

PHILADELPHIA CITY PLANNING COMMISSION
MEETING VIA ZOOM

MINUTES MARCH 18, 2021

PRESENT:

Anne Fadullon, Commission Chair

Joseph Syrnick, Vice Chair

Cheryl L. Gaston

Peilin Chen

Duane Bumb

Patrick Eiding

Garlen Capita

Michael Johns

Mary Horstmann

Maria Gonzalez

Eleanor Sharpe

NOT PRESENT:

Charlotte Castle

Commission Chair, Anne Fadullon, called the Philadelphia City Planning Commission to order at 1:03 p.m.

Ariel Diliberto, of the Philadelphia City Planning Commission, (PCPC) – introduced the Zoom platform and remote City Planning Commission process. We are hosting this meeting on Zoom. We may also have some people join us by phone.

During today's meeting, each agenda item will be presented by a member of the staff. Following each presentation, the Chair will ask the Commissioners for questions or comments. The Chair will then ask the audience for questions and comments. After that, the Commissioners will finish their discussion and vote.

Those of you who are joining us on Zoom will have two options to ask questions and comments. If you would like to speak, click, or tap on the "RAISE HAND" button on the menu bar on the bottom of your screen at any time during the agenda item. You will be called on and will have the opportunity to speak to the Commission and the audience.

If you prefer to type your question or comment, click, or tap on the "Q&A" button on the menu bar at the bottom of your screen at any time during the agenda item. Once all attendees have had an opportunity to speak, I will read out loud any written questions and comments that have been posted to the Q&A.

For those joining by phone, we're unable to take spoken testimony, however, you can email your questions and/or comments to the Commission at Planning@phila.gov.

This meeting will be recorded and posted to our website.

Ms. Diliberto turned the meeting over to Chair Fadullon, the Commission Chair to begin the meeting.

1. Executive Director's Update

- Hazard Mitigation Plan Public Meeting was scheduled for the current day, March 18, 2021 at 6:30 p.m. via Zoom and Facebook Live.
- Norris Square Zoning Public Meeting – March 22nd & 23rd, 2021 at 6:00 p.m. via Zoom.

This concluded the Director's report.

2. Subdivision Plat for 5401 Whitaker Avenue (Presented by Matt Wysong)

Staff recommendation is for approval.

Philadelphia Gas Works (PGW) proposes to develop a Northeast facility at 5000 Summerdale Avenue (Lot 2A), use Lot 2B for outdoor equipment storage, and reserve Lots 2C and 2D for future use. NorthPoint Development desires to subdivide these parcels so that fee ownership may be transferred to the proper leasing entity.

Intent: Philadelphia Gas Works (PGW) proposes to develop a Northeast facility at 5000 Summerdale Avenue (Lot 2A), use Lot 2B for outdoor equipment storage, and reserve Lots 2C and 2D for future use. NorthPoint Development desires to subdivide these parcels so that fee ownership may be transferred to the proper leasing entity.

Questions and comments from the Commission (00:10:01).

Commissioner Capita inquired about the use that PGW does for the site. Commissioner Johns wanted to know why the small wedge between the two lower parcels wasn't transferred, and what was the piece of land for. Commissioner Gaston asked for clarification regarding access, to the various lots. The owner, R. J. Agee addressed all inquiries. Commissioner Johns mentioned that the Philadelphia Housing Authority has a development site that's adjacent to the proposed subdivision plat, then asked had they been contacted. Mr. Agee stated that he was unaware of the project. Commissioner Chen asked if there was another City owned recreation site nearby being concerned about kids coming in and out of the site and any issues with traffic. Mr. Wysong addressed the questions.

Questions and comments from the public (00:14:36).

Anthony Caponigro stated that they're working with the Streets Department to approve crossings and signalizations of the intersection so that anybody from the Long Crest neighborhood East of the site, have safe access across the street to get to the park.

Seeing no further questions or comments from the Commission or the public, Chair Fadullon asked for a motion from the Commission (00:15:57).

Upon the motion made by Commissioner Eiding and seconded by Commissioner Capita to accept staff recommendation for approval of the Subdivision Plat for 5401 Whitaker Avenue.

Chair Fadullon polled the Commission for the vote. Approved by Commissioner Syrnick, Commissioner Eiding, Commissioner Bumb, Commissioner Chen, Commissioner Johns, Commissioner Gaston, Commissioner Horstman, Commissioner Capita and Commissioner Gonzalez, Motion carried unanimously (9-0).

3. Action Item: [Bill No. 210135](#): Amending Chapter 9-208 of The Philadelphia Code, entitled "Sidewalk Cafes" and Title 4, Subcode "A" of The Philadelphia Code, entitled "Zoning and Use Registration Permits," by adding new provisions allowing restaurants applying for a sidewalk cafe permit or temporary lot uses permit to allow outdoor entertainment; all under certain terms and conditions.. Introduced by Councilmembers Gilmore Richardson, Henon, and Domb on February 18, 2021 (Presented by David Munson)

Staff recommendation is for approval with Amendments.

This Bill will allow outdoor dining operators, whether they hold a sidewalk café, streetery, or temporary street closure permit, to provide outdoor entertainment to their patrons. This could include music, television, performances, or other forms of entertainment. The regulation will expire on December 31, 2021, along with the expanded sidewalk café, streetery, and temporary street closure permits that have been allowed during COVID-19. The provision will apply retroactively to all current permit holders. Councilmember Gilmore Richardson has stated that her intention was to allow for small, single-person performances, but as written the Bill would not be limited to that.

Regarding sidewalk cafés, patrons are required to provide a six-foot walking zone free from obstructions, including sign and light posts. While some forms of entertainment would allow for this space to remain unobstructed (particularly recorded music or television), it will be difficult for live performances, musical or otherwise, to limit themselves to a space narrow enough to allow this walking zone. Further, performances could lead to pedestrians crowding around the performers, blocking the walking zone, and leading to less than six feet of separation between parties. Similar obstructions may also happen if performers are allowed in streeteries. While there is less risk for crowding in a temporary street closure, these have typically been limited to restaurants on the block in question so as to avoid a festival atmosphere, with large groups of people congregating. Allowing performances in this space would contradict that goal.

Furthermore, Health Department guidelines for outdoor performances request that restaurants “keep audience members from coming within 20 feet of the stage or performance site.” This would make outdoor performances unfeasible for many restaurants, and even for those with the space, it would require removing tables, which many restaurants may be unwilling to do.

This type of use isn’t mentioned in the comprehensive plan. The Planning Commission has been working with other departments on the Outdoor Dining Task Force to address issues for restaurants and other businesses during COVID-19, and early on determined that outdoor performances should not be allowed to discourage gathering. While this could present an opportunity for the spread of COVID-19, it would be a boon to restaurants and performers who have been hurting during the pandemic.

Councilmember Gilmore Richardson met with members of the Outdoor Dining Task Force on March 10th. The task force expressed concerns about ADA access, restaurant incentives to not follow the rules, the possibility of pilot projects, hours of operations, noise and nuisance regulations, required social distancing, barriers and masking, requirements to remain seated during a performance, periodic renewal, how to address complaints, limitations based on zoning, exclusion of adult entertainment, avoiding a festival atmosphere to limit the need for police presence, and responsibility for drafting regulations. The councilmember said that they would make changes to the bill, but to this point we don’t have any amendments to comment on.

Questions and comments from the Commission (00:24:27).

Commissioner Gonzalez inquired about the number of discussions during any given time period. Commissioner Capita asked who was monitoring the outdoor dining and if neighbors have complaints, who are the complaining to and who's actually following up. Commissioner Johns asked if the adjacent property owners or businesses have the ability to weigh in on their neighbor applying for a permit for outdoor entertainment. Mr. Munson stated, as of right now, the way that it is written, this would apply retroactively to anyone who already has a permit.

Further discussion continued, with Commissioner Johns, Mr. Munson, Commissioner Gaston, and Commissioner Capita at the minute mark in video (00:27:17).

Chair Fadullon read a letter into the record from Councilwoman Katherine Gilmore Richardson, who sponsored Bill No. 210235.

Seeing no further questions or comments from the Commission or the public, Chair Fadullon asked for a motion from the Commission (00:35:00).

Upon the motion made by Commissioner Horstmann and seconded by Commissioner Eiding to accept staff recommendation for approval with amendments.

Chair Fadullon polled the Commission for the vote. Approved by Commissioner Eiding, Commissioner Bumb, Commissioner Chen, Commissioner Horstman, and Commissioner Capita. Motion carried, with four nays (5-4).

Commissioner Syrnick, Commissioner Johns, Commissioner Gaston, and Commissioner Gonzalez voted nay on this item.

4. Action Item: [Bill No. 210159](#): Amending Title 14 of The Philadelphia Code, entitled "Zoning and Planning," to revise certain provisions of Chapter 14-600, entitled "Use Regulations," by amending the Retail Sales Use Category and Use-Specific Standards; all under certain terms and conditions. Introduced by Councilmembers Gilmore Richardson, Parker, and Henon on February 25, 2021 (Presented by Paula Brumbelow Burns)

Staff recommendation is for approval.

The proposed Bill updates the definition of Drug Paraphernalia which will remain a regulated use in the Zoning Code. There have been significant changes in commonly used illegal drugs, the methods by which they are consumed, and the Commonwealth law dealing with drug use. By removing an outdated reference from the Zoning Code and adding more specific terms, we will enable the Philadelphia Department of Licenses and Inspections (L+I) to carry out more robust inspections and enforcement actions. This legislation provides definitions of specific drug paraphernalia, which are not commonly accessory to the use of tobacco products.

The code provides a list of uses that includes Bongs; Dab rigs; Glass pipes (bowl); Grinders; Herbal infusers, Methoscope (love rose); and Water pipes. This Bill does not include everyday items that have multiple legal uses and occasional accessory drug uses, as an example, brillo pads.

The City has seen an increase in retail establishments that have opened that are openly displaying drug paraphernalia without the proper use permits. Updating the definition will allow RCO's and neighbors to work with L&I on proper enforcement.

This Bill was initiated by a request from City Council members that are seeing a rise of this use in their districts. A Bill was presented to the Commission in November 2020 creating an overlay on 54th Street that would require a special exception for retail, consumer goods, and food stores in order to open a new business. The Commission recommended against the Bill and staff felt that an overlay would not address the full issue and would create multiple overlays that addressed the same issues. Over the winter, The Planning Commission hosted discussions with City Agencies that included L&I, Health, Law, and the Managing Director's office. There were three recommendations that were developed; create information sheets for store owners, neighbors, and L&I to be clear what is and is not allowed; create stronger internal communication on enforcement activities; and to update the definition of Drug Paraphernalia.

The City has limits set by the State on how the sale of tobacco and tobacco-related products can be sold and legislated. The City is allowed to put tobacco sales in use classifications and set a distance between tobacco licenses but is not allowed to specifically ban the sale of tobacco in the Zoning Code. By separating out drug paraphernalia and listing it as a regulated use it can separate the accessory products for tobacco versus illegal drug use.

This Bill does not include the following:

- Tobacco Sales
- Packaging of Tobacco
- Legal Tobacco Use
- Hookahs and their use

Questions and comments from the Commission (00:42:38).

Commissioner Gaston wanted to know during the evaluation, if Holts Cigar Co, was considered verses the City of Philadelphia, which preempts Pennsylvania Control Act from regulating what are considered dual use types of products such as, Hookahs, rolling paper, etc.

Chair Fadullon suggested to hear from Planning Legal Advisor Leonard Reuter, Esq., who addressed the issues that Commissioner Gaston raised.

Further discussion continued at the minute mark in video (00:49:52).

Chair Fadullon read a letter into the record from Councilwoman Katherine Gilmore Richardson, who is one of the sponsors of Bill No. 210159.

Seeing no further questions or comments from the Commission or the public, Chair Fadullon asked for a motion from the Commission (00:54:52).

Upon the motion made by Commissioner Gonzalez and seconded by Commissioner Eiding to accept staff recommendation for approval.

Chair Fadullon polled the Commission for the vote. Approved by Commissioner Syrnick, Commissioner Eiding, Commissioner Bumb, Commissioner Chen, Commissioner Johns, Commissioner Horstman, Commissioner Capita and Commissioner Gonzalez, Motion carried, with one nay (8-1).

Commissioner Gaston voted nay on this item.

Chair Fadullon noted for the record that the next Planning Commission meeting will be held a week earlier, April 8th to accommodate the Mayor's Budget Address on April 15th. The Planning Commission will be reviewing the FY22 Capital Budget at the April meeting.

The Philadelphia Planning Commission Meeting was adjourned at minute mark (56:22:) in video.

The next City Planning Commission Meeting will be **Thursday, April 8, 2021 at 1:00 p.m.** via Zoom platform.

SUMMARY

1. Executive Director's Update.
2. Subdivision Plat for 5401 Whitaker Avenue (Presented by Matt Wysong)

APPROVED

3. Action Item: [Bill No. 210135](#): Amending Chapter 9-208 of The Philadelphia Code, entitled "Sidewalk Cafes" and Title 4, Subcode "A" of The Philadelphia Code, entitled "Zoning and Use Registration Permits," by adding new provisions allowing restaurants applying for a sidewalk cafe permit or temporary lot uses permit to allow outdoor entertainment; all under certain terms and conditions. Introduced by Councilmembers Gilmore Richardson, Henon, and Domb on February 18, 2021 (Presented by David Munson)

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APPROVED

KATHERINE GILMORE RICHARDSON
COUNCILMEMBER, AT-LARGE

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CITY OF PHILADELPHIA

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Labor & Civil Service

VIA EMAIL

Anne Fadullon, Chair
Philadelphia City Planning Commission
1515 Arch Street, 13th Floor
Philadelphia, PA 19102

Dear Ms. Fadullon,

Thank you for the opportunity to submit testimony regarding Bill 210135 and Bill 210159.

Bill 210135

Bill 210135 would allow restaurant owners who have successfully applied for a sidewalk café, streetery, or temporary use permit for outdoor dining to offer outdoor entertainment. As you all know, the pandemic has hit our hospitality community very hard. For example, Center City District has recently reported that of the 628 food service establishments they surveyed, nearly 200 have temporarily or permanently closed, and only 208 are open for indoor or outdoor dining. The report also stated, "Outdoor seating has been the survival strategy." Outdoor seating in Center City increased from 2,997 seats in June to 5,152 in September and even maintained at nearly 4,700 seats in December. In order to help businesses survive the pandemic, we worked quickly to create innovative solutions for safe operations.

Outdoor entertainment will expand on this crucial work. Bill 210135 is intentionally crafted to balance the needs of businesses, while ensuring health and safety remain the priority. Additionally, we have specified that all other relevant code provisions, such as hours of operation for performances are met. My staff and I have met with all of the relevant departments, Planning, Licenses and Inspections, Streets, Health, and Commerce, as well as with Deputy Managing Director Mike Carroll to ensure we address any Administrative concerns about implementation and enforcement. We are open to addressing those concerns through amendments, which are currently being drafted by the Law Department. I am committed to working collaboratively with the Administration throughout this process. I hope you will give this bill a favorable recommendation based on the great need in our city and my dedication to working closely with the Administration to address any concerns around implementation and enforcement.

Bill 210159

Bill 210159 amends the zoning code to clarify and modernize the definition of drug paraphernalia. By removing outdated references from the Zoning Code and adding more specific terms, this bill will enable the Philadelphia Department of Licenses and Inspections to carry out more robust inspections and enforcement actions.

Bill 210159 is the result of a conversation during the Committee of the Whole hearing on Tuesday, December 1, 2020. During that hearing, it was brought to City Council's attention that the code's current language regarding drug paraphernalia was outdated and insufficient. Additionally, community members have informed members of Council that the unregulated sale of these items is related to the ongoing sale of drugs in our local communities, which is partially fueling our current gun violence crisis.

With this legislation, we will be able to stop these sales and hopefully address one of the underlying causes of neighborhood violence. This bill was drafted collaboratively by the Planning Department, Licenses and Inspections, Health, and Law. It is my hope that you will give this bill a favorable recommendation based on the great need to be protect to our communities and the collaborative process by the Administration and City Council to do so.

Thank you for your time and consideration.

In Service,



Katherine Gilmore Richardson
Councilmember, At-Large

Attended	User Name (Original Name)	First Name	Last Name	Email	Registration Time
Yes	Nicole Ozdemir	Nicole	Ozdemir	tul07913@temple.edu	3/18/2021 12:50
Yes	Kurt Constantine	Kurt	Constantine	tud26914@temple.edu	3/18/2021 12:56
Yes	Ian Litwin	Ian	Litwin	ian.litwin@phila.gov	3/18/2021 13:05
No	Eugene Desyatnik	Eugene	Desyatnik	gene.desyatnik@gmail.com	3/17/2021 13:07
Yes	Ayse Unver	Ayse	Unver	ayse.unver@phila.gov	3/18/2021 13:11
Yes	Eugene Desyatnik	Eugene	Desyatnik	desyatniky@radial.com	3/18/2021 13:02
Yes	Eugene Desyatnik	Eugene	Desyatnik	desyatniky@radial.com	
Yes	Felicia Coward	Felicia	Coward	feliciacoward@comcast.net	3/18/2021 13:16
Yes	Robin Miller	Robin	Miller	millerdesigngroupllc@gmail.com	3/18/2021 12:57
Yes	David Kanthor	David	Kanthor	david.kanthor@phila.gov	3/18/2021 12:57
Yes	David Kanthor	David	Kanthor	david.kanthor@phila.gov	
Yes	Sarah Chiu	Sarah	Chiu	sarah.chiu@phila.gov	3/18/2021 13:02
Yes	David Feldman	David	Feldman	dfa.consulting@yahoo.com	3/18/2021 13:31
Yes	Taylor Morgan	Taylor	Morgan	taylor.morgan@kimley-horn.com	3/18/2021 13:00
Yes	Donna Carney (she/her)	Donna	Carney (she/her)	Donna.carney@phila.gov	3/18/2021 12:57
Yes	Jared Klein	Jared	Klein	jklein@blankrome.com	3/18/2021 13:49
No	liz	liz		griffinem75@yahoo.com	3/17/2021 13:12
No	Patrick Grossi	Patrick	Grossi	patrick@preservationalliance.com	2/25/2021 16:36
Yes	Britt Chapman	Britt	Chapman	bchapman@postcre.com	3/18/2021 12:58
Yes	chiara	chiara		chiarangassa@gmail.com	3/18/2021 13:05
No	a weiss/SoLo	a	weiss/SoLo	awfromhh4@gmail.com	3/16/2021 13:28
Yes	Alex Smith	Alex	Smith	alex.smith@phila.gov	2/22/2021 10:10
Yes	John.Haak - Philadelphia	John.Haak	'- Philadelphia	john.haak@phila.gov	3/18/2021 13:01
No	Joe Decker	Joe	Decker	jcdecker@upenn.edu	3/11/2021 12:26
Yes	Jack C (Staff)	Jack	C (Staff)	jack.conviser@phila.gov	3/18/2021 13:32
Yes	Natalie Tse	Natalie	Tse	nt355@rutgers.edu	3/18/2021 12:58
No	David Evans	David	Evans	evanswithgratitude@gmail.com	2/25/2021 14:57
Yes	Robin Miller	Robin	Miller	nypahomes@gmail.com	3/18/2021 13:05
Yes	R.J. Agee	R.J.	Agee	ragee@northpointkc.com	3/18/2021 12:59
No	Mary Horstmann	Mary	Horstmann	mary@pobox.com	3/18/2021 12:59
Yes	Anthony Caponigro	Anthony	Caponigro	anthony.caponigro@kimley-horn.com	3/18/2021 13:03
Yes	Travis Rudisill	Travis	Rudisill	trudisill@northpointkc.com	3/18/2021 12:57
Yes	Kacie Liss	Kacie	Liss	katherine.liss@phila.gov	3/18/2021 13:04
No	North Central Phila CDC & Logan (LCEC) Host: Tinamarie Russell	North	Central Phila CDC & Logan (LCEC) Host: Tinamarie Russell	tinamariellc@gmail.com	2/25/2021 16:16
Yes	Cindy	Cindy		conovercyn21@gmail.com	3/18/2021 13:05
Yes	Jonathan Goins	Jonathan	Goins	jonathan.goins@phila.gov	3/18/2021 13:30
Yes	Charmayne	Charmayne		mayne1133@msn.com	3/18/2021 13:24
Yes	Godwin Vattappilly	Godwin	Vattappilly	gav5092@psu.edu	3/18/2021 13:03
Yes	Ryan Briggs - WHYY News	Ryan	Briggs - WHYY News	rbriggs@whyy.org	3/18/2021 13:00
Yes	Brian Wenrich (PCPC Staff)	Brian	Wenrich (PCPC Staff)	Brian.Wenrich@Phila.gov	2/25/2021 12:34
Yes	Jametta Johnson	Jametta	Johnson	jametta.johnson@phila.gov	3/18/2021 13:04
No	YE	YE		ypellison@yahoo.com	3/17/2021 13:08
Yes	diane fiske	diane	fiske	dfiske_19118@yahoo.com	3/18/2021 13:29
Yes	Craig Melidosian	Craig	Melidosian	craigsolve@aol.com	3/18/2021 13:04
Yes	diane fiske	diane	fiske	dianefiske@earthlink.net	3/18/2021 13:22
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Approval Status	Join Time	Leave Time	Time in Session (minutes)	Country/Region Name
approved	3/18/2021 13:03	3/18/2021 13:59	57	United States of America
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54 United States of America