COUNCIL OF THE CITY OF PHILADELPHIA

PUBLIC HEARING

COMMITTEE ON RULES

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Room 696, City Hall
Philadelphia, Pennsylvania
Monday, December 8, 2003
10:35 a.m.

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Bill 030767 -
An Ordinance to amend the Philadelphia Zoning Maps by changing the zoning designations of certain areas of land located within an area bounded by Fillmore Street, Hartel Avenue, Rockwell Avenue, Borbeck Avenue, Verree Road, Rhawn Street, Tabor Avenue, Stanwood Street, Rising Sun Avenue, Solly Avenue, Verree Road, Emerson Street, Rising Sun Avenue, Solly Avenue,Tabor Avenue, Pennypack Park, Bergen Street, Verree Road, Strahle Street, Pine Road, Susquehanna Road, Verree Road, Grant Avenue, Pine Road, Shady Lane, the County Line and Oxford Avenue.

BILL 070768 -
An Ordinance amending Title 14 of The Philadelphia Code, entitled "Zoning and Planning," by amending Chapter 14-100 entitled "General Provisions" by amending Section 14-104, entitled "Non-Conforming Structures and Uses" by amending provisions relating to the reconstruction of non-confirming structures, under certain terms and conditions.

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PRESENT:

COUNCILMAN JAMES KENNEY, Chair
COUNCIL PRESIDENT ANNA C. VERNA
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN DARRELL L. CLARKE
COUNCILMAN FRANK. J. DI CICCO
COUNCILMAN MICHAEL A. NUTTER
COUNCILMAN BRIAN J. O'NEILL

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P R O C E E D I N G S

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COUNCILMAN KENNEY: Good morning, ladies and gentlemen.

Council Members Clarke, O'Neill, DiCicco, Council President Verna and Councilman Kenney.

First Bill on the agenda today is an Ordinance, Bill Number 030767, an ordinance to amend the Philadelphia zoning maps by changing the zoning designations of certain areas of land located within an area bounded by Fillmore Street, Hartel Avenue, Rockwell Avenue, Borbeck Avenue, Verree Road, Rhawn Street, Tabor Avenue, Stanwood Street, Rising Sun Avenue, Solly Avenue, Verree Road, Emerson Street, Rising Sun Avenue, Solly Avenue, Tabor Avenue, Pennypack Park, Bergen Street, Verree Road, Strahle Street, Pine Road, Susquehanna Road, Verree Road, Grant Avenue, Pine Road, Shady Lane, the County Line and Oxford Avenue, and any other street that might be in the northeast. Sorry.

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Please identify yourself for the record and proceed.

MR. CHAPMAN: Good morning, Mr. Chairman, Madam President, Members of the Rules Committee.

My name is Thomas Chapman. I am the Director of Development Planning for the City Planning Commission.

I'm here today to testify on Bill Number 030767. Council Member O'Neill introduced this Bill on November 20th of this year.

This Bill is a comprehensive re-mapping of the area that Councilman Kenney just went through. It encompasses approximately 586 acres.

This is a predominantly single-family residential area, with a number of different housing types and lots.

While the predominant residential zoning designation is R-5 residential, there are a number of blocks zoned R-2 and R-4. There also exists a number of apartment buildings and complexes zoned

either R-11a or R-12.

A commercial corridor exists along Rhawn Street and Oxford Avenue, and that area is zoned C-2 commercial.

Additionally, an industrial area is located along Rockwell Avenue, and is currently zoned either L-3 limited industrial or G-2 general industrial.

This Bill would make several changes to the existing zoning. First, the industrially-zoned area that remains industrially used would be re-zoned to a single designation of L-3 limited industrial.

The commercial areas would remain in the C-2 commercial classification, except for the properties along sections of Oxford Avenue which would be rezoned from a G-2 general industrial designation to a designation of C-7 commercial, reflecting the fact that these are commercial areas where off-street parking is provided.

The zoning in parts of the residential community is changed to reflect

the actual use of the property and the concern that the current zoning would allow for a property to be demolished, subdivided, and replaced with twice as many units without having to notify the surrounding community or without having to go before the Zoning Board of Adjustment.

Accordingly, there are proposed changes from R-2 designations to either R-1 or R-1 designations.

There are also changes from the R-5 classification to the R-4, where the lot size is so indicated.

This Bill is the product of a subcommittee of the Fox Chase Homeowners Association, which has worked with the staff of the Planning Commission and Councilman O'Neill for over two years now.

This Bill is scheduled to be considered by the Planning Commission at its meeting tomorrow, and at that time the staff will recommend approval of this Bill.

That concludes my testimony. I'd be be happy to answer any questions.

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COUNCILMAN KENNEY: Thank you very much.

Any questions of the witness? Councilman O'Neill.

COUNCILMAN O'NEILL: Just one. I'd like to congratulate the Planning Commission, particularly Mr. William Kramer, for the hard work over a period of almost two years, working with the Zoning Subcommittee of the Fox Chase Homeowners Association.

The only thing I want to ask the Planning Commission is, in the specific area where -- along Oxford Avenue, where we are changing from industrial to commercial to recognize the existing uses there -- they have off-street parking -- they're all there, obviously, with a variance.

Were the potential as-of-right uses in C-7 explained to the Homeowners Association Committee before they agreed to the C-7?

It's one thing, as we found, unfortunately too late to do anything

about, that often times community agrees to a variance for a specific use.

Then there's a re-mapping. And then somebody comes in. That business goes out of business or sells. And all of a sudden, they've got something there they never expected, they never asked for, they never agreed to; but the change in zoning has given a matter of right to somebody to do something that the community really would never agree to.

I just want to know if there's been some detail. That looks like the only area where that is potentially a problem.

MR. CHAPMAN: Councilman, it's my understanding that those discussions did take place. And a representative of the community is here today. She could probably verify that.

COUNCILMAN O'NEILL: I'll ask her the same question, but thank you.

COUNCILMAN KENNEY: Thank you very much. Any questions for this witness?

(No response.)

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COUNCILMAN KENNEY: Seeing none, would you like to go?

Please identify yourself for the record.

MS. ARMANO: Christine Armano. I'm the Director of Levicon LLP at 80001 Verree Road.

COUNCILMAN KENNEY: Please proceed with anything you'd like to have on the record. If you could please pull the microphone a little closer to you. Thank you.

MS. ARMANO: I was chairperson of a 20-person committee made up of primarily both business and homeowner's association representatives.

It was an organization that was open to any person within Fox Chase that wanted to volunteer their time and energy to look at the zoning that currently existed, as well as things that could make the neighborhood better.

COUNCILMAN KENNEY: Councilman O'Neill.

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COUNCILMAN O'NEILL: Yes.

Miss Armano, I'd like to thank you for your leadership in this, and all the hard work and time you put in, and your employer, Mr. Conway, who allowed you to do so on behalf of your community.

But I want to ask, one, was the committee made aware of all the potential uses that could go into that C-7?

MS. ARMANO: The committee was made aware of the uses and the differences within the different zoning classifications.

A number of issues did come up and were discussed within each area, as the area you discussed along Oxford Avenue.

Some of the issues addressed were concerned parking within the commercial areas, and they are also currently being addressed within the economic revitalization that is going on within Fox Chase as well.

COUNCILMAN O'NEILL: Okay. I'd also like to mention on the record that before

this hearing today, you and I discussed with Mr. Kramer a smaller bill but sort of a follow-up to this -- we'll call it Fox Chase II -- that covered a couple areas that didn't quite make it into this Bill and hopefully would have that in the next term of City Council.

Again, thank you.

COUNCILMAN KENNEY: Thank you very much. Thank you for your testimony. Anyone else to testify to this Bill?

(No response.)

COUNCILMAN KENNEY: Seeing none, we'll now move to Bill Number 030768 which is an ordinance amending Title 14 of The Philadelphia Code, entitled "Zoning and Planning," by amending Chapter 14-100 entitled "General Provisions" by amending Section 14-104, entitled "Non-Conforming Structures and Uses" by amending provisions relating to the reconstruction of non-confirming structures, under certain terms and conditions.

Please identify yourself for the

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record.

MR. CHAPMAN: Good morning once again, Mr. Chairman and Members of the Rules Committee.

My name is Thomas Chapman. I'm here today to testify on Bill Number 030768.

Council Member Blackwell introduced this Bill on November 20, 2003. This Bill amends the Zoning Code by amending provisions relating to the reconstruction of non-conforming structures.

Specifically, it amends Section 14-104, subparagraph 6, relating to the reconstruction of demolished, destroyed or condemned structures.

As introduced, this Bill would allow properties zoned R-9, R-9a, R-10 and R-10a to be constructed to their original configuration prior to the demolition of the structure.

This Bill is an attempt to address the fact that so many of the existing buildings and lots in the City of Philadelphia did not meet basic Zoning Code

requirements.

It's not an overstatement at all to say that there are thousands of non-conforming properties in the City.

Currently, when a building is demolished, in order to rebuild anything new on the property, the new construction must conform to all zoning controls, like height, setback, rear yard, front yard and side yard.

In many of the older areas of the City, where homes and lots existed well before the fist Zoning Code was enacted, the lots don't meet some or all of these requirements.

The best example of this deficiency is lot size. Many of our residential classifications assume a 90-feet deep lot.

The typical rowhome is zoned either R-9, 9a, 10 or 10a, and these districts all assume a 90 feet-deep lot.

But in most of the older neighborhoods, the street-to-street dimension is not 180, feet so you're not

going to find very many 90-feet deep lots.

This Bill is an attempt to allow a property owner to get past requirements like this that they can't possibly conform to, and rebuild what was existing, at least for those four classifications.

The Planning Commission is scheduled to consider this Bill at its meeting tomorrow, and at that time the staff will recommend approval.

I understand that there may be some... that there will be some amendments offered to this Bill this morning.

COUNCILMAN KENNEY: Any questions for the witness?

Councilman Clarke.

COUNCILMAN CLARKE: Thank you, Mr. Chairman.

I'm not familiar with this particular piece of legislation beyond what you just referenced. Let me break it down a little more, as an example.

I have... obviously one of the... represent one of the older parts of the

City. And as you know, we're doing a substantial amount of demolition and new construction.

We... Say for instance we have a block: Older type structures, small, not necessarily conducive to the amenities that will be required to sell new homes in an area.

There's demolition of those properties: Small, 14-foot wide properties. The thought is to build new construction with 20-foot wide.

How does that impact the developer who would be interested in doing that? Give me a for instance.

MR. CHAPMAN: Councilman, this Bill... This Bill really isn't meant to address that kind of a situation.

Like, for example, if there's a whole vacant block, you know, I believe that new construction should conform to all the Zoning requirements.

But this is meant to help out in a situation where you have a block where

there might be one or two vacant lots or one or two properties that are in bad shape, and those lots or buildings don't meet any of the Zoning Code requirements. And this Bill is an attempt to help get those properties rebuilt to what was there.

COUNCILMAN CLARKE: To the existing?

MR. CHAPMAN: Yeah, to the existing fabric of the community.

COUNCILMAN CLARKE: Yeah, but I'm saying, suppose you don't want to you -- do not want to have to build them to the existing dimensions.

MR. CHAPMAN: Well, it doesn't -- It would not require you -- If you want to build to the requirements of the Zoning Code, you can still do that. It would not prevent you from doing that.

COUNCILMAN KENNEY: What exists now that would stop a developer from renovating existing structures and to build two new houses on two vacant lots on one street?

If theoretically the entire street were abandoned, entire street were empty,

and we're going to go through and rehabilitate all the houses that are existing, plus build two or three new ones on an existing street, with only a 50-foot lot or a 60-foot lot, what would stop that from happening now?

MR. CHAPMAN: Well, there are actually two answers to that. If it's just rehabilitation, there's nothing that would prevent rehabilitation. But if it's reconstruction -- If it's reconstruction --

COUNCILMAN KENNEY: Reconstruction meaning that all the houses are going to be knocked down first?

MR. CHAPMAN: Yeah.

COUNCILMAN KENNEY: And then you can't rebuild what was there. You can't rebuild what was there.

MR. CHAPMAN: You can't rebuild what was there in many cases. In many cases you can't do that.

COUNCILMAN KENNEY: Councilman O'Neill.

MR. CHAPMAN: Because the lot depth

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in most cases doesn't give you the 1440 square foot lot.

COUNCILMAN KENNEY: Councilman O'Neill.

COUNCILMAN O'NEILL: Mr. Chairman, let me take a shot at this. You have a nice block. There's an empty lot in between Councilman Clarke and Councilman Kenney's house.

When they were built, they obviously conformed to Zoning or there wasn't Zoning maybe.

MR. CHAPMAN: Mm-hmm.

COUNCILMAN O'NEILL: Because of how old they are. We've only had zoning since the '30s, right?

Now they're non-conforming because when the zoning was placed -- that designation was placed on it, they needed, for instance, a 90-foot lot. Nobody on the block has a 90-foot lot. They're all non-conforming.

So, if I want to come in and build exactly what they have right in between

them, in this case a rowhome right smack in the middle of the block, I would need to go to the Zoning Board.

This Bill would relieve me from having to go to the Zoning Board.

MR. CHAPMAN: That's correct.

COUNCILMAN O'NEILL: That's pretty much the purpose of the Bill.

MR. CHAPMAN: That's the purpose of the Bill.

COUNCILMAN CLARKE: Would I then be prohibited to build beyond the existing dimension. If I'm now allowed to build a certain way, to conform to the prior dimension...

MR. CHAPMAN: Mm-hmm.

COUNCILMAN CLARKE: ...then wouldn't that now prohibit me from building beyond those prior dimensions?

MR. CHAPMAN: This Bill would either allow you to rebuild what you had, number one...

COUNCILMAN CLARKE: Right.

MR. CHAPMAN: ...or number two, you

could always build in conformance to the requirements of the Zoning Code.

If you want to go beyond what you had or beyond what the Zoning Code permits, then you'd still have the option to go to the Zoning Board.

COUNCILMAN CLARKE: There was no Zoning Code, is what I'm understanding, from that particular time, 1900 or whatever, for that particular structure, right?

MR. CHAPMAN: Right.

COUNCILMAN CLARKE: Right. That's the purpose of the Bill.

MR. CHAPMAN: Right.

COUNCILMAN KENNEY: Councilman DiCicco.

COUNCILMAN DiCICCO: Thank you, Mr. Chairman.

Mr. Chapman, would this have any impact on some of the things that we do in Council, where we do major reclassification, re-mapping South Philadelphia, example.

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MR. CHAPMAN: Mm-hmm.

COUNCILMAN DiCICCO: In my District we did from Washington, Oregon, from Broad Street to 5th or 6th, to eliminate going forward the right for folks to replace a commercial -- C-2 property with a C-2, if it's been abandoned or a... We removed mostly G-2, industrial, high end use, commercial because the fabric of the neighborhood has obviously changed, and it's now more conducive for residential. Would this have any impact on that type of legislation?

MR. CHAPMAN: No, it wouldn't. As introduced, it would only affect four residential zoning classifications, number one, and it... The other thing that we did a lot in the First District, Councilman, was change a lot of the multiple family zoning to single family.

COUNCILMAN DiCICCO: The R-10a, right.

MR. CHAPMAN: Yeah, we did a lot of that with you. And this has nothing to do

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with that.

COUNCILMAN DiCICCO: So it doesn't interfere?

MR. CHAPMAN: No, no. If you're required -- If you're only allowed to have a single family today, this is not going to change that.

COUNCILMAN DiCICCO: What's the big issue about going to the Zoning Board? You know, if it's a project that's obviously worthwhile and supported by the community and supported by the District Council person, that's likely that the zoning would be approved. So, why skip the step?

MR. CHAPMAN: Councilman, there's always the delay in going to the Zoning Board, there's uncertainty in going to the Zoning Board, and there's always expense.

COUNCILMAN KENNEY: Couldn't we simply just remap a certain section, do an overlay on the section you wanted to accommodate, as opposed to having to apply City wide?

MR. CHAPMAN: That's certainly an

option. That's not what was proposed here, but that's clearly an option.

COUNCILMAN KENNEY: Councilman Clarke.

COUNCILMAN CLARKE: Is that position based on what we believe the fact that City Planning doesn't normally like overlays, to have anything to do with that, or is it...

COUNCILMAN KENNEY: That hasn't been done in two years.

MR. CHAPMAN: Well, you're right. City Planning doesn't normally like overlays, but that's just not the approach that was presented to us here.

COUNCILMAN CLARKE: But the overlay would get you where you need to be for that particular development, if you decided it.

MR. CHAPMAN: Yeah. Yeah.

COUNCILMAN CLARKE: Okay.

MR. CHAPMAN: It would. And, actually, Councilman, you could look at this bill as an overlay.

COUNCILMAN KENNEY: Of the entire City.

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MR. CHAPMAN: Yeah.

COUNCILMAN KENNEY: Councilwoman Blackwell.

COUNCILWOMAN BLACKWELL: Thank you, Mr. Chairman.

Certainty we've met with the developer regarding this. And it just makes it simpler to do the whole project because they're doing the whole area anyway.

This is a developer who's already invested $70 million in redoing -- private dollars in redoing houses. And generally in my area and a few in Councilman Nutter's area. And he wants to make a commitment to do the rest.

And this is right in the heart of the area. And it just makes it easier to get it all done in a comprehensive manner without going individually, since the commitment's always there. And then we can just move more expeditiously to get the project completed.

COUNCILMAN KENNEY: I think the

reason why there's hesitance is nothing to do with this particular project or this developer, but the fact that what is the impact of this on a City-wide basis, I guess, is really the concern.

Certainly Councilperson Blackwell, as she had in the past, said this is a great project. We need to support it. We need to change whatever we need to change to do it. Then it makes a lot of sense. And we've done those things in the past for everyone's District.

I'm just concerned about what the impact is on this City wide with the passage of this, despite the good works and good issues surrounding this particular project. I don't know how -- I mean, I don't know the answer, whether it's a positive or a negative.

But Councilman Nutter had a question about this. Yes.

COUNCILMAN NUTTER: Thank you, Mr. Chairman.

I would probably pretty much be in

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the same situation. I was paying a little attention to this Bill; and I think, as Councilwoman Blackwell laid out, I'm not sure what the particular development is in question, although I think I know the particular developer; not think I know. I know the developer that she's talking about.

And I think on that score, I don't have any particular concern about that. My concern more narrowly involves the many... mostly too many times I've been over to the Zoning Board on particular cases, and the whole non-conforming use issue arises which usually degenerates to some extent into an argument about what was or what should be, and all of those kinds of concerns.

And so, some of the questions that were asked earlier are the same kinds of questions that I just wrote down for myself, that if there were a particular development that we were trying to move along... And I'm going to go back to that same question, Mr. Chairman.

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Councilman Clarke alluded to an overlay... Or you could -- I mean, whether it's an overlay or a changing of, you know, the entire zoning for a particular area, wouldn't you pretty much accomplish the same purpose but in a more narrow sense.

And if you had to come back for another project, you could do it that way, as opposed to the City-wide approach on, what is it? Four different zoning classifications.

I know at least one part of my constituency right now is seeking to do something with the R-10, R-10a classification.

And in many instances it's never been clear to me that, especially with the demolition, that the City records are always clear on what was there, what the dimensions are, what you were -- and what you would be allowed to do, since with every respect to all components of the government, sometimes our records aren't the best. So how do you know?

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Or if you end up at a zoning case and the person is in, although I guess under this they wouldn't have to go to zoning on a non-conforming use because they're going to say, well, it was a non-conforming use, and it's covered by this, right?

MR. CHAPMAN: Well, nonetheless, Councilman, this Bill doesn't relieve anyone from supplying Licenses and Inspections with a site plan or building plans or anything like that.

And, you know, no doubt there would be some debate as to what exactly was there, you know. In some instances L & I is going to have a file on a property. In other instances, you know, there's no denying they're not going to have a file on the property.

COUNCILMAN NUTTER: So you don't have a file on the property. And the person comes in says, well, it was a non-conforming use; and I say, it was X, Y and Z, we don't have a file on it, what

happens?

MR. CHAPMAN: Well, I guess things remain as they are today, you know; you have to prove what was there by other means, other than what's in L & I's file, you know. And that can be things like photographs of the property, you know, excerpts from the Sanborne Atlases, possibly even aerial photographs, things like that. It's not an exact science today and, you know, it will continue not to be an exact science, I believe.

COUNCILMAN NUTTER: I understand that.

Let me go back to the issue that was raised earlier. Is it in fact... I don't know what this map is in front of me but it's for some other development.

Is it possible that if there was a clearly defined area, you know, a perfect square, four blocks around, that for these four zoning classifications you could say in that specific area whatever's in the -- whatever was zoned by these classifications

is going to be considered, what, a grandfathered, non-conforming use and you can build whatever was there before? You can do that for just that specifically defined area?

MR. CHAPMAN: Are you asking me is that a way that this Bill could have been drawn? Is that your question?

COUNCILMAN NUTTER: Well, I don't want to talk about this particular Bill. I want to ask you a different question.

MR. CHAPMAN: Okay.

COUNCILMAN NUTTER: Could a bill be introduced...

MR. CHAPMAN: Yes.

COUNCILMAN NUTTER: ...that targeted a specific area...

MR. CHAPMAN: Sure.

COUNCILMAN NUTTER: ...anticipating a particular development?

MR. CHAPMAN: Sure.

COUNCILMAN NUTTER: Capture these four zoning classifications and allow those to be considered in that area the, in

essence, I guess, the grandfathered, non-conforming uses?

MR. CHAPMAN: Yes.

COUNCILMAN NUTTER: And have no impact on the rest of the City or these four classifications anywhere else in the City?

MR. CHAPMAN: Right.

COUNCILMAN NUTTER: Right?

MR. CHAPMAN: Yeah. I wouldn't disagree with that at all.

COUNCILMAN NUTTER: But then explain to me, I guess, your response to Councilman Clarke's query with regard to the Planning Commission's like or dislike for that condo legislation.

MR. CHAPMAN: Well, it really... The Planning Commission's dislike for overlays really wasn't an issue here. We were -- We were asked to prepare a bill that we would be applicable City wide.

COUNCILMAN NUTTER: I understand.

MR. CHAPMAN: And that's what we did. And if you look at the City, there

are areas in, I would say, most if not all Council Districts that have a substantial number of non-conforming residential lots that are zoned 9, 9a, 10 and 10a.

COUNCILMAN NUTTER: Right.

MR. CHAPMAN: West Philly, North Philly, Kensington, parts of South Philly. It's fairly common all over the City.

COUNCILMAN NUTTER: Okay. Thanks.

COUNCILMAN KENNEY: Councilwoman Blackwell.

COUNCILWOMAN BLACKWELL: Thank you. We would like to... Mr. Chairman, we were suggesting adding a section three that says, this shall apply only to the Third Councilmanic District.

And then, as other District Council persons especially find that affects them, we can amend them in. However, I understand, Mr. Chair, that Mr. Primavera may have some other amendment in mind.

COUNCILMAN KENNEY: Please. Identify yourself for the record.

MR. PRIMAVERA: Yes. Carl

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Primavera.

I'm here as an attorney, representing primarily builders and developers, also as a Board Member of the BIA which is the building industry association.

Just taking a step back, up until about two years ago, L & I had the policy that if you would come in with a site plan for an infill situation and show that you were returning the block to its original configuration, they would give you the permit.

And that was just a policy that you'll think makes sense, I hope, when I show you some of these photographs. The typical situation -- I'll just hand them up -- is where you have the whole block intact.

And these scattered site developers will acquire a property from the Redevelopment Authority or the City or the market, and the property may actually be vacant and beat up, and they're going to

rehab it.

All of a sudden there's a fire or it just collapses or maybe L & I will come in because it's eminently dangerous. So they go in to do the rehab, and they're told that they now have to meet the new requirements of the Code:

They have to provide a parking space. They can't have the porch that everybody else has. And this is the classic missing tooth. So this has been plaguing developers all over the City.

So, one of the amendments that I've proposed, in addition to enlarging the areas, all residential areas that would be impacted, but only make the exception available where 75 percent of the block is still existing structures, because Councilman Clarke's right: As a general rule of thumb, if the whole block is knocked down, why rebuild it to what had been old standards? You want to follow the new Code.

What we're typically finding in

these situations is, maybe there's two on a block. Usually there's one on a block. And you'll see from the photographs the houses may be 15 feet wide, and the new Code makes you have a 10-foot side yard. Well, that doesn't make sense.

Or the height makes you have a house that's half the height of everybody else. Or you have to have a curb cut in the middle of a whole block where there are no curb cuts and put in a parking garage.

So, the rule of reason, if there is such a thing, would obviously indicate that, you know, where you have a whole block, it should be kept intact; and where the block has gone, you should build to the new Code.

Or if there's a good reason, you should go to the Zoning Board and say, even though I control the whole block, I want to go back to the old arrangement.

So our proposal, really, is to continue the policy that L & I used to have by virtue of this exception.

Now, you can still follow the Code. So if you want to build to the new Code requirements, that's always something that you're allowed to do.

This is just another option that's available. So if you don't want to build to the new Code, you can build to what's existing on the block, and there you would be freed of the new Code requirements.

And our amendment, also, because Richie Fader said that it may not have been clear, in addition to building to the original footprint, we also want to be free of any off-street parking requirement, because if you look at these, you know, cars probably weren't even around when a lot of these homes were built, so it would be crazy to let you build to the original footprint but in the middle of the block have a curb cut and a garage.

I think if you say that the block has to be 75 percent intact, then that would prevent the situation where somebody grabs half a block or a full block, and

then wants to go back in time.

We're only going back in time where any reasonable person would say that that's the best way to treat the block.

This whole scheme is designed to keep good blocks good and make marginal blocks better. It's not meant to do anything more than to kind of implement common sense.

I had originally believed that the last series of amendments to the Zoning Code which Council passed, I guess, a couple months ago, would include this provision because I had seen some materials that had been prepared: Why the Zoning Code needs to be overhauled and why modernize the code.

And the preamble to that addresses this issue and says that a lot of our older neighborhoods, you know, have a missing unit; and we want to make it conform to what is there now.

And I just think it was an oversight. So the BIA is working with a

task force with Rich Lombardo, from the Planning Commission, and Dave Perry from L & I, looking at different things.

And quite frankly, this is what I thought had already been addressed. So in the narrowest sense, we're seeing this a lot in Councilwoman Blackwell's District.

I think it makes sense in every District. But the reality is that where we we're seeing it the most is in, I guess, West Philadelphia, Southwest Philadelphia, but even in South Philadelphia.

You can imagine on Broad Street if there was a fire and you wanted to replace one of those brownstones, L & I would basically say: Well, you can have it but you have to put, you know, a curb cut and a garage, or you can't go to the same height because, you know, those homes are... So the Code would force you to do something that nobody would want to have anyway.

And the answer is, you can always go to the Zoning Board. But in a lot of these situations, they're under time pressure.

They work with PHFA and other agencies. And as we all know, sometimes, you know, even though I'm in the business to represent developers, the marginal expense for some of these, since these are not what we would call, you know -- You know, these are market rate but not in neighborhoods where you're going to see $300,000 townhouses like Bella Vista or places like that.

So to spend the appeal fees, and the time and the money for lawyers and architects and engineers to come and testify, and then wait the 30 days to get a final decision, it does prove burdensome. So that's really what we're requesting of Council.

I don't think that this is a step backward at all. I don't think it hurts what Council wants to do, which is bring neighborhoods forward.

I think, again, just from these photographs, the rule of reason would suggest that anybody who saw these blocks

would want the exact replacement of what had been destroyed. So that's really our testimony, and we are available to answer question.

COUNCILMAN KENNEY: Councilman DiCicco.

COUNCILMAN DiCICCO: Thank you. Thank you, Mr. Chairman. Thank you, Mr. Primavera.

You mentioned earlier in your testimony, and you said as an example a building collapses, a building is caught on fire and has to be completely demolished.

And then you also mentioned in the later part of your testimony, using Broad Street as an example, where you want to replace a brownstone with a brownstone, but because the Code would require, since the building has completely been demolished, to put a curb cut and a garage.

MR. PRIMAVERA: Or limit the height.

COUNCILMAN DiCICCO: Or limit the height. But the garage, I understand, in some blocks -- And we've learned that

through experience, although I think the City's intention at the time, requiring a garage for all new construction, may work in some neighborhoods, but actually in other neighborhoods it's actually not only esthetically but I think it doesn't function as well. And we're looking at that as well.

But why not -- I mean, you're suggesting that if that same brownstone, that brownstone that you referred to, is demolished or was destroyed in a fire, that the developer would not have to comply with the height restriction on Broad Street, that they be able to put something greater than the 35- or 40-foot height limit, without having to go to the Board?

MR. PRIMAVERA: They would be able to go to the original height that everybody else is at. You know, sometimes --

COUNCILMAN DiCICCO: That's my question. This would not permit them to go beyond that without having to go to the Board.

MR. PRIMAVERA: No. No. They would only be able to match what's already there, so that they can -- their choices are build what --

COUNCILMAN DiCICCO: So you don't need to put a garage because there was never a garage there.

MR. PRIMAVERA: Right.

COUNCILMAN DiCICCO: All right.

MR. PRIMAVERA: And you would go to the same height that's there. The idea is to make it seamless so that the whole block is back intact.

COUNCILMAN DiCICCO: Thank you. Thank you, Mr. Chair.

MR. PRIMAVERA: And L & I had been doing that up until a while ago, just as a matter of policy because, you know --

COUNCILMAN DiCICCO: Yeah. And I understand the cost involved. But I think that overall, even though it can be time-consuming and costly, I don't want to remove the public process completely from the ability to be involved in the

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construction or reconstruction of properties on any given block in any given community.

And I know and you know that sometimes they can be unreasonable -- At least we think they're unreasonable. But to remove that, their ability to have -- be part of the process completely, I don't think would serve us any... would serve us well either. Thank you.

COUNCILMAN KENNEY: Any other questions of this witness?

I think Councilman Blackwell had something she wanted to add. Just wait a moment. While we're waiting, could we ask Mr. Chapman...

COUNCILMAN O'NEILL: I did pass up the proposed amendment, so I... All right. Thank you.

COUNCILMAN KENNEY: Let's just go back a moment to Bill Number 030767. There's a need to enter into the record an amendment to amend the zoning -- the new -- the proposed zoning map into the

legislation. So could you just please do that for us. Then we'll go back to the previous bill.

COUNCILMAN KENNEY: We have copies of the proposed.

MR. CHAPMAN: Mr. Chairman, it's map B-3, proposed zoning map. That's the...

COUNCILMAN KENNEY: All Members of the Committee have it?

MR. CHAPMAN: Yes.

COUNCILMAN KENNEY: You would like us to amend that map into the Bill.

MR. CHAPMAN: Yes, sir.

COUNCILMAN KENNEY: We will do that in the public --

MR. KRAMER: Any major changes, for the record?

COUNCILMAN KENNEY: Why don't you just explain what the changes are.

MR. KRAMER: Good morning, Mr. Chairman. My name is William Kramer. I'm a zoning planner for the Planning Commission.

The changes to this map were --

electronically they were correct. However, when I put the bill together, I had a typographical error.

There was an R-3 section on the original map along about Burholme Avenue that was -- should have been R-2, and along Strahle Street at County Line Avenue there was an R-3 section that needs to be changed to R-1a.

COUNCILMAN KENNEY: Okay.

MR. KRAMER: Both were consistent with requests made by the District Council person and run by the Committee.

COUNCILMAN KENNEY: Okay. Thank you very much.

We'll now go back to Bill 030768. Chair recognizes Council Member Blackwell.

COUNCILWOMAN BLACKWELL: Thank you. Mr. Chair, our legislative assistant has gone to make copies for the Committee of the proposed amendment.

This comes out -- This... And on our housing agenda from my District, we have what we call block-by-block

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revitalization.

And in a certain geographical area, we do infill. If there is a lot, if there is a fire in a house, you may have two or three properties in a block.

Now, that doesn't give you big closets, and it certainly doesn't give you parking, but it does make a block whole. And this is part of that whole agenda, to be able to infill houses that look like those that are already there, and make blocks whole again, so that to stop blight and certainly allow to at least maintain the quality of life and the quality of the neighborhood. So, you know, that is the... That is the reason behind all of this.

And certainly my clerk is making copies of the amendments -- the amendment which would say, in such cases -- and in such cases, at the end of D on the last page where it says, prior to the demolition or destruction of the structure, it would say, and in such case shall be exempt from any amount of off-street parking

requirements.

This exemption shall apply where at least 75 percent of the structures in the block are still in place. This shall only apply to the Third Councilmanic District, so we still protect any other District, and the folks at large who have City-wide concerns about how this could affect them.

And then, obviously, we could always amend it at any time to include other Districts, if we are comfortable with it, or decide that it is great City wide, given the different quality of neighborhoods throughout the City.

COUNCILMAN KENNEY: So as I understand it, the current amendment is in addition to the Third District. You're going to impose the 75 percent rule on the Third District.

COUNCILWOMAN BLACKWELL: If that is acceptable to the Committee.

COUNCILMAN KENNEY: For the consensus -- I believe it is the consensus of the Committee -- and they're all

District Council people and the only at-large member here -- is that they would like to allow your District to move forward in its needs and still study in their District what's going on.

COUNCILWOMAN BLACKWELL: Thank you.

COUNCILMAN KENNEY: So that would be an acceptable amendment to be moved in the Public Meeting.

And if there are no other questions for any of the witnesses, we could probably conclude our Public Hearing, move into our Public Meeting.

(Public Hearing concluded at 11:18 a.m.)

CERTIFICATE

I HEREBY CERTIFY that the proceedings and evidence are contained fully and accurately in the stenographic notes taken by me upon the public hearing of The Philadelphia City Council, taken on December 8, 2003, and that this is a true and correct transcript of same.

_____

DAVID A. DEIK, RPR and
Commissioner of Deeds

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