

Common Ground for Building Our City

Development Community and Civic Leader Consolidation Workshop January 27, 2010

Group 3

Moderators: Bryan McHale and Joan Davis

Group Overview : Group 3 had 11 participants, composed of 8 male, 3 female representing civic and developer interests. The neighborhood affiliations represented the broad character of the City ... Logan Square North, East Kensington, Olde Kensington, Fishtown, Juniata, Moyamensing, West Philadelphia. They were organized in various ways to support their neighborhoods, including business, neighborhood, and civic associations; zoning and action committees. Meeting these civic participants on common ground were the “developers” – some overlapping a civic role - bringing a wealth of professional experience in Regional Planning, Development, Zoning & Land Use, Legal, Architect, Community Development Corps. (CDCs), Congress for New Urbanism, and Philadelphia Historical Commission.

Group 3 was hopeful that this process would result in improved clarity, transparency, and communication between developers, communities, and the city. Everyone was interested in rebuilding the city and in respecting the urban form of Philadelphia as well as in not only rebuilding neighborhoods physically but also building organizations within neighborhoods which could lead to stronger communities as a whole. Above all everyone was optimistic that this process meant that something would actually happen.

Low Hanging Fruit: Review Timeline

Common ground principle - There should be a review timeline which allows for a predictable length of time for the developer while also giving the community a sufficient amount of time to comment.

- Developers – Developers are looking for a predictable, constrained timeline. “Time is money,” is the mantra. As projects get larger, the risk to the developer also increases and the amounts of money which can be lost if everything collapses in the latter stages is prohibitive. At the same time in many cases the developers are coming to the community with fully mature concepts that it can become costly and time consuming to change if there is conflict.
- Community – Community groups and individual neighbors have their own jobs and their own lives. Even the most organized of community groups does not have the ability to inform their community, have discussions, settle disputes, and put together a response in a two week period, to say nothing of communities which have no real advocacy organization or have multiple. At the same time developers are coming at them with full-fledged projects talking about deadlines and seeking variances or permits. This automatically creates a yes-no, win-lose atmosphere.

Actions:

- The dialog with the community should occur before a developer even gets to the official city bureaucracy and should be a required first step as part of an application process similar to Portland.
- Preferably the developer will talk with the community in the initial idea stage or present an in-concept report which allows the community to input on the generalities without the developer having invested fully into a detailed design.
- In this initial community process the developer and community should agree to a schedule. First this allows the community the time to properly absorb any plans. Second it allows the developer an expectation of timeliness from the community so that it isn't simply an open-ended process.
- 3 waypoints may be ideally right for a community dialog (an in-concept, a first revision, and a final plan). Other meetings may or may not exist but these seem the most relevant.
- The District planner should certainly be an invited participant/observer in the process, and all of the meetings should be documented and both copied to the city and included as part of the application for variances/permits/etc; including if there are any tensions/disagreements.
- If this sort of public process is adopted as a entryway to development, then the official governmental process should be a predictable one on a timeline. The various agencies which have their public meetings should do so in a ordered fashion, taking more public input along the way as is their responsibility, but making definitive decisions.

Future:

- One of the main issues was the levels of organization in communities and the ability to take time to deal with zoning/planning. In the future, organizations should be encouraged to have a regularly set time to handle zoning/planning so developers can plan around that and to relieve the burden on the community group to have to spontaneously deal with issues as soon as they come up.
- In the cases of communities with little or no capacity to deal with its own zoning it may be that a neighboring group, or an citywide umbrella group, or the city can facilitate a regular time for those issues to be handled and to build that capacity.

Round-up:

- "This should be seen as a process not a timeline" was mentioned several times in the discussion, but they did not preclude each other. With the emergence of comprehensive and neighborhood plans along with Historic Districts and Neighborhood Conservation Districts, developers need to see talking with the community as at the very least a matter of due-diligence. As is suggested in *Gut Wrencher 2 – How do we review projects*, there will be more significant standards going forward which developers need to be aware of as neighborhood planning grows and community groups become more sophisticated. The community is increasingly becoming interested not just in receiving development in their neighborhood but in pro-actively finding developers who fit what they want for the future of their neighborhood. If a developer has plans radically counter the community, at least this sort of process will allow them to understand where those differences are ahead of time and marshal their arguments accordingly, or decide that it isn't worth the financial exposure.

- By the same token, if the developers are involved in such an extensive community dialog in the beginning – and the city is receiving all of that dialog both positive and negative as a part of the application – then they should be able to depend on a timely set of meetings and responses from the various agencies. Ultimately the ZBA and other permitting agencies have to be able to take that information and make a timely decision. It also becomes extremely problematic if both sides can go through this entire process only to have someone show up and file a suit at the end as is referenced at the end of Gut-Wrencher 2.

Gut Wrencher #1 – Who Speaks for the Community?

Common Ground Principle(s):

The ideal for development projects is full participation amongst those with a vested interest. If the most impacted public can be brought together into the collaborative process with developers, there will be fewer surprises later in the zoning process, decreasing objection and litigation. Developers are assured they are presenting to the complete body of interests and will be able to gather all community concerns at once. Finally, neighborhood input that is considered in decision-making by zoning officials will be a transparent and holistic perspective of local impacts and opinions.

There are three aspects of “impacted public” that need to be addressed:

1. Neighbors that are not members of a civic organization.
Civic organizations should take responsibility for outreach to directly impacted neighbors, then convene, document & characterize zoning objections and who is impacted. (Note that design issues are specifically excluded from zoning objections; refer to *Gut Wrencher #2* “How are Projects Reviewed?”) This does not take away from the “informing” responsibilities of developers and city agencies, but instead adds a local channel for information sharing.
2. Neighborhoods supported by multiple civic organizations or when a project crosses neighborhood boundaries.
End the unpredictable nature of dealing with individual civic groups and increase the breadth and quality of public input by joining forces. Civic organizations should be expected to collaborate with each other when they share an interest in a development project. Understand there won’t be 100% agreement, and develop processes for resolving differences of opinion.
3. Neighborhoods that have no civic organization.
Create a level playing field for public input and grow capacity where there is none. It is our joint duty to ensure these interests are informed and their voices heard when a development project will impact a community without organized civic support.

Actions to achieve the Common Ground Principle(s):

- Develop a mechanism to bring all impacted parties together with developers at the initiation of a project. Include concern for the individual and the voting power of near neighbors in civic plans and zoning opinions.

Topics that couldn’t be resolved:

- Can the process legitimately exclude those who refuse to participate in the collaborative process?
- How would that be enforced?

- Can there be a cut off time after which no new voices are permitted?
- Citizens' Planning means two-way information flow. Make it the practice to meet early in the conceptual stage to gain knowledge of developers' plans and give insights into local impacts and issues. This aligns with the *Low Hanging Fruit* "Review Timeline" discussion on triggers for public involvement.
- Formalize the role of civic organizations taking steps to involve directly impacted neighbors in dialogue with developers – members and non-members alike. This action had some tension for the civic representatives as they considered the effort needed to perform the appropriate outreach. This tension became a tradeoff as they acknowledged that individuals have rights in this process too. Emphasizing that this doesn't take the burden off developers and zoning officials to communicate with impacted parties, but now civic organizations will need to expand their member duties to include canvassing and informing the directly impacted neighbors about a development initiative and how they can join the discussion.
- Where a neighborhood is supported by multiple civic organizations or a project impacts multiple neighborhoods, the impacted groups will take steps to join forces and improve chances of a predictable project outcome. They will share information about what's coming and jointly participate in planning and zoning discussions. Recognizing tension around potentially competing interests, some specific suggestions were submitted to handle those circumstances:
 - Create a role for District Planner as coordinator / mediator.
 - Impacted groups form a zoning subcommittee who work together to find common ground.
 - Defer to Council when there's a difference of opinion. This suggestion connects to the *Gut Wrencher* topic "What about Councilmanic Privilege?" and identifies a role that Council might play in the public process.

A topic that was left unresolved as time ran out:

- Should city-wide groups have equal input?
- Record how decisions are made, and include information about the public process in zoning communications to the city (and courts) as evidence of due diligence. Include differing minority opinions when submitting recommendations. These actions support inclusiveness and transparency, characteristics that both developers and civic representatives in our group agreed were beneficial for development projects. Their conclusion connects to the *Low Hanging Fruit* topic on "Transparency", and suggests formalizing the way civic organizations report on behalf of their neighborhood.
- For areas without civic organizations, level the playing field. City [NAC / Council] will perform outreach to directly impacted parties and ensures proper notifications are made. Neighborhood stakeholders will work with the ZBA to vet zoning issues. This suggestion connects to the *Gut Wrencher* topic "What about Councilmanic Privilege?" and identifies another role that Council might play to support their constituents in neighborhoods that have no representative public presence.

There was some tension around the outreach issue and how to connect with all concerned parties. With a sense that more should be done to help these neighborhoods to become organized, the group moved on due to time constraints. Initially left unresolved, participants returned to this topic after discussing the 2nd *Gut Wrencher* topic, feeling it was an important issue to

overcome. They developed some specific actions to grow capacity where there is none:

- Community Planners visit these districts with a twofold purpose:
 - Provide zoning education. Ensure members of these communities understand their rights.
 - Help design a local plan. Correlating with the group's conclusions under the *Gut Wrencher* "How are projects reviewed?", a neighborhood plan is an important tool for working with developers and gaining support from city officials. Each neighborhood should have a local plan that aligns with the overall city plan.
- Find funding alternatives to support the formation of civic organizations and their operating costs; e.g. NAC funding.
- "Chain up skill sets". Develop civic association leaders from those already giving back to their neighborhood; e.g. block captains, volunteers for clean up days. The city should provide a framework for these seeds to grow. Well-organized civic organizations could contribute mentoring and learning from their own experiences.
- More mature civic organizations could play a different role in the future, encouraging development that implements their neighborhood plan.
 - Take a proactive role in development, and invite proposals. This extends the concepts from the earlier *Low Hanging Fruit* topic "Review Timeline", to now bring civic organizations to the very beginning of the process, initiating developer interests in a concept that furthers the neighborhood plan.
 - Pair developers with community representations before project conception to explore the potential of the neighborhood.

Gut Wrencher #2 – How are projects reviewed?.

Common ground principle(s):

Do not let "happiness issues" interfere with resolving matters of zoning code. Zoning review is not the correct forum for design issues. Instead, a Design Forum should take place outside of the zoning process, enabling a public discussion of aesthetic and other non-zoning impacts with design professionals at the table. Guidelines for design review include:

- "Design Respect" - Neighborhood Plans are honored.
- Acknowledgement that design is a matter of taste. The decision process needs to have room for diversity of style.

For true zoning matters, shift the burden to the developer to justify why a variance is good for the neighborhood. Reverse the current practice that a variance is approved unless the public proves why it shouldn't be.

Actions to achieve the Common Ground Principle(s):

- Use City Planning Commission to help align proposed design with neighborhood and city plans.

This action had some tension around the fact that the City Planning Commission role doesn't address community needs today, and therefore a shift in this function would be required. The group was unsure this was within the scope of forum influence.

- Create a city-wide Design Review Committee with rotating seats for neighborhood input. This committee would have an advisory role on design and make recommendations to the Planning Commission. This action again raised an earlier tension around the *Gut Wrencher* ‘who represents the neighborhood?’, bringing up factors of background and professional orientation of civic association members. A city effort to select and educate a representative from each neighborhood got some discussion but no conclusions were drawn.
 - Topics that were left unresolved:
 - What skills are required to represent the neighborhood on design issues?
 - Who dictates style?
- Neighborhoods need to create guidelines for design that reflect neighborhood character. Encourage neighborhoods to create their Neighborhood Plan using Neighborhood Conservation Districts as a model. Some guidelines for this activity were identified:
 - Recognize that this is a large, multi-year effort for a community.
 - The neighborhood plan should reflect “civic values” – what we want the City to look like.
 - The neighborhood plan should not be so rigid as to squelch creativity.
- Educate the public on non-zoning issues and how to handle those matters with developers.
- Having early design conversations between civic associations and developers will smooth the way, serving as a vetting process when issues are known in advance. Address other areas of impact (traffic, noise, etc.) up front in the development collaboration process, so that all stakeholders are ready to handle any issues at initial public meeting. This aligns with the earlier *Low Hanging Fruit* topic “Review Timeline”, where the common ground emphasized broad, early local involvement.
- There was tension around how to separate out non-zoning issues from zoning decisions in city hall, but there was agreement that the city should reform the practice of rolling design and other non-zoning issues into zoning decisions. We need to find creative ways to resolve non-zoning impact issues. For example, explore car reduction options to resolve parking issues, such as a sponsored Philly Car Share agreement.
- Reflect a change in the Zoning Approval Process to place the burden of proof on the developer for variance approval. Make it the developer’s responsibility to explain why a variance is best for community.
- The subject of fewer variances once “of right” zoning is fixed, brought tension around how to ensure continued public input without ZBA intervention. The solution again linked back to earlier conclusions under the *Low Hanging Fruit* topic “Review Timeline”,. Through a collaborative approach to development there is community input up front and ongoing community involvement throughout the planning process, followed by developers and city hall honoring the plan, there will be a reduction in conflict and tensions. The end result will be a shift to a less adversarial relationship between the public and developers.
- The topic closed with a sense of frustration over appeals. Anyone can file an appeal, with merit or not, and there’s no fine or consequence for filing frivolous appeals. An appeal typically takes over a year to get through commonwealth court and can squash a project that was otherwise approved by all impacted parties. The issue remains unresolved.