

City of Philadelphia



Philadelphia, March 24, 2022

CERTIFICATION: This is to certify that Bill No. 210778-AA was presented to the Mayor on the tenth day of March, 2022, and was not returned to the Council with his signature at a meeting held March 24, 2022 (being more than ten days after it had been presented to him).

THEREFORE, Pursuant to the provisions of Section 2-202 of the Philadelphia Home Rule Charter, the ordinance becomes effective as if the Mayor had approve it.

A handwritten signature in cursive script that reads "Michael A. Decker".

Michael A. Decker
Chief Clerk of the City Council

(Bill No. 210778-AA)

AN ORDINANCE

To amend Title 14 of The Philadelphia Code by adding Section 14-532, entitled the “/AHP, Affordable Housing Preservation Overlay District” and making other related changes; to amend the Philadelphia Zoning Maps by changing the zoning designations of certain areas of land located within an area bounded by 39th Street, Ludlow Street, 40th Street, and Market Street; and to establish a temporary demolition moratorium with respect to properties within the aforementioned area; all under certain terms and conditions.

Whereas, Urban Renewal, the federal program used to remediate “blighted areas”, began in Philadelphia in January 9, 1948, when eight “blighted” areas in Philadelphia, including two in West Philadelphia, were certified for remediation by the Philadelphia Planning Commission; and

Whereas, in 1959, the West Philadelphia Corporation, a non-profit community development organization, was formed by a coalition of higher education and medical institutions to spearhead the development of the University City Science Center in the area of West Philadelphia that would become known as Redevelopment Area Unit 3; and

Whereas, in 1963, the Philadelphia Planning Commission certified the area known as Redevelopment Area Unit 3 for remediation, consisting roughly of the land bounded by 34th to

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40th streets, and north of Chestnut to Lancaster and Powelton avenues (“Unit 3”). According to census data, as of 1960, 4,603 people lived in Unit 3, and it consisted largely of the neighborhood known as the Black Bottom. A 1963 memorandum from the West Philadelphia Corporation noted that Unit 3 contained 3,432 people making up 987 families, 444 of which were white and 543 of which were non-white; and

Whereas, in 1965 the Philadelphia Redevelopment Authority (“PRA”) determined that its property acquisitions in Unit 3 would displace an estimated 107 white families and 463 non-white families. Over 75% of the non-white families were tenants. Over 70% of the black families living in Unit 3 at this time were eligible for federally subsidized public housing; and

Whereas, by 1968, the RDA’s use of eminent domain on behalf of developers, including, but not limited to, the Science Center, the School District of Philadelphia and Presbyterian-University Medical Center, displaced 2,653 people in Unit 3, roughly 78% of whom were Black. According to Census data, the population of Unit 3 plummeted from 4,603 individuals in 1960 to 654 people in 1970; and

Whereas, in February of 1969, Penn students, supported by local Black activists and others, led a sit-in at the University of Pennsylvania to protest Urban Renewal in Unit 3, calling for affordable housing in Unit 3 and a University fund for low-income housing. This action led to the formation of the Quadripartite Commission (the “Commission”), consisting of community members and University of Pennsylvania (“Penn”) students, faculty and trustees; and

Whereas, the initial agreement forming the Commission noted that Penn would provide equitably-priced replacement housing units if future Penn development displaced residents, and that Penn would help create a ten-million-dollar community fund. Ultimately, the Commission floundered, but its genesis reflected the demands of community members and other stakeholders for affordable housing in Unit 3; and

Whereas, a 1964 Urban Renewal Land Use Map for Unit 3 showed plans for Presbyterian University City Medical Center on a 2.8 acre parcel of land bounded by 40th Street, 39th Street, Market Street and Ludlow Street (the “Site”). But ultimately, the Site was developed as affordable housing and the plans were changed to allow for the construction of the University City Townhomes, a 70-unit townhome style affordable housing development subsidized heavily by the U.S. Department of Housing and Urban Development (“HUD”), and consisting of approximately 19 two bedroom and 51 three bedroom units (“UCT”), that were built on the Site in the early 1980s; and

Whereas, in July, 1980, I.B.I.D. Associates (“IBID”), the current owner of the Site, entered into a Redevelopment Agreement with the RDA with respect to the site, and purchased it from the RDA for \$70,000 in 1982. IBID built UCT in 1983, and in connection therewith entered into a long-term contract with HUD in order to provide Section 8 affordable, family-style rental homes on the Site; and

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Whereas, as of 2019, the population of Unit 3 was approximately 1292 people, including 476 who identify as white, 252 who identify as African American, and 456 people who identify as Asian. About 98% of residents are over the age of 18. Approximately 68% of households have an income less than \$50,000; and

Whereas, on July 8, 2021, IBID delivered its notice pursuant to Section 1, Title 7, of the Philadelphia Code, of its intent to allow its Section 8 Contract with HUD to expire on July 8, 2022; and

Whereas, inspired by the potential loss of the rich community and needed housing provided by the University City Townhomes, the significant prior history of the displacement of lower income communities in this area, and the explosion of commercial development in University City over the past ten years, the Affordable Housing Preservation Overlay District creates a framework for zoning mixed use properties in high density, amenity rich areas, to encourage sustainable residential development for the areas identified below, and other areas throughout the City; and now, therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1.

The Council of the City of Philadelphia hereby makes the following legislative findings:

1. As affordable housing in the City diminishes, this Council has adopted inclusionary zoning more often to support the maintenance and creation of affordable housing in the City, most recently adopting mandatory inclusionary zoning within the Mixed Income Neighborhoods Overlay District which requires approximately 20% of units in certain new residential developments be affordable.
2. The area identified below as within the Affordable Housing Preservation Overlay District and the Mixed Income Neighborhoods Overlay District is located in an amenity rich area with access to transit, healthcare, quality schools, parks and jobs.
3. The nearby 40th Street SEPTA Market-Frankford Line station provides easy access to jobs throughout Center City and West Philadelphia.
4. Elderly residents are able to take advantage to the proximity of the University of Pennsylvania health system located at different locations within a 9-block radius.
5. The proposed Affordable Housing Preservation Overlay District is blocks from Saunders Park and a short walk from the greenery on Penn's campus.

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6. The elementary and middle school catchment for the area includes two top schools in the School District of Philadelphia, the brand new Science Leadership Academy Middle School (“SLAMS”) and the Samuel Powel Elementary School. Approximately 6%, or 22 students in the SLAMS student body live in the University City Townhomes which represents half the school’s total catchment population. Approximately 15%, or 34 students in the Powel student body live in the University City Townhomes.

7. The area is home to other residential housing uses, including units across Ludlow Street from the University City Townhomes, and Center Post Village, an 84-unit housing complex just north of Filbert Street that predominantly houses seniors and families, reinforcing that the area is attractive for seniors seeking easy access to transit, medical services, and the amenities discussed above.

8. The Ronald McDonald House, which provides housing for families traveling for medical care, also neighbors area within the Affordable Housing Preservation Overlay District across Ludlow Street, reinforcing the area as attractive for those seeking easy access to medical services in the area.

9. Zoning as provided in the proposed overlay will allow the area to retain a residential use consistent with those certain surrounding residential uses abutting the Affordable Housing Preservation Overlay District.

10. Imposing an affordable housing overlay as described below is consistent with the planning of stakeholders dating back to the 1960s and mandated by the ongoing needs of the community.

11. While other properties in the vicinity of the Affordable Housing Preservation Overlay District are zoned CMX-4 many such properties are residential in nature or used for mixed residential and commercial use, and other properties are zoned for lower density residential uses. Rezoning the Affordable Housing Preservation Overlay District as set forth below will best support and encourage growth of the residential community in this amenity rich area, encourage further development of residential housing in this area of the City, further Council’s commitment to maintaining and creating new affordable housing across the City, and is consistent with the long standing planning of the community and various stakeholders like the RDA that identified areas within in the Affordable Housing Preservation Overlay District specifically for affordable housing purposes. This overlay further serves to transition from the less dense residential uses north of Filbert Street to the denser mixed commercial and residential uses south of Filbert Street.

12. The Executive Director of the Philadelphia City Planning Commission, Eleanor Sharpe, along with planning directors from across the country, published a Commitment to Change Statement, which notes that planners played an integral role in the displacement of communities of color over the course of modern American history, including through Urban Renewal.

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13. The American Planning Association’s Housing Policy Guide Statement 2B supports the preservation of existing affordable housing in gentrifying, amenity rich areas, such as the area designated as the Affordable Housing Preservation Overlay District.

14. Philadelphia’s 2035 Comprehensive Plan notes that “the location of new housing, particularly housing supported by government funding, should be prioritized based on adjacency to existing community assets and strengths: commercial corridors, transit stations, and stable residential blocks.”

15. The University Southwest District Plan calls for mixed-use development in this area. Instituting the overlay set forth below achieves the District Plan’s intent and does so in a way that creates space for equity, community cohesion, and cultural and housing preservation. The need for residential housing in this area has grown significantly in the nearly ten (10) years since the plan was developed. While there is no longer a need for hotel rooms in this location, the need for stable long-term housing remains. Zoning the area designated as the Affordable Housing Preservation Overlay District in the manner described in the proposed overlay ensures that mixed-use development can take place at the scale of what is envisioned in the District Plan, while assuring residential housing, including affordable housing, remains in this amenity rich area.

16. There has been over \$5 billion in development in University City over the past ten years, a disproportionate amount of which has been dedicated to office, life sciences, and academic uses. Reportedly, there is billions more dollars of construction in the pipeline. This commercial development tracks the recommendation of a 2017 Brookings Institute Report which calls for the City to make a University City-Center City Innovation District from 17th Street to 43rd Street from the Market Street corridor to Grays Ferry Avenue. As University City continues to position itself as an innovation district for companies in the life sciences and other technology sectors to thrive, owners of land zoned for commercial and residential development on key corridors within and adjacent to University City will be incentivized to build commercial developments for the knowledge economy, not residential developments, and particularly not to maintain affordable housing for people with low incomes.

17. The Comprehensive Plan and the Zoning Code currently presuppose that the market will provide adequate housing in CMX zoning districts since over the past several decades residential development has been the most profitable type of development in the City. However, this is no longer the reality in University City, particularly along amenity rich transit corridors. Making residential development mandatory for uses above one story within the Mixed Income Neighborhoods Overlay District provides a check against the unique market forces at play in University City, which otherwise encourage maximizing growth and economic development over the creation of inclusive neighborhoods.

18. In addition to this shift from residential housing development along this transit corridor, a study published by Temple University Beasley School of Law and Community Legal Services warns that over 9,000 Philadelphia families are at risk of losing their affordable housing through

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“opt outs” of Section 8 project-based housing, which disproportionately affects Philadelphians who are low-income and African-American. More than half of these properties are owned by for-profit companies, with almost 6,000 units in total, and many are in gentrifying census tracts with rapidly escalating property values. The study concludes that if project-based housing is lost, the populations that already face the highest housing burdens would further disproportionately face increased burdens within the private market.

19. Although families may be provided federal housing vouchers to relocate by the expiration of the availability of affordable housing at a given location in the Affordable Housing Preservation Overlay District, given the high rate of voucher discrimination in Philadelphia and the unavailability of affordable housing in amenity rich areas, it is highly unlikely that families will be able to relocate to an area with similar access to transit, healthcare, quality schools, parks and jobs unless this Council acts to assure more dedicated affordable housing is developed in such areas.

20. Data from the immediate area documents this affordable housing crisis. The Census tract that contains the Affordable Housing Preservation Overlay District saw the median gross rent double between 2000 and 2018. The Census tract to the north saw a similar increase, while median gross rent quadrupled in the Census tract immediately to the east of the Affordable Housing Preservation Overlay District in that same time period. Furthermore, in that same time period, the black population decreased in every Census tract in University City east of 52nd Street except the ones that contain low-income housing sites, sometimes by more than 50%. This reinforces that those who need access to affordable housing most are finding it less and less in this section of the City.

21. For these reasons, the Affordable Housing Preservation Overlay District proposed is an essential tool to retain and encourage growth of residential housing units and affordable housing units in amenity rich areas where market forces may otherwise displace such housing.

SECTION 2. Title 14 of The Philadelphia Code is hereby amended to read as follows:

TITLE 14. ZONING AND PLANNING.

* * *

CHAPTER 14-500. OVERLAY ZONING DISTRICTS

* * *

§ 14-534. */AHP, Affordable Housing Preservation Overlay District.*

(1) *Applicability. The Affordable Housing Preservation Overlay District shall apply to lots located in the area bounded by Filbert Street, 39th Street, Ludlow Street and 40th Street.*

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(2) *Use Regulations.* Uses other than residential uses or required off-street parking may only be located on the ground floor of a building.

(3) *Applicability of /MIN, Mixed Income Neighborhoods Overlay District.*

For any property located within both the Affordable Housing Preservation Overlay District, and the § 14-533 (/MIN, Mixed Income Neighborhoods Overlay District) as described in Bill No. 210633-A:

(a) Notwithstanding the effective date of Bill No. 210633-A, the provisions of §14-533 (/MIN, Mixed Income Neighborhoods Overlay District), §14-303(8)(a), §14-513(5)(b)(.2), §14-702(7)(a)(.1)(.a)(iii), §14-702(7)(a)(.2)(.a)(iii), and 14-702(7)(i), all as set forth in Bill No. 210633-A, shall be effective immediately; and

(b) Notwithstanding §14-533(3)(b)(.1)-(4) and §14-533(6)(c), all affordable dwelling units and sleeping units shall be provided and maintained on the same site as all other dwelling units. No offsite options or payment in lieu of providing onsite affordable housing shall be permitted to satisfy the affordability requirements of §14-533(3)(a) or §14-533(3)(b)

(4) *Severability.*

If any paragraph, subsection, clause, provision, or exception of this Section shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Section as a whole or any part thereof. It is the intention of City Council that the remainder of this Section would have been adopted as if such invalid paragraph, subsection, clause, provision, or exception had not been enacted.

* * *

SECTION 3. No zoning permit shall issue for a complete demolition of any building within the area bounded by Market Street, 39th Street, Ludlow Street, and 40th Street, except if:

- (a) Such demolition is necessary to abate an imminently dangerous condition as determined by the Department of Licenses and Inspections;
- (b) Such demolition is necessary to abate an unsafe condition impacting the right of way or any adjacent property as determined by the Department of Licenses and Inspections; or
- (c) 12 months have passed since the date of enactment of this Bill of Council.

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SECTION 4. This Ordinance shall take effect immediately following its enactment.