

## Letter to the Philadelphia Zoning Code Commission on Zoning Code Concerns

MARCH 16 2011

The Design Advocacy Group applauds the continued efforts of the Zoning Code Commission to communicate with stakeholder groups and further develop the proposed zoning code to be the best possible code for Philadelphia. The current draft of the proposed code is improved in many respects over the present zoning code and we look forward to its implementation. However, several aspects of the current draft are contrary to best planning practices and we ask that the following concerns be addressed:

### 1. Over Allowance of Nonconforming Use Expansion

Philadelphia's current zoning code appropriately restricts the by-right expansion of non-conforming uses to 10%. There is no justification to increase this legally tested number to 25%, as would be allowed according to **paragraph 14-305 (5)(a)(.2)** of the current draft. By definition, non-conforming uses are inconsistent with the city's Zoning Code and the Comprehensive Plan and this unwarranted increase of their expansion would work in contrary direction to the planning goals of the city.

**Solution:** Revert 25% allowed non-conforming expansion back to 10%, as it is in the present zoning code.

### 2. Insufficient Ground Floor Active Use Requirements for Parking Garages

Parking garages without active, pedestrian-oriented uses on the ground floor deaden the streetscape and harm the urban environment. This detrimental building form should not be allowed within Center City, where the pleasant walkability of the streets is a primary attraction for residents, workers and visitors. Paragraph 14-502 (7)(d) in the current draft's Center City Overlay requires active uses on the ground floor of parking garages on JFK, Market, Chestnut, Walnut and South Broad Street but this is not enough. There is no reason to disregard Sansom, Locust, Spruce, Pine, South or any other Street in the Center City area.

**Solution:** Increase the geographic coverage of the active use requirement for ground floors of parking garages to the entire Center City area. Allow the variance process to address the rare cases where this requirement would not be appropriate.

### **3. By-Right Building or Tower-Mounted Wireless Service Antennae in Residential Districts**

According to Table 14-602 of the current draft code, mounting of wireless service antennae on existing buildings and towers would be allowed by-right in the residential district RM-1. This would contribute to their uncontrolled proliferation throughout many residential neighborhoods across the city.

**Solution:** Change the requirement to allow building or tower-mounted antenna within the RM-1 district by Special Exception only.

### **4. Elimination of Massing Controls in RMX-3, CMX-4, and CMX-5**

The C4/C5 building massing controls in the present zoning code were originally carried into the new zoning code in Section 14-700 but were deleted in the red line version. This leaves all RMX-3, CMX-4, and CMX-5 properties that are not addressed by the Sky Plane Controls, which includes all north-south streets in Center City as well as all similarly zoned properties outside of Center City, without any regulations on building mass whatsoever. This omission would unnecessarily subject many properties to a new risk of being overshadowed by excessively massive buildings and detrimentally impact adjacent streetscapes.

**Solution:** Restore the RMX-3, CMX-4, and CMX-5 massing standards (referred to as “Additional Standards” in the August, 2010 draft) to the new zoning code. Note: these standards can co-exist with the Sky Plane Controls in the areas where Sky Plane Controls would apply: the massing standards control the overall building mass at various heights, the sky plane controls direct the disposition of that mass as it relates to the street.

### **5. Lack of Bonus Provision for Screening of Above-ground Parking Structures with Active Uses**

Even with active ground floor uses, and design standards for above-ground parking structures, the appearance of the upper stories of parking garages can be detrimental to the goal of creating attractive, pedestrian-friendly streetscapes. A bonus is provided in section 14-702 of the new code for underground parking to achieve this end. However, there is no bonus for screening parking garages behind building forms with other more pedestrian-friendly uses. This approach can be a more feasible option of appropriately dealing with parking garages, in some cases.

**Solution:** Provide a floor area bonus for above-ground parking structures that are screened by active uses on all floor levels. A suggested text is below:

*Parking Screened with Active Uses*

a) Criteria

A floor area bonus may be earned by fully screening a parking structure with active residential or commercial uses. The bonus is available if the project meets the following standards:

(1) The full height of the perimeter of the parking structure as seen from a public street is screened by a building with an active residential or commercial use as otherwise permitted by code. Such active uses may be either directly attached to the parking structure or separated by an interior court or service lane.

b) Bonus Floor Area

The additional gross floor area earned by providing screened parking is as follows:

RMX3: 50% of lot area

CMX4: 50% of lot area

CMX5: 100% of lot area

**6. Overly Lenient Façade Articulation Requirements**

Façade articulation is required in **Paragraph 14-703 (5)(.1)** for each building frontage that is greater than 100 ft. wide and that faces a public street 40 ft. or more in width. The intent is to assure that public streets will not be fronted with featureless, monolithic walls and the requirement can be easily and appropriately satisfied by including the listed items: “.c) Ornamental and structural detail; or (.d) projections, recessed, bays, overhangs or other variations in planes; or (.e) Transparent windows or other glazed area.” However, the paragraph also allows for the articulation requirement to be alternatively satisfied by the inclusion of: “.a) Changes in material; or (.b) Changes in texture; or

(.f) Murals or graphical design.” These items reduce the articulation requirement to surface treatment alone and render this standard almost meaningless.

**Solution:** Delete items (.a), (.b) and (.f) from the list of ways to satisfy the façade articulation requirements.

### **7: Elimination of Transparency Requirements from Form and Design Controls**

The current draft’s Section 14-703 no longer contains the previously included regulation that addressed building transparency at the ground floor level. This omission lessens the new code’s capacity to promote buildings with enlivened façades and diminishes the potential to encourage vibrant streetscapes.

**Solution:** Restore the paragraph below to the new code.

*from August, 2010 draft of the new zoning code:*

#### **(.3) Transparency**

*Any ground floor façade located within 20 ft. of a sidewalk, except for a façade containing a primary use in the “public, civic, and institutional” use category, shall be designed so that at least 30% of the horizontal width of the façade along that street frontage is occupied by windows, doors, or other transparent materials.*

### **8. Insufficient Garage Opening Screening Requirements**

Unobstructed openings with views into parking garages are unsightly and detrimental to the public streetscape. Openings should contain windows, screens, grills or louvers and should not be left unadorned. The current draft addresses this intent but the inclusion of the word “openings” in Paragraph 14-803 (5)(.2)(.b) (copied below) defeats the purpose of the paragraph.

*At least 30% of each façade facing a public street or publicly accessible open space shall be occupied by doors (on the ground floor), windows, screens, grills, louvers, openings, or other non-opaque façade elements that resemble those features.*

**Solution:** Delete the word “openings” from the paragraph above.

We appreciate your attention to these matters and would welcome an opportunity to discuss them further should there be any questions.

Sincerely,

Joanne Aitken, DAG Chair James Campbell, DAG Zoning Code Committee Chair

cc: Alan Greenberger, Deputy Mayor for Commerce and Economic Development

Peter Kelsen, Vice Chair, Zoning Code Commission