

Legislation Text

File #: 090170-A, Version: 2

PROPOSED AMENDMENTS TO BILL NO. 090170

Bold Italics indicate matter added

~~Strikethrough~~ indicate matter deleted

Amending Title 14 of The Philadelphia Code, entitled "Zoning and Planning," by adding a new Section 14-1636, entitled "Central Delaware Riverfront Overlay District," and by amending Section 14-102, entitled "Definitions," under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 14 of The Philadelphia Code is hereby amended to read as follows:

TITLE 14. ZONING AND PLANNING.

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§ 14-102. Definitions.

In Chapters 14-100 through 14-1800 inclusive, the following general definitions shall apply:

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(13.1) Auto-share space. A parking space reserved for vehicles owned by an organization that provides public access to a fleet of automobiles on an hourly basis, or in smaller intervals, and maintains said automobiles, which must be located at unstaffed, self-service locations (other than any incidental garage valet service) and generally available for pick-up by members 24 hours per day.

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§ 14-1636. Central Delaware Riverfront Overlay District.

(1) *Legislative Findings.*

(a) In 2006, Mayor John Street issued an Executive Order creating the Central Delaware Advisory Group (CDAG), chaired by the Philadelphia City Planning Commission, comprised of neighborhood groups and interested parties. PennPraxis, the non-profit, clinical consulting arm of the School of Design of the University of Pennsylvania, performed as the primary consultant to the Group. CDAG's goal was to create a vision for the future development of the Central Delaware riverfront. Over the following year, CDAG, Philadelphia's citizens, state and city government leaders, property owners, and experts from across

the country, developed a “Civic Vision for the Central Delaware - 2007” for the Central Delaware River waterfront.

(b) Along the Delaware Riverfront, there are a number of underutilized, vacant parcels that tend to contribute to the deterioration of the economics and aesthetics of the area.

(c) Over the past several years, the public has taken a large interest in riverfront development and public access. The City must take steps to consider and protect the long-term future of the riverfront in order to support a mix of housing, retail, commercial activity, industry, port-related uses, parks and recreational activities.

(d) The Delaware Riverfront is important to the economic vitality of the City. Encouraging a mixture of uses will drive new economic growth and bring life to the waterfront.

(e) Developing a continuous recreational experience along the riverfront, allowing continuous public access, will enhance public space and the economic vitality of the area. In addition, this buffer will ensure the environmental health of the Delaware River. The creation of public space and access along the riverfront must be balanced by the property rights of landowners community values. The creation of public space and access along the riverfront must balance the property rights and development goals of landowners, protect the public interest, incorporate community values and subscribe to high standards of ecologically-responsible urban development.

(f) The Delaware Riverfront is a resource available to development that will attract new families to the City, create permanent jobs and strengthen the tax base.

(g) Retail shops, building lobbies, theaters, restaurants, galleries, exhibitions, churches, etc., give vitality to streets which, in turn, will benefit all of the workers and visitors to the riverfront. It is in the interest of the City to create and enhance a pleasant and active ambiance, thereby creating a vital public asset for the residents, users and visitors of the waterfront. It is important to require active street level usage of buildings and lots along these streets.

(gh) This District is established to protect the existing characteristics of the built and natural environment that are essential to achieving the working guidelines of the Civic Vision, adopted by the Philadelphia City Planning Commission on April 21, 2009, while a Master Plan for the area is developed. ~~This district is established in order to encourage the revitalization of the Central Delaware Riverfront in a manner that is consistent with portions of the citizen-driven “Vision” for the riverfront and sound urban planning principles adopted by the Commission.~~ This section of the City presents a diverse collection of uses, ranging from the working port and large retail establishments in the southern portion to high-rise residential communities in the north. Special land use controls and design guidelines will help promote long-term economic viability and to provide for a framework for future growth.

(2) Conflicting provisions. The provisions of this Section apply in addition to any underlying zoning provisions or overlays applicable to any property in this District. When the provisions of this Section are in irreconcilable conflict with any other provision of this Title, the provisions of this Section shall apply; provided, however, that, in the event of any development or use authorized by or any conflict with any provision of Chapter 14-400, the provision of Chapter 14-400 shall apply; and provided further that the provisions of this Section shall not apply to any parking area permitted by Section 14-408(1)(a)(.1)(A) or (B) (relating to off-site parking for gaming facilities).

(23) District Boundaries. The Central Delaware Riverfront Overlay District shall consist of all properties located in the area bounded by the south curblineline of Allegheny Avenue on the north, the Delaware River on the east, the north curblineline of Oregon Avenue on the south and the east curblineline of Interstate 95 on the west. Unless otherwise specified, the provisions of this Section shall apply to all properties in the Central Delaware Riverfront Overlay District.

(34) Prohibited Uses. The following uses shall be prohibited in the Central Delaware Riverfront Overlay District:

(g) Non-Accessory Signs;

(b) Private bus terminals;

(c) ~~Any use designated a “Regulated Use” under Section 14-1605; Buildings or structures with gross floor area in excess of 40,000 square feet, with a single retail store as a principal or predominant use;~~

(ed) *East of Delaware Avenue or Columbus Boulevard: Parking garages as a main use, except for existing structures. West of Delaware Avenue or Columbus Boulevard: Parking Garages are ~~only permitted with Commission approval~~ prohibited except when approved by the Planning Commission as part of the approval of a Plan of Development as set forth in subsection (12) of this Section;*

- (fe) *Parking lots as a main use;*
- (gf) *Self-storage facilities;*
- (g) *Adult book stores;*
- (h) *Adult mini-motion picture theater;*
- (i) *Adult motion picture theater;*
- (j) *Cabaret;*
- (k) *Massage businesses as regulated by §§ 9-610 and 9-611 of The Philadelphia Code;*
- (l) *Drug paraphernalia stores;*
- (m) *Adult video stores;*
- (n) *Check Cashing Establishments;*
- (o) *Pawnshops;*
- (p) *Adult Modeling or Photography Studio;*
- (q) *Adult Spa or Health Club;*
- (r) *Adult Entertainment Store;*
- (s) *Penal and Correctional Institution (private);*
- (t) *Penal and Correctional Institution (public);*
- (u) *Payday Lenders*
- (v) *Gun Shops*

(45) *Active Use Requirements. For buildings in commercially zoned districts with street frontage on either Delaware Avenue or Columbus Boulevard, at least seventy five percent (75%) of every ground floor street frontage shall be constructed of glass or other transparent material. Such buildings shall include the following uses, either individually or in any combination, on the ground floor of the building: ~~New construction in commercially zoned districts with street frontage on either Delaware Avenue or Columbus Boulevard shall include retail commercial, office commercial, multi family lobbies, art related or entertainment uses at the ground floor of buildings facing Delaware Avenue or Columbus Boulevard.~~*

- (a) *Retail sales areas and restaurants;*
- (b) *Office, hotel, residential and/or theater lobbies;*
- (c) *Libraries, museums, galleries and exhibition space;*
- (d) *Places of worship;*

- (e) *Enclosed public space, enclosed gardens, public rooms, through block connections; and*
- (f) *Entrances to public transit stations and/or a public transit concourse.*

(56) **Waterfront Setback.** New construction abutting the Delaware River shall provide an unencumbered setback from the top of the bank of the Delaware River at high water mark, as determined by survey, sufficient to allow for reasonable public access to the river's edge. The Commission shall determine the contours and dimensions of the setback, which, except for where not feasible as determined by the Commission, shall have a width of no less than fifty (50) feet and no greater than one hundred (100) feet at any location in order to accommodate access along the riverfront. Setbacks on the piers shall be determined in conjunction with the Pennsylvania Department of Environmental Protection and, where applicable, the United States Army Corps of Engineers. This waterfront setback shall be open to the public, may be publicly or privately owned, and shall include a right-of-way dedicated for pedestrian and bicycle traffic. A landowner shall be entitled to present an application to the Commission for prior approval of the setback and access in advance of a zoning application or at any time, which the Commission shall in its discretion certify as reasonable access along and to the riverfront. Within one hundred twenty (120) days of the effective date of this Ordinance, the Commission shall adopt regulations necessary to implement the provisions of this Section. An unencumbered setback shall be provided with the following conditions:

(a) Such setback is determined from the western Bulkhead Line of the Delaware River as amended by the Secretary of War on September 10, 1940. If, due to erosion, accretion or human activity, the top of the west bank of the Delaware River has substantially moved away from the western Bulkhead Line, then an unencumbered setback shall be provided from the most easterly line of the property along the top of the west bank. Any discrepancies between the physical top of the bank and Bulkhead Line along the west bank of the Delaware River shall be surveyed by the District Surveyor and the Board of Surveyors of the Department of Streets shall keep the survey on file and available for public inspection.

(b) Except where not feasible as determined by the Commission, such setback shall be no less than 100 feet or 10 percent of the lot, whichever is less, not to include submerged land. The Commission shall not grant an exception based on infeasibility other than pursuant to objective standards adopted by regulation, which regulations shall be adopted within one hundred eighty (180) days of the effective date of this Section.

(c) Such setback shall contribute to any open space, open area or yard requirements of the underlying zone.

(d) *No setback shall be required on existing piers. Nothing in this Section shall relieve the applicant from any requirements of the Pennsylvania Department of Environmental Protection or the United States Army Corps of Engineers.*

(7) *Recreational Trail.*

(a) *In commercially zoned districts, no construction, improvement or major alterations shall be permitted unless, in conjunction with such activity, the owner or developer creates a recreational trail within the waterfront setback which the Planning Commission approves as consistent with the Civic Vision for the Central Delaware 2007, amendments to this Civic Vision or any subsequent plan adopted by the Planning Commission for this District.*

(b) *In lieu of developing a recreational trail, the owner of the waterfront setback may dedicate the waterfront setback to the City or the City's responsible agent. Upon dedication and acceptance, the City or its agent shall be responsible for maintaining the waterfront setback as well as constructing and maintaining a recreational trail. The City or its agent shall have care, custody and control of the waterfront setback and recreational trail. Dedication may be made in a deed of dedication, deed of easement or other similar transfer acceptable to the City. If the property owner does not dedicate the waterfront setback to the City or its agent, the property owner shall be responsible for maintaining the waterfront setback open to the public, constructing a recreational trail and maintaining the recreational trail.*

(c) *The recreational trail may include one or any combination of benches, picnic tables, pedestrian lighting, bikeways, parks, decks, observation towers, piers, boat-launching ramps, transient moorage, interpretive centers, displays of maritime history, or other areas serving as a means of view and/or physical approach to public waters for the public.*

(d) *The recreational trail shall be open twenty-four (24) hours a day, except where the Commission determines good cause exists for limited closures or limitations on the types of activities permitted.*

(e) *Adjacent lots shall have access to said recreational trail. In instances where the trail has been dedicated to the City or the responsible agent of the City, adjacent lots shall continue to have access to said trail. In no instance shall the creation or dedication of the trail diminish the right of the adjacent owner(s) of access to, from and over the trail.*

(f) *In instances where the trail has been dedicated to the City or the responsible agent of the City, for purposes of calculating the allowable gross floor area of the site, the dedicated portion of the lot shall continue to be counted in the allowable gross floor area calculation for the retained portion of the lot.*

~~(68) *Regulated Public Access. Waterfront Access. One or more open air access points to the riverfront shall be provided at a cumulative width of no less than twelve (12) feet on piers where a setback exists and twenty five (25) feet at all other locations, except where such access is not feasible as determined by the Commission. The access path shall be open to the public 24 hours a day, seven (7) days a week unless the Commission determines that for reason of public health or safety that other hours are appropriate. An access path may be shared by two or more adjacent property owners via an easement agreement between the parties. Evidence of such an easement must be submitted to the Department prior to the issuance of any zoning permits. If a property abuts a legally open street which provides direct access to the waterfront public space, no additional open air access is required on such property. In commercially zoned districts, no construction, improvement or major alterations shall be permitted unless, in conjunction with such activity, the owner or developer provides one or more open air access paths to the waterfront setback. The cumulative width of all such access paths for any lot must be no less than twenty-five (25) feet. Each individual public access path shall be no less than twelve (12) feet wide and shall include an improved walkway of no less than five (5) feet in width. Public access paths shall be open twenty-four (24) hours a day, except where the Commission determines good cause exists for limited closures or limitations on the types of activities permitted. Adjacent property owners whose properties all share a common boundary line may share access via an easement agreement between the parties. Evidence of such an easement must be submitted to the Department prior to the issuance of any zoning permits. A legally open street which provides direct access to the waterfront setback, if such street includes an improved walkway, may substitute for other access requirements.*~~

(79) *Front Yard. For all new construction on properties fronting on Delaware Avenue or Christopher Columbus Boulevard, no front yards shall be permitted; provided, that such front yard is landscaped or accessible to pedestrians. in excess of fifteen (15) feet However, in no case shall any building be constructed so that the front yard when combined with the width of the sidewalk exceeds 25 feet. Seventy-five (75) percent of the building line shall be occupied by the façade of the main building.*

(810) *Off-street parking. Open-air accessory parking lots with five or more parking spaces shall comply with the provisions of Section 14-1403(6) regardless of the underlying zoning classification.*

(911) *Auto-share. Notwithstanding the provisions of Chapter 14-1400, the total number of required parking spaces for a property may be reduced through the addition of auto-share spaces. One auto-share space may replace four (4) required parking spaces. In no case may the number of auto-share spaces provided reduce the required number of parking spaces by more than forty (40) percent.*

~~(4012) *Plan of Development.*~~

(a) *For all properties east of Columbus Boulevard/Delaware Avenue or adjacent to the Delaware River and for all other commercially zoned properties, no zoning permits shall be issued unless (i) the applicant shall have first submitted to the City Planning Commission, and the City Planning Commission shall have approved, a Plan of Development, which shall be approved by the Commission only if the Commission, in its discretion, has determined that the Plan of Development provides for development appropriate in scale, density, character and use for the surrounding community, and is consistent with applicable plans, and (ii) the Planning Commission determines that the requested permits are in conformity with the approved Plan of Development. If the*

Commission fails to approve, disapprove, conditionally approve or table ~~the proposal~~ a proposed Plan of Development within 45 seventy-five (75) days after submission of complete plans to the Commission, the approval of the Commission shall be presumed. Within one hundred ~~twenty (20)~~ eighty (80) days of the effective date of this Ordinance the Commission shall adopt regulations providing objective standards for such design review as may be necessary, prior to implementing the provisions of this ~~Section~~ subsection 12.

(b) The approval or disapproval of a Plan of Development by the Commission shall constitute the final decision of the City on the proposal, and may be challenged by direct appeal to the Court of Common Pleas; provided that any applicant may pursue a request to the Zoning Board of Adjustment for a variance, pursuant to Section 14-1801(1)(c).

(1) Conflicting Regulations. When the provisions of this Section conflict with other provisions of this Title, the more restrictive provisions shall control.

(13) The provisions of this Section shall expire upon Council's adoption of an Ordinance enacting land use and zoning controls that includes the boundaries of this District consistent with a Master Plan adopted by the Philadelphia City Planning Commission.

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SECTION 2. This Ordinance shall become effective immediately.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.