

Planning Commission Work Session

May 27, 2025 5:00 PM to 7:00 PM

Hybrid Meeting – City Space Conference Room

Commissioners Present: Chairman Mitchell, Commissioner Schwarz, Commissioner Solla-Yates, Commissioner Yoder, Commissioner Stolzenberg, Commissioner Roettger, Commissioner Joy

Staff Present: Patrick Cory, Missy Creasy, Matt Alfele, Carrie Rainey, Ose Akinlotan, Tori Kanellopoulos

Chairman Mitchell called the Planning Commission Work Session to order at 5:03 PM.

1. Development Code Amendment Discussion

Staff Presentation

Matt Alfele, Staff Report – I will be leading the staff portion of the work session related to the Development Code amendments tonight. Our goal is to review some of the overarching issues, some proposed amendments, and discuss the implementation and explore solutions when presented. We will start by walking through the key points we will be covering this evening.

Next Slide

We will begin by setting the stage with some background information. I will cover the context behind the proposed Development Code amendments, the current challenges, and the opportunities that we have in front of us. I will then explain the amendment tiers and detail how each tier works, what criteria differentiates them, and why this spectrum of opportunity options is important. By breaking down the tiers, you will see how the amendments are not ‘one size fits all,’ but instead are tailored to address different levels of need in the community. I will move onto specific examples of some of the proposed amendments. These examples will illustrate the kinds of changes we are considering. I will point out key features, potential benefits, and real-world examples that these proposals might have on development. Following these examples, I will outline the next steps in our process. That section will cover the upcoming phases from further review and refinement of the amendments to plan feedback and adoption. I will finally open the floor with targeted questions for the Planning Commission. This segment is designed to create a focused discussion and elicit valuable feedback. Your insight here is critical in refining our proposals as we move forward to a public hearing.

Next Slide

This slide provides an overview of where we have been with our code and where we are moving with these revisions. As you can see, our current Development Code was adopted on December 18, 2023. It was crafted to facilitate a more form-based zoning approach aimed at increasing density: a goal that aligns closely with the 2021 Comprehensive Plan. This means our code was designed not just to set the rules, but as a tool to shape how our neighborhoods grow in a structured yet flexible way. However, as time has passed, staff has identified several issues, some minor, such as grammatical corrections and others more significant that need to be addressed to better achieve our city’s goals. This recognition is a natural part of keeping our planning methods and regulations effective and respond to our community needs. To manage the necessary changes efficiently, we are using a 3-tiered approach. Tier 1 covers minor corrections, small adjustments, and ensures compliance with state regulations. These are straightforward fixes that keep our code neat and clear. With Tier 2, we are making modifications to address any oversights from the original drafting and offer clarification where needed. This ensures that everyone has a common understanding of the regulations they are using. Tier 3 is more involved and provides a deeper policy level change, which requires in depth analysis along with meaningful

community engagement. These changes are more substantial and will shape the way we approach long-term planning. For Tiers 1 and 2, the next immediate steps are to advance these changes to a public hearing with adoption this fall. It keeps the process on time and relevant. Tier 3 or selected issues from Tier 3 are a little bit harder and will need to be integrated into the broader FY26 NDS work plan. This allows us to manage our resources efficiently and involve the community on a larger scale. Finally, it is important to note that this is not a 1-time fix. We plan to update Tier 1 and Tier 2 on an annual basis to ensure the code remains adaptable and incorporates the best practices and supports sustainable growth in the future. This continued process is key to keeping our development code in line with our current needs and future opportunities.

Next Slide – Tier 1 Amendments

These adjustments are essentially the ‘bread and butter’ fixes to ensure that our development code is clear and accurate as possible. The Tier 1 focuses and addresses copying, editing issues, filling in missing text, and making small refinements. These tweaks help us accurately reflect the intent of the development code; ensuring that our document communicates our goals without ambiguity. An important part of Tier 1 is incorporating legislative updates. We have made sure to include changes based on recent actions passed by the Virginia General Assembly. This ensures that our code is not only up to date but also remains compliant with current legal requirements. The scope here is quite focused. These are primarily technical corrections and minor adjustments. This means we are enhancing clarity and consistency without shifting the underlying policy direction. It is about fine tuning the language rather than making changes. For these amendments, the next step is straightforward. The proposed Tier 1 changes will be presented at an upcoming public hearing.

Finally, we view these corrections as part of an ongoing effort establishing regular annual updates to help maintain the accuracy of the development code and ensure we are staying in regulatory compliance.

Next Slide – Tier 1 Amendment Examples

This slide outlines some of the specific examples of Tier 1 Amendments that fall into this area of grammatical changes.

Next Slide – Amendment Examples State Regulations

This slide focuses on how Tier 1 Amendments incorporated updates based on changes in state regulations that cannot go into effect July 1st of this year. It is essential for our development code to reflect the most current state mandated language and compliance requirements. One of our key responsibilities is to ensure that every reference in our code aligns with the latest requirements from the Virginia General Assembly. Under HB2660, review deadlines for site plans, development plans, and subdivisions have been shortened. Staff will be able to address most of these updates in our development process review manual. We will need to amend the code to align with the shortened time frames for acceptance of complete applications for review. That time frame has been shortened from 10 days to 5 days. Under SB974, authority to review site plans, development plans, and subdivisions is shifting fully from the Planning Commission to staff. Many sections of the development code will need to be amended to stay compliant with the updated state regulations. These updates are not a one-off task but will have an annual review process to make sure we stay in compliance with all legislative requirements.

Next Slide – Tier 2 Amendments

We will move into the Tier 2 Amendments. This phase of our review focuses on addressing oversights and ambiguities in the development code. It ensures that it will be clear, practical, and will be as user friendly as possible. At the core of Tier 2 is about resolving gaps and ambiguities that might have been overlooked in the initial drafting. By fine tuning these areas, we are aiming to enhance the overall clarity and functionality of the development code. One example of these improvements is found in the fee schedule. Minor amendments are being proposed to help facilitate adjustments to the overall development review process that is currently being re-evaluated by staff. The scope of Tier 2 is broad. It includes modifications, additions, and removals within the

code. The goal is to improve how the provisions are interpreted and implemented, so that every regulation works in harmony with our intended planning outcomes. These changes are designed to ensure our regulations support our planning goals more efficiently while keeping a consistent approach across the board. In essence, by clarifying language and addressing gaps, we are making it easier for everyone, from staff and developers to understand the rules they are following. Like Tier 1, the proposal, some but not all within Tier 2 will be moving forward to a public hearing. As with Tier 1, this will be a continuous process with amendments that will be evaluated on a yearly process moving forward.

Next Slide – Tier 2 Amendment Examples

Here are a few examples of the amendments and proposed draft language to address the issues. For the first example, the current code is preventing attached dwelling units in the R districts. Staff has worked with applicants on a workaround involving sublots. That process wastes time and money. It is not contributing to the goals of more and different types of housing within the city. Staff is proposing to utilize the alternate form section of the code. The next example involves providing an avenue for residents and developers to make small improvements to their lots without going into expensive additions or adding to buildings or structures in the front yard to bring the existing building into conformity as it relates to the build-to requirement. This is intended to facilitate structures such as sheds and outbuildings, while still preserving the intent of the code for a more urban streetscape for primary buildings. Example 3 is related to codifying an existing policy when it comes to 1- and 2-dwelling unit construction and falls under the sub-tier of changes related to improving the development review process. Under the current code, all new construction and additions must have a development plan and a final site plan. This adds a lot of time and resources as it requires an applicant to go through a development review process prior to submitting a building permit. The policy from NDS has been to allow building review or allow the building review process to stand in for development review with the final document becoming the code required development plan and final site plan. This is becoming difficult to track. Staff is proposing to remove new constructions and additions for 1- and 2-units from development review and go straight to building permit review. It should be noted that just because they would not go through a development review process. They are still reviewed for zoning compliance, all regulations within the zoning code during the building review stage. Nothing in this amendment relieves an applicant from meeting the regulatory requirements. That includes requirements found in Chapter 10-Water Protection.

Next Slide

Here we have the alternate form example to address the code requirements that are preventing attached dwelling types in the R districts. This amendment will allow applicants to build attached dwellings and still conform to all the underlying regulations for each district.

Next Slide

In this section, I will address the proposed amendments to the Neighborhood Development Services Fee Schedule. These changes are designed to support the upcoming updates to our development review process. The primary goal is to ensure that our fee schedule will align with the changing development review process that staff is currently undertaking. One of the anticipated updates involves modifying the fee structure for development plan review and final site plan submission. These changes are intended to reflect revised timelines, additional review steps, and new service levels that align better with what the desired outcome of the development code is as a whole. Fees for sublots and easement plats will be proposed as a separate standalone application as opposed to the current approach of processing them under boundary line adjustments. This will make it easier for tracking and record keeping and having a better understanding of the sublots that we approve in this process.

Next Slide – Tier 3 Amendments

These represent the more comprehensive policy changes that need to conform with the development code. Unlike the more technical tiers, Tier 3 would address the fundamental principles that guide our long-range

planning efforts. Tier 3 is all about critical policy updates. These amendments will focus on establishing or conforming key policy directions that require in-depth analysis because of their broad impact. They are significant because they affect long-term planning, involve a careful evaluation of our goals and policies. These are big picture decisions that help us shape our community's future. Given the far-reaching nature of these changes, community engagement is paramount. Extensive outreach will need to be planned to gather feedback and ensure that any modifications align with the public's priorities. Due to their complexity and the critical resources involved, Tier 3 Amendments will be prioritized within the broader future NDS work plan. This means that we are taking a phased deliberate approach, one that will allow detailed research, stakeholder involvement, and an extended review period to ensure that every aspect is thoroughly vetted before implementation.

Next Slide

On this slide, I will discuss several key examples of the Tier 3 Amendments. These proposals are more than just technical updates. They represent fundamental policy changes that require in-depth analysis and broad community input to shape the long-term planning. The first example looks at re-examining height measurements, not just in terms of feet, but also the number of stories within our residential districts. Due to interlocking regulations tied to façade and street-facing, how stories are counted becomes very different per development. Staff continually runs into issues related to height in the R districts that was not present under the old code. These complex regulations may be preventing additional units by too strictly controlling story counts that could be regulated by maximum feet.

The guidelines for fences and walls under special exception permits could be up for review. Often these structures can carry significant visual and functional impacts on a site. The regulations have not always been clear-cut. By re-evaluating these rules, we can ensure that granting exceptions are both well-defined and align with our broader planning goals. Conversely, we remove these as they were not regulated under our old code. The lack of regulations did not generate negative feedback in our department.

In looking at the RN-A district, this district has unique characteristics identified in the Comprehensive Plan process and needs broad community engagement to ensure zoning regulations are meeting those goals.

Another example is the re-evaluation and better definition of what we mean by building within the R districts. This involves considering massing and allowing height based on the number of residential units, what we refer to as the townhouse effect. In many cases, height and massing can appear differently when looking at interior property lines versus external matrix. Clarifying the terms will ensure fair and consistent evaluation, help developers better understand what type of product can be built on a site.

There are currently no established cutoffs or qualifying date to determine what contributes an existing structure. Without clear criteria, the bonus might be applied inconsistently. We need to look at establishing a clear qualification date that would help ensure that the bonus truly rewards historical or architecturally significant structures.

Lastly, the current lighting section does not explicitly address the unique requirements of athletic fields, whether on public or private land. Athletic fields need specific lighting consideration, ranging from safety and energy efficiency to user comfort. By re-evaluating and examining this section, we can provide clear guidance that matches the realities of the community space

Next Slide

This slide outlines the timelines we are establishing for moving forward. Following our meeting tonight, we will have a work session with City Council on June 16th. This meeting ensures that our proposal aligns with the broader city objectives and work plan. From June through August, staff will work to refine the proposals based

on the feedback received during these work sessions. This period involves drafting and producing the necessary materials to move the amendments forward. We are aiming for a September 9th formal public hearing with the Planning Commission. This is a key moment for transparency in providing an open forum for community stakeholders, developers, and other interested parties to review the proposals, ask questions, and provide detailed comments. The process continues with another layer of engagement on October 20th during the public hearing at City Council. This session will further refine our proposal and ensure they meet both the technical criteria of the community and for adoption into the city code. We are hoping to have these proposals adopted by November 3rd of this year. These last 3 dates are subject to change as we get closer.

Commissioner Schwarz – Is there going to be any direct collaboration between us and Council on this?

Mr. Alfele – At this time, there is not a scheduled joint City Council work session. On the 10th, we will be bringing this forward at our regular meeting. We will be sharing materials with City Council on the 16th. To date, there is no joint City Council/Planning Commission work session scheduled.

Commissioner Roettger – I appreciate the different tiers. For us, a year sounds like a long time. Seeing how all these meetings must go through and set up and the time to work, it seems like Tiers 1 and 2 should be done annually. Tier 3 may or may not take longer depending on first assessing how much research it is going to take. In terms of the residential neighborhood, community engagement will take a while.

Commissioner Yoder – I agree with Commissioner Roettger. This is a good approach.

Commissioner Stolzenberg – One of these touches on the contents of the Standards and Design Manual and conflicts between the code and the SADM. As part of this process, is there some plan to begin to review what is in the SADM? As I recall, we adopted it in 2019. We talked about doing a review every year. That was 2 city engineers ago. Are we thinking about how these 2 things integrate together?

Mr. Alfele – Specifically, I have been working with the city engineer closely on our development review update proposals. We have not had any conversations about the SADM and revising it at this time.

Commissioner Joy – I am grateful from the University's perspective to have this presence here looking through it. With Tier 1, I could see a lot of times, as you use the code, you find these typos and spelling errors and some grammatical issues. With Tier 2, it seems like there are some other ones. Is this a feedback loop coming from people submitting applications? Is it people who are interested in submitting, but they see a sticking point? I am curious how the Tier 2 stuff was daylit.

Mr. Alfele – Yes. It is also just a living document. We are trying to keep track of these as we are going through projects where we are hearing issues, but also where we are seeing issues as we are doing our review. It is added to. We are adding to and keeping track of where we are running into with all 3 Tiers.

Commissioner Joy – Is the comment about Tier 3 is maybe some more clarity? I understand they are going for consideration. I don't know if there is a Tier 3. You mentioned the work plan. If there is some way in the annual process to be up front about where Tier 3 currently stands, I imagine that backlog could grow? At what point does something fall off Tier 3? With Tier 1 and Tier 2, it seems like you have a good sense of clarity as this happens on an annual basis. We have a process. With Tier 3, I understand it is new. It would be helpful once you go to Council and other ones to have a sense of what that process looks like.

Mr. Alfele – Tier 3 is going to be about balancing priorities and in working what we can into a larger work plan. There are going to be some tradeoffs. Some of those might keep falling because they are not raising to the level that should be addressed in this work plan yet.

Commissioner Joy – Maybe the name ‘Tier 3’ is the issue. Maybe it is more of an amendment of consideration group. It should be something that differentiates it. It sounds like if you were to drill down on Tier 3, there are tiers of Tier 3 of things that seem like we could do, and other things feel like they are beyond the grasp.

Mr. Alfele – We want to keep track of these things. Tier 3 needs to jump from Tier 3 to a work plan. We are making sure that there is somewhere that is all inclusive of these changes we are making. At least, we can look back at it and say, ‘this has been on this list for several years, but it keeps getting bumped down because of other priorities.’

Commissioner Schwarz – My question was whether we will have a chance to interact with Council. I feel they don’t necessarily always agree with us. I want to make sure there is some sort of dialogue between the 2 groups. I don’t know if that means that you share your notes from the Council meeting with us at our Planning Commission meeting that happens after that or if there is some way to make that happen while keeping the schedule as efficient as you have it.

Mr. Alfele – We can have those discussions.

Commissioner Stolzenberg – Nothing in the schedule indicates any kind of interaction with us before the public hearing. I don’t want to drag out the schedule. It seems like another touch point for a work session might be helpful after things are drafted or at least after a direction is determined on any item that has any kind of nuance to it. I would also add that this plan has an initiation and public hearing on the same date. That was one of the factors that was counted against Arlington when their expanded housing options ordinance was overturned. I expect that will probably be overturned on appeal. We may want to initiate prior to that just to be safe.

Chairman Mitchell – With the Tier 3 public interaction, public engagement piece, we will hopefully give a lot of thought to that. I have nightmares going back to the early days of putting together the revised Comprehensive Plan. We (being the Planning Commission and NDS) managed that. Hopefully, we have learned a little bit from that, and we can streamline that a little bit. We can know when we have done enough. It seems like we got on a slippery slope, and we could not get off it. It is my hope that we don’t get back on the slippery slope again.

Mr. Alfele – One of the litmus tests we are using is that a public hearing is a form of public engagement. When there is something from these tiers that, as a body, whether it is Planning Commission or City Council or staff feels this needs a touch point beyond a public engagement, it needs a public outreach process, that is when we should feel it should be on Tier 3. That has been our litmus test, as that dividing line between Tier 1, Tier 2, and Tier 3.

Chairman Mitchell – The other point that I am attempting to make is that we did not know when enough was enough in the public outreach.

Mr. Alfele – That is one of the nice things. Under our new structure with having a long-range planning manager and our new long-range planner, we now have a division within NDS that will be focused on those things. That will help.

Chairman Mitchell – This question is relating to SB974. What do we do today with development plans? What is our role today?

Mr. Alfele – With the Planning Commission right now, there are some holdovers from the old code that affects more than the new code. Under the old code, the Planning Commission would be the approval authority for any

site plan or subdivision related to a PUD, any site plan that had a special use permit, any site plan subdivision or development plan that was called up that you wanted to look at. You had a lot of approval authority under that. That now goes to staff. You cannot call up a site plan or development plan or subdivision plan. Those need to be approved administratively.

Chairman Mitchell – So the public understands, we are no longer involved in special use permits.

Mr. Alfele – You are still involved for making recommendations if someone comes to this body who wants a special exception or a special use or rezoning. They still come to this body to get a recommendation on that. That goes to City Council. The actual site plan or subdivision or development that goes with that, once they get their special exception or special use granted, that would not come back to you.

Chairman Mitchell – Most of those approvals have been ministerial.

Mr. Alfele – That is correct. Most of those have been on the Consent Agenda.

Commissioner Stolzenberg – The one big change might be that the public only sees the site plan. We only see the site plan on the agenda. My hope is that we will post more on the permit portal. I know you have had issues with site plans because of the file size. It would be great to either figure out those issues or have them as a notice on the next Planning Commission agenda after those are ministerially approved.

Mr. Alfele – I will take this opportunity to plug the live Development Map that is on the NDS website, which is a great resource for this body and the public, who want to see plans that are under review or under construction in a map form. Our GIS analyst has worked very hard to get that up and running.

Group Discussion

A. Whether any proposed amendments have been assigned to the incorrect tier.

Commissioner Solla-Yates – I have a concern about c-8. It looks like this is a time sensitive loophole. This is in Tier 3. Since this is time sensitive and it is an important loophole, complicated or not, we need to get it done. This is that existing building exists now. Therefore, I can build a second home now.

Mr. Alfele – That is a good discussion. The reason we have it on Tier 3 is because we recognize it is a loophole. We do not know what date we would want to use. We would be comfortable if Planning Commission feels there is a date they wanted to move this up to Tier 2. The one thing I would caution is that if staff starts to feel or we are hearing from the community our reaction is going to be that this needs to drop back down to Tier 3 so we can hear from the community.

Commissioner Solla-Yates – I do have 2 ideas. One is as the consultant suggested was my understanding was when the ordinance was adopted. That is the date. If it existed at that time, it exists. My other one is a bit more future proof. If it is 5 years old since certificate of occupancy, it exists.

Mr. Alfele – I cannot remember. I would have to look to see how long we keep the certificates. We don't keep them indefinitely. They do get purged. It is 5 years.

Commissioner Stolzenberg – My general thought on C items is that some of them do seem like they might elicit a lot of feedback from the public. Others are just complicated like that one. We need to talk about them. It is not something that I would imagine most members of the public are going to have strong feelings about. With things like midblock pedestrian pathways, I would think with something like that or like the existing structure preservation, if we had encountered this problem in mid-2023, we would have had a 5- to 10-minute discussion

about it at a work session to come up with an answer. Nobody would have commented on it. That is not all these items. It is a fair amount of these items. I wonder if there is a way to make a 3A and a 3B with a more expedited process for some of them.

Mr. Alfele – There is an opportunity if you feel there is agreement in this body if you feel there are certain things you would like to move up from Tier 3 to Tier 2. There is also the possibility if you feel some of these Tier 3 items are more important. As the work plan gets going, these should be looked at as priorities in next year's work plan. There are 2 ways to look at that.

Commissioner Schwarz – The example about the townhouse that you had for 0 lot lines. It was B-1. You were making the alternate form. I would love to see that stay in Tier 2. I feel that is going to take some discussion. I would like to know more about that one. We could spend some time on that. I would love to see all these items stay and not get bogged down in Tier 3. We do need to talk about that one.

Mr. Alfele – I can give the example. One of the key differences between our old code and new code was that types of dwelling went away. There is no longer this regulatory framework of single-family detached, single-family attached, two-family, and multi-family. That terminology is gone. Under the new code, it is all just about units and the number of units you can put on your parcel. Under the old code, you had the most common types of attached dwellings (two-family), which was 2 units on one parcel and no property line splitting them. Single-family attached were 2 units but they shared a common property line. Under our current code in the R districts, you have a 4-foot side setback. By code, you were prevented from having 2 units touch that have a shared property line. You cannot get that 4-foot separation. Right now, the only alternative form we have in the code is the shop front. This would allow the alternative form, so you are coming forward and saying, 'I want to allow in the R districts. I want to have 2 units that have a shared property line.' This would allow that by removing the feet, but all the regulations, all the transparency, and all the entry features stay the same. This goes to the other thing with time when we get into some of these in Tier 3. Even though we have come to what we think works for the alternative form, there has been a lot of discussion, a lot of internal staff meetings on what is the best way to get this form that we know we want as a community. We don't want to make everyone want to build a single-family or multi-family on one lot. That is what has been the driving it.

Commissioner Schwarz – That completely makes sense. When I looked at your example, you had an 80 percent lot coverage for it. That is significantly more than anything in the R-A, R-B, or R-C. I don't know where those are set. Looking at it, it seemed like you could set up a series of townhouses. Townhouses are great. We would like to have townhouses. This regulation seems to allow a whole block of them. It seems like you are getting more building mass than we would before. It seems like more discussion needed to happen.

Mr. Alfele – That discussion has happened. This is an older draft. We just ran out of time. The newer draft talks about still having one of your sides being attached. The other must be 4 feet. It prevents having a lot that has 0 on both sides.

Commissioner Schwarz – Are we going to see that draft at our Planning Commission meeting when it is time approve this?

Mr. Alfele – When we come forward with a public hearing, we would have all this.

Commissioner Schwarz – My concern is that when that finally comes to us, we are probably going to debate it then. This is an item that we probably need more time. It feels like we do need time to dig into it as a Planning Commission as well. I don't know if there is another opportunity somewhere between now and when we vote to approve the amendments to have a chance to look at that again.

Mr. Alfele – I would need to sit down with Ms. Creasy to figure out the schedule. Everything you are saying is valid. There are some logistics that tends to eat away at our time. We end up pushing out things we don't want to.

Commissioner Schwarz – The draft can go before us. We can informally give our opinion. If you get a lot of feedback individually from us and some things need to change, we then know what needs to be 'punted' to Tier 3. Does that make sense?

Mr. Alfele – Yes. We can try. We will look at our schedule to see if we can accommodate.

Commissioner Stolzenberg – I had in my notes to discuss B-1. This alternative form approach seems like it could be cumbersome, since the alternative form proposed has almost every dimension, except for the side-lot line deferring to the district dimensions. I wonder if an easier or more elegant way to do it would be simply to say that the side-lot line may be reduced to 0 if the other lot is part of a common plan of development. As you refine this approach, continue with the alternative or the alternative form method. A lot of policy preferences get baked into how you design it. Should it be allowed on one side or both? That does seem like something that would be appropriate for an open discussion among the Planning Commission and Council. I hate to move it to C. I agree with Mr. Schwarz. It is a bigger, more complex item.

Commissioner Schwarz – Have the sublots been completely unworkable?

Mr. Alfele – It is the workaround. One of the things that we are trying to consider in this too is not just what is being built, but what has already been built. There is a nonconformity issue that the current code is making a lot of the city non-conforming based on that by violating the 4-foot side setback. You have owners that are not in common development that are sharing those lot lines that we are also trying to consider. There has been a lot of discussion on this with staff.

Commissioner Solla-Yates – The side-lot setback has been a challenge for a long time. We used PUDs to awkwardly stumble around this in the past, which is why we had so many PUDs. The building code does require fireproof materials if you are within that boundary. Are we trying to solve something that is already existing in the building code?

Mr. Alfele – This was a long debate during the Development Code adoption. The building code does not line up with the side setback. Staff had made the argument about keeping it consistent.

Commissioner Schwarz – You can have it 5 feet away from the property line and you don't have to have any kind of protection. If you go less than that, you must have more of a protected wall.

Mr. Alfele – Even with the fire protection, it does not get away from the physical separation from the boundary. That is the issue.

B. Whether any amendments should be removed.

Commissioner Solla-Yates – With the sight triangle issue, it depends on the implementation. If this is being done in the NACTO guidelines, best practices of being based on intended speed, not on 85 percentile and combined with the measurement of the tree canopy, signage poles to create a more consistent triangle. That is great and necessary. If we are talking about federal highway guidelines, that is going to kill every single corner lot in the city. I would say to use caution. I agree with the safety stuff. That may solve some of our fence troubles. The fence is a sight triangle issue. With B-13 (parking lanes), I hear what the transportation staff is

saying. I disagree with them. I am good with making it a recommendation. This is not public property, not a public throughway. I don't see the value in mandating the same guidelines for off-street parking.

Commissioner Schwarz – With B.4, lots with one dwelling unit, you don't have to provide street facing entries. I am not sure what the problem is. Why do we want to delete that? Maybe we change it so that they must provide street facing entry features. I have enough Habitat houses on tight lots that they must enter from the side. They have a front porch that you can access from the front. For single-family houses, it seems a little silly to dictate that the front door must face the street as opposed to having an entrance that faces the street.

With the definition of finished grade, I am confused by that one. It seems that grade is measured wherever the code tells you to measure it. It does not have to be measured at the building footprint or a certain location. The section of the code tells you where to measure it from. For example, Section 2.10.14d (fences and walls), that point says grade. It should say finished grade. The code tells you where to measure the grade. Is it at the sidewalk, the street, or the building footprint? I am not sure there needs to be any more definition for finished grade.

As a formatting note, it seems like we duplicate the bookmarks. The second set of them is more detailed. It would be nice if we could get rid of the first set of them. If I am on the PDF and I look at the bookmarks, Division 2.10 (Rules for Zoning Districts), there is no breakdown for that. If I scroll down through the bookmarks to the bottom, there is another set of them. There, it breaks down 2.10 to a bunch of different levels. It would be nice if that formatting could be fixed so that people know that there is an easier way to navigate through this PDF. I would love it if it indicated what the division is. Some of these divisions are long. You get further down through them. I am trying to cite what section I am looking at. I don't remember what section it is. I must scroll back to find what section I am at. If there is some way to insert that on each page, it has been hard to cite portions of this code.

Commissioner Stolzenberg – I agree with Commissioner Solla-Yates about B-13 (vehicle access). I could not find where the SADM talked about private parking drive aisle design. I see that in the comments it says fire has a problem with it. If it is not a fire access lane, I am not sure that I understand why it is important to fire. I agree that we should not be dictating more space required for parking on a private lot that the public will not use anyway.

In B-15, it talks about the RC height bonus for affordable housing. I strongly disagree that it should be subject to the 50 percent AMI requirement. I don't think that is in line with the intent that we had when we introduced that bonus. It should just be the standard, the same as the rest of the affordable bonus in RC. I agree that there should be a section to clarify that. That seems reasonable.

For B-27 (canopy years), I am not sure that this is a request for removal. I am confused how we are saying that we are allowed to keep it as is if state code says 20 years for everybody except for Williamsburg.

I agree with Commissioner Schwarz on a lot of the usability things. I like the idea of a Section 2.8.2 continued if you are several pages down.

It seems that a new version was uploaded in November. A lot of the bookmarks and internal links broke at that point. It disappeared. In the table of contents, you cannot click on a lot of the things anymore. You must navigate to those sections. If we could get those back, that would be a huge benefit for usability.

C. Whether additional amendments should be considered, and if so, which tier they should be assigned to.

Commissioner Stolzenberg – On C-11 (special exceptions), there are 2 things there. Adding locational changes seems reasonable. Removing all rules for zoning districts (2.10) from special exceptions is premature. It seems that most of the things that have come up are related to that. That is the relief valve we have for a lot of those form-based things that we don't fully understand yet. I could see doing it eventually, but not in the next year.

It seems build-to width has become a tricky issue. I wrote most of a memo in 2023 about how it applies to certain lots. With a 105-foot lot where the build-to width is required to be 65 percent, the building width is required to be no more than 60 feet. You get into this situation where there is no way to meet both of those. If you read the build-to width section, 2.10.6.a.3.a.4, it says, 'once the minimum build-to width requirement has been satisfied, buildings and structures may occupy the area behind the maximum building setback.' That could be read in 1 of 2 ways. One is a basic explaining that this is what build-to width is. Once it is fully satisfied, you can do it elsewhere. The other is until you hit the build-to width, you can put down buildings in the build-to area between the minimum and maximum setback. It does not have to fulfill the entire width. It is just that you cannot put buildings outside of it until the width is filled. That would alleviate that problem. That is why I stopped writing my memo in 2023. Rethinking it, I think it is that narrow or weak version of that claim. I think that is how it is being enforced, which makes build-to width this tricky problem, where we are capping maximum widths and requiring a lot of build-to width. Nearly every lot in the city has become non-conforming. It seems like a big issue that has come up in a lot of applications but also with normal people trying to put a shed in their backyard or an extra unit in their backyard where they are going to require a special exception because their existing house is not in the maximum setback. You have a non-conformity, particularly if we were to get rid of 2.10 in the list of things you can get a special exception from. Having a larger conversation about that should be on the road map.

Commissioner Roettger – I had a question about the active depth that came up a couple of times. It was in relation to parking garages. It seemed like it was popping up in a couple different places. You could have the example of the one that we looked at on East Jefferson, the idea of a café having a fence being active versus a solid fence. I wondered if all the discussion about what that active wall would be. It would maybe come together rather than be in different tiers. The description of fence and we are in the active depth. What is happening on either side? It seems like there could be some making sure that they are all working together. There were some by use and some that are by material. I remember looking at it and thinking that this was coming up, this idea of where we wanted activity, and whether it was active depth or walls or fences. It was asking similar questions. One was C-16. Maybe the other ones were looking at a fence and needing a better definition of a fence. There are active fences along cafes or places where they are designated so you don't fall into the street. It is not to block sight. It is to block a view. Maybe those should not be separate things like the idea of the active depth. What you want to see relates to the fence. It was talking about the ground floor. With B-24 (active space), it is talking about what is habitable space, residential, and commercial. It seemed like it was asking the same question.

Mr. Alfele – With B-24, better defining our active depth because we have this active depth requirement of 9 feet. Tier 3 was more on this broader question of parking garages being allowed. There is this active depth requirement and how do we want to address that. We were thinking of maybe addressing active depth in Tier 2 in the broad terms. This idea of trying to have the parking garage very similar to Water Street. In theory, you have active depth. Active depth is the whole façade up. That would mean pushing your parking back 9 feet once you were above the 1st floor.

Commissioner Roettger – That was more just a question like it was a theme that seemed to be repeating between different kinds of structures. That is all. It was just to be consistent between what we want to see in a parking garage, a fence, and whether space is being occupied by humans. It seems like 'dancing' around.

Mr. Alfele – It is all connected. One of the lenses we are looking through is what we can get done in a reasonable time. That is why some things that might be in Tier 3 might involve a lot of discussion. Let's push it down a little so we get that discussion and get that community engagement

Commissioner Roettger – Some of that might be helped by reinforcing the Tier 1. Tier 2 discussions could help the Tier 3 when we come to those kinds of decisions that touch many different areas. That will maybe help when it comes to looking at parking garages. I had the same questions about the B-1 knowing that we would like attached units. Just wanting to talk through that some more. I was excited about some of the things to do with alleys and parking that was down in Tier 3 that is going to need some more research. It is important to probably clarify what is legal and available as people are looking at some of these spaces.

Commissioner Yoder – I saw on the slide that one of the things you are going to re-evaluate is the RNA district. I don't see it in the table of items. Is that intentional?

Mr. Alfele – It should be in Tier 3. It has been on the radar. The RNA came out of the sensitive neighborhoods from the Comprehensive Plan. There might need to be more thought put into it than what we put into it when we initially adopted the code.

Commissioner Yoder – Some things that are not here, and I am curious where they are in the department's thinking in the commercial uses in R districts. That is something I know when the zoning code passed, it was a discussion before it passed. I forget if it was in the same draft. There has been talk about at some point that we should look at this and understand what might be appropriate. Is there a reason why that is not in Tier 3? Is that something you are looking at a longer time frame?

Mr. Alfele – No. It probably should be. The reason it is not there is because it has been placed in the NDS work plan. There are some things in there like the small area plans that are not in the Tier 3 because they were already captured there.

Commissioner Yoder – I have seen that on the NDS work plan. I did not quite understand how that interacts with this table. That is helpful to know.

I think it would be helpful for us to understand how some of these things in the zoning code that you are evaluating, what their impact has been on overall development. For example, we have affordable dwelling unit requirements over a certain number of units. What is the before and after picture of a lot of this? Have we seen a change in the number of affordable units built? Have we seen a change in the number of market rate units built? Another one I am curious about is that we eliminated parking requirements. I am curious to know if developers are building the same number of parking spaces per unit. My questions and comments are more down the road for when you are getting into your evaluation of some of these more substantial things.

I want to go back to Commissioner Solla-Yates' comment on B-13 (maximum language widths) and how they are in contradiction of the fire code and The Standards and Design Manual. I am wondering if there are certain things that are already regulated by other standards that we have. Do we need to regulate them in the zoning code? That is just a general comment about that.

Commissioner Solla-Yates – In terms of what I am hearing from the public, I hear 2 sides of the same coin. 'How do we not build affordable housing? It is so expensive,' and 'Oh God, we need affordable housing. How do we build more?' I am interested to get an understanding of how well our inclusionary zoning ordinance is doing in providing the affordable units we need and any tools that we can provide to tweak those numbers to get more on the ground.

Mr. Alfele – OCS (Office of Community Solutions) is working on that. From the development side, I can tell you that we are having a lot of conversations. The applications that we are getting are 4 units, 6 units. We are going to see a lot of units come online in the next couple of years. Those are all legacy projects. We are still going to be dealing with our legacy projects for years with the bulk of units that we see come online in the next 3 to 4 years.

Individual Input

Commissioner Roettger – Some of the things that we were saying could move from 2 to 3 or needed more discussion. I heard B-1. Since we can control our own work session time, maybe those are things that we could flush out more or even invite people in to discuss in terms of the number of the bonuses in Tier 3. Help keep things moving as NDS lays out their plan. Some of these will move through the year. They make sense to clarify with some of the bigger issues that are moving to Tier 3. Have a work session about some of these topics, such as the attached units, the bonuses, the number of affordable units being built. During the year, if we can, we can get some other input, invite people to come, and discuss with some people that have been trying to use the new code, so we are not having to ask through NDS. We can have a discussion with some developers or affordable housing providers.

Chairman Mitchell – You are onto something. A conversation with the PHA and the Southern Developers to make sure we have gotten this right with us.

Commissioner Yoder – On the public engagement front, I know there was talk about starting some small area plans soon. That would be a great opportunity to hear from people about some of these things at Tier 3. If you are going to be doing engagement, especially in a neighborhood with lots of RNA parcels, you could get feedback directly from people at the same time as doing your small area plan.

Commissioner Stolzenberg – I agree with Commissioner Roettger. What would be helpful is for us to have a work session like those in mid-2023 where we go through each item one-by-one. A lot of these things can be knocked out with a little discussion. That discussion might say, ‘this is something that we should get input on.’ In advance of that discussion, solicit input from practitioners, architects, developers, and affordable housing providers. I have heard that they may have already written memos along those lines. I worry that we are going to get into a trap where before changes to the code were very difficult to do. It was the code. Any change required a lot of debate and deliberation and a year of process. When we were crafting this code, we were doing it more efficiently. It was not already adopted. We were finding and knocking out problems in a meeting where we would go through several dozen items at once. Most were minor and very technical. Most of the public will not be worried about one way or the other. I worry that, with this process laid out, a lot of things that could be accomplished and fixed through that process will end up taking a long time because this is the code that is already adopted. Therefore, we need to view any change to it as a long cumbersome process that requires a lot of public input. There are things in this that do require public input. There are many things in C that seem technical that might need a discussion to figure out the right approach but are not highly controversial or highly salient for the public items. I would like to keep thinking that will require extensive public engagement to those that the public will care about.

Commissioner Schwarz – B-14 talked about the fences. The issue with the deck railings that we had is that this could be simple. We either exclude guard rails that are required by code, or we measure the fence from the floor surface and everywhere we allow fences up to 42 inches in all districts. It would solve the issue with the ABC barriers. If you are allowed a 42-inch-high fence, I think that satisfies any ABC concerns. We also have Section 2.10.14.d.1c that says, ‘when a guardrail is required on top of a retaining wall, the guardrail is exempt from the maximum height measurement.’ We can use that same logic for guardrails on elevated surfaces, such as a deck. I would allow fences up to 42 inches everywhere. That solves the problem. You have B-17, existing

streetscapes determined to be in good condition by the administrator can be used to comply with the clear walk zone and green scape zone. Your comment says to comply with all standards is confusing. It is interpreted to mean the standards within 4.45d. There are no standards in 4.45d. I am not sure what you are trying to get at. It does feel like you have a problem. There needs to be some standard or something for the developer to comply with if they are not going to provide the green scape. If they are not going to provide the streetscape zone as mandated by the code, I am confused by what you are trying to say in your suggested fix. With B-21, Fence Type X, I think this had to do with fences around outdoor storage. Does this want to be a fence, or does it want to be a landscape buffer? I think you have landscape buffers with types. I don't think we have fence types. I am not sure that if you have a storage yard adjacent to a street, that would normally only be allowed to have a 4-foot fence. I don't think we want to mandate a 6-foot fence right there. That is a more complicated discussion than I am understanding. With active space, instead of defining what active space is, would it be easier to define what we don't want within a certain distance of the façade? It seems like the big thing is just parking. I get worried that we seem to also not want storage. Does that mean you cannot have a closet? If we can't have storage, it must over so many square feet or percentage of the active space. It is the same thing with mechanical or utility space. It is going to end up there at some point. I don't we care if someone has a water heater closet up against their exterior wall. We probably don't want a big generator room. This active space thing is becoming a big issue. It might be more important to define what that exterior wall is and how much transparency there is. Unfortunately, we might be looking into garages. At the same time, we are having developments that cannot be built because they cannot build the garage they need. With the existing structure preservation bonus, we should just use Code Studios recommendation. That seems simple. We can pull this out of Tier 3.

Commissioner Solla-Yates – I have been looking at the fences. Planning.org has put a long explainer about what a fence is and what it means. It has a lot of conflicts. We don't need to define it. It has been heavily defined. I like Philadelphia's definition: an unroofed barrier or unroofed enclosing structure including retaining walls. I would suggest that we no reinvent the wheel on this. If we can make this simple and move forward, that is fantastic.

Chairman Mitchell – I appreciate that the councilors are busy. I appreciate that they wanted to cut down on the number of meetings that they are having. It worries that they are going to be looking at this stuff without having met with us to talk about it. I think you and Mr. Schwarz negotiated a compromise that you made sure that they got all the feedback that we outlined. It would be wonderful if the June 16th meeting could be a joint session. If it cannot be a joint session, it would be good if we showed up to speak if we were given an opportunity to speak at that meeting.

Adjournment

The meeting was adjourned at 6:30 PM

Public Comments

There were no public comments submitted during this work session.