during the course of the
23 dialogue that we had with members of the
24 Zoning Code Commission.

25 Number two, because through the

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2 good auspices of Councilman Clarke, we
3 have a height overlay of 125 feet, the
4 net result of which has caused developers
5 to meet with us on an ongoing, regular
6 basis where they would require a variance
7 to go above 125 feet. This has resulted
8 in good and meaningful dialogue. It has
9 made better projects, and I think that
10 the developers will agree to that and I
11 think their attorneys, many of whom are
12 either here in the room today or were
13 here earlier, would also say the same
14 thing if asked.

15 And, number three, the new
16 provisions of the proposed Code contain a
17 provision that would require, under
18 certain circumstances for projects of a
19 certain size, that the developer meet and
20 discuss with the Registered Community
21 Organization -- in our area that's
22 obviously Logan Square Neighborhood
23 Association -- even on projects that
24 would otherwise be built as of right. I
25 think that's also very important. I

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2 don't think that any developer should be
3 afraid of having an open dialogue and
4 discussion about their project with us.
5 We have always tried to go, as Mr. Little
6 said, get to a win-win type of solution.
7 So I think these three overriding reasons
8 are why we have a very good result in
9 this proposed Code.

10 Two other things I should
11 mention. Just because you have this
12 legislation pending before you now
13 doesn't mean that this whole process is
14 complete. There are the district plans
15 that have to be developed. Some of them
16 are already underway. The district plan
17 for Center City begins in January.
18 That's going to be very important,
19 because it dovetails with the provisions
20 of the new Code. And then at some point,
21 maybe five years down the road, there's
22 going to be a remapping, and I would urge
23 our Councilman and the rest of City
24 Council to not necessarily lift the 125
25 foot overlay restriction, which has been

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2 so beneficial as a planning tool from us,
3 even when you get to the point of
4 remapping.

5 So thank you very much. I'll
6 be happy to entertain any questions.

7 COUNCIL PRESIDENT VERNA: Thank
8 you.

9 The Chair recognizes Councilman
10 Green.

11 COUNCILMAN GREEN: Thank you,
12 Madam Chair.

13 I want to thank you all for
14 your testimony.

15 Mr. Kerner, I called you last
16 night. I'm sorry we weren't able to
17 connect this morning. I appreciate what
18 you had to say. I think there's an
19 inherent tension between much of what
20 you're requesting, which is community
21 input and a date certain, and in fact, in
22 the Code that was sent over to the City
23 and the Majority Report to City Council,
24 there's a six-month period where you can
25 choose either code. And so, of course,

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2 that -- there is six months under the
3 current recommendation where that's the
4 case.

5 I appreciate Mr. Little's
6 acknowledgment that Logan Square is being
7 treated differently than most other
8 neighborhoods in the City, in that
9 anybody who -- basically anybody who
10 wants to do a development that because of
11 the value of land will require them to go
12 over 125 feet, which is most of the stuff
13 that's going to happen in your area
14 that's of any significance that would
15 impact your neighborhood, they're
16 required to come to you, and that is not
17 being taken away from you. That is
18 certainly not the case in most
19 neighborhoods in the City where stuff
20 will become of right and those
21 communities have not had the input
22 because they haven't been engaged in this
23 process that you have had and other
24 organized groups and neighborhoods have
25 had, and I think that's the tension that

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2 you see being struggled with in City
3 Council. Some neighborhoods paying
4 attention are being treated specially and
5 differently; other neighborhoods are not,
6 and it creates a problem for us in terms
7 of viewing this process as an equitable
8 one for all citizens of Philadelphia, not
9 just those who are currently paying
10 attention. And so I think by restricting
11 a few uses or making them different, we
12 can take away most of the problems that
13 will exist in stabler neighborhoods or
14 transitioning neighborhoods and hopefully
15 make it a more equitable process.

16 Anyway, I just wanted to thank
17 you all for your testimony and input.
18 Thanks.

19 Thank you, Madam President.

20 COUNCIL PRESIDENT Verna: Thank
21 you very much, gentlemen. Thank you.

22 MR. McPHERSON: Our next panel,
23 Rich Lombardo, Neil Sklaroff, Tom Witt,
24 Craig Schelter.

25 COUNCIL PRESIDENT Verna: I'm

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2 afraid that we're losing a lot of our
3 witnesses, so I'm going to ask anybody
4 that's going to be testifying to please
5 try to be as brief as possible.

6 The stenographer is requesting
7 a five-minute recess.

8 (Short recess.)

9 COUNCIL PRESIDENT VERNA: We're
10 now ready to go back into session.

11 So nice seeing the three of
12 you. Who is going to testify first?

13 MR. SCHELTER: I'm going to do
14 the majority of the testimony, and both
15 Mr. Lombardo and Mr. Sklaroff are here
16 assuming you're going to have some
17 questions.

18 COUNCIL PRESIDENT VERNA: Okay.
19 Fine.

20 COUNCILMAN DiCICCO: So you get
21 nine minutes?

22 MR. SCHELTER: If I could have
23 nine minutes, that would be great. That
24 would be great.

25 COUNCIL PRESIDENT VERNA:

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2 Please identify yourself, Craig, for the
3 record.

4 MR. SCHELTER: My name is Craig
5 Schelter.

6 Good afternoon, Council
7 President Verna and members of Council.
8 I appear before you today in my capacity
9 as Executive Director of the Development
10 Workshop, along with Richard Lombardo,
11 long-time zoning expert and former
12 Executive Director of the City Planning
13 Commission, and Neil Sklaroff, noted
14 zoning attorney in Philadelphia. Also
15 here today or were here today, ten
16 members of the 31 members of the
17 Development Workshop who voted
18 unanimously yesterday to endorse the
19 statement that I'm making here today.
20 And so in the audience previously and
21 some still are people from Ballard Spahr,
22 Brandywine Realty Trust, Jerry Sweeney
23 from whom you heard earlier, Tony Rimikis
24 of his staff is still here, Econsult
25 Corporation, the James J. Anderson

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2 Construction Company, Liberty Property
3 Trust, John Gattuso who was here earlier
4 today and Len Poncia from Aquinas Realty.
5 So they wanted to be here to show the
6 support for what we're going to say and
7 for Council to see the actual developers
8 and investors that we represent.

9 The Development Workshop is a
10 Pennsylvania not-for-profit trade
11 association in accordance with Section
12 501(c)(6) of the Internal Revenue Code.
13 Our mission is dedicated to promoting the
14 interest of real estate developers and
15 their related professions in Philadelphia
16 to help the City realize its full growth
17 potential by attracting outside
18 investment, construction and permanent
19 jobs, bringing new families to the City
20 to enjoy the vibrancy, diversity and
21 opportunity it affords, increasing the
22 City's tax base and supporting the
23 development in the context of vibrant and
24 safe neighborhoods.

25 Given the added complexity of

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2 the proposed zoning process, the length
3 and total rewrite of the current Code
4 comes at a time of enormous uncertainty
5 in the economy in general and the real
6 estate and investment industries in
7 particular. With small exceptions, as
8 Mr. Gattuso and Mr. Sweeney indicated
9 today, we are aware of our city's lack of
10 competitiveness in the marketplace due to
11 high costs and low rents. We are also
12 aware of the neighborhood concerns
13 expressed by Councilman Green and O'Neill
14 which led to the adoption of the Minority
15 Report by the Zoning Code Commission. We
16 share their view that certain
17 well-intentioned additions to the
18 allowable uses in the residential
19 districts and the commercial strips that
20 abut them in fact create fear, legitimate
21 concerns and uncertainty in these mature
22 neighborhoods. And from direct
23 experience, I know how long the remapping
24 of neighborhoods will take beyond any
25 City Council action on this proposed Code

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2 approval with its de facto remapping.

3 We wish to commend Councilman
4 Green on his ten-point amendment
5 proposal. We think five of those points
6 are ones that we can currently support,
7 but five of them need further review and
8 discussion, and towards that end, we've
9 sought additional dialogue with him on
10 the subject.

11 How to make the new Code work
12 for Philadelphia: The members of the
13 Development Workshop have worked through
14 various drafts and modules, met with
15 representatives of the Zoning Code
16 Commission and consulted with Workshop
17 members to understand how the new
18 provisions would impact development in
19 the City. We have tried to identify
20 major issues that need to be resolved in
21 the draft. A favorable resolution of
22 these issues would not adversely impact
23 any of the goals in the draft. Once
24 these issues are resolved, the Workshop
25 will be in a position to support the

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2 final product in City Council.

3 One, assuring an as-of-right
4 code: Land owners, investors, tenants
5 need to know up front what can be built
6 without exorbitant costs. A, the design
7 standards in Section 703 and subsequent
8 are requirements that impose inordinate
9 investment in design that burden the
10 developers seeking an as-of-right permit
11 and invite unnecessary trips to the
12 Zoning Board for relief from what are
13 essentially aesthetic values. I give you
14 two examples here in that two properties
15 that Liberty Property developed, both the
16 Comcast Tower and their new SmithKline
17 building at the Navy Yard. In both those
18 instances, if this code had been adopted,
19 those projects would not have been a
20 matter of right. It would have produced
21 a prolonged period of review and
22 discussion, and the investment
23 opportunity there would have been lost.

24 The costs associated with the
25 basic application for the initial permit

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2 are prohibitive, a show-stopper, with the
3 Section 700 requirements and sky plane
4 computations. The advantage of the
5 current as-of-right code is that land
6 owners, investors, lenders and tenants
7 know what can be built. And, again, as
8 those two gentlemen pointed out this
9 morning, the big projects they went
10 forward were done as a matter of right.

11 Changes in design resolving
12 from the Civic Design Review or the
13 normal process of development could
14 trigger a need for zoning relief from
15 Section 700, placing them before the
16 Zoning Board again for essentially
17 aesthetic concerns. If you're tightening
18 up the conditions under which variances
19 would be granted, you can see the
20 difficulty that would create.

21 E, changing the term
22 preliminary zoning permit to conditional
23 zoning permit under Section 303.6(c).
24 This was done at the last minute without
25 any dialogue, which leaves the

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2 development community at a loss to the
3 thinking behind this change. As a
4 solution, we have stated many times
5 before that design standards are
6 something that we support, but those
7 should be placed in a manual that informs
8 the civic design process. And for sake
9 of clarity, preliminary zoning permit
10 language should remain.

11 Two, accepted plans: An
12 accepted plan is not an amendment to the
13 comprehensive plan. The new Code should
14 not authorize the Planning Commission or
15 any other agency to give weight to plans
16 not adopted by the Commission, nor should
17 such a plan be a policy guidance
18 document. The solution: Strike
19 references to accepted plans and stay
20 with the references to adopted plans.

21 I'll explain a little bit later
22 why that would be so critical.

23 Third, clarity: In order to
24 preserve the clarity of one of the
25 initial drafts, we recommended that

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2 dimensions should follow substantive
3 provisions in the use charts, and
4 definitions and use categories should be
5 contained in the same sections. In
6 addition, definitions should be confined
7 to the text of the Code and not refer the
8 reader to outside sources of definitions.

9 Since definitions derived from
10 the reference to outside sources may be
11 changed without legislative action by
12 Council, this raises questions concerning
13 the difficulty and use by land owners,
14 community groups, as well as unlawful
15 delegation of the Zoning Code.

16 And what we're simply saying
17 here is to the extent that you have
18 definitions which are in FAA legislation,
19 FEMA legislation, ADA legislation, that
20 the definition should simply state what
21 it means in Philadelphia such that
22 changes to those things in the future do
23 not change the basis on which L&I will
24 review the Code.

25 Four, Delaware River

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2 Conservation Overlay District: The
3 Delaware River Conservation Overlay
4 District, the North Delaware from
5 Allegheny Avenue to the County Line has
6 been revised from the existing zoning
7 code to remove City Council from the use
8 approval process. Taking Council out of
9 the process will no longer assure owners
10 and operators of existing industrial
11 facilities along this portion of the
12 riverfront a thorough and comprehensive
13 review of their proposal. The solution
14 here: Keep the district as it is.

15 Five, the Central Delaware
16 Waterfront Overlay District: Without the
17 completion of the master plan currently
18 underway by the Delaware River Waterfront
19 Corporation, the DRWC, and no draft of a
20 proposed new zoning ordinance, land
21 owners have no clear idea of what to
22 expect, nor do land owners and the public
23 have a clear idea of the level of public
24 infrastructure that will be provided to
25 support investment. The current zoning

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2 delegate powers to the Planning
3 Commission beyond what we believe is
4 permitted in the Charter.

5 Our solution here is to rescind
6 the overlay zoning and return to
7 as-of-right zoning pending new zoning in
8 accordance with the comprehensive plan.

9 And the reason that this is critical here
10 is, this is, as we see it, a major
11 initiative on the part of the City to
12 move forward pushing water development to
13 the Central Delaware waterfront, an
14 anticipated \$771 million project. To
15 date, there is a draft of this master
16 plan that is out there and there is a
17 requirement in that plan that \$65 million
18 needed to be -- needs to be put into the
19 budget to prime up front to make sure
20 these various things happen.

21 What you have in this proposed
22 Code is a one-line overlay, with no
23 description whatsoever, and that if in
24 fact this is going to become the priority
25 with the Mayor and with City Council, for

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2 this kind of spending we feel that that
3 needs to be defined at the time the Code
4 is done so that other development areas
5 can see what the priority of this area is
6 relative to the areas in which they're
7 working.

8 Center City Overlay: The 125
9 foot height limitation in portions of
10 Center City West of necessity drives
11 otherwise compliant projects to City
12 Council for special legislative relief or
13 the Zoning Board for dimensional relief,
14 which is a barrier to outside investment
15 in the City. In addition, the map of
16 certain sites in Center City imposes
17 limits on density related to proximity to
18 transit nodes that unnecessarily limit
19 development.

20 And an example here, we support
21 the notion of what the Commission has
22 done in terms of suggesting higher
23 density near transit nodes. However,
24 within one block of the Market Street
25 East Station, there are limits which

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2 exclude the Girard Estate properties from
3 benefiting in this extra density. We're
4 not here on behalf of those owners, but
5 we pointed out that and a number of other
6 sites where there should be a more
7 liberal limit in terms of where that
8 density could be provided.

9 Our solution is to suggest that
10 the 125 foot height limitation should
11 expire at the end of 2012 and that the
12 boundary limits on density should be
13 lifted near transit nodes.

14 Sky plane: The proposed sky
15 plane regulations are difficult to
16 administer, appear arbitrary and
17 confusing and would have precluded some
18 of the best mid and high rise towers
19 built in Center City over the last 40
20 years. I would include here the Comcast
21 Tower, which would have required a
22 variance, the Bell Atlantic building,
23 which would have required a variance, the
24 entire 1600 block of Walnut Street, which
25 would have required a variance. And we

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2 believe it's much more important to have
3 active commercial and street life than it
4 is to worry about what a person looks up
5 at when they're crossing in the center of
6 the street, which is the basis on which
7 this new zoning tool has been suggested.

8 We would respectfully recommend
9 that the sky plane provisions be
10 stricken, or if not stricken, become a
11 guideline to again inform Civic Design
12 Review and the review that would normally
13 be done by the City Planning Commission.

14 Point 8, Historical Commission:

15 The Historical Commission is the
16 authoritative, legislative and
17 administrative agency to enforce the
18 Historic Preservation Ordinance, which is
19 part of the Zoning Code. We have long
20 advocated making the Commission an agency
21 of record, with sworn testimony, a
22 transcript of the proceedings and formal
23 decisions. Appeals would go to the Court
24 of Common Pleas rather than the Board of
25 License and Inspection Review, but we

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2 have heard no good reason why this has
3 not yet been done.

4 The solution we believe is the
5 draft should be amended to provide that
6 the Commission should institute
7 formalities similar to those of the
8 Zoning Board of Adjustment.

9 In conclusion, we remain
10 committed to providing input to the
11 Zoning Code Commission and City Council
12 to deal with the issues mentioned above.

13 Thank you for your time and
14 attention, and I would be happy to answer
15 any questions you might have.

16 COUNCIL PRESIDENT VERNA: Thank
17 you.

18 Are there any questions?

19 The Chair recognizes Councilman
20 Green.

21 COUNCILMAN GREEN: Thank you.

22 Mr. Sklaroff, just very
23 quickly, did you hear my question to
24 Mr. Primavera about special exceptions
25 and Bray? Have you read my suggestion,

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2 and do you think that the way we
3 described the changes that need to be
4 made to the way special exception is
5 described in the new Code is appropriate
6 or not?

7 MR. SKLAROFF: As I understand
8 your suggestion is that the Code should
9 reflect the law that follows Bray as to
10 what the relative burdens in proving or
11 disproving the need for a special
12 exception, and I would support that. I
13 was pleased to be part of the Bar
14 Association committee that met in
15 dialogue with the Zoning Code Commission
16 and the Law Department, and in the three
17 meetings we had, at each time we brought
18 up the revisions that were made to not
19 only the special exception criteria, but
20 also the variance criteria and attempted
21 to have it revised to reflect Bray.

22 Obviously each revision did not
23 accomplish what we had hoped and we
24 brought it up again. We think the
25 current iteration of what they believe

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2 the standard to be to still be off mark,
3 and rather than putting all of the cited
4 burdens that had been previously in our
5 Code upon the protestants or objectors,
6 that it should be shared as it was
7 articulated by the appellate courts in
8 Bray.

9 COUNCILMAN GREEN: Thank you.

10 Could one of you please
11 describe the sort of problem with the
12 existing Central Delaware overlay? The
13 Code -- the new Code is intended to
14 promote development and certainty, and it
15 seems to me you have identified two
16 overlays that create a problem for
17 certainty or knowing how to develop
18 dollars or getting investment into the
19 City of Philadelphia, and it doesn't
20 appear that there's a clear timeline to
21 end that uncertainty.

22 So would your recommendation be
23 then to have automatic conversion apply
24 in those areas also and then whatever is
25 of right is of right until there's a

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2 remapping that has a thoughtful planning
3 process associated with it?

4 MR. SCHELTER: Yes, we would.

5 That we think would be the best solution,
6 but we're also in the process of giving
7 detailed comments to the Delaware River
8 Waterfront Corporation in terms of,
9 again, a way that we can incorporate some
10 of the planning goals that they have, but
11 to try and make them more realistic and
12 practical as opposed to aspirational.

13 And they have stated in their plan
14 that -- which, again, we have supported,
15 that they want to put focused
16 infrastructure improvements, \$65 million
17 I believe is the figure, as soon as
18 possible to prime the pump to have
19 development take place in certain places.
20 We've asked them, can you tell us what
21 those projects are so that adjacent land
22 owners can see what the focus is going to
23 be and then to assess how realistic it is
24 that those funds in fact will be
25 recommended by the Planning Commission in

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2 their capital budget and program,
3 supported by City Council in their budget
4 actions, so you can assess what is
5 realistic versus what is unrealistic.

6 There are portions of that plan
7 that talk about an area to be developed
8 25 years hence and zoning mechanisms that
9 will deal with an area when it gets
10 developed 25 years hence. If you're a
11 land owner, you don't want to know what
12 you can do 25 years from now. You want
13 to know what you can do now, and that's
14 what we don't know right now.

15 The response that we have
16 gotten from them is that they're
17 interested in opening a dialogue with at
18 least one land owner and the --

19 COUNCILMAN GREEN: But that's a
20 negotiated, behind-the-scenes,
21 who-you-know process that we're trying to
22 avoid, isn't it?

23 MR. SCHELTER: This is in
24 response to the master plan which their
25 Board is going to consider approving I

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2 believe on the 28th of October, and we're
3 trying to simply get them input so that
4 they know what a large stakeholder's
5 opinion would be.

6 COUNCILMAN GREEN: And does
7 that master plan create a zoning map or
8 zoning designations?

9 MR. SCHELTER: No. It has not
10 yet, and that's what we're saying. They
11 have said we're making general comments
12 about zoning, but that zoning has not yet
13 happened yet.

14 COUNCILMAN GREEN: So it's all
15 in theory and none of it will be applied
16 in the ground and they don't want to
17 apply it on the ground until there's 65
18 million approved by City Council in the
19 capital planning process, which means
20 that money won't be spent for at least
21 three or four years. And so you're
22 talking about restricting development and
23 land owners' use of their property for
24 three or four years. Do we have a
25 regulatory taking problem here?

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2 MR. SCHELTER: Yes. What we
3 don't know right now -- and this
4 corporation can approve whatever plan
5 they want to approve, but what will
6 happen is that the plan will then be sent
7 to the City Planning Commission for
8 adoption, and when that plan goes for
9 adoption, it becomes part of the
10 comprehensive plan and --

11 COUNCILMAN GREEN: That doesn't
12 deal with zoning, though, does it?

13 MR. SCHELTER: That's correct,
14 but it provides an underlying basis on
15 which to then do the zoning. And if you
16 look in the draft Zoning Code that you
17 have before you, it's one line. It just
18 says Central Delaware District Overlay.
19 That's it. That's it today.

20 COUNCILMAN GREEN: Thank you.

21 MR. SCHELTER: Nothing more.

22 COUNCIL PRESIDENT VERNA: Thank
23 you.

24 Do we have any other questions
25 from members of the Committee?

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2 (No response.)

3 COUNCIL PRESIDENT VERNA:

4 Gentlemen, thank you very much.

5 (Thank you.)

6 MR. McPHERSON: Our next
7 committee is James White, Gina Snyder,
8 Shanta Schacter and John Chin.

9 (Witnesses approached witness
10 table.)

11 MR. WHITE: Good afternoon and
12 thank you for the opportunity to testify.
13 My name is James White and I am the
14 Policy Coordinator of the Philadelphia
15 Association of Community Development
16 Corporations. PACDC is a citywide
17 association of more than 90 community
18 development corporations and other
19 organizations that have extensive
20 experience developing property and
21 improving the quality of life of their
22 neighborhoods.

23 PACDC appreciates the Zoning
24 Code Commission developing a thoughtful
25 plan to bring Philadelphia's current

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2 Zoning Code into the 21st century. PACDC
3 also applauds City Council's engagement
4 in this process and the opportunity for
5 dialogue around a variety of specific
6 issues that have been identified.

7 PACDC encourages City Council
8 to work with the Zoning Code Commission
9 to quickly resolve these issues so that a
10 new Zoning Code can be approved this
11 calendar year.

12 Our members look forward to the
13 opportunity to proactively help shape the
14 future of their neighborhoods and future
15 development through the related district
16 planning process.

17 In order for Philadelphia to
18 succeed and healthy and vibrant
19 neighborhoods to flourish, we need
20 implementation of the new Zoning Code in
21 the near future that will facilitate new
22 restaurants and other small businesses to
23 open on our neighborhood commercial
24 corridors, homeowners fixing up their
25 homes, developers building on vacant land

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2 and to attract new businesses to
3 Philadelphia.

4 PACDC looks forward to the
5 opportunity to continuing to work with
6 the City to advance the new Zoning Code
7 that will address resident and community
8 needs and result in stronger
9 neighborhoods throughout Philadelphia.

10 COUNCIL PRESIDENT Verna: Thank
11 you.

12 MS. Schacter: Hi. My name is
13 Shanta Schacter. I'm the Deputy Director
14 of the New Kensington CDC. Thank you for
15 giving us the opportunity to testify.
16 New Kensington CDC is a non-profit
17 organization dedicated to revitalizing
18 the Kensington, Fishtown and Port
19 Richmond neighborhoods of Philadelphia.
20 Our mission is to strengthen the
21 physical, social and economic fabric of
22 the community by being a catalyst for
23 sustainable development and community
24 building.

25 Since our inception in 1985, we

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2 have been working with various members of
3 the community on zoning-related issues.

4 In areas where there's representation by
5 civic organizations, we work side by side
6 with them, including the Fishtown
7 Neighbors Association, East Kensington
8 Neighbors Association and the Old
9 Richmond Civic Association. Our
10 territory of concern is largely the 19125
11 and 34 zip codes.

12 I'll be brief, since I know
13 that you would prefer that we be brief,
14 but we've written more extensive
15 testimony.

16 We would also like to see this
17 plan pass in this calendar year. We feel
18 like there's been extensive community
19 engagement and opportunity to provide
20 input by members of our community.

21 We've also developed a very
22 strong relationship with the Planning
23 Commission and have full confidence that
24 we'll be able to work through any service
25 gaps between the passing of this Code and

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2 any remapping that's needed.

3 It's critical that we have this
4 in place, because we have an antiquated
5 zoning in the neighborhood, and this has
6 prevented small businesses from opening
7 up. It's put a lot of the burden of
8 going through zoning on community members
9 and, in particular, volunteer community
10 members.

11 One particular example is that
12 Frankford Avenue, which is our primary
13 commercial corridor, is zoned
14 residential. We feel like this Zoning
15 Code will start to alleviate some of
16 those issues.

17 Thank you.

18 COUNCIL PRESIDENT Verna: Thank
19 you. And you said you have further
20 testimony?

21 MS. Schacter: Yes.

22 COUNCIL PRESIDENT Verna: If
23 you give a copy of the testimony, we will
24 give it to the stenographer.

25 MR. White: Madam President, I

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2 believe we gave it to the
3 Sergeant-At-Arms.

4 COUNCIL PRESIDENT Verna:

5 Great. So your testimony will be
6 transcribed in full. Thank you.

7 MR. WHITE: Thank you.

8 COUNCIL PRESIDENT Verna: Good
9 afternoon. Please identify yourself for
10 the record.

11 MR. GE: My name is Xin Ge and
12 I'm giving the testimony of John Chin,
13 who regretfully could not be here in
14 person to testify.

15 Dear Madam President and
16 members of City Council, good afternoon
17 and thank you for the opportunity to
18 testify today. My name is John Chin and
19 I am the Executive Director of the
20 Philadelphia Chinatown Development
21 Corporation, PCDC. PCDC is a
22 community-based organization which
23 represents Chinatown in matters of zoning
24 and planning. In addition, we provide
25 much support to the residents and small

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2 businesses through our development of
3 affordable and market-rate housing,
4 retail development and commercial
5 corridor services.

6 We look forward to the passing
7 of the new Zoning Code and the subsequent
8 remapping of our neighborhood, Chinatown.

9 Philadelphia needs a new Zoning
10 Code. Presently one can find instances
11 in which regulated uses are outdated and
12 not relevant. The Code can be daunting
13 for the businessperson or homeowner. The
14 lack of clear rules deters small
15 businesses from opening on our
16 neighborhood commercial corridors and
17 homeowners from fixing up their houses.
18 The lack of clarity also increases costs.
19 These are the problems that we see when
20 people seek help.

21 The new Code tells every
22 developer or homeowner making an
23 improvement to his or her property
24 exactly what is allowed and what is
25 prohibited. Having clear rules,

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2 developed ahead of time with community
3 input, is a far more effective way of
4 ensuring good development than efforts to
5 stop or change development after it has
6 been approved.

7 The new Code defines a formal
8 role for community in the development
9 process. For the first time, there is a
10 mandate that developers must notify and
11 meet with community groups about large
12 development projects planned in or
13 adjacent to residential areas and
14 projects that do not comply with the
15 Zoning Code.

16 For these reasons, we support
17 the passing of the Zoning Code.

18 Thank you.

19 COUNCIL PRESIDENT VERNA: Thank
20 you very much.

21 Are there any questions from
22 members of the Committee?

23 (No response.)

24 COUNCIL PRESIDENT VERNA:
25 Seeing none, again I thank you.

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2 Our next panel.

3 MR. McPHERSON: Penelope Giles,
4 Christine Knapp and Joe Schiavo.

5 (Witness approached witness
6 table.)

7 COUNCIL PRESIDENT VERNA:

8 You've been very patient and I thank you.

9 MR. SCHIAVO: Thank you.

10 COUNCIL PRESIDENT VERNA:

11 Please identify yourself for the record
12 and proceed with your testimony.

13 MR. SCHIAVO: My name is Joe
14 Shiavo and I'm here on behalf of the Old
15 City Civic Association. Thank you for
16 the opportunity.

17 I understand that Christine
18 Knapp, who is to be part of this panel,
19 is running a little bit late and maybe
20 she'll arrive before I finish. But I
21 will make it brief.

22 My first point is a small,
23 fine-grained point, and OCCA has sent a
24 letter to members of Council, and I have
25 a copy of that letter here for

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2 distribution. And in our letter we're
3 requesting that use table included in the
4 proposed new Code, Use Table 14-502(2) be
5 left intact. Supporting OCCA's expressed
6 position, several Old City residents and
7 businessowners have also written Council
8 making the same request.

9 Use Table 14-502(2) as it
10 appears in the new Code includes certain
11 provisions of the existing Old City
12 overlay and it continues those particular
13 provisions that we think remain vitally
14 important to appropriate and positive
15 development in Old City. So we ask that
16 you, the Council, leave that particular
17 use table as it applies to the Old City
18 residential districts unchanged.

19 Second, on behalf of the Old
20 City Civic Association, I wish to express
21 our support of Councilman Green's
22 memorandum of September 7th wherein
23 Councilman Green outlines and details his
24 ten-point proposal of recommendations and
25 amendments to the preliminary draft Code.

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2 We acknowledge that each point of
3 Councilman Green's memo is offered as
4 subject to improvement by additional
5 input from Council, the Administration,
6 the ZCC and hopefully the public, and we
7 support the principles and points of
8 Councilman Green's proposal.

9 And my last point is regarding
10 special exceptions. Special exception
11 uses in the new Code, replacing the
12 certificate use category of the current
13 Code, is a lower regulatory standard when
14 compared with variance uses, and it
15 presents unintended consequences by
16 unlimited concentration of uses, normally
17 innocuous uses made noxious by
18 unrestricted concentration. Ideally, our
19 new Code would include some form of
20 citywide, across-the-board aggregation or
21 distancing standards to control the
22 concentration of any one or all of these
23 such uses. All of these uses are assumed
24 to carry some detrimental impact on the
25 host community. Otherwise, they would be

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2 permitted by right. And most
3 communities - residential, mixed-use
4 residential and commercial - may find
5 such uses perfectly acceptable, but would
6 they find any one of these uses or all of
7 these uses in concentrations of 10 or 20
8 acceptable or appropriate to the
9 developmental direction of that
10 particular community? I think not.

11 There is no control of the
12 concentration of these uses in a
13 community. And, for instance, in the
14 example of a residential community that
15 is mixed use to the degree that allows
16 any commercial uses by special exception,
17 the community can change, one parcel
18 after another. That residential
19 community could become overly
20 commercialized, because there are no
21 aggregation controls.

22 So I strongly recommend that
23 Council accept the recommendations for
24 distancing and aggregation that are
25 included within the Crosstown Coalition's

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2 paper submitted to Council earlier today.
3 Thank you.
4 COUNCIL PRESIDENT Verna: Thank
5 you.
6 Are there any questions from
7 members of the Committee?
8 (No response.)
9 COUNCIL PRESIDENT Verna: Thank
10 you again, Mr. Shiavo.
11 MR. White: By your lead, Madam
12 Chair, I just wanted to say that we had
13 one of our members of our panel, Gina
14 Snyder, had to leave because of other
15 business, but she did submit written
16 testimony just for the record. Thank
17 you.
18 COUNCIL PRESIDENT Verna: Fine.
19 Did the stenographer get a copy of that?
20 MR. White: I gave it to the
21 Sergeant-At-Arms. I believe she did.
22 Thank you.
23 COUNCIL PRESIDENT Verna: Thank
24 you very much.
25 MR. McPherson: Our next panel

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2 consists of Janet Milkman, Leanne
3 Kruger-Braneky and Lauren Bornfriend.

4 (No response.)

5 COUNCIL PRESIDENT Verna: Are
6 they here?

7 (No response.)

8 MR. McPHERSON: Marion Brown,
9 Leslie Benoliel, Christie Balka and Alan
10 Rubin.

11 (Witnesses approached witness
12 table.)

13 COUNCIL PRESIDENT Verna: Good
14 afternoon.

15 MS. BROWN: Good afternoon.

16 COUNCIL PRESIDENT Verna:
17 Please identify yourself for the record
18 and proceed with your testimony.

19 MS. BROWN: Thank you. My name
20 is Marion Brown. I speak on behalf of
21 the child care community of the
22 Neighborhood Interfaith Movement, a
23 one-stop shop for child care licensing
24 information in Philadelphia, and of the
25 Southeast Pennsylvania Early Childhood

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2 Coalition, also known as SEPECC. Thank
3 you, Chairwoman Council Verna and other
4 Councilmembers, for this opportunity to
5 speak today.

6 I speak in support of moving
7 forward with the proposed new Zoning Code
8 at this time. When the existing Code was
9 written in the 1930s and again when it
10 was revised in the 1960s, child care and
11 many programs for young children as we
12 know them today were not happening. We
13 are pleased that the proposed new Zoning
14 Code fully incorporates child day care
15 and also distinguishes it from adult day
16 care. We appreciate that the proposed
17 new Code is aligned for consistency and
18 definitions with the state regulations.
19 It also clarifies child care as a matter
20 of right in recreation centers, schools,
21 houses of worship, and we appreciate this
22 fact.

23 We do have issues with the lack
24 of uniformity on child care in schools,
25 recreation centers, et cetera. Still, we

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2 urge you to move forward with the Code at
3 this time. There are some additional
4 areas of concern for the child care
5 community which we encourage you to also
6 address in the process of moving the Code
7 forward.

8 We support the amendment or the
9 suggestions made by Councilwoman Brown
10 that would change child care from an "N,"
11 not prohibited use in many districts to
12 an "S," special exception use. We
13 support this variation which fully
14 incorporates into the future Code
15 neighborhood and councilmanic input into
16 any request for variances for special
17 exceptions in these districts.

18 In the C-1 districts, child
19 care is limited to 12 children. In the
20 interest of cutting down on unnecessary
21 ZBA appeals, we urge that this number
22 limit be dropped, because state
23 regulations already limit the number of
24 children based on square footage. This
25 provides a built-in protection for the

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2 community in the state regulations, which
3 should be sufficient. The time of the
4 ZBA is too valuable to require
5 unnecessary appeals.

6 We support uniformity in the
7 Code and believe uniformity would
8 simplify and improve the readability of
9 the Code, as stated in the original goals
10 of the Zoning Code Commission. I refer
11 specifically to the four-to-six carve-out
12 issue covered in Area Maps 1 and 2, as
13 noted on Pages 630 through 633. We
14 believe the use of wards and portions of
15 wards and divisions to determine how many
16 children a person can care for in her own
17 home is an administrative nightmare, a
18 major headache for L&I and an
19 impenetrable complication for providers.
20 It fails to accomplish one of the initial
21 ZCC, Zoning Code Commission, goals, to
22 make the Code consistent and easy to
23 understand. We hope you will work to
24 create more uniformity within the Code
25 and eliminate the need for Area Maps 1

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2 and 2.

3 All of this being noted, I
4 continue to urge City Council to move
5 forward with the Code at this time,
6 preferably with these modifications being
7 suggested.

8 Thank you for your time.

9 COUNCIL PRESIDENT VERNA: Thank
10 you.

11 Good afternoon.

12 MS. BALKA: Good afternoon. My
13 name is Christie Balka and I am Advocacy
14 Director of Public Citizens for Children
15 and Youth.

16 As you know, for more than a
17 quarter century, PCCY has been worked to
18 improved the lives and life chances of
19 Philadelphia's youngest residents, and
20 before I begin my formal remarks, I just
21 want to thank you for fitting this topic
22 in to your busy fall agenda. We're all
23 aware of how much you have to get done
24 this fall.

25 PCCY takes a strong interest in

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2 the proposed Zoning Code, because
3 children need safe, well-designed places
4 to play and learn before, during and
5 after school. They need early childhood
6 education programs that prepare them to
7 enter kindergarten, as members of the
8 class of 2024 did yesterday morning.
9 They need playgrounds and recreation
10 centers, after-school programs and other
11 safe places to go while their parents are
12 at work. These aren't only essential to
13 children's healthy growth and
14 development, but also to the City's
15 workforce.

16 The Zoning Code ensures that we
17 have an adequate supply of these and also
18 that they're located in areas that are
19 accessible to the families that need
20 them. Moreover, compliance with the
21 Zoning Code is a first step that
22 child-serving organizations need to take
23 in order to begin to meet basic health
24 and safety requirements. Without zoning
25 approval, these organizations can't begin

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2 the licensing process.

3 Unlicensed child care is a big
4 problem in Philadelphia. Thousands of
5 kids spend their day in places that are
6 never inspected to make sure they don't
7 have exposed wires, leaky pipes and
8 leaking roofs. Some play outdoors in
9 areas that aren't properly fenced in, and
10 running to catch a ball can become an
11 occasion for an encounter with traffic.
12 Some unlicensed child care programs don't
13 have working fire extinguishers or smoke
14 alarms. If you think I'm being
15 sensational, just ask the people who have
16 to shut these places down when there's an
17 incident that's reported.

18 I want to be clear that no
19 zoning code can guarantee the health and
20 safety of our city's children, but
21 meeting the Code requirements is a
22 pre-condition for complying with basic
23 health and safety requirements.

24 Through research on reasons for
25 this city's unlicensed child care, PCCY

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2 learned a number of years ago that
3 Philadelphia's Zoning Code is difficult
4 and confusing for child care providers to
5 understand and is often interpreted in
6 arbitrary fashion. Being turned down by
7 the Zoning Board doesn't discourage them
8 from opening. They open anyway, but
9 without the required licenses.

10 The proposed revisions are a
11 major step in the right direction. They
12 respond to the needs of today's families
13 and the reality that three-quarters of
14 Philadelphia's children now have what the
15 census terms "all parents" in the
16 workforce. The revisions recognize that
17 different families have different child
18 care needs and preferences. They also
19 recognize that the School District relies
20 on partnerships with over 90
21 community-based organizations to provide
22 pre-K and after-school programs to
23 thousands of children each day. Far from
24 making it easier to open a child care
25 program, as Councilwoman Tasco worried

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2 about this morning, the Zoning Code will
3 make it easier for child care programs to
4 operate legally and in the light of day.

5 The proposed revisions will
6 serve Philadelphia well as we enter a
7 period of transition caused by the School
8 District selling 50 schools and the need
9 to relocate the child care programs that
10 are in them. It's understandable, clear
11 and fair, and it will help retain the
12 City's young families who are responsible
13 for some of its recent population growth
14 and whom we're going to have to work hard
15 to keep as their children approach school
16 age.

17 Having said this, the Code
18 contains exceptions to the definition of
19 family child care in Council Districts 6
20 and 10. There's already a shortage of
21 licensed quality care in these Council
22 districts, and we believe they contain
23 more than their share of unlicensed care.
24 The proposed carve-outs perpetuate the
25 shortage and harm children. PCCY urges

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2 Council to reject the proposed carve-outs
3 in Districts 6 and 10 and for any other
4 district, for that matter.

5 Young families revitalize
6 cities. Parents decide where to live
7 based on opportunities for their
8 children, and employers decide where to
9 locate based on their ability to attract
10 and retain employees. Whether the City
11 has an adequate supply of good child care
12 that's accessible to public
13 transportation, whether it has good
14 schools, playgrounds and green space, all
15 of these things are measured up against
16 the opportunities that other communities
17 offer children and families.

18 Council has an historic
19 opportunity to approve a new Zoning Code.
20 Change is never easy, but we believe
21 we've had plenty of time as a city to
22 consider this and it's time to take the
23 next step. PCCY urges you to resist the
24 temptation to create special carve-outs
25 for any district and to approve the

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2 proposed Code before you adjourn this
3 December.

4 COUNCIL PRESIDENT Verna: Thank
5 you.

6 Our next witness.

7 MR. RUBIN: Good afternoon,
8 Madam Chairman.

9 COUNCIL PRESIDENT Verna: Good
10 afternoon.

11 MR. RUBIN: My name is Alan
12 Rubin and I am Chairman of the Zoning
13 Committee of the Spring Garden Civic
14 Association, a position I've held for 44
15 years. I'm also President this year once
16 again.

17 I'm here to speak of one thing.
18 We are a historic district and have been
19 for some time, and we've developed areas
20 from 24th Street down just about to Broad
21 Street, and Broad Street is now being
22 developed from Spring Garden to
23 Fairmount. Within that area, there are
24 approximately 20 vacant in-fill lots that
25 have been empty for some time. The

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2 zoning proposal incorporates the existing
3 Historic Preservation Ordinance.

4 Unfortunately, the present ordinance --
5 if a lot has been in existence for a
6 period of time preceding the historic
7 designation, which was about 15 years
8 ago, the Historic Commission really has
9 no say in what the building looks like
10 that goes in there. And these are all
11 house fronts. PHA owns lots they've
12 owned for many years. They're apparently
13 going to sell those. We have no idea
14 without controls what will go in there.
15 There are blocks that are 42 feet high,
16 the buildings are 42 feet high. There's
17 no regulation presently that would
18 provide mandatory building of a building
19 so the roof lines would be level
20 throughout the block. So if there's a
21 vacant lot in that block, someone can
22 build a two-story building. They could
23 build a three-story building. They could
24 have the windows in different proportions
25 to what's there. Just imagine a

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2 hypothetical, the 1800 block of Delancey
3 Street, it had a vacant lot for 50 years.
4 Someone could go in there and build a
5 two-story building. It would destroy the
6 looks of that block. And we have 15 or
7 so empty lots in historic blocks. And I
8 believe that the Historic Commission
9 should have control over what goes in
10 there in terms of its appearance, in
11 terms of its contextual nature and it
12 should look like it belongs there.

13 Under the present ordinance,
14 they only have basically advice, but they
15 have no control. There's basically a
16 30-day delay and they will get the permit
17 to build a two-story house or to build a
18 PermaStone front or to build anything
19 they choose. And right now we're
20 getting -- we're under a lot of pressure
21 from developers and there are some lots
22 that are owned by speculators, and this
23 is an imminent danger to us.

24 Thank you very much for your
25 attention. I appreciate it. Thank you.

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2 COUNCIL PRESIDENT VERNA: Thank
3 you.

4 MS. PHILLIPS: Good afternoon,
5 Council President Verna and members of
6 City Council. My name was added to the
7 list late. My name is Rasheedah Phillips
8 and I'm an attorney at Community Legal
9 Services in the Community Economic
10 Development Unit working on the Child
11 Care Law Project. I provide legal advice
12 and representation to low-income,
13 non-profit and for-profit child care
14 providers, and I also collaborate with a
15 few non-profit organizations that serve
16 as a resource to the child care
17 community, such as the Southeastern
18 Pennsylvania Early Childhood Coalition.

19 The child care community has
20 been an active participant in the Zoning
21 Code reform for the past several years.
22 My colleagues and I have attended nearly
23 all of the ZCC meetings, have provided
24 input at community meetings and have made
25 extensive recommendations to the ZCC that

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2 would allow child care to be a clearly
3 defined and clearly understood part of
4 the Code, where it has been virtually
5 absent or largely inconsistent in
6 previous versions of the Code.

7 Throughout the reformation process, the
8 ZCC has recognized the use of fair land
9 use regulations to the establishment of
10 quality child care programs, has heard
11 our concerns and has taken the vital step
12 of including child care into the Code in
13 a meaningful way. The new Code inclusion
14 of child care makes sense at a time of
15 decreased funding for education and
16 economic development. Residents of the
17 City must have the ability to fill these
18 funding gaps by creating their own
19 educational and recreational programs.

20 The draft Code, in its present
21 form, includes clear definitions of child
22 care that are more consistent with state
23 regulations; recognition of child care
24 programs as public, civic and
25 institutional uses that provide unique

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2 services that are of benefit to the
3 community as a whole; and clarifies the
4 use of recreation centers, schools,
5 religious institutions and other
6 facilities for child care use. Many of
7 the barriers that once stood in the way
8 of creating child care programs bound by
9 zoning regulations have largely been
10 eliminated, and the Code is now much more
11 accessible and user friendly for
12 providers who rely on zoning to increase
13 the economic resources in their
14 neighborhoods and provide child care to
15 families. We strongly encourage the
16 adaptation of the Code at this time.

17 However, despite the
18 significant progress that the Code has
19 made with child care issues, there
20 remains some inconsistencies in lingering
21 areas of concern. I will provide just a
22 few examples.

23 We urge you to make group and
24 center day care a special exception use
25 in all zoning districts, similar to the

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2 special exception use status granted to
3 religious institutions, schools and
4 libraries. Just to be clear, we are not
5 asking for expanded uses, and day cares
6 do not typically threaten health, safety
7 or welfare of communities. We are asking
8 for a balance between community
9 determination and child care regulations.

10 We are asking that you
11 eliminate the up to 12 children
12 limitation for C-1 properties. Many
13 properties in Philadelphia are large
14 enough to accommodate child care for 13
15 or more children. In addition, state
16 regulations include square footage
17 requirements to ensure that a particular
18 child care facility has appropriate
19 measurement and use of indoor space to
20 accommodate particular numbers of
21 children.

22 We ask that you permit child
23 care in multi-family dwellings, such as
24 duplexes, for up to three children.
25 Often families living in apartment

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2 complexes view their neighbors in the
3 same complex as their community.

4 Restricting child care as a use within
5 multi-family dwellings deny these
6 families the opportunity to use local,
7 familiar, community-based child care. In
8 addition, permitting child care in
9 multi-family structures will allow
10 existing providers in multi-family
11 settings to come forward, obtain
12 municipal licensing, pay business taxes
13 and use resources to benefit children in
14 their care.

15 Finally, we ask that you bring
16 uniformity of regulation of child care
17 options throughout the City by
18 eliminating the Area Maps 1 and 2, or
19 what was formerly known as the 6 and 10
20 District carve-outs, which reduce the
21 number of children a provider can care
22 for in the areas that the City maps
23 cover.

24 All of these suggestions would
25 help to cut back on unnecessary appeals

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2 to the ZBA that are expensive and time
3 consuming to providers and will cut back
4 on time and resources necessary to
5 interpret, administer and enforce the
6 Code.

7 We strongly appeal to City
8 Council members, members of the ZCC and
9 L&I to pay further attention to these
10 concerns and, after passing the Code, to
11 continue to work with the child care
12 community to resolve these issues so that
13 child care programs can continue to
14 thrive and fulfill their important
15 communal function of providing safe
16 spaces for children to learn and play
17 while their parents go to work and
18 school.

19 Again, we urge you to pass the
20 new Code and allow Philadelphia to take a
21 step forward for children and all the
22 people in the City who depend upon
23 equitable administrative processes to
24 build and strengthen their communities.

25 Thank you.

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2 COUNCIL PRESIDENT Verna: Thank
3 you.

4 Are there any questions of
5 these witnesses?

6 (No response.)

7 COUNCIL PRESIDENT Verna:
8 Seeing none, I thank you very much.
9 Thank you.

10 Before our next witness is
11 called, before I forget, I know that we
12 have a letter here from the Committee of
13 Seventy, which will be made part of the
14 record.

15 Our next panel.

16 MR. McPHERSON: Christine
17 Knapp, Janet Milkman, Leanne
18 Kruger-Braneky or Lauren Bornfriend.

19 (Witnesses approached witness
20 table.)

21 COUNCIL PRESIDENT Verna: Good
22 afternoon. Please identify yourself for
23 the record.

24 MS. KNAPP: Good afternoon.
25 I'm Christine Knapp. I'm the President

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2 of the Board of Passyunk Square Civic
3 Association. Passyunk Square serves the
4 area from Washington Avenue to Tasker
5 Street between 6th and Broad Streets in
6 South Philadelphia. The mission of the
7 Passyunk Square Civic Association is to
8 enhance the quality of life in the
9 neighborhood, preserve the neighborhood's
10 unique historic character and to promote
11 a cohesive community of residents,
12 businesses and institutions.

13 PSC has many active committees
14 and projects. Among them are
15 Beautification, Communications, Town
16 Watch, Planning, Fundraising, Education
17 and Zoning. Of those committees, the
18 Zoning Committee carries out one of the
19 most important functions of our civic
20 association in helping us to meet our
21 mission. The Zoning Committee holds
22 monthly meetings to review, monitor and
23 effect positive change to proposed zoning
24 applications made in our stated
25 boundaries. The Zoning Committee

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2 represents the community's interest and
3 serves to effect changes to resolve valid
4 objections presented by the public.

5 In 2005, we signed on as a
6 supporter of the Next Great City agenda,
7 which included a recommendation that the
8 City's Zoning Code be modernized and
9 updated. We believe that an update to
10 this outdated Code will be good for our
11 neighborhood and neighborhoods around the
12 City, as a strong code can help protect
13 neighborhood character, allow sustainable
14 growth and make it easier for the average
15 citizen to understand and engage in the
16 process.

17 After following the work of the
18 Zoning Code Commission over the past few
19 years, we would like to commend and thank
20 the hard-working members of the ZCC, as
21 well as others who have helped advance
22 this important effort. The Passyunk
23 Square Civic Association would like to
24 offer our support for the passage of the
25 updated Code for a few specific reasons.

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2 First, the proposed Code
3 formalizes the role that community groups
4 like ours should play in reviewing and
5 approving development in our
6 neighborhood. The new Code requires
7 developers to notify registered community
8 groups about the project and to meet with
9 them. Until now, the onus was on our
10 group to seek out development projects in
11 our neighborhood. This process should
12 help our Zoning Committee and ensure good
13 communications with developers. I would
14 also hope that this committee engagement
15 requirement would establish new community
16 groups in underrepresented neighborhoods.

17 Next, we support the updated
18 Code for providing additional tools that
19 help preserve neighborhood character.
20 The updated draft provides clear rules on
21 building height and setback and also
22 establishes a Civic Design Review
23 Committee to ensure that major projects
24 are developed in a way that enhances
25 rather than harms quality of life in the

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2 neighborhood. Passyunk Square has seen
3 several such projects proposed in our
4 neighborhood where a clear process to
5 engage the developers, community members
6 and design professionals would have been
7 helpful. We also can anticipate large
8 projects in our future, such as the Ice
9 House plot located in the Lower 9th
10 Street Italian Market, which could easily
11 make or break a historic part of our
12 neighborhood.

13 Next, we support the updates
14 that have been included to help modernize
15 and simplify the Code so that it is a
16 more useful, understandable and relevant
17 tool for us to use. The new Code defines
18 new types of uses, such as community
19 gardens, that didn't exist in the 1950s
20 so that they may be appropriately
21 recognized and regulated. With two
22 community gardens in our boundaries and
23 plans to bring on more in the future,
24 this is one clear example of how this new
25 Code can help make things easier for our

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2 group.

3 The new Code is also simpler
4 and easier to read so that members of our
5 Zoning Committee, our Board and any other
6 concerned citizen would be able to read
7 and understand it and apply it to our
8 community. Previously it was often
9 necessary to rely on attorneys to help
10 understand and interpret the Code.

11 Lastly, we are glad to see that
12 the updated Code supports additional but
13 appropriate growth. While our
14 neighborhood has seen a tremendous
15 rebirth over the past few decades with
16 two booming commercial corridors,
17 affordable and steady home sales and a
18 diversity of residents, there are still
19 many abandoned homes and empty lots in
20 our community. In the majority of cases,
21 the best use for these lots is for them
22 to be developed. The development in
23 Philadelphia has often been hampered by
24 an unclear and even unfair Zoning Code.
25 The new Code provides clear rules and

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2 predictability that should allow
3 developers who want to do business in our
4 neighborhood to proceed.

5 In addition, there are a few
6 additional suggestions we would like to
7 make. While an updated Code will go a
8 long way, changes should also be made to
9 the Zoning Board of Adjustment's process
10 and procedures to make it more
11 transparent and easier for community
12 groups to engage. One issue, for
13 example, is that ZBA members often vote
14 in private so the public cannot hear or
15 debate their debate or learn about what
16 considerations affected their decisions.
17 These meetings are also held during
18 regular work hours, putting a burden on
19 community members who want to attend and
20 preventing many others from
21 participating. After decisions are made,
22 there's no easy and clear method by which
23 the decisions are communicated back to
24 the community so that they can easily
25 track these results. In this day and

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2 age, there must be a simple technological
3 solution that would help make
4 communication about ZBA solutions easier
5 to get to the community groups.

6 The Civic Association Zoning
7 Committee has experienced several
8 problems where our letters stating either
9 our opposition or non-opposition have not
10 shown up at the ZBA hearing. We send our
11 letters to the ZBA, to the attorney of
12 the developer, to the Planning
13 Commission, to our District Councilman
14 and others, and we confirm receipt. Yet,
15 on several occasions, they have not been
16 acknowledged at the ZBA meeting, and
17 therefore, our input was not factored
18 into the ZBA's decision-making.

19 We urge City Council to pass
20 this updated Code and to also work with
21 the Mayor to address these communication
22 and transparency issues so that the
23 zoning process is improved from top to
24 bottom.

25 Thank you.

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2 COUNCIL PRESIDENT VERNA: Thank
3 you.

4 Good afternoon. Please
5 identify yourself for the record.

6 MS. KRUGER-BRANEKY: Good
7 afternoon. Leanne Kruger-Braneky,
8 Executive Director of the Sustainable
9 Business Network of Greater Philadelphia.

10 I'm pleased to submit this
11 testimony in support of the Zoning Code
12 Commission preliminary report to City
13 Council presented in May 2011. I speak
14 on behalf of the Sustainable Business
15 Network of Greater Philadelphia, a
16 500-member non-profit business
17 organization that brings together local
18 businessowners who want to grow
19 successful companies that are socially
20 and environmentally responsible. I urge
21 City Council to adopt the recommendations
22 of the Zoning Code Commission as
23 presented originally in May. The Zoning
24 Code Commission is to be applauded for
25 its intensive three-year process to draft

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2 an updated, sensible and fair Zoning
3 Code, which pays special attention to the
4 places where the current 50-year-old
5 Zoning Code is having a negative effect
6 on our businesses and residents.

7 At the Sustainable Business
8 Network, there are two main reasons why
9 we support the recommendations in the
10 preliminary report. First, they will
11 make it easier for the City to realize
12 its goal of becoming the greenest city in
13 the country. The revised Code makes it
14 easier for neighborhoods, residents and
15 businesses to put sustainable practices
16 in place. For example, in Kensington and
17 Mount Airy, Germantown and West
18 Philadelphia, urban farms have become
19 true treasures in their neighborhoods.
20 These farms are creating new jobs,
21 educating youth and providing healthy,
22 affordable food for their communities.
23 Under the current Zoning Code, however,
24 there's no zoning for urban agriculture.
25 Without being zoned as farms, these

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2 properties are vulnerable.

3 In another example,
4 Philadelphia has recognized the value of
5 alternative energy as a way to create new
6 jobs, protect the environment and to save
7 money. But the current Zoning Code
8 limits energy production to industrial
9 districts alone, making it harder to
10 place solar panels and wind turbines in
11 other areas of the City.

12 The second reason why the
13 Sustainable Business Network supports the
14 Zoning Code is that it will make it
15 easier for small businesses to do
16 business in the City of Philadelphia.
17 Through recent interviews and surveys
18 with over 100 small businessowners, we've
19 discovered that they are overwhelmed and
20 often derailed by the difficulty of doing
21 business in the City. The current Code
22 contributes to this challenge. The
23 existence of 36 different zoning overlays
24 makes it virtually impossible for a
25 business to know where it can locate.

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2 Businesses often need to spend the money
3 to hire a lawyer to interpret conflicting
4 and confusing provisions, and
5 Philadelphia's sign requirements are so
6 complex and inconsistent that it often
7 takes weeks and hundreds of dollars in
8 fees just for a business to get approval
9 to hang a sign.

10 Furthermore, 52 percent of
11 small businesses in Philadelphia are
12 currently home based, yet under the
13 current Code these businesses are
14 technically illegal, but they are
15 providing essential income to a large
16 portion of our population.

17 It's essential that City
18 Council pass this new Code to improve the
19 viability of small businesses by creating
20 a more predictable business environment.
21 Small businesses may seem small, but they
22 actually contribute over half of all new
23 jobs in Philadelphia. If we want to see
24 more jobs, a healthy environment and more
25 economic opportunity for all

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2 Philadelphians, we need to do everything
3 possible to help these businesses
4 succeed. Authorizing a reformed zoning
5 code that provides clear, universal
6 guidelines for doing business in the City
7 of Philadelphia is an important first
8 step and one that Council must take soon.

9 Thank you.

10 COUNCIL PRESIDENT Verna: Thank
11 you.

12 Are there any questions from
13 members of the Committee?

14 (No response.)

15 COUNCIL PRESIDENT Verna:

16 Seeing none, I thank you. Thank you very
17 much. You were very patient.

18 MR. McPherson: Our next panel
19 is Tiffany Green, Marjorie Greenfield,
20 Barnaby Wittles, Yvonne Haskins and
21 Tracey Gordon.

22 (Witnesses approached witness
23 table.)

24 COUNCIL PRESIDENT Verna:

25 Again, I'm going to ask if you could be

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2 as brief as possible, please. We're
3 losing an awful lot of our witnesses
4 because of the time. Thank you.

5 Please identify yourself for
6 the record.

7 MS. GREENFIELD: My name is
8 Marjorie Greenfield. I am First
9 Vice-President of East Falls Community
10 Council. I chair its Zoning and Land Use
11 Committee, and I appreciate the time to
12 testify before you again today. I also
13 want to thank the members of the ZCC,
14 with whom I have worked through the
15 Crosstown Coalition, for their hard work
16 and the members of the Crosstown
17 Coalition, who turned out to be a
18 wonderful bunch of people with whom to
19 work, and we do believe there have been
20 many improvements over the very first
21 drafts of the Zoning Code.

22 We do endorse the
23 recommendations of the various members of
24 the Crosstown Coalition, who have
25 previously testified, and I also want to

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2 give special notice to the memorandum
3 from Councilman Green. We share his
4 concerns.

5 East Falls Community Council is
6 a 501(c)(3) organization. It's resident
7 based, transparent. Our members come to
8 Zoning Committee meetings at which they
9 express their opinions. They come to
10 monthly community meetings at which they
11 voice their opinions. And we are
12 supportive of a new Zoning Code.

13 We have some significant
14 concerns, some of which were expressed in
15 detail in the piece on special
16 institutional districts, which you've
17 already received from the Crosstown
18 Coalition. I have another copy -- it's
19 slightly revised -- attached to my
20 testimony today, which I will submit.

21 We are concerned about the
22 improved but not yet adequate
23 participation by community organizations
24 with respect -- especially with respect
25 to institutional development districts,

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2 and that's where I want to focus my
3 attention.

4 I reiterate what I've said
5 before. This city is a city of
6 neighborhoods. They each have a slightly
7 different character, and one size does
8 not fit all. Therefore, we are concerned
9 about preserving overlays and we are
10 concerned about how IDD's, institutional
11 development districts, will fit into this
12 picture.

13 We want to make sure that the
14 mechanism for meaningful neighborhood
15 participation in and control over the
16 decision-making process with respect to
17 IDDs is created, and there is none in
18 that section of the Code.

19 These districts or the
20 potential for these districts exist in
21 every single councilmanic district,
22 because they may include schools,
23 hospitals, governmental facilities and,
24 most importantly, commercially related
25 facilities which might support those

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2 other institutions. That's a very broad
3 term, "commercially related facilities."
4 It needs to be defined. At present, it
5 has not been defined.

6 In East Falls, we are
7 struggling now with the issues about
8 institutional growth and development, and
9 we are trying with three major
10 educational institutions in East Falls to
11 develop long-term plans for their
12 prosperity and growth in the midst of our
13 residential community.

14 These districts have to be
15 subject to contextual considerations;
16 that is, consideration of the character
17 of the neighborhoods in which they reside
18 or will be developed, and they have to be
19 developed with the involvement of the
20 residents in the neighborhood.

21 The best way I can bring the
22 problems home to you is to tell you a
23 little about what we're doing in East
24 Falls. Supported by our Planning
25 Commission District Plan, we're working

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2 with Philadelphia University, Drexel
3 University Medical School and the William
4 Penn Charter School to develop long-range
5 land use plans for each school. All
6 three are presently good neighbors and
7 they have agreed to work with us on that.
8 They share many of our goals for
9 preservation of neighborhood character,
10 including open green space. However,
11 there's one comment made by one senior
12 officer of one school after six months of
13 working together and meeting in committee
14 with regard to his school which
15 illustrates why the changes we need are
16 so important and the changes that we
17 mentioned in our memo.

18 At our last meeting, after
19 discussion and an attempt to summarize
20 where we have been up to that point in
21 the series of meetings we've held about
22 what buildings will go where on a part of
23 the campus and what should remain open
24 space and what kind of buffers we need,
25 he said, I'm very reluctant to make any

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2 commitments about where we might build,
3 because what if a large donor comes along
4 and wants to put a building in a space
5 we've agreed should remain green?

6 Money speaks. It speaks in
7 East Falls and in the rest of the City.
8 It speaks at the site of these -- old
9 site of the Eastern Pennsylvania
10 Psychiatric Institute on Henry Avenue
11 where there is the temporary Youth Study
12 Center location.

13 The Multi-Community Alliance
14 has sought for years to have a commitment
15 from the City and the State to have that
16 site cleared so it be ripe for
17 development, and we can't get it because
18 of money. But in the case of the
19 institution which said, Well, we agree
20 with you on this and we agree with you on
21 that and we agree with you on the other
22 thing, but we can't make a commitment
23 because someone might want to give us
24 some money and not want to do what we all
25 want to do, the problem is we don't have

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2 adequate controls in the IDD section of
3 the Code.

4 That is why we need mandated
5 buffers, signage controls, watershed
6 protection, fence limits, parking
7 controls and the other items on our list.
8 This is why, most importantly, we need a
9 strong built-in process for community
10 participation in the creation of
11 institutional plans. There's no
12 provision in the draft that is before
13 you.

14 We also need to make sure that
15 these districts are not created out of
16 one or two or three residential
17 properties which are located in the
18 middle of a residential district, which
19 is exactly what could happen in East
20 Falls, in Chestnut Hill and in other
21 parts of the City, not all parts, I
22 agree, if the minimum size of an IDD is
23 not increased to ten acres from the
24 present three.

25 Our detailed proposals are

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2 attached to my testimony. There is a
3 need for contextual consideration.

4 Planning for new institutions along Broad
5 Street or on Lehigh Avenue might not
6 require the deep setbacks we request.

7 However, there's no excuse for omitting
8 altogether the items we have listed. We
9 do not want to be dependent on the
10 goodwill of either the entity planning
11 the use or, with all due respect, the
12 Planning Commission. We hope successful
13 neighborhoods will endure, but the people
14 who hold government positions and
15 institutional positions change.

16 Lastly, I'd like to address
17 Councilman Green's memo very briefly. He
18 mentioned a couple of items, including
19 industrial-zoned districts, and there was
20 some discussion this morning. Well,
21 we're talking a lot of the ones that
22 people seem to be concerned about are
23 zoned G whatever. We have a number of
24 industrial-zoned districts, some along
25 Ridge Avenue in the heart of our

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2 commercial district and across from the
3 brand new Dobson Mills Apartment Complex
4 which is zoned L, and as it now stands
5 and under the new Code, they would be
6 subject to halfway houses and other kinds
7 of uses, which are totally inappropriate
8 in that context. We have another one on
9 Indian Queen Lane, which was the subject
10 of -- which is right across the street
11 from a playground and residential homes,
12 single-family homes, which was recently
13 the subject of an attempt to put the SVU
14 unit there. We appreciate our
15 Councilman's rejection of that proposal.
16 But Councilman Green is right on with his
17 concern about industrial uses.

18 And, finally, we share --

19 COUNCIL PRESIDENT VERNA: Thank
20 you. I would really appreciate it if you
21 could summarize.

22 MS. GREENFIELD: One more.

23 We would appreciate his
24 suggestion with regard to methadone
25 centers being extended to include

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2 outpatient treatment centers for any kind
3 of abuse. They all carry the same
4 problems for residential areas.

5 We appreciate your time, and we
6 welcome questions.

7 COUNCIL PRESIDENT Verna: Thank
8 you so much.

9 Good afternoon. Please
10 identify yourself for the record and
11 proceed with your testimony.

12 MS. BORNFRIEND: Good
13 afternoon. My name is Lauren Bornfriend
14 and I'm the Executive Director of the
15 Philadelphia Parks Alliance. I was
16 originally scheduled to be on Panel 8.

17 COUNCIL PRESIDENT Verna: Okay.

18 MS. BORNFRIEND: Thank you for
19 the opportunity to testify here today.

20 The Philadelphia Parks Alliance
21 mission is to champion the public's
22 interest in outstanding parks, recreation
23 and open space, which we feel are key to
24 making Philadelphia a healthy, vibrant
25 and sustainable city for all

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2 Philadelphians.

3 In 2007, 80 percent of
4 Philadelphia's voters cast their ballots
5 in favor of zoning reform by establishing
6 the Zoning Code Commission. Now almost
7 four years later, the Philadelphia Parks
8 Alliance asks City Council to pass the
9 draft Zoning Code into law during the
10 next three months.

11 A new Zoning Code will impact
12 the quality of life for Philadelphians
13 and our parks in several ways. It will
14 explicitly offer a parks and open space
15 zoning classification, which can be
16 applied to publicly owned parkland or
17 privately owned land with the owner's
18 consent. This will allow developers to
19 dedicate green space for parks to be open
20 to the public on their privately held
21 land.

22 Parks always benefit from
23 thriving, active neighborhoods. Clear
24 rules for development will help to
25 revitalize blighted vacant land and will

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2 attract residents and businesses to
3 support and enjoy our city's parks.

4 The new Zoning Code will
5 promote the greening of Philadelphia's
6 public areas.

7 Finally, I would like to thank
8 City Council for passing the Parkland
9 Protection Ordinance in April 2011 after
10 a comprehensive, open and public process.
11 Through this law, we have achieved a
12 positive balance between parks and
13 ancillary uses. That work is done and
14 the Zoning Code does not need to revisit
15 these issues.

16 Thank you very much for your
17 time.

18 COUNCIL PRESIDENT Verna: Thank
19 you. Thank you for being brief.

20 MR. WITTLES: Good afternoon,
21 President Verna, Councilmembers. My name
22 is Barnaby Wittles. I'm a member of the
23 East Falls Community Council Zoning
24 Committee, and like Ben Franklin, my
25 favorite title is citizen.

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2 I first want to applaud, as I
3 think many others have, the hard work and
4 extensive research that's gone into this
5 Zoning Code. It is a quantum leap ahead
6 of what we have.

7 Nonetheless, it is a document
8 that comes from a one-size-fits-all model
9 which we have tried to nip -- and I say
10 "we," I mean everyone in the process --
11 just tried to nip and tuck and adjust.
12 The problem with that -- and it's a
13 problem of longstanding -- is that
14 Philadelphia is a city of neighborhoods,
15 each one of which is unique, each one of
16 which is precious. This tension really
17 goes back before zoning was created to
18 the City-County Consolidation Act of 1852
19 when the outlying entities and townships
20 and boroughs all wanted to preserve their
21 own nature. For example, Germantown
22 insisted as part of their vote that they
23 get their City Hall, which was then
24 erected some years after 1852.

25 I want to talk next

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2 specifically about East Falls. There is
3 a very pressing issue that has been
4 raised in a couple of different ways.

5 First, I'll hand up when I'm done a
6 letter from Sharon B. Jaffe, who is a
7 citizen and lives near where the problem
8 exists.

9 One of the problems given the
10 way that East Falls is constructed is
11 that when restaurants vent, the odors go
12 into close proximity to where there are
13 residences. East Falls Community Council
14 did not vote to have scrubbers as a
15 requirement. We felt that it might be
16 financially onerous. But Ms. Jaffe
17 points out powerful reasons why that
18 should be, and that's in her testimony.
19 She couldn't be here today.

20 At a minimum, we believe that
21 venting should be through the roof. It's
22 only fair to the adjacent neighbors, who
23 don't need to smell all what they think
24 are not wonderful smells and some other
25 people may think are. Maybe there will

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2 come a time when we can help businesses
3 with this new green technology, and I
4 devoutly hope that.

5 The other thing I want to
6 address is the CMX-2.5, which omits
7 taking into it the ordinance passed in
8 1999 for the Philadelphia East Falls
9 Special District Controls. I won't
10 enumerate them because they're in the
11 statute. And we strongly feel that these
12 should be ported into any Zoning Code
13 that's adopted. These very carefully and
14 well regulate the height and breadth of
15 the buildings, as well as the setback.
16 They help to preserve the unique
17 character of that neighborhood, which the
18 Zoning Code doesn't do. It permits
19 buildings that are wider and taller, and
20 that really their construction would be
21 unfair to the very close-by neighbors.

22 One other remark by way of
23 illustration of although there's been a
24 great deal of progress with this Zoning
25 Code, it needs further work, is in CMX-3,

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2 for example. Wireless service facilities
3 are permitted as a building or
4 tower-mounted antenna. Well, I can't
5 tell you how outraged people get when
6 anybody even tries to put that. Near me
7 they tried to put one in, and I think
8 they finally did in a church bell tower,
9 completely unoffensive, but there was a
10 great deal of trouble in the
11 neighborhood.

12 The second thing that's
13 permitted, for example, is a multi-level
14 structure such as a garage. That may
15 work other places, but East Falls is a
16 compact neighborhood and it really won't
17 work there.

18 So although while we've gone a
19 great way toward where we need to go,
20 there's a great way yet to go.

21 Thank you.

22 COUNCILMAN DiCICCO: Thank you.

23 Next panel, please.

24 MR. McPHERSON: The next panel
25 consists of Stephanie Kindt, David

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2 O'Neill, John Gallery, Paul Boni.
3 (Witnesses approached witness
4 table.)
5 COUNCILMAN DiCICCO: Good
6 afternoon.
7 MR. GALLERY: Good afternoon,
8 Councilman DiCicco.
9 COUNCILMAN DiCICCO: John,
10 excuse me. Ladies first.
11 MR. GALLERY: My pleasure.
12 MS. KINDT: Good afternoon,
13 esteemed members of City Council. My
14 name is Stephanie Kindt. I'm the staff
15 attorney for SCRUB, the Public Voice for
16 Public Space. I'm also on the Board of
17 Overbrook Farms Club. I'm here today
18 testifying on behalf of SCRUB. I'll be
19 very brief. Thank you so much for
20 hearing my testimony.
21 With regards to the preliminary
22 draft report, it's completely understood
23 that the signage section is being put off
24 and work is occurring now in finalizing
25 those chapters. However, there are some

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2 subtle changes that have been made from
3 the prior Code that could have dramatic
4 and drastic impact on certain sections of
5 the City. It's to those points that I
6 speak today.

7 The first is the Food
8 Distribution Center -- the former Food
9 Distribution Center, which has not been
10 reclassified or redesignated. There are
11 current plans in the works, but it's not
12 been designated for any future
13 development. The new preliminary draft
14 report allows signage, billboards, as a
15 matter of right in that district. We
16 would like to, as part of the working
17 group proposed by Councilman Green,
18 discuss that specific area and put a
19 moratorium on any changes to signage
20 regulation in that area.

21 With regards to -- there's also
22 some issues with distancing requirements
23 in commercial districts that would abut
24 residential districts. There are some
25 subtle changes from 500 -- it's currently

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2 1,000, and in the preliminary draft
3 report it goes to 500 feet.

4 So there are just a few subtle
5 changes that we really would like to
6 highlight and have those addressed in any
7 further working groups that would
8 continue on the Code.

9 That concludes my testimony.
10 Thank you so much.

11 COUNCILMAN DiCICCO: Thank you.
12 Thank you for your testimony and thank
13 you for being brief.

14 John, you're on.

15 MR. GALLERY: My name is John
16 Gallery. I'm the Executive Director of
17 the Preservation Alliance. I've handed
18 in a copy of my full testimony and I
19 won't read it. I'll just briefly
20 summarize the key points.

21 The testimony addresses two
22 issues. One is the issue of the
23 institutional development districts and
24 the size and the controls in them, which
25 has been addressed in detail by the

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2 Crosstown Coalition, so I'm not going to
3 speak to that, except to say that we
4 support the changes which the Crosstown
5 Coalition is recommending. We think
6 they're important for historic districts.

7 However, the primary change
8 that we would like Council to recommend
9 to the Zoning Code Commission has to do
10 with the issue that Alan Rubin spoke to
11 earlier about Spring Garden Street, and,
12 that is, the lack of full review by the
13 Historical Commission over new
14 construction in historic districts in
15 certain instances. The last page of my
16 testimony includes an illustration, which
17 you probably are familiar with,
18 Councilman DiCicco, which was a high rise
19 tower proposed in the Old City District
20 exceeding the height of the Christ's
21 Church steeple, but this proposal, even
22 though it had a dramatic impact on Old
23 City District, did not come under the
24 jurisdiction of the Historical Commission
25 to review because it was built on a

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2 parking lot that had been vacant at the
3 time the district was recommended.

4 We feel that it is confusing to
5 developers and property owners that some
6 new construction is reviewed by the
7 Historical Commission, but other new
8 construction is not, and it would be
9 clearer for everybody if all new
10 construction were reviewed by the
11 Commission.

12 This would require simply
13 changing Section 14-1005, Section 4 and
14 deleting that section. There would be no
15 additional burden for property owners,
16 because they already have to submit for
17 review and comment to the Commission.
18 There would be no additional burden on
19 the Commission since they already have to
20 review these items. And it would apply
21 in a limited number of cases. It really
22 would only apply to historic districts,
23 of which there are 12, and even within
24 those 12, it really is only relevant for
25 those that are in or near Center City,

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2 which are experiencing these larger type
3 development projects. However, in those
4 neighborhoods, it would have a tremendous
5 benefit and ensure the issues that
6 Mr. Rubin discussed earlier in Spring
7 Garden are taken into consideration when
8 new construction is occurring in historic
9 districts.

10 That is the end of my
11 testimony. I would like to just add a
12 note, however. Councilman Green asked me
13 earlier what my view was on the Developer
14 Workshop's recommendation that the
15 Historical Commission make a complete
16 stenographic record similar to the Zoning
17 Board of Adjustment. I've had a chance
18 to think about that a little bit, and
19 there are definitely pros and cons to
20 that idea.

21 Right now all appeals go to the
22 Board of L&I, and the only reason they go
23 to the Board of L&I is to create a
24 written record since the Historical
25 Commission does not create a written

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2 record.

3 If the Commission created a
4 written record, it would eliminate that
5 step in the appeal process, which would
6 simplify the process for many developers.

7 But on the other hand, you would
8 considerably lengthen the time period
9 necessary for the Historical Commission
10 action. Right now if the Historical
11 Commission doesn't act within a 45- to
12 60-day time period, the application is
13 considered approved. That time
14 constraint makes certain that decisions
15 happen quickly. If you had to do a
16 stenographic record, cross-examination by
17 attorneys, the procedure would be much
18 lengthier. You would have to extend that
19 date, and on complicated cases that
20 currently get Historical Commission
21 action in maybe two months, you would be
22 unable to get action in less than
23 probably six months.

24 There are relatively few cases
25 that go to the L&I Review Board for

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2 appeal from the Historical Commission.

3 So I'd have to say on balance, I don't
4 think the additional time that would be
5 enforced on everybody -- the Historical
6 Commission would probably have to meet
7 more than once a month to be able to do
8 this -- would be longer for all
9 applicants. I'm not sure there are
10 benefits to that. I think leaving the
11 system as it currently is might still be
12 the best.

13 Thank you.

14 MR. O'NEILL: Good afternoon.

15 My name is David O'Neill. I'm from
16 Roxborough, and I'm representing the
17 Friends of Manatawna Farm.

18 We were here less than a year
19 ago when City Council unanimously
20 supported the enactment of the Roxborough
21 Environmental Control District, and the
22 new Zoning Code would -- we sort of fall
23 through the cracks with that. We have
24 not been -- the overlay was not moved
25 along into the proposed Zoning Code, and

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2 we request that Chapter 14-500 of the new
3 Zoning Code include a section entitled
4 Open Space Conservation, that
5 environmental control districts be
6 included in this section and that the
7 Roxborough Environmental Control District
8 be listed under this category and the Fox
9 Chase Farm, which received similar
10 consideration and support from you, could
11 also be put in there.

12 We certainly are not going to
13 revisit the testimony that we gave to
14 you, and I hope that you remember, but we
15 would like to just touch on a few points,
16 and I'd like to introduce Emilio Garcia,
17 a recent graduate -- he just graduated
18 from the Saul High School. He was the
19 President of the Student Council of Saul
20 and he was also the President of the
21 consolidated Student Councils for all of
22 the School District of Philadelphia.

23 MR. GARCIA: Councilmembers,
24 good afternoon, Councilwoman Verna,
25 Councilman DiCicco, Councilman Kenney.

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2 Again, as he said, my name is Emilio
3 Garcia. I formerly served for the past
4 two years as the Chairman of the Citywide
5 Student Government for the School
6 District of Philadelphia.

7 I'm not sure if you remember
8 how familiar you are with the testimony
9 that had been given less than a year ago
10 when we had a large band of
11 representatives here covering the entire
12 centerpiece with students from -- some
13 students from various schools within the
14 community, parents, other civil activists
15 rights -- civil groups, I'm sorry, from
16 Philadelphia as well as from the
17 Whitemarsh Township, as well as community
18 members and teachers and faculty from
19 throughout the School District of
20 Philadelphia.

21 As you may or may not know,
22 Saul High School of Agricultural Sciences
23 is the largest agricultural high school
24 in the nation, and while at that school,
25 the school provides over 15 fields of

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2 agriculture for the students to major in,
3 especially in terms of the large animal
4 science production, wildlife and
5 environmental sciences. These particular
6 courses have direct connections with the
7 Manatawna Farm. The main reason why the
8 school is even able to keep the animals
9 as an educational core for the students
10 is because of the hay production that is
11 made from that land.

12 The land works hand in hand
13 with the high school's Farm to Table
14 program with Manatawna Farm, and further,
15 the productivity of the land is
16 absolutely remarkable and is bringing
17 added attention even by the State
18 Secretary of Agriculture. An example of
19 this is one farmer who lives on the land
20 who has worked diligently over the course
21 of 12 years in completely reforming the
22 farm that's there. He's improved the
23 soil quality, the hay quality and has
24 even made it a goal to set at a certain
25 part of the year migratory birds that

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2 come through the City. It just happens
3 that that particular land spot is exactly
4 where they land and where they nest. So
5 during those time periods, we have no
6 mowing that's occurring or anything like
7 that so we're not disrupting the natural
8 wildlife preserve that's happening at
9 that time.

10 I also have with me a letter
11 from the newly acting principal from Saul
12 High School of Agricultural Sciences
13 which reads in part that she's writing to
14 confirm with enthusiasm W.B. Saul High
15 School's Even Greener campaign, in
16 particular with respect to Manatawna
17 Farm. As per their many conversations,
18 we are undertaking the following and
19 effective immediately: Consistent with
20 the best practices for restoring
21 grassland habitats, we will delay mowing
22 until after the primary nesting season
23 for migratory grassland birds. Mowing
24 will not commence until fledged birds
25 have been observed by our students with

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2 wildlife experts.

3 Subsequently, we will develop a
4 long-range plan for the field in order to
5 attract nesting birds and still produce
6 the hay we need for our horses, sheep and
7 dairy cattle.

8 We will utilize bird-friendly
9 management practices to optimize positive
10 effects on grassland songbird populations
11 and simultaneously enable our proposed
12 on-site dairy cattle to operate
13 sustainably.

14 So to keep in mind that by
15 voting to continue to support this
16 ordinance, you are in fact ensuring the
17 future of urban agriculture for students
18 who have aspirations to become a wide
19 variety of things within the field of
20 agriculture, be it veterinarians,
21 environmentalists or biologists.

22 Again, I'd like to thank the
23 Councilman and Councilman Jones, who
24 unfortunately isn't here at this time,
25 and a deep thanks to all Councilmembers

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2 who have voted to support the ordinance
3 in the past, and we look forward to your
4 continued support now and in the coming
5 years.

6 Thank you.

7 COUNCIL PRESIDENT VERNA: Thank
8 you.

9 Good afternoon. Please
10 identify yourself for the record.

11 MR. BONI: Good afternoon,
12 members of City Council. Thank you for
13 allowing me to speak this afternoon. My
14 name is Paul Boni. I'm a Philadelphia
15 resident, practicing land use attorney
16 and a member of the group Stop Predatory
17 Gambling, which is a national advocacy
18 group whose mission is, among other
19 things, to get government out of the
20 predatory gambling business. I'm here to
21 testify today about the SP-ENT section of
22 the draft Zoning Code, which is what we
23 used to call or currently call the
24 Commercial Entertainment District, the
25 CED; in other words, the part of the

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2 Zoning Code that deals with casinos.

3 I submitted my written comments
4 for the record. I'm going to summarize
5 them here now.

6 Some background. In my
7 opinion, these convenience casinos are
8 predatory, and their business model
9 relies on addiction. It's imposing
10 massive financial costs on our economy
11 and our society, even those of us who
12 never set foot in a casino.

13 I don't raise this as a
14 religious or moral issue. I raise it as
15 a purely economic issue. It's a
16 government program that's pushing your
17 constituents deeper and deeper into debt.

18 Three facts and three quotes
19 from executives of area casinos. Last
20 year, the President of Parx Casino stated
21 that a majority of the people in his
22 database visit Parx Casino 200 times a
23 year. That's three to four times a week.

24 Earlier this year, Wendy
25 Hamilton of SugarHouse Casino, the

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2 General Manager, stated that a large
3 percentage of her database visits
4 SugarHouse three, four, five times a week
5 and that 75 percent of that comes from
6 within a 12- to 13-mile radius.

7 Finally -- all these numbers
8 are off the charts, but, finally, the
9 General Manager of Harrah's Chester said
10 that there's a segment of his database
11 that visits Harrah's Chester an average
12 of 5.6 times a week. That's an average
13 of 5.6 times a week. The overall average
14 of his database is four and a half times
15 a week.

16 So to me, these numbers are
17 astonishing. To me, it means that a huge
18 number of local people, not tourists but
19 local people, your constituents, are
20 gambling at an out-of-control frequency,
21 and that this government program is
22 addicting its citizens and pushing them
23 deeper into debt.

24 So let's cut to the chase about
25 the Zoning Code. Right now Foxwoods does

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2 not have its license. It's been revoked.
3 They're in court trying to get it back.
4 We don't know if they're going to get it
5 back. If they don't get it back, whether
6 it's going to be reissued to some other
7 company. But now is the time when the
8 license is not in play, when the license
9 does not yet exist right now, it's been
10 revoked, now is the time to change the
11 Zoning Code to try and afford some
12 protections to the citizenry, to your
13 constituents.

14 I would say that a good place
15 to start is Councilman DiCicco's bill
16 from a couple years ago now that imposed
17 a few different requirements on the
18 ability to comply with zoning. Largely
19 they were investigatory or studies that
20 need to be done, a traffic study, a study
21 on the impact on local businesses and the
22 local economy, and I think that would be
23 a good place to start to add those sorts
24 of requirements to the draft Zoning Code.
25 And, like I said, now is the time to do

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2 it, because once that license gets
3 reissued, either by the courts or by the
4 Pennsylvania Gaming Control Board, I
5 think this body loses leverage about how
6 to handle the second license.

7 I would note that Mayor
8 Nutter's Administration spoke very
9 favorably of that bill a few years ago,
10 and I would also note that, in my
11 opinion, the Supreme Court rulings are of
12 limited applicability to the current
13 situation. And, again, the current
14 situation is where the license has been
15 revoked and no one has any vested rights.
16 Foxwoods doesn't have a permit or
17 anything of that nature.

18 I'm happy to work with any
19 member of City Council who wants to work
20 on this issue, Councilman DiCicco, you
21 and any of your other colleagues who
22 wants to try to brainstorm about what can
23 be done at this time, but I think now is
24 the time for action on this issue.

25 Thank you very much.

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2 COUNCIL PRESIDENT Verna: Thank
3 you.

4 Are there any questions from
5 members of the Committee?

6 (No response.)

7 COUNCIL PRESIDENT Verna: Thank
8 you.

9 Mr. McPherson: Our next panel
10 is Cheryl Gaston, Joseph Beller, Steve
11 Pollock.

12 (Witnesses approached witness
13 table.)

14 COUNCIL PRESIDENT Verna: Good
15 afternoon. Please identify yourself for
16 the record.

17 Ms. Gaston: My name is Cheryl
18 Gaston. I am Chair of the Real Property
19 Section of the Philadelphia Bar
20 Association. I have with me my co-chair
21 for this particular committee, Stephen G.
22 Pollock, and this is Neil Sklaroff, not
23 Joe Beller.

24 Good afternoon. I served as
25 counsel to the Zoning Board of Adjustment

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2 for 17 years and was a member of the Law
3 Department of the City for 19 years
4 specializing in zoning. The Real
5 Property Section has been authorized by
6 the Philadelphia Bar Association to speak
7 on the Zoning Code Proposals of the
8 Zoning Code Commission, and the following
9 are our comments.

10 The Real Property Section of
11 the Philadelphia Bar Association shares
12 with the Zoning Code Commission the
13 desire to provide all Philadelphians with
14 a simple, transparent and effective
15 Zoning Code with which to guide
16 development. In that spirit, the Real
17 Property Section appointed a liaison to
18 the ZCC charged with attending their
19 meetings and reporting ongoing
20 developments at the Real Property
21 Section's monthly meetings. Key members
22 of the Section's Zoning, Land Use and
23 Code Enforcement Subcommittee volunteer
24 to review and provide written comments
25 with respect to the respective ZCC Zoning

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2 Code drafts.

3 The Real Property Section

4 members evaluating this preliminary draft

5 are a diverse group representing

6 community groups, developers and

7 municipalities. They work in solo, small

8 and large firms and are, without

9 question, among the best zoning lawyers

10 in the City. This group put their

11 collective knowledge and expertise and

12 spent considerable time reviewing the

13 successive drafts that eventually

14 produced this Zoning Code Commission

15 preliminary draft.

16 As you might expect with such a

17 diverse group, there are many divergent

18 opinions and views. We certainly did not

19 agree on every issue, but we decided to

20 focus our review and efforts on Chapters

21 14-100 and 14-300 for the most part and

22 improving Zoning Code processes and

23 procedures by minimizing uncertainty and

24 eliminating ambiguity in the proposed

25 Code, an area where we all could agree

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2 improvement was long overdue.

3 Ambiguity is construed against
4 a drafter, and in our experience, lack of
5 clarity will surely result in unintended
6 consequences and could lead to
7 unnecessary litigation, wasting the
8 resources of the City, applicants and
9 objectors.

10 Code clarity ensures that the
11 development rights of private property
12 owners are constitutionally protected and
13 provides a clear path for those seeking
14 to participate in and/or challenge a
15 zoning proposal.

16 In the end, our goal is the
17 same as that of the ZCC and this
18 Council - a Zoning Code that is fair,
19 sensible and smart and, more importantly
20 for the members of our group, clear,
21 concise and transparent.

22 To that end, we spent countless
23 hours intensively reviewing the Zoning
24 Code Commission Modules 1, 2 and 3, the
25 Consolidated Draft and Redline, Blueline

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2 and Greenline Drafts of the proposed
3 Code, a task that became daunting as the
4 Commission produced successive drafts and
5 embarked upon a continual Code revision
6 process, which we understand may be
7 ongoing even now. We commend the ZCC and
8 its staffers' impressive work producing
9 this draft. With so many constituencies
10 to satisfy and so many drafts, ideas and
11 proposals to evaluate, we've been quite
12 impressed with the level of
13 professionalism, the responsiveness and
14 the openness of this process.

15 While we spent hundreds of
16 hours reviewing each draft and preparing
17 and submitting extensive written
18 comments, we met numerous times with
19 representatives of the ZCC to review our
20 written comments and attended ZCC
21 sessions with others, including
22 representatives of community groups in
23 what were deemed to be productive
24 meetings in an effort to improve the
25 drafts. The process of review and

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2 comment has resulted in a better
3 document. However, we remain convinced
4 that numerous provisions require further
5 study and revision in order to make this
6 preliminary draft a sound document.

7 The preliminary draft before
8 you does not yet achieve the intended
9 result, a shorter, clearer and easy to
10 use Code. The preliminary draft is still
11 deficient in many ways that will cause
12 confusion with respect to processes to be
13 followed by those who seek zoning relief.
14 And while time does not permit
15 enumerating in detail every concern, we
16 will attempt to provide some illustrative
17 examples.

18 Number one, the proposed Code
19 is deficient in the method of defining
20 terms and the absent -- and is absent
21 many defined terms. The proposed Code
22 uses terms without definition, a practice
23 that creates confusion and ambiguity. A
24 glaring example, the term "variance" is
25 not defined in this draft. It is defined

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2 in the Philadelphia Home Rule Charter.

3 The definition section is
4 inadequate. Many terms are redundant or
5 repetitive, and in far too many
6 instances, users are directed to other
7 Code sections, which defeats the purpose
8 of a definition section. For example,
9 the terms "abut" and "adjacent" are
10 virtually identical. The Planning
11 Commission is defined in three different
12 sections of the definition section. This
13 chapter needs substantial revision and
14 clarity.

15 Legal terms are used in ways
16 not consistent with their longstanding
17 meaning, which causes confusion and
18 ambiguity; for example, the terms like
19 "party," "guidelines," "requirements"
20 which are used in a way which are not
21 consistent with what are ordinarily
22 understood to be legal meanings.

23 The proposed Code attempts to
24 paraphrase legal standards and/or
25 annotate or change longstanding settled

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2 and accepted caselaw, which will create
3 ambiguity and uncertainty.

4 The proposed Code would change
5 a 30-year settled history of Bray, a
6 seminal case setting forth standards for
7 granting of and challenging of
8 certificates or what would be called
9 special exceptions in the new draft Code.
10 This is a move that will create
11 uncertainty and confusion. It also
12 introduces an additional factor to Bray's
13 provisions, which were never evaluated by
14 the Pennsylvania courts, a factor that
15 adds uncertainty.

16 The proposed Code attempts to
17 paraphrase the caselaw with respect to
18 dimensional variance standards, but falls
19 short and imports special exception
20 criteria which is unnecessary, and these
21 provisions will, in effect, make
22 dimensional variance cases be bound to
23 use variance standards.

24 There is no procedure in this
25 draft to apply for a zoning or use

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2 registration permit. Users are directed
3 to a city website to find out what
4 application materials are required. This
5 is not the transparent process promised
6 by this Code. The draft is not cohesive
7 and requires the user to check numerous
8 sections to determine what is required.
9 For example, the powers of the Zoning
10 Board are enumerated in Section 14-1801
11 of the current Code. In the proposed
12 draft, to find the same information users
13 must consult three other sections of the
14 Code. And Mr. Pollock will speak a
15 little bit more on that. The draft Code
16 could be much shorter and clearer if
17 rewordings of zoning concepts, typos,
18 redundancies were removed and the
19 document was proofread for internal
20 consistency and to make it cohesive and
21 consistent with the Home Rule Charter.

22 The process for appealing to
23 the courts omits procedures for filing of
24 the appeal, transmission of the documents
25 necessary to prosecute the appeal, which

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2 will create an omission that will create
3 uncertainty.

4 The proposed Code shifts powers
5 and authorizations to other departments
6 or bestows authorizations and powers that
7 are not in accord with the Philadelphia
8 Home Rule Charter.

9 The proposed draft suggests
10 that the Planning Commission may impose
11 conditions in zoning appeals and
12 authorization not permitted by Charter.

13 The proposed Code allows L&I to
14 make code interpretations and, in effect,
15 amend the Zoning Code to conform to their
16 interpretation. This is a power not
17 confirmed by Charter, statute or caselaw.

18 The proposed Code gives the
19 Zoning Board the power to conduct
20 investigations and seek agency opinions,
21 an empowerment not within the scope of
22 the Home Rule Charter or allowed, for the
23 most part, by caselaw by quasi-judicial
24 agencies such as the ZBA. This proposed
25 process is neither transparent or fair.

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2 We could go on, but we believe
3 these deficiencies should be corrected to
4 make this a document that will meet the
5 high expectations set of a clear, concise
6 and transparent code.

7 We offer our input to City
8 Council in the hope that we can make a
9 substantial contribution to City
10 Council's response to the preliminary
11 draft. Our committee seeks a dialogue to
12 further inform the ZCC of alternate
13 provisions that may more thoroughly and
14 properly achieve the Council's and the
15 ZCC's and our goals, and we look forward
16 to working with City Council to produce
17 the fair, sensible and smart Zoning Code
18 all the citizens of Philadelphia need and
19 expect.

20 COUNCIL PRESIDENT VERNA: Thank
21 you.

22 MS. GASTON: Thank you for the
23 opportunity to testify.

24 COUNCIL PRESIDENT VERNA:
25 Mr. Pollock.

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2 MR. POLLOCK: Council President
3 Verna, Member DiCicco, Member Bill Green,
4 and I guess Councilmember Kenney has sort
5 of left the room, I take it. My name is
6 Steve Pollock. Cheryl has already
7 introduced me.

8 I guess what we're trying to
9 say is that the task that the voters gave
10 everybody was like the old Daily News
11 commercial, make it easy to hold and fun
12 to read, and the task was to try and make
13 it so it could be understood. And there
14 was a time when we couldn't get a zoning
15 code published and Peter Kelsen and I,
16 along with Tom Chapman when he was with
17 the City Planning Commission, were able
18 to produce something called the Blue
19 Book, which was sort of like the
20 unofficial guide to -- was our Zoning
21 Code, but we didn't get it published
22 through the public. And it became very
23 clear that other people, not just the
24 people that have been here testifying
25 today who live the process, who are all

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2 sort of part of the process, no matter
3 what level you are, neighborhood group,
4 broker, attorney, architect, engineer,
5 but there are outsiders who are going to
6 look at our Code, and as somebody who has
7 looked at other codes in other
8 municipalities, what you want is some
9 clarity.

10 So what Cheryl said is just the
11 very simple thing of what are the cases
12 that can be heard by the Zoning Board,
13 what are their powers. You have to go to
14 about for different sections right now,
15 whereas today I could go to 14-1801 and I
16 know what kinds of cases they hear
17 appeals from. But in our Code, the
18 current Code, I have to go to 103(5),
19 which says -- gives the authority sort of
20 like the caselaw -- not the caselaw, but
21 lays out sort of what the Charter says.
22 303(4)(a) and (4)(b) which talks about
23 final -- the Zoning Board has final
24 action over appeals for variances,
25 special exceptions, but it doesn't really

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2 say that they have -- it refers to
3 another section when it gets to a
4 neighborhood taking an appeal against the
5 determination by L&I that they're not
6 happy with. If somebody was given a
7 permit or somebody is claiming a
8 non-conforming use and they want to
9 challenge that and say, Hey, they have
10 abandoned -- they haven't used it, you
11 have to go to another section still to
12 see that that can be heard by the Zoning
13 Board for final action.

14 And then what was used to be --
15 and we've sort of went back and forth,
16 and I know philosophically we've lost the
17 argument, but there was a second they
18 called temporary use certificates that
19 now is incorporated that allows the
20 Zoning Board to give lesser decisions,
21 but that's still in another section,
22 whereas it used to be all in this one
23 section.

24 So the question isn't so
25 much -- we're not saying -- we're saying

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2 it's all covered, but as an outsider
3 looking in and as somebody who may have
4 one day looked at the Lower Merion zoning
5 code because maybe I'm thinking of going
6 to Lower Merion, well, let me see what
7 Philadelphia can do, it sometimes is a
8 little bit easier -- because I don't know
9 about you, but I'm from the old school.
10 I'm not still part of that school that
11 will type in a key word and let the
12 computer sort of look for me. I still
13 like to sort of go through the pages.

14 So I know it's nothing
15 earth-shattering, but we're just saying
16 that that's just something that we're
17 saying to make it a little bit more
18 easier to understand, and not just for us
19 in this -- all of us who deal with it,
20 but even for people who are coming to
21 look at Philadelphia, it sort of makes it
22 easier to read.

23 Now, from, I guess, some of the
24 legal inside -- we'll call it inside
25 baseball kind of talk, one of the things

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2 that concerns us is, there's this
3 innocuous little paragraph at 14-303(4)
4 that says consultations. And what it
5 says is, we're okay with L&I and the
6 Planning Commission, but it says the
7 Zoning Board may consult with any other
8 department or agency of the City, State
9 or federal government to seek advice on
10 any aspect of an application that is
11 under jurisdiction of that department or
12 agency of the City, State or federal
13 government. And then it goes on in
14 another section to say that the Zoning
15 Board, as part of the variance criteria,
16 can look at reports of other City
17 agencies made as a result of an inquiry
18 by the Zoning Board, may be considered by
19 the Zoning Board. Interestingly enough,
20 in the special exceptions section, it
21 doesn't give that kind of specific power
22 to use reports from the other agencies.

23 But, finally, in Section 14(k)
24 of 14-303, it gives us the current way
25 it's framed in the Zoning Code, which we

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2 have no problem with, which is that in
3 public hearings before the Zoning Board,
4 any agency of the City shall have the
5 power to appeal and present facts and
6 information to assist the Zoning Board in
7 reaching a decision.

8 So our point on all this is,
9 maybe it's a little bit of a legal, but
10 we want to have a level playing field.
11 This is a quasi-judicial hearing. This
12 is the chance that everybody - applicant,
13 protestant, interested individual - has
14 to be able to present their testimony.
15 If the Zoning Board can go off the
16 record, it's sort of akin to a judge in a
17 medical malpractice case being able to
18 say, Let me call the head of the
19 Department of Health and let me just get
20 his opinion and not even tell anybody
21 about it.

22 So all we're asking for is that
23 we think those -- as a specific
24 recommendation, those provisions other
25 than 14(k) should be stricken so that --

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2 or in the alternative, allow that if
3 there is that inquiry, that it's going to
4 be -- you'll have to give notice to both
5 sides, to all sides, all interested
6 parties, and give them an opportunity to
7 have that witness brought in for
8 cross-examination. Otherwise, you're
9 doing things that are off the record,
10 outside the record, and that's really not
11 something that presents and creates
12 fundamental fairness for anybody, be it
13 the developers who sat here, be it the
14 civic associations that have sat here.
15 So hopefully that's sort of like a
16 revenue neutral kind of proposition as to
17 what we're seeing with regard to that.

18 Also with what I know has
19 become sort of like a four-letter word in
20 this discussion, the Bray test, there is
21 a case that came subsequent to the Bray
22 test, and I'll leave it either with the
23 Chairman or Council President or if
24 Councilman Green wants it. It was a
25 later case, the Reformed Seventh Day

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2 Adventist Church versus the Philadelphia
3 Zoning Board, where the applicant was a
4 church that wanted to have a rooming
5 house, and back then they had the very
6 powerful Charles Bowser representing
7 them, but they still lost on a
8 certificate case because they didn't meet
9 the standards. But this case lays out
10 what Councilman Green has said in his
11 memorandum, that we've probably perverted
12 or twisted the burdens under Bray for a
13 special exception. Because keep in mind,
14 special exception or certificate, as
15 we've always been calling it, but now
16 we're catching up to the rest of the
17 Commonwealth, was always supposed to be a
18 use that you as a City Council have said
19 it's allowed, but if you can show us
20 there's some extraordinary impacts or
21 extraordinary impacts, that is something
22 that we have to take into consideration.

23 So we would suggest that you
24 look at the languages in this Seventh Day
25 Adventist, because in Seventh Day Adventist

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2 they say, Well, here's what we said in
3 Bray. So everybody is looking at Bray.
4 Well, this case is a little bit later and
5 it says, Here what we said in Bray.

6 So I just -- I don't want to
7 talk about that, other than to say that
8 one of the criteria that has been added
9 into Bray into the special exception
10 section as it stands right now is also
11 another technical thing, but this is a
12 recommendation that we'll bring to the
13 Council. As I said, we wanted to be sort
14 of more technical and hard-nosed as
15 opposed to giving you some policy
16 discussions, is that -- it also says
17 about injuring permanently confirming and
18 adjacent properties. The thing about a
19 special exception again -- and it's not
20 in our current Code for certificates.
21 The thing about a special exception again
22 is that it is an allowed use.

23 So the decision as to whether
24 it has already injured has been taken out
25 of the equation, and that's why it was

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2 never part of the criteria, specific
3 criteria.

4 Also, we have -- and we are
5 grateful that the Zoning Code Commission
6 has gone to something that maybe you're
7 also tired of hearing. You've heard
8 about the four-letter word Bray, but
9 you've also heard about the three-letter
10 acronym, the MPC. With MPC, we now have
11 basically the five-pronged test that the
12 rest of the state so when a court will
13 look at it, they won't try and say we're
14 going to impose what we do in the rest of
15 the state on Philadelphia. We've at
16 least -- with the variance standards,
17 we've caught up, but for one criteria,
18 which tries to address the dimensional
19 requirements, which I have a hard time --
20 I know I've scratched my head. Joe
21 Beller, who can't be here right now, has
22 scratched their head, and it's regarding
23 that a viable economic -- it's (d) in
24 14-303(8)(1)(d) -- that a viable economic
25 use of the property cannot be permitted

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2 by granting a variance from dimensional
3 standards or conditions. This is
4 really -- I don't want to bore you with
5 it, but it just also confounds us as to
6 what we would have to prove with this
7 one.

8 Finally, just one last thought.

9 And we know we've raised this with Peter
10 Kelsen and Eva, and they're going to
11 check into it, and we want to check into
12 it a little bit more. We're not sure,
13 but right now since the quorum has been
14 changed to only needing three, however
15 the Zoning Code now says that -- and also
16 in this Code, it says that you need to
17 have all three members concur before you
18 can have a vote. Previously the Zoning
19 Code had that it was a majority of a
20 quorum.

21 We are mindful that if the
22 referendum passed by the public said that
23 that was what was to be, that will be
24 what will have to happen, because that's
25 a public thing, but when I checked 3/9/11

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2 as it was newly configured, it just
3 seemed to reduce the number of members to
4 five and made the L&I Commissioner a
5 substitute member and did not affect the
6 quorum.

7 So we would ask that we would
8 catch up and reinstate what used to be
9 the law and is the law of Pennsylvania,
10 unless the Legislature goes otherwise,
11 that if there were three members -- if we
12 had to go to a hearing with three
13 members, we would hope that a
14 three-nothing vote would not be what
15 would be required, that we could at least
16 have a two-to-one vote. And that could
17 work both ways. If you're a community
18 group and you've appealed against a
19 determination and one member decides to
20 go the other way, then you have not been
21 able to reach your burden. So it plays
22 both ways. It's not just something that
23 affects only one side of the aisle.

24 So with those kinds of things,
25 I wish I could end with a joke like Joe

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2 Beller would, but I'll just leave you
3 thinking of one of Joe's better jokes and
4 say thank you.

5 COUNCIL PRESIDENT Verna: Thank
6 you.

7 MR. Sklaroff: Madam President,
8 Neil Sklaroff. I'm a practicing attorney
9 in Philadelphia. My practice is mostly
10 land use. Knowing that I could never be
11 as entertaining as Joe, I will be very
12 brief.

13 In what we think was a very
14 good-faith attempt to try to rewrite
15 standard, understood concepts that have
16 been well settled in the law, we think
17 there has been some confusion added to
18 the Section 300 series of provisions in
19 the proposed Code. We believe there is
20 time left for us to continue our dialogue
21 with the Zoning Code Commissioners and
22 the Law Department to try to revisit some
23 of these issues in order to avoid
24 unnecessary litigation in the future.

25 We have had settle principles

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2 that nobody was contesting as to what
3 made a variance, what made a special
4 exception, formerly a certificate, who
5 was a party or what the Zoning Board
6 could or could not do. And we urge the
7 Commission to engage us again in the
8 dialogue and that we think we can cure
9 these and, in fact, advance the Code to
10 one which we can fully embrace.

11 Thank you.

12 COUNCIL PRESIDENT Verna: Thank
13 you. Thank you very much.

14 Any questions?

15 (No response.)

16 COUNCIL PRESIDENT Verna:
17 Seeing none, thank you very much.

18 Mr. Pollock: Does anybody want
19 a copy of that Seventh Day Adventist case?

20 (Copy of case given to Stacy
21 Graham.)

22 COUNCIL PRESIDENT Verna: Our
23 next panel is Lorna Katz, Roseanne
24 Loesch, Anthony Jones.

25 (Witnesses approached witness

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2 table.)

3 COUNCIL PRESIDENT Verna: Good
4 afternoon. Please identify yourself for
5 the record and proceed with your
6 testimony.

7 MS. KATZ: I am Lorna
8 Katz-Lawson from Society Hill Civic
9 Association. I'm the Zoning and
10 Preservation Committee Chair.

11 Society Hill Civic Society has
12 been an active member of the 13-member
13 civic association group called Crosstown
14 Coalition. We participated in the
15 preparation of the comments that Stephen
16 Huntington made to you today, as well as
17 helping prepare some of the supporting
18 white papers. So my additional comments
19 right now purely have to do with our
20 identity and issues that have to do with
21 being a historic district.

22 The most important of these is
23 how new development is handled in
24 historic districts, and John Gallery
25 preempted me in this point, but we would

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2 also, going along with his idea, that it
3 would help our community tremendously if
4 the Historic Commission review was moved
5 from advisory to statutory. And as he
6 pointed out, the work involved for the
7 applicant is no different, and the work
8 for them would be not very much different
9 either.

10 The other issue that is very
11 important for us has to do with uses in
12 residential districts. The proposed Code
13 places an additional burden on historic
14 districts. The wildly expanded use of
15 residential properties as sites for
16 commercial activities is excessive and
17 will promote overuse of the buildings
18 themselves. The increased rate of wear
19 and tear on the structures is
20 counterproductive to preservation of
21 original fabric. The commensurate higher
22 maintenance costs also might act as a
23 deterrent to properly maintaining these
24 properties in the future. The proposed
25 Code is blind to the particular physical

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2 realities of antique structures.

3 So we support Councilman
4 Green's suggestion to separate home
5 office from home business, because we
6 feel that it would help protect the
7 structures in our community.

8 The other point I would like to
9 make today is, we feel that some of the
10 Civic Design Review triggers may be too
11 high for a close-knit row house community
12 and that it should possibly be considered
13 to be -- the threshold should be lowered
14 before Civic Design Review kicks in in
15 communities such as ours and other
16 historic districts.

17 COUNCIL PRESIDENT Verna: Thank
18 you very much.

19 MS. KATZ: Thank you.

20 COUNCIL PRESIDENT Verna:
21 Please proceed.

22 DR. JONES: Good afternoon,
23 Madam President and members of Council.
24 My name is Dr. Anthony Jones. I am a
25 member of the Oak Lane Community

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2 Association Board, as well as the
3 Chairman of Zoning and Crime and Safety,
4 and today I would like to just read a
5 little statement here about the zoning
6 laws and things that go on within
7 communities.

8 The current zoning laws are not
9 finite in working with community and
10 businesses. To state specifically the
11 zoning for commercial building, the way
12 the current zoning laws are written,
13 investors, businesses can bring a six
14 million plus dollar project into a
15 neighborhood that is unwanted, even
16 against the community wishes, which has
17 been expressed over time. If the
18 community does not have any say in how
19 some of the zoning laws should be
20 established, viewed and implemented, then
21 we are always at the mercy of business
22 and politics.

23 Here's an example: A
24 residential facility that will house
25 chronic substance abusers and disorders

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2 is labeled as low-income housing. The
3 community is then placed in a position of
4 opposing low-income housing when the
5 opposition is actually to the facility's
6 specification of occupants and their
7 impact on the neighborhood that is
8 already saturated with rehab facilities
9 and halfway housing.

10 There is a need for the zoning
11 laws to be specific on housing usage
12 sensitive to the community concerning
13 change in neighborhoods and its negative
14 impact.

15 Thank you.

16 COUNCIL PRESIDENT Verna: Thank
17 you very much.

18 Good afternoon.

19 MS. BENOLIEL: Hi. Good
20 afternoon. My name is Leslie Benoliel.
21 I was supposed to be in a previous panel
22 and I arrived late. So I apologize.

23 COUNCIL PRESIDENT Verna: Fine.
24 Please proceed.

25 MS. BENOLIEL: I'm the

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2 Executive Director of Entrepreneur Works,
3 which is a Philadelphia-based non-profit
4 that provides capital in the form of
5 micro loans and business support services
6 to entrepreneurs and small businessowners
7 to help them start up, stabilize and
8 expand their businesses. Over the past
9 12 years, we've assisted more than 3,000
10 entrepreneurs in this region to start up
11 their business.

12 First, I want to commend the
13 Zoning Code Commission for their hard
14 work and efforts to craft a new Zoning
15 Code. It's clear that careful thought
16 and deliberation has gone into this
17 process, and I appreciate the time and
18 efforts of commitment of all those
19 involved.

20 I am here today to express my
21 support of the proposed new Zoning Code
22 and, in particular, offer a few comments
23 about how this new Code will benefit
24 entrepreneurs and small businessowners
25 that are looking to start up.

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2 Small businesses that we work
3 with are what we call micro enterprises.
4 Those are businesses with five or fewer
5 employees, and many of them start up or
6 are based out of the homes. They are a
7 critical component of our city's economy
8 and employment base, and they represent
9 an important source of our future job
10 growth.

11 Consider this: Nearly one in
12 seven of all employees in Philadelphia
13 works for a micro enterprise, and there
14 are over 82,000 micro enterprises in the
15 City employing over 107,000 people.
16 These enterprises are as diverse as our
17 residents and our neighborhoods and are
18 very important contributors to the rich
19 fabric of our neighborhoods.

20 The proposed Code promotes
21 economic growth in our city and will
22 benefit residents and businesses alike,
23 especially the home-based businesses. By
24 eliminating much of the zoning overlays
25 that have accumulated over time,

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2 resulting in conflicting and confusing
3 provisions, this new Code is simpler,
4 better organized and, as such, it will
5 allow for the faster ramp-up and
6 expansion of businesses, saving them both
7 time and money.

8 Compared with the current Code,
9 the proposed Code provides more clarity,
10 predictability, flexibility, particularly
11 for individuals who are looking to start
12 up businesses out of their homes. It's
13 less restrictive and accommodates for
14 today's and future occupations, such as
15 graphic designers, website designers,
16 medical billing services, as examples.

17 Starting up a business is an
18 enormous undertaking, requiring money and
19 time, which are two of the most valuable
20 resources for any start-up entrepreneur.
21 The new Code will reduce both these costs
22 for the budding entrepreneurs, thus
23 encouraging business creation and paving
24 the way for the creation of jobs, new
25 jobs, which we sorely need.

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2 And data shows that more than
3 half the businesses are home based, and
4 this number can only be expected to
5 increase in today's economy. In fact,
6 most businesses get their start in the
7 home, in a spare bedroom, in the kitchen
8 or in the basement. It is critical that
9 we as a city work collectively and
10 cooperatively to nurture and cultivate
11 these nascent businesses as they will be
12 creating our future jobs.

13 In addition to employing local
14 residents, these businesses provide
15 essential goods and services, keep
16 dollars circulating in our communities,
17 and they are very important contributors
18 to the diversity and unique characters of
19 our neighborhoods.

20 I respectfully ask you, members
21 of City Council, to give the proposed
22 Zoning Code your full and careful
23 consideration. Be mindful, please, be
24 mindful to preserve its simplicity as you
25 consider revisions to it and, at the same

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2 time, push to see that it is adopted in a
3 timely manner. We want to make sure this
4 new Code, once finalized, is robust
5 enough to withstand the next 50 years or
6 more. And it will serve as a catalyst to
7 promote smart growth, yield positive
8 returns for the City of Philadelphia for
9 years to come, returns in the form of new
10 jobs, expanded tax base and will continue
11 to contribute to the health and rich
12 vibrancy of our neighborhoods.

13 Thank you very much.

14 COUNCIL PRESIDENT VERNA: Thank
15 you. Thank you.

16 Are you going to testify?

17 MR. GOULD: Yes, I'd like to
18 testify.

19 Good afternoon, Council
20 President Verna.

21 COUNCIL PRESIDENT VERNA: Good
22 afternoon.

23 MR. GOULD: My name is George
24 Gould. I am the Managing Director for
25 Housing and Energy at Community Legal

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2 Services here in Philadelphia. My
3 testimony will be very brief. I would
4 just like to point out one of the
5 sections of the proposed Zoning Code.

6 Back in 2007, City Council
7 passed and the Mayor signed a bill that
8 would require inclusionary housing in the
9 City, and basically what that bill said
10 was that in any development of more than
11 20 units of new or rehabilitated housing
12 in the City, the developer would be
13 required to put 10 percent affordable
14 housing into that development or
15 contribute to the Housing Trust Fund.
16 There was a provision that said that the
17 bill would not be implemented until
18 incentives were passed by City Council
19 which were given to developers which
20 would help that process. Unfortunately,
21 those incentives have not yet been
22 created.

23 We have a problem with one
24 particular provision in the proposed
25 Zoning Code, and, that is, 14-702(7),

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2 which creates a voluntary inclusionary
3 housing program. It's somewhat similar
4 to what City Council has passed, but it's
5 totally voluntary. And what this would
6 do, you would have two sections of the
7 Code, one with a mandatory program and
8 one with a voluntary program. I think
9 that would be inconsistent, it would be
10 confusing and, quite frankly, the
11 organizations which we are involved with,
12 the Campaign for Housing Justice, wants a
13 mandatory program, which is what City
14 Council has already passed. We have
15 found that in other jurisdictions,
16 voluntary programs do not work.
17 Developers do not do it, and you do not
18 end up with the affordable housing that
19 is needed. Where there has been a
20 mandatory program, it works. And what we
21 strongly suggest is that you make the
22 provisions in this Code consistent with
23 what's already in the existing law or you
24 simply strike it and make it a mandatory
25 program.

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2 Thank you.

3 COUNCIL PRESIDENT VERNA: Thank
4 you.

5 Good afternoon.

6 MR. CHURCHILL: My name is
7 Michael Churchill. I'm an attorney at
8 the Public Interest Law Center of
9 Philadelphia, and I thank you for the
10 opportunity to speak.

11 The Public Interest Law Center
12 of Philadelphia submits its opposition to
13 any amendment to the zoning proposal that
14 would prohibit or impose additional
15 burdens on facilities which serve persons
16 with disabilities from neighborhoods
17 where similar facilities would otherwise
18 be allowed. Any provision which singles
19 out for discrimination facilities serving
20 people with disabilities, such as group
21 homes, which serve our most vulnerable
22 citizens, some of whom have autism,
23 cerebral palsy, Down's syndrome, et
24 cetera, and that makes it harder for them
25 to find places to reside equally in this

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2 city or to receive the medical treatment
3 necessary for some of them, violates
4 federal law.

5 In particular, the Law Center
6 notes that banning group homes which
7 allow persons with disabilities to live
8 in the community, frequently near family
9 and friends instead of being confined in
10 institutions, is directly contrary to
11 federal and state law. In the Claiborne
12 case, the United States Supreme Court
13 held municipalities violate the
14 Constitution if they subject residents or
15 persons with disabilities to different
16 zoning standards than for other persons.

17 And many courts have repeatedly
18 recognized that under the Fair Housing
19 Act, small group homes, albeit for
20 unrelated persons, are equivalent to
21 family residents for persons with
22 disabilities and may not be excluded from
23 residential neighborhoods.

24 Labeling those homes as noxious
25 is particularly offensive to many

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2 individuals who pose no threat to their
3 neighbors and whose homes cannot even be
4 identified by anybody walking by unless
5 told beforehand.

6 Additionally, attempts by
7 Pennsylvania communities to exclude
8 methadone clinics, which medically treat
9 persons recovering from addiction,
10 differently than other medical facilities
11 have been struck down by the courts.

12 Just three years ago, the federal courts
13 overturned the efforts of both the
14 Pennsylvania General Assembly and the
15 City of Reading to require methadone
16 clinics to go through more burdensome
17 procedures for approval than other
18 methadone clinics in a case called New
19 Direction Treatment Services versus the
20 City of Reading.

21 Philadelphia is facing certain
22 suit and unnecessary expense if it
23 proceeds with the provision banning
24 methadone clinics where it permits other
25 medical facilities merely because of the

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2 population who uses that clinic.

3 I will be glad to submit this
4 testimony and any back-up materials that
5 would be helpful to Council in their
6 considerations.

7 Thank you.

8 COUNCIL PRESIDENT Verna: Thank
9 you very much. Thank you.

10 MR. McPHERSON: The next panel
11 is Lucy Strackhouse, Jeff Hornstein, Mary
12 McCrea.

13 (Witness approached witness
14 table.)

15 MR. McPHERSON: Gregory Moses.

16 MS. McCREA: I'd just like to
17 say I have testimony for the record.

18 COUNCIL PRESIDENT Verna: Ms.
19 McCrea, would you take the witness chair
20 and identify yourself and proceed with
21 your testimony.

22 MS. McCREA: My name is
23 Mrs. Mary McCrea. I'm a resident of the
24 Yorktown community, and I came to really
25 listen and to have some input. I wanted

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2 to ask the Planning Commission mostly
3 concerning we, the Yorktown, have a
4 legislation in place, and I wanted to
5 know the new zoning, will it overlap --
6 have any interference with this
7 legislation that we have in place?

8 COUNCIL PRESIDENT Verna: We'll
9 have someone speak to you.

10 MS. McCREA: Pardon me?

11 COUNCIL PRESIDENT Verna: We'll
12 have someone speak to you.

13 MS. McCREA: Okay.

14 COUNCIL PRESIDENT Verna: Do
15 you have another comment or statement to
16 make?

17 MS. McCREA: That was about it.

18 COUNCIL PRESIDENT Verna:
19 Pardon me?

20 MS. McCREA: That was about it.

21 Would she be able to speak to
22 me?

23 COUNCIL PRESIDENT Verna: Yes.
24 She's getting up to speak to you.

25 COUNCILMAN GREEN: Point of

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2 information.

3 COUNCIL PRESIDENT VERNA: Yes.

4 The Chair recognizes Councilman Green.

5 COUNCILMAN GREEN: Thank you,

6 Madam Chair.

7 Ma'am, generally speaking,

8 throughout the City, everywhere there's

9 an overlay or specific control in a

10 neighborhood, it is being eliminated.

11 And if you have that in your

12 neighborhood, that may well be the case.

13 And so Ms. Gladstein, who is behind you,

14 can provide you specific information

15 about that issue.

16 MS. McCREA: Okay. I live in

17 Councilman Clarke's district.

18 COUNCILMAN GREEN: Yes, ma'am.

19 And I don't know about Yorktown or what

20 the specific controls are there, but

21 generally speaking, they're eliminated

22 across the City, unless specifically

23 included in the new Code. And yours are

24 included in the new Code.

25 MS. McCREA: Okay. Thank you.

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2 COUNCIL PRESIDENT Verna: Ms.
3 McCrea, is this your testimony?

4 MS. McCREA: No. That's
5 Mrs. Pendleton-Smith's. She wasn't able
6 to come.

7 COUNCIL PRESIDENT Verna: Very
8 well. We'll give a copy of this to the
9 stenographer.

10 MS. McCREA: Yes.

11 COUNCIL PRESIDENT Verna: It
12 will be transcribed in full.

13 MS. McCREA: Okay.

14 COUNCIL PRESIDENT Verna: Thank
15 you.

16 Our next -- Greg, I didn't see
17 you there. Please come up. Have you
18 been hiding?

19 (Witness approached witness
20 table.)

21 MR. MOSES: No.

22 COUNCIL PRESIDENT Verna: It's
23 good seeing you. How are you feeling?

24 MR. MOSES: Pretty good.
25 Pretty good.

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2 COUNCIL PRESIDENT Verna:

3 Please identify yourself for the record.

4 MR. MOSES: Yes. My name is
5 Gregory Moses.

6 COUNCIL PRESIDENT Verna: You
7 could sit.

8 MR. MOSES: Also, I am the --

9 COUNCIL PRESIDENT Verna: Greg,
10 you could sit.

11 MR. MOSES: Thank you.

12 My name is Gregory Moses. I am
13 the Executive Director of Southwest
14 Association for Involvement in
15 Development, as well as the Chairman of
16 Ward 40-B in Southwest Philadelphia,
17 Democratic Chairman.

18 I'm here today in opposition in
19 talking to -- referring to, rather, the
20 idea of reentry programs. We have a
21 parcel of land at 5312 Grays Avenue that
22 City Councilwoman Jannie Blackwell and
23 some others have been trying to turn into
24 something else.

25 If I may, I'd like to read what

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2 I have first.

3 COUNCIL PRESIDENT VERNA:

4 Please.

5 MR. MOSES: My name is Gregory
6 Moses. I'm the Executive Director of
7 Southwest Association for Involvement in
8 Development, a non-profit civic
9 association based in Southwest
10 Philadelphia.

11 At present, regulated uses are
12 prohibited within 500 feet of a
13 residential neighborhood. A prison is a
14 regulated use. So under the current
15 Code, there's a 500 foot buffer between
16 prisons and homes.

17 Just so that we're clear on
18 what we're talking about here, there is
19 already a law under L&I which indicates
20 that you cannot build any type of prison
21 within 500 feet of a residential
22 neighborhood or school.

23 For years, my neighbors and I
24 in Southwest Philadelphia have been
25 successfully fighting the development of

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2 a private prison, halfway house and a
3 400-inmate prison at 53rd and Grays
4 Avenue. And that's a little correction.
5 It hasn't really been for years. It's
6 been a couple years. It's been going on
7 and exceptions have been going on for
8 about four years. The last two years
9 we've been aware of it. The first two
10 years we were totally unaware of it, as
11 well as everyone else in the community.

12 Specifically, the prison is
13 called a reentry facility and would be
14 housing offenders with less than eight
15 months on their terms of incarceration
16 and housing for those awaiting bail,
17 sentencing or transfer to a state prison.

18 We have collected a petition
19 of -- we have collected a petition of
20 over 3,000 -- actually 3,500 --
21 individuals who are against this
22 particular project, opposed to this
23 private prison. The applicant went to
24 the Zoning Board of Adjustment and
25 obtained a use variance. That was after

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2 they had contacted the License and
3 Inspection Board.

4 The applicant -- excuse me. We
5 appealed, and we fully expect that the
6 courts will vacate this variance.

7 What occurred was, Southwest
8 AID, they appeared at the hearing on that
9 particular date, which I believe it was
10 February the 27th of last year, and the
11 developers, the Watts family, Dr. Watts,
12 were opposing us or trying to build the
13 prison.

14 Last night I learned that the
15 new draft Code does not -- last night I
16 learned that the new draft Code does end
17 around on this issue. A new use category
18 is created called reentry facilities. In
19 other words, what they're trying to do is
20 trying to put this under another title,
21 which would not be subject to the 500
22 foot rule buffer. These reentry
23 facilities would be allowed by special
24 exception in the districts formerly known
25 as L-1, L-2, L-3, L-4, L-5 and Port

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2 Industrial and LR.

3 We all realize that the value
4 and importance of figuring out ways to
5 reintegrate offenders back into our
6 society, but for all times, these sorts
7 of private prisons were prohibited from
8 being 500 feet of a residential or school
9 neighborhood. If you want to change
10 that, then I will submit a proper way to
11 do that is to have an open hearing on
12 this particular issue, even though we've
13 already had two major hearings on this as
14 proposed by the Zoning Board of
15 Adjustment.

16 My suggestion: This is not an
17 isolated issue of 53rd and Grays Avenue.
18 Please ask the Planning Commission to map
19 all residential areas of the City that
20 are currently protected as compared to
21 all residential areas that will no longer
22 be protected under this proposed change.
23 I will submit that this is an issue that
24 you will be dealing with in each of your
25 districts.

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2 Just as a way of explanation
3 with that, this is a situation whereas
4 the major person who is the chair of this
5 is Deputy Mayor Everett Gillison. He met
6 in my home last fall, him and Tumar
7 Alexander. Mr. Alexander did not have
8 much to say, but just remained as a
9 listener, along with myself, our Ward
10 Leader Anne Brown, my partner James
11 Harris, and that was just about it.

12 Mr. Gillison and I went back
13 and forth. I allowed him to present what
14 he thought would change my case or change
15 our position. I wanted to hear what he
16 had to say. And, most importantly, he
17 wanted me to hear what he had to say,
18 because he called me, not the other way
19 around. After three hours, we remained
20 the same.

21 We as a community of over 35 --
22 like I said, over 3,500 people -- that's
23 3,500. That's just in signatures alone.
24 That does not include those who written
25 letters, voiced their opinions or spoke

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2 out or speak out as I do as one of the
3 leaders.

4 There are many other locations
5 where this kind of situation can be
6 built. What we're majorly concerned
7 about is the closeness of such a thing
8 such as this. In other words, to be very
9 clear, I guess we're talking about a
10 400-inmate prison with 80 personnel to
11 protect them.

12 COUNCIL PRESIDENT VERNA: Greg,
13 I don't mean to interrupt you. However,
14 when this case went before the Zoning
15 Board, how long did it take them before
16 they rendered a decision?

17 MR. MOSES: They did not render
18 a decision. Well, they did -- I take
19 that back. They did render a decision.
20 What occurred is at the hearing the
21 Southwest Association for Involvement in
22 Development, we were the only ones who
23 were there, because we learned about it
24 the evening before by happenstance
25 through the CDC, the Southwest Center

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2 for, you know, the neighborhoods. The
3 young lady there called me, asked me did
4 I know about it. I said no. And, of
5 course, I got on the phone and started
6 making phone calls.

7 So ultimately speaking, they
8 answered, I believe it was, the fall of
9 last year. Now, this is from a hearing
10 that was dated January, I believe, of
11 2009.

12 COUNCIL PRESIDENT VERNA: And
13 it took almost a year, did it not, for
14 the Zoning Board?

15 MR. MOSES: Exactly. Right.
16 It took almost a year for that to be
17 answered. That despite, like I said, the
18 many hearings that we had, two major
19 ones -- well, there was one official one,
20 which was held on the first of -- I'm
21 sorry. I don't have it here in front of
22 me. I do apologize. But there were two
23 major hearings that were held, one that
24 was headed by Councilwoman Jannie
25 Blackwell, the other by myself. The

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2 official one, the official community one
3 as directed by the Zoning Board of
4 Adjustment, was held by myself on the
5 second, because that's who I was directed
6 to follow through on.

7 COUNCIL PRESIDENT Verna: What
8 is the status of that case?

9 MR. MOSES: The status right
10 now is waiting for a hearing to be set
11 allegedly sometime possibly in October.

12 COUNCIL PRESIDENT Verna: Thank
13 you.

14 MR. MOSES: In terms of
15 petitions, you see here well over 3,000
16 petitions.

17 COUNCIL PRESIDENT Verna: How
18 many?

19 MR. MOSES: Well over 3,500
20 petitions. And, like I said, this only
21 includes just the petitions, not the
22 letters that were written individually.
23 And these are petitions against this type
24 of facility.

25 COUNCIL PRESIDENT Verna: Thank

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2 you.

3 MR. MOSES: Okay. Other than
4 that, at this particular point that's all
5 I would have. There are a number of
6 things I could say, but I don't want to
7 waste the court's time.

8 COUNCIL PRESIDENT VERNA: Thank
9 you. I'm sorry you were kept waiting so
10 long. I did not see you in the audience.

11 MR. MOSES: That's okay.

12 COUNCIL PRESIDENT VERNA: The
13 Chair recognizes Councilwoman Blackwell.

14 COUNCILWOMAN BLACKWELL: Thank
15 you, Madam President. I regret that I
16 missed the beginning of this testimony.

17 The proposed reentry center
18 that was in my district, not in the
19 President's district, we talked about
20 that, and this is an issue that we talked
21 about for years. Unfortunately, the
22 gentleman speaking did not have the
23 official meeting. That's not true. He
24 knows it isn't true. He knows he's being
25 dishonest. He had a meeting called for

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2 by his Senator. That was not the
3 official meeting. We met for about two
4 years on it.

5 And so I regret that -- I won't
6 go through all of that. Suffice it to
7 say to the Committee that what he's
8 saying is absolutely not truthful. He'll
9 have his day. Whatever happens, happens.
10 He'll have his day to appeal, which he's
11 done, but he's just not being truthful.
12 They haven't been for a long time, but
13 he's being led unfortunately by one of my
14 State Senators who created this hoopla in
15 the first place in order to fight my
16 reelection. But, you know, thank God,
17 I've been here a long time, I'm still
18 here.

19 So I won't bother the Committee
20 with that, but I did want to set the
21 record straight that what he's saying is
22 absolutely unequivocally not true.

23 MR. MOSES: Excuse me, Madam
24 Chair and the rest of the board --

25 COUNCILWOMAN BLACKWELL: And we

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2 don't have to have debate back and forth.
3 It's been a long day. He had his say and
4 I've had mine.

5 MR. MOSES: Okay.

6 COUNCILWOMAN BLACKWELL: And I
7 think we're finished.

8 MR. MOSES: Okay. Thank you.

9 Let me be very clear. The
10 first time I heard about this situation
11 was the day before the hearing. The
12 hearing was, like I said, I believe it
13 was January 27th.

14 COUNCILWOMAN BLACKWELL: He
15 should talk to his --

16 MR. MOSES: And I heard about
17 it the evening before at exactly 5:45.
18 That's when I first heard of anything
19 about this whatsoever, which is why we
20 started to hurry and scurry around, which
21 is why the other group members, group
22 leaders were not at the hearing, because
23 we only had enough time to reach out and
24 gather the people from Southwest AID.

25 COUNCIL PRESIDENT VERNA: Okay.

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2 MR. MOSES: Anything else? So
3 at this point, this is my first -- I
4 excuse myself. This is my first hearing
5 such as this. I've been to many, many
6 hearings, but this is my first one such
7 as this. So I don't know to open the
8 board to yourselves or --

9 COUNCIL PRESIDENT Verna: You
10 did fine, and I thank you for coming in.

11 MR. MOSES: Okay. Thank you
12 very much.

13 COUNCIL PRESIDENT Verna: Okay.

14 MR. MOSES: Any questions?

15 COUNCIL PRESIDENT Verna: No.
16 Thank you.

17 MR. MOSES: Thank you very
18 much.

19 COUNCIL PRESIDENT Verna: Thank
20 you.

21 MR. McPHERSON: Our next
22 witness is Tracey Gordon.

23 (No response.)

24 MR. McPHERSON: Tracy Green.
25 I'm sorry.

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2 COUNCILMAN GREEN: Tiffany

3 Green.

4 MR. MCPHERSON: Tiffany Green.

5 I'm sorry. I apologize.

6 (Witness approached witness
7 table.)

8 MS. GREEN: Good afternoon.

9 Can I give these pictures to you? Great.

10 COUNCIL PRESIDENT VERNA: Good
11 afternoon.

12 MS. GREEN: I want to hand
13 these pictures in. I want the
14 Councilmembers to take a look at that. I
15 have to get them back from you, though.

16 I'm here to oppose the new
17 Zoning Code. The reason why I'm showing
18 the pictures, because -- I'm here to
19 oppose the new Zoning Code, because I
20 don't feel that community participation
21 has been 100 percent or has been a part
22 of this. The reason why I think that
23 this -- and many people in our community,
24 people we've met with over the last
25 couple weeks, we tried to explain the new

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2 Zoning Code to them, and many of them do
3 not want what the new Zoning Code is
4 about. They really don't. And we feel
5 that this document is a pro developer
6 document.

7 When we went up there, meetings
8 were held at 8 o'clock in the morning,
9 and as I stated publicly before, people
10 have jobs, people have kids. Who could
11 make a meeting 8 o'clock in the morning,
12 but those who have a vested interest in
13 seeing this new Zoning Code go through.

14 When we finally got a chance to
15 get up there to the new Zoning Code,
16 there were a lot of lawyers, zoning
17 lawyers, planners, architects, and they
18 all had a vested interest in this new
19 Zoning Code. And we felt that this time,
20 8 o'clock in the morning, is
21 intentionally excluding the community
22 from having input or being a part of the
23 meetings.

24 With that, we feel that this
25 document gives power to the developers

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2 and taking away control from the
3 community. And you say, well, why do we
4 say that? Well, look at the building
5 heights. In the new Zoning Code, they
6 propose building heights that go from 35
7 feet to 38 feet. Now, the average
8 two-story townhouse or house in
9 Philadelphia is about 22 feet. And
10 you're allowing these developers to build
11 up to 35 feet, and now they have attached
12 on 38 feet. So now they can go to L&I
13 and get a permit over the counter for
14 \$150 like they going to a candy store.
15 Is that fair to the community?

16 Here is a zoning agenda from
17 last month. We had four developers who
18 want to -- or investors who want to build
19 in our community. They want to add an
20 attachment, three-story, deck in this
21 two-story blocks. These are in South
22 Philadelphia. Okay? We've done the map.
23 There's only certain blocks in South
24 Philadelphia that are really three story.
25 Majority of the blocks in South

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2 Philadelphia are two-story houses. So
3 everyone moving in is saying to us, Oh,
4 well, it's zoned for a three-story. Yes,
5 because you have it going up to 35 feet
6 without any kind of proviso in the Zoning
7 Code stating that if it's two-story, it
8 should maintain conformity.

9 We've done a lot of research on
10 conformity. Conformity is very important
11 regarding the houses and the structure.
12 When you look at those pictures that I
13 gave you, when the developers are
14 building, a lot of them are new, they're
15 new investors. I call them Donald Trump
16 wannabes. They're coming into the
17 community, and when they build, they're
18 not building exactly to the houses. They
19 put up wooden frames. These frames are
20 rained on, snowed on, and then after the
21 house is really -- after the houses
22 are -- after they fill in the houses,
23 eventually the neighbors will start to
24 get mold, and mold will start to come in
25 this.

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2 When they build two-story --
3 the community is not opposed to new
4 development, let's make that clear, when
5 we asked for our moratorium in March
6 23rd. The people are not against new
7 development. We want conformity and we
8 want the building to be respected.

9 I move on to say that when you
10 remove the variances, if you allow this
11 new Zoning Code to go through, the four
12 developers that came to this meeting
13 would no longer have to come to this
14 meeting. They'll go to the counter and
15 get their permit over the counter, and
16 they don't have to address or discuss
17 anything with the community anymore.

18 Now, this is not just happening
19 in South Philadelphia, in Point Breeze,
20 because the word on the street is -- we
21 were wondering why development has slowed
22 down. They're waiting for this day,
23 September 14th. So once the new Zoning
24 Code goes through, then you will start
25 seeing them in West Philadelphia, you'll

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2 see them in North Philadelphia, you'll
3 see them down in Kensington. They're
4 going to make this move after this new
5 Zoning Code goes through.

6 So we're asking City Council to
7 discuss, really look about height limits
8 in this document, because it's now your
9 opportunity to really limit the height
10 limits and protect the community to
11 having to go through all this.

12 This is a headache. This is
13 constant every month, four, five, six,
14 seven, eight developers coming through
15 saying they want to do three-story
16 attachments and decks. This is tiresome.
17 And then the houses, they're not really
18 affordable. The people say, well, they
19 can't participate in the process.

20 And it also inspires other
21 developers, other landlords to raise
22 their rents. Their rents are going from
23 \$700 to \$1,800. What do they do? They
24 put three college kids in the house so
25 they get \$500 each.

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2 I'm just telling you what's
3 really happening out on the street. I
4 know we can go in a sophisticated level
5 and go into the languages, and that's
6 great, but let's talk about what's really
7 happening. If another person walk up to
8 me and say, You know, I know you do
9 housing, I know you work on that, I'm
10 getting ready to move.

11 I said, Why are you moving?

12 Because my landlord raised the
13 rent from 700 to 1,300, so I'm going to
14 move back with my mother.

15 Here's a woman with three kids.

16 I mean, this is what's happening on the
17 street and this is reality.

18 So I just want to move on.

19 Also regarding civic design, this is a
20 new seven-panel appointed by the Mayor.
21 You're going to have two architects, one
22 landscape, one planner, one developer.
23 These people do not know our community.
24 And the thing about it is that the
25 developers are able to go through the

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2 civic design and then they're going to
3 have one person from the community that's
4 supposed to rotate among the RCOs. So
5 what if you have -- comes up a major
6 development and then that particular
7 person, that group that's pro
8 development, they get to sit on the seat?
9 Well, we know that project is going to be
10 approved.

11 So you either have to -- why is
12 civic design necessary? All this is
13 about -- I've heard Alan Greenspan (sic)
14 talk about reducing the workload for ZBA,
15 saying we have as much workload as New
16 York. Well, you know, variances help
17 protect the community. It gives the
18 community a say in what goes on as far as
19 zoning is concerned. When you remove the
20 variances, you're taking away the control
21 of the community, and this is why this
22 document is flawed.

23 The other thing I want to say
24 is, when you remove the variances, you're
25 putting the load back on L&I. L&I is a

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2 mess, and I'm not going to go into detail
3 about that. I will write you about that.
4 First of all, L&I takes 10 to 15 days to
5 go out and look at a property. By the
6 end, the developer is halfway through or
7 halfway done. When he puts the building
8 up, no one is going to tell him to take
9 down the brick and take it down. So by
10 the time L&I get out there, half of it or
11 three-quarters of the house is done. And
12 then you have representatives covering
13 from our area down to the Naval Base
14 home. That's too much area to cover.
15 And then they get to know the developers.
16 So then all the sudden, when we call back
17 up, we get reports like not -- I can't
18 think of the actual term they use.

19 COUNCIL PRESIDENT VERNA: Not
20 founded.

21 MS. GREEN: Not founded. Thank
22 you, Ms. Verna. Not founded. We're
23 getting a lot of not founded's. Well,
24 something suspicious about "not founded."

25 So I'm saying do not put all

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2 that load back on L&I. They're already
3 overloaded. You need to keep -- the old
4 document is not too bad, but it needs to
5 go back some and have more community
6 input, a more realistic type of approach
7 that will control the people.

8 One more thing and I just want
9 to go in the point, because I'm going to
10 submit and Ms. Shikomba, she gave in
11 recommendations. But we're saying also a
12 public advocate. It is very hard when
13 you're appealing to the civil court to
14 find a lawyer to take the case. Many
15 times it's conflict of interest. They
16 talk about future earnings. They don't
17 want to take the case, because it may
18 affect them, because more of their
19 clients might be developers as opposed to
20 the community. So maybe a public
21 advocate could come in and help people
22 who want to appeal the process go through
23 that, help them with going through that
24 process, because civic court is real
25 court.

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2 The following I want to say is,
3 I think that this document needs to go
4 back in front of the community. It has
5 had five or six drafts. It has red ink,
6 blue ink, black ink, and we just found
7 out that they did type up a document for
8 City Council because they didn't want to
9 go through all that.

10 So the thing about it is, it
11 should go back in front of the community.
12 They have not been in front of the
13 community since last year. You have five
14 and six rewrite drafts, three since March
15 23rd when we submitted our moratorium,
16 and the community has not seen it. How
17 can you submit in a document or pass a
18 document and the community, your bosses
19 who have voted you in and you are
20 supposed to work on behalf of them, pass
21 a document that they haven't seen? I'm
22 asking Ms. Gladstein, let's take it to
23 the community centers, recreation
24 centers, and let's not do a power --
25 let's do a PowerPoint presentation, not

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2 poster boards. Senior citizens cannot
3 walk around looking at poster boards and
4 reading them. They get tired. Let's do
5 a PowerPoint presentation. Let the
6 people look at what was happening before,
7 what's now and give their comment. Let's
8 do the right thing. Let's do the right
9 thing with the people, because people
10 right now feel that they're going to be
11 pushed out. You talk to people, they
12 say, Oh, we're going to be pushed out.
13 They're pushing us out.

14 Do we want our communities,
15 Philadelphians, do we want Philadelphians
16 to feel like they're being pushed out?
17 No, we do not.

18 Send this document back and let
19 it go back in front of the community.
20 Let them see it. Explain it to them so
21 they know what you're proposing.

22 Thank you.

23 COUNCIL PRESIDENT Verna: Thank
24 you very much.

25 MS. GREEN: Thank you very

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2 much.

3 COUNCIL PRESIDENT Verna: Our
4 next witness.

5 MR. McPHERSON: I don't have
6 anyone.

7 COUNCIL PRESIDENT Verna: Do we
8 have anyone else to testify?

9 Please approach the witness
10 table.

11 (Witnesses approached witness
12 table.)

13 COUNCIL PRESIDENT Verna: Good
14 afternoon. Please identify yourself for
15 the record.

16 MR. CARPINETA: Good afternoon
17 to you all. My name is Jeff Carpineta
18 from -- I'm the President of the East
19 Kensington Neighbors Association. Thank
20 you to Council and staff and the
21 Commissioners, all that are involved, the
22 Planning Commission, for putting in this
23 really long day and for giving us this
24 final window to make some comments to
25 you. Thank you also to Councilman

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2 DiCicco and Councilwoman Maria

3 Quinones-Sanchez for being here today.

4 Our area, East Kensington, is
5 the neighborhood just west of Fishtown
6 and just east of the Market-Frankford
7 train. We have three train stations at
8 the western edge of our neighborhood. We
9 are the neighborhood that's been hinted
10 to many times today. East Kensington is
11 the neighborhood that's sort of a
12 minefield of zoning issues, of land uses
13 and land abuses. We are the one that
14 needs the new Code. We're the
15 neighborhood that has heavy industrial
16 parcels interspersed with tiny row homes
17 and medium and tall row houses. We have
18 several commercial corridors. We have
19 several -- we have kind of an array of
20 illegal uses through the years because of
21 a previous Code that didn't quite make
22 sense and was ignored. We have a lot of
23 reckless auto businesses. We have
24 commercial corridors where different
25 zoning remappings and spot zonings

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2 through the years eliminated the right to
3 use commercial storefronts as commercial
4 storefronts, and we have urban farms that
5 don't technically exist within the Code.
6 And we have home builders who are
7 convinced that front-loading garages are
8 the most terrific thing. And it's been
9 hard to clarify that, because the Code
10 has taken different opinions on it
11 through the years.

12 So we burn a lot of precious
13 volunteer energy in the neighborhood
14 dealing with aspects of lousy Code, and
15 we really hope and we make a plea that by
16 the end of 2011 we have a new Code to
17 work with. It makes a big difference for
18 neighborhood life. Lousy Code really
19 sours neighborhood life and depletes our
20 resident volunteer energy.

21 We want everyone here to be
22 aware that all the meetings at 1515 --
23 this is a compliment to Alan and Eva's
24 work, the entire Commission and all the
25 people that helped with that. All the

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2 meetings at 1515, the public outreach,
3 the facilitated dialogues, the birth of
4 the Citizen Planning Institute were all
5 highly valuable and well worth it. They
6 signal a new energy in Philadelphia. We
7 built new leadership on the ground. We
8 reinvigorated leaders that took an
9 interest in the neighborhood, and we
10 formed new partnerships across civics
11 around the neighborhood, and many more
12 people are smarter about the entire topic
13 of zoning now, and that's something that
14 we needed to be in order to get ready for
15 a smarter Zoning Code.

16 So thank you to everyone for
17 that work.

18 Some successes within the Code
19 that I want to note that will make a
20 difference in our neighborhood is that
21 the civics are recognized and mapped. I
22 think it's the first time in 30 years
23 that there's actually a -- Planning
24 Commission has a map detailing all the
25 neighborhood boundaries and all civics

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2 that are involved to help make things
3 easier in the neighborhood so that
4 there's not as much agita and hashing out
5 to do at the ZBA. That's part of the
6 work that gets done in the neighborhood,
7 and we feel like that's being recognized
8 by finding a place within the Code, the
9 role of the civics and the whole kind of
10 protocols for civic engagement. That's
11 what we want to do, is get this stuff
12 resolved in the neighborhood so that by
13 the time we get to ZBA, there's a clear
14 voice and a good project.

15 Something else that we're
16 benefiting from the Code that sits before
17 you is that urban gardens and urban farms
18 have their place now. They're not
19 existing in the shadows, as are the whole
20 concept of live/work space and artist
21 spaces within various types of buildings
22 that seems like it may not any longer
23 have to exist with sort of a "don't ask,
24 don't tell" type policy of artists kind
25 of hiding out in buildings and people

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2 having art studio practices within their
3 homes. Now these are sanctioned, and
4 they actually have a designation for
5 that.

6 And we look forward to not
7 wasting hours at the neighborhood level
8 dealing with five foot side yard
9 provisions and refusals based on skinny
10 lots, which our neighborhood is full of.

11 So those are some successes for
12 sure. We do hope that the final
13 administrative procedure section of the
14 Code articulates mechanisms for a few
15 things. Number one, that ZBA review can
16 run more efficiently. We want to be
17 involved. We want the ZBA to know that
18 we're here, that we're a partner in the
19 process, as we talked about. But it is
20 difficult. We want to attend every
21 meeting, our Zoning Chair or myself or
22 Amy Miller here to my right, the
23 Secretary of the Zoning Committee, but
24 it's difficult when the meeting is like
25 11 o'clock and we're not sure, we may

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2 wind up being down there until 3:00,
3 3:30, 4:00 or 5 o'clock. So if there can
4 be a little bit more efficiency built
5 into the process, it would be terrific.

6 We would like to see some
7 mechanisms outlined so that the ZBA and
8 the members of the ZBA are able to share
9 what their thinking is on the decisions
10 that they make. We'll be better partners
11 to the City and the ZBA in the end.

12 Because right now we do get the notice,
13 which is great, of what the decision was,
14 but we're not sure exactly why. And that
15 doesn't mean that we're trying to be
16 hard-headed or combative. It's just that
17 these things are complex and we're
18 looking to understand.

19 President Obama said once, he
20 said, the things that come to my desk are
21 the things that nobody else could really
22 figure out. It's the toughest stuff to
23 grapple with. All leaders know that.

24 So the things that are winding
25 up at ZBA should be, and we hope now with

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2 the new Code will be, the things that are
3 more complex and difficult and need
4 thoughtful analysis and consideration and
5 evaluation. So what we need to be able
6 to do is to learn from each one of those
7 situations as live case studies what was
8 the thinking there. The ZBA holds
9 expertise. That's why they're there, to
10 make those decisions. We want to learn.
11 We want to understand what are the
12 perspectives, what's the reasoning, so we
13 can grow. It's not always so that we can
14 kind of come back for a second boxing
15 match. And your better community leaders
16 and your zoning committees and all the
17 people now that are coming through the
18 Citizen Planning Institute, they get
19 that. They want to learn more. They
20 want to know more.

21 We also hope that there will be
22 clearly prescribed criteria for the
23 granting of variances. There always was,
24 but it's never been clearly upheld.
25 That's one of -- that's some of the most

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2 important language within the Code, and
3 we hope that it's taken seriously and
4 that the process of decision-making
5 follows whatever that criteria is.

6 So just, again, thank you for
7 the opportunity. We hope that we can get
8 into 2012 doing great zoning and planning
9 work with a new document.

10 Amy Miller to my right, the
11 Secretary of the Committee, has some
12 other comments that are kind of pursuant
13 to previous letters that we wrote to the
14 Zoning Code Commission looking for them
15 to take on some recommendations within
16 the Code, and some of those were followed
17 up on.

18 So Amy.

19 MS. MILLER: Thanks. Like Jeff
20 said, my name is Amy Miller. I'm the
21 Secretary of the Zoning Committee for the
22 East Kensington Neighbors Association, or
23 EKNA. Our seven-member committee
24 submitted two formal letters to the
25 Zoning Code Commission in the course of

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2 this process, and members of EKNA have
3 attended numerous outreach sessions held
4 by the ZCC. I would also like to commend
5 the Commissioners and staff of the ZCC
6 and the City Planning Commission for
7 providing many opportunities for
8 community awareness and input throughout
9 this entire process.

10 The first letter that the EKNA
11 Zoning Committee wrote to the ZCC was in
12 response to the September 2010 draft
13 consolidated code and focused on the
14 proposed Transit-Oriented Development
15 District, or TOD district. There are
16 three stations of the Market-Frankford El
17 that border East Kensington - Berks,
18 York-Dauphin and Huntingdon. And so this
19 proposed district would greatly affect
20 our neighborhood.

21 We made some specific -- or we
22 raised some specific concerns, and we
23 feel that they have been addressed
24 adequately, and we think that the current
25 proposed Code on the TOD district is a

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2 great improvement on previous versions
3 regarding setbacks, building heights and
4 regulated uses, and the fact that it will
5 be further mapped by the Planning
6 Commission with community involvement.

7 We also wrote on the inadequacy
8 of the tree standards. The landscaping
9 and trees standard in the September 2010
10 version required street trees for
11 residential subdivisions creating five or
12 more lots. In the current proposed Code,
13 this has changed to three lots, which is
14 a significant improvement. However, I
15 urge City Council to consider other
16 policies that would incentivize more tree
17 plantings on new types of developments.

18 The required vehicle parking
19 standards are also a great improvement on
20 the current -- to the current as well as
21 previous versions of the Code. In the
22 current proposed Code, off-street parking
23 is no longer required for traditional row
24 home blocks. Attached residential
25 buildings and lots less than 20 feet wide

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2 now would require a special exception
3 approval. This is excellent, and no
4 longer will developers need a variance to
5 not build a front-loading garage.

6 Another great improvement in
7 the definitions -- is in the definitions
8 of home occupations. In the current
9 proposed Code, artist studios are now an
10 allowable home occupation. Artists have
11 proven to be some of the greatest
12 contributors to the revitalization of
13 Philadelphia, and making a living in arts
14 is challenging enough and now it would be
15 no longer illegal to have a home studio
16 as an artist.

17 The last comment I have is on
18 requirements for bike parking. The
19 bicycle parking standards are
20 unfortunately unchanged from the previous
21 Code. Philadelphia is one of the most
22 bikeable cities in the world, except when
23 you want to lock your bike. Stop signs,
24 handrails and trees become ad hoc bike
25 racks in the absence of adequate

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2 facilities. This is dangerous, unsightly
3 and causes great damage to trees. The
4 requirements for bike racks in the
5 proposed Code are simply inadequate for a
6 sustainable city. The thresholds are too
7 high and the number of racks too low for
8 commercial businesses, multi-unit
9 residential and public parking lots.

10 For example, the current
11 proposed Code states that for multi-unit
12 residential of less than 12 units, zero
13 bike racks are required. So an 11-unit
14 apartment building would have no bike
15 racks for all of those residents.

16 We need more bike racks in the
17 City, period, and requiring them as part
18 of new development is a great way to do
19 that.

20 The Zoning Code Commission was
21 authorized to modernize and rationalize
22 an antiquated and confusing Zoning Code.
23 In the process, Philadelphians have had a
24 chance to reevaluate their city, their
25 neighborhoods and their future. After

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2 this engaging process of rewriting the
3 Code, we are now faced with the enormous
4 challenge of remapping our land. What we
5 have in front of us is an excellent tool
6 to do so, which hopefully will continue
7 to be improved and adapted through the
8 years.

9 Thank you very much.

10 COUNCIL PRESIDENT Verna: Thank
11 you.

12 Any questions or comments from
13 members of the Committee?

14 (No response.)

15 COUNCIL PRESIDENT Verna:
16 Seeing none, thank you very much. We
17 appreciate your patience.

18 MR. CARPINETA: Have a good
19 dinner.

20 COUNCIL PRESIDENT Verna: No
21 agenda.

22 Do we have anyone else that
23 would like to testify?

24 (No response.)

25 COUNCIL PRESIDENT Verna:

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2 Seeing no one, this Committee will stand
3 in recess until September 27th at 10:00
4 a.m.

5 Thank you all very much.

6 (Committee of the Whole
7 adjourned at 5:10 p.m.)

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1
2 CERTIFICATE

3 I HEREBY CERTIFY that the
4 proceedings, evidence and objections are
5 contained fully and accurately in the
6 stenographic notes taken by me upon the
7 foregoing matter on September 14, 2011, and
8 that this is a true and correct transcript of
9 same.

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14 -----
15 MICHELE L. MURPHY
16 RPR-Notary Public
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