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THE NUTTER PLAN FOR
ZONING AND PLANNING
REFORM

INTRODUCTION

“We plan in order to protect our future as well as our past.”

-- Michael Nutter

Philadelphia has turned a corner. The fifty year trend of population and job losses has slowed and many neighborhoods are thriving. The City has the third largest downtown residential population in the country and Center City is the nation’s largest concentration of residents who walk to work. Philadelphia is benefiting from a nationwide change in attitude toward urban living, a favorable demographic shift, and specific policy initiatives, such as the 10 year tax abatement on residential construction, that have led to millions of dollars in private investment.

Yet, the results of this new vitality are mixed. Much of the City is not benefiting from the current boom. There is minimal planning and no coordination between various development projects. Poorly planned development can create excessive density, foreclose opportunities for public amenities, increase automobile dependency, neglect opportunities to direct development activity into more strategic areas of the city, and diminish the pedestrian-scaled character that makes Philadelphia neighborhoods so desirable. New development should be strengthening the character of the City, not weakening it.

The problems outlined in this paper will have serious adverse effects on the City unless the next Mayor confronts them with focus and discipline. The time has come to revise the zoning code to address current market realities, reform the development review process, and create new master plans to guide future growth in a manner that will improve neighborhood character and benefit the city as a whole. The reform process must be crafted to engage the public and engender a transformation of the current political attitude regarding the benefits of city planning.

As Mayor, I will:

- **Re-Establish** the Planning Commission as the nation’s preeminent city planning agency and support the creation of community master plans and standardize the community review process.
- **Reform** the Zoning Board of Adjustment and streamline the zoning appeals process .
- **Revise** the antiquated zoning code in accordance with the best planning principles in the nation.
- **Institute** a zoning reform process that engages citizens and City leaders and that creates a political atmosphere for both revising the code and creating the master plans.

RE-ESTABLISH THE PLANNING COMMISSION AS THE NATION'S PREEMINENT CITY PLANNING AGENCY

“Recent Mayors of Philadelphia have pursued unrelated transactions rather than followed a plan. We no longer need to chase growth; now we need to guide it.”

-- Michael Nutter

The zoning appeals process as administered by the Zoning Board of Adjustment (ZBA) has become a *de facto* planning process. Appeals for variances from zoning restrictions are intended to correct hardships and unique circumstances intrinsic to a piece of property. Instead, developers are contesting the basic tenets of our zoning map. Examples include rezoning land to allow for greater density, changing the use from industrial to residential, breaking height limits, and requesting other fundamental changes to the basic zoning code. The ZBA decides on these matters on a parcel by parcel basis, rather than as part of a coordinated and open public process. The zoning appeals process was never meant to substitute for planning and the ZBA membership does not include planning or design professionals.

While the Zoning Board of Adjustment does solicit the opinion of neighborhood groups regarding variance decisions, the current practice is an unpredictable, ad hoc process that developers try to avoid. Practical experience suggests that this is not the most effective way to involve the public, because they are forced to react to development proposals as each is independently presented. This converts development into a process of negotiation between the residents present at community meetings and the developers. In response to community resistance, a developer may offer design changes simply to show good faith. In this fashion, the public may win minor concessions, but they usually come too late to effectively shape the project. Ideally, these types of zoning decisions would be made as part of a well-coordinated, strategic plan that accounts for the complexities of the urban environment, and utilizes an established public process that ensures fairness.

As Mayor, I will re-establish the Planning Commission as the nation's preeminent city planning agency.

For centuries, Philadelphia has been known around the world as one of the innovators in urban planning. From William Penn to Edmund Bacon, the city has been a visionary home for planning principles and practice. However, in recent decades, the City Planning Commission has been marginalized and ignored. The City became a place where any type of development, planned or not, was considered better than none. The neglect of the planning commission has produced many negative results. Although continued construction is vital to the city's future, we must be careful to direct development in ways that benefit the city and do not harm the fabric of our neighborhoods. As Mayor, I will work with City Council to legislate to new qualifications for members of the City Planning Commission in order to ensure that both professional expertise and neighborhood concerns are represented. I will ensure that the Commission has the budget and authority within my administration to do their jobs well.

As Mayor, I will direct the Planning Commission to create community master plans and standardize the community review process

The Planning Commission should provide assistance for the development of community master plans. A proactive plan works better at achieving community goals because it sets the agenda in advance and provides a written basis for evaluating development proposals. Rather than react to development proposals as they are made, it would be far better to involve the public in creating local plans that stake out community goals. The guidance provided by these plans and their design guidelines should drive the form and intensity of development. Such enforceable, community-sponsored guidelines create standard expectations that developers must meet rather than treating all projects as negotiable. In addition, a standardized public engagement process should be established with clearly defined objectives and procedures that create more certainty for all parties.

The fact the people can and do walk in this city is one of our greatest assets, and people visiting from other parts of the country look at us with envy in this regard. When people are out using the sidewalks, they see what's going on and neighborhoods are safer. They also meet each other and maintain social connections. Walking contributes to sustainability because less energy is needed for transportation, and it is healthy because walking is one of the best sources of daily exercise. Many cities across the country are spending planning and investment dollars trying to catch up to Philadelphia and create more pedestrian friendly environments.

Not surprisingly, the most desirable neighborhoods in the city are also the most walkable, with attractive streetscapes and a wide range of destinations that are easily accessible by foot. Unfortunately, much of current development negatively impacts the pedestrian environment. New houses are being constructed with garages that interrupt the sidewalk. Condo towers are built on monotonous multi-level parking platforms. Loading docks and driveways for large scale buildings create hazards across the sidewalk. And as automobile oriented buildings and services are expanded and the pedestrian environment is degraded, fewer people end up on the sidewalks and the pedestrian oriented urban space gives way to the car-centered culture.

REFORM THE ZONING BOARD OF ADJUSTMENT

“It’s time to close the circus-under-the-big-top atmosphere and make land use decisions like grown ups.”

-- Michael Nutter

Even the most comprehensive zoning and development code will include the need for variances. Currently, even the most minimal variance request requires a hearing in front of the Zoning Board of Adjustment. The current backlog of cases results in a waiting time that can be months. This holding period makes projects more expensive — a cost which can derail worthy projects if it cannot be passed on to the end user. A public hearing is not the appropriate setting to decide on minimal dimensional variances.

As Mayor, I will streamline the development review process

The process and time required for city agencies and developers could be substantially reduced by allowing administrative review by qualified Licenses and Inspections Department staff for a range of simple variance requests. An appeals process would ensure that a quasi-judicial option remains available for substantial variances beyond the scope of an L&I review. Zoning reform should include appropriate guidelines for the administrative review of minor variance requests. Streamlining the variance review process would achieve cost savings on both sides of the table, with the city saving money through a streamlined bureaucracy and developers realizing cost savings through a predictable path through the process, as advocated by the local chapter of the Building Industry of America (BIA).

As Mayor, I will propose and work with City Council to enact legislation to reform the membership of the ZBA

The Zoning Board of Adjustment should be comprised of members who are qualified by professional expertise and practical experience to do the work of the ZBA. I support efforts to require that the five members of the ZBA be comprised of an architect, an urban planner, a traffic engineer, an attorney experienced in land use issues, and a representative of Philadelphia community groups that participate in land use issues. The members of demonstrable qualifications should be named by the Mayor and confirmed by City Council.

REVISE OUR ANTIQUATED ZONING CODE

“I will take on the development challenge that has stalemated Mayors for over forty years. I will revise the zoning code.”

-- Michael Nutter

Zoning is our statement of the rules that govern growth and development in Philadelphia. The last major rewrite of the Philadelphia Zoning Code was completed in 1963. Although the zoning code is amended continuously and sometimes for the benefit of single projects, much of the current code does not adequately address contemporary market realities nor respect historic neighborhood patterns. Many of the most cherished neighborhoods in the city would be *illegal* to build today because they do not meet the myriad of zoning regulations put in place over the years.

We have reached the point where the value of building in accordance with the zoning code, or “by right,” can be larger than the value of building the best urban design for a particular location. This is because of the time and uncertainties required to obtain a zoning variance.

For example, recently a building permit was granted “over the counter” (without a variance) for a high-rise residential building adjacent to the Benjamin Franklin Parkway. Although this building would tower over its neighbors and offer no ground level activity, it is completely legal under a zoning code that controls height by a mathematical calculation rather than by community quality. To prevent this from happening again, City Council created an overlay that sets an arbitrary cap on building height for future projects. But what is really needed is a zoning code that describes the *form* that buildings should take and seeks to shape new development in the most beneficial manner for the surrounding neighborhood.

As Mayor, I will commit my authority to revise the Zoning Code

Revision of the zoning code is not a simple task and it will take years of serious effort. There are two important things to ask on this subject of a candidate for Mayor: first, what are the principles he or she will apply to the new code and, second, who will actually conduct the long work of writing the new code.

Here are **ten principles** that would address large and small scale issues and balance local community concerns with the broader issues of the city. These ten principles outline my expectations for a revised zoning code in Philadelphia.

1. **Create quality urban environments:** Philadelphia has a tremendous legacy of wonderful public places. As private investment increases, we must not lose site of the importance of the public realm to the life of the city. Urban design standards should be incorporated into the zoning code to maintain and enhance the character of pedestrian environments. For example, curb cuts should be minimized to lessen the disruptions to sidewalk movement and increase safety; gas stations, drive-thru and other auto-related uses should be prohibited except on designated automobile corridors. Form-based zoning should be implemented to positively guide the design of buildings to create quality urban environments. Examples of form-based ideas include minimum window openings

- percentages within each wall surface to avoid monotonous construction, maximum building setbacks to maintain a consistent edge along the sidewalk, and ground level retail with large display windows to increase the human interest and activity along the street. Form based codes were originally developed for new cities but are more recently being implemented in older cities wishing to maintain existing urban character such as Alexandria, Virginia and Iowa City.
2. **Get the density right:** Through zoning regulations and local plans, encourage increased density in areas that are well served by mass transit and discourage density increases in areas not served by mass transit in order to reduce traffic congestion. The City has the infrastructure to receive more of the region's development, but it must occur in places that make sense. Locating high density development at key sites along transit lines will relieve the pressures of regional sprawl and lessen demand for the development of remaining open space in the region.
 3. **Reinforce neighborhood character:** Introducing the concept of contextual zoning into the code would support development that is consistent with existing neighborhood building patterns. For example, if all buildings within a block are approximately 45' high, as is the case along some Center City streets, it would make sense for new buildings to be around the same height, but this is not be allowed by the current code. Contextual zoning would address discrepancies between what is permitted by code and what already exists. Contextual zoning districts have recently been added to the New York City zoning code.
 4. **Create beautiful streets:** Streets are the majority of public land and public space in any city. Landscaping requirements need to be elevated and enforced to assure that each development project makes a positive contribution to the street environment; maintaining existing street trees, introducing new trees and improving sidewalk conditions and lighting. Surface parking lots are particularly ugly and uncomfortable places. Landscaping is currently required but the requirements and the results are insufficient. The design of appropriate levels of shade trees and landscaping should be required as well as their maintenance of over time.
 5. **Support mixed-use development:** Philadelphia's current code is based on conventional Euclidian zoning, which advocates the separation of land uses. This zoned separation of uses runs contrary to the mixed vitality of urban life and is an example of a code long since out of date. New zoning categories should be created that promote a dynamic mix of residential, commercial and retail uses. Mixed-use development patterns are the key to creating sustainable, pedestrian-focused neighborhoods. Vancouver recently revitalized former industrial areas by guiding the construction of new, mixed-use developments. The city developed new codes that required a mix of income, park space based on population density, nearby schools, and commercial space incorporated into the neighborhood.
 6. **Increase park and recreational amenities:** Attractive parks and recreational trails should be easily accessible from neighborhoods throughout the city. The availability of these public amenities increases neighborhood desirability and the quality of life throughout the city. Land is now available within many parts of the city but it needs to be planned and zoned for park use to assure its availability in the future. The development of new parks and trails should be recognized amenities that a developer could provide to a community in exchange for supporting the approval of desired zoning variances. The city should also coordinate the development of a safer and more complete bike lane system to provide increased recreation and a viable transportation alternative.
 7. **Address parking issues:** The Philadelphia City Planning Commission just recently published a Center City Parking Policy paper that should be the basis for changing the zoning code to address parking concerns. One of the primary points made is "Incentives

should be added to the Zoning Code to encourage developers to provide parking that is built below-grade or “wrapped” within the building’s core by primary uses like dwelling units, office, or retail space to avoid the visual impact of garages on the streetscape.” The paper also outlines ways for Philadelphia to become more innovative and effective with regard to parking pricing and coordination.

8. **Appropriately locate manufacturing areas:** Although manufacturing has declined, it remains an important source of jobs (40,000) for residents at a variety of income levels. As economic conditions such as energy sources, tax structures, and cost levels change over time, this sector of the economy should be supported to become even more vital. The city must ensure that appropriate land is available for future industrial growth through the strategic location of zoned manufacturing districts. Likewise, it must work to maintain the existing employers in the city by recognizing their site requirements, helping to provide sufficient infrastructure for industrial activity and setting a business tax structure that is not prohibitive.
9. **Coordinate transportation projects:** The perennial funding crisis at SEPTA has led to a reduction in transit services while most US cities are planning for transit expansion. Transit studies are underway or have been completed for the City Branch, PATCO extension, waterfront light rail, the Schuylkill Valley Metro, the Roosevelt Boulevard Subway, and the Broad Street Subway extension to the Navy Yard, but these studies have not been coordinated into a transit master plan and funding sources remain elusive. Moreover, there is little coordination between highway projects, the transit system, and planning goals. For example, there is a lack of coordination between PennDot plans to rebuild I-95 north of Vine Street and the increasing development activity along the waterfront.
10. **Introduce inclusionary zoning:** As high rise condominium housing opportunities increase in the city, affordable housing opportunities remain insufficient. The premise behind inclusionary zoning is that developers who receive benefits from the city (such as zoning variances or the ten year tax abatement) should, in return, provide affordable housing. The other premise of inclusionary zoning is that it is unhealthy for the city’s economy and social activity to divide neighborhoods by economic class. City policies should discourage concentrations of both poverty and wealth. Neighborhoods that are developed on the principle of diversity and provide housing and work opportunities for various members of society further the principles on which Philadelphia was founded. Affordable housing can be built as a required percentage of the housing units within a development or financed by a contribution into a housing fund. Over 300 local governments across the country, including Boston, Denver and San Diego have enacted inclusionary zoning programs.

INSTITUTE A ZONING REFORM PROCESS THAT ENGAGES CITIZENS AND CITY LEADERS

“Rewriting the zoning code puts valuable assets and the future all on the table. All stakeholders must have a seat at that table.”

-- Michael Nutter

The press, politicians, and other concerned parties blame the Planning Commission for the lack of planning in the City. This is similar to blaming a benched player for the loss of a game. The Planning Commission does create plans but the plans are often undermined by a political atmosphere that has little regard for the benefits of city planning. This attitude is partly a holdover from the days when the city welcomed any form of development because it was so hungry for investment. The market is now very different but the political attitude remains.

Typically, each development proposal is treated as an individual act and the cumulative impacts on the whole are not taken into account. For example, new development projects along the Delaware River north of Spring Garden will be responsible for 4200 units of new housing, but there has been no coordinated planning effort. For the most part, these projects were approved by acts of City Council, bypassing input from the Planning Commission and the Zoning Board of Adjustment. One result has been that the long planned Delaware River Recreational Trail has been cut-off by a new riverfront high-rise.

The politicization of the development process has engendered a lack of trust for the city’s ability to objectively evaluate development proposals. The political deal making that went on behind-the-scenes of the public review of the Penn’s Landing development proposals provides a scandalous reminder of what is at stake. One regrettable result of that scandal is the state legislature removed the City government from any role in casino location decisions, which will have a profound impact on the neighborhoods for decades.

As Mayor, I will institute a zoning reform process that engages citizens and city leaders

The zoning code is a complex document that holds little public interest. Yet, a well written code has the capacity to profoundly shape city neighborhoods and the lives of city residents. The effort will take time and leadership and it must be allowed to evolve with actual input from the public and the many community groups that are currently involved with neighborhood improvement. The successful zoning reform process that was undertaken in Chicago over the past six years provides a valuable example. An appropriately shaped reform process that effectively engages the public would create a supportive political atmosphere for a revised zoning code and new neighborhood master plans.

I will work with City Council to legislate a new Zoning Code Commission to examine model codes from peer cities across the country, determine the requirements of a modern code in Philadelphia, and draft a new code for consideration by Council and the Mayor. The Commission will represent City government, neighborhood groups, and the development community.