

**CITY OF PHILADELPHIA
CITY PLANNING COMMISSION**

Regulations Regarding Approval of a Plan of Development Pursuant to § 14-1638 of The Philadelphia Code for Properties Located in the Central Delaware Riverfront Overlay District

Section 1. Preamble

These regulations implement the Central Delaware Riverfront Overlay District (Bill No.090170-A) that was signed into law on August 17, 2009 and codified in Section 14-1638 of The Philadelphia Zoning Code. The purpose of the Central Delaware Riverfront Overlay is to provide development guidance and controls during the period in which a public policy master plan is prepared for the Central Delaware riverfront. These regulations are not intended to take the place of a master plan, but to give developers and communities more certainty as to the expectations of the City as to both process and intent.

Given the sensitivity of development in the Central Delaware riverfront and the extraordinary attention planning along the riverfront has received in the last several years, the Central Delaware Riverfront Overlay calls for projects located east of Columbus Boulevard/Delaware Avenue or adjacent to the Delaware River and for all other commercially zoned properties in the Central Delaware Riverfront District to be subject to a Plan of Development. The Plan of Development process will require the approval of the Planning Commission for each project, even if the project is otherwise in conformance with the regulations of the base zoning for a given parcel. The purpose of the Plan of Development process is to help ensure that development proposals conform to the goals articulated in the Civic Vision for the Central Delaware - 2007. These goals were accepted by the Planning Commission on April 21, 2009 as the working guidelines for development and public policy planning in the area, now being developed in the master plan.

Plan of Development review is not intended to be an open-ended review of any aspect of the proposed development, but to be limited to certain key issues that are regarded as potentially having an impact on the quality and character of the surrounding community.

Section 2. Definitions

“Commission”: The Philadelphia City Planning Commission

“Executive Director”: Executive Director of the Philadelphia City Planning Commission

“POD”: Plan of Development

Section 3. Scope

Pursuant to Subsection (12) of Section 14-1638 of The Philadelphia Zoning Code, entitled “Central Delaware Riverfront Overlay District,” the City Planning Commission hereby adopts the following rules and regulations governing the review and approval of “Plans of Development.”

Every new development or redevelopment has impacts on the immediate surroundings, the neighborhood, and the larger urban context. The responsibility of protecting this public realm falls on the City Planning Commission. The Plan of Development is an extension of this already existing charge.

In reviewing a proposed POD, the City Planning Commission will consider any item that will have an effect or impact on this public realm. Such items subject to the POD review will include:

- (a) The base zoning;
- (b) The proposed uses;
- (c) The density of the development, including the scale, height and massing of the structures as well as the unit count/composition;
- (d) The amenities included in the project, including the landscaping;
- (e) Any connections to neighborhood at large;
- (f) Street life activity/continuity;
- (g) Any proposed streetscape improvements;
- (h) Parking and traffic impacts, including where the buildings will be serviced;
- (i) The appearance of the building, including its form and materials;
- (j) The site layout/design; and
- (k) Any issues relating to sustainability.

While such a list obviously cannot be all-inclusive, it should serve as notice to developers bound by the POD, on what to expect from this review process.

Section 4. Submission Requirements

A complete POD submission shall include the following items; however, the Commission may in its discretion waive one or more of these requirements:

- (a) A narrative demonstrating how the project is “appropriate in terms of scale, density, character and use for the surrounding community”;
- (b) A letter from the developer stating that he or she has met with local residents at a meeting where a member of the Commission staff was also present, to discuss the relevant proposal, or a letter indicating that substantial efforts have been made by the developer to hold such a meeting, but such a meeting never took place;
- (c) A Site Plan, including a survey, showing the boundaries, area, length and width dimensions of the site(s), including existing conditions;
- (d) The proposed maximum gross floor area;
- (e) The dimensions and heights of the proposed structures or existing structures to be retained, and the use or uses intended for each such structure;
- (f) The gross floor area and occupied area of all buildings on the property;
- (g) The dimensions and location of all parking areas, all driveways leading thereto, and all other private drives, ways or streets intended for use by automobile traffic;
- (h) The dimensions and location of all off-street loading facilities;
- (i) The dimensions and locations of all signs;
- (j) A landscaping plan, including the dimensions and characteristics of any open space;
- (k) A traffic study and mitigation plan for any POD which includes either a minimum of 25 new dwelling units or a minimum of 10,000 square feet of new retail space;
- (l) A parking management plan describing the proposed policy on and resources for parking for patrons, employees and managers, and anticipated traffic and parking management resources;
- (m) Building floor plans, elevations (which must indicate the location of all materials), sections and renderings, including a materials board;
- (n) Identification of all public and private areas;
- (o) A storm water management plan;
- (p) Any other information that the Commission deems necessary for a decision; and
- (q) To the extent applicable, a plan for a recreational trail along the waterfront, which shall include the following:

- 1) a minimum of twelve (12) foot wide trail surface with a three (3) foot shoulder, and is designed in such a manner as to accommodate emergency vehicle access;
- 2) plans for the connection of the trail to adjacent properties; and
- 3) compliance with all applicable ADA requirements.

Section 5. Hearings

(a) Hearings on POD proposals will be conducted at regularly scheduled Commission meetings, unless otherwise determined by the Commission in its discretion. Except as otherwise provided in these regulations, there will be at least two public meetings of the Commission to consider each POD proposal. The first meeting will be an informational only meeting at which no Commission action will be taken. The Commission will set aside a reasonable amount of time at this meeting to take public comment on the POD proposal from anyone present at the meeting. The second meeting will provide a formal hearing on the POD. The Commission's decision will be taken at the conclusion of the formal POD hearing. Properties with a base zoning of "C1" or "C2" Commercial shall be exempt from the requirement of an informational only meeting.

(b) The Commission's decision on a proposed POD shall be by vote of a majority of the members present and constituting a quorum at a POD hearing.

(c) A POD hearing shall be open to the public, with reasonable notice and opportunity provided for public comment. Notice of a POD submission shall be posted on the property and on the Commission's website at least fourteen (14) days prior to the scheduled POD hearing.

(d) The staff of the Commission will present the POD proposal at the hearing with their recommendations.

(e) The Commission shall have the power to administer oaths for the testimony of witnesses at a POD hearing.

(f) The applicant shall be given reasonable notice of the hearing and an opportunity to present relevant evidence and testimony of witnesses in support of the POD. Reasonable cross-examination shall be permitted. The applicant may appear in person or by his attorney.

(g) The Commission may allow, in its discretion, persons demonstrating a direct interest in the decision a reasonable opportunity to present relevant evidence, to have witnesses testify on their behalf, and to cross-examine adverse witnesses.

(h) Testimony given at a POD hearing shall be recorded and a full and complete record shall be kept of the proceedings.

Section 6. Decisions of the Commission

(a) At a formal POD hearing, the Commission will either approve, conditionally approve, deny or table the POD for later action. The Commission shall approve the POD only if it determines, based on its review of the submission and evidence presented, that the POD provides for development appropriate in scale, density, character and use for the surrounding community. As required by Section 14-1638 of The Philadelphia Zoning Code, entitled "Central Delaware Riverfront Overlay District," the Commission will consider criteria including but not limited to the following:

- (i) Uses: Section 14-1638 prohibits certain uses and requires other 'active uses' under certain conditions. POD review will confirm that the proposed development is in conformance with Section 14-1638 and, in cases where the proposed use is not clearly defined in Section 14-1638, make a determination as to the appropriateness of the proposed use in relation to uses in the immediate area and the broader goals of enlivening the public environment at or near the riverfront.
- (ii) Waterfront Setback: Section 14-1638 requires an unencumbered setback of certain dimensions for the purposes of public access by foot and bicycle. The Commission, in its discretion, may decide that a waterfront setback is infeasible in certain locations. Existing structures, topography, incompatible land use, and any negative impact on the health, safety, or welfare of the public may be considered in making this determination. Recognizing that each site is different in dimension and that the required setback has implications for development on a given site, POD review will determine whether the required setback is feasible, and if not, establish the degree of setback that is feasible to ensure the potential for a continuous public path on or near the riverfront.
- (iii) Waterfront Access: POD review will determine the adequacy and appropriateness of the location of any required public access to the riverfront and will also determine limitations on the public hours of access based on issues of public safety and public health.
- (iv) Front Yard: POD review will determine whether the landscape and hardscape design in any setback from the property line is appropriately open and visible to building and public space entrances.
- (v) Aesthetics: POD review will only comment on the overall aesthetics of a proposed development if, in the opinion of the Commission, specific proposals have a clear and definable adverse impact on the development potential and character of the surrounding area.

(b) The Commission shall render a decision within seventy-five (75) days of receiving a POD submission that complies with the requirements of Section 4 of these regulations. If the Commission fails to render a decision within seventy-five (75) days of a complete POD submission, the approval of the Commission shall be presumed. If any amendments are made to the POD, whether at the request of the Commission or the applicant, the Commission shall have seventy-five (75) days from the date of amendment to render a decision.

(c) A decision of the Commission on a POD shall be in writing, shall contain findings and conclusions supporting the decision, and shall be served upon the applicant and his or her attorney of record and on such other persons as have notified the Commission in writing of their interest in the matter.

(d) The approval (with or without conditions) or disapproval of a POD by the Commission shall constitute the final decision of the City on the POD proposal.

Section 7. Review of Zoning Permit Applications

The Executive Director is hereby authorized to review any zoning permit applications issued on properties within the district, to determine whether or not such permits would be in conformity with the approved POD.

Section 8. Appeals

Any person aggrieved by an approval (with or without conditions) or denial of a POD proposal by the Commission may appeal the decision to the Court of Common Pleas.