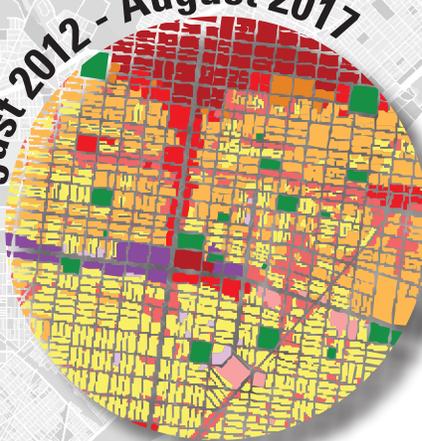


# CITY OF PHILADELPHIA ZONING CODE 5 YEAR REPORT

August 2012 - August 2017



December 2017





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### INTRODUCTION

In 2007, a voter referendum created a 31-member Zoning Code Commission (ZCC) and tasked the Commission to reform Philadelphia's zoning code. After four years of dedicated work by the ZCC, City Council, stakeholders, and citizens, a new zoning code was signed into law on December 22, 2011 and became effective August 22, 2012.

It has been five years since the new code has been in effect and this document serves as a Five-Year Review and sets forth an analysis by the Philadelphia City Planning Commission (PCPC). This report assesses the degree to which the initial goals for the new code have been achieved, provides an overview of amendments to date, identifies ongoing challenges, and offers recommendations for additional improvements.

It is important to note that zoning reform, including this review and ongoing revisions to the city's zoning maps, are part of a larger integrated planning and zoning process facilitated by PCPC. The integrated process also includes Philadelphia2035 (the city's comprehensive plan) and the Citizens Planning Institute – the education arm of the Commission – to implement a shared vision for our city's future physical development.

This document mirrors the format of the One-Year Review that was completed following the first anniversary of the enactment of the new code and was a product of the City's internal Zoning Technical Committee, comprised of staff from the Department of License and Inspections (L+I), PCPC, the Law Department, and the Zoning Board of Adjustment.

### REPORT HIGHLIGHTS

- Significant progress on remapping – in five years, 4,767 acres of land have updated zoning (see page 34)
- Code users agree that the new code is "easier to understand and provides better consistency" (see page 44)
- There is a six percentage point increase in zoning permits approved by-right (see page 4)
- Code users feel that notification and Registered Community Organization (RCO) meeting requirements are generally positive, but have interest in some changes (see page 48)
- Code amendment continues as necessary, proving that the Code is a living document that needs careful review and assessment (see page 29)

### OVERVIEW OF THE NEW (FIVE YEAR) CODE

The goal of the ZCC was to create a new rule book for construction and development in Philadelphia that was simple and predictable. The desire was for a code that:

- Is consistent and easy to understand,
- Makes future construction and development more predictable,
- Encourages high quality positive development,
- Preserves the character of Philadelphia's neighborhoods, and
- Involves the public in development decisions.

The One-Year Review included a list of 10 advancements that have been made through the adoption of the new code. At the five-year mark, the story is more complex: for most of these factors, there has been continuing change, both positive and negative:

1. Easier to use – Survey respondents indicate that the code remains significantly easier to use since the rewrite, despite ongoing changes that compromise simplicity of use

2. Organized community involvement – There have been several significant reorganizations of the RCO process, as outlined in the Civic Engagement section of this report
3. Fewer variances - The percentage of zoning permit appeals that result in the granting of variances has fallen from 18 percent to 13 percent
4. Consolidated base zoning districts –No new base districts have been added since this was achieved by the zoning re-write
5. Reorganized overlay districts – Multiple new overlays have been added, which compromises this, although work continues to make existing overlays more comprehensive
6. Modernized uses – Significant improvements were made by the initial re-write and code amendments are in discussion at all times to keep the Code in step with modern needs
7. Flexible dimensional standards – More contextual standards have been added via code amendments, but more amendments can be made to better match the Code to the needs of properties in Philadelphia
8. Modern development standards – This continues to be relevant but more work is needed to keep pace with changing standards
9. Transit oriented development – TOD has been re-written to be both more user-friendly as well as more impactful
10. Sustainability as a priority – Some provisions have worked well (Green-Building) and new provisions have been added to continue this growth (Green Roof)

## REVIEW OF ZONING PERMIT DATA

*This section presents statistical information on zoning permits and Zoning Board of Adjustment (ZBA) appeals using data provided by the Department of Licenses and Inspections (L+I) from September 22, 2008 through August 21, 2017. This allows us to identify year-to-year trends as well as to compare data from the four years that immediately preceded the implementation of the Zoning Code to the five years after.*

The information that follows references several steps in the zoning permitting process:

1. The property owner or a tenant (or a legal or design professional representing one of those parties) submits a **zoning application** to L+I. A significant number of these are judged to be **incomplete** and the applicant is directed to answer any questions that are necessary to complete the review. A significant portion of applications are abandoned at this point.
2. Once all questions (if any) are satisfied, L+I reviews the **completed application**. If the project or business described by the permit is allowed **by-right** within the **zoning district** (meaning the proposal conforms to the restrictions outlined in the Zoning Code), it is approved and a zoning permit is issued. If not, a **refusal** is issued or, in the case of a use that is permitted only by special exception, a **referral** is issued. A significant portion of applications are abandoned at this point.
3. If the applicant wishes to proceed, they must submit an **appeal** of a refusal and/or an **application for a special exception** for a referral to the ZBA.
4. Once a case is to be heard by the ZBA, there will be one of several outcomes:
  - a) At the request of the applicant or the ZBA, the case may be **continued** (postponed) to a later date;
  - b) The ZBA may **dismiss** a case refusing to hear it, either because it is not eligible to be heard or an excessive number of continuances have been issued;
  - c) The ZBA may hear a case and then **grant** a variance (in essence, approving the appeal

- d) of a refusal) or special exception. The ZBA may or may not attach one or more **provisos** (conditions) to that approval.
- d) The ZBA may hear a case and then **deny** the variance (in essence, declining the appeal of a refusal) or special exception. The ZBA may or may not attach one or more **provisos** (conditions) to that denial.
- e) Finally, the ZBA may hear a case and then **hold** its decision, which will then render after further discussion or pending the receipt of additional information

**Table 1** indicates the annual number and percentage of zoning permits approved by-right, refused for nonconformance with the Code, or referred to the ZBA for special exception approval. Also indicated is the number of refusals appealed by applicants and the decisions of those appeals by the ZBA. The new zoning code took effect on August 22, 2012 and applications that were filed after that date were reviewed under the new regulations.

Since the implementation of the new zoning code, there has been a slight increase in the share of permits that have been approved by-right. In the four years immediately preceding the implementation of the new code, 66 percent of permits were approved by-right (not including applications that were ruled incomplete); in the five years following the implementation of the new code, this share increased to 72 percent. This factor, along with a slight decline in the share of refused permit applications that were appealed, have led to an overall decline in the number of cases heard by the ZBA, even as the total number of zoning permit applications have increased substantially.

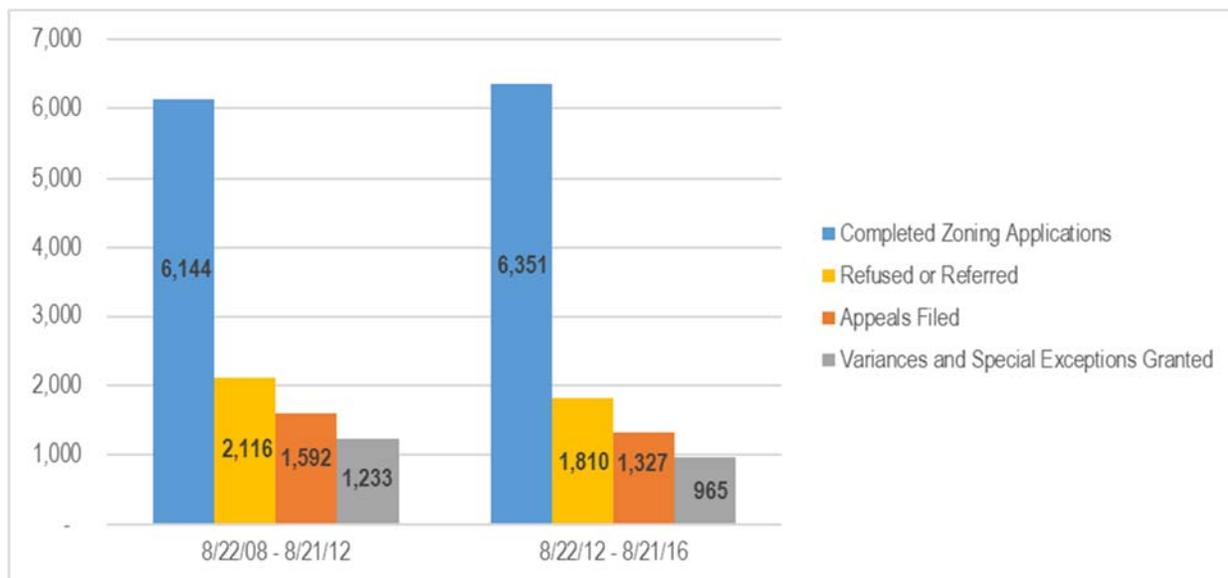
In contrast, the share of appeals that have been denied have only modestly increased since the adoption of the new code: in the four years prior to the new code, 10 percent of all decisions were denials; in the following five years, that share increased only to 13 percent.

Table 1: Zoning Permit Applications, Appeals, and Reviews, September 2008 -August 2017<sup>1</sup>

	Old Code ←				→ New Code					
TIME PERIOD	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	
<b>Completed Zoning Applications</b>	<b>5,984</b>	<b>6,223</b>	<b>6,020</b>	<b>6,347</b>	<b>6,430</b>	<b>6,177</b>	<b>6,293</b>	<b>6,504</b>	<b>6,779</b>	
Approved by Right	4,015 67%	4,131 66%	3,855 64%	4,108 65%	4,574 71%	4,426 72%	4,556 72%	4,609 71%	4,901 72%	
Refused or Referred	1,969 33%	2,092 34%	2,165 36%	2,239 35%	1,856 29%	1,751 28%	1,737 28%	1,895 29%	1,878 28%	
<i>Incomplete or Failed</i>	<i>684 11%</i>	<i>548 9%</i>	<i>929 15%</i>	<i>1,167 18%</i>	<i>1,497 23%</i>	<i>1,280 21%</i>	<i>1,356 22%</i>	<i>1,360 21%</i>	<i>1,968 29%</i>	
<b>Appeals by Applicants</b>	<b>1,429</b>	<b>1,580</b>	<b>1,634</b>	<b>1,725</b>	<b>1,360</b>	<b>1,276</b>	<b>1,263</b>	<b>1,410</b>	<b>1,013</b>	
% of Completed Applications Appealed	24%	25%	27%	27%	21%	21%	20%	22%	15%	
% of Refusals/Referrals Appealed	73%	76%	75%	77%	73%	73%	73%	74%	54%	
Special Exceptions	135 9%	138 9%	156 10%	172 10%	113 8%	127 10%	110 9%	121 9%	93 9%	
Variances	1,293 90%	1,433 91%	1,471 90%	1,537 89%	1,235 91%	1,148 90%	1,144 91%	1,271 90%	908 90%	
Against L&I	1 0%	9 1%	7 0%	16 1%	12 1%	1 0%	9 1%	18 1%	12 1%	
<b>Decisions on Special Exceptions</b>	<b>110</b>	<b>122</b>	<b>135</b>	<b>154</b>	<b>87</b>	<b>88</b>	<b>78</b>	<b>95</b>	<b>78</b>	
Denied	4 4%	5 4%	11 8%	6 4%	17 20%	7 8%	6 8%	6 6%	8 10%	
Granted	106 96%	117 96%	124 92%	148 96%	70 80%	81 92%	72 92%	89 94%	70 90%	
<b>Decisions on All Variances</b>	<b>1,123</b>	<b>1,252</b>	<b>1,258</b>	<b>1,323</b>	<b>1,067</b>	<b>966</b>	<b>948</b>	<b>1,090</b>	<b>701</b>	
Denied	125 11%	139 11%	128 10%	127 10%	163 15%	115 12%	147 16%	98 9%	54 8%	
Granted	998 89%	1,113 89%	1,130 90%	1,196 90%	904 85%	851 88%	801 84%	992 91%	647 92%	
<b>Decisions on Use Variances</b> (not including dismissed, withdrawn, or continued)	<b>849</b>	<b>904</b>	<b>907</b>	<b>971</b>	<b>745</b>	<b>689</b>	<b>719</b>	<b>821</b>	<b>496</b>	
Denied	101 12%	103 11%	95 10%	93 10%	102 14%	85 12%	119 17%	79 10%	46 9%	
Granted	748 88%	801 89%	812 90%	878 90%	643 86%	604 88%	600 83%	742 90%	450 91%	
<b>Decisions on Dimensional Variances</b> (not including dismissed, withdrawn, or continued)	<b>274</b>	<b>348</b>	<b>351</b>	<b>352</b>	<b>322</b>	<b>277</b>	<b>229</b>	<b>269</b>	<b>205</b>	
Denied	24 9%	36 10%	33 9%	34 10%	61 19%	30 11%	28 12%	19 7%	8 4%	
Granted	250 91%	312 90%	318 91%	318 90%	261 81%	247 89%	201 88%	250 93%	197 96%	

<sup>1</sup> Unless otherwise noted, permit data is as of 08/22/17 and includes permit applications with still-pending ZBA hearings. Each column represents a one year period from August 22<sup>nd</sup> of one year to August 21<sup>st</sup> of the next; this was done to align with the date of the enactment of the new Zoning Code. Data from 2016-2017 reflects a large number of applications that still awaited a decision by L&I or were within the period during which an appeal could be filed.

Figure 1: Average Annual Zoning Permit Applications, Appeals, and Decisions



**KEY FINDINGS**

**Significant increase in the number of zoning permit applications filed**

As indicated in Table 1, from a post-recession low of 6,668 zoning permits filed (including 5,984 completed) during the year from August 22, 2008 to August 21, 2009, the number of zoning permit applications has risen steadily to a total of 8,747 (including 6,779 completed) during the year from August 22, 2016 to August 21, 2017. As depicted in Figure 1, there was an average of 207 more zoning permit applications each year in the four years following the enactment of the new zoning code than in the four years that preceded it.

**Decreased number of cases heard by the Zoning Board of Adjustment**

Even as the number of total zoning permit applications has risen, the number of cases heard by the ZBA has fallen. As noted in Table 1, in the year immediately preceding the adoption of the Zoning Code, 1,725 applications were filed that were subsequently referred or appealed to the ZBA, including 1,477 for which a hearing was held and a decision was issued. The number of appeals and referrals fell to a low of 1,263 (included 1,026 heard by the ZBA) from August 22, 2014 to August 21, 2015 before rising again to 1,410 (including 1,185 hearings) the following year.<sup>2</sup> Figure 1 illustrates that there was an average of 265 fewer ZBA appeals each year in the four years following the enactment of the new zoning code than in the four years that preceded it.

**Modest increase in the number of variances that are denied:**

In the four years immediately preceding the adoption of the new zoning code, only nine percent of appeals were denied; in the following four years this rose to 11 percent. However, the majority of this difference is owed to the year immediately following in the adoption of the new code: from August 22, 2012 to August 21, 2013, 13 percent of appeals lead to denials, but the rate was less than ten percent in the three years that followed. This creep downward has occurred even as significant progress is being made in corrective zoning remappings and amendments are made to the Code to better accommodate market conditions, each of which would be expected to lower the incidence of hardship for applicants.

Figure 2: Permit Applications by Year, August 22, 2008 - August 21, 2017<sup>3</sup>

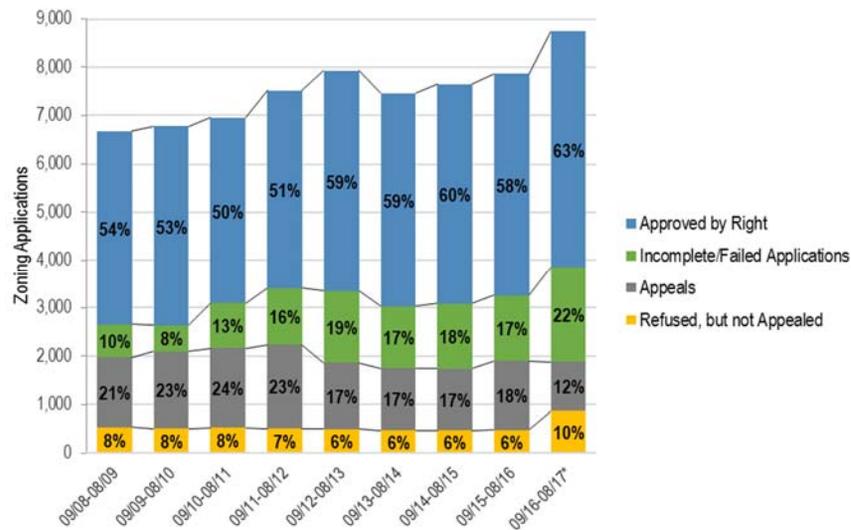


Figure 3: ZBA Decisions by Year, August 22, 2008 - August 21, 2017

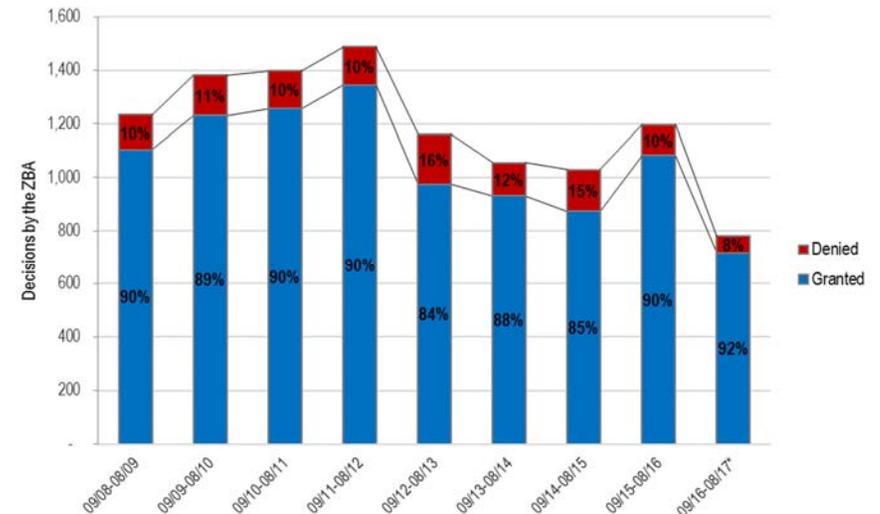


Table 2 depicts appeals to the ZBA, disaggregated by zoning district, from August 22, 2008 to August 21, 2017. The districts with the highest percentage of appeals are also the most common zoning districts in the city, including the “rowhouse” residential districts RSA-5 and RM-1, the “corner store” and “neighborhood” commercial mixed-use districts CMX-1 and CMX-2, and the industrial district I-2. Notably, while across all zones, 26 percent of zoning permit applications in the four years prior to the adoption of the Code led to appeals; in the five years that followed, this fell to 20 percent.

Zoning permit applications and appeals in CMX-2 districts followed a similar trajectory as those in RSA-5, while accounting for a smaller share of each. Under the old code, a disproportionately low share of CMX-2-equivalent permit applications (23 percent) resulted in appeals, suggesting the restrictions of the zone better matched the constraints and market demand of the areas where it was mapped than was true of zoning districts in the city overall. While this fell to 19 percent under the new code, this is now much closer to the citywide average.

<sup>3</sup> Unless otherwise noted, permit data is as of 08/22/17 and includes permit applications with still-pending ZBA hearings. Each column represents a one year period from August 22<sup>nd</sup> of one year to August 21<sup>st</sup> of the next; this was done to align with the date of the enactment of

the new zoning code. Data from 2016-2017 reflects a large number of applications that still awaited a decision by L&I or were within the period during which an appeal could be filed.

Table 2: Zoning Applications by Zoning Base District and Year, August 22, 2008-August 21, 2017

ZONING DISTRICT	09/08-08/12				09/12-08/17			
	Completed Permit Applications		Appeals		Completed Permit Applications		Appeals	
	#	%	#	%	#	%	#	%
<b>Residential/Residential Mixed-Use Districts</b>								
RM-1	4,472	18%	1,310	21%	5,738	18%	937	15%
RM-2	278	1%	39	1%	148	0%	27	0%
RM-3	33	0%	7	0%	24	0%	5	0%
RM-4	98	0%	22	0%	139	0%	33	1%
RMX-1	16	0%	1	0%	30	0%	4	0%
RMX-2	7	0%	1	0%	26	0%	2	0%
RMX-3	43	0%	12	0%	90	0%	21	0%
RSA-1	129	1%	31	0%	106	0%	20	0%
RSA-2	339	1%	98	2%	354	1%	79	1%
RSA-3	1,425	6%	450	7%	1,472	5%	432	7%
RSA-4	186	1%	27	0%	111	0%	27	0%
<b>RSA-5</b>	<b>4,467</b>	<b>18%</b>	<b>1,463</b>	<b>23%</b>	<b>8,038</b>	<b>25%</b>	<b>2,015</b>	<b>32%</b>
RSD-1	145	1%	29	0%	197	1%	27	0%
RSD-2	55	0%	3	0%	34	0%	7	0%
RSD-3	396	2%	92	1%	396	1%	77	1%
RTA-1	149	1%	52	1%	245	1%	61	1%
<b>Commercial/Commercial Mixed-Use Districts</b>								
CA-1	452	2%	125	2%	348	1%	45	1%
CA-2	690	3%	85	1%	798	2%	50	1%
CMX-1	1,051	4%	311	5%	1,014	3%	250	4%
<b>CMX-2</b>	<b>4,955</b>	<b>20%</b>	<b>1,118</b>	<b>18%</b>	<b>4,919</b>	<b>15%</b>	<b>943</b>	<b>15%</b>
CMX-2.5	2	0%	0	0%	939	3%	161	3%
CMX-3	804	3%	98	2%	1,417	4%	155	2%
CMX-4	639	3%	115	2%	916	3%	97	2%
CMX-5	693	3%	122	2%	954	3%	111	2%
<b>Industrial/Industrial Mixed-Use Districts</b>								
I-1	196	1%	55	1%	148	0%	26	0%
I-2	1,926	8%	520	8%	1,808	6%	388	6%
I-3	207	1%	13	0%	155	0%	8	0%
ICMX	326	1%	85	1%	497	2%	141	2%
I-P	3	0%	0	0%	3	0%	0	0%
IRMX	0	0%	0	0%	156	0%	26	0%
<b>Special Purpose Districts</b>								
SP-ENT	3	0%	0	0%	5	0%	0	0%
SP-INS	195	1%	39	1%	238	1%	22	0%
SP-PO-A	83	0%	18	0%	46	0%	10	0%
SP-STA	28	0%	3	0%	18	0%	0	0%
SP-AIR	0	0%	0	0%	55	0%	0	0%
Other/NA	37	0%	10	0%	482	2%	83	1%
<b>Total</b>	<b>24,528</b>	<b>100%</b>	<b>6,354</b>	<b>100%</b>	<b>32,064</b>	<b>100%</b>	<b>6,290</b>	<b>100%</b>

Finally, the opposite pattern has held for RM-1. In the final four years under the old code, 29 percent of zoning permit applications in RM-1-equivalent zones led to appeals, somewhat above the citywide average; in the years that followed, only 16 percent of such permit applications led to appeals, significantly below the citywide average. This suggests a marked improvement in the provisions and mapping of this zone. Staff of PCPC, L+I, and ZBA have observed the following potential causes for these and other, related, trends:

**Increase in Residential Single-Family Attached-5 (RSA-5) cases:**

- Development activity has increased in Philadelphia since the economic downturn of 2008, concentrated in neighborhoods on the periphery of Center City and University City. South of South, Point Breeze, Fishtown, Kensington, Northern Liberties, Bella Vista, and other neighborhoods have seen a significant amount of rehabilitation and new development in recent years. The zoning district that is most prevalent in these areas is RSA-5.
- Zoning remapping has increased the total acreage of parcels zoned RSA-5 across the city (see page 36). In the 1960 Comprehensive Plan, the population of Philadelphia was forecast to increase by 400,000 residents and, as such, most rowhouse neighborhoods were zoned RM-1 to accommodate this growth. Since the population instead fell by 400,000 in the decades that followed, most structures in many of these neighborhoods remained in use as single family dwellings while remaining zoned for multifamily residential development. As the City is comprehensively remapped, many of these areas are being rezoned to RSA-5 to better match existing conditions and to direct new growth to areas that can better absorb increased density, such as those near major commercial corridors, high quality public transit, or other key neighborhood amenities. Between these remappings and the increase in development activity described above, there has been a dramatic increase in the number of zoning permit applications for properties in the RSA-5 zoning district (or its equivalents under the old code). In the final four years of the old code, there was an average of 1,117 such applications in these zones each year; in the five years that followed, this rose to an average of 1,608 each year. This surge in permit applications alone accounts for much of the consequence increase in appeals.
- As development pressures continue to mount in rowhouse areas, especially those with relatively few vacant parcels, there is increased market pressure to convert properties to multifamily tenancy, even in areas reserved for single family homes. These new conversions, as well as existing illegal conversions that are detected by the Department of Licenses and Inspections, lead to more use variances in this zoning district.
- There are a large number of smaller lots in neighborhoods experiencing new development

for which applicants have indicated difficulty conforming to the open space requirements of RSA-5. While this requirement is waived (and the minimum required rear yard depth decreased) for properties with depths of less than 45 feet, there are many properties that only exceed this depth by only a few feet and thus still face significant challenges meeting these requirements.

**Decrease in Residential Multifamily-1 (RM-1) cases:**

- Attached rowhomes (having no side yards) are the most common housing type in this multifamily residential district. Detached homes, although less common, are also permitted in this district as long as the home has a minimum 5 ft. side yard. Under the former zoning code, a rowhome constructed next to a vacant lot had to be considered as a detached home per the definitions and would therefore trigger a side yard variance. The new code amended the definitions of “attached” and “detached” buildings to address this issue. This change is a likely cause of the decline in appeals in the RM1 zoning district.

**Decrease in Commercial Mixed-Use-2 (CMX-2) cases:**

- A less pronounced, but also significant decline in appeals has also occurred in CMX-2-equivalent zones: in nominal terms, there has been a 33 percent drop in ZBA cases from this zone, annually. This is largely due to the drop in permit applications filed in these zones (an average of 1,239 each year in the years preceding the enactment of the new code; 984 in the years that followed). This, in turn, is likely due in part to the remapping of many non-commercial properties to zones that do not require ground-floor commercial (as described on page 36). Given that the drop in the rate of appeals in these districts were less than the average for the city as a whole, changes to the Code itself (such as an increase in the height limit from 35’ to 38’ and decreased open space requirements) likely played a much smaller role in this trend.

**Decrease in Medium Density Industrial-2 (I-2) cases:**

- Appeals in I-2 have fallen significantly, largely driven by the decline in permitting activity associated with I-2 parcels. This can largely be attributed to remapping, wherein many parcels in neighborhoods that are no longer industrial in nature, or rezoned to lower density industrial, mixed use, or residential districts.

**Stability in the number of Residential Single-Family Attached-3 (RSA-3) cases:**

- For RSA-3, both permitting activity and appeals have remained stable between the old and new codes. This stability is notable because remappings have resulted in a net reduction of 200 acres of land in this zone, which, all else being equal, would be expected result in a decrease in both permit applications and appeals.

**Increase in Industrial Residential Mixed-Use (IRMX), Industrial Commercial Mixed-Use (ICMX), Commercial Mixed-Use-2.5 (CMX-2.5), Commercial Mixed-Use-3 (CMX-3), and Residential Multi-Family-4 (RM-4) cases:**

- Among the few zoning districts that have seen an increase in appeals under the new code are IRMX, CMX-2.5, ICMX, CMX-3, and RM-4<sup>4</sup>. However, in the case of IRMX and CMX-2.5, this is strictly a function of these districts having no direct equivalent under the old code.
- ICMX has attracted a significant increase in permitting activity under the new code, with 22 percent more zoning permit applications filed in each of the last five years than in the previous four. This is, in part, due to an increase in the amount of land mapped for this district: over the last five years, the acreage of ICMX-zoned properties has increased by 56.5 percent, due largely to the shifting away from medium and low intensity industrial zoning in areas experiencing pressure from demand for other uses. However, the rate of appeals also rose during this period: in the years prior to the enactment of the Zoning Code, 26 percent of permit applications in this zone led to appeals; in the five years following the enactment of the new code, this rose to 28 percent. Overall, this has led to a 33 percent increase in the number of ZBA cases in ICMX zones, annually. ICMX is often mapped as a buffer between industrial and residential areas. In many of these areas, especially those with strengthening housing markets, developers have

sought zoning permits for residential development on ICMX parcels. Residential is not permitted in ICMX by design and the zone is often employed as a mechanism for protecting higher intensity industrial areas from rising land values and speculation generated by the adjacent residential zones. Encouraged by a high rate of approval by the ZBA, residential developers are purchasing these industrially zoned lands at a growing rate, leading, cyclically, to an increase in such cases before the ZBA.

- In the case of CMX-3, there has been a dramatic increase in permitting activity, with an average of 201 zoning permit applications filed annually in the four years prior to the adoption of the new code and an average of 283 in the five years since. This increase in applications is associated within an overall increase in development activity in the metropolitan core, where CMX-3 is most frequently mapped. However, this dramatic increase in zoning permit applications has led to only a modest increase in cases heard by the ZBA, as, due to the highly flexible and permissive nature of the CMX-3 zone, only 11 percent of applications in this district lead to appeals. Overall, there were 24 appeals for CMX-3 properties per year prior to the enactment of the new zoning code and 31 per year after.
- Finally, as originally written, RM-4, had dimensional standards meant to support large-scale, suburban style high-rise development. However, it was mapped in many places (such as near Rittenhouse and Washington Squares, in University City, and along Girard Avenue) where parcel size made this type of development both impossible and undesirable. As development activity picked up in many of these areas, so did applications for appeals. However, with recent progress in remappings and amendments to the code to support more urban forms of development in this district, it is anticipated that the number of appeals will soon decline.

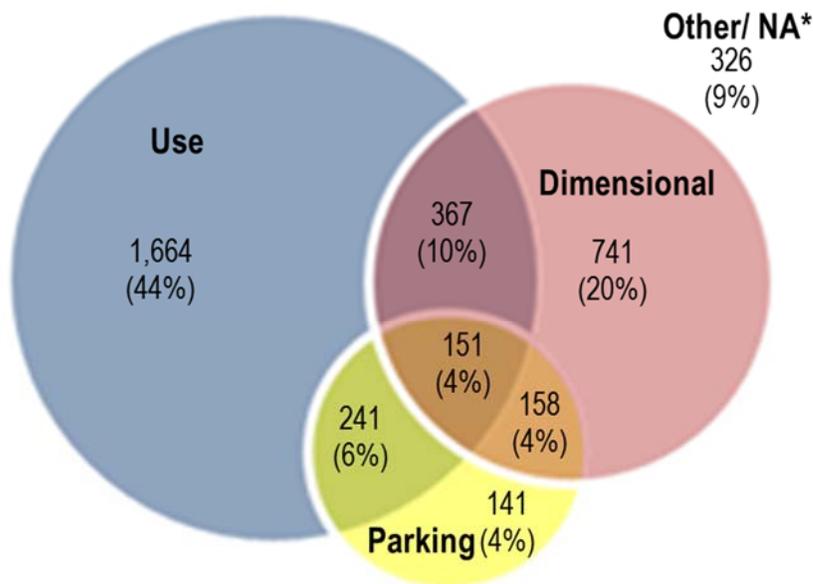
<sup>4</sup> There was also an increase in the number of annual appeals in RMX-1, RMX-2, and RMX-3 zones. However, given the very small number of permit applications and appeals in both the new

and old zoning codes, it is not possible to draw meaningful conclusions about the cause.

## REVIEW OF DETAILED APPEALS DATA

The dataset used for these analyses do not contain detailed information about the types of refusals and referrals generating the ZBA appeals. However, PCPC tracked analyzed data from ZBA cases from 2015 through August 2017 to get greater insight into the most common triggers for requests for variances and special exceptions. The results of this analysis are shown on Tables 3, 4, and 5.

Figure 4: Relationship between Appeals Types



\*Other/ NA includes appeals related exclusively to signage, landscaping, and/or fencing, as well as those for which no refusal/referral was available

In each of the following three tables a "case" is an appeal or application heard by the ZBA. However, a given appeal may be based on multiple refusals or referrals. For instance, one case included in this analysis, for 1224-40 Frankford Avenue, included 11 appeals across code sections related to permitted uses, to dimensional standards, and to parking requirements. As shown in Figure 4, while a majority of appeals respond to only one of these refusal types, a great many, like this example, fall under multiple types. Because each category is not discrete, the cases and percentages in each line in Tables 3, 4, and 5 cannot be added. For instance, if one added the three largest categories in Table 3 (use, dimensional, and parking), one might conclude that there were 4,531 cases represented; however, as shown by adding the discrete categories depicted in Figure 3, these in fact include only 3,463 cases, of which 917 fell into multiple categories.

**Table 3: Cases by General Type of Refusal/Referral (January 2015- August 2017)**

Refusal/Referral Type	# of Cases	% of Cases
Use	2,423	64%
Dimensional	1,417	37%
Parking	691	18%
Signage	200	5%
Fence/Landscaping	146	4%
<b>Total*</b>	<b>3,789</b>	

\*Excludes appeals for which a refusal was not available; does not sum to 100% as some appeals have multiple refusals/referrals

As shown in Table 3, nearly two-thirds of ZBA cases involve referrals or refusals on the basis of “use” (including specific categories of residential, commercial, or industrial uses). Refusals on the basis of dimensional standards accounted for 37 percent of appeals, while 18 percent involved issues related to parking (including the number of spaces provide, the location of the parking spaces, or the dimensions of the parking spaces). Signage, fences, and landscaping accounted for another 9 percent of appeals.

**Table 4: Use Appeals and Special Exception Applications by Type of Refusal/Referral (January 2015- August 2017)**

Refusal/Referral Type	# of Cases	% of Use Appeals	% of Total Appeals
Residential Uses	1,374	57%	36%
<i>Multi-Family in Single Family Zone</i>	692	29%	18%
<i>Excess DUs in Multi-Family Zone</i>	207	9%	5%
<i>Residential in Required Commercial Space</i>	281	12%	7%
<i>Residential in Industrial Zone</i>	165	7%	4%
<i>Single Room Occupancy Residential</i>	101	4%	3%
Non-Residential Uses	1,094	45%	29%
<i>Day Care</i>	148	6%	4%
<i>Restaurant or Prepared Foods</i>	276	11%	7%
<i>Other Non-Residential Use</i>	688	28%	18%
<b>Total*</b>	<b>2,423</b>		

\*Excludes appeals for which a refusal was not available; does not sum to 100% as some appeals have multiple refusals/referrals

Table 4 illustrates that, during the period of time analyzed, the majority of cases involving use variances or special exceptions pertained explicitly to residential uses; of these, by far the most common (constituting nearly one in five ZBA cases) was for the development or legalization of multifamily buildings in single-family zoning districts.

- While ground floor commercial space is only required in two base zoning districts (CMX-2 and CMX-2.5), 7 percent of ZBA cases were for the development of residential uses within these spaces, suggesting there is a mismatch between where commercial space is required and where it is currently economically viable.
- Of the 46 percent of use appeals that involve non-residential uses, the most common applications are for a restaurant or other establishment selling prepared foods or for group day care facilities.

**Table 5: Dimensional Appeals by Type of Refusal (January 2015- August 2017)**

Refusal/Referral Type	# of Appeals	% of Dimensional Appeals	% of Total Appeals
Height	280	20%	7%
Lot Size	257	18%	7%
Open Space/Setbacks	1,124	79%	30%
Roof Decks	157	11%	4%
Total*	1,417		

\*Excludes appeals for which a refusal was not available; does not sum to 100% as some appeals have multiple refusals/referrals

Table 5 shows that, while there were many cases where variances were sought for more than one type of dimensional standard, the vast majority involved open space and setback requirements. As mentioned above, many neighborhoods in the city include a large number of lots that are smaller than are required under the Zoning Code. In these cases, while the lot size is legally grandfathered, there is often difficulty in developing marketable homes that conform to open-space and setback standards that were designed with consideration to larger parcels. In addition, many existing homes do not conform to these standards, meaning that any alterations that impinge on open space or setbacks, even slightly, require a variance.

- Height is a somewhat less-common source of requests for variances, though it is possible that some of the projects that seek approval for ground-floor residential within CMX-2 or CMX-2.5 zones could have opted to instead seek relief by being able to construct additional floors of residential above the ground floor.

With continued progress in remapping efforts, there is reason to believe that many of these appeals would decline, as zoning in neighborhoods better matches existing or desired uses. This is especially true of variances sought in industrial zones wherein manufacturing firms have long ago been replaced by commercial and residential uses. However, many of the remapping efforts have sought to decrease density in residential neighborhoods while increasing density at key nodes and along commercial corridors. Given that the plurality of variance requests are already generated in single-family zones, these remappings may result in increases in appeals, especially those related to setback/open space requirements and to small-scale multi-family development; this may be exacerbated by the ZBA's ongoing practice of granting variances for multifamily uses in these districts, which reduces the incentive for developers to direct these uses to the nodes and commercial corridors where they are permitted by right. In contrast, representing a small minority of cases, the number of appeals related to height, density, and commercial uses in multi-family/mixed use districts may decrease only modestly.

## NEIGHBORHOOD CASE STUDIES

To gain a better understanding of the impact of the new zoning code and subsequent remapping legislation on neighborhoods, as well as the overall development environment, PCPC conducted an analysis on three areas that have been the subject of significant investment and development over the past decade. For the purposes of the analysis, the neighborhood boundaries are defined by those of the relevant zoning bills (rather than those of neighborhood associations or other commonly used definitions).

### NORTHERN LIBERTIES

In recent decades, few areas of Philadelphia have undergone as much transformation as Northern Liberties, transitioning from an industrial and small rowhouse neighborhood to one marked by a vibrant commercial corridor and an abundance of new residential development. With these changes already well underway, enabled only through a great volume of zoning variances, this was one of the first neighborhoods to undergo wide-scale remapping after the enactment of the new zoning code.

In the last four years of the old zoning code, there were an average of 126 zoning applications per year in Northern Liberties. Of those, 49 percent were approved by right and 25 percent resulted in appeals brought before the ZBA. During these years, the ZBA granted 92 percent of requests for variances or special exceptions, (including 97 percent of those for which a decision was issued).

In the 21 months immediately following the enactment of the new zoning code, but before any remapping, the pace of zoning applications accelerated, averaging 170 per year

in this period. The share of these applications that were approved by right diminished slightly to 45 percent and the share appealed declined further, to 21 percent (largely due to a significant increase in the share deemed “incomplete”). However, the approval rate by the ZBA remained very high: during this period, the ZBA granted 91 percent of requests for variances or special exceptions, (including 98 percent of those for which a decision was issued).

Split between two council districts, the remapping of Northern Liberties occurred through two bills, #140149 (introduced by CM Squilla) and #140444 (introduced by CM Clarke), which passed the Rules Committee in May and June of 2014<sup>5</sup>. In the three and a quarter years that passed subsequent to the remapping, the pace of zoning applications cooled slightly (to 132 per year) and the rate of approvals by-right increased somewhat, to 53 percent. However, the rate of approvals by the ZBA declined only slightly, with 87 percent of all applications for variances or special exceptions granted (including 93 percent for which a decision was issued)

Table 6: Zoning Permit Applications in Northern Liberties, August 22, 2008 - August 21, 2017<sup>6</sup>

L& I Review	ZBA Decision	Old Code		New Code, Pre-Remapping		New Code, Post-Remapping	
		(2008-2012)		(2012-2014)		(2012-2017)	
Approved by Right		248	49.0%	133	44.6%	226	52.6%
Refused, but not Appealed		37	7.3%	20	6.7%	18	4.2%
Appealed		126	24.9%	64	21.48%	91	21.2%
	<i>Denied</i>	3	2%	1	2%	6	7%
	<i>Dismissed/Withdrawn</i>	7	6%	5	8%	6	7%
	<i>Granted</i>	116	92%	58	91%	79	87%
Incomplete/Failed		95	18.8%	81	27.2%	95	22.1%
Total		506	100.0%	298	100.0%	430	100.0%

<sup>5</sup> After a zoning bill is passed by the Rules Committee, all subsequent zoning application that could be affected are held by L&I for review until after the bill is enacted, under the rules of “pending legislation.”

<sup>6</sup> For the purpose of this analysis, the boundaries for Northern Liberties include the areas covered by Bills #140149 and #140444: Spring Garden Street, 5th Street, Girard Avenue, Front Street, and the Delaware Expressway

Figure 5: Northern Liberties Zoning, Before and After Remapping



Of the 85 zoning appeals filed within these boundaries from January 2015 through August 2017, 36 were for the erection of new structures (26 on vacant lots, 10 requiring the demolition of existing properties) and another 11 were for additions to existing properties. Of these 49 appeals for expansion of building area, the vast majority included roof decks and/or parking, including 15 for multifamily housing or mixed use and 30 for single family homes. Of the 38 appeals that did not involve any new construction, the most common were for food service businesses (12), followed by the conversion to/legalization of/expansion of multifamily uses (six), and for off-street parking (five).

In keeping with the proliferation of new development, 50 of these 85 ZBA cases were refused on the basis of dimensional standards. The vast majority of these (38) were for open space, with 14 requesting variances for height, 12 for failure to meet minimum lot size or width, and 12 for the location, size, and/or presence of a roof deck. In contrast, 38 of the 85 cases heard by the ZBA were in response to refusals or referrals on the basis of use (often in addition to ones related to dimensional standards). Even after a significant increase in the amount of land zoned for multifamily uses, the most common use variance application (12) was for multifamily development in single family zones, followed closely by those for food service related businesses (11). Appeals related to other non-residential uses accounted for six of the cases and appeals for placing residential uses in areas where ground floor commercial or industry is required accounted for another six.

### BELLA VISTA

With its close proximity to Center City and to other growing neighborhoods, Bella Vista has been the beneficiary of significant investment in its housing stock over the past nine years. As a consequence of its relatively small amount of vacant land, however, this has resulted in little new construction; instead, the majority of variance applications have been for upgrades to existing structures, including additions, roof decks, new/renovated commercial spaces, and/or conversion into multifamily use.

In the four years preceding the enactment of the new code, there were an average of 80 zoning permit applications per year in Bella Vista, of which slightly less than half were approved by right. Of the 31 percent of applications that resulted in a zoning appeal, 76 percent were granted by the ZBA (including 96 percent of cases for which they issued a decision to either grant or deny the appeal).

During the first three and a quarter years under the new code, prior to the neighborhood being remapped, most of these statistics were quite stable, indicating that the new provisions, in themselves, did not significantly alter the development environment. During these years the number

of zoning applications rose somewhat, to 92 per year, but a similar share of these were awarded by right as under the old code. Likewise, while the share of these applications that resulted in ZBA appeals fell to 22 percent (largely due to an uptick in the share deemed “incomplete”), 77 percent of these appeals were granted by the ZBA (including 93 percent of cases for which they issued a decision to either grant or deny the appeal).

Following remapping, these dynamics shifted significantly. During the 21-month period following the passage of Bill #150863 (introduced by CM Squilla) by the Rules Committee, the number of applications continued at a pace of 84 per year, but the share of zoning applications that were approved by right jumped to 60 percent. However, counter-intuitively, the share of appeals that were approved by the ZBA also increased significantly, up to 95 percent, including 100 percent of all cases for which a decision was rendered.

Of the 47 appeals heard in Bella Vista from 2015 through August 2017, only eight were for new development. Of these, five were for multifamily residential or mixed-use construction and three were single family homes; four were developed on vacant parcels and four required demolition of existing structures. In contrast, 18 were for additions (including 11 for roof decks, three for both roof decks and conversion to multifamily, one for structured parking, and four for the expansion of the existing use). Seven of the appeals were for the conversion to, or addition of, multifamily units within the existing structure, and the remaining fourteen were for an assortment of other uses.

Despite a development environment where the vast majority of zoning appeals were for projects that involved either no or relatively small changes to existing structures, 35 of the 47 required relief for a dimensional regulation. Of these, 27 were for open space or setback requirements, including 14 for which these requirements were the only basis for refusal. Nine of these 35 zoning applications were refused on the basis of height and five were refused on the basis of lot size.

Among the 17 appeals during this period that were for applications refused on the basis of use restrictions, the largest number (eight) were for nonresidential uses, followed by those refused for excess units within a district where multifamily housing is a permitted use (six). Despite a significant share of the area being rezoned from RM-1 to RSA-5, only three of the appeals during this period were for the conversion or legalization of a multifamily use within a single-family zone.

Figure 6: Bella Vista Zoning, Before and After Remapping

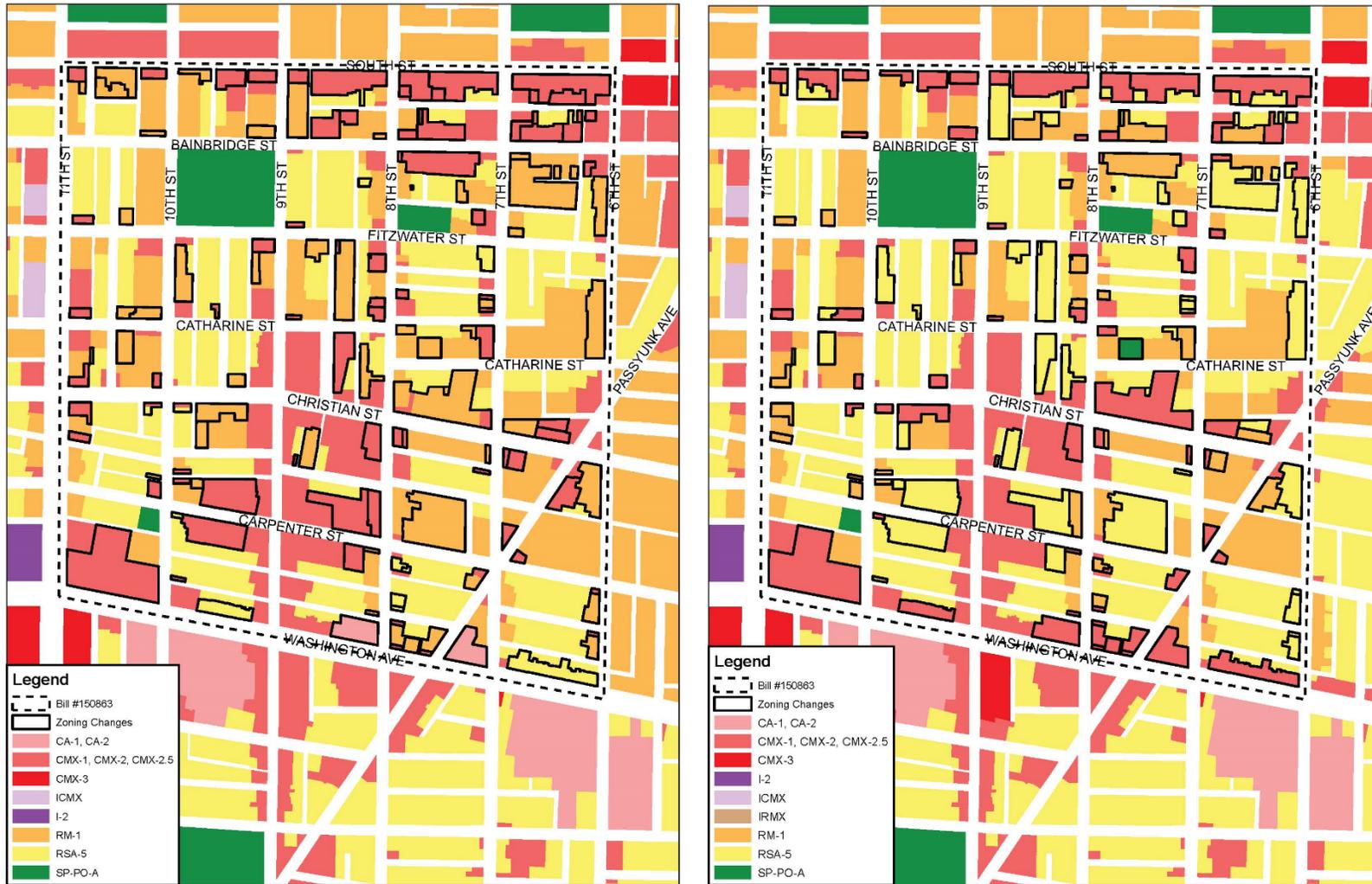


Table 7: Zoning Permit Applications in Bella Vista, August 22, 2008 - August 21, 2017<sup>7</sup>

L& I Review	ZBA Decision	Old Code (2008-2012)		New Code, Pre-Remapping (2012-2015)		New Code, Post-Remapping (2015-2017)	
Approved by Right		156	49.1%	151	50.3%	89	60.5%
Refused, but not Appealed		23	7.2%	8	2.7%	9	6.1%
Appealed		97	30.5%	66	22.0%	20	13.6%
	<i>Denied</i>	3	3%	4	6%		0%
	<i>Dismissed/Withdrawn</i>	20	21%	11	17%	1	5%
	<i>Granted</i>	74	76%	51	77%	19	95%
Incomplete		42	13.2%	75	25.0%	29	19.7%
Total		318	100.0%	300	100.0%	147	100.0%

### LOWER NORTH CENTRAL (WEST OF TEMPLE)

The revitalization of Broad Street drawing north from Center City, in concert with the growing residential population of students attending Temple University, has led to a significant increase in development activity in the neighborhoods immediately to the west of the university. This new development, especially that of multifamily student housing, has led to anxiety among and friction between many of the residents of these neighborhoods. This has prompted the largescale down-zoning of many (but not all) blocks to the west of 18<sup>th</sup> Street, while maintaining multifamily zoning in blocks between Broad and 18<sup>th</sup> Streets and up-zoning many of the blocks directly fronting Broad Street to a high density mixed-use zone. These changes were accomplished through three remapping bills, #140633, #140745, and #170005 (all introduced by CM Clarke), passed through the Rules Committee in October 2014, November 2014, and April 2017. Because the last of these bills was passed so recently, the impacts are not yet evident in the data presented here.

Prior to the enactment of the new zoning code, this large swath of North Philadelphia attracted an average of 270 zoning permits a year, of which 56 percent were approved by right. Twenty-three (23) percent of these applications led to appeals before the ZBA; variances or certificates were granted in 87 percent of these cases (including 96 percent for which the ZBA rendered a decision).

In the period immediately after the new zoning code took effect but prior to any remapping, the number of zoning applications fell slightly to 248 per year.<sup>8</sup> Of these, a somewhat higher percentage were approved by right, potentially reflecting the improved provisions of the Code. As in the two other neighborhoods profiled, the share of applications that led to appeals fell significantly, owing primarily to an increase in the applications deemed “incomplete.” However, unlike in the other areas, the share of appeals that were approved also fell significantly, to 72 percent (including 83 percent of those that were either granted or denied).

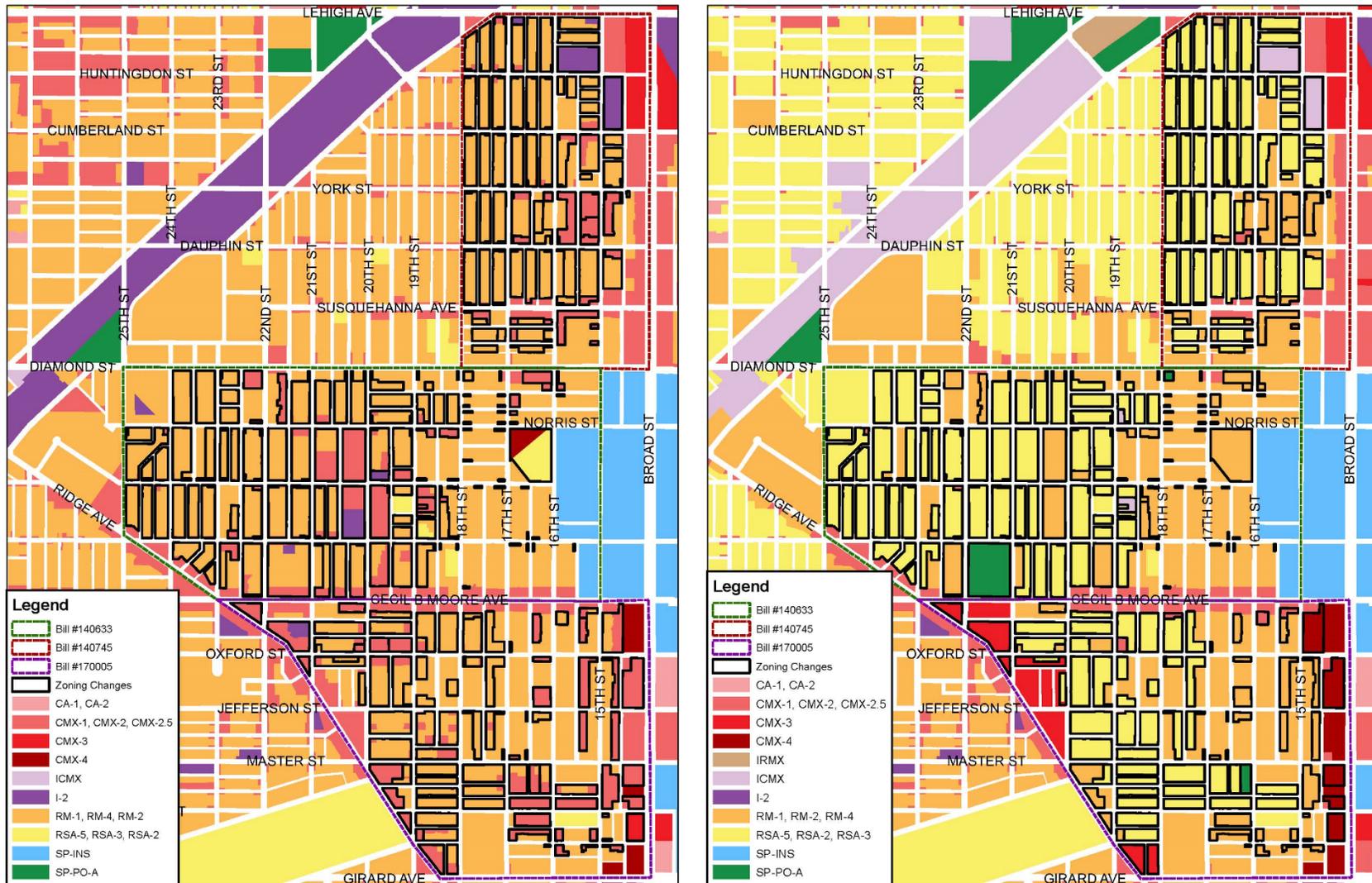
After remappings, the rate of zoning applications continued to decline, to 234 per year.<sup>9</sup> The rate of approval by right fell somewhat, but less than might have been predicted given the widespread down-zonings that occurred in the area. In keeping with the findings in other neighborhoods, the rate of approval by the ZBA did not go down: of the 14 percent of applications that were appealed, 76 percent were granted (including 86 percent of cases for which a decision was rendered). However, this does represent a smaller percentage of post-remapping appeals granted than in the other two neighborhoods profiled here. This may be due to particular political pressure from neighbors and council offices to contain the development of student housing in areas outside the immediate vicinity of Temple University.

<sup>7</sup> For the purpose of this analysis, the boundaries for Bella Vista include the area covered by Bill #150863: Washington Avenue, 11th Street, South Street, and 6th Street

<sup>8</sup> Because Bill #170005 was passed two and a half years after the other two, this statistic is based on the time between the enactment of the new code and November 1, 2014.

<sup>9</sup> Because Bill #170005 was passed two and a half years after the other two, this statistic is based on the time between November 1, 2014 and August 22, 2017.

Figure 7: Lower North Central (West of Temple) Zoning, Before and After Remapping



From January 2015 through August 2017, 117 zoning appeals and referrals were filed in the areas encompassed by boundaries of these three remapping bills. A slight majority of these, 62, were for the erection of new structures (including 54 on vacant lots and 8 requiring the demolition of existing properties) and another five were for additions to existing properties. Of these 67 appeals involving increased building area, the vast majority (62) was for the development or expansion of multifamily housing. Of the 50 appeals that did not involve any new construction, more than half (27) were also for multifamily, but a significant minority were for group living and rooming houses (13) or for daycares (five).

The majority of appeals involving new construction or additions were for refusals on the basis of dimensional standards (47 out of 62). As in the other two case studies, nearly all of these (44) included refusals for open space or yard requirements. Most-often in conjunction with these

open space refusals, nine permit applications were refused on the basis of lot size, six were refused on the basis of height, and one was refused for the design of the roof deck.

While less than half of the appeals to the ZBA were for dimensional standards, 90 of these 117 cases were in response to refusals or referrals on the basis of use. As in Northern Liberties, a large number of these (17) were for multi-family development in districts zoned for single family residential only. However, a far larger number (46) were in areas zoned for multifamily uses, but for fewer units than proposed in the application; an additional 17 were for applications that placed residential uses on the ground floor where commercial is required (as in CMX-2 and CMX-2.5). Twelve (12) of the refusals were for group living and rooming houses and another ten were for a variety of non-residential uses (including five for daycares)

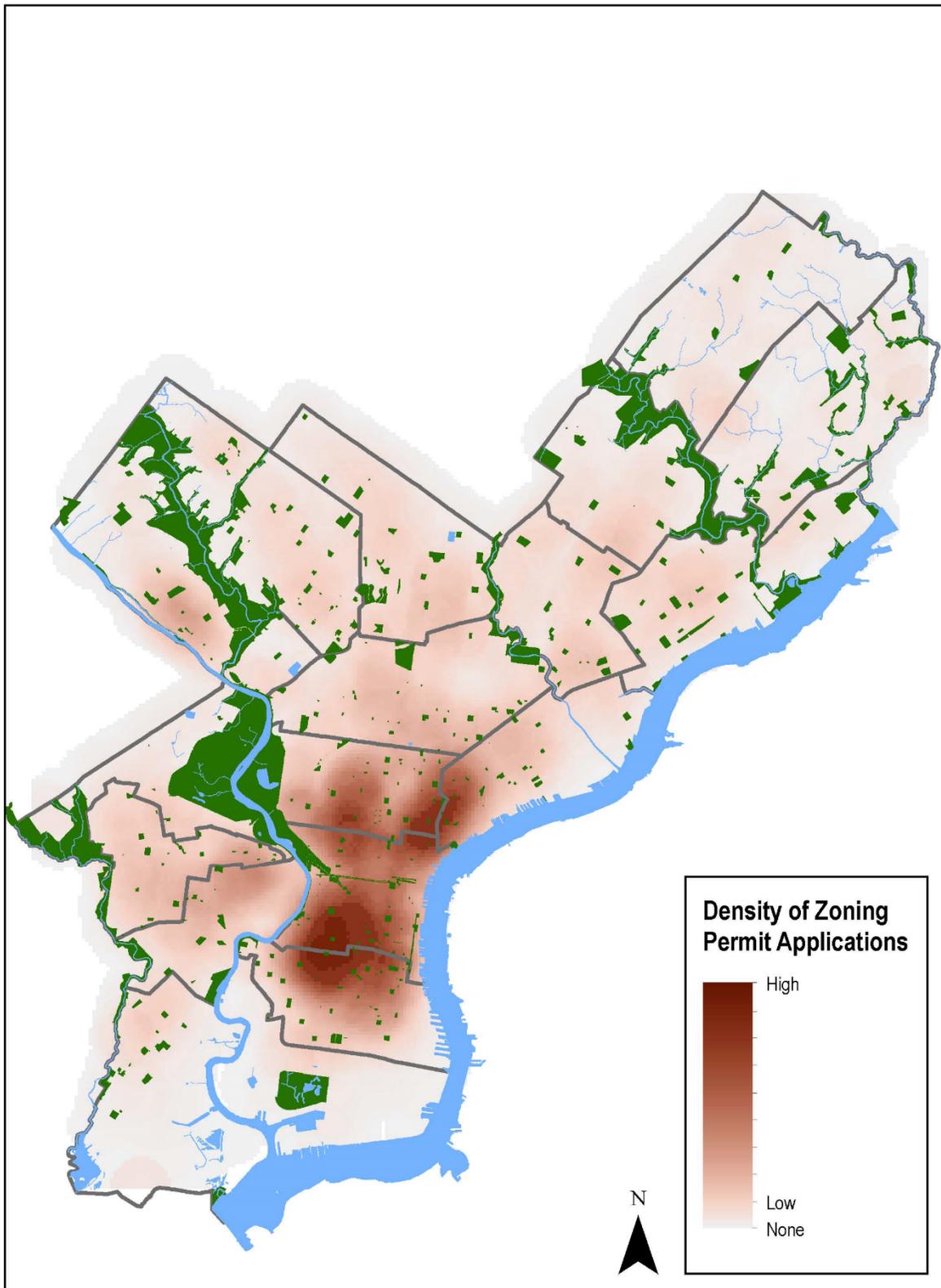
**Table 8: Zoning Permit Applications in Lower North Central (West of Temple), August 22, 2008 - August 21, 2017<sup>10</sup>**

L& I Review	ZBA Decision	Old Code (2008-2012)		New Code, Pre-Remapping (2012-2014)*		New Code, Post-Remapping (2014-2017)*	
Approved by Right		601	55.0%	496	59.3%	193	54.7%
Refused, but not Appealed		78	7.1%	47	5.6%	39	11.0%
Appealed	<i>Denied</i>	252	23.1%	144	17.2%	50	14.2%
	<i>Dismissed/Withdrawn</i>	10	4%	21	15%	6	12%
	<i>Granted</i>	24	10%	20	14%	6	12%
Incomplete/Failed		218	87%	103	72%	38	76%
Total		161	14.7%	150	17.9%	71	20.1%
		1,092	100.0%	837	100.0%	353	100.0%

\*For properties included in Bill #170005, permit applications filed from September 22, 2012 through April 3, 2017 are included in the "New Code, Pre-Remapping" column and permit applications filed from April 4, 2017 through September 21, 2017 are included in the "New Code, Post-Remapping" column

<sup>10</sup> For the purpose of this analysis, the boundaries for Lower North Central (West of Temple) includes the areas covered by Bills #140633, #140745, and #170005: Girard Avenue, Ridge Avenue, 25th Street, Diamond Street, 18th Street, Glenwood Avenue, Lehigh Avenue, Broad Street, Diamond Street, 15th Street, Cecil B. Moore Avenue, and Broad Street

Figure 8: Density of Permit Applications, September 2008-August 2017



## CIVIC ENGAGEMENT/REGISTERED COMMUNITY ORGANIZATIONS (RCOs)

*Registered Community Organizations (RCOs) were created in the Zoning Code in 2012 as a means of systematizing community input in the zoning process. The RCO system was intended to encompass the wide array of civic and neighborhood associations throughout the city that were already working on zoning issues on an ad hoc basis. The system delineated the requirements for registration, the rights and responsibilities for both RCOs and zoning applicants, and the "RCO process," which includes notification of RCOs, holding a neighborhood meeting, and providing neighborhood input to the Zoning Board of Adjustments (ZBA). Legislating the inclusion of community organizations has increased the reach of participation and notice, however, there remain challenges which subsequent legislation has sought to address.*

### 2012 ZONING CODE

In the 2012 update to the Zoning Code, RCOs looked slightly different than their current iteration. RCOs could register either as a local or issue-based RCO. Local RCOs were entities with specific geographic boundaries that were at least five city blocks but no more than seven square miles. These groups had to hold meetings that were open to the public and scheduled on a periodic basis (such as monthly); publicly announce their meetings; have leadership chosen through open elections; have written rules establishing the mission, operation, regulation and boundaries of the organization; and be inclusive of residents, property owners, business owners, and tenants from their geographic area. Issue-based RCOs were nonprofits with a specific mission, and could be larger than the seven-square mile-restriction for local RCOs. Since this original creation, issue-based RCOs have been eliminated, there is no minimum size for RCOs, the maximum has changed to 20,000 parcels, and registration requirements have been expanded. Wards, Special Services Districts, and Neighborhood Improvement Districts have also been added as a special category of RCOs with their own specific requirements.

The original legislation, like today, required RCOs to be notified of variance and special exception cases that required Zoning Board approval, as well as Civic Design Review (CDR) cases. Initially, the Department of Licenses and Inspections (L+I) provided the applicant with the names and contact information for the RCOs that were to be notified. Today, PCPC provides this information. The applicant, within seven days, is required to contact each RCO with their name and address, the name and contact information of any other RCOs in the area, the location where copies of the application and other relevant information could be obtained, a description of the property, a description of the scopes of the application and the type of permit, the time and place of any required public meeting, or a statement that a public meeting has not been scheduled. These requirements have not changed significantly since this original iteration.

The legislation detailed public meeting requirements. Like today, the RCO meeting had to occur within 45 days of the

file date of the appeal or date of designation for a CDR case. In areas of the city where there were multiple RCOs, groups had to coordinate and hold a single public meeting. The RCO or RCOs were also tasked to provide the ZBA or CDR a meeting summary.

### RCO LEGISLATION

#### Bill 120889

Bill 120889, passed January 24, 2013, amended several of the initial regulations. The registration period changed from renewal annually to renewal every three years, and language allowing PCPC to ask for additional information during the registration period was removed. Most groups were allowed to become RCOs, including political wards. The legislation required that the applicant provide notice about their ZBA case to a few additional entities, including the district councilmember whose district includes the relevant property; and nearby RCOs. The local RCO was then required to provide notice of the meeting to property-owners within a certain distance of the applicant's property, using a block and block-face system. This proved difficult in areas where blocks were not standardized and uniform. RCOs were also required to provide a written summary to PCPC of the results of their meeting. The legislation further added language that the relevant Councilmember (whose district includes the applicant's property) to serve as the RCO when no RCO exists in the area. The legislation also provides for a seat on the CDR Committee for the local Councilperson whose district includes the applicant's property.

The result of this bill was an increase in the amount of political involvement in the RCO process by ensuring Council is copied on communications, can act as an RCO, and has a seat on the CDR Committee. The bill also added complexity to the process of notification by requiring properties on various blockfaces to be notified, and increased the burden of local RCOs by requiring that they notify all neighbors on the relevant blockfaces. In the case of overlapping RCOs, it was unclear which RCO was

responsible for notifying the neighborhood, and RCOs complained of printing costs and undue burden as a result of this requirement.

### Bill 130657

Bill 130657, signed into law on January 31, 2014, significantly revised the portions of the Zoning Code regarding RCOs. RCOs and applicants to the ZBA alike had issues with the initial iterations of the legislation, which this bill sought to remedy. Feedback from the One Year Report found that code users felt that in principle, notifying and meeting with Registered Community Organizations is a worthwhile process, but that the amendments made by City Council Bill No. 120889 made that process unpredictable, uncertain, and difficult to manage.

In response, Bill 130657 more clearly defined several aspects of the RCO process, including:

- 1) criteria to qualify as an RCO;
- 2) a process for dealing with cases with overlapping RCOs, through the concept of a "Coordinating RCO." The Coordinating RCO is chosen by Council to facilitate the public meeting process; and
- 3) neighborhood meeting and documentation requirements. The burden of neighbor notification was shifted from RCOs to applicants. Notification also changed from the complicated process in 2a-2d, above, to a simpler model of all properties within 200' of the property in question, and all properties on the same blockface, opposite blockface, and within the same block. As a result of the 200-foot radius requirement, which required spatial analysis tools, PCPC staff were required to send out the address lists for the applicants to use.

Further, issue-based RCOs were eliminated and Neighborhood Improvement Districts and Special Service Districts, were defined as groups that qualify as RCOs. Registration was shifted from every three years to every two years. While this legislation resulted in some improvements to the RCO process, some problems persisted, such as those related to qualification requirements for RCOs, further issues with overlapping

RCO boundaries, a nonstandard process by which Council selects the Coordinating RCO, lack of compliance monitoring and enforcement mechanisms, and complaints of an overly burdensome processes for all parties involved.

### Bill 160177

Bill 160177, introduced in March of 2016, was an attempt to further amend issues with regards to RCOs by enabling PCPC to propagate regulations that included an RCO Code of Conduct and the authority to hold RCOs accountable for failure to act within those standards. The legislation stated that if an RCO failed to follow PCPC's RCO standards of conduct, PCPC could revoke or suspend an RCO's registration. In anticipation of the passage of this Bill, PCPC included these provisions as a part of its amendments to its regulations in the Spring of 2016. However, this bill was never brought to committee for passage. Consequently, PCPC's regulations were further amended to clarify that it could only act on the provisions included in its Code of Conduct if subsequently authorized by Council.

### Bill 170285

Bill 170285, passed June 14, 2017, further amended the code sections related to RCOs. The bill simplified notification requirements to a 250-foot radius from the applicant's property, removing references to blocks and block faces. This eased the PCPC's administrative burden in generating address lists for applicants and created a uniform system that is not dependent on the standard of the block, which in much of the City is irregular. The bill also amended the required information RCOs submit during registration, including clarification that RCOs should be open to residents, property owners, business owners or operators, and/or tenants in the group's geographic area of concern, and that leadership is regularly elected from this group. The legislation also required Wards to submit a schedule of their meetings and an example of an announcement of one the meetings that they have held. This provision was meant to take steps towards holding all RCOs to the same standards during registration. Finally, the bill included a provision from the lapsed Bill 160177 that authorized PCPC to suspend RCOs should they repeatedly fail to meet the RCO Standards of Conduct as defined in PCPC's regulations.

## CHALLENGES

### Uneven Development Patterns

Zoning permit applications (and subsequent appeals) are highly concentrated in a few areas of the city, meaning that some RCOs are required to review many cases, while others seldom hear any. While RCOs that hear many cases are often well-practiced and are generally able to meet the requirements of the RCO system, they face a significant burden, especially for largely volunteer organizations. In contrast, for RCOs that rarely hear cases, the process is often unclear and there is a tendency to operate out of compliance with the law. Similarly, while the process has become clearer for frequent applicants, such as attorneys and architects, it remains opaque for applicants who seek small-scale and infrequent variances (such as those related to fences, small businesses, and in-home group daycare).

### Uneven Distribution of RCOs

In addition to the issues that arise from the uneven distribution of appeals, there are also those that arise from the uneven distribution of RCOs. Following the registration period of June 2017, there are 289 RCOs in the city. As shown in Figure 9, below, there are few areas of the city where there is only one RCO, and fewer where there are none. Currently, portions of Frankford, Overbrook, and Overbrook Park lack any RCO. There are many more sections of the city where there are two to three groups (such as one or two civic/neighborhood associations and one or two political ward-affiliated RCOs), there are portions of the city where as many as 11 RCOs serve the area. Point Breeze, Strawberry Mansion, Germantown, Powelton Village/West Powelton/Mantua, and most of Southwest Philadelphia have especially high concentrations of RCOs. While some cooperate well, these overlapping RCOs often have fractious relationships and the designation of a Coordinating RCO to hold a single meeting has heightened tensions and territoriality. While by law, all affected RCOs are to be included in the planning of public meetings with the same rights of participation and standing to the ZBA as the Coordinating RCO, this has often not been followed in practice. The proliferation of overlapping RCOs has, in part, been a function of the improved, but still-lenient, requirements for the registration of RCOs, as well as the limited capacity of any City entity to reject or sanction organizations based on poor performance or unethical behavior.

### Time Intensive

The process is time-intensive for the staff of PCPC. The RCO Coordinator position constitutes a full-time job for which funding still has not been addressed. In addition to other duties as a member of PCPC staff, the RCO Coordinator's responsibilities include:

#### RCO Notification:

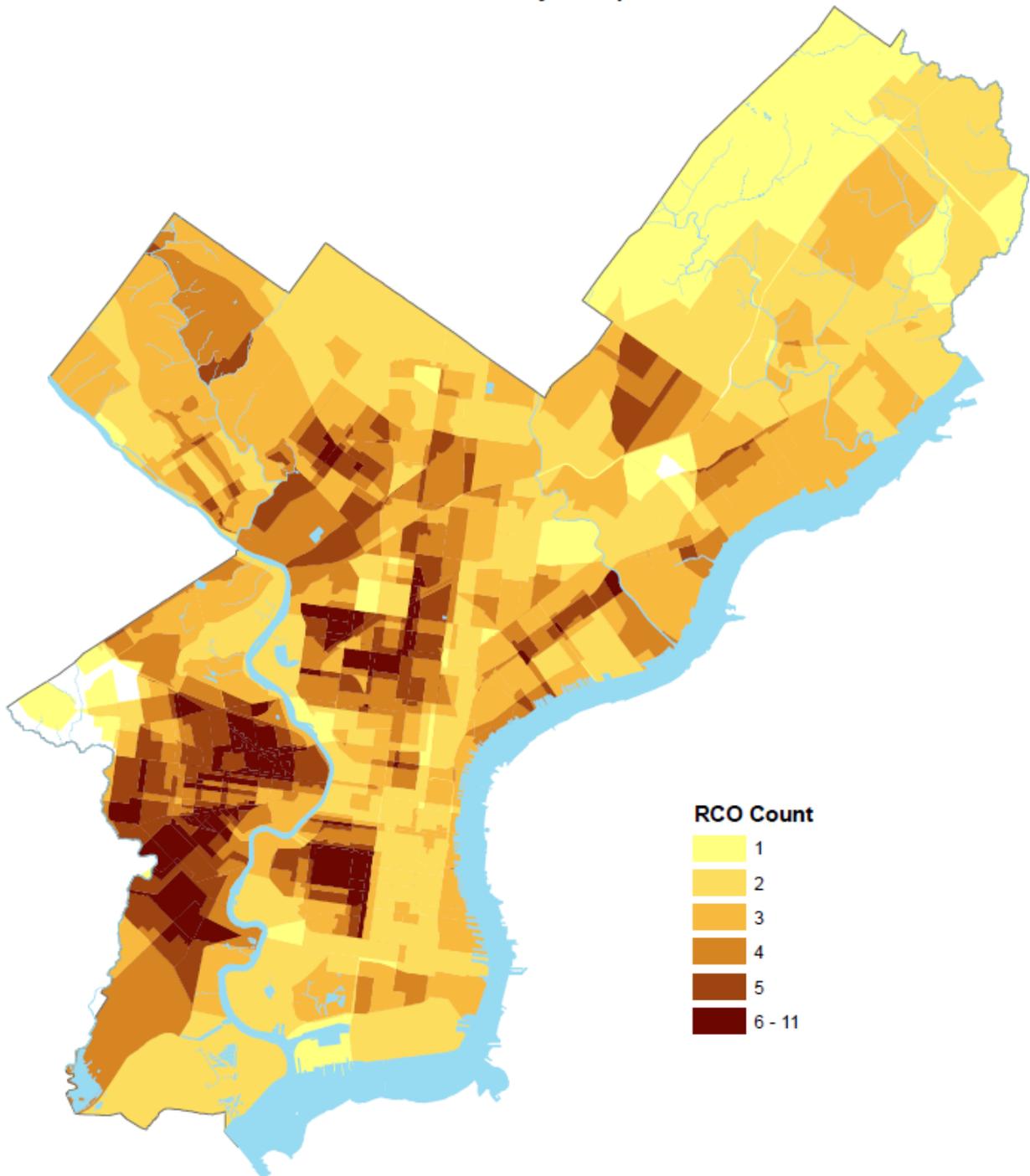
- Downloading appeal information and refusals from L+I's proprietary software;
- Using ESRI ArcGIS to determine affected RCOs and properties and exporting address lists;
- Communicating with Council offices to determine the Coordinating RCO;
- Preparing form letters to applicants listing affected and Coordinating RCOs; and
- Emailing or mailing applicants and RCOs the form letter, address lists, and neighbor notification templates;
- Responding to emails and calls from RCOs, Council offices, and applicants about the process; and

#### RCO Registration:

- Preparing for and facilitating two one-hour trainings for RCOs on zoning, development, the RCO notification process, and rights and responsibilities of RCOs;
- Preparing paper and online forms for RCOs to fill out during the registration period;
- Reviewing applications, including reviewing contact information, statement of purpose, bylaws, meeting schedule, example meeting flyer, leadership and election process and group boundaries, as well as requesting revised information if the applications do not meet legal requirements;
- Communicating with prospective RCOs about the status of their application, digitizing and filing applications, tracking communications;
- Making decisions on which RCOs should be denied, communicating with RCOs that appeal this denial, and presenting at the PCPC meeting about the RCO application appeals; and
- Updating RCO contact information at the end of the application period, as well as throughout the year, and keeping the online RCO list and map current.

Figure 9: Distribution of RCOs

### RCO Density Map



### Wide Range of Capacity & Processes

Initially implemented in part to encourage more equitable community participation, RCOs still have varying capacities, with different access to resources and differing levels of social capital. While PCPC offers training, these workshops are strictly voluntary and do not fully address the educational needs of RCOs, who are often composed of community members with little background in land use, permitting, zoning, and development. The materials from PCPC training workshops are also publicly available online, but these too are insufficient to bridge the information gap among RCOs, community members, and lower capacity zoning applicants, which results in widespread confusion and a significant expenditure in staff time by PCPC, L+I, and the ZBA to explain processes and procedures.

### Perception of Power & Territory

The primary goal of the RCO process was to create a formalized system to notify residents of ZBA cases pertaining to development in their neighborhood. However, RCOs often perceive their recommendations more as binding than advisory and believe that the selection of Coordinating RCO implies authority, legitimacy, or favoritism relative to other affected RCOs. Further, lapses in communication and coordination among these sometimes-rivalrous groups often lead to accusations of secrecy, subterfuge, and unethical deal-making. The Zoning Code does not provide special privileges or grant extraordinary significance to the feedback given by RCOs, and neither the ZBA nor the CDR Committee view such feedback as anything above advisory, but this does not appear to hold sway over this perception.

Confusion over “Coordinating RCO” power also arises from different RCOs having overlapping boundaries and sometimes causes delays in the notification process. When an appeal is within the boundaries of multiple RCOs, PCPC is required to contact the District Councilmember to ask that they choose one or more of these to serve as Coordinating RCO. There can often be a lag in response from these Council offices, but PCPC is only authorized to make a selection on their behalf if nearly a week has passed since the initial date of appeal, adding significant delay to the process.

If there were not multiple overlapping RCOs, these problems would be eliminated. However, such a situation

would involve a drastic change to the community group system and would require coordination and consolidation of existing groups that may have vastly differing missions and opinions about the amount and kinds of development they want to see in their neighborhoods.

### Peer City Comparisons

Other cities handle their community input processes for zoning decisions in a variety of ways. Most different from Philadelphia is New York City and most similar to Philadelphia is Denver.

New York City has groups called community boards, a concept established in a 1975 reform of the Uniform Land Use Review Procedure in the New York City Charter.<sup>11</sup> There are a total of 59 within the city, with no geographical overlap, and each include 50 unpaid members, making almost 3,000 New Yorkers that are involved in these boards. Half of these members are nominated by City Council members, and the remainder are selected by Borough Presidents from civic-minded and active citizens living, working, or with some significant interest in the geographic area of the community board. Among other duties, these boards provide an advisory role for land use and zoning issues in the community. The boards meet monthly and hold open public meetings to hear community concerns. The boards sometimes hold additional public meetings specifically regarding land use matters.<sup>12</sup> Each board is led by a paid District Manager, who establishes the community board office, hires staff as needed, processes feedback from residents, and facilitates community events.<sup>13</sup>

Atlanta’s RCO equivalent are Neighborhood Planning Units (NPU). There are twenty-five in the city, again with no geographical overlap. These groups advise the Mayor and City Council on land use, zoning, and planning-related matters. This system was established in 1974 as a way to increase citizen participation on the city’s comprehensive plan, and to receive information about projects the government and other entities were working on in their neighborhoods.<sup>14</sup> The groups are comprised of volunteers and meet monthly to review “variance applications to the Board of Zoning Adjustment (BZA); make recommendations on zoning and special use Applications to the Zoning Review Board (ZRB), which sends their recommendations to City Council for final decision; make recommendations on Subdivision Applications to the Subdivision Review Committee, Office of Planning; and make recommendations to the Office of Planning and City

<sup>11</sup> <http://www.hunter.cuny.edu/ccpd/repository/files/charterreport-angotti-2.pdf>

<sup>12</sup> <http://www.nyc.gov/html/cau/html/cb/about.shtml>

<sup>13</sup> Ibid

<sup>14</sup> <https://www.atlantaga.gov/government/departments/planning-community-development/office-of-zoning-development/neighborhood-planning-unit-npu>

Council on Applications that would change the Comprehensive Development Plan (CDP).<sup>15</sup>

Washington, D.C. has Advisory Neighborhood Commissions (ANCs). There are 41 in the city and, like New York City and Atlanta, they do not overlap. This format was created in 1974 through a change to the DC Home Rule Act. Each ANC is a subdivision of the District's eight Wards. The ANCs are considered non-partisan and are comprised of unpaid, elected representatives that serve two-year terms. The ANCs are further subdivided into 299 Single Member Districts, subdistricts of ANCs that are comprised of approximately 2,000 people each, each with their own leaders. Like peer entities in other cities, these groups remain advisory, but "District agencies are required to give the ANCs' recommendations 'great weight.' Moreover, District law says that agencies cannot take any action that will significantly affect a neighborhood unless they give the affected ANCs 30 days advance notice. This includes zoning, streets, recreation, education, social services, sanitation, planning, safety, budget, and health services."<sup>16</sup> The D.C. Home Rule Act states, "in order to pay the expenses of the advisory neighborhood commissions...the District government shall allot funds to the advisory neighborhood commissions out of the general revenues of the District." These funds are to be used to pay for staffing and other ANC activities, but whether there is an actual budget made available to each group is unclear.

Denver, Colorado has Registered Neighborhood Organizations (RNOs), which were established in 1976. Like Philadelphia, individual groups register with the city, yearly in Denver's case, choose their own boundaries, and are entitled to notification of certain land use, zoning, and planning-related matters-- and other matters that impact certain neighbors-- and must hold regular hearings. Similar to Philadelphia, the boundaries of these groups can overlap, but overlapping is "strongly discouraged."<sup>17</sup> RNO meetings are not required for Zoning Board cases, in fact, the city does not require applicants to meet with groups at all, though it is encouraged. RNOs can opt to fill out a RNO position form for groups to express their opinion on development cases, and they are welcome to testify at

Zoning Board hearings. Individual property owners are not required to be notified about zoning board cases, though RNOs can conduct outreach within their own groups.

A difference between these bodies, except for Denver, and Philadelphia's RCOs, are the lack of overlapping groups, which provides much greater clarity in the notification process. Further, none of these cities require public meetings or notification of individual property owners for every Zoning Board case. The level of political involvement in these groups also manifests differently. In Philadelphia, District Councilpeople choose the Coordinating RCO. In New York City, half the community board members are nominated by political leadership and in DC, the ANC leaders are elected. In addition, in other cities, these groups are notified and given the opportunity to provide feedback about a greater variety of city projects that may impact them; their role is not simply to provide feedback into zoning cases. It is also interesting to note how much earlier than Philadelphia these cities implemented these policies, which has perhaps given them more time to adjust the process and functioning of these groups. Similar to Philadelphia, however, these groups are advisory-only and while their stance is considered in land use and zoning matters, these groups do not have veto power or final say on projects. Though these cities are very different from Philadelphia, there is the opportunity to learn from the different processes that they have refined and simplified over four decades. Alternately, it is possible that Philadelphia RCOs need more time to establish themselves as community groups, to reconcile boundaries or establish more effective working relationships with adjacent and overlapping groups.

Also of note is that Seattle's Neighborhood District Councils (NDCs), groups active since the 1990s that provided input into the planning and zoning process in the city, were recently dismantled by the city's director of the Department of Neighborhoods. A new Community Involvement Commission was formed in the place of the 13 NDCs in an effort to include more diverse residents in the input process.<sup>18</sup>

<sup>15</sup> <https://npu-b.com/about/>

<sup>16</sup> <https://anc.dc.gov/page/about-ancs>

<sup>17</sup>

[https://library.municode.com/co/denver/codes/code\\_of\\_ordinance?s?nodeId=TITIIREMUCO\\_CH12COPLDE\\_ARTIIIRENEOR](https://library.municode.com/co/denver/codes/code_of_ordinance?s?nodeId=TITIIREMUCO_CH12COPLDE_ARTIIIRENEOR)

<sup>18</sup> <https://nextcity.org/features/view/seattle-nimbys-neighborhood-planning-decisions>

**Table 9: Representative Examples of Community-Based Zoning Organizations in Peer Cities**

	New York City, NY	Atlanta, GA	Denver, CO	Washington, DC	Philadelphia, PA
<b>Official Name</b>	Community Boards	Neighborhood Planning Units	Registered Neighborhood Organizations	Advisory Neighborhood Commissions	Registered Community Organizations
<b>Boundary Determination</b>	By borough, and then by statistical neighborhood boundaries, do not overlap	By statistical neighborhood do not overlap	Self-determined, but most adhere to statistical neighborhood boundaries, can overlap	Wards separated into ANCs, each ANC is then divided into single member districts (SMDs), do not overlap	Self-determined, can overlap
<b>Staffing</b>	Combination of paid staff and neighborhood volunteers	Neighborhood volunteers	Neighborhood volunteers	Unpaid, appointed commissioner for each SMD, potentially paid staff	Neighborhood volunteers, with some having independent financing to have staff
<b>Only deals with zoning?</b>	No	No	No	No	Yes
<b>City Funding for Groups?</b>	Yes	No	No	As allocated from District budget	No

## ZONING CODE AMENDMENTS

*In August 2012, the City adopted a new zoning code after four years of work by the Zoning Code Commission. Since the adoption of the new zoning code in August 2012, City Council has enacted 112 ordinances to modify and refine the Zoning Code. These ordinances range in scope from technical modifications to more substantive revisions. These changes were triggered by a wide variety of matters, addressing emerging issues, satisfying immediate community concerns, or requests from developers.*

### PROJECT-SPECIFIC AMENDMENTS

*Project Specific* ordinances establish “except for” exemptions in the Zoning Code for a particular location. Typically, these ordinances are designed to assist a specific project. PCPC highly discourages this type of legislation as it creates site specific zoning rules that do not conform to the standards the City has established in the Code. They also circumvent the normal public input and community outreach processes required for variances and are rarely considered in the context of broader neighborhood planning efforts. Though the number of project specific ordinances has fluctuated since 2013, the first full year since the adoption of the new zoning code, PCPC works with developers and Council offices to further reduce this practice.

### ZONING TECHNICAL COMMITTEE

Changes to the Zoning Code tend to be driven by one or more of the following sources: the City’s Zoning Technical Committee (ZTC); City Councilmembers; community groups; or development interests. The ZTC is a body formed after the creation of the Zoning Code. It is the primary source of recommended changes from City agencies. The ZTC is comprised of representatives from PCPC, L+I, the Division of Development Services, and the Law Department. It conducts an ongoing review of the Zoning Code, provides regular recommendations on potential improvements and technical modifications, and works closely with Councilmembers to enact recommended changes through both single-issue and omnibus legislation.

The ZTC and PCPC have developed and recommended bills that address numerous issues since the adoption of the new zoning code. Suggested amendments from other sources are also assessed through formal and informal ZTC discussions to provide feedback to City Council on both policy issues and technical concerns.

### TYPES OF ORDINANCES

Ordinances to amend the Zoning Code can be divided into four types of legislation: Technical, Substantive, Overlays, and Master Plan.

- *Technical* ordinances clarify provisions in the Code, either by adding definitions, correcting typos, revising ambiguous language, or reorganizing text to improve usability.
- *Substantive* ordinances create new provisions or significantly alter existing provisions in the Code and may affect only a single zoning district or have citywide impacts.
- *Overlay* ordinances establish an additional layer of standards that augment or supersede the requirements of the base zoning district within one or more defined areas of the City. Overlays tailor land use regulations to a specific neighborhood or geography of the city
- *Master Plan* ordinances refer to large areas of land that are treated holistically, rather than a collection of individual parcels. Master Plans are most often developed for major institutions, such as universities, airports, and entertainment complexes within the Special Purpose Districts for institutional (SP-INS), airport (SP-AIR), entertainment (SP-ENT), and sports stadium (SP-STA) uses, but are also found in other areas.

The number of bills adopted each year that amend the Zoning Code has varied since the new code was adopted in August 2012. The smallest number was the year after the Zoning Code was adopted, 18, perhaps given the large overhaul in the Code the previous year. The number then jumped to 25 in 2013-14, and decreased again in 2014-15 to 21, followed by a spike in the number of bills in 2016-17 to 27, following the inauguration of new Councilmembers. See Figure 10 below.

Figure 10: Total Zoning Code Amendments Passed Since Code Adoption by Year

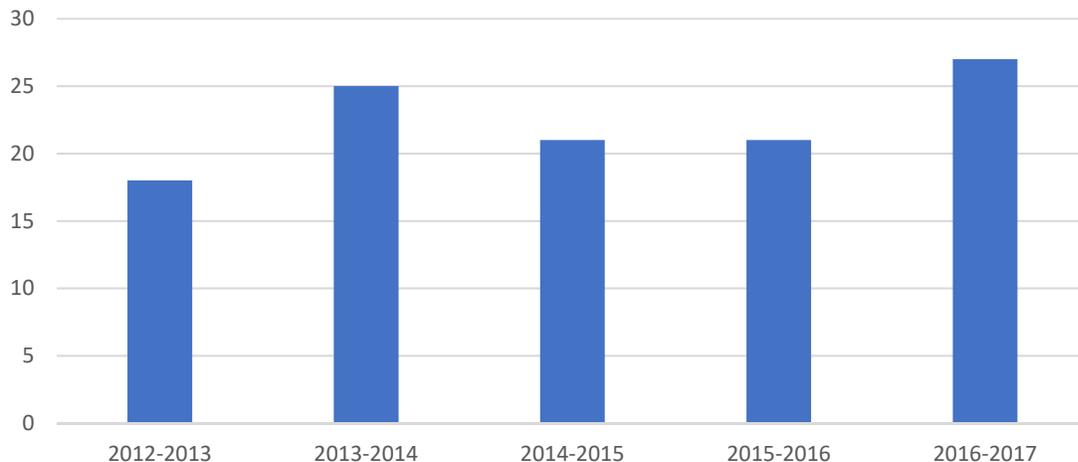


Figure 11: Total Zoning Code Amendments Since Code Adoption that are Project-Specific

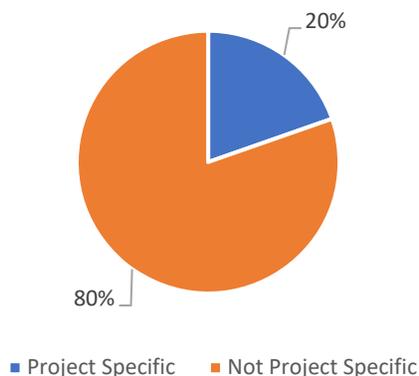


Figure 12: Total Zoning Code Amendments Passed Since Code Adoption by Year by Type

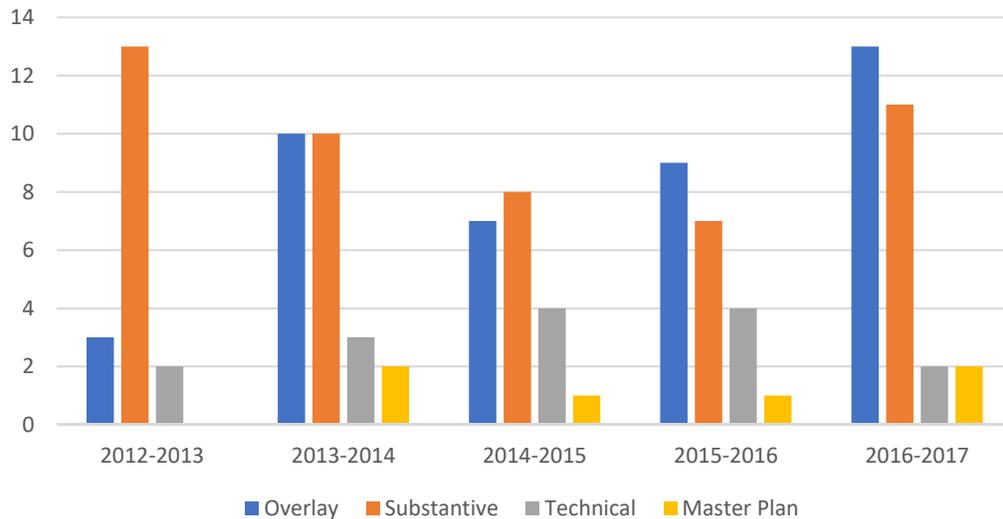
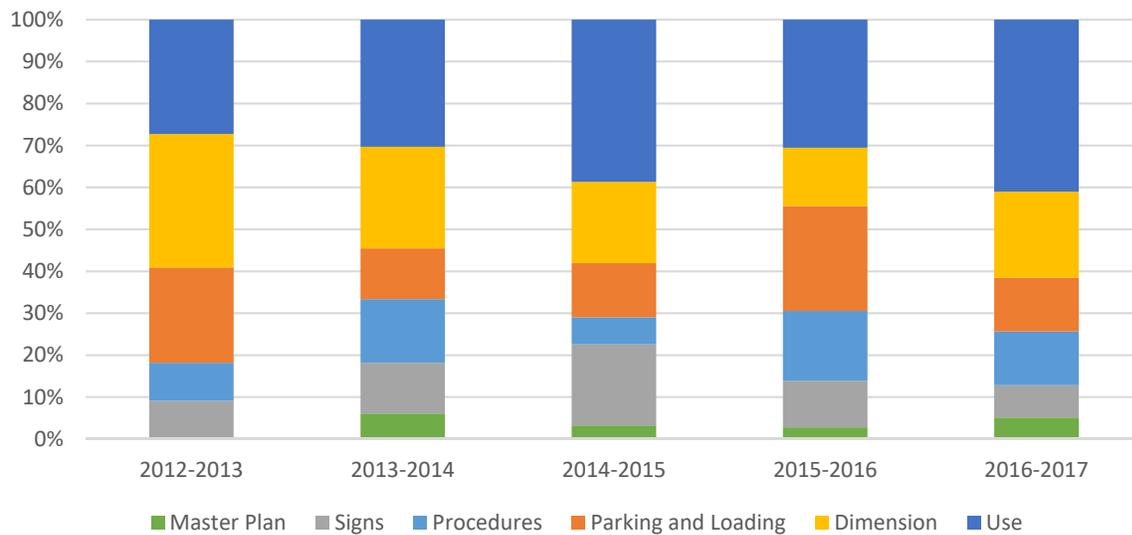


Figure 13: Total Zoning Code Amendments Passed Since Code Adoption by Year by Topic



The greatest number of substantive amendments were introduced in the year after the Zoning Code was overhauled. In 2013-2014, there were the same number of overlays as substantive bills, and in 2014-15, substantive bills again comprised most bills introduced. While the number of substantive amendments declined between the new code adoption and the middle of 2016, that number has increased in past the year, see Figure 13. The number of overlay ordinances has varied. The new overlays or overlay areas created after the adoption of the code include:

- Seven new overlay districts (/FNE, Far Northeast; /NE, Northeast; /WST, West; /UED, Urban Experiential Display; /MWA, West Washington Avenue; /ECO, East Callowhill);
- Two new areas were added to the /NCA, Neighborhood Commercial Overlay (Spring Garden and Center City East (since removed));
- Four new areas were added to the /NCO, Neighborhood and Conservation Overlay (Central Roxborough, West Powelton, Logan Triangle, and Ridge Park Roxborough).
- One Area Expanded (/NCA Ridge Ave)

While some overlays are proposed by PCPC to address specific planning goals, most overlays are the result of other interests. PCPC generally discourages the creation of overlays because they can reduce the clarity of the Code, provide additional issues with enforcement, or do not represent appropriate planning objectives. PCPC prefers to initiate comprehensive remappings to address discrepancies in base zoning.

### CODE AMENDMENT BY TOPIC

The topics of ordinances can include amendments to various sections of Title 14. These include Use (14-600), Dimensions (14-700), Procedures (14-300), Overlays (14-500), Parking and Loading (14-800), and Signs (14-900). Some of these ordinances also relate to Master Plans, as mentioned above. Except in 2012-2013, code amendments related to use constituted the largest proportion of the bills introduced. Amendments to dimensions were largest of all the topics in 2012-2013, and second largest in 2013-2014 and 2016-2017. Parking and Loading amendments were second largest as a percentage of total code amendment bills in 2015-2016 and sign amendments were tied with dimension changes for second largest in 2014-2015. Procedural amendments were third-largest in 2015-2016. Master Plan amendments consistently make up the smallest proportion of code amendments, and there were none in 2012-2013.

### CODE CHANGES THAT ADVANCED PLANNING PRINCIPLES

PCPC, through the Zoning Technical Committee, has formulated and advanced new policies and legislative proposals aimed at further incorporating progressive planning principles into the Zoning Code. There have been a number of zoning code amendments over the five years since the adoption of the code that advance strong planning principles. Some of these include are detailed below.

## IRMX Amendment

The Industrial-Residential Mixed-Use (IRMX) zoning district was created during the code re-write in 2012. It was a district that was not automatically mapped from any of the districts in the previous zoning code; it has only been zoned via remapping legislation starting in August of 2012. The district was created with the intention of guiding the transition of legacy industrial properties into more modern, mixed-use developments, to incent the efficient reuse of a building typology that proliferated throughout post-industrial Philadelphia. After observing the impact of this new district for the first two years following the code adoption, it became clear that there were some issues that were preventing the district from achieving its intended purpose. The original provisions of the district were such that, while development-friendly, they led to many unintended consequences for the neighborhoods in which the district was located. These included the proliferation of residential-only developments that did not have any light-industrial or commercial uses and that did not allow for new jobs or amenity spaces within communities.

In 2015, the Zoning Technical Committee did an in-depth analysis of industrially zoned land in the City to determine how a better "transition" district could be formatted. The result was Bill 150168, which established the current provisions of the IRMX zoning district. The standards of this amended IRMX included requiring a portion of a development to be devoted to non-residential uses, a maximum lot coverage that allowed for light and air, parking and loading requirements that are in line with Commercial Mixed-use districts, and setbacks from smaller residential streets to avoid a "canyon-effect." Since this legislation, the number of IRMX-zoned properties has increased dramatically and the zone is seen as a district that responds to both the need for development incentives to reinvigorate legacy industrial sites while addressing the concerns of adjacent residential areas to keep development at a positive scale and use

## /TOD Amendment

While the Transit-Oriented Development Overlay existed in the old zoning code, affected station areas were never designated or mapped for inclusion in the overlay and, thus, it had no impact on development in Philadelphia. In part, this was due to the cumbersome mapping requirements. Introduced on February 23, 2017 and enacted June 22, 2017, Bill No. 170162 comprehensively rewrote the text of the Transit-Oriented Development Overlay.

Key changes in the Bill included a simplification of both mapping process and the provisions themselves, an increase in the development potential, restrictions aimed at encouraging better pedestrian environments, greater

incentives for public benefits, and reduced parking requirements.

In November 16, 2017, a bill was introduced that would make the 46th Street Market-Frankford Line station the first TOD station area in the city. Applying to all parcels partially or entirely within 500 ft. of all exits and entrances, the /TOD would encompass the city-owned property at 4601 Market Street and several large vacant and underutilized parcels within high density mixed-use base zoning districts. Consequently, these two bills taken together have the potential to enable a significant amount of new, mixed-income, transit oriented development in an area facing significant pressures on both the housing market and supply of on-street parking. It is expected that additional bills will be forthcoming to expand these environmentally, economically, and socially-beneficial land use regulations to other station areas around the city.

## The East Callowhill Overlay

Bill No. 150505, "/ECO, East Callowhill Overlay District," was passed in November 2015. The original boundaries of the overlay were Spring Garden, 2nd, Callowhill, and 6th Streets, but the western boundary was extended to 9th Street in Bill No. 160920, passed December 2016. The area contains large superblocks with expansive impervious area, and large building footprints. The provisions in the bill are meant to facilitate more active street frontages, break up large blocks, and encourage the installation of stormwater management practices. To advance these goals, the overlay includes:

- The requirement that a certain percentage of building space at the ground floor be occupied by commercial, civic, or institutional uses;
- A reduction in the number of curb cuts permitted;
- The requirement that parking be behind buildings;
- A prohibition on drive-throughs;
- Both minimum and maximum building heights;
- Design requirements related to façade articulation on wide buildings and ground-level ornamental detailing or transparent windows or glazing;
- Several incentives to encourage development that advances the goals of the district, including height bonuses for constructing specified stormwater management features, establishing through-block connections along the former right of way of Noble Street, public art, public space,

mixed income housing, green buildings, and retail space; and

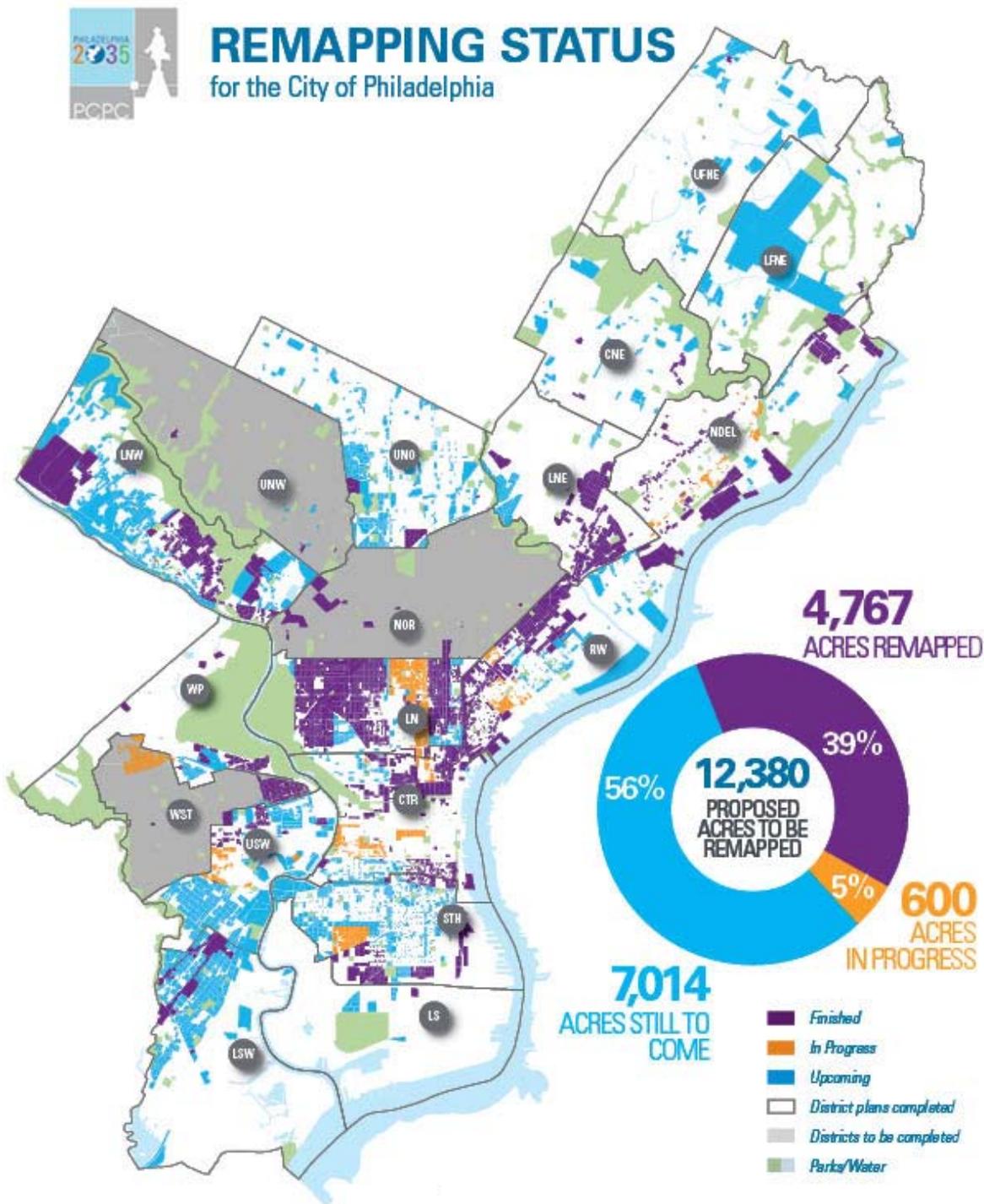
- The provision that structured parking does not count toward the calculation of the gross floor area of the development.

The intended effect of these requirements is to create visually intact blocks with more activity at the street-level rather than blank wall faces or streets fronted by parking lots. Pedestrians also would not have to contend with cars as frequently, which increases their

safety, and would not have to walk as far with the creation of smaller blocks that emerge as the Noble Street right-of-way is opened again. New development is also encouraged to include stormwater management to ameliorate the amount of runoff the significant amount of impervious surface creates in the district.

PROGRESS ON REMAPPING

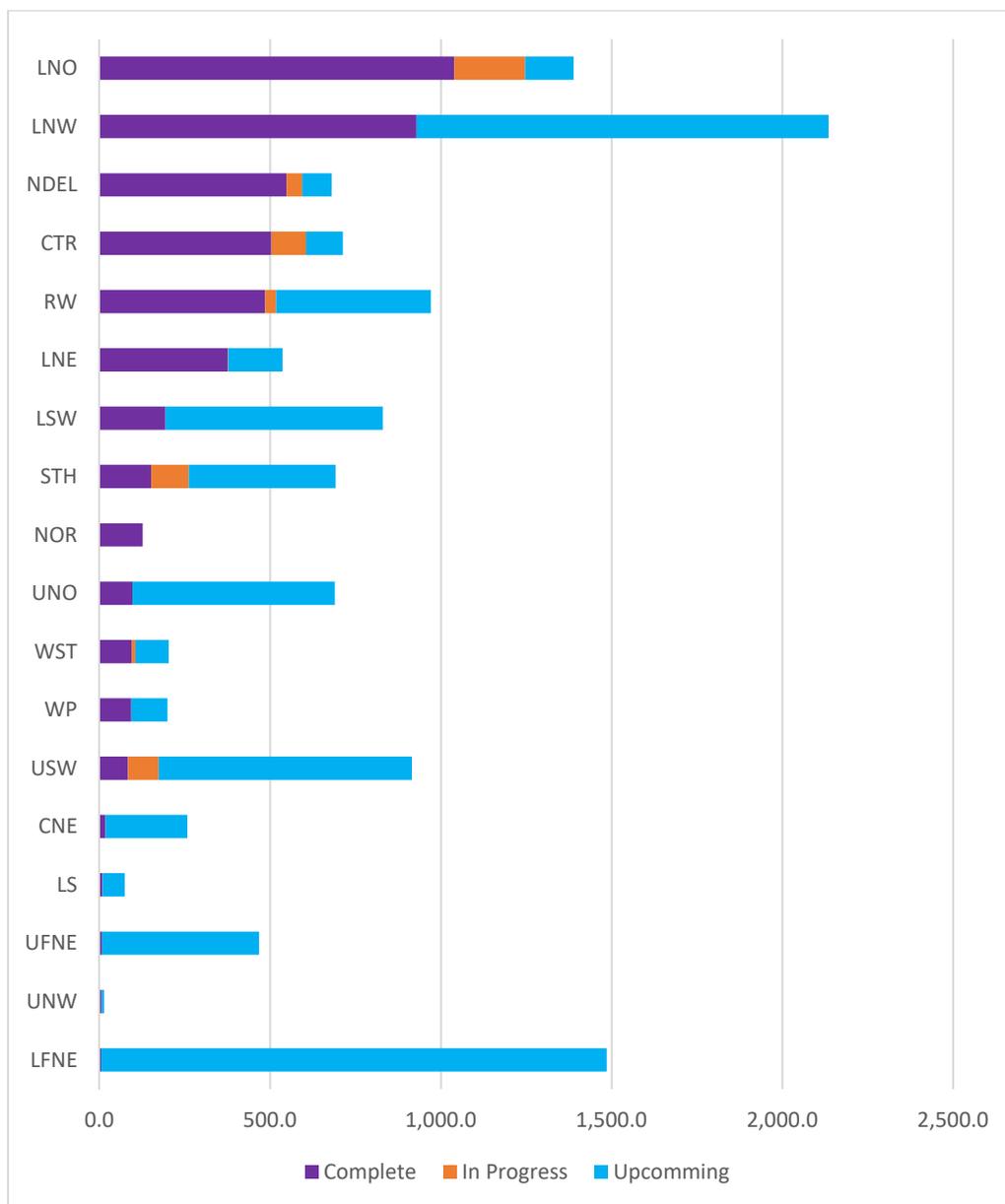
Figure 14: Remapping Status (through 8/22/2017)



The Citywide Vision of Philadelphia 2035 laid the groundwork for the second phase of the comprehensive plan, the more intensive process of developing detailed plans and implementation strategies for each of the 18 Planning Districts in the city. Each of these District Plans include detailed, parcel-by-parcel recommendations for zoning remapping. Following the adoption of each district plan, PCPC works with District Council offices and community groups to translate these recommendations into zoning legislation.

Through 2017, 15 of these District Plans have been completed and adopted by the Planning Commission: Lower South (LS) and West Park (WP) in March of 2012, Lower Northeast (LNE) in October of 2012, Central (CNT) and University Southwest (USW) in June of 2013, Central Northeast (CNE) in March of 2014, Lower North (LNO) in May of 2014, Lower Northwest (LNW) in December of 2014, South (STH) in June of 2015, River Wards (RW) in August of 2015, North Delaware (NDEL) in March of 2016, Lower Southwest (LSW) in May of 2016, Upper North (UNO) in November of 2016, and the two Far Northeast Districts (LFNE and UFNE) in April of 2017.

Figure 15: Remapping per Planning District, Acres of Land



## CHANGES THROUGH REMAPPING

Table 10: Changes in Base Zoning (through 7/31/17)

Base Zone	2012 Acreage	2017 Acreage	Net Change	Percent Change
<b>Net INCREASE in Acreage</b>				
RSA-5	8,045.66	9,323.95	1,278.29	+13.7%
SP-AIR	0.00	902.93	902.93	+100.0%
RSD-1	2,139.21	2,763.22	624.01	+22.6%
ICMX	452.71	1,039.70	586.99	+56.5%
CMX-3	1,676.71	2,034.70	357.99	+17.6%
SP-PO-A	8,984.09	9,146.84	162.75	+1.8%
IRMX	0.00	142.95	142.95	+100.0%
SP-INS	666.44	789.37	122.93	+15.6%
CMX-2.5*	273.67	378.19	104.52	+27.6%
CA-2	1,220.10	1,297.69	77.59	+6.0%
I-1	3,128.28	3,186.58	58.30	+1.8%
CMX-5	294.94	323.68	28.74	+8.9%
CMX-4	413.94	442.65	28.72	+6.5%
RSD-2	356.59	366.23	9.64	+2.6%
RMX-3	49.51	56.07	6.57	+11.7%
RSA-4	896.35	902.25	5.90	+0.7%
SP-PO-P	229.32	231.23	1.91	+0.8%
RM-3	158.43	158.69	0.26	+0.2%
SP-STA	262.99	262.99	0.00	0.0%
<b>Net DECREASE in Acreage</b>				
RTA-1	419.15	417.93	-1.22	-0.3%
CMX-1	201.35	194.52	-6.82	-3.5%
RSA-1	1,045.54	1,030.05	-15.49	-1.5%
I-P	375.88	357.86	-18.02	-5.0%
SP-ENT	57.21	37.20	-20.01	-53.8%
RMX-1	208.87	183.63	-25.24	-13.7%
RM-2	1,396.24	1,362.05	-34.19	-2.5%
RM-4	215.35	169.23	-46.12	-27.2%
CA-1	495.88	427.95	-67.93	-15.9%
RMX-2	193.26	115.60	-77.66	-67.2%
RSA-2	2,604.41	2,510.90	-93.52	-3.7%
RSA-3	6,589.55	6,388.05	-201.50	-3.2%
CMX-2	2,020.53	1,677.60	-342.93	-20.4%
RSD-3	4,662.00	4,036.41	-625.58	-15.5%
I-3	5,671.48	4,924.96	-746.52	-15.2%
RM-1	5,700.44	4,685.32	-1,015.12	-21.7%
I-2	8,007.65	6,880.98	-1,126.67	-16.4%

\*CMX-2.5 was a new district created in 2012, however, during the conversion from the previous districts to the new zoning districts any commercially zoned areas in certain commercial overlays were converted to CMX-2.5.

As depicted in Figure 15, the vast majority of remappings that have been proposed are in the 15 completed districts, a direct outgrowth of the recommendations of the District Plans. There is a great deal of variability in the rate at which the proposed remappings have been implemented. In the Lower North, nearly three-quarters of remappings proposed have been completed, whereas only a small minority of remappings in University Southwest are even in progress. In total 12,380 acres have been proposed to be remapped, of those 4,767 have been completed (39%) as of September 2017. This leaves 600 acres which are currently in progress and 7,014 still to come.

Table 10 reveals that these remapping efforts include a very significant increase in RSA-5 (residential single-family attached) zoning; completed remappings have resulted in a net addition of 1,278 acres of RSA-5 zoned land. There has also been a net increase of 624 acres of land zoned RSD-1 (residential single-family detached), 587 acres of ICMX (industrial/commercial mixed), and 358 acres of CMX-3 (medium density commercial mixed-use). In contrast, the greatest reductions in zoned land by acreage are in I-2 (medium industrial, 1,127 acres), RM-1 (residential multi-family, 1,015 acres), and I-3 (heavy industrial, 747 acres). The primary drivers of these changes are as follows:

### **Increase in RSA-5 and decrease of RM-1:**

RSA-5 represents the rowhouse or semi-attached (twin) housing typology with a single-family use. This is by far the district with the most properties in Philadelphia and is increasing as comprehensive neighborhood remappings occur. In its 1960 Comprehensive Plan, Philadelphia's population was forecasted to increase in population to 2.5 million people, from its peak of 2.1 million in 1950. In order to increase the carrying capacity of the City, the recommendation of that plan was to zone every rowhouse and small twin housing typology in the already-dense neighborhoods surrounding Center City (including the majority of properties in the North, South, West and Lower Northeast sections) to multi-family (RM-1 in the current code). With the population decline that followed (leading to the 2000 Census low of approximately 1.5 million residents), abandonment occurred in many of these same sections of the City and the capacity to carry a dramatic increase in residents was no longer needed. Individual District Council offices undertook remapping efforts in these years converting a number of Philadelphia's multi-family zoned neighborhoods to single-family, but not all neighborhoods were changed. With the return of the Comprehensive Plan through Philadelphia2035 and the implementation of remappings across the City, many of the

multi-family zoned neighborhoods that are primarily single-family in use are being re-zoned.

### **Increase in RSD-1 decrease in RSD-3:**

The large increase in RSD-1 zoned land stems primarily from the zoning changes of properties in the Shawmont section of Northwest Philadelphia. This was an effort by community members, the 4<sup>th</sup> Council District and PCPC to conserve the rural character of the area by using the least dense housing zone, which requires much larger lot sizes.

### **Increase in ICMX and decrease in I-2 and I-3:**

The increase in the ICMX zone and the decrease in the I-2 zone stems from the shifting nature of industrial land use in the 21<sup>st</sup> century in Philadelphia. There has been a significant decrease in the amount of active general industrial land use over the last 50 years as the economy has changed, leading to significant industrial vacancy. ICMX is a mix of commercial and light industrial land uses and allows for a wider variety of uses and a greater potential to re-occupy vacant land.

In Philadelphia's past, there were many instances of general industrial land use woven into the residential fabric of the City. In the current environment, many of those industrial uses have left or are no longer as "heavy" of an industrial use. ICMX allows for the reuse of sites that have environmental concerns that may preclude conversion to residential uses while prohibiting heavier industrial uses that are inappropriate neighbors to residential areas. ICMX is also being employed as a buffer between residential zones and active industrial areas, both protecting residents from the noise and pollution associated with heavy industry and protecting the industrial areas from the land speculation and operational concerns (e.g. traffic, complaints, etc.) associated with adjacency to growing residential neighborhoods.

### **Increase in SP-PO-A:**

Philadelphia has a vast network of Parks and Recreation uses. As comprehensive zoning continues across the City communities are actively looking to correctively map their park and open spaces as a means of stabilizing and protecting these amenities from future development. SP-PO-A is only mapped with the consent of the property owner, which is most-often one of the land-holding agencies of the City of Philadelphia.

### **Increase in CMX-3 and CMX-2.5**

The commercial mixed-use categories of CMX-3 and CMX-2.5 have both seen increases over the past five years at a

rate of 17.6 and 27.6 percent, respectively. These districts promote higher density and allow for positive mixed-use developments along strong corridors and in transit-friendly locations. Their increase shows that there is promotion of growth as a major imperative of the district plans and that development is being directed into areas where it has the best chance to thrive and have a positive influence.

In order to better understand the effect that zoning changes and the re-writing of the Philadelphia Zoning Code has had on Philadelphia, PCPC staff compared the zoning of properties prior to the adoption of the current zoning code, August 22, 2012, to the current land use, as well as to the zoning as of July 2017. For this work PCPC's land use dataset was paramount. This dataset is created in the preparation for the each of the District Plans of the Comprehensive Plan, Philadelphia2035 and involves staff surveying the use of each property in the planning district. This data has been collected starting with the first two planning districts to receive District Plans, West Park and Lower South, in 2012 and continuing into 2017 with the completion of the survey process leading to the final District Plan, Upper Northwest. That means that this dataset is not a snapshot in time, but is spread over a 5-year period as each district was undertaken. Thus, while the dataset is not a perfect comparison to either the zoning in 2012 or in 2017, it is a base for which to compare the two zoning maps.

For each of the zoning districts of the Zoning Code, a set of land use categories was assigned, matching the by-right uses allowed in that district. There are 69 land use categories that are utilized in the land use dataset and, while many match the Zoning Code well, there is not a perfect one-to-one match. There are many cases where a land use category includes multiple uses, of which only a subset might be permitted in a given district. For instance, while "Day Care" refers to all day care facilities, the Zoning Code breaks this into three specific uses: Family, Group, and Day Care Center. For this study, the analysis errs in the direction of conformance: a parcel is "conforming" if any of the permitted, specific land uses lies within the more general land use category that was observed in the survey. In the case of Day Care, if a parcel is observed to be in that use, it is conforming as long as any of the three specific Day Care uses are permitted in the underlying zoning district.

In addition, the analysis relies on the assumption that the land use survey was correct. This can be challenging at times as land use is not perfectly accurate from a "windshield survey" that does not take further data or research into account. An example of where an error

would be likely is in industrial uses, where the outside of the property or the signage does not always lead to a clear understanding of the intensity or category of the use.

A final assumption made in this study was the land use generally only assigns a primary use, except in the case of common residential/ground floor commercial typologies. An example of a case where this could lead to an error in the analysis is a church that features a school on the premises. Both education and worship are land use categories, but only the predominant use is recorded.

It is important to note that in this exercise, "conformity" refers only to whether or not a parcel's land use matches those currently permitted in its underlying zoning district; nonconforming properties include *both legal and illegal nonconformances*. Existing non-conformances can be legal for a variety of reasons, including the granting of zoning relief (variance) or being in use prior to the elimination of that use from the parcel's permitted uses. Existing legal nonconformance is defined in the Philadelphia Code in Title 14-305.

As illustrated in Table 11, there has been an overall increase in the conformance of properties to the base zoning district in which it is located. This can be explained by the advance of corrective zoning remapping throughout the city, which has led to more of a correlation between property use and zoning designation. It is a major goal of the zoning remapping process to see that appropriate uses that are currently in operation have the correct zoning to facilitate continued use for the foreseeable future.

The rise in conformance is limited partially by the institution of some instances of intentionally nonconforming zoning. In addition to "corrective zoning," District Plans include zoning proposals intended to prepare for the transition of a neighborhood to a more socially, economically, and environmentally sound future, in line with the goals of the community. The resulting zoning nonconformances are created as a means of ensuring that the *next* use is more in keeping with these plans, without eliminating the right for the current use to continue indefinitely. When referring to Table 10 there are a number of items to note:

### There are 3 new zoning districts

- In the re-write of the Zoning Code, IRMX, CMX-2.5 and SP-AIR were introduced as new classifications.

Table 11: Use Conformity (through 7/31/17)

Zone	2012			2017			Percent Change
	Conforming	Non-Conforming	Percent	Conforming	Non-Conforming	Percent	
CA-1	602	376	61.55%	484	315	60.58%	98.41%
CA-2	312	122	71.89%	346	95	78.46%	109.14%
CMX-1	4,220	709	85.62%	4,222	851	83.22%	97.21%
CMX-2	12,178	18,365	39.87%	9,398	12,487	42.94%	107.70%
CMX-2.5	Added in 2012			2,508	1,298	65.90%	
CMX-3	1,809	1,008	64.22%	2,073	1,679	55.25%	86.04%
CMX-4	1,306	812	61.66%	1,269	710	64.12%	103.99%
CMX-5	780	112	87.44%	807	140	85.22%	97.45%
I-1	224	429	34.30%	244	410	37.31%	108.76%
I-2	2,977	4,602	39.28%	1,888	2,487	43.15%	109.86%
I-3	236	148	61.46%	230	147	61.01%	99.27%
I-P	14	0	100%	14		100%	100.00%
ICMX	513	1,294	28.39%	771	1,667	31.62%	111.39%
IRMX	Added in 2012			136	244	35.79%	
RM-1	132,509	28,537	82.30%	101,791	20,513	83.20%	101.15%
RM-2	295	1,495	16.48%	273	790	25.68%	155.83%
RM-3	40	131	23.39%	38	131	22.49%	96.12%
RM-4	160	403	28.42%	81	435	15.70%	55.24%
RMX-1	17	111	13.28%	17	109	13.49%	101.59%
RMX-2	1	17	5.56%	2	98	2.00%	36.00%
RMX-3	25	147	14.53%	85	112	43.15%	296.85%
RSA-1	299	770	27.97%	320	797	28.65%	102.42%
RSA-2	7,123	5,301	57.33%	7,094	5,098	58.19%	101.49%
RSA-3	42,421	21,239	66.64%	42,130	20,631	67.13%	100.74%
RSA-4	11,692	766	93.85%	11,704	778	93.77%	99.91%
RSA-5	191,101	26,500	87.82%	225,778	37,604	85.72%	97.61%
RSD-1	1,479	1,202	55.17%	1,737	1,278	57.61%	104.43%
RSD-2	966	247	79.64%	977	278	77.85%	97.75%
RSD-3	9,975	2,303	81.24%	10,219	2,418	80.87%	99.54%
RTA-1	3,030	1,629	65.04%	3,081	1,596	65.88%	101.29%
SP-AIR	Added in 2012			7	12	36.84%	
SP-ENT	1	1	50%	2		100%	200.00%
SP-INS	183	161	53.20%	203	165	55.16%	103.69%
SP-PO-A	425	198	68.22%	525	253	67.48%	98.92%
SP-PO-P	1	1	50%	9	1	90.00%	180.00%
SP-STA	10	1	90.91%	10	1	90.91%	100.00%
	<b>304,449</b>	<b>241,612</b>	<b>55.75%</b>	<b>337,943</b>	<b>208,158</b>	<b>61.88%</b>	<b>110.9%</b>

**Properties in RM-1 have a high rate of conformity, but are primarily in use as single family homes**

- While the conformity of properties in RM-1, Residential Multi-Family is high, at 83.2 percent, further analysis demonstrates that this is due to in the inclusion of Single-Family residential as a permitted use. It is a common misconception that RM-1 is a zone that is only used for multi-family: as shown in Figure 16, 91 percent of RM-1 properties are in use as single family residences.
- A possible reason for this rate is that multi-family as a district was the default zoning for all rowhouse neighborhoods in the 1960 Comprehensive Plan, a response to the projection that Philadelphia was going to grow significantly in population. That forecast did not come to fruition, but many neighborhoods remain zoned multi-family, despite single-family homes serving as the primary land use.

**The majority of properties are in conformity in most RSA and RSD districts**

- Because single-family housing is the predominant use of private property in Philadelphia, a high rate of conformity in single family residential districts was an expected outcome of the analysis. The districts that allow attached and semi-detached housing typologies (such as RSA-4 and RSA-5) have an especially high rate of conformance.
- Land uses on RSA-1 and RSD-1-zoned properties are in conformance at a lower rate, potentially because many of the areas with these zoning districts have not been rezoned for many years and contain housing structures (semi-detached or fully-attached) that would better fit in other zones.

**Conformance increases in districts with many allowable uses**

- Mixed-use and permissive districts like CMX-3, CMX-4, CMX-5, and CA-2 all have above average conformance levels due to many uses being allowed. Because of their permissiveness, zoning of these areas should be done carefully and in the context of the comprehensive plan, as the impact could be significant on many uses.

While understanding the level of zoning conformance in land use can help to examine the performance of districts in meeting the need of the real estate market, zoning also regulates minimum parcel sizes and the bulk and mass of buildings. To better comprehend the effect of zoning change and zoning remapping, further analysis was performed to measure the level to which properties across the City meet these dimensional standards. This analysis reveals where changes to the zoning district standards may

be necessary to better reflect the built environment of Philadelphia.

There are many factors that are regulated by the dimensional standards of the Zoning Code, including lot width, height, bulk, lot area, open space and setbacks. Data on most of these variables are not available for every parcel within the City, nor is each of these regulated within every zoning district. Consequently, this analysis was limited to the factor that was most readily available: lot area. Minimum lot area is only regulated in 15 of the 34 zoning districts in the Zoning Code, but these include 90% of the properties in the City. The analysis considered the lot area for each lot within one of these 15 districts and compared it to the requirements reflected in the Code. This analysis could only be done on current conditions, as lot sizes of properties prior to the Zoning Code re-write are not available.

The results of this analysis, as illustrated in Figure 17, demonstrate that only a minority of lots in Philadelphia meet the minimum lot size requirements of their underlying zoning districts. This finding would be acceptable only in areas where there is a stated goal to facilitate a transition to a lower density of development. However, this suggests that revisions to minimum lot sizes may be necessary to meet the goals outlined for most areas of the city, that new development either matches neighboring buildings or represents an increase in density.

While this is just one of many dimensional standards that need to be met for new development, it suggests that other requirements that were devised to “work with” these minimum lot sizes are likely to be at odds with existing development patterns as well. For example, a common minimum lot size in the Code is 1,440 square feet; in these instances, open space and setback requirements were devised based in part on the limitations and opportunities afforded by a lot of that size. When an existing non-conforming property is smaller than 1,440 square feet, however, it is unlikely that existing development meets these other dimensional requirements and is difficult for new development to do so.

Table 12 illustrates the zoning districts that are most responsible for the prevalence of non-conforming properties in Philadelphia. Key findings include:

**Two districts are responsible for the majority of “undersized” lots in the city**

- RSA-5 and RM-1, two districts with the smallest minimum lot size in the Zoning Code (1,440 square feet), have the highest share of lots smaller than that threshold, with 69 and 72

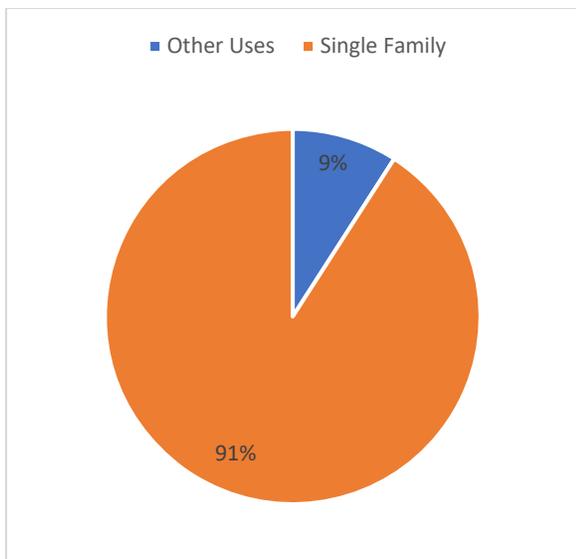
percent of lots in these districts “undersized,” respectively. These are also the two most commonly zoned of the districts with minimum lot sizes, thus heavily contributing to the overall rate of lot size conformity across the city.

- The prevalence of undersized lots in RSA-5 and RM-1 zones are a major contributing factor to the large number of ZBA cases generated by these districts, both for new development and for alterations to existing structures, (see page 13).

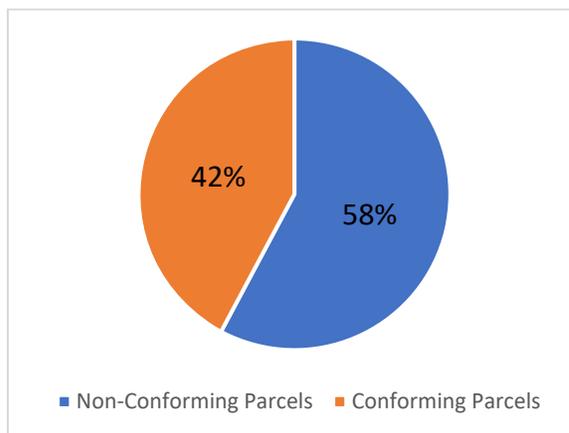
**All RM districts are majority non-conforming**

- While RM-1 has the highest rate of non-conformance at 72 percent, in no RM districts do more than 44 percent of properties meet the minimum lot size. RM-2, RM-3, and RM-4 are higher density multi-family districts, the first two being made for large lots, 15,000 and 10,000 square feet respectively, with significant open space requirements. While developments at this scale are not common in Philadelphia it can be inferred that the parameters of these districts require further study.

**Figure 16: RM-1 Conforming Uses**



**Figure 17: Lot Size Conformance**



**Table 12: Lot Size Conformance**

Zone	Non-Conforming Lots	Conforming Lots	Percent of Non-Conformance
CA-1	274	522	34%
CA-2	123	314	28%
RM-1	87,873	33,695	72%
RM-2	725	337	68%
RM-3	99	70	59%
RM-4	287	226	56%
RSA-1	198	915	18%
RSA-2	1,240	10,912	10%
RSA-3	12,972	49,340	21%
RSA-4	447	11,923	4%
RSA-5	181,521	79,977	69%
RSD-1	489	2,503	16%
RSD-2	651	603	52%
RSD-3	897	11,399	7%
RTA-1	558	4,084	12%
<b>Total</b>	<b>288,354</b>	<b>206,820</b>	<b>58%</b>

## CIVIC DESIGN REVIEW

*The Civic Design Review (CDR) process was created during the zoning code update and cases have been heard monthly since August of 2012. Administered by the Urban Design Division of PCPC, CDR is an addition to the Zoning Code that has been highly praised by many in the design community and by members of RCOs.*

A five-year retrospective of the CDR process reveals both the positive achievements of this new section of the Zoning Code, as well as some potential areas for improvement:

- **Best Practices:** CDR helps advance high quality urban design and improves outreach and public discussion about the civic value of an active public realm in Philadelphia.
- **Successes:** Many development teams have been amenable to changing proposed designs to improve the public realm and RCOs throughout the city are directly involved in the design review in a structured and transparent process
- **Challenges:** Developers have the option to forgo suggested design modifications
- **Areas to Improve:** Potential changes to local policies and codes to improve the impact of CDR, as well as to better integrate CDR into other City processes

### Historical and Policy Summary

Civic Design Reviews are advisory and were created to ensure that major development projects are evaluated using consistent standards regardless of where they are in the city. CDR focuses on the condition of, and improvements for, the public realm, which includes the ground floor facades, sidewalks, commercial corridors, adjacent parks and other places that are within the public domain. To ensure a transparent and inclusive process for residents affected by new projects, the CDR process also formalizes community engagement, making community review and comment a requirement before developers can proceed.

Throughout the past five years, the practice of administering the CDR process has become more defined and now includes robust staff-level involvement that is detailed in PCPC regulations. PCPC staff undertake the role of preparing cases for public review, which includes confirming the completeness of submittals as well as gathering comments from other City agencies and Department of Planning and Development divisions. During the public review, PCPC staff share the highest priority concerns as they relate to the design, safety, access, and enjoyment of the public realm for both the immediate site and for the surrounding neighborhood. Often, initial staff-level questions are clarified by development teams prior to

the public CDR presentation, and staff-level findings are often incorporated into the CDR Committee's recommendations.

To date, 119 submissions have been publicly reviewed and advisory findings have been issued. While none of the recommendations made by Civic Design Review committee members or by community participants must be met by the development team to proceed, it is notable that almost half of the submissions (52) had zoning refusals and that the Zoning Board of Adjustment (ZBA) often uses CDR findings to evaluate variance requests. Some adjustments to the CDR process have already been introduced, including increasing the development size threshold triggering CDR, adding Complete Streets and Sustainability metrics, and the addition of master plan review criteria. In addition, a seventh member has been added to the CDR committee, whose expertise is "Environmental Sustainability."

### CDR Facts

- Reviewed proposals totaling 22.6 million square feet and 12,600 dwelling units; 13 million square feet and 5,000 dwelling units have been built or are under construction.
- 23 projects have been built, 24 are under construction, and 75 have been reviewed with no construction activity to date.

### Surveying Completed Work

To best understand the effectiveness and challenges of the public review process, more than 35 built or under-construction projects have been reviewed by PCPC staff and compared to the CDR findings. PCPC staff has found instances of positive modifications to the initial designs, no changes, and at times, unexpected adjustments, both positive and negative. A full report, to be prepared outside of this document, will examine project types and common patterns -- where compliance with a finding seems easy for developers to achieve, and where concerns tend to remain unaddressed.

These are some of the questions that the report will address:

- 1) What are the most common concerns raised by the CDR committee?
- 2) As a result of a Civic Design Review, what positive changes were realized in built form?
- 3) What are common concerns that developers are unresponsive to?
- 4) Are there best practices to learn from?

### **Suggested Modifications to the CDR process and Zoning Code**

Surveys of built projects that have undergone Civic Design Review showed that about a third of the CDR committee's findings were incorporated into projects, enhancing the public realm. A majority of reviewed projects made at least one positive change, often significant and substantial in nature. This emphasizes the benefits and effectiveness of the Civic Design Review program, despite the advisory and non-binding nature of its recommendations.

The full report will examine and prioritize potential improvements to both the CDR process and the Zoning Code itself, as they relate to the public realm. The report will examine other cities that have robust public design reviews as a starting point for crafting future modifications to Philadelphia's process. It will conclude with some suggestions for making Philadelphia's CDR process more effective without hindering investment and development.

## REVIEW OF SURVEY RESPONSES

*As a part of the One-Year Zoning Code Review, released in 2013, PCPC conducted outreach that included a survey to better understand the public's experiences with, and reactions to, the newly adopted code. For this Five-Year Zoning Progress Report, a follow-up survey was issued to gauge how this may have changed over the past four years, as the Code has evolved and the members of the public have had opportunity for more extensive interactions with the City's development processes. This online survey was advertised extensively by e-mail, with multiple messages sent to representatives of all active RCOs, all graduates and instructors of the Citizens Planning Institute, and a list of the most frequent applicants for appeals at the ZBA, as well as the nearly 5,000 contacts registered for the mailing lists for Philadelphia 2035 and/or the PCPC/CDR meetings agendas. In addition, the survey was posted widely through social media (Twitter, Facebook, and Nextdoor) and on the PCPC website.*

The survey was open for responses for one month, from August 28, 2017 to September 28, 2017. While 531 responses were initiated, many of these were not completed (defined not by answering every question, but by reaching the end and submitting the survey). An unknown, but significant, number of these incomplete surveys were associated with respondents who started a survey, were interrupted, and then later completed a second survey response. To avoid the "double counting" that would likely emerge from tabulating all of these responses, only the 213 that were completed and submitted were included in the analysis. While this represents a number of entries sufficient to draw important conclusions, it is important to note that the sample was not random and does not necessarily represent the general opinion of Philadelphians. It does, however, provide an important window into the experiences of many of those who are most actively engaged with the Code. Key statistics about the sample group are as follows:

At least one response was received from 40 of the 46 zip codes in Philadelphia that have a residential population. While many responses did not include any zip code, none listed 19102 (Center City West), 19115 (Bustleton), 19118 (Chestnut Hill), 19120 (Olney), 19127 (Manayunk), or 19154 (Lower Far Northeast). In addition, one-third of responses came from four zip codes: 19146 (Center City and South Philadelphia West of Broad, 28 responses), 19147 (Center City and South Philadelphia East of Broad, 26 responses), 19125 (Fishtown and Kensington, 19 responses), or 19144 (Germantown, 16 responses).

- 1) The largest share of respondents (35 percent) indicated that they have used the Code "a few times." 25 percent said they used the Code "monthly," while smaller, but significant shares used the Code "weekly," "daily," or "never."
- 2) In terms of affiliations and use, by far the largest share of respondents indicated that they were members of civic associations who used the Code in the context of reviewing a development proposed for their neighborhoods. Much smaller numbers interacted with the Code as applicants

or legal/design professionals, working on behalf of clients.

The survey and the complete results, including every open-ended response (with contact and sensitive information redacted) are included in Appendix B. A summary of the key findings is below.

### Has the Zoning Code Met the Goals of the Zoning Code Commission?

In advance of the update of the Code, the Zoning Code Commission (ZCC) outlined five key goals. There were to create a code that:

- Is consistent and easy to understand,
- Makes future construction and development more predictable,
- Encourages high quality, positive development,
- Preserves the character of Philadelphia's neighborhoods, and
- Involves the public in development decisions.

The first five questions of the survey addressed these goals directly, asking respondents to rate how well the new code has addressed these objectives. While results were widely varied for each of these, there were two objectives for which a majority of respondents either "agreed" or "strongly agreed" that the goal had been met; as illustrated in Figures 18 and 19, these are 1) the Zoning Code is easier to understand and provides greater consistency and 2) the new zoning code has a clearer and more defined role for public participation in development decisions.

For both of these goals, results were similar to responses in the 2013 surveys (excepts from which are included as Appendix C in this document). However, the share of those with "no opinion" regarding the ease of use of the new code has fallen as the number of "disagrees" has risen. With regard to public participation, the proportion that "strongly agrees" that the new code has a clearer and more defined role has shifted to of a larger share of "agrees." Thus, as changes have been made to the new code and the public has had more experience with it, the

level of satisfaction on these factors has declined, albeit only slightly.

As shown in Figure 20, the response to whether the new code makes construction and development more predictable was more mixed, with roughly as many indicating agreement. For this goal, very few responses indicated a “strong” opinion, indicating some ambivalence

about the statement. Compared to the 2013 survey, there are smaller shares of “strongly agree” or had “no opinion” regarding this statement. This indicates that, while a great many continue to agree that the new code represents an improvement, as the public has gained greater familiarity, there has been an increase in negative perceptions regarding the predictability of construction and development under the new code.

Figure 18: “The new zoning code is easier to understand and provides better consistency.”

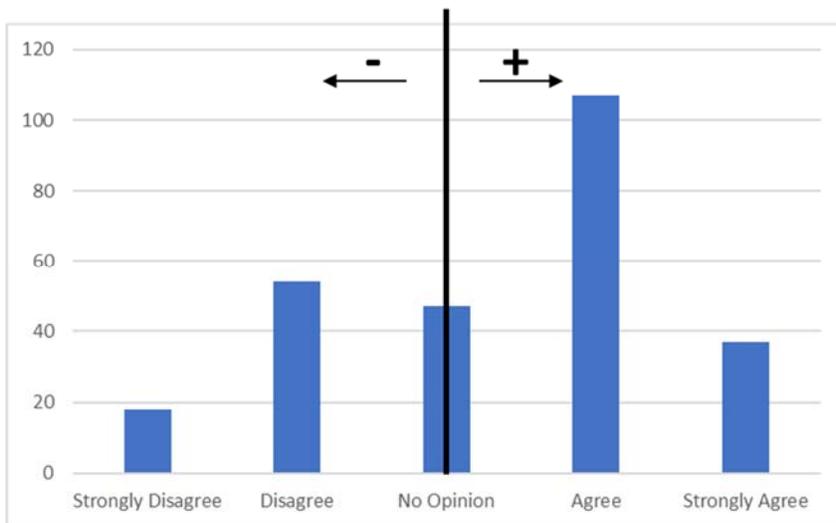


Figure 19: “The new zoning code has a clearer and more defined role for public participation in development decisions.”

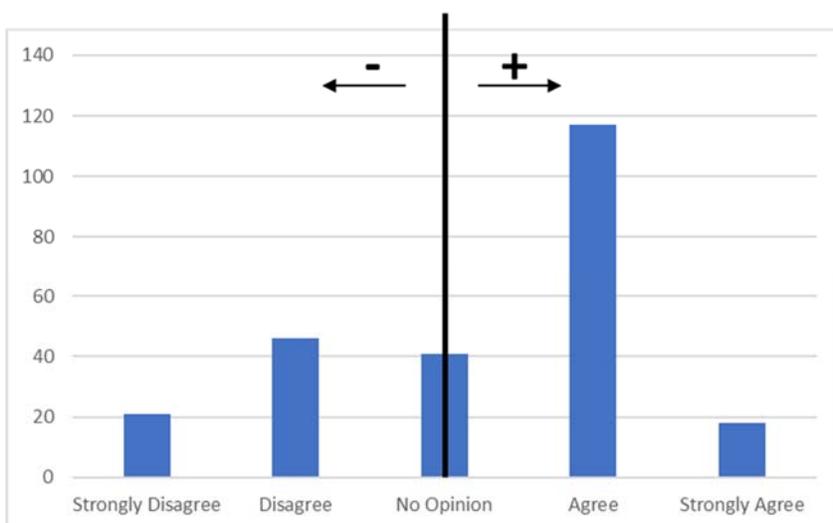


Figure 20: "The new zoning code makes construction and development more predictable"

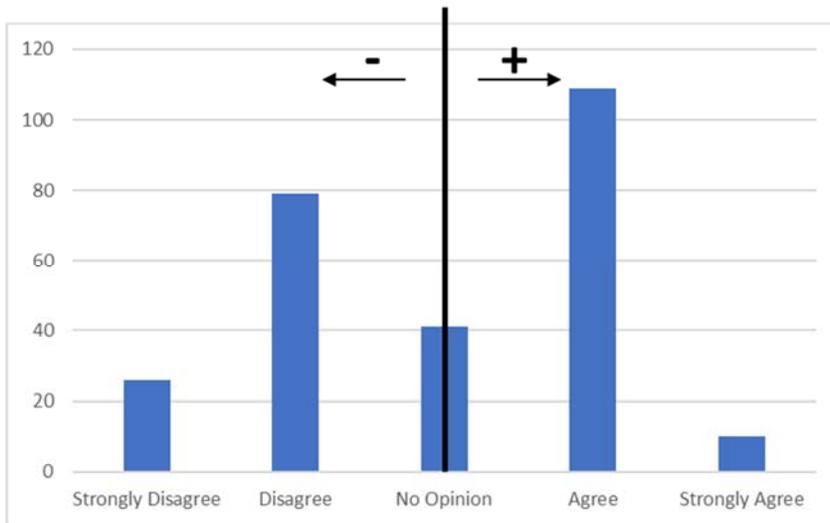


Figure 21: "The new zoning code encourages high quality, positive development"

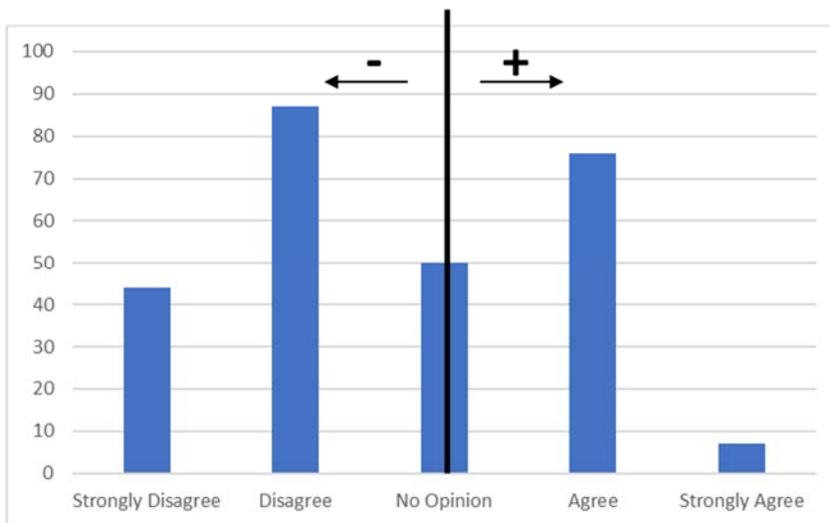
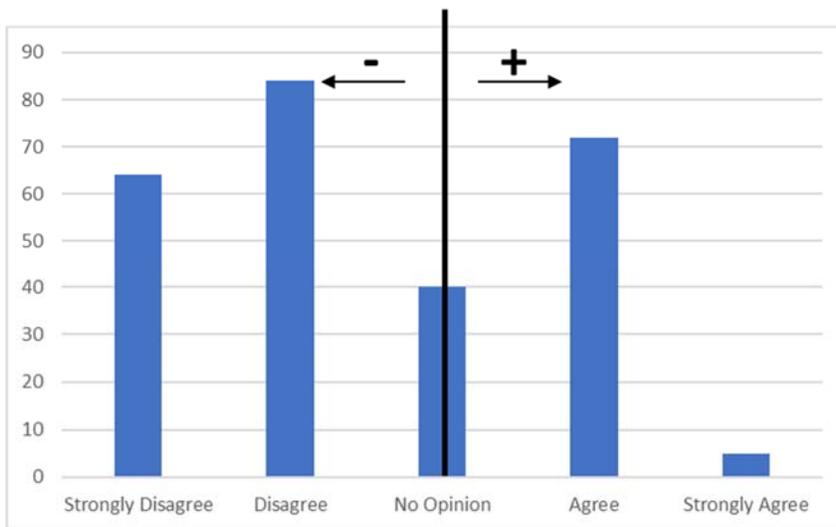


Figure 22: “The new zoning code helps to preserve the character of existing neighborhoods”



For the final two goals, the results were generally (though by no means uniformly or strongly) negative. More respondents disagreed with the statements “the new zoning code encourages high quality, positive development” and “the new zoning code helps to preserve the character of existing neighborhoods,” as shown in Figures 21 and 22. For both of these goals, these results represent strongly negative opinions compared to 2013.

Taken in total, the results to this section of the survey indicate that the changes to the new code related to **process** represent a distinct improvement over the old code. While there is certainly room for continued refinement, most survey responses suggested that the new code is easier to use, is more consistent, and provides better, clearer opportunities for public engagement than before. However, changes to the Code have been much less successful with regard to **outcomes**. Opinions were mixed about whether the new code has made development more predictable and there was a general response that it has neither improved the quality of new development nor that it has helped preserve the character of existing neighborhoods. Based on the open-ended responses given later in the survey, it appears that this dissatisfaction is rooted in three factors.

- 1) A subjective desire for development regulations that differ from those currently contained in the new code. These were most often a) a desire for less density, less mixing of uses, and greater minimum parking standards; b) a desire for more density, more mixing of uses, and the elimination of minimum parking standards; or c) greater protections for historic properties.

- 2) Displeasure with any new development that does not conform strongly to the existing land uses and dimensional forms of neighborhoods.
- 3) Frustration with variances granted by the Zoning Board of Adjustments that allow development to proceed that do not meet the requirements of the new code.

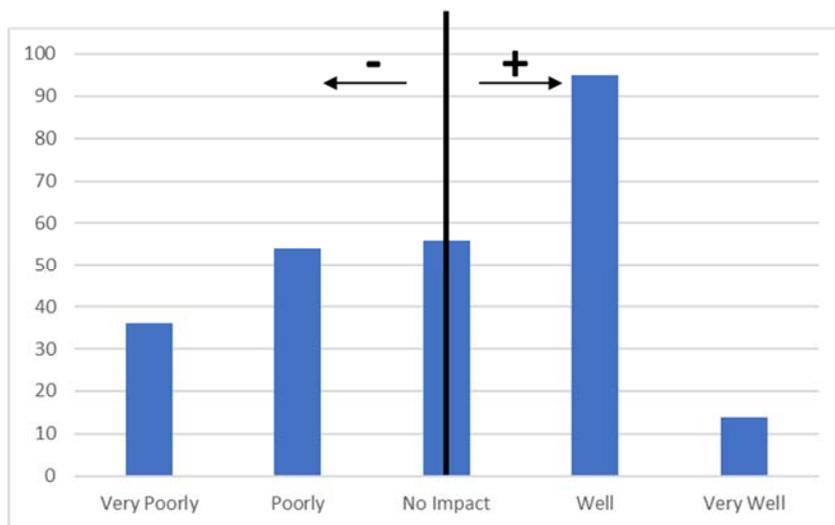
### Registered Community Organizations (RCOs)

The next set of questions addressed Registered Community Organizations. Since they were introduced in 2012, RCOs have become among the most visible manifestations of the new code and often serve as the primary means by which the public participates in the City’s zoning and development processes. While a detailed account of the history and role of RCOs in the City can be found in the section of this report devoted to that subject, starting on page 22, these questions of the survey were focused on the public’s perception of how well various facets of the RCO operations are working. Each of these three questions included an overall rating and the opportunity to provide open-ended feedback.

### Notification Procedures

- In the initial iteration of RCOs included in the 2012, there was no requirement that applicants directly notify nearby homes and businesses when they have a case before the ZBA or CDR Committees; instead, the responsibility of advertising neighborhood meetings fell on the RCOs themselves. Since the institution of that requirement, it has been amended legislatively such that applicants must mail or hand deliver notice to all neighbors within 250 feet of the edge of the subject parcel(s).

Figure 23: “How well have [changes to the notification requirements] worked?”



- As shown in Figure 23, responses were mixed with regard to the question of how well the institution of, and changes to, neighborhood notification requirements have worked. Overall, more respondents felt that these requirements have worked well than felt they have worked poorly, among those that responded negatively, a high percentage reported that they have worked “very poorly.”

When asked how this process could be improved, the issue that was most often raised was the need for a system to verify whether notices were delivered to neighbors. This was referenced both by community members (who felt applicants were often failing to fulfil this requirement) and development professionals (who felt they had no mechanism to dispute claims made by neighbors that they did not receive notice). Solutions proposed included requiring the notices be sent by certified mail, requiring RCOs or the City to distribute the notices (with mailing costs billed to applicants), establishing penalties for failure to distribute notice, and requiring applicants to gather signatures from neighbors.

The second most frequent suggestion was to increase the notification radius beyond the current 250 feet.

Other suggestions raised by multiple respondents included simplifying the language on the notifications and instructions to applicants; posting the notices on social media and/or in local newspapers; posting a copy of the notices on the property alongside notice of the ZBA hearing; removing vacant lots and buildings from the address list given to applicants for the purposes of notification; increasing neighborhood outreach and

education by the City; and, overall, reducing the cost of notification to applicants.

### Coordinating RCOs

When the new code was enacted in 2012, there was no process articulated for coordinating neighborhood meetings in circumstances when a subject parcel lay within the boundaries of more than one RCO. While this worked well in cases where there was a single well-established RCO and few, if any, other groups, it often led to significant confusion, delays, and duplicative meetings in cases where there were multiple higher-capacity organizations involved. The designation of one or more Coordinating RCO was intended to make this neighborhood meeting process more orderly and predictable for all parties. However, this led to a number of unforeseen consequences since its implementation, with the designation of Coordinating RCO being associated (by RCO and applicants alike) with a different level of power and authority that was neither intended nor articulated in the legislation.

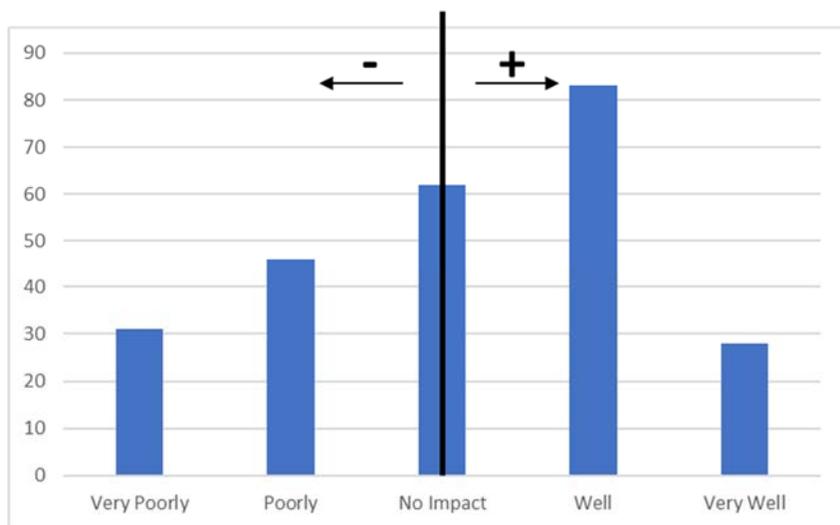
As illustrated by Figure 24, responses to the question “How well has the establishment of Coordinating RCOs to facilitate [neighborhood meetings] worked?” mirrored the responses to the previous question, albeit with a wider margin between the share of positive responses over negative ones.

When asked how the process of coordinating a meeting among several RCOs could be improved, there were several ideas that were offered in multiple responses. These included the proposal that RCOs be limited to one per area, with boundaries partly determined by the City; the

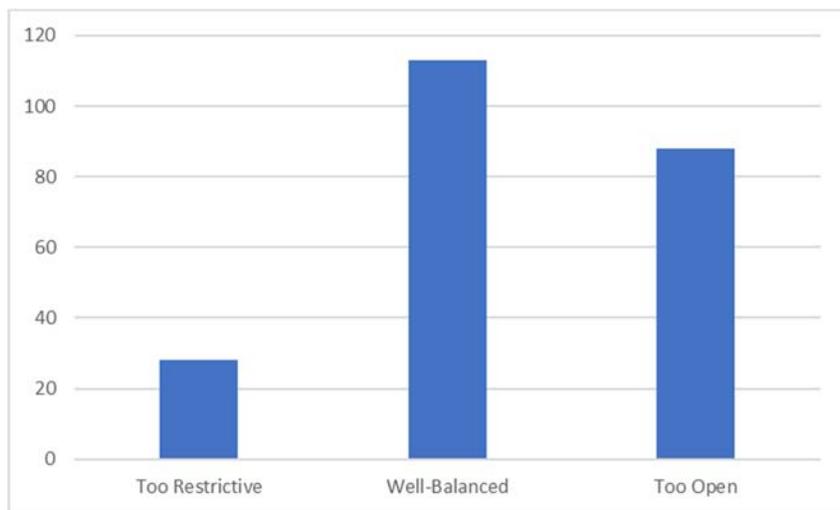
observation that there is too much perceived power by Coordinating RCOs and too little communication between them and other affected RCOs; the suggestion that the method of selection of Coordinating RCO be changed (determined either by proximity, by rotation, or by a City

entity other than Council); the comment that the responsiveness, capacity, and transparency of RCOs is highly variable and should be more closely monitored and regulated; and the request for additional training and education by PCPC at neighborhood locations.

**Figure 24: “How well has the establishment of Coordinating RCOs to facilitate [neighborhood meetings] worked?”**



**Figure 25: “Are current [eligibility] requirements too restrictive? Too open?”**



**Eligibility Requirements**

Like many other aspects of the Code sections that regulate RCOs, there has been significant change in the eligibility requirements for RCOs. While the requirements are currently in the most restrictive form that they've been since the adoption of the new code, only 12 percent of respondents indicated that they have gone too far in that

direction. Instead, as shown in Figure 25, nearly half of the survey responses indicated that the current eligibility requirements are “well-balanced” and 38 percent suggested that requirements should be made even more restrictive.

With regard to specific improvements to the eligibility requirements, the most frequent response was not to the

rules themselves, but with the enforcement and monitoring of those rules. Of those that recommended changes to the requirements, the two most common suggestions were that RCOs be limited to one per area and that wards be either barred from serving as RCOs or held to the same requirements as all other groups.

### Civic Design Review (CDR)

Only one survey question focused on Civic Design Review, a process that was established as a part of the new zoning code to improve the urban design and public realm elements of major development projects in the city. As demonstrated in Figure 26, while very few respondents felt the review had a negative impact on development form and process, there were also not many that felt the impact was very positive. Instead, most responses, in roughly equal numbers, indicated either that the impact was positive, that there was no impact, or that they had no opinion.

When prompted to provide qualitative feedback on CDR, responses most frequently stated or indicated a lack of familiarity with the process. Of those who had experience with Civic Design Review, respondents most often indicated that, while the process itself was positive, the actual impact on development was either limited or rendered negligible by the non-binding nature of CDR recommendations. Of those who had a negative opinion of CDR, several indicated that the recommendations of CDR were often in conflict with those of the community and

others complained that it was excessively burdensome on applicants.

### New Zoning Districts

While most of the Zoning Districts included in the new code were the consolidation and refinement of previously existing districts, there were two zones that were entirely new: CMX-2.5 (a medium density commercial corridor zone) and IRMX (a mixed industrial and residential zone). Many parcels were automatically mapped to CMX-2.5 if they were within certain overlays that were being extinguished from the old code, but IRMX required neighborhood-specific remapping bills before it was applied to any parcels. When prompted for opinions on these new zones, most respondents who had experience with them rated them positively; however, the largest share of respondents indicated that they had no opinion.

Figure 26 “What impact has [Civic Design Review] had on the development process and the quality of resulting development?”

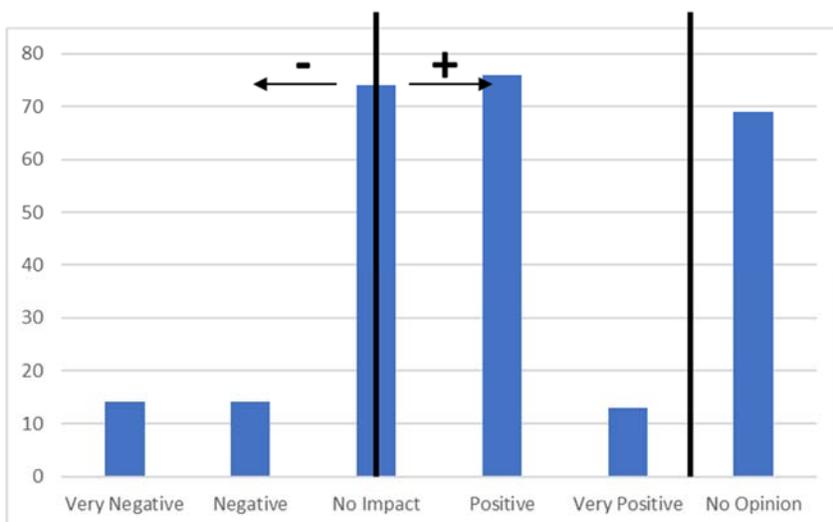


Figure 27: “What impact has [CMX-2.5] had on retail and service corridors?”

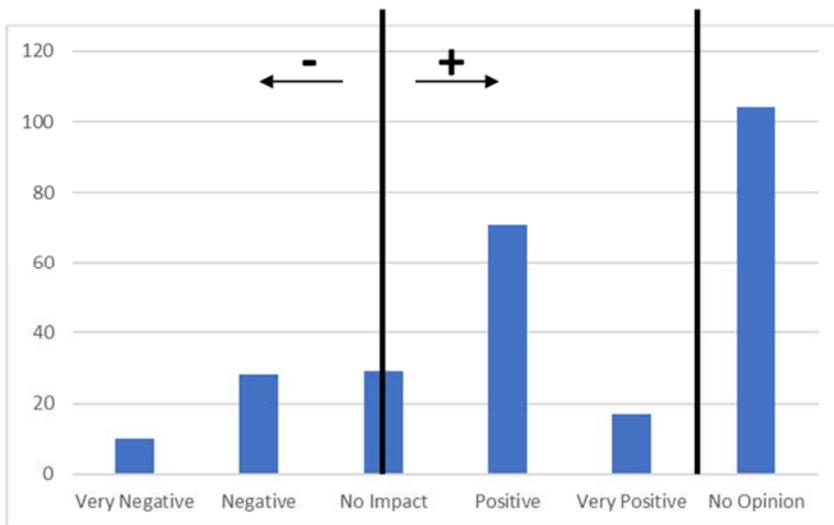


Figure 28: “What impact has [IRMX] had on legacy industrial areas where it has been mapped?”

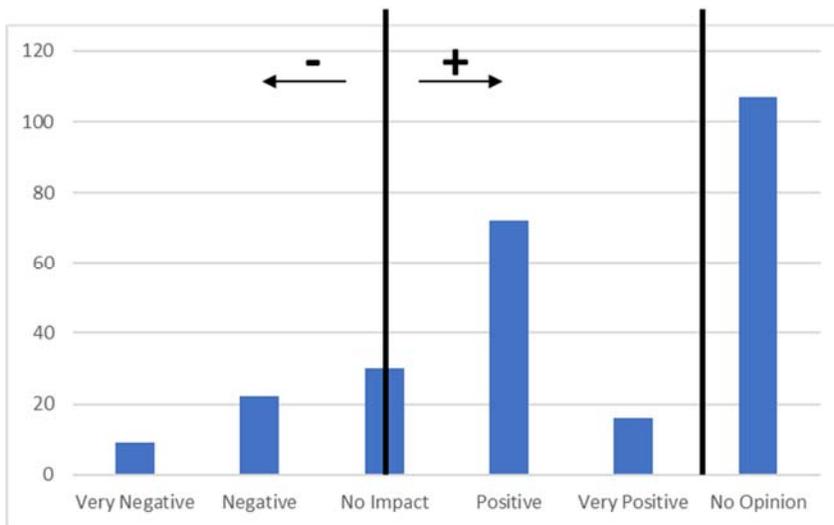
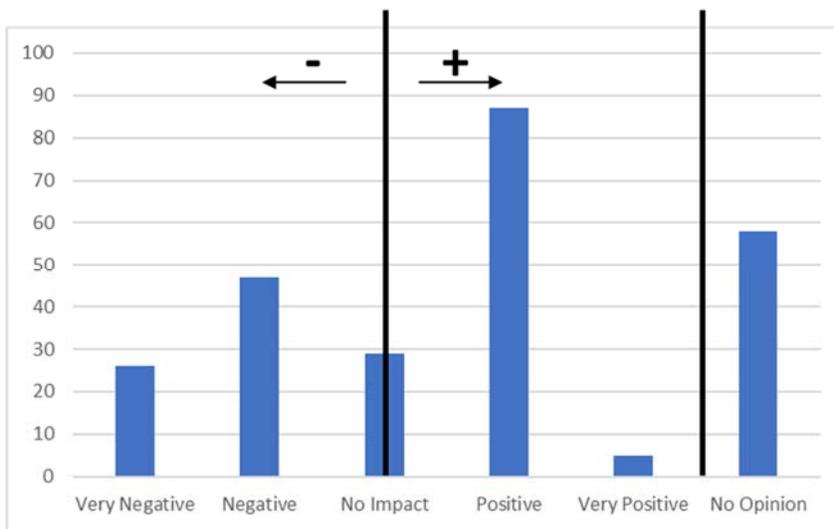


Figure 29: “What impact have these changes [to the Code over the past five years] had on land use regulations, overall”



General Comments

The final three questions in the survey offered respondents the opportunity to give open-ended, qualitative responses to the ongoing changes to the Zoning Code, means of improving public awareness and understanding of the Code, and recommendations for further improvements of the Code itself. As shown in Figure 29, the plurality of respondents indicated that the changes to the Zoning Code over the past five years have been generally positive. However, as indicated in the responses to the open-ended questions (which had substantial overlap), there is significant room for improvement. Some of the most commonly-expressed opinions and suggestions were as follows (in approximate descending order of frequency):

- The frequency with which ZBA grants appeals without a demonstration of hardship undermines the goals and contents of the new zoning code and often goes against community desires.
- There is a need to expand the Citizens Planning Institute, including more classes and training opportunities in neighborhoods and online. Particularly, there is a need for RCO trainings, which several respondents indicated should be mandatory.
- Council actions, including piecemeal remapping for specific projects, undermines the goals and contents of the new zoning code.
- The Zoning Code should allow for more density and height, especially on commercial corridors.

- More information should be provided on a single, accessible website, which should include videos to help community members and zoning applicants better understand the processes.
- Parking minimums should be lowered or eliminated from the Zoning Code.
- The Zoning Code currently permits too much density and height, especially in residential areas.
- The Code should be simplified, both in terms of its regulations and the language used.
- The Code has become unpredictable, with too frequent changes.
- The contextually-required 3<sup>rd</sup> floor 8-foot setback in RSA-5 and RM-1 zones should be eliminated or amended.
- PCPC should develop brief and simple guides and pamphlets.
- The Code should include more provisions to maintain neighborhood character, including greater use of contextual zoning and tools to support historic preservation.
- The parking minimums in the Code should be increased.
- Many of the bonuses (especially for green roofs and fresh food markets) should be reconsidered and/or eliminated.

## CONCLUSIONS

*In the five years since the adoption and implementation of the new zoning code for Philadelphia, there have been many amendments aimed at continuing progress toward meeting the goals that the Zoning Code Commission (ZCC) put forth during the code creation process.*

As formulated by the ZCC, the goals for the code re-write were to ensure the Zoning Code:

- *Is consistent and easy to understand*
  - While there have been many additions to the Zoning Code in the past 5 years (see page 29), the Code remains clearer and more user-friendly than the previous code according to users (see page 44)
- *Makes future construction and development more predictable*
  - The increase in by-right developments due to improved code language and zoning map updates implies that more development is done within the standards of the Code than ever before (see page 4).
- *Encourages high quality positive development*
  - The addition of Civic Design Review (see page 42) and updates to important code sections have helped to make strides toward a better quality of development in Philadelphia.
- *Preserves the character of Philadelphia's neighborhoods*
  - District plans have resulted in many proposals for corrective remapping, many of which have been implemented through legislation. These, in concert with the recommendations to advance the plan, are remaking the city's zoning map to one that reflects the goals and plans of communities around the City and that will help to ensure that development happens in a manner that both respects, and augments, our great neighborhoods.
- *Involves the public in development decisions*
  - The additional notification requirements incorporated into the Zoning Code have allowed more participation than ever before. This may, at times, be a challenging process but it is based in increasing public awareness and empowerment and will continue to improve.

### RECOMMENDATIONS

*In the 5-year review of the Zoning Code several important areas for improvement have been identified. The Zoning Code is a "living document" that must continue to grow and change with the City's, neighborhoods, citizens, and development market. These recommendations are derived from each section of this report and are guidelines to continue to improve the Zoning Code and its impact on Philadelphia.*

#### Use Variances Following Zoning Map Updates

Zoning remapping has been an important part of moving Philadelphia forward as it grows and thrives (as detailed in the Remapping section starting on page 34). This is a process that is being undertaken comprehensively for the first time in many decades. It takes time for the impacts of zoning changes to be felt, but the first place where this should be seen is in the number of variances granted for zoned use. In each community rezoning effort, the residents, civic associations, political officials, and city government come together to best plan for the future use of each and every property. With that effort completed, zoning for a parcel can no longer be considered a relic of an antiquated past use: when a remapping of an area is completed, the zoning of each parcel (whether or not it is changed) is deliberate, a reflection of the intended land use. Use variances should be low and declining in these cases. However, the rate of approval of zoning use variances did not decline, even after the implementation of zoning map changes in the three case studies included in this report (see page 14). The ZBA may not have had the opportunity to understand the collaboration that happens between all parties to ensure that these changes are just and necessary. This is important to the future of development in Philadelphia and to the future of the Zoning Code and its ability to positively affect change, a major goal of the Zoning Code Commission.

#### Dimensional Non-Conformance

In the Remapping section of this report (page 34), issues of zoning non-conformance are studied in detail. Non-conformance occurs when a property does not comply with the restrictions of its underlying zoning. These instances (which are often legal, a reflection of development and/or subdivision that predates current land use laws) are often a significant barrier to development and investment, as even projects that match the existing fabric of neighborhoods cannot proceed without a zoning variance. Remapping and the updated zoning code have helped to improve the rate of conformance, but more can be done, especially for dimensional standards. In the assessment of lot size conformance (on page 41), it was found that 58% of lots in districts that include minimum lot sizes do not meet those

requirements. This leads to a number of related issues with setbacks, open space, and even height. It is recommended that these lot size requirements be re-examined to better match the standards of lots present in Philadelphia. Doing this will lead to more consistent development and the need for fewer zoning appeals in some of the most prevalent zoning districts in the City.

#### Registered Community Organization Standards

The role and regulation of RCOs encompass some of the most divisive issues to come out of the zoning code rewrite. RCOs have enabled increased notification, outreach, and participation. However, they have also caused issues in communities between rival organizations, resulting in confusion for residents and zoning applicants and, at times, unlawful extortion. In the section focused on RCOs (page 22), the policies of several peer cities are reviewed and there is much that can be gleaned from these examples. Many cities do not allow for overlap of boundaries of civic organizations who play a role in the development process. It is recommended that Philadelphia begin to study and create a plan of action to move the RCO process toward one that is more predictable, fair, and well organized. This may require significant reform and legislative work and may necessitate additional resources, but this has the potential to generate a very positive impact on the lives of Philadelphia's citizens.

#### Remapping Progress Across the City

Zoning Remapping has affected many communities in Philadelphia and is continuing to work its way through the city, as the zoning has been updated for nearly 5,000 acres of land. This process has not spread fully or equally to all areas, however, with large numbers of properties across many Planning Districts receiving little attention. It is important to continue to bring all communities to the table when remapping is necessary, as it will allow for more predictable and higher-quality development. Based on previous plans, it is anticipated that there will be recommendations for rezoning an additional 2,500 acres by the end of the District Plan process in the Summer of 2018. This would bring the total to 15,000 acres and, at the current rate of recommendations being made for zoning

remapping from Philadelphia 2035, the Comprehensive Plan, (approximately 1,250 acres per year), it would take another eight years to finish the comprehensive zoning update for Philadelphia. It is recommended that more staff and political effort be put toward this process to help to increase the rate of rezoning to serve all neighborhoods of the city in a timelier fashion.

### **Variance Approval Rate**

Philadelphia's zoning process is unusual in comparison with many other major cities in America. In many such cities, there is greater administrative engagement with applicants to bring projects into compliance and/or dissuade applications for appeal. In others, there is a bifurcation between major and minor variances, where major variances are subject to greater scrutiny and are rarely approved. And, in still others, there is simply a low

rate of approval of all variances, except in cases where legal hardship is demonstrated or significant public benefits or concessions are negotiated. In this context, the rate at which variances are approved in Philadelphia reflects a particular and significant disconnect between planning law, policies, and enforcement.

This practice leads to far less predictability and quality of, and an unequal distribution of standards for, development in the city. Frequent variance approvals by the ZBA may dissuade community engagement in planning processes, as members of the public conclude that variances will be approved regardless of their input. Especially with the still-recent adoption of an updated zoning code and a comprehensive rezoning effort underway in the city, ZBA decisions should be rooted in the finding of true legal hardship.