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Great Adaptations: Shaping the Future of Historic Preservation in Philadelphia through an Adaptive Reuse Ordinance

Abstract

Widespread vacancy and long-term disinvestment in neighborhoods across the City of Philadelphia have left historic preservation efforts and opportunities at a crossroads. The properties currently listed on the Philadelphia Register of Historic Places represent only a small fraction of the city's built fabric that is eligible for such recognition. Therefore, it is crucial for the City of Philadelphia to look towards the future, and develop a strategy that will encourage more opportunities for historic preservation to take place. This thesis asserts that Philadelphia would benefit from enacting an Adaptive Reuse Ordinance, which would both allow for and encourage expanded opportunities for historic preservation across the city. This assertion is based on case study analyses of all current ordinances utilized to incentivize adaptive reuse on the city-level in the United States, as well as extant survey data related to Philadelphia's historic building stock and individual neighborhood characteristics. Through evidence linking adaptive reuse to elevated levels of preservation, sustainability, and neighborhood reinvestment, this thesis contends that an Adaptive Reuse Ordinance would create more opportunities and heightened engagement with historic preservation throughout the City of Philadelphia.

Keywords

alterations, development standards, development incentives, rehabilitation, sustainability

Disciplines

Historic Preservation and Conservation

Comments

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GREAT ADAPTATIONS: SHAPING THE FUTURE OF HISTORIC PRESERVATION
IN PHILADELPHIA THROUGH AN ADAPTIVE REUSE ORDINANCE

Violette Harrington Levy

A THESIS

in

Historic Preservation

Presented to the Faculties of the University of Pennsylvania in
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To the City of Philadelphia.

“Old ideas can sometimes use new buildings. New ideas must use old buildings.”

-Jane Jacobs, *The Death and Life of Great American Cities*

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Introduction

In recent years, the City of Philadelphia has seen a resurgence in population, which has led to increased neighborhood densities and the perceived need for new development projects to house a growing number of residents. However, this perception may in fact be misguided. In a recent study of Philadelphia, the Preservation Green Lab, a research arm of the National Trust for Historic Preservation, found that:

Compared to areas with large new structures, character-rich blocks of older, smaller, mixed-age buildings contain more than twice the population density, twice the number of jobs in small and new businesses, and nearly two billion dollars in private investment through the federal tax credit.¹

While this data supports the continued preservation of Philadelphia's historic fabric, currently, there are only approximately 10,000 historic buildings included on the local register, representing roughly 2.2% of the over 490,000 properties in Philadelphia.² To place these figures within a greater context, across 50 major cities in the U.S. there is an average total of 204,038 buildings per city. As compared to Philadelphia's 2.2% of locally designated properties, the 50-city local designation average is nearly double, at 4.3%.³

Achieving historic designation on the local register in Philadelphia is no small task. The nomination process requires research skills, as well as a thorough understanding

¹ National Trust for Historic Preservation, Preservation Green Lab and The Urban Land Institute, Philadelphia, "Retrofitting Philadelphia: The Partnership for Building Reuse," (National Trust for Historic Preservation, September 2014), 1.

² The Preservation Green Lab has identified 493,217 individual properties in Philadelphia. This total figure is inclusive of all property types (new construction, potential historically significant buildings/structures, etc.).

³ National Trust for Historic Preservation, Preservation Green Lab, "The Atlas of ReUrbanism: Philadelphia Factsheet," (National Trust for Historic Preservation, July 2017), 2.

of both architectural elements and major historic building trends. The city is fortunate to have a group of committed preservationists, who aid in these nominations. However, with such a large stock of buildings, sites, and structures that contribute to the historic fabric of Philadelphia, there is a deep gap between what can be done and what needs to be done to provide the specific range of protections that are provided through local designation. This is not to say that there are not alternative paths to protecting historic resources. For example, the creation of local historic districts represents a quicker path to designating more properties, but the process has proven to be, politically, more challenging. In the eyes of many local developers, prime real estate is prime real estate, whether it is a crucial aspect of community identity or not. This problem becomes more pervasive in areas where disinvestment is apparent. Developers, neighborhood residents, and city agencies represent just a few of the many groups that often view the demolition and replacement of neglected or abandoned structures as improvement projects that contribute to an improved quality of life. In addition, if a property is not deemed historic, let alone designated, there is a perceived notion that demolition is not the wrong approach.

It is important to understand that preservation is not a static tool, and therefore, cannot exist within a silo of curated objectives. Loss of historic fabric within a neighborhood interrupts the sense of continuity found perhaps most strongly among intact streetscapes, which has real effects on the sense of orientation within a community. Although the term ‘preservation’ often conjures up thoughts related to the built environment, the people who occupy these environments require equal consideration. The question then becomes how to balance the impulse to preserve historic fabric for the

people who associate it with specific cultural, social, and economic aspects of life, while also allowing opportunities for developers. The objective of this thesis is not to suggest the elimination of new development from the City of Philadelphia, but rather to enhance opportunities for investment through sensitive changes within communities that have rich historic fabric, yet suffer from long-term disinvestment. Essentially, this study seeks to put new construction and development on equal footing with rehabilitation and reuse, rather than making the former seemingly more attractive.

Adaptive Reuse | Theoretical Evolution

Adaptive reuse is not a recent phenomenon. The theoretical underpinnings of what has become a central preservation concept evolved during the late Renaissance Period, when classical monuments were transformed to suit new uses. More specifically, throughout the French Revolution (1789-1799) religious buildings were both confiscated and sold, then converted for industrial and military uses. However, these interventions “were done in a pragmatic way, in many cases without heritage preservation as an intention. Instead, the driving force behind reuse was basically functional and financial.”⁴

In the late 19th century, the French theorist Emmanuel Viollet-le-Duc developed the first theoretical approach to adaptive reuse. He recognized reuse as a logical way to preserve historic monuments, stating “the best way to preserve a building is to find a use for it, and then to satisfy so well the needs dictated by that use that there will never be any further need to make any further changes in the building.”⁵ John Ruskin and William Morris, two of le-Duc’s contemporaries, objected to his theory, citing it as “impossible, as impossible to raise the dead, to restore anything that has ever been great or beautiful in architecture.”⁶ Instead, Ruskin and Morris promoted regular building maintenance to ensure the longevity of historic buildings.

At the turn of the 20th century, the theorist Alois Riegl examined the conflicting ideas presented by Viollet-le-Duc, Ruskin, and Morris. Riegl found that inherent conflicts

⁴ Bie Plevoets and Koenraad Van Cleempoel, “Adaptive reuse as a strategy towards conservation of cultural heritage: a literature review,” *WIT Transactions on The Built Environment*, Vol. 118 (2011): 156.

⁵ Emmanuel Viollet-le-Duc, *The Foundations of Architecture, Selections from the Dictionnaire raisonné* (New York: George Braziller, 1990).

⁶ John Ruskin, *The Seven Lamps of Architecture* (London: Smith, Elder, 1849).

existed between each of the 19th century theories because of differing values ascribed to historic monuments. He sorted the theories, creating two distinguishable categories for different types of values: commemorative values and present-day values.⁷ Through this type of categorization, and “By including the use-value in his assessment of monuments, he recognized reuse of historic buildings as an intrinsic part of modern conservation.”⁸

During the second half of the 20th century, architects began to shift attention from new development to building reuse projects. This shift was initiated, in large part, as a reaction to the 1970s-global energy crisis, which triggered a sudden awareness of limited natural resources. In fact, the first noted use of the term ‘adaptive reuse’ was in 1973, during the peak of the crisis.⁹ From the 1970s onward, adaptive reuse has been a primary topic of conversation, both at conferences on architecture and conservation and in scholarly literature.

⁷ Riegl identified monuments with commemorative value as those with age-value, historical value, and intentional commemorative value. He identified monuments with present-day value as those with use-value, art-value, and newness-value.

⁸ Plevoets and Van Cleempoel, 156.

⁹ Liliane Wong, *Adaptive Reuse: Extending the Lives of Buildings* (Basel: Birkhäuser, 2017), 30.

Adaptive Reuse | Current Research and Practice

At present, research relating to the current applications of adaptive reuse straddles several fields of study, including, but not limited to, heritage conservation, architecture, urban regeneration, engineering, sustainability, and economics.¹⁰ Because so many disciplines are now involved in studying the many facets of adaptive reuse, there is an ample amount of literature on the topic. The recent and ongoing research is valuable, as it points to many of the benefits of adaptive reuse, as well as several of its challenges.

There is a central question under investigation in several of the abovementioned fields of study: Development for whom? While this question seems narrow, scholars and practitioners have assessed it from many angles. David Listokin, Barbara Listokin, and Michael Lahr, three preservation scholars, point to the issue of displacement and its ties to neighborhood revitalization. Listokin, Listokin, and Lahr note that neighborhood revitalization is fostered by historic preservation, but can also lead to the displacement of longtime area residents. More specifically, these scholars point to enhanced rehabilitation, retail invigoration, and property appreciation as key reasons that low-income households and small, privately owned businesses are pressured out of neighborhoods that receive attention in the form of revitalization efforts.¹¹ Peter Werwath comments on this issue with observations based on his own fieldwork in several cities. First, Werwath specifically notes the differing effects of urban renewal versus historic preservation, which is an important concept to understand. Unlike preservation, urban

¹⁰ Plevoets and Van Cleempoel, 157.

¹¹ David Listokin, Barbara Listokin, and Michael Lahr, "The contributions of historic preservation to housing and economic development," *The Housing Policy Debate* Vol. 9, Issue 3 (1998): 464.

renewal begins with bulldozed lots, creating a ‘blank slate’ and, therefore, more options for redevelopment and increased economic potential.¹² While urban renewal efforts across the country were once a major cause of resident displacement, Werwath notes that in recent years, the rate of renewal has slowed. Instead of demolishing whole parts of a neighborhood, cities have trended towards keeping habitable residential properties intact, particularly those outside of downtown areas.¹³

As Werwath observes, historic preservation offers considerably fewer options for redevelopment, as it aims to preserve not only existing street grids and building envelopes, but also interior floor plans.¹⁴ Oftentimes, developers and investors utilize the same preservation pattern. Most commonly, existing single-family historic properties, which once hosted low-cost rental housing, are upgraded for occupancy by middle and high-income households.¹⁵ This form of rehabilitation is most easily tracked, as rental housing in certified historic structures is the only form of housing that qualifies for the historic rehabilitation tax credit.¹⁶

Another key issue addressed by those studying the effects of adaptive reuse and historic rehabilitation is the question of authenticity, primarily in terms of building materials. While this topic seems dissimilar to the abovementioned question of who

¹² Peter Werwath, “Comment on David Listokin, Barbara Listokin, and Michael Lahr’s ‘The contributions of historic preservation to housing and economic development,’” *The Housing Policy Debate* Vol. 9, Issue 3 (1998): 488.

¹³ *Ibid*, 489.

¹⁴ *Ibid*.

¹⁵ Werwath, 489.

¹⁶ The Limited Partnership Low-Income Housing Credit (LIHTC) represents another tax credit that can be used for adaptive reuse projects, even if a project does not involve a historically certifiable structure. Owners of buildings funded by the LIHTC must set aside a certain percentage of units for low or moderate income residents. This type of development is also more easily tracked, but, as mentioned, is not limited to historic structures.

benefits from development, the two are inherently linked. Rebecca Sohmer and Robert E. Lang, research associates for the Fannie Mae Foundation, point to this connection in their work. Sohmer and Lang note that holding historic buildings to strict standards, requiring them to be restored to a high degree of authenticity, puts low-income residents at a distinct disadvantage.¹⁷ Additionally, Sohmer and Lang cite procedural and public policy issues, such as determining what buildings are historic, locating appropriate building materials, and navigating regulatory processes, as key factors that determine historic preservation's viability in promoting community development.¹⁸ Finally, Sohmer and Lang specifically address preservationists and planners, stating they should recognize that authenticity is not just about historically accurate building materials. They instead suggest that buildings are authentic enough if they retain elements like historic scale, style, and form.¹⁹ Through de-emphasizing building materials, Sohmer and Lang suggest that historic preservation, specifically rehabilitation, can be a more viable strategy for spurring reinvestment in low-income community development.²⁰

Historic preservation efforts, including adaptive reuse, are challenged by the current disconnect between preservation policy and practice. As identified by Erica Avrami, "Historic preservation has the potential to serve as a constructive agent of change within the built environment and to contribute to goals of environmental, economic, and social sustainability."²¹ However, ongoing tensions between the goals of

¹⁷ Rebecca Sohmer and Robert E. Lang, "Beyond this old house: Historic preservation in community development," *Housing Policy Debate* Vol. 9, Issue 3 (1998): 426.

¹⁸ Ibid.

¹⁹ Ibid, 429.

²⁰ Ibid, 428.

²¹ Erica Avrami, "Making Historic Preservation Sustainable," *Journal of the American Planning Association* Vol. 82, Issue 2 (2016): 104.

sustainability, current preservation policies, and practice have made it difficult to create a common agenda.²² Avrami is correct in pointing out the discrepancies between the goals of the abovementioned fields of study, many of which currently complicate the efficacy of promoting adaptive reuse. As mentioned by Tom Mayes, Vice President and Senior Council at the National Trust for Historic Preservation, society at large has yet to fully acknowledge the “green” values of building reuse.²³ Although Mayes notes that a reuse ethic seems to be growing, the challenge has become getting people to understand the role of old buildings and communities within the greater ecology of what we hope to sustain.²⁴ Avrami suggests that one way to address the issues raised by Mayes is to formulate a better understanding of both where tensions exist and the reasons why conflicts arise. The underlying challenge to accomplishing this, per Avrami, has been “enhancing research about preservation outcomes and their contributions to sustainability and evolving preservation policy to better respond to changing environmental, economic, and societal conditions.”²⁵

Carl Elefante’s assertion that “the greenest building is the one that is already built,” encouraged a considerable amount of scholarly research about the relationship between sustainability and historic preservation.²⁶ However, as Avrami notes:

Most of these studies are advocacy driven, commissioned and undertaken with the intent to prove that current practices of historic preservation are economically

²² Avrami, 104.

²³ Tom Mayes, “Why Do Old Places Matter?,” *Preservation Leadership Forum*. The National Trust for Historic Preservation, October 30, 2014, <http://forum.savingplaces.org/blogs/forum-online/2014/10/30/why-do-old-places-matter-sustainability>. (accessed March 28, 2018).

²⁴ Ibid.

²⁵ Avrami, 104.

²⁶ Carl Elefante, “The Greenest Building Is...One That is Already Built,” *Forum Journal* Vol. 21, Issue 4 (Summer 2007).

viable, rather than structured to understand how the preservation field could better align its goals with a sustainable economic development agenda.²⁷

To counter the limited scope of these studies, large organizations, in particular the National Trust for Historic Preservation, have recently created programs dedicated to examining how strategies for adaptive reuse can impact both national goals and those of individual cities. Specifically, the National Trust analyses have placed emphasis on creating new approaches to preservation, aligning the goals of preservation policy with those of practice and sustainability.

In 2009, the National Trust created the Preservation Green Lab in a mission to advance research that “explores the value that older buildings bring to their communities, and pioneer policy solutions that make it easier to reuse and green older and historic buildings.” In its first report, published in 2011, the Green Lab provided “the most comprehensive analysis to date of the potential environmental impact reductions associated with building reuse.”²⁸ The report concluded that, when comparing buildings of similar size and functionality, building reuse almost always yields fewer negative environmental impacts.²⁹ Since the publication of its initial report in 2011, the Green Lab has completed several other, city-specific, studies and surveys. In these, the Green Lab addresses key barriers to reuse in cities across the nation, providing local governments

²⁷ Avrami, 108.

²⁸ National Trust for Historic Preservation, Preservation Green Lab, *The Greenest Building: Quantifying the Environmental Value of Building Reuse* (Washington, DC: National Trust for Historic Preservation, 2011), VI.

²⁹ Per the first Green Lab report, “The range of environmental savings from building reuse varies widely, based on building type, location, and assumed level of energy efficiency. Savings from reuse are between 4 and 46 percent over new construction when comparing buildings with the same energy performance level. Warehouse-to-multifamily conversion is an exception: it generates a 1 to 6 percent greater environmental impact relative to new construction in the ecosystem and human health impact categories.” (National Trust for Historic Preservation, Preservation Green Lab, *The Greenest Building*, 2011.)

with suggestions as to how sustainability, preservation and policy goals can be addressed in tandem. In 2013, Philadelphia was selected as a study city by the Preservation Green Lab. The report that resulted from the Green Lab's survey of the city will be analyzed, in-depth, in a later chapter of this thesis.

Methodology

The following chapters of this thesis are focused on assessing the viability of an Adaptive Reuse Ordinance for the City of Philadelphia. To formulate the basis of this recommendation for Philadelphia, extant Adaptive Reuse Ordinances and Programs, in five U.S. cities and one state, have been analyzed to gain an understanding of whether current local level policies have created more opportunities for building reuse. Each of the current Ordinances and Programs are carefully examined, with attention placed on the relative purpose clauses and building standards in each policy. Moreover, this thesis thoroughly examines the incentives created through each of these local policies, as well as whether a uniform set of incentives cannot be utilized across each city. Additionally, one state level approach, also created to stimulate building reuse, has been evaluated to demonstrate how altering building codes creates new opportunities for rehabilitation. This state level policy is examined to expand the scope of building reuse approaches assessed in this thesis, pointing to the fact that are other ways to encourage reuse outside of local level policy changes.

Following the analysis of current policies that have been adopted to encourage adaptive reuse in targeted locations across the United States, this thesis shifts attention to Philadelphia. The city's Historic Preservation Ordinance is examined and used to place the research in this thesis within the current regulatory framework of Philadelphia. Emphasis is placed on the objectives of the Ordinance, as well as the duties of the Philadelphia Historical Commission. Factors that limit the expected productivity of the

Commission, which involve its current structure and the processes employed, are also addressed.

Due to the time constraints of this thesis, a comprehensive survey of the City of Philadelphia was not possible. Instead, recent studies conducted by the National Trust for Historic Preservation in collaboration with the Urban Land Institute, have been utilized to evaluate the key barriers to adaptive reuse in Philadelphia. These studies, which include various types of city data mapping, have also been used to identify areas of the city that would be most impacted by the adoption of an Adaptive Reuse Ordinance. Stakeholder interviews, which constitute a large portion of these recent collaborative studies, are also used in this thesis to address the barriers to reuse that have been identified by the residents of Philadelphia.

The methodology outlined in this section identifies how research for this thesis was conducted. However, it is also important to note the inherent drawbacks to the selected data collection and evaluation approach. The primary issue with this methodology is that it does not allow for a consistent evaluation of ‘success.’³⁰ This issue is particularly noticeable in the chapters dedicated to examining the extant Adaptive Reuse Ordinances and Programs and state level building code changes, wherein it is difficult to assess the success of these policies, due to a lack of accessible and uniform data. Where data that testifies to the success of these individual ordinances, programs, and policies is available, it has been included in this thesis. It should be understood,

³⁰ For the purposes of this thesis, ‘success’ is being used to express how effective each of the ordinances, programs, and code changes analyzed have been in promoting adaptive reuse, against their stated goals and within their respective circumstances.

however, that these metrics for success are not uniform, meaning some cities have measured their relative success in revenue, whereas others have used the amount of housing created through adaptive reuse as a measure.

Adaptive Reuse Ordinances and Programs

To better understand how the City of Philadelphia can expand upon current preservation opportunities and begin trending towards discouraging the demolition of historic structures –encouraging rehabilitation rather than replacement –it is useful to analyze efforts that have been made elsewhere. In recent years, several cities throughout the United States have utilized new policies and tools to provide for the broader retention of neighborhood fabric in areas with high densities of underutilized or vacant historic buildings.

While these new tactics for preservation span a wide spectrum of approaches, for the purposes of this study, focus will be placed on the use and impact of what will collectively be referred to throughout this study as Adaptive Reuse Ordinances and Programs. Additionally, the New Jersey State Rehabilitation Subcode will be discussed as an alternative approach to promoting adaptive reuse on the state-level. Los Angeles, CA, Long Beach, CA, Santa Ana, CA, St. Petersburg, FL, and Phoenix, AZ currently represent the only five cities in the U.S. that have adopted reuse policies to extend preservation opportunities at the local level.

The following chapter will compare the fundamental details of each city policy, including purpose clauses, eligibility criteria, incentives, development standards, and administration processes. The objective of the following section is not to belabor the minute details of each city policy, but rather to demonstrate out how these policies function as preservation strategies. Furthermore, the following section will provide a set of guiding principles rooted in current practice, with the intent of aiding in the

development of a sensitive, yet appropriately stringent, policy suggestion for the City of Philadelphia.

Los Angeles, CA | Adaptive Reuse Ordinance

In 1999, Los Angeles, California became the first of the abovementioned five cities in the United States to implement an Adaptive Reuse Ordinance. The Ordinance was originally approved for the Downtown area, and owing to its success, was extended in 2003 into other neighborhoods of the city to provide more widespread opportunities for building reuse.³¹ The Ordinance was conceived of with the distinct purpose “to revitalize the Greater Downtown Los Angeles Area and implement the General Plan by facilitating the conversion of older, economically distressed, or historically significant buildings to apartment, live/work units or visitor serving facilities.” Primarily, this is a housing-oriented policy for the City of Los Angeles, focused on the creation of residential units in designated Incentive Areas (Figure 1). According to the L.A. Office of Historic Resources, a division of the Department of City Planning, “The Adaptive Reuse Ordinance has become one of the most significant incentives related to historic preservation in Los Angeles, facilitating the conversion of dozens of historic and under-utilized structures into new housing units.”³² As stated in a report from February 2006, “Since the initial Adaptive Reuse Ordinance and fire and life safety measures went into effect in 1999, over 6,500 units [had] been completed, or [were] currently under construction. An additional 4,000 units [were] in the development pipeline.”³³

³¹ In 2003 the Ordinance was expanded to cover parts of Hollywood, Mid-Wilshire, Koreatown, Chinatown, Lincoln Heights and Central Avenue.

³² Office of Historic Resources, Department of City Planning, “Preservation Incentives.” *Adaptive Reuse Ordinance*, <https://preservation.lacity.org/incentives/adaptive-reuse-ordinance> (accessed 12 Jan. 2018).

³³ City of Los Angeles, Mayor’s Office of Housing and Economic Development, *City of Los Angeles Adaptive Reuse Program*, Los Angeles, CA: February 2006, <https://www.downtownla.com/images/reports/adaptive-rescue-ordinance.pdf> (accessed December 3, 2017).

Since the City of Los Angeles implemented its Adaptive Reuse Ordinance, building reuse for housing has become an attractive form of development and real estate investment. It is unlikely that no single individual in Los Angeles thought of adaptively reusing a structure before this Ordinance was adopted. However, prior to 1999, there were only limited local level incentives for the reuse of a historic building, therefore leading to a diminished interest in preserving them.³⁴ Since the Ordinance was added to the Los Angeles Municipal Code in 1999, two key allowances have been made available, specifically for adaptive reuse projects. First, it provides for an expedited approval process, which can often be one of the most time-consuming phases of a development project. Second, the Ordinance ensures that buildings eligible for reuse are not subject to the same zoning and code requirements that apply to new construction.³⁵ This does not mean building codes can be ignored, rather, it points to the city's willingness to accept a more flexible approach to achieving equivalent compliance with current requirements to allow for building reuse, so long as occupant safety is not jeopardized.

Per the Ordinance, there are also several incentives and exceptions that apply to reuse projects, allowing for more flexibility in the design process and expanded options for live/work building types. For example, an incentive of the policy is that dwelling

³⁴ Ordinance No. 156,279, effective February 20, 1982, established alternate building standards for joint living and working quarters for artists (Artist-in-Residence).

³⁵ "Eligible buildings include those constructed in accordance with building and zoning codes in effect prior to July 1, 1974. Eligible buildings also include those constructed in accordance with building and zoning codes in effect on or after July 1, 1974, if; 5 years have elapsed since the date of issuance of final Certificates of Occupancy; and a Zoning Administrator finds that the building is no longer economically viable as an exclusively commercial or industrial building. Buildings designated on the National Register of Historic Places, the California Register of Historic Places, the City of Los Angeles List of Historic-Cultural Monuments, contributing buildings in National Register Historic Districts, and contributing structures in Historic Preservation Overlay Zones are also considered eligible buildings." (Los Angeles Adaptive Reuse Ordinance).

units, joint living/working quarters, and guest rooms are not subject to the lot area requirements of the zone or height district.³⁶ Allowable exceptions for building reuse projects relate to floor area, height, and yard restrictions. Floor area that exceeds what is permitted by the zoning code or any land use regulation is permitted, and building heights that exceed current limits and yards that do not meet current requirements may remain intact. Simply put, the need to obtain a variance for the abovementioned exceptions is eliminated for projects that meet the building requirements of the reuse code.

In addition to the abovementioned incentives and exceptions provided for standard building reuse projects in Los Angeles, the city Ordinance also allows for undertakings referred to as *Unified Adaptive Reuse Projects*. These are intended to be projects composed of two or more buildings that meet a specific set of characteristics. To be a qualified Unified Adaptive Reuse Project, the buildings being utilized must have functional pedestrian or vehicular linkages, common architectural or landscape features, and a unified appearance when viewed from adjoining streets. This project type may also include lots that abut or are separated only by an alley or are located across the street from any portion of each other. A public hearing is not required if all property owners provide, in writing, that they have no objections to the project. Collectively, these provisions allow for expanded opportunities for large-scale building reuse projects and help further the main objectives of the Ordinance. It is important to understand that the

³⁶ Additional incentives include that additional on-site parking is not required. Instead, the required number of parking spaces is the same number of spaces that existed on site on June 3, 1999; Adaptive reuse projects are exempt from Mini-Shopping Center/Commercial Corner Development regulations; Adaptive reuse projects are exempt from Site Plan Review requirements; Loading spaces are not required on-site unless one already exists.

incentives for building reuse projects provide for regulatory flexibility and an expedited approval process. They have had a significant impact, even though they are not, however, financial incentives.

Metrics measuring the success of Los Angeles' Ordinance have been obtained through recent studies focused on measuring the number of adaptive reuse projects completed since 1999. As cited in one study, between 1999 and 2014, Los Angeles created 13,361 new housing units through adaptive reuse.³⁷ The study broke down this overall figure into projects completed per year (Figure 2). In looking at the annual data, it is apparent that certain years had higher rates of adaptive reuse than others. To place this data within the context of all development in Los Angeles between 1999 and 2014, "for every 1 adaptive reuse project that was developed, there were 171 new buildings constructed."³⁸ Although these comparative figures make the number of completed adaptive reuse projects seem quite small, it is important to recognize that the Ordinance was successful in promoting reuse and creating new housing units. This has allowed the city to narrow a sizable gap in the housing supply and market demand. Moreover, the sustainability goals of the city have been addressed with the Ordinance, "through the encouragement of mixed commercial residential uses in existing buildings around Downtown Los Angeles, which are also many times located by transit services."³⁹ A 2015 study conducted by John Chamberlain points to the key characteristics of adaptive

³⁷ Ahmad Dahdoul, Juanito Maravilla, Timothy Norton, Charlene Unzueta, and Meidi Xu, "Building California's Future: Increasing the Supply of Housing to Retain California's Workforce," University of Southern California, May 7, 2017. <http://cfce.calchamber.com/wp-content/uploads/2017/06/CFCE-Building-Californias-Future-Final-Report-May-7-2017.pdf>. (accessed March 9, 2018), 21.

³⁸ Ibid, 18.

³⁹ Dahdoul, Maravilla, Norton, Unzueta, and Xu, 17.

reuse projects completed in Los Angeles between 1999 and 2014 (Figure 3). On average, reuse projects created 112 dwelling units within existing structures with an average of 5 stories. The average original construction year of the buildings utilized was 1931, and the average building square footage was 73,504.

Long Beach, CA | Adaptive Reuse Ordinance

In 2014, two more cities in California added Adaptive Reuse Ordinances to their respective municipal codes. Long Beach, CA, a coastal city and port located roughly twenty-five miles due south of Los Angeles, adopted its Ordinance on January 1, 2014. Santa Ana, CA, which is located to the southeast of Los Angeles within Orange County, adopted its Ordinance in October of the same year. Due to their geographic locations within the state of California, the development standards outlined in these two additional Ordinances necessarily vary. Both Ordinances, however, do reflect many of the same standards and incentives provided for by the Los Angeles Adaptive Reuse Ordinance. It is both likely and logical to presume that the city agencies responsible for writing the Long Beach and Santa Ana Ordinances referenced the extant Los Angeles program supporting adaptive reuse. Thus, although they apply to three cities with varied architectural features and historic significance, these three, independent ordinances are remarkably similar.

As mentioned, each of these three ordinances share many of the same key characteristics. However, it is worth detailing both the individual purpose statements and important differences that exist between them. Each purpose statement is directly related to the specific objectives of the city, and many of the key differences between these ordinances emerge due to varied historic building stock, as well as the particular demographic composition of each area.

The Long Beach City Council amended its Municipal Code in January of 2014, adding two new sections related to adaptive reuse. Since sections were added to an

existing Ordinance, the allowances for adaptive reuse projects are classified as *Special Development Standards*. As stated in the amended Ordinance:

The intent of the adaptive reuse [ordinance] is to allow conversion of existing structures into new land uses that maintain or enhance the character of a neighborhood or district, extend the life of the building, reduce use of new construction materials and reduce construction waste generated, and provide additional employment or housing opportunities in appropriate and compatible locations.⁴⁰

This is not to say that buildings cannot be adaptively reused for non-residential purposes, however, opportunities to do so are limited by the language of the Ordinance. As stated, “Non-residential uses introduced into any multiple-family residential zones through adaptive reuse shall be compatible with the surrounding neighborhood as determined by the Site Plan Review Committee.”⁴¹

The exceptions outlined in the Los Angeles Adaptive Reuse Ordinance, relating to setbacks, building heights, and residential unit size requirements, are consistent with those allowed by the City of Long Beach. The main point of contrast between the requirements outlined in the Los Angeles City Ordinance and those outlined in the Long Beach Ordinance relate to parking. Separately from the reuse Ordinance, The City of Long Beach has one “Designated Parking Impact Area” (also referred to as a “Parking Impacted Area”), which encompasses parts of the First, Second, Third, Fourth, Sixth, and Seventh Council districts. Because Long Beach is located on the coast and attracts many tourists to its beaches year-round, the city has struggled to maintain enough street parking for residents. Per the City of Long Beach website, “The Parking Impact Area was

⁴⁰ City of Long Beach, CA Adaptive Reuse Ordinance.

⁴¹ Ibid.

developed through an extensive parking survey conducted with the help of a consultant to determine residential areas in which at least 75% of the on-street parking spaces were occupied at night.”⁴² As a result of the overlap between the *Designated Parking Impact Area* and the areas where adaptive reuse projects are permitted in Long Beach, there are several parking requirements associated with the Ordinance (Figure 4). In terms of existing parking, the overall number of spaces must be maintained, with exceptions made only for the purposes of providing required ADA parking and/or access. Additional stipulations mandated by the Ordinance relate to both residential and non-residential parking requirements. In terms of sites being adaptively reused for residential purposes, a minimum of one space per dwelling, plus one guest space for every four dwellings must be supplied.⁴³ Alternatively, sites being adaptively reused for non-residential purposes are required to supply a minimum of two spaces per every 1000 square feet of usable internal space.⁴⁴

Emphasis is clearly placed on the importance of parking as a key feature of adaptive reuse projects in Long Beach. While it may seem a bit unexpected to focus on such a nuanced characteristic of a given project, the city has determined, through a logical series of studies, that without adequate parking for both residential and non-residential uses, the Ordinance would not have the desired impact. In effect, the Ordinance has aided in making Long Beach both more accessible for tourists and more attractive to those individuals seeking out beachside businesses and/or residences.

⁴² City of Long Beach California, District 2, *Parking Solutions*, Long Beach, CA: n.d., <http://www.longbeach.gov/district2/community/projects/parking> (accessed January 29, 2018).

⁴³ City of Long Beach, CA Adaptive Reuse Ordinance.

⁴⁴ Ibid.

Since Long Beach adopted its Ordinance in 2014, building reuse projects have added several residential units, retail spaces, and office spaces in the Downtown area. Between 2014 and 2016, a total of eight adaptive reuse projects were undertaken, many of which have since been completed.⁴⁵ These projects have involved the reuse of various building types, including the 114,267-square foot former City Hall East building, the Newberry Department Store, an abandoned AMC movie theater, the historic American Hotel, and the Security Pacific National Bank Building.⁴⁶ Through the adaptive reuse of these buildings and others, nearly 800 residential units have been created and over 33,000 square feet of retail and office space has been added to the Downtown area.

Although only eight projects utilized the Ordinance within the first two years of its existence, it is clear that the intentions of the policy are working effectively to stimulate building reuse. These first eight projects have encouraged both residential and commercial development in the Downtown area, creating a more equitable balance between residents and tourists. Moreover, the vacant and abandoned buildings that once contributed to the blight of Downtown Long Beach have become desirable investments through the incentives and exceptions allowed for by the Ordinance.

⁴⁵ These projects have been identified using an annual publication (*Downtown Plan Update*) generated by the Development Services Department of Long Beach, CA. Reports from 2014, 2015, and 2016 were used to identify the eight adaptive reuse projects that have been completed/are currently in progress.

⁴⁶ Although not explicitly stated in *Downtown Plan Update* Reports, the abovementioned adaptive reuse projects are likely also projects that took advantage of the 20% Federal Tax Credit.

Santa Ana, CA | Adaptive Reuse Ordinance

In October of 2014, Santa Ana became the third city in California to enact an Adaptive Reuse Ordinance. Like the Los Angeles Ordinance, the City of Santa Ana policy limits adaptive reuse projects to four distinct “Project Incentive Areas (Figure 5).”⁴⁷ In addition to being located within an incentive area, buildings being considered for adaptive reuse must also meet the city’s eligibility requirements, which are similar, though not identical, to the eligibility requirements set forth in both the Los Angeles and Long Beach Ordinances.⁴⁸ Like Los Angeles, the Eligibility clause in the Santa Ana Ordinance allows the inclusion of buildings beyond those already placed on both the National and Local Register. Buildings located within the four Project Incentive Areas are also deemed suitable for reuse if they are eligible for listing on the National, State of California, or City of Santa Ana Register, based on the criteria of each respective listing process.

The stated purpose of the Santa Ana Adaptive Reuse Ordinance is “To provide alternative building and fire standards for the conversion of eligible buildings, or portions thereof, in Project Incentive Areas from Nonresidential Uses to dwelling units, guest rooms or joint living and work quarters.”⁴⁹ This city Ordinance both permits and promotes, “The change of use of an existing, economically obsolete building into a new, more productive use such as apartments, condominiums or live/work units,” as long as, as

⁴⁷ The four Adaptive Reuse Project Incentive Areas are North Main Street, Midtown, the Transit Zoning Code Area, and the First/Grand Corridor.

⁴⁸ Per the Santa Ana City Ordinance, an Eligible Building is considered any building within a Project Incentive Area that was constructed in accordance with building and zoning codes in effect prior to July 1, 1974, or which has been determined to be a historically significant building. Any building on the National Register, California Register, or the City of Santa Ana register is eligible.

⁴⁹ Santa Ana, CA Adaptive Reuse Ordinance.

in Los Angeles and Long Beach, the building is located within an incentive area and is considered eligible.⁵⁰

In terms of development standards, Santa Ana differs from the two previously mentioned city Ordinances in a few key ways, relating to both residential and commercial requirements. Residential units must be a minimum of 500 square feet, unlike the required minimum of 450 square feet in both L.A. and Long Beach. The Santa Ana Ordinance also stipulates that the ground floor of a multi-level building, defined as having three or more stories, must be used as commercial or retail space if it contains street frontage.⁵¹ Open spaces, in the form of public/private common areas, are also a stipulated requirement of reuse projects in Santa Ana. Per the Ordinance, ten percent of the building square footage must be allocated for open space, and must be disbursed throughout the building.⁵² All but twenty-five percent of the required open space can be used for private areas, such as balconies.⁵³

The development incentives outlined in the Santa Ana Adaptive Reuse Ordinance are nearly identical to the fundamental incentives provided for by both the Los Angeles and Long Beach policies.⁵⁴ While the Long Beach Ordinance contains strict language about parking requirements, the Santa Ana Ordinance stipulates that new parking spaces are not required for converted building use. An exception to this relates to increased

⁵⁰ Santa Ana, CA Adaptive Reuse Ordinance.

⁵¹ Ibid.

⁵² Ibid.

⁵³ As stated in the Santa Ana Ordinance, “twenty-five percent of the open space shall be in the form of a community/recreation room. The remaining open space may be private balconies (50 sq. ft. minimum), a pool or spa area, public courtyards –these must have seating areas, enhanced landscaping, barbeque areas, and other amenities as determined by the Planning Division.” (Santa Ana, CA Adaptive Reuse Ordinance).

⁵⁴ Buildings eligible for reuse that present with non-conforming setbacks and/or heights, including any rooftop construction, are considered ‘legal-nonconforming,’ and therefore allowable, per the Ordinance.

square footage within an adaptively reused structure. If square footage is added for residential purposes, the Ordinance requires a minimum of two parking spaces per new dwelling unit. As earlier mentioned, the stated Purpose clause of the Santa Ana Adaptive Reuse Ordinance provides for Alternative Building and Fire Standards. These provisions allow for “alternate building material, design, or method of construction,”⁵⁵ but must be both approved and equivalent to what is prescribed by the Fire Code. As stated:

The alternative building regulations need not impose the same requirements as regulations adopted pursuant to *California Health and Safety Code* Section 17922, but in permitting repairs, alterations, and additions necessary to accommodate Adaptive Reuse Projects, the alternative building regulations shall impose such requirements as will, in the determination of the Building Official, protect the public health, safety and welfare.⁵⁶

Additionally, the Ordinance states:

The use or occupancy of an eligible building can be changed and the building can be occupied for purposes in other groups without conforming to all California Fire Code requirements, provided the new use is less hazardous, based on life and fire risk, than the existing use.”

The Alternative Building and Fire Standards, as provided by the Ordinance, are meant to expand opportunities for adaptive reuse to a greater number of buildings within the four Project Incentive Areas in Santa Ana.

It is unclear how many adaptive reuse projects have been completed since Santa Ana adopted its Ordinance in 2014. The first project proposed under the Ordinance was for the reuse of a 1950s-commercial building. The goal of this project was to create 57 affordable housing units, to aid the city in addressing a critical low-income housing

⁵⁵ Santa Ana, CA Adaptive Reuse Ordinance.

⁵⁶ Ibid.

shortage.⁵⁷ Available literature suggests this project was approved, but its completion cannot be confirmed. What is clear from examining publicly available city budget data is that the approval process for adaptive reuse projects, referred to in city's fiscal year budget data as the 'entitlement process,' is lengthy. In the 2015-2016 fiscal year Adopted Budget, the Action Plan indicates completion of the entitlement process for a project called 'Santa Ana Lofts adaptive reuse project' as a goal. The same project is again mentioned in the Action Plan section of the 2016-2017 fiscal year budget, indicating it was not approved in the previous year. As project completion metrics for adaptive reuse are not readily accessible, it is difficult to ascertain whether the Santa Ana Lofts project is a special case, or if the approval process is altogether too lengthy.

In addition to relaxing certain building and fire codes and parking requirements through the Ordinance, the City of Santa Ana has also tried to make adaptive reuse more enticing by waiving its requirement that developers include affordable housing in commercial-to-residential conversion projects.⁵⁸ Although the city has provided several ways to incentivize adaptive reuse, the issue may be the building stock available for reuse. The reuse incentive areas in Santa Ana are focused on districts with an elevated number of vacant and abandoned office buildings. The Santa Ana Ordinance encourages building reuse, primarily for the purposes of creating more residential opportunities, which is difficult to accomplish within the design scheme of a typical high-rise office

⁵⁷ Nadine Ono, "Santa Ana aims to fill sizable affordable housing gap." California Economic Summit, July 2016, <http://caeconomy.org/reporting/entry/santa-ana-aims-to-fill-sizable-unmet-need-for-affordable-housing> (accessed February 1, 2018).

⁵⁸ Erika Aguilar, "Santa Ana wants developers to convert office towers into housing," Southern California Public Radio, September 30, 2015, <https://www.scpr.org/news/2015/09/30/54717/santa-ana-wants-developers-to-convert-office-tower/>. (accessed March 31, 2018).

building. Therefore, placing such focus on this hyper specific building type may, in fact, be discouraging reuse in Santa Ana.

Phoenix, AZ | Adaptive Reuse Program

In 2008, Phoenix became the second city in the United States to implement an Adaptive Reuse Ordinance. This policy differs in many ways from each of the abovementioned California City Ordinances. Most importantly, it is not restricted to any specific development zone or district in Phoenix. Therefore, the program can be used throughout the city, allowing more opportunities for adaptive reuse projects. The entire regulatory structure of the Phoenix Program is also quite different from the policies used in California, as a tier system is used to classify structures and differentiate regulations. The City of Phoenix has lauded its Adaptive Reuse Program as being “one of the most comprehensive programs of its kind in the country, [offering] development guidance, streamlined processes, reduced timeframe, and cost savings to customers looking to adapt older buildings for new business uses.”⁵⁹

The City of Phoenix began its Adaptive Reuse Pilot Program in April 2008. Since then, over 100 successful adaptive reuse projects have been completed, leading to more businesses per block and higher employment rates in the city. Unlike the previously discussed California policies, Phoenix approaches adaptive reuse using a tier system and considers any structure permitted prior to 2000 as an eligible structure. The tiers classify projects by building size, wherein Tier 1 structures are a maximum of 5,000 square feet, Tier 2 are between 5,000 and 25,000 square feet, and Tier 3 includes structures between 25,000 and 100,000 square feet as well as Large Scale Commercial Retail, as defined by the Zoning Ordinance.⁶⁰ Both Tier 1 and Tier 2 structures can include an addition to the

⁵⁹ City of Phoenix, Arizona, Adaptive Reuse Program.

⁶⁰ Ibid.

existing building, with the stipulation that the addition does not exceed 50% of the square footage of the existing building and the combined total of the area does not exceed 5,000 square feet.⁶¹ Once an eligible structure is defined by its tier, the Development Services Department assigns a representative, what they call a ‘Single Point of Contact,’ to each project.⁶² This individual, who is a representative of the Office of Customer Advocacy, becomes the point of contact for projects meeting the criteria for the Adaptive Reuse Program. They assist customers in resolving both technical and process-related issues, and make sure customers are aware of the community and economic development programs which could be of assistance to them. Although the point of contact may transition from one staff person to another between the due diligence stage and the plan submittal phase, the goal of this structure is to make sure the customer always has a direct line to ask questions and review their project when needed.

Over the years, The City of Phoenix has adopted several policies, programs, and administrative practices that can be applied, to all project tiers, using their Adaptive Reuse Program; including: Community and Economic Development Programs, Historic Preservation Zoning Applications, Historic Preservation Grant Applications, Enforcement Efforts, Sustainability Policy, and Zoning Adjustment Agendas.⁶³ The Adaptive Reuse Historic Preservation Policy, an integral piece of the Adaptive Reuse

⁶¹ City of Phoenix, Arizona, Adaptive Reuse Program.

⁶² The Development Services Department, also referred to as the Development Division of the Planning & Development Department (PDD), oversees plan review and inspections for all components and phases of development and construction. The division is comprised of three sections; the Office of Customer Advocacy, Plan Review and Permits, and Inspections.

⁶³ The Phoenix Adaptive Reuse Program is formatted differently than the other city ordinances. Whereas the other cities contain all policy information related to building reuse in one document, the Phoenix Program divides each policy into individual documents.

Program, incentivizes the reuse of eligible historic properties by giving priority to adaptive reuse projects when processing historic preservation zoning applications.⁶⁴ In these cases, the Historic Preservation Commission serves as the applicant for the rezoning case, and processes the case as quickly as possible. Additionally, where possible, the Commission provides expedited building permit reviews for adaptive reuse projects. This is accomplished through issuing a Certificate of No Effect, which is considered an ‘over the counter’ approval, rather than the more typical Certificate of Appropriateness, which requires a lengthier review in a public hearing.⁶⁵

An additional benefit of the Historic Preservation Policy is that priority is given to adaptive reuse projects when allocating Historic Preservation Bond funds. These funds are accessible through the Historic Preservation Demonstration Project Program. The Demonstration Project Program “uses Historic Preservation Bond funds to encourage the rehabilitation and reuse of significant historic commercial, multi-family and/or institutional (museums, non-profit offices, churches, etc.) buildings.”⁶⁶ The program will pay up to 50 percent of the eligible rehabilitation costs “for projects which substantially preserve, restore and/or rehabilitate significant historic properties in the city of Phoenix.”⁶⁷ The Historic Preservation Office considers funding requests over \$10,000, with the maximum funding amount based on the extent to which the Project Selection Criteria are met, the extent of the project’s needs, and the availability of funds.⁶⁸ The

⁶⁴ City of Phoenix, Arizona, Adaptive Reuse Program.

⁶⁵ Ibid.

⁶⁶ City of Phoenix, Historic Preservation Demonstration Project Program.

⁶⁷ City of Phoenix, Historic Preservation Demonstration Project Program.

⁶⁸ Priority funding is given to projects which undertake critically needed stabilization, preservation, restoration or reconstruction work; Implement a comprehensive strategy for a building, including projects that adaptively reuse historic building in order to preserve it (such as the conversion of a house into a

Adaptive Reuse Program stipulates, “Where multiple projects are competing for Demonstration or Warehouse/Threatened Building grant funds, priority should be given to adaptive reuse projects.”⁶⁹ The voters of Phoenix have supported the Historic Preservation Bond Fund in three separate bond elections (1989, 2001 and 2006), totaling more than \$42 million in Program funding. However, the city is now facing a challenge, as the most recent 2006 Bond Fund is running low, and no new bond election has been scheduled.⁷⁰

Unlike the previously discussed California Adaptive Reuse Ordinances, the Phoenix Adaptive Reuse Program includes a Sustainability Policy. This policy, which applies to all three development tiers, specifically encourages the use of resources and processes that support sustainable development for adaptive reuse projects. There are no development or financial incentives listed for sustainable practices in adaptive reuse projects, instead, the policy notes, “Designing projects to include sustainable elements provides lower operating costs for the building, higher value for the property, enhanced comfort for the occupants and an asset to the community.”⁷¹ The Sustainability Handout, which accompanies the Sustainability Policy, provides several examples of elements to consider in adaptive reuse projects. These elements exist in four distinct categories:

restaurant); Exemplify the city’s Preservation Philosophy; Preserve a property that is individually listed or eligible to be listed on the Phoenix Register; Improve the appearance of a historic neighborhood area, streetscape, or individually significant site; Further city community development goals; and Provide maximum leverage of city funds through the use of private funds or other monies.

⁶⁹ City of Phoenix, Arizona Adaptive Reuse Program.

⁷⁰ Summer Sorg, “Following bond exhaustion, city looks for new preservation funds.” Downtown Devil, November 2017 <https://downtowndevil.com/2017/11/03/88018/following-bond-exhaustion-city-looks-for-new-preservation-funds/>. (accessed March 8, 2017).

⁷¹ City of Phoenix, Arizona Adaptive Reuse Program.

Civil/Site, Building, Energy, and Other.⁷² Although the Sustainability Policy itself does not incentivize the incorporation of sustainable elements and green construction, the handout does include links to state and federal tax credit programs, such as the Tax Incentives Assistance Program (TIAP), Federal Tax Credits, and the Arizona Department of Revenue, which gives tax credits for sustainable practices like incorporating water conservation systems.

In a recent article, the changes Phoenix has seen since implementing its Adaptive Reuse Program were discussed by Kimber Lanning. Phoenix's mayor appointed Lanning to the city's Development Advisory Board in 2008, and she currently serves as Vice Chair of the Board. Of Phoenix's previous approach to development, Lanning notes:

In the 1990s, when more and more people began moving to the Phoenix area, city government developed policies that fostered a culture of favoring shopping malls and new developments and any new construction. The process didn't take a lot of time –it was just something to rubberstamp. You didn't have to think outside of the box, you just marched everybody through the process.⁷³

Although this approach helped to spur development in Phoenix, there were unintended effects, namely, “the city developed a culture of disdain for the independent entrepreneur who was just trying to save old, blighted buildings.”⁷⁴

⁷² Per the Sustainability Handout, examples to consider for Civil/Site include: permeable concrete, interlocking pavers, rubberized asphalt with light colored aggregate, landscaping, and misting systems. The Building category include: shaded roof, light colored wall materials, insulation, double pane windows, shading materials, and reuse of building materials. Energy includes: low energy using appliances, solar panels, PB systems, and weatherization. Other includes: gray water use, use of HVAC condensate, low VOC materials and use of best water conservation technology as appropriate.

⁷³ Liz Button, “Phoenix adaptive reuse program eases the way for downtown development,” American Booksellers Association, September 28, 2016, <http://www.bookweb.org/news/phoenix-adaptive-reuse-program-eases-way-downtown-development-34606>. (accessed March 31, 2018).

⁷⁴ Button, “Phoenix adaptive reuse program eases the way for downtown development.”

The Adaptive Reuse Program has made it more difficult to tear down old buildings to build big box stores, which has allowed the city to protect its existing building stock. Through the Reuse Program, building reuse has become a more attractive option, for both small businesses and developers. This shift has been credited to the Program's incentives, which "come by way of credits from the city that can be put towards a renovation project's commercial plan review and permit fees."⁷⁵ This process has enabled developers to "realize significant cost savings and enjoy a streamlined and reduced timeframe for the permitting process and project review."⁷⁶ As a testament to the success of Phoenix's program, Lanning notes:

The city's Development Advisory Board initially started small, dealing only with building projects less than 1,200 square feet located in the downtown core of the city. The first 12 businesses the board put through the new program were saved an average of 4.5 months of work time and \$16,000 in fees."

The Phoenix Program began as a pilot test in spring 2008. During the test period, the Program was strictly focused on "downtown-area buildings that were up to 2,500 square feet in size and at least 25 years of age."⁷⁷ When the initial downtown pilot test ended, the Program was subsequently expanded to include all areas of the city and buildings up to 100,000 square feet, more than 100 successful adaptive reuse projects have been completed.⁷⁸ This has included the reuse of many building types in several different

⁷⁵ Button, "Phoenix adaptive reuse program eases the way for downtown development."

⁷⁶ Ibid.

⁷⁷ Frank Fairbanks, "New Lives for Old Buildings," *Governing the States and Localities*, June 17, 2009, <http://www.governing.com/columns/mgmt-insights/New-Lives-for-Old.html> (accessed April 12, 2018).

⁷⁸ Amy B. Wang, "Old buildings, new uses: Phoenix preserves history," *AZ Central*, June 13, 2014, <https://www.azcentral.com/story/news/local/phoenix/2014/06/13/phoenix-buildings-get-new-life-history/10509435/>. (accessed March 31, 2018).

ways, such as a church turned taco restaurant, an old pie factory that now hosts several small businesses, and a former brick pool house that is now a walk-up coffee bar.

St. Petersburg, FL | Adaptive Reuse Overlay Districts

In St. Petersburg, Florida, there is a wholly different approach to encouraging adaptive reuse projects. Unlike the four previous cities explored in this chapter, which have strictly used either an Ordinance or Program to foster adaptive reuse opportunities, the City of St. Petersburg uses a more typical preservation tool, known as an Overlay District (or Zone). As defined by the American Planning Association, “An overlay zone is a zoning district which is applied over one or more previously established zoning districts, establishing additional or stricter standards and criteria for covered properties in addition to those of the underlying zoning district.”⁷⁹ This tool is often used to protect special features, like historic buildings, or to promote specific development projects. As such, the City of St. Petersburg uses this tool to encourage both the retention and productive reuse of structures that have historic, architectural, or cultural value to the city, instead of seeing their underutilization or demolition because their original use has become functionally obsolete.

The City of St. Petersburg Adaptive Reuse of Historic Buildings Overlay may be utilized for the purposes of an adaptive reuse project in any zoning district, so long as one of three requirements are met. First, the overlay district may be applied if the building or structure is designated as a local or national historic landmark.⁸⁰ It may also be applied if “The building or structure would no longer be allowed under current codes with its present configuration, including lot area, dimensional requirements or off-street parking

⁷⁹ Dorothy Ariail, “Property Topics and Concepts.” American Planning Association, Spring 2007, <https://www.planning.org/divisions/planningandlaw/propertytopics.htm> (accessed February 3, 2018).

⁸⁰ City of St. Petersburg, Florida Adaptive Reuse of Historic Buildings Overlay.

requirements.”⁸¹ Lastly, the overlay district can be used if “The original use of the building no longer functions in its current environment or would create negative secondary impacts to the surrounding neighborhood if utilized for its original use.”⁸²

A building or structure that meets one (or more) of these requirements is considered an acceptable candidate for use of the overlay district, and is then classified as either a Minor or Major Reuse Case. Per the Adaptive Reuse of Historic Buildings Overlay Regulations, a project is considered a Minor Reuse Case “If a building is being converted to a use that is allowed by right, requests for permits less than \$50,000 worth of alterations (not including restorative and deferred maintenance) or only requires variances to setbacks, parking, or landscaping requirements.”⁸³ Alternatively, a project is classified as a Major Reuse Case “If a building is being converted to a use that is not allowed by right but is identified within the Reuse Chart or exterior alterations exceed \$50,000.”⁸⁴ The overlay district encourages buildings being adaptively reused to contain any use allowed by right, but may be converted to any of the uses listed in the Reuse Chart (Figure 6).

⁸¹ A building or structure also meets this criterion if it cannot easily be retrofitted to comply with the existing criteria without variances, vacating right-of-way, purchasing adjacent property, or removing portions of the existing building. City of St. Petersburg, Florida Adaptive Reuse of Historic Buildings Overlay.

⁸² For example, “a structure that was constructed as a single-family home but is today now located within the heart of a commercial strip may not function as a single-family home. Another example would be a school or church within a neighborhood that does not have sufficient space to provide parking which then overflows into the surrounding neighborhood.” (City of St. Petersburg, Florida Adaptive Reuse of Historic Buildings Overlay).

⁸³ City of St. Petersburg, Florida Adaptive Reuse of Historic Buildings Overlay.

⁸⁴ “If a use is proposed that is not allowed in the district or by the Reuse Chart, rezoning must be requested. A rezoning is not ‘spot zoning’ because the retention of a historic building is a substantial benefit to the public health, safety, and welfare.” (City of St. Petersburg, Florida Adaptive Reuse of Historic Buildings Overlay).

There are a few notable requirements that apply to adaptive reuse projects seeking a zoning variance. In addition to the standard of review for a variance, any variance for the adaptive reuse of a historic building is guided by the following parking-related factors. Adaptive reuse projects “shall provide as many required off-street parking spaces as can reasonably be provided on-site without destroying the integrity of the historic resource.”⁸⁵ Properties being utilized for residential uses must provide at least one parking space per dwelling unit (up to two bedrooms) and a minimum of two parking space for units with over two bedrooms.⁸⁶ Per the Overlay Regulations, “Variances to green yard and allowing stacked parking and shared or off-site parking are acceptable alternatives that may be allowed to meet parking requirements if the lack of parking does not create adverse impacts on the surrounding properties.”⁸⁷ In terms of adaptive reuse projects, variances are not granted for dimensional setbacks, height limits, floor area ratio (FAR), or density. Reused buildings that do not meet the current standards for setbacks, height limits, and density are grandfathered and not subject to present requirements.⁸⁸

While the language used in the St. Petersburg Ordinance appears to encourage adaptive reuse at select locations throughout the city, further research indicates this is not the case. Property owners, investors, and developers who wish to undertake a reuse project must garner neighborhood support for the creation of a local historic district. In 2015, the St. Petersburg City Council amended the Ordinance, passing a requirement that

⁸⁵ City of St. Petersburg, Florida Adaptive Reuse of Historic Buildings Overlay.

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ “Any additions, whether they extend the building footprint or building height, must comply with the applicable district regulations. If the existing building uses less than the allowable FAR in the district, it may be expanded up to the allowable FAR. If the building already exceeds the allowable FAR, it may not be expanded.” (City of St. Petersburg, Florida Adaptive Reuse of Historic Buildings Overlay).

requires a simple majority of all owners to vote ‘yes’ before a local historic district application may be submitted.⁸⁹ It is important to understand that submitting the local historic district application is just the first of many steps involved in this process. The City Council must then approve the designation, which is a multi-month process that includes several opportunities for public input, including at least two public hearings.⁹⁰ The process is not only long, but also pits neighbor against neighbor. Moreover, living in one of St. Petersburg’s local historic districts is not attractive to everyone. As stated by John Stearman, a resident of Grenada Terrace, one of St. Petersburg’s local historic districts, “When the preservationists say it’s hard to establish a local historic district, we say it’s hard to live in one.”⁹¹ This issue is not unique to St. Petersburg. Residents of local historic districts across the country often have contrasting views of the regulations that come with living in a historically designated area or neighborhood. However, as the St. Petersburg Ordinance relies on residents of the city to propose local historic districts for designation, the process has, perhaps, become too laborious for many to undertake.

Currently, St. Petersburg has six local historic districts, which are all located within larger National Register Historic Districts. This strategy of nesting local districts within national ones is, on one hand, beneficial, as it makes identifying contributing historic structures easier. However, this current system likely disincentivizes the use of

⁸⁹ Therefore, although the Ordinance language appears to suggest historic districts can be created to ‘spot zone’ reuse projects, that is not the case. Entire districts must be nominated and approved for an adaptive reuse project to take place. Per the voting regulations, all property owners who fail to vote are automatically counted as votes against submitting the district application.

⁹⁰ Preserve the ‘Burg, “Overview of 2015 Changes to St. Petersburg’s Preservation Ordinance,” Preserve the ‘Burg, n.d., <https://www.stpetepreservation.org/page-1808630>. (accessed April 1, 2018).

⁹¹ Elizabeth Djinis, “Amid St. Petersburg’s push for more historic districts, Granada Terrace considers opting out,” Tampa Bay Times, August 11, 2015, <http://www.tampabay.com/news/localgovernment/as-st-pete-city-council-considers-new-historic-designation-rules-a/2240771>. (accessed April 1, 2018).

St. Petersburg's local Ordinance. Since the Federal Historic Preservation Tax Incentive Program can be utilized for rehabilitation projects that contribute to a National Register Historic District, it seems likely that property owners, investors, and developers would take advantage of this monetary incentive before utilizing the zoning and code incentives provided through the local policy.⁹²

⁹² The 20% rehabilitation tax credit applies to any project the Secretary of Interior designates a *certified rehabilitation* of a *certified historic structure*. A *certified historic structure* is defined as a building that is listed in the National Register of Historic Places, either individually or as a contributing building in a National Register historic district, or as a contributing building within a local historic district that has been certified by the Department of Interior (National Park Service).

Adaptive Reuse Ordinances | Information Overview

To aid in synthesizing the abovementioned details for each of the five cities with an Adaptive Reuse Ordinance or Program, a series of tables have been developed. The first table outlines census data for each of the five cities as a means of comparing the demographic groups each city serves with its policy (Figure 7).⁹³ The other five tables identify and compare the purpose statements, eligibility criteria, incentives, development standards, and additional information for each city ordinance and program (Figures 8, 9, 10, 11, and 12).

⁹³ Philadelphia, PA has been included in the census data table as a preliminary step towards understanding how it compares (demographically) with the five cities studied in this chapter.

State of New Jersey | Rehabilitation Subcode

Aside from the five Adaptive Reuse Ordinances that have been discussed in the previous chapter, it is worth mentioning an alternative approach, currently utilized by the state of New Jersey, to encourage building reuse. Rather than enacting city-level ordinances in targeted areas, the state of New Jersey developed a Rehabilitation Subcode. The following chapter will detail the steps taken in creating the Subcode, as well as why it was necessary, and how it is meant to be used throughout the state.

In 1996, the need for a strategic approach to building rehabilitation in New Jersey became apparent. This realization came about as the state noticed that local construction offices had issued building permits authorizing work that had an estimated cost of over \$7 million. Additions and alterations of existing structures accounted for about 47% of that figure, representing a much higher percentage than most other states.⁹⁴ For example, in 1996, housing rehabilitation work in Trenton outpaced new construction projects for housing by more than 14 to one.⁹⁵

The Rehabilitation Subcode was developed through a partnership between the State of New Jersey Department of Community Affairs and a 30-member committee, under the coordination of the Center for Urban Policy Research at Rutgers University.⁹⁶ Between 1996 and 1998, the Committee and Department staff released two draft documents, which were discussed at public hearings, where comments and proposed

⁹⁴ State of New Jersey, Department of Community Affairs, Rehabilitation Subcode: Background and Guidance.

⁹⁵ Ibid.

⁹⁶ The Committee was composed of code officials, fire officials, architects, historic preservationists, advocates for people with disabilities, and government representatives.

improvements to the proposed document were received and discussed.⁹⁷ After necessary changes and clarifications were made to the draft proposal, the Rehabilitation Subcode was adopted and published in the New Jersey Register on January 5, 1998.

The Rehabilitation Subcode was developed to address a very specific issue: The Uniform Construction Code (UCC). As noted in the Subcode literature, “Both in New Jersey and nationally, the building code, which is oriented towards new construction, can add unnecessarily to the time and expense of rehabilitating buildings because it was not written with existing buildings in mind.”⁹⁸ For New Jersey, the ultimate challenge in creating the Subcode was the development of provisions for existing buildings that were “rational, predictable and that delivered safe and sound rehabilitated structures.”⁹⁹

Prior to the adoption of the Subcode, the process in the UCC for dealing with rehabilitation in New Jersey was the 25/50% rule.¹⁰⁰ The rule first appeared in building codes as provisions to address nonconforming buildings within fire districts. Essentially, as population and building density increased, several fire disasters alerted communities and their code officials that fire could consume entire areas of a city where buildings were of wood frame construction. Per the UCC’s 25/50% rule, “The demolition or replacement of wood frame exterior walls with conforming construction was required

⁹⁷ The Committee met over two years and approved the draft document at its final meeting on January 31, 1997. Department staff then made the draft a proposal, which was published in the New Jersey register on August 19, 1997.

⁹⁸ State of New Jersey, Department of Community Affairs, Rehabilitation Subcode: Background and Guidance.

⁹⁹ Ibid.

¹⁰⁰ The 25 and 50 are percentages that refer to cost (the cost of alterations in relation to the value of the building).

when the value of work to be undertaken exceeded 50% of the building's value."¹⁰¹

Therefore, the original intention of the rule was to disincentivize, if not prevent, rather than promote, the rehabilitation of certain classes of buildings. There were three ratios, or thresholds, in the UCC's 25/50% rule: Under 25%, 25-50%, and over 50%. Under 25% included projects where the cost of work was under 25% of the value of the structure. Per the code, city officials were charged with determining the degree to which alterations being undertaken should meet the code requirements for new construction, giving the official a great deal of discretionary power and building owners very little predictability.¹⁰² Under the second category of the rule, where the cost of work was between 25 and 50% of the structure's value, the code required that the altered or repaired portions meet the requirements for new structures. In general, the configuration of existing buildings made this difficult to accomplish, meaning that projects within this category often involved several variance requests, with again, very little predictability for the building owner.¹⁰³ When the cost of work exceeded 50% of the structure's value, the code mandated that the requirements for new structures be applied to the whole building.¹⁰⁴ This included portions of the building that were not planned for alteration or repair, meaning the entire structure had to be upgraded to the standards for new construction. Like buildings categorized in the 25-50% range, variance requests were

¹⁰¹ State of New Jersey, Department of Community Affairs, Rehabilitation Subcode: Background and Guidance.

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ Ibid.

common in projects classified as over 50%, due to the inherent limitations of the existing building.

In considering a new approach to building reuse, the State of New Jersey realized that the UCC's 25/50% rule made logical sense 100 years ago, when large numbers of existing buildings met no building code standards at all. However, by 1996, many of those buildings were long gone, necessitating a new strategy to encourage, rather than discourage, the adaptive reuse of vacant and under-utilized structures in the state.

When the Rehabilitation Subcode was enacted in 1998, it became the first comprehensive set of code requirements for existing buildings. There are two important concepts to understand before moving forward and discussing the details of the Subcode. First, "It is a standalone subchapter and, therefore, it contains all the technical requirements that apply to a rehabilitation project."¹⁰⁵ Second, "The Rehabilitation Subcode is a technical part of the Uniform Construction Code and, therefore, has no provisions governing permits."¹⁰⁶ This does not mean that permits are not required for rehabilitation projects under the Subcode. The provisions for permits and all other administrative procedures are contained in Subchapter 2 of the UCC, and work that required a permit prior to the adoption of the Subcode still requires one under the new policy.

The Rehabilitation Subcode differentiates projects by type and category of rehabilitation. There are three project types, which include rehabilitation, change of use

¹⁰⁵ State of New Jersey, Department of Community Affairs, Rehabilitation Subcode: Background and Guidance.

¹⁰⁶ Ibid.

and additions. Repair, renovation, alteration and reconstruction represent the four categories of rehabilitation under the Subcode. There are five “Sets of Requirements,” that define the level of rehabilitation work required by the Subcode, with the applicability of each set depending on both the project type and category of rehabilitation.

Products and practices, materials and methods, new building elements, basic requirements, and supplemental requirements are the five sets of requirements defined by the Subcode. Products and practices, per the Subcode, “are lists of items that are required and those that are prohibited. These requirements apply to all categories of work. It includes such provisions as the installation of a low flow toilet when an existing toilet is replaced.”¹⁰⁷ The materials and methods requirements tell those undertaking rehabilitation projects which materials to use and how to use them, but does not stipulate how much fixing the building owner must do. This requirement applies to all rehabilitation categories, except for repair. The new building elements section “lists those items which are considered new building elements when they are created as part of a rehabilitation project.”¹⁰⁸ For example, newly created atriums and floor openings are classified as new building elements.¹⁰⁹ The basic requirements only apply in a reconstruction project where work is taking place, within the defined ‘work area.’ These cover the most fundamental scoping requirements and cover such topics as means of egress, dead end corridors and exit signs.¹¹⁰ And finally, the supplemental requirements

¹⁰⁷ State of New Jersey, Department of Community Affairs, Rehabilitation Subcode.

¹⁰⁸ Ibid.

¹⁰⁹ Each item listed in this section must conform to specific section of the other technical subcodes of the UCC, which are listed in the New Building Elements section of the Rehabilitation Subcode.

¹¹⁰ The Basic Requirements are drawn largely from Subchapter 4 of the Uniform Fire Code and arranged per use group.

guide any additional work requirements. These requirements are only imposed when the work is a reconstruction project, and only when the work area exceeds a certain size. Per the Subcode, “Each supplemental requirement has its own threshold of applicability. The supplemental requirements replace the 50% of the 25/50 rule and are intended to improve the safety at the building in direct relationship with the planned scope of work.”¹¹¹ As with the basic requirements, the supplemental requirements are also arranged by use group.

The following section of the Subcode defines the categories of work for rehabilitation projects. Repair, the first category, is considered the most minimal type of rehabilitation work. The definition of repair contained in the regulations is, “the restoration to a good or sound condition of materials, systems and/or components that are worn, deteriorated or broken using materials or components identical to or closely similar to the existing.”¹¹² Under this category, materials and assemblies may be replaced with like materials and assemblies, and there is no limit to how much repair may be undertaken in connection with a given project. There are, however, a few exceptions to this rule, including requiring certain products and practices.¹¹³ Renovation, the next category of work, applies to projects that are “generally restorative in nature” and do not require the reconfiguration of any building spaces.¹¹⁴ As defined by the regulations, renovation is qualified as:

¹¹¹ State of New Jersey, Department of Community Affairs, Rehabilitation Subcode.

¹¹² New Jersey Administrative Code (NJAC) 5:23-6.3.

¹¹³ This includes such requirements such as putting in a low flow toilet when a toilet is being replaced. Exceptions can be found in the repair section of the regulations of NJAC 5:23-6.4. Products and practices is the only one of the sets of requirements that applies to repair.

¹¹⁴ State of New Jersey, Department of Community Affairs, Rehabilitation Subcode.

The removal and replacement or covering of existing interior or exterior finish, trim, doors, windows or other materials with new materials that serve the same purpose and do not change the configuration of space. Renovation shall include the replacement of equipment or fixtures.¹¹⁵

When renovation work is undertaken, there are two applicable Sets of Requirements, products and practices and materials and methods.¹¹⁶ The third category of work is alteration, which involves a change in the layout of some, but not all, of the interior building spaces. Alteration is defined in the regulations as:

The rearrangement of any space by the construction of walls or partitions, the addition or elimination of any door or window, the extension or rearrangement of any system, the installation of any additional equipment or fixtures, and any work which affects a primary structural component.¹¹⁷

Three Sets of Requirements apply to an alteration project, including products and practices, materials and methods, and basic requirements. Additionally:

To address the possibility that the reconfiguration of space could create a safety hazard, there are some additional requirements for alteration work, which specify that the work undertaken cannot create a nonconformity with the basic requirements that did not exist before the alteration began.¹¹⁸

This is a key point to understand for alteration projects. In an alteration project, “the portion of the building being worked on does not need to be brought up to the standard established in the basic requirements. The basic requirements are used as a measuring stick. The work being done cannot make the building less conforming with the basic requirements than it was before the work was undertaken.”¹¹⁹

¹¹⁵ NJAC 5:23-6.3.

¹¹⁶ In general, the materials used and the methods of installation must conform to the requirements found in the materials and methods section of NJAC 5:23-6.

¹¹⁷ NJAC 5:23-6.3.

¹¹⁸ State of New Jersey, Department of Community Affairs, Rehabilitation Subcode.

¹¹⁹ State of New Jersey, Department of Community Affairs, Rehabilitation Subcode.

The final category of work is reconstruction, which involves extensive work to the interior of a building, floor, or tenant space. These are commonly referred to as ‘gut rehab’ projects, but are defined in the regulations as “any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where the extent and nature of the work is such that the work area can be reoccupied.”¹²⁰ Reconstruction includes repair, renovation, and alteration, in any combination. The Subcode stipulates that work comprising a reconstruction project must comply with the requirements for the applicable category of work.¹²¹ A reconstruction project includes three Sets of Requirements, including products and practices, materials and methods, and basic requirements. This category of work may also include supplemental requirements as a fourth Set of Requirements. Whether this fourth Set of Requirements applies to a reconstruction project depends on the size of the project and the scope of work.

Change of Use and Additions are the other two project types addressed in the Rehabilitation Subcode. The UCC establishes construction requirements according to the way a building is used.¹²² Per the Subcode, “The Change of Use section governs what work must be done when a building that has been used for one use is changed to accommodate another use.”¹²³ Previously, the UCC stated that any building or portion of a building undergoing a change of use had to meet code requirements for new

¹²⁰ NJAC 5:23-6.3

¹²¹ The entire area must comply with basic requirements. Certain reconstruction projects must also meet the supplemental requirements, which apply only when the work area for a reconstruction project exceeds a specific size. Each supplemental requirement has its own threshold of applicability. The basic requirements and the supplemental requirements are arranged by use group.

¹²² The use or function of a building is called a use group, the Subcode uses the same groups as the UCC.

¹²³ State of New Jersey, Department of Community Affairs, Rehabilitation Subcode.

construction, which has since changed under the Rehabilitation Subcode. The change of use of a space in a building may not require that the entire building undergo a change of use group.¹²⁴ Additions are required to comply with the provisions of the technical subcodes for new construction of the UCC. Work in the existing building, which is related to the addition, must comply with the requirements for repair, renovation, alteration, and reconstruction, where such work is undertaken.

Historic buildings are addressed in separate section of the Rehabilitation Subcode. This section includes provisions for buildings that meet the standards for historic buildings established by the relevant State or Federal agencies.¹²⁵ The Rehab subcode allows for:

The use of replica materials, establishes provisions for historic buildings used as historic museums, and defines building elements that may meet relaxed code requirements in order to preserve the historic value and integrity of a historic building.¹²⁶

The New Jersey Rehabilitation Subcode has provided for the successful reuse of many buildings and structures throughout the state. Primarily, the Subcode has produced effective approaches to building reuse, focused on creating safe spaces, in terms of life and fire safety, while also encouraging the retention of original architectural features.

¹²⁴ It may mean, for example, that the change in the way the space is used may trigger the requirements of one of the technical subcodes on the UCC. For example, the plumbing subcode may require additional toilet fixtures, the electrical subcode may require fault circuit interrupters, or the mechanical subcode may require that the HVAC system be upgraded.

¹²⁵ This means buildings that could be designated are eligible for rehabilitation under the subcode criteria.

¹²⁶ State of New Jersey, Department of Community Affairs, Rehabilitation Subcode.

As compared with the IBEC regulations, the established requirements of the Rehabilitation Subcode have reduced the amount of both time and money necessary for building reuse projects.

In terms of metrics testifying to the success of the Subcode, relevant data is derived from building permit applications, supplied by the New Jersey Department of Community Affairs. From the time of its adoption in 1998, the Subcode has promoted increased rehabilitation opportunities throughout the State of New Jersey. Per data supplied by a 2007 study, “spending on rehabilitation projects increased 60 percent in the year after the adoption of the Subcode. It increased an additional 20 percent the following year, for an aggregate increase of 90 percent over two years.”¹²⁷

There are three key issues related to evaluating the continued success of the Subcode. First, available data only breaks down building permits authorized by building type. The building types assessed both fall under the main category of residential housing units, but are separated into single-family and multi-family permit authorizations. The second key issue is that the available permit data does not single-out which projects have been authorized under the provisions of the Subcode. Therefore, while the Department of Community Affairs makes annual averages for money spent on permit fees available to the public, it is not possible to tell what proportion of the earned revenue comes from rehabilitation projects. Lastly, the available building permit authorization data is inconsistent, with monthly data available for only for 2006, 2007, 2010, 2014, and 2017.

¹²⁷ Adrian L. Seward, *New Codes for Old Buildings: Comparing Rehabilitation Codes and Evaluating Their Effects*. Master’s Thesis., University of Pennsylvania, Philadelphia, PA, 2007, 25.

This is supplemented by two additional data sets, which provide annual building permit authorization totals for 1990 through 1999 and 2000 through 2009. However, as previously mentioned, these data sets only provide the total number of permits authorized by project type, and do not make clear which projects have been completed under the Subcode regulations.

Although the data supplied by the New Jersey Department of Community Affairs does not aid this thesis in establishing the success of the Subcode, other information does help to determine the effects of this statewide policy. As previously mentioned, rehabilitation work in New Jersey's five largest cities increased 60 percent in 1998. In contrast, "In 1997, the year before the code's implementation, rehabilitation work in those [five] cities increased a mere 1.6 percent."¹²⁸ Owing to the efficacy of the Subcode in New Jersey, other cities and states have requested copies to be working on their own versions.¹²⁹ Wilmington, Delaware even adopted the Subcode as their own in 2001.

Another testament to the success of the New Jersey Subcode has come in the form of awards. In 1999, just two years after the Subcode was adopted, New Jersey won the Innovations in American Government Award, which is recognized as one of the most prestigious public service awards programs in the country.¹³⁰ In 2000, the Subcode

¹²⁸ John Pattella, "New Jersey Wins National Award for Rehabilitation Subcode." *International Association of Electrical Inspectors Magazine*, January 16, 2001. <https://iaeimagazine.org/magazine/2001/01/16/new-jersey-wins-national-award-for-rehabilitation-subcode/> (accessed April 12, 2018).

¹²⁹ Per a NJ Rehabilitation Subcode update from 2000, "inquiries about the rehab subcode have been received from 14 state governments, 147 municipal governments, and 4 Canadian provinces, which is proof that New Jersey's rehab code is at the helm of innovative government." (New Jersey Department of Environmental Protection and Natural & Historic Resources, Historic Preservation Office, *Historic Preservation Bulletin*, Fall 2000, 2).

¹³⁰ New Jersey Department of Environmental Protection, Historic Preservation Office, *Historic Preservation Bulletin*, Fall 2000, http://www.nj.gov/dep/hpo/hpb_fall2000.pdf (accessed April 12, 2018), 1.

received a Special Achievement Award from the International Downtown Association, and a Certificate of Appreciation from the Public Service Excellence Awards Program.¹³¹

¹³¹ New Jersey Department of Environmental Protection, Historic Preservation Office, 2.

Philadelphia | Historic Preservation Ordinance

In this chapter, focus shifts to the City of Philadelphia. Lessons learned from investigating the Adaptive Reuse Ordinances and Programs of Los Angeles, Long Beach, Santa Ana, Phoenix, and St. Petersburg, as well as the state-level building code changes enacted in New Jersey, will inform policy suggestions for Philadelphia. This chapter will detail the city's current Historic Preservation Ordinance, how the policy functions, and its notable shortcomings. Survey data, compiled by the National Trust for Historic Preservation and the Urban Land Institute of Philadelphia, will be used to identify key barriers to adaptive reuse in the city, as well as the neighborhoods that would be best served by the creation of an Adaptive Reuse Ordinance.

In 2012, the City of Philadelphia adopted its current Zoning Code. The previous code, dating from 1963, was nearly 50 years old at the time it was updated, and no longer supported the demands of the city, much less, a modern vision for development in 21st century Philadelphia.¹³² The update was spurred by a vote in 2007, wherein “voters of the City decided to create a Zoning Code Commission and charged this 31-member body with the task of writing a new Zoning Code.”¹³³ After five years of research and analysis, the current code was enacted, “to guide the land use and development of the City and in doing so, promote the public health, safety, and general welfare of its citizens and visitors.”¹³⁴ As stated in the revised policy, “The members of the Zoning Code

¹³² It should be noted that the earlier code, dating from 1963, was updated in 1988, when the zoning rules governing Center City were significantly reformulated. However, unlike the 2012 updates, the 1988 changes to the Zoning Code did not apply to the entire city, rather, they were focused on a specific neighborhood.

¹³³ City of Philadelphia Historic Preservation Ordinance, Section 14-100.

¹³⁴ City of Philadelphia Historic Preservation Ordinance, Section 14-100.

Commission intend this to be a living document that will propel the City of Philadelphia to a higher quality of life.”¹³⁵ It is important to understand that Philadelphia’s Historic Preservation Ordinance, hereafter referred to as the Ordinance, represents just one Chapter within Title 14 of the Philadelphia Code.¹³⁶ The following information will focus strictly on the Ordinance and its details, and refer only to pertinent excerpts from other sections of the Zoning Code, as they apply.

The Ordinance has many stated purposes, which reflect how the policy is intended to encourage historic preservation activities within the City of Philadelphia. These are important to understand, as they formulate the basis for preservation in the city, and play a crucial role in guiding preservation-related decisions at the local level. Per the Ordinance, its purposes are to:

- (1) Preserve buildings, structures, sites, and objects that are important to the education, culture, traditions, and economic values of the City;
- (2) Establish historic districts to assure that the character of such districts is retained and enhanced;
- (3) Encourage the restoration and rehabilitation of buildings, structures, sites and objects that are designated as historic or that are located within and contribute to the character of districts designated as historic without displacing elderly, long-term, and other residents living within those districts;
- (4) Afford the City, interested persons, historical societies, and organizations the opportunity to acquire or to arrange for the preservation of historic buildings, structures, sites, and objects that are designated individually or that contribute to the character of historic districts;
- (5) Strengthen the economy of the City by enhancing the City’s attractiveness to tourists and by stabilizing and improving property values; and
- (6) Foster civic pride in the architectural, historical, cultural, and educational accomplishments of Philadelphia.¹³⁷

¹³⁵ City of Philadelphia Historic Preservation Ordinance, Section 14-100.

¹³⁶ The City of Philadelphia Historic Preservation Ordinance is Chapter 14-1000 under Title 14: Zoning and Planning, of the Philadelphia Code.

¹³⁷ City of Philadelphia Historic Preservation Ordinance, Section 14-101.

Members of the Philadelphia Historical Commission (PHC), referred to within this thesis as the Commission, are tasked with several duties in regards to administering the Ordinance. Primarily, the Commission is responsible for designating as historic those buildings, structures, sites, and objects that are determined as significant to the city, pursuant to the local criteria for designation. Among the duties of the Commission listed in the Ordinance, two are most notable for the purposes of this study. First, the Commission has the power to:

Make recommendations to the Mayor and City Council that the City purchase any building, structure, site or object of historic significance where private preservation is not feasible, or that the City acquire façade easements, development rights, or any other property interest that would promote historic preservation.¹³⁸

Second, the Commission may also “Adopt rules of procedure and regulations and establish any committees deemed necessary for the conduct of business.”¹³⁹

A few questions arise in regards to the abovementioned duties: How often are these powers exercised by the Commission? And what would a more active use of these powers do to promote historic preservation in Philadelphia? The city already has a Land Bank Program, which was created in 2013 “to offer opportunities to redevelop vacant properties and improve quality of life in the city’s neighborhoods.”¹⁴⁰ It would seem logical to use this in-place program to facilitate and increase opportunities for underused or abandoned structures that meet designation criteria.¹⁴¹ However, in recent years, the

¹³⁸ City of Philadelphia Historic Preservation Ordinance, Section 14-1003.

¹³⁹ Ibid.

¹⁴⁰ Philadelphia Land Bank, 2017 Strategic Plan & Performance Report, 2.

¹⁴¹ It should be noted that the Philadelphia Land Bank was not created to aid in the preservation efforts of the City. Rather, the objectives of the program are aimed at providing neighborhoods with access to green space, creating strategies for managing vacant land, the production of new affordable and market rate rentals, and providing new homeownership opportunities.

program has struggled to achieve its stated purpose, meaning that using it as the platform to advertise adaptive reuse opportunities for historic properties may be more detrimental to preservation efforts than it would be helpful. Therefore, creating a separate entity and associated program –as allowed by the Ordinance, strictly aimed at the city acquiring historic properties that would be suitable for adaptive reuse, does not seem like the best use of time for the Commission. It is crucial to understand that, while the Ordinance gives the Commission both several responsibilities and powers, it does not mandate funding for the city entity to operate consistently. Per the Ordinance, the Commission is required to be comprised of six appointed members and eight ex-officio members.¹⁴² While not mentioned in the Ordinance, it is important to note that the Commission is supported by three Committees.¹⁴³ These committees are made up of volunteers, who are subject matter experts, and each committee is chaired by a person who, in turn, sits on the Commission itself. Commission staff reviews each of applications submitted and makes a non-binding recommendation to each committee.¹⁴⁴ The point here is not to belabor the procedural details of the review process, but rather to call out the number of people and amount of time involved in the current decision-making processes, a topic that will be discussed in greater detail at the end of this chapter.

¹⁴² The Mayor is responsible for appointing members of the Philadelphia Historical Commission. It must consist of the following individuals: President of City Council or his designee; the Director of Commerce; Commissioner of Public Property; the Commissioner of Licenses and Inspections; the Chairman of the City Planning Commission or his designee; the Director of Housing or his designee; and eight other persons learned in the historic traditions of the City and interested in the preservation of the historic character of the City. At least one of the appointees shall be: An architect experienced in the field of historic preservation; an Historian; an Architectural Historian; a Real Estate Developer; a representative of a Community Development Corporation; and a representative of a community organization.

¹⁴³ The three committees include: Architectural Committee, Committee on Historic Designation; and Committee on Financial Hardship.

¹⁴⁴ Unlike the Committee and Commission members who are volunteers, the staff members are paid.

In terms of this analysis, the most important aspects of the Ordinance are contained within the Submission Requirements and Building Permit Application Review sections. Building permit applications for alteration, demolition, or construction are filed with the Department of Licenses and Inspections (L&I). For proposed work on a property listed on the local register, permit applicants must also submit their plans and specifications to the Historical Commission for review.

The Submission Requirements section outlines a distinct procedure for those permit applicants making a case for financial hardship. Per the Ordinance, “In any instance where there is a claim that a building, structure, site or object cannot be used for any purpose for which it may be reasonably adapted, or where a building permit application for alteration, or demolition is based, in whole or in part, on financial hardship, the owner shall, by affidavit” submit additional information.¹⁴⁵ There are several pieces of required information for financial hardship applications, of which two are most notable for this analysis.¹⁴⁶ First, “Any consideration by the owner as to profitable, adaptive reuses for the property,” must be submitted.¹⁴⁷ Second, “The Historical Commission may further require the owner to conduct, at the owner’s expense,

¹⁴⁵ City of Philadelphia Historic Preservation Ordinance, Section 14-1005.

¹⁴⁶ A total of seven requirements for additional information apply to financial hardship cases, the last two of which are detailed in the above text. In addition to those detailed, required information includes: “Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship, whether business or familial; Assessed value of the land and improvements thereon according to the most recent assessment; Financial information for the previous two years which shall include as a minimum, annual gross income from the property, itemized operating and maintenance expenses, real estate taxes, annual debt service, annual cash flow, the amount of depreciation taken for federal income tax purposes, and other federal income tax deductions produced; All appraisals obtained by the owner in connection with his purchase or financing of the property, or during his ownership of the property; and All listings of the property for sale or rent, price asked, and offers received, if any.” (City of Philadelphia Historic Preservation Ordinance, Section 14-1005).

¹⁴⁷ City of Philadelphia Historic Preservation Ordinance, Section 14-1005.

evaluations or studies, as are reasonably necessary in the opinion of the Historical Commission, to determine whether the building, structure, site or object has or may have alternate uses consistent with its preservation.”¹⁴⁸

This section of the Ordinance points to consideration for adaptive reuse projects, but necessitates further examination and questioning. The terms of the financial hardship submission requirements are, by no means, well defined. For instance, what does the Commission consider a ‘profitable’ opportunity for reuse and does that definition align with what owners consider profitable? Additionally, it is within the outlined powers of the Commission to require a property owner to conduct additional feasibility studies to determine if a given property is suited for an alternative use consistent with its preservation, but how often is this power exercised?

In the Building Permit Application Review section of the Ordinance, there are several specifications regarding the demolition of a historically designated building, structure, site, or object. This section of the Ordinance merits close examination because it explains both how and why the Commission can allow historically significant properties to be demolished. At the time an alteration or demolition permit application is formally reviewed, the Commission members have four options: Approve the request, deny the request, require resubmission of a request, or defer action.¹⁴⁹ Per the Ordinance:

In cases where the Historical Commission agrees to the demolition of a historic building, structure, site, or object, or of a building, structure, site, or object located within a historic district that contributes, in the Historical Commission’s opinion,

¹⁴⁸ City of Philadelphia Historic Preservation Ordinance, Section 14-1005.

¹⁴⁹ Per the Ordinance, “the Historical Commission may, by resolution, defer action on a building permit application for a designated period not to exceed six months from the date of resolution. The Historical Commission shall inform the owner in writing of the reasons for its action.” (City of Philadelphia Historic Preservation Ordinance, Section 14-1005).

to the character of the district, the Historical Commission may require that the historic building, structure, site, or object be recorded, at the owner's expense, according to the documentation standards of the Historic American Buildings Survey and the Historic American Engineering Record (HABS/HAER) for deposit with the Historical Commission.¹⁵⁰

Should a building permit determination be postponed, the Ordinance stipulates that Commission members shall spend the duration of the deferred action period in the following ways: Consulting with the owner, civic groups, public and private agencies, and interested parties “to ascertain what may be done by the City or others to preserve the building, structure, site, or object that is the subject of the building permit application.”¹⁵¹ Per the Rules of Interpretation for the Ordinance, “The words ‘must,’ ‘shall,’ and ‘may not’ are mandatory.” While these rules explicitly apply to applicant compliance with statements of standards, regulations, and requirements, one would think they also apply to the duties of the Commission. However, examples of instances where Commission members spend a deferred action period in the abovementioned ways are difficult to locate. Most frequently, the public must find ways to communicate with the Commission to discuss, and commonly protest, the demolition of a historic resource.

Also within the Building Permit Application Review section of the Ordinance are the listed Restrictions on Demolition. As stated, the Commission shall not issue a demolition permit for a historic building, structure, site, or object, unless it finds that issuance of the building permit is necessary in the public interest.¹⁵² This restriction continues, stating “or unless the Historical Commission finds that the building, structure,

¹⁵⁰ City of Philadelphia Historic Preservation Ordinance, Section 14-1005.

¹⁵¹ Ibid.

¹⁵² This condition also applies to a building, structure, site, or object located within a historic district that contributes, in the Historical Commission's opinion, to the character of the district.

site, or object cannot be used for any purposes for which it is or may be used for any purpose for which it may be reasonably adapted.”¹⁵³ To prove adaptive reuse is not a viable option, “the owner must demonstrate that the sale of a property is impractical, that commercial rental cannot provide a reasonable rate of return, and that other potential uses of the property are foreclosed.”¹⁵⁴

For the purposes of this thesis, emphasis has been placed on the powers of the Commission, in terms of its ability to both promote preservation and stave off the demolition of historic buildings, structures, sites, and objects. It is important to understand, however, why the powers of the Commission are relatively limited, albeit futile, within the current regulatory environment of Philadelphia.

First and foremost, the Preservation Ordinance’s financial hardship exception is often misused, or rather, abused, by property owners and developers. At its core, the financial hardship clause is meant to give “the property owner the right to demolish or sustainably alter a designated historic building in the service of an overriding *public interest* or where the building cannot be adapted or maintained.”¹⁵⁵ Philadelphia’s hardship exception is considered relatively robust, as compared to other cities. Although it may not be restrictive enough, its inclusion in the Ordinance is necessary. This is not to say that its current form is the most appropriate, but the exception itself is vital, as the Ordinance would likely be deemed unconstitutional if such a clause were not included,

¹⁵³ City of Philadelphia Historic Preservation Ordinance, Section 14-1005.

¹⁵⁴ Ibid.

¹⁵⁵ Philadelphia Historic Preservation Task Force, “Preservation in Philadelphia,” Philadelphia Historic Preservation Task Force, March 14, 2018. https://docs.wixstatic.com/ugd/c0d485_a68656a803834d52b74f0e77d81d7910.pdf (accessed March 20, 2018), 9.

especially given that properties can be locally designated without owner approval. For the purposes of this study, there is the question of what the ‘acceptable number’ of financial hardship demolitions should be. Since the Ordinance’s adoption in 1985:

The PHC has had the jurisdiction to approve or disapprove applications for buildings on the Register. In the last 32 years, the PHC has received 59 demolition applications and approved 38 (56%). Although this is just over one demolition application per year, some of these applications required four or five committee and Commission meetings with staff providing the research and documentation for each meeting.¹⁵⁶

The abovementioned figures relate to the demolition of buildings designated as historic, but do not account for buildings that have been demolished by-right because they were not locally protected, and, therefore, not subject to PHC review. It is also important to note that these figures also do not detail which of these demolitions resulted from financial hardship cases.

Primarily, the Commission is limited by two factors: Inadequate funding and staff capacity. These factors have a major impact on the number of buildings, structures, sites, and objects the Commission can feasibly designate as historic on a yearly basis. As a point of comparison, in 2015, the New York City Landmarks Preservation Commission registered for protection nearly 2,000 buildings, while Philadelphia registered just 30. As stated by Oscar Beisert, a local preservation advocate and Project Director of the Keeping Society of Philadelphia, “Between 2006 and 2014, 75 individual designations were added to the Philadelphia Register of Historic Places. The 30 individual properties protected in

¹⁵⁶ Philadelphia Historic Preservation Task Force, 16.

2015 was the highest number since the 1985 Philadelphia Historic Preservation Ordinance was passed and double the previous total of 16 in 2013.”¹⁵⁷

The more significant barrier to designating a greater number of buildings in Philadelphia stems from a distinct political challenge: Designating local historic districts. Through the creation of more local historic districts, the city would see a dramatic jump in the number of buildings on the Philadelphia Register. New York City developed a system wherein local historic districts are proactively designated – the City of Philadelphia does not subscribe to a system like this to anywhere near the same degree.¹⁵⁸

In recent years, the issue of providing adequate funding for the Commission has been addressed through a series of legislative suggestions. In 2014, then Council member and current City Mayor, James Kenney introduced a bill that would have allocated \$500,000 to the Commission. The bill proposed transferring \$500,000 from the city’s general fund to the Historical Commission, to finance a survey of properties that could be eligible for local designation, providing an opportunity to add at least 1,000 properties to the city’s historic register.¹⁵⁹ Unfortunately, Kenney resigned from the City Council to run for Mayor before the legislation was passed.¹⁶⁰

¹⁵⁷ Oscar Beisert, “Wasting History in a ‘World Heritage City’.” Hidden City Philadelphia, June 2016, <https://hiddencityphila.org/2016/06/wasting-history-in-a-world-heritage-city/> (accessed March 14, 2018).

¹⁵⁸ It is important to note that the Philadelphia City Council has often been the primary cause of opposition to local districts.

¹⁵⁹ Tricia L. Nadolny and Stephan Salisbury, “City looks to expand Historical Commission budget,” *The Inquirer*, December 2016, http://www.philly.com/philly/news/politics/20161202_City_looks_to_expand_Historical_Commission_budget.html (accessed March 14, 2018).

¹⁶⁰ It should also be noted that this legislation promoted the use of existing National Register Designations as a source for local designation opportunities.

In December 2016, another bill was introduced to the City Council, aimed at increasing the annual operating budget of the Commission. The bill proposed allowing the Commission to charge fees for staff-level review of an application to build on or alter a designated historic site. As proposed, the new permit review fee would be calculated as 25 percent of the cost of the associated building or demolition permits, which vary based on both the size and type of project being undertaken.¹⁶¹ Per city estimates, this measure has the potential to raise approximately \$350,000 annually, which would almost double the \$424,560 annual budget.¹⁶² Although this legislation is currently on hold for approval, City spokesman Paul Chrystie “confirmed that the proposed budget for the Historical Commission for Fiscal Year 2018 would be \$96,000 more than its current \$432,000 budget,” enabling the creation of two new positions at the Commission.¹⁶³ Anne Fadullon, the City’s Head of Planning and Development, commented on the budget increase stating that with the addition of two new staff members, “We hope [that] we can do permit review *and* nomination review *and* proactively go out and identify key buildings [not districts] [to add to the register].”¹⁶⁴

Although city officials seem optimistic about the benefits of providing funding for two additional staff reviews at the Commission, the reality is that current issues relate both to the speed at which new applications and designations can be reviewed, as well as

¹⁶¹ Nadolny and Salisbury, “City Looks to Expand Historical Commission Budget.”

¹⁶² The annual budget figure of \$424,560 represents the 2015 operating budget for the Philadelphia Historical Commission. The 2017 budget for the Commission was \$432,000.

¹⁶³ Jake Blumgart, “Council supportive of higher city permit fees, funds to support L&I, Historical Commission,” PlanPhilly, March 24, 2017, <http://planphilly.com/articles/2017/03/24/council-supportive-of-higher-city-permit-fees-funds-to-support-l-i-historical-commission> (accessed March 14, 2018).

¹⁶⁴ Blumgart, “Council supportive of higher city permit fees, funds to support L&I, Historical Commission.”

a hefty backlog. Additional staff help will, of course, be helpful to the Commission, but will not likely impact the nomination review process in any noticeable fashion, especially if nominations continue the prevailing practice of designating individual buildings, rather than districts. Since permit review requirements are stipulated by the PHC's Rules and Regulations, the staff is beholden to a specific timeline.¹⁶⁵ Conversely, there is no specified review period stipulated for processing local designation nominations. Therefore, as the staff is currently grappling with an influx of both permit applications and nominations, there is no incentive to place attention on the nominations. Additionally, permit review work has increased substantially as the number of properties in the Commission's jurisdiction has increased. As stated in a recent Preservation Task Force publication:

In 2016, the number of permits processed by PHC staff more than doubled what was processed in 2000. With five staff [members] able to review permits, this equaled to [approximately] 354 permits per staff member to process in 2016. As the number of permits increased, the rate of adding new properties to the Register has also slowed.”¹⁶⁶

In terms of the most recent suggested legislation, there is a potential issue to consider in addressing the need for additional Commission funding through the adoption of a permit fee system. Such a process could have the unintended effect of discouraging owners of historic properties from seeking approval for alterations and demolitions, due to the additional cost. The city should instead be focused on ways in which preservation

¹⁶⁵ On average, the staff currently reviews approximately 2,200 permit applications a year. Applications that need to be reviewed by the PHC itself must be processed within 60 days. Applications that can be approved by the staff must be processed within five days. The PHC has granted much of the review authority to the staff and in 2016 the staff approved 94% of all applications, or nearly 2,000 applications, within five days of their submission, often on the same day.

¹⁶⁶ Philadelphia Historic Preservation Task Force, 15.

can be explicitly incentivized. Attention has recently been placed on the development of a citywide vision for Philadelphia, which suggests some alternative strategies for encouraging preservation, many of which would help to alleviate some of the burden currently placed on the Commission and its staff. Additionally, a partnership launched in 2013, between the National Trust for Historic Preservation and the Urban Land Institute of Philadelphia, produced several suggestions addressing how barriers to preservation, specifically adaptive reuse, can be addressed. The following chapter will use these recent publications to assess the viability of an Adaptive Reuse Ordinance for the City of Philadelphia.

Philadelphia | Survey Data | Barriers to Adaptive Reuse

In 2012, the Preservation Green Lab of the National Trust for Historic Preservation and the Urban Land Institute created the Partnership for Building Reuse to enhance opportunities for building reuse in major cities across the United States.¹⁶⁷ Several local partners and key stakeholders in each of the participating cities were brought in to help the two national organizations identify market opportunities and address challenges related to building reuse.

Philadelphia was selected to participate in the 2013-14 round of the Partnership for Building Reuse, with the Study, “Retrofitting Philadelphia,” officially launching in December 2013. The partnership “engaged more than 40 community leaders from fields such as planning, historic preservation, real estate, finance, architecture, construction, sustainability, affordable housing, government, and academia.”¹⁶⁸ The process for gathering information and developing recommendations for Philadelphia was multifaceted and included the following steps: the formation of a 22-member Reuse Advisory Committee, interviews with leading reuse development practitioners, data collection and mapping of development patterns, three stakeholder meetings, and a summary presentation of findings and recommendations for the city.¹⁶⁹ The information gathered by the Partnership for Building Reuse is being used for this thesis to provide necessary information about both opportunities and barriers to reuse in Philadelphia. Due

¹⁶⁷ The major U.S. cities included in this multi-year partnership are Baltimore, Chicago, Detroit, Los Angeles, and Philadelphia.

¹⁶⁸ The National Trust for Historic Preservation and Urban Land Institute of Philadelphia, “Retrofitting Philadelphia: The Partnership for Building Reuse,” September 2014, <http://forum.savingplaces.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=8279bc78-e014-5d0e-c098-18ab1bc30a02&forceDialog=0> (accessed December 6, 2017), 9.

¹⁶⁹ Ibid.

to the time limitations of this thesis, a comprehensive survey of the city was not feasible. Therefore, the following information will be used to place Philadelphia within the necessary context, and pinpoint areas of the city that are most viable for building reuse.

It is important to understand that the Partnership for Building Reuse survey and related data is being used in this thesis for a distinct reason: It addresses vacancy and reuse issues related to all existing structures, not just those designated as historic at the local, state, or national level. Per the study:

Based on available city data, there are about 490,000 existing buildings in Philadelphia. The majority of the city's existing neighborhoods developed before World War II. As a result, nearly 70 percent of Philadelphia's existing buildings date from 1945 or earlier, and more than 85 percent are at least 50 years old.¹⁷⁰

Although this data supports a high number of locally designated buildings, still, only just over two percent of the city's existing buildings are protected through local designation by the Commission.¹⁷¹

Due to the historical development patterns of the city, Philadelphia's current building vacancy issue was, in many ways, destined to occur. In 1950, the city's population peaked at just over two million. From then on, the population steadily declined for two key reasons: Manufacturers left the city and employed fewer workers, and the auto-oriented suburb began to draw residents away from the neighborhoods surrounding Center City.¹⁷² In recent years, Philadelphia has seen a modest increase in the number of people once again attracted to city living, with a current population of

¹⁷⁰ National Trust for Historic Preservation and Urban Land Institute of Philadelphia, 10.

¹⁷¹ In addition, approximately four percent of the city's existing buildings (21,554 buildings as of 2014) are listed individually or within districts on the National Register of Historic Places.

¹⁷² The population of Philadelphia dropped steadily from 1950 until 2010. The population was at its lowest in 2000 with roughly 1,517,550 residents.

1,559,938.¹⁷³ But even with this recent uptick in population, according to city property records, “there are more than 35,000 vacant parcels in Philadelphia, including nearly 14,000 empty buildings.”¹⁷⁴ Center City’s renewed vitality has led to a number of new development projects and also sparked revitalization in adjacent and nearby neighborhoods.¹⁷⁵ However, there are still several neighborhoods to the north and west of Center City that contain large numbers of abandoned rowhouses, surplus schools, churches, factories, and small commercial structures and are struggling to gain attention for revitalization efforts.

Before the Partnership for Building Reuse assessed the barriers to reuse in Philadelphia, it measured both building and block performance throughout the city. In 2014, the Preservation Green Lab published a report exploring the relationship between the physical character of existing buildings and the vitality of neighborhoods, which was, in turn, applied to Philadelphia.¹⁷⁶ The Green Lab’s model compared “the physical character of Philadelphia’s existing buildings and blocks against a range of social, economic, and cultural performance measures.” For the analysis, a series of 200-meter-by-200-meter grids, each approximately the size of one-and-a-half square blocks, was

¹⁷³ U.S. Census Bureau; ACS Demographic and Housing Estimates, 2012-2016 American Community Survey 5-Year Estimates.

¹⁷⁴ National Trust for Historic Preservation and Urban Land Institute of Philadelphia, 10.

¹⁷⁵ Neighborhoods around Center City that have seen recent revitalization include areas west of University City, south to and beyond Washington Avenue, and north into neighborhoods such as Brewerytown, Fishtown, and Kensington.

¹⁷⁶ The report, *Older, Smaller, Better: Measuring how the character of buildings and blocks influences urban vitality*, analyzed data from Seattle, San Francisco, and Washington, D.C. The Preservation Green Lab applied the methodology used for the *Older, Smaller, Better* report to assess the performance of buildings and blocks across Philadelphia.

applied across the entire city.¹⁷⁷ For each grid square, a physical “Character Score” was assigned. To determine these “scores,” several data points were analyzed, including:

Available data on the age of buildings, diversity of building age, and parcel size or ‘granularity.’ Score results [were] then compared against data on demographic trends, economic activity, social vitality, and real estate performance to assess relationships and trends.”¹⁷⁸

The resulting “Character Scores” for each grid square were then mapped over the city using ten color blocks, from blue –representing the largest, newest, least age diverse areas, to red –representing the oldest, smallest, most age diverse blocks (Figure 13).¹⁷⁹

According to the several measures analyzed, the report determined that “Areas of Philadelphia with older, smaller buildings generally have greater economic, social and cultural vitality than areas with newer, larger buildings.”¹⁸⁰

The Partnership for Building Reuse also explored the key barriers to building reuse in Philadelphia. Although several barriers were identified, they all fall into four broad categories, including market, financial, regulatory, and technical barriers.¹⁸¹

Several such barriers to reuse are specific to Philadelphia, and are identified in the 2013-14 Partnership report. A more recent report, published by the Preservation Green Lab in

¹⁷⁷ This system was used to allow for an ‘apples-to-apples’ statistical analysis of the urban environment. A range of data, mostly from public sources, was matched and statistically apportioned to the grid square geometry to facilitate the analysis.

¹⁷⁸ National Trust for Historic Preservation and Urban Land Institute of Philadelphia, 14.

¹⁷⁹ Red squares on the map represent areas of the city where buildings are older and smaller and where the diversity of building age is greatest. The high “Character Score” areas are concentrated near Center City, particularly in South Philadelphia and in neighborhoods just north and northeast of Center City. Preservation Green Lab research finds correlations between areas with a high Character Score and measures of social, economic, and cultural vitality.

¹⁸⁰ National Trust for Historic Preservation and Urban Land Institute of Philadelphia, 14.

¹⁸¹ Market barriers relate to the supply and demand for various building types and users. Financial barriers involve project costs, sources of capital, lending practices, and financial incentives. Technical barriers are those that arise related to building location, site, design, construction, and materials. Regulatory barriers are those such as zoning and development standards, building codes, seismic codes, and other review processes.

2017, highlights the primary barriers to reuse in Philadelphia, each of which were identified at the local stakeholder meetings held by the Partnership in 2014. In the 2017 report, key barriers were identified for each of the four previously mentioned general barrier categories. Each of the key barriers is discussed below and supplemented with necessary information from the more in-depth Partnership report. As a point of clarification for the following section of this thesis, the term ‘incentive’ will be used in a broad sense, well beyond its usual monetary associations. Incentives will include provisions for regulatory clarity to create more predictability in current processes, as well as suggested shifts in current policies and practices utilized by the city.

In terms of market barriers, stakeholder participants in Philadelphia noted, “In many markets outside of Center City and its adjacent neighborhoods, rents and resale prices remain too low to justify the costs of building acquisition and rehabilitation.”¹⁸² Participants also noted that several owners throughout the city hold land with little or no intention of developing it, and that complex title histories and questions about ownership can result in significant barriers to redevelopment.¹⁸³ Lastly, stakeholders noted that Philadelphia is substantially hindered by the lack of a strong market in parts of the city that have suffered from disinvestment. This point was consistently identified as the primary market barrier to reuse across the city, both in interviews and at the first stakeholder meeting.

¹⁸² National Trust for Historic Preservation, Preservation Green Lab, “Untapped Potential: Strategies for Revitalization and Reuse,” October 2017, http://forum.savingplaces.org/viewdocument/untapped-potential-strategies-for?_ga=2.9617020.839735232.1521732838-87826615.1504024083 (accessed March 12, 2018), 38.

¹⁸³ Ibid.

Local stakeholders cited “New York development costs and Baltimore rents,” as the primary financial barrier to successful building reuse in Philadelphia.¹⁸⁴ Additionally, the report notes a common thought throughout the city; that privately owned, tax delinquent properties are often difficult to acquire – “The cost of paying delinquent liens exceeds the market value of the property, discouraging potential redevelopers,” said one participant.¹⁸⁵ Lastly, the efficacy of current incentive programs was addressed as a financial barrier to reuse. Although incentive programs do exist, participants noted that they can be complex and difficult to use, especially for smaller projects. Problems with the current available incentives are discussed at length in the Partnership report and are centered on both the complexity and time required to secure tax incentives. These monetary incentives include tax credits and abatements, most notably the 10-year tax abatement, which was originally created to incentivize rehabilitation projects. Currently, the abatement program is instead more often utilized for new construction projects, pointing to not only a financial barrier, but also to a regulatory one. The current issues with this program are twofold. In terms of preservation:

While the property tax abatement program aids in neighborhood transformation by providing what is essentially a universal municipal tax incentive, this program simultaneously endangers unprotected historic buildings in favor of the construction of larger projects, many of which could presumably produce larger income levels than [those] of the lower density fabric.¹⁸⁶

¹⁸⁴ National Trust for Historic Preservation, Preservation Green Lab, 38.

¹⁸⁵ Ibid.

¹⁸⁶ Joel Naiman, *Preservation Through Property Tax: The Impacts of Philadelphia’s 10-Year Property Tax Abatement on Historic Preservation*. Master’s Thesis., University of Pennsylvania, Philadelphia, PA, 2017, 2.

In addition, the abatement program has been cited as a form of political trickery by some Philadelphia residents. The 10-year tax abatement program has drawn several new residents into the city since it was introduced in 1997, owing as it made home ownership appear more affordable to a greater number of people.¹⁸⁷ However, the city is now being accused of targeting owners of historic homes who have utilized the abatement program. One such property owner, Steve Silver, shared his personal experience with the 10-year tax abatement. Silver says that, “Overnight, the city managed to strip away most of my abatement value by claiming that the 383-square-foot piece of land my house sits on had increased in value by 1,245 percent.”¹⁸⁸ Silver continues, “Somehow, the OPA [Office of Property Assessment] believes that, in less than two years, the value of my house decreased by \$93,390 and magically leaked, dollar for dollar, into the land.”¹⁸⁹

Finally, the financial barriers to building reuse extend beyond just difficulty accessing these incentive programs. As the Partnership report points out, “The Philadelphia Housing Finance Authority recently curtailed funding for the redevelopment of mixed-use commercial and residential structures, eliminating a key incentive for reuse of older structures along neighborhood commercial corridors.”¹⁹⁰ Being as this was one of the only local level financial incentives for redevelopment in Philadelphia, the removal of this program has had a huge impact of the number of rehabilitation projects undertaken

¹⁸⁷ With the 10-year tax abatement, homeowners pay property tax on the land their home occupies and not the house itself, which reduces the amount of property taxes owed annually.

¹⁸⁸ Steve Silver, “I’m one of the suckers who fell for Philly’s property tax bait and switch.” *WHYY*. May 10, 2016, <https://whyy.org/articles/im-one-of-the-suckers-who-fell-for-phillys-property-tax-bait-and-switch/>. (accessed March 28, 2018).

¹⁸⁹ *Ibid.*

¹⁹⁰ National Trust for Historic Preservation and Urban Land Institute of Philadelphia, 23.

in the city. Its removal has also, therefore, curtailed reinvestment in neighborhoods that have the highest numbers of vacant and abandoned structures.

Specific regulatory issues were identified as key barriers to building reuse by the stakeholder participants. Primarily, these regulatory issues include “conflicts between different codes (life-safety, zoning, or energy codes) and the unique circumstances of older buildings and historic preservation regulations.”¹⁹¹ As mentioned in the previous chapter, the lack of staff capacity at both the Commission and the Department of L&I presents many obstacles, which the stakeholders also identified as an important barrier to reuse projects in the city. One participant noted “there is not enough regulatory encouragement for adaptive reuse.”¹⁹²

Finally, there are the technical barriers to building reuse, which relate both to zoning and current building and energy codes. As identified in the 2017 Green Lab report, the key technical issues stem from obstacles that prevent the reuse of specific building types for new uses.¹⁹³ More specific issues were identified in the Partnership report, with interviewees noting parking as a particularly prevalent issue. The current requirements for parking and loading zones do not align with the actual demand in many areas. Instead, the perceived need for parking is being driven by lender requirements more than actual city regulations, creating a clear disincentive to building reuse in many neighborhoods for projects of all sizes.

¹⁹¹ National Trust for Historic Preservation, Preservation Green Lab, 38.

¹⁹² Ibid.

¹⁹³ These challenges range from industrial buildings and warehouses with large floor plates that make it difficult to access natural light to small Main Street commercial buildings that are too small for some national retailers. Also, special purpose buildings with large assembly places (such as churches and schools) require more creative approaches to design.

The abovementioned key barriers to building reuse are important to understand, as they point to many of the reasons why adaptive reuse has not become a widespread, or at the very least, a more thoroughly considered form of preservation and development throughout Philadelphia. While it is critical to identify these issues, for the purposes of this study it is more important to emphasize that none of these barriers are so monumental that they cannot be overcome through local level policy changes. The 2017 Preservation Green Lab report points to several ways in which barriers identified across each of the five Partnership cities can be successfully eliminated. In the following section, suggestions from the Green Lab report that are applicable to Philadelphia will be explored, and additional recommendations will be developed to address city-specific issues that have been indicated within this section. Lessons learned from exploring the Adaptive Reuse Ordinances and Programs of Los Angeles, Long Beach, Santa Ana, Phoenix, and St. Petersburg, as well as New Jersey's Rehabilitation Subcode, will also be used to make targeted suggestions for ways in which adaptive reuse projects can be incentivized through policy changes in Philadelphia.

Recommendations for Philadelphia | Overcoming Barriers to Adaptive Reuse

Parking requirements are a central issue addressed by many of the Adaptive Reuse Ordinances that have been examined in this thesis. The 2017 Green Lab report notes specific ways in which parking impacts redevelopment projects, including high parking minimums, inflexible parking requirements, neighborhood concerns, as well as market and lender demand. But the Adaptive Reuse Ordinances, specifically those of Los Angeles, Long Beach and Santa Ana, provide examples of successful alternatives to the stringent and limiting parking requirements that had previously stymied interest in undertaking reuse projects in those cities.

Philadelphia's parking requirements have been a point of local political tension since the revised zoning code was adopted in 2012 –some believe the requirements are too stringent, while others feel they are not stringent enough. With the 2012 zoning reform bill:

City Council voted to remove parking minimums for single-family homes, commercial buildings, adaptive reuse and preservation projects, and small apartment buildings with fewer than four units. The only parking minimums that remain in the zoning code are for mid-rise and high-rise multifamily mixed-used buildings. For these types of buildings, parking is required at a ratio of three spaces for every ten dwellings, though the first four dwellings don't count.¹⁹⁴

These code changes were considered a 'win,' both for historic preservation projects and housing affordability in the city, but some local politicians continue to challenge the minimum parking standards, introducing several bills to increase the minimums in recent

¹⁹⁴ Jon Getting, "Jannie Blackwell's parking mandate bill would mean higher rents," Philadelphia 3.0, September 12, 2016, http://www.phila3-0.org/blackwell_parking_rent_hike (accessed March 23, 2018).

years.¹⁹⁵ Because parking remains such a contentious topic in Philadelphia, it is necessary to consider what requirements would be necessary to include in an Adaptive Reuse Ordinance. Moreover, as with each of the barriers to building reuse, it is imperative to provide Philadelphia residents with what they need while also incentivizing this type of development, which is arguably the most difficult balance to strike.

As mentioned above, parking minimums were removed for several project types, including adaptive reuse, in 2012. However, since that point, parking regulations have remained complex, undoubtedly leaving property owners, investors, and developers feeling uncertain about the future viability of certain project types. The Adaptive Reuse Ordinances adopted by the three California cities specifically simplify parking requirements so that they are not impediments to building reuse. For example, Los Angeles completely removed parking requirements for adaptive reuse projects, requiring only that in such projects the same number of parking spaces as existing on June 3rd, 1999 be maintained. Long Beach and Santa Ana's Ordinances contain similar incentives, insofar as they allow for the overall number of spaces on a given project site to be maintained, so long as additional building square footage is not created.¹⁹⁶

Using an Ordinance, Philadelphia could use parking as one way to simplify, and thereby encourage, building reuse from a regulatory standpoint. Although it would be a relatively small incentive, as compared with the others that will be suggested throughout

¹⁹⁵ The new zoning code aids preservation efforts in the city because, prior to 2012, parking minimums would be triggered for any change of use, making it difficult and expensive to reuse historic buildings. The new code allows for a greater number of affordable housing units to be created because developers are no longer required to construct more parking spaces than residents need. This reduces the overall project cost, which, in turn, means lower rents are charged (since there are less project costs to recuperate).

¹⁹⁶ In Santa Ana, new parking spaces are not required for converted building use, but new square footage that includes new units requires a minimum of 2 spaces per unit.

this section, a parking exception would contribute to encouraging building reuse in many neighborhoods throughout the city.

Given the depth and breadth of this study, specific solutions for each of the barriers to reuse will not be suggested. Instead, multiple possible solutions will be presented as logical considerations for Philadelphia. In terms of parking, an Ordinance could use either of the following incentives to effect change and create more opportunities for building reuse. First, the city could eliminate parking minimums altogether for reuse projects and instead replace the requirement with parking maximums. This would allow parking to be created where it is most valued by the market, which is not uniform across all neighborhoods. Another option would be for the city to provide parking exemptions for older, not necessarily historic buildings, an incentive like those used in California.¹⁹⁷

Although the Philadelphia Zoning Code was reworked in 2012, there are further changes that would be necessary to consider before an Adaptive Reuse Ordinance could be adopted and used as a regulatory tool. One suggestion, although it would be a labor-intensive undertaking for the Planning Department, is the creation of new zone districts. These zone districts would “allow a greater mix of uses and reduce the need for variances and changes in use.”¹⁹⁸ Also, this process would provide the city with an opportunity to “Align open space, setback, and minimum lot sizes to reflect valued historic patterns.”¹⁹⁹

¹⁹⁷ Although not discussed in detail in this thesis, it is worth noting how the City of Baltimore uses parking to incentivize building reuse. Subject to review, the City of Baltimore waives parking requirements for structures over 50 years old or properties that have received historic tax credits.

¹⁹⁸ National Trust for Historic Preservation, Preservation Green Lab, 38.

¹⁹⁹ National Trust for Historic Preservation, Preservation Green Lab, 38.

Ideally, this process would be coupled with a citywide survey of Philadelphia, which would aid in both identifying and formally mapping the historic building stock. In part, this suggestion is not a new idea. In recent years, local preservations and agencies alike have, on several occasions, suggested that the city undertake a survey of its historic resources. This survey process would benefit Philadelphia in two key ways. First, buildings eligible for listing on the Local Register would be identified and could then be nominated by the Commission. Second, a comprehensive survey of the city would create an opportunity for boundaries of potential local historic districts to be identified, therefore increasing the odds of more active district designation.

In terms of the suggestions outlined in this thesis, the completion of a citywide survey would make the implementation of an Adaptive Reuse Ordinance more feasible. It would also allow for incentives zones to be identified, like in California, where reuse incentive areas are used to target neighborhoods where adaptive reuse projects are most viable. Additionally, a survey would allow for these zone districts to be identified and enacted using an iterative process. Although the completion of a survey would initially take time, require considerable staff attention, and perhaps even necessitate the creation of a subcommittee, upon completion, it would alleviate some pressure on L&I, especially in terms of the number of variances the department would be tasked with reviewing.

The financial barriers to building reuse are difficult to address through an Ordinance, but there are ways in which Philadelphia could use this regulatory tool to provide financial incentives. As noted in the 2017 Green Lab report, “Increased capital and additional financial incentives for reuse projects are needed to attract new and small

developers to reuse opportunities. These changes would also encourage larger, more established developers to enter weaker markets.”²⁰⁰ Lender risk aversion, which cannot be solved through an Ordinance, is another financial barrier to building reuse. Unfortunately, “Financing opportunities for small scale and reuse projects are more limited compared to large, new projects.”²⁰¹ Therefore, it is worthwhile to consider if there are any ways in which building reuse can be financially incentivized in Philadelphia.

Phoenix’s Adaptive Reuse Program stands out as a prime example of how to financially incentivize building reuse on the city level. It offers a streamlined regulatory process, faster permitting, and financial savings, including fee reductions. The Phoenix Program operates on a level that would, unfortunately, take Philadelphia an extensive amount of time to replicate. However, replication of an existing regulatory system is not the only option. Many of the desirable features of the Phoenix Program, such as its organizational structure and procedural approach, could inform a practical structure for Philadelphia. Aspects of the Phoenix Program could be integrated with an existing local organization, such as the Philadelphia Land Bank, to aid in removing financial barriers and incentivize adaptive reuse. The City’s Land Bank, which was briefly mentioned in a previous chapter, could be used to leverage available underutilized properties in Philadelphia. Through the Land Bank:

Affordable access to older and historic properties that are ripe for development can alleviate the barrier of acquisition costs [and] provide access to properties for

²⁰⁰ National Trust for Historic Preservation, Preservation Green Lab, 17.

²⁰¹ Ibid, 16.

a nominal fee if the developer commits to rehabbing the property within a specific time period.²⁰²

Utilizing a strategy like this would reduce the number of financial barriers for building reuse projects, while also benefitting the Land Bank and the city. In terms of the Land Bank, creating a system wherein its properties are sold at a reduced price to developers or investors for the explicit purpose of adaptive reuse, the Land Bank itself would not be responsible for as many buildings as it currently is. The city would benefit financially from the buildings being sold, even if the prices are reduced, since private ownership would mean property taxes are owed.

Lastly, several code barriers could be overcome through the adoption of an Adaptive Reuse Ordinance in Philadelphia. Code compliance, in particular, is a challenge for many rehabilitation projects, however:

By reducing uncertainty, granting flexibility, and leveraging city staff who are familiar with the challenges faced by adaptive reuse projects, building reuse becomes a more compelling option for a developer, architect, or investor considering development options.²⁰³

Many states and municipalities are currently experimenting with “outcome-based compliance”, “[allowing] a project sponsor to meet the desired intent of the code using a flexible, holistic approach to ensure overall performance requirements.”²⁰⁴ The three city Ordinances in California and the New Jersey State Rehabilitation Subcode represent regulatory tools that have been used to incentivize reuse projects. The Phoenix Program illustrates an alternative approach to regulation, wherein technical assistance is provided

²⁰² National Trust for Historic Preservation, Preservation Green Lab, 17.

²⁰³ Ibid, 19.

²⁰⁴ Ibid.

in lieu of adjusting the existing code, without diminishing the legislative life-safety expectations of the code.

Philadelphia has several options in terms of overcoming code barriers that currently prevent, or rather disincentive, adaptive reuse projects. California's Historic Building Code and New Jersey's Rehabilitation Subcode provide similar paths for the reuse of historic buildings. Philadelphia could follow suit and write a new code for rehabilitation and reuse, but that would require a lengthy process. Instead, it is likely that a more effective approach would be to create flexibility in the existing code and utilize a system like the one created through the Office of Consumer Advocacy for Phoenix's Program. Rather than creating new codes, The City of Philadelphia could create a coordinated technical assistance program to help developers navigate the regulatory processes and guide them towards a better understanding of the complex challenges related to building reuse.

All things considered, it is important to acknowledge that although adaptive reuse is not specifically incentivized in Philadelphia, that does not mean this project type cannot be identified within the city. Examples of successful adaptive reuse projects are scattered throughout the city, and include the rehabilitation of sites like the Navy Yard and the Frankford Arsenal. As noted in the 2014 Partnership for Building Reuse report, "Nearly 64 percent of *Philadelphia Magazine's* 2013 'Top 50 Restaurants' and 'Top 50 Bars' are located in buildings constructed before 1920, well above the citywide total of 50 percent of commercial businesses located in buildings of that vintage."²⁰⁵ These

²⁰⁵ National Trust for Historic Preservation and the Urban Land Institute of Philadelphia, 4.

statistics show promise in terms of current interest in building reuse, but are limited to a narrow subset of the available building stock. Essentially, restaurants and bars are not capable of occupying certain property types, like large industrial spaces or abandoned schools. But what if there were greater incentives for multiple businesses to share these large, vacant buildings? And what if residential spaces could be created in tandem with new commercial spaces? Projects of this caliber would bring new commercial resources, new residential units, and new employment opportunities into neighborhoods that are suffering from the effects of disinvestment.

The focus of this thesis is not to discredit or minimize the adaptive reuse projects that have been undertaken in Philadelphia. Rather, the goal is to emphasize the success of those that have been completed within the current regulatory environment, and to create a clearer path to more opportunities for more building types in more neighborhoods. Like Los Angeles, Santa Ana, and Phoenix, Philadelphia should adopt a system wherein buildings are eligible for reuse if they were constructed before a specific year, regardless of if they are historically designated or not. Coupled with the right incentives, this would create new opportunities and garner new interest in hundreds of existing properties in Philadelphia. The city should also look to Los Angeles, Long Beach, and Santa Ana's applications of Reuse Incentive Areas. Using an Adaptive Reuse Ordinance, the City of Philadelphia could target areas in need of reinvestment and community rehabilitation, so that only buildings constructed before a specific year and located within a determined area would qualify for reuse incentives.

Incentive area candidates can already be identified using the “Character Score” map generated by the Partnership for Building Reuse. There are several grid squares represented on the “Character Score” map that indicate areas with a ‘high score,’ meaning they have a high concentration of blocks with old, small, mixed-age buildings. Although there are many grid squares across Philadelphia with high character scores, for the purposes of creating incentive areas, focus should be placed on parts of the city where multiple high character score grid squares are clustered. As indicated by the “Character Score” map, there two apparent types of high character score clusters: those that contain an entire neighborhood or entire adjacent neighborhoods and those that represent a concentration of high character score blocks within a specific neighborhood.

These two ‘cluster types’ give the City of Philadelphia options, in terms of creating an Adaptive Reuse Ordinance. The city could adopt a pilot program, targeting some of the smaller high character clusters as ‘test zones’ for building reuse. This approach represents the ideal, as many of the small, high character clusters correspond with city data that reflects high vacancy levels in the same areas.²⁰⁶ For example, much of Center City and its surrounding neighborhoods are indicated as high character score areas, but these neighborhoods have very few vacant properties, relative to the high character score areas further away from Center City (Figures 14 and 15). Neighborhoods outside of the Center City area, such as Manayunk, Germantown, West Philadelphia, and Strawberry Mansion, represent good Incentive Area candidates, as they each have high character scores and elevated levels of building vacancy (Figures 16-23). Much like the

²⁰⁶ To clarify, high vacancy levels are indicated (on the Philadelphia Open Maps) in neighborhoods that correspond with the smaller high character areas (identified by the Partnership for Building Reuse).

approach utilized in Phoenix, Philadelphia could use one or more of these ‘test zones’ to serve as pilot areas. This approach would provide the city with a way to gauge the interest in and efficacy of an Adaptive Reuse Ordinance, before its implementation in neighborhoods across Philadelphia.

Conclusion

The City of Philadelphia is long-overdue for both broadening and refining its land use policies as to encourage an updated approach to historic preservation. The suggestions outlined in this thesis are aimed at demonstrating the utility of an Adaptive Reuse Ordinance, to both promote preservation and make the associated processes more predictable. This thesis describes how five cities have used Ordinances, and one state has used building code changes, to achieve more than just the preservation of historic buildings. These local and state-level policies have also encouraged reinvestment in neighborhoods with a preponderance of buildings that have, over time, become functionally obsolete.

Through an Adaptive Reuse Ordinance, the City of Philadelphia would have a much-needed opportunity to realign historic preservation with the broader goals of the city. Moreover, in Philadelphia, such an Ordinance would not only bolster historic preservation, but also aid in filling noticeable gaps that exist in current programs, policies, and practices. As stated in Chapter 13, the policies and practices of the Historical Commission pose the main challenge to organized and effective preservation in Philadelphia. The Historical Commission and its associated staff members are consistently hindered by limited operational capacity, which has created a system wherein properties already listed on the city's local register are unintentionally prioritized. Permit and design reviews have become the focal point of the Commission, while stated duties relating to building and district designation have fallen by the wayside. Moreover, interacting with the Commission, in particular for non-routine

projects and initiatives, often becomes an unpredictable process, which, in turn, has made preservation a daunting task.

An Adaptive Reuse Ordinance would allow for a more predictable process to be employed alongside preservation efforts, thereby encouraging building reuse across the city. The predictability factor alone would serve as a key motivator for developers and property owners in Philadelphia. Coupled with development incentives, an Ordinance would encourage project undertakings in areas of the city that are often ignored due to visible signs of disinvestment and building stocks that are perceived as challenging to preserve.

Primarily, an Ordinance that would address the city's key barriers to building reuse, as identified in Chapter 14 of this thesis, is of critical importance. In practice, the Philadelphia City Council would be tasked with crafting an Adaptive Reuse Ordinance for the city, meaning it would be the Council's responsibility to understand the current barriers and produce a policy that fosters reuse. For the purposes of this thesis, a Model Adaptive Reuse Ordinance has been drafted, building on a framework established by the National Trust for Historic Preservation's Preservation Green Lab, and included as a sample of what form such a policy may take in Philadelphia (Appendix B).

While an Ordinance should not be seen as an alternative to listing historic properties on the local register, it should be viewed as a crucial step towards broadening the available toolkit for promoting the continued preservation of Philadelphia's current historic building stock. Through such a policy, operational pressure would be taken off

the Historical Commission and its staff members, which would allow for more time to be spent identifying properties and districts that qualify for listing on the local register.

This is not to say that all preservation-related issues would be solved through an Adaptive Reuse Ordinance, rather, it is meant to suggest that an Ordinance would allow for greater latitude in considering buildings worthy of preservation through reuse.

What will the City of Philadelphia look like in 10, 20 or 50 years? Will the historic buildings that have come to define the cityscape still stand as they have for so long, firmly rooted within the context of a given neighborhood and the collective memories of the community? The current policies and practices that govern historic preservation in the city make it difficult to look too far into the future and say, with any certainty, which pieces of Philadelphia's built history will be preserved in the decades to come. Each neighborhood across the city, regardless of its current physical appearance, vacancy levels, or community composition, should be considered equally important when looking forward to the future image that will define Philadelphia. As much as there is a need for strong and sensible leadership in the city, there is also a critical need for assertive policies and practices to guide preservation in the right direction. It is time to look beyond the bricks and mortar and recognize the full potential of preservation in a place like Philadelphia, where the city's history is constantly on display through its historic architecture. As William Murtagh, the first keeper of the National Register of Historic Places once said, "at its best, preservation engages the past in a conversation with the present over a mutual concern for the future."²⁰⁷ It is time for Philadelphia to

²⁰⁷ "Preservation Is..." Bricks + Mortar, Thoughts on Historic Preservation, Community, and Design, February 11, 2014, <https://bricksandmortarpreservation.wordpress.com/tag/historic-preservation-quote/>.

promote more active engagement with the past, because it wants, needs, and deserves a place in the future city.

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Appendix A

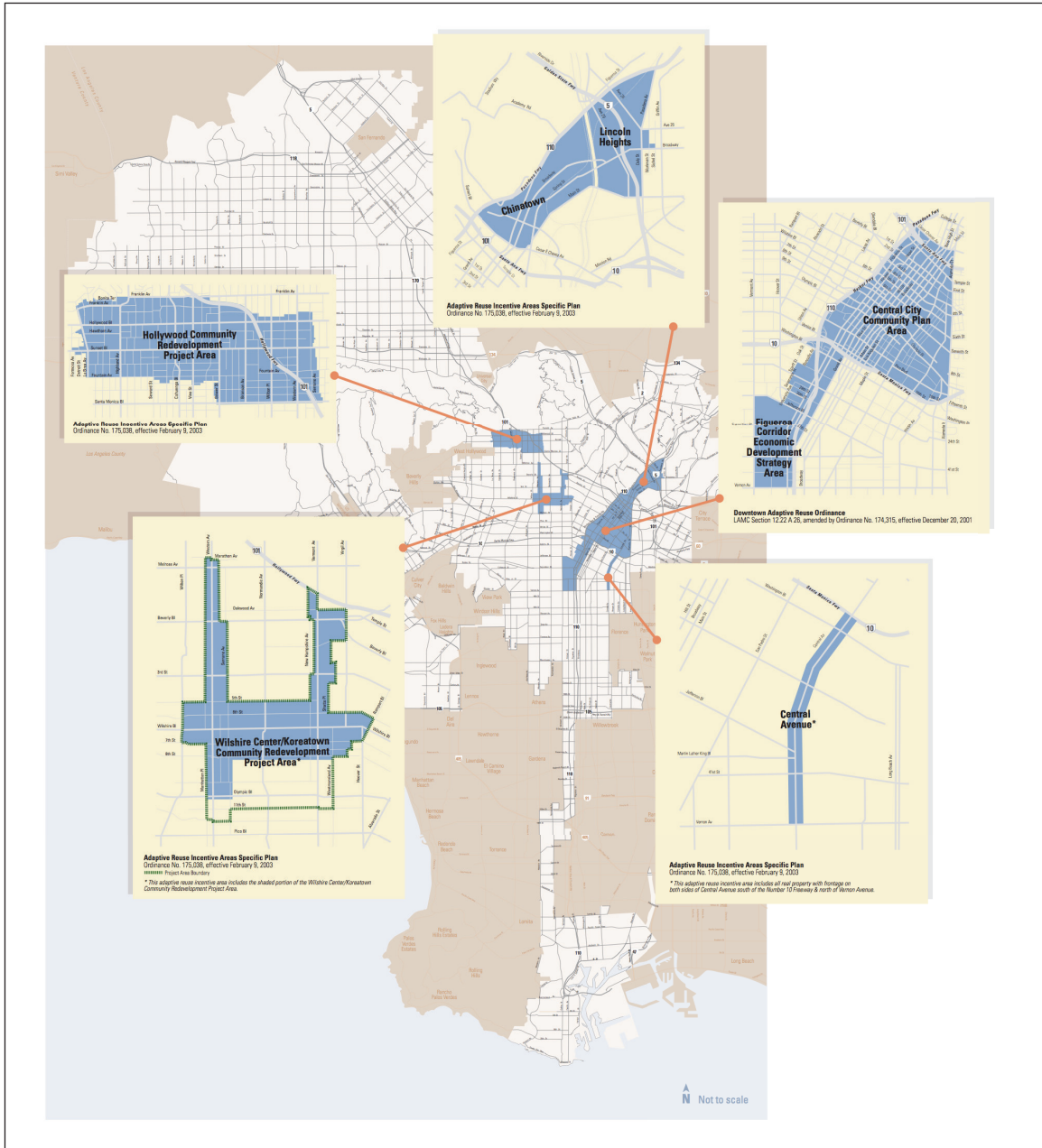


Figure 1 | Los Angeles Adaptive Reuse Incentive Areas
Prepared by the City of Los Angeles Planning Department, May 2004.

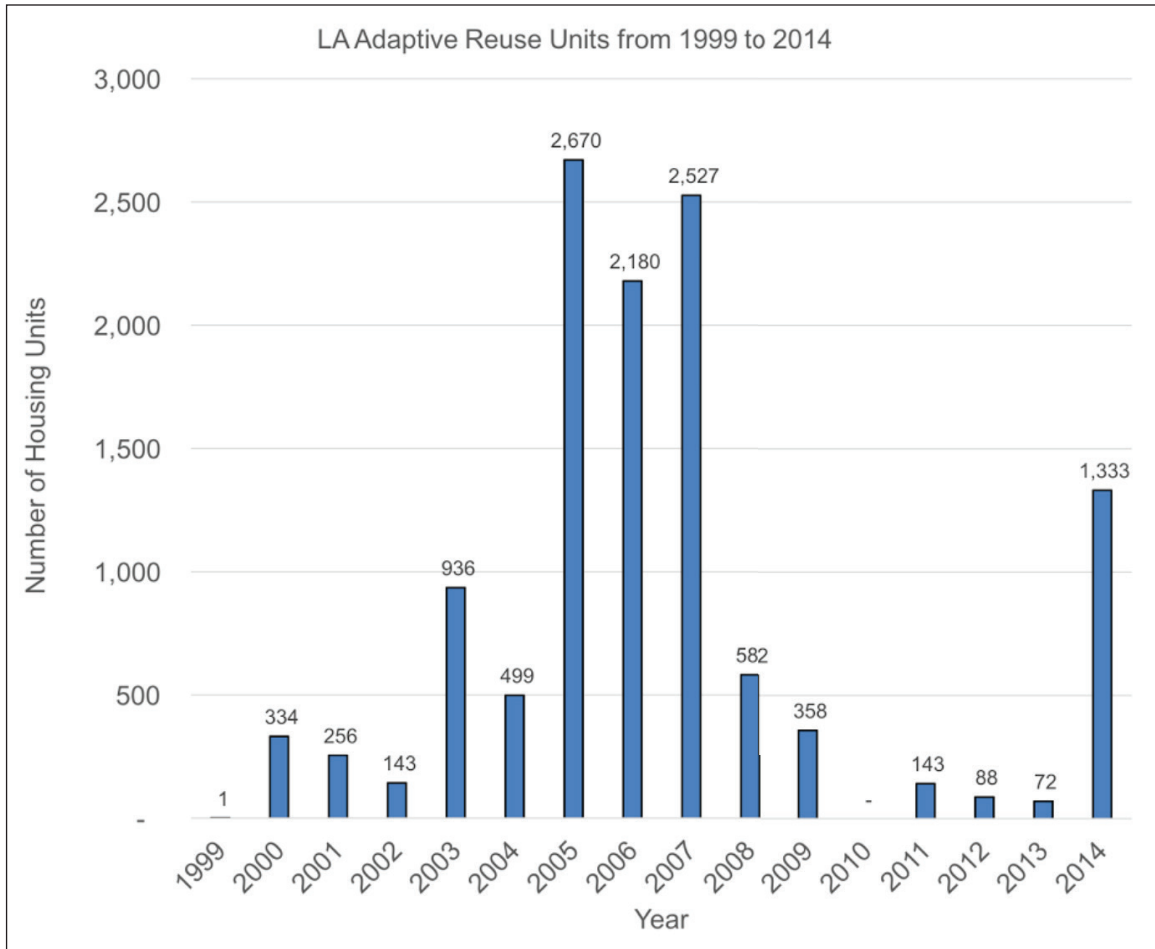


Figure 2 | Los Angeles Adaptive Reuse Units Created 1999-2014, “Building California's Future,” 2017.

Building Characteristic	ARO Projects
Average Number of Dwelling Units	112
Average Number of Stories	5
Average Building Square Footage	73,504
Average Floor-Area-Ratio	3:1
Average Year Built	1931

Figure 3 | Los Angeles Adaptive Reuse Average Building Characteristics, Chamberlain, 2015.

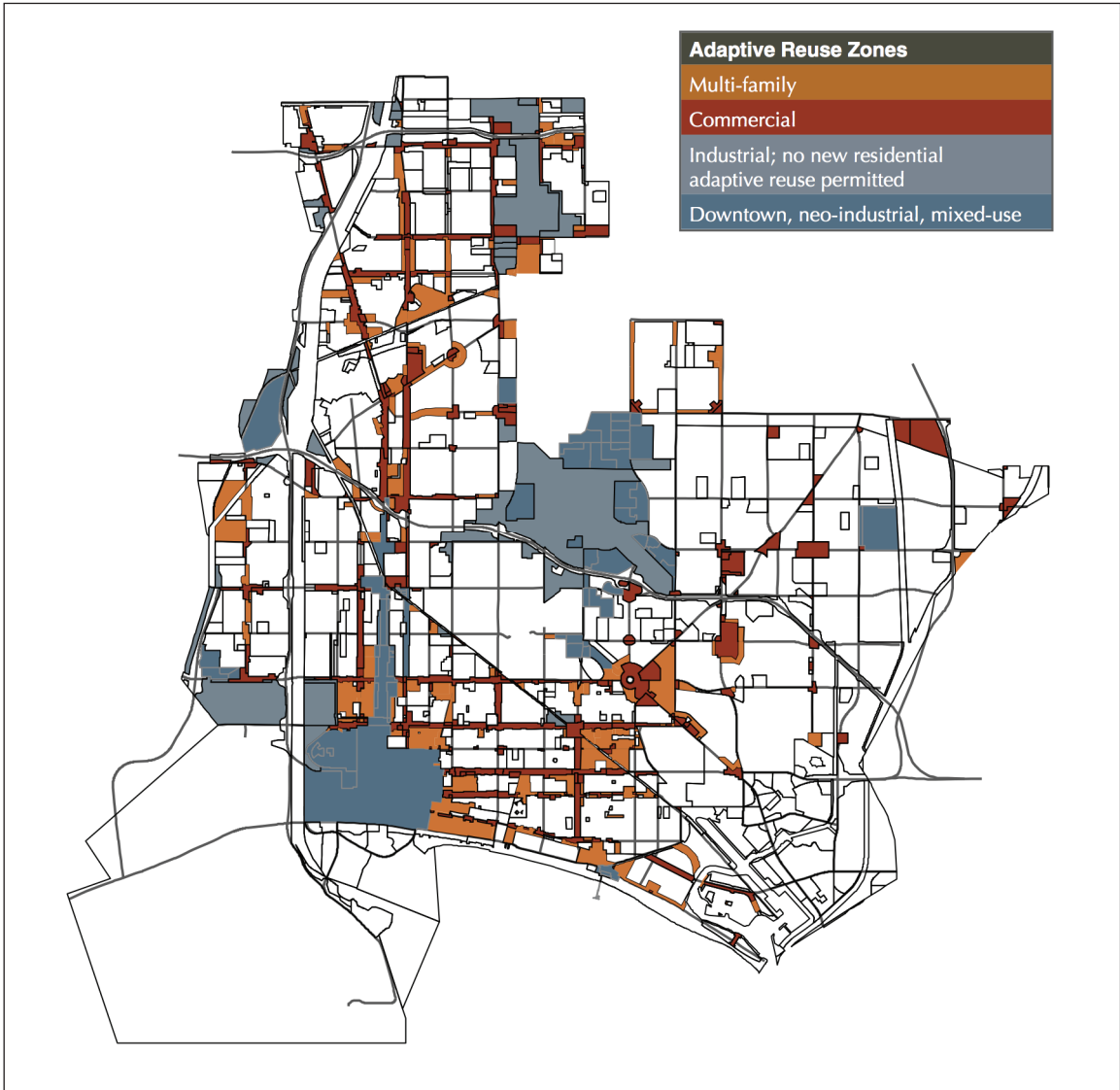


Figure 4 | City of Long Beach Adaptive Reuse Incentive Areas, Long Beach Development Services, 2014.

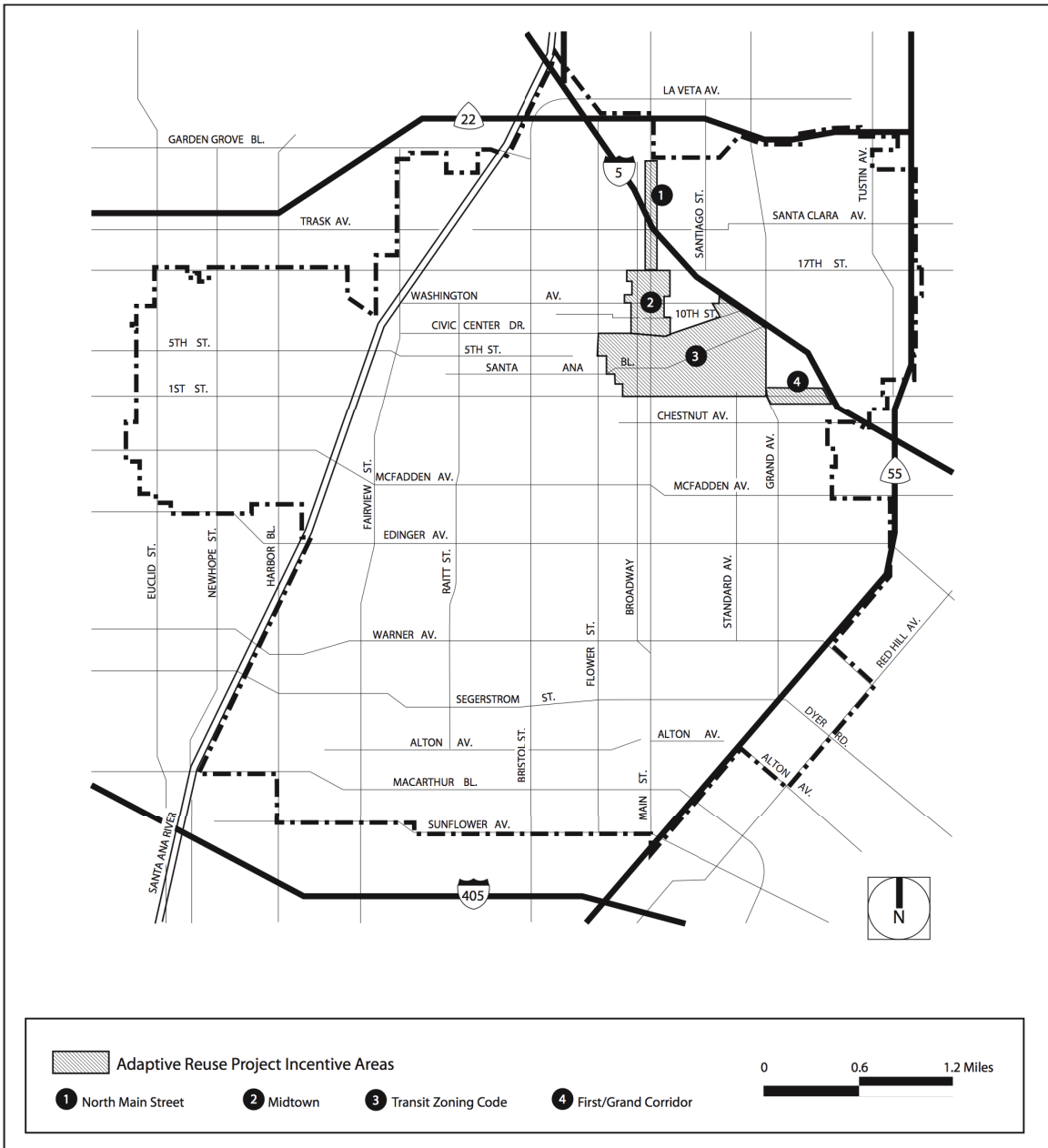


Figure 5 | City of Santa Ana Adaptive Reuse Project Incentive Areas
 Planning and Building Agency, December 2014.

If the building or structure is located in the following districts:	The building or structure may be used for the following :
Neighborhoods, Traditional and Suburban	All uses allowed in the district plus multi-family uses and bed and breakfasts.
Corridor, Residential	All uses allowed in the district plus any allowable use in the NT-4 district
Corridor, Commercial	Any use
Centers, Traditional and Suburban	Any use
Industrial	Any non-residential use

Figure 6 | City of St. Petersburg, Adaptive Reuse Chart, Generated by the City of St. Petersburg.

City	Population	Age (Median)	Income (Median)	Property Value (Median)	Poverty Rate
Los Angeles, CA	3.97 million	35	\$52,024	\$542,100	20.5%
Long Beach, CA	474,172	34.6	\$54,971	\$483,700	19.2%
Santa Ana, CA	335,423	30.8	\$54,392	\$437,500	21.2%
St. Petersburg, FL	257,088	41.8	\$48,858	\$170,000	16.9%
Phoenix, AZ	1.56 million	33.8	\$48,452	\$200,800	22.3%
Philadelphia, PA	1.57 million	34.1	\$41,233	\$150,700	25.8%

Figure 7 | City Demographic Data
Generated with information from the U.S. Census Bureau, American FactFinder, 2016.

<p>Los Angeles, CA</p> <p><u>Purpose:</u> To revitalize the Greater Downtown L.A. Area and implement the General Plan by facilitating the conversion of older, economically distressed, or historically significant buildings to apartment, live/work units or visitor serving facilities</p>	<p>Long Beach, CA</p> <p><u>Purpose:</u> To allow conversion of existing structures into new land uses that maintain or enhance the character of a neighborhood or district, extend the life of the building, reduce the use of new construction materials and reduce construction waste generated, and provide additional employment or housing opportunities in appropriate and compatible locations</p>	<p>Santa Ana, CA</p> <p><u>Purpose:</u> To provide alternative building and fire standards for the conversion of eligible buildings, or portions thereof, in Project Incentive Areas from Nonresidential Uses to dwelling units, guest rooms or joint living and working quarters</p>	<p>St. Petersburg, FL</p> <p><u>Purpose:</u> To encourage the retention and productive use of structures that have historic, architectural, or cultural value to the City instead of seeing their underutilization or demolition because their original use has become functionally obsolete</p>	<p>Phoenix, AZ</p> <p><u>Purpose:</u> To help give new life to old buildings through adaptive reuse</p>
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Figure 8 | Ordinance Purpose Statement Comparison

Los Angeles, CA	Long Beach, CA	Santa Ana, CA	St. Petersburg, FL	Phoenix, AZ
<p><u>Eligible Buildings:</u> Buildings constructed prior to July 1, 1974. Or, buildings constructed after July 1, 1974, if 5 years have elapsed since last occupancy; and the building is no longer economically viable as an exclusively commercial or industrial building. Eligible buildings also include: buildings designated on the Natl. Register, CA Register, or City Register, and contributing buildings in NR districts or contributing structures in historic preservation overlay zones</p> <p><u>Reuse Area(s):</u> 5 Adaptive Reuse Incentive Areas</p>	<p><u>Eligible Buildings:</u> A project can change any building to any Neighborhood Commercial and Residential District permitted used (with some exceptions)</p> <p><u>Reuse Area(s):</u> Various specified Incentive Areas</p>	<p><u>Eligible Buildings:</u> Any building within a Project Incentive Area that was constructed prior to July 1, 1974, or which has been determined to be a historically significant building. Any building on the Natl. Register, CA Register, or the City Register, or is eligible for such listing</p> <p><u>Reuse Area(s):</u> 4 Adaptive Reuse Incentive Areas</p>	<p><u>Eligible Buildings:</u> The overlay district may be applied in any zoning district if, the building is designated locally or nationally; the building would no longer be allowed under current codes, or the building use no longer functions in the current environment or would create negative impacts with current use</p> <p><u>Reuse Area(s):</u> Overlay Districts (as applied)</p>	<p><u>Eligible Buildings:</u> All structures permitted prior to 2000</p> <p><u>Reuse Area(s):</u> Entire City</p>

Figure 9 | Ordinance Building Eligibility Comparison

Los Angeles, CA	Long Beach, CA	Santa Ana, CA	St. Petersburg, FL	Phoenix, AZ
<p>Incentives: Density – dwelling units, joint live/work spaces, and guest rooms are not subject to the lot area requirements of the zone or height district Heights – buildings taller than what is currently permitted are grandfathered Floor Area – existing floor area that exceeds what is permitted by the zone is permitted Yards – existing yards that do not meet current requirements are grandfathered Off-Street Parking – the required number of parking spaces is the same number of spaces that existed on June 3, 1999 Site Plan Review – adaptive reuse projects are exempt from the requirements Loading Spaces – if there's not a space, one is not required</p>	<p>Incentives: Setbacks – existing non-conforming setbacks are grandfathered, changes of more than 25 linear feet to façade must comply with standards unless waived Heights – existing non-conforming heights are grandfathered, new height added for living space must comply with height limits of the zone unless waived</p>	<p>Incentives: Density – the project can exceed max. general plan density for the site provided it follows development standards Setbacks – non-conforming setbacks are considered 'legal non-conforming and are grandfathered Heights – non-conforming heights are considered 'legal non-conforming' and grandfathered (new rooftop construction is included) Loading Zone – no loading zone is required if there is not one already Parking – new parking spaces are not required for converted building use, but new square footage that includes new units requires a min. of 2 spaces per unit</p>	<p>Incentives: Density – existing dwelling units are grandfathered and not subject to the min. lot area requirements Setbacks – non-conforming setbacks are grandfathered Heights – non-conforming heights are grandfathered Floor Area Ratio – if the building uses less than the allowable FAR in the district, it may be expanded up to the allowable FAR</p>	<p>Incentives: Programs – The Community and Economic Development Department Business Retention and Expansion Division has several programs which could provide existing Phoenix based businesses who meet adaptive reuse requirements Historic Preservation – the Historic Preservation Office gives priority to adaptive reuse projects when processing HP zoning apps and grant applications Certificates of No Effect – the City issues Certificates of No Effect (as over-the-counter approvals) rather than Certificates of Appropriateness, which require a public hearing</p>

Figure 10 | Ordinance Incentives Comparison

Los Angeles, CA	Long Beach, CA	Santa Ana, CA	St. Petersburg, FL	Phoenix, AZ
<p>Standards: Dwelling Units & Joint Living and Working Quarters – min. floor area for new dwelling units and joint live/work quarters is 450 sq. ft. (does not include hallways, common areas, rooftops, balconies) Average Floor Area – combine area of all dwelling units and joint live/work quarters in the building, including those that existed prior to the effective date of the ordinance, must be at least 750 sq. ft.</p>	<p>Standards: Residential Unit Size – min. unit size is 450 sq. ft., with a project average of no less than 700 sq. ft., unless waived Existing Parking – the overall number of spaces must be maintained; exception is made for purposed of providing ADA parking/access</p>	<p>Standards: Residential Unit Size – min. unit size is 500 sq. ft. Ground Floor – ground floor of a multi-level building with 3 stories or more, containing street frontage, must be used as commercial/retail space Common Areas – if located on the ground floor may not take up more than 50% of the square footage Open Space – must be 10% of the building square footage and may be public or private (must be distributed throughout the building), 25% must be in the form of a community or rec. room, remaining open space may be private balconies, pool area, public courtyards (these must have seating, landscaping, etc.)</p>	<p>Standards: Standard for Review – in addition to the standards of review for a variance, any variance for an adaptive reuse of an historic building is guided by the following: Parking – projects must provide as many off-street parking spaces as possible without destroying the integrity of the historic resource. Res. uses must provide 1 space per dwelling unit, up to 2 bedrooms. Dwellings over 2 bedrooms must provide a min. of 2 spaces Variances – variances to green yard and allowing stacked parking and shared off-site parking are acceptable alternatives to meet requirement, if the lack of parking does not create adverse impacts on surrounding properties</p>	<p>Standards: Tier 1 – buildings that are a max. of 5,000 sq. ft., this can include an addition to the existing building, but the addition cannot exceed 50% of the square footage of the existing building and the combine total of the area cannot exceed 5,000 sq. ft. Tier 2 – buildings that are between 5,000 and 25,000 sq. ft., same building addition requirements as mentioned in Tier 1 apply Tier 3 – buildings larger than 25,000 sq. ft. (up to 100,000 sq. ft.) and Large Scale Commercial Retail as defined by the Zoning Ordinance ‘big box’ (Mercantile Occupancy)</p>

Figure 11 | Ordinance Standards Comparison

Los Angeles, CA	Long Beach, CA	Santa Ana, CA	St. Petersburg, FL	Phoenix, AZ
<p>Additional Information: Further Goal – to create a more balanced ratio between housing and jobs in the region’s primary employment center Unified Adaptive Reuse Projects – composed of 2 or more buildings, so long as the project has the following characteristics: - Functional linkages (pedestrian/vehicular) - Common architectural or landscape features - Unified appearance when viewed from the street - May include lots that abut or are separated only by an alley or are located across the street from any portion of each other - No public hearing requirements if all property owners provide, in writing, no objections to the project The Mills Act – CA State Law that provides tax relief in exchange for preservation of a historic property</p>	<p>Additional Information: Required Parking in Designated Parking Impact Areas – adaptive reuse projects in Parking Impact Areas must adhere to following requirements: - Residential Parking: min. of 1 space per dwelling plus 1 guest space for every 4 dwelling units - Non-Residential Parking: min. of 2 spaces per every 1000 sf of usable internal space - Mixed-Use: the first 3,000 sf of non-residential space is exempt from parking requirements - 75% of the min. parking must be provided for assembly, office, or retail conversions in mixed-used or stand-alone buildings - For all non-residential uses, 1 space per every 1,000 sf of usable space The Mills Act – CA State Law that provides tax relief in exchange for preservation of a historic property</p>	<p>Additional Information: Project Incentive Areas – residential uses are allowed in the Project Incentive Areas (does not matter what the underlying zoning is if the project is approved) Alternative Building & Fire Standards – alternate building materials, design, or method of construction is allowed, must be approved (alternative materials must be equivalent to what is prescribed by the Fire Code) Use or Occupancy – the use or occupancy of an eligible building can be changed and the building can be occupied for purpose in other groups without conforming to all CA Fire Code requirements (provided the new use is less hazardous, based on life and fire risk, than the existing use) The Mills Act – CA State Law that provides tax relief in exchange for preservation of a historic property</p>	<p>Additional Information: Overlay District – unlike the other 4 cities, which use formal ordinances, St. Pete utilizes an overlay district strategy (which provides the same regulatory powers as a formal ordinance) Minor Reuse Cases – projects are considered ‘minor reuse case’ if a building is converted to a new use that is allowed by right, requests permits for less than \$50,000 worth of exterior work (not including restorative and deferred maintenance), or only requires variances to setbacks, parking, or landscaping requirements Major Reuse Cases – projects are considered a ‘major reuse case’ if a building is being converted to a use that is not allowed by right but is identified on the ‘reuse chart’ or exterior alterations exceed \$50,000</p>	<p>Additional Information: Tier Structure & Eligibility – unlike the other 4 cities, Phoenix uses a tier structure to categorize projects by size. The ordinance applies to the entire city and all buildings built prior to 2000 are considered eligible structures Single Point of Contact – the Development Services Dept. assigns a rep. of the Office of Customer Advocacy to each project so clients can work one-on-one to develop their project with the city Community & Economic Development Programs – these programs typically provide technical, financial or workforce assistance for eligible businesses Sustainability – the City provides sustainability information/considerations in the form of a handbook, they also refer clients to local/state/federal tax incentives</p>

Figure 12 | Ordinance Additional Information

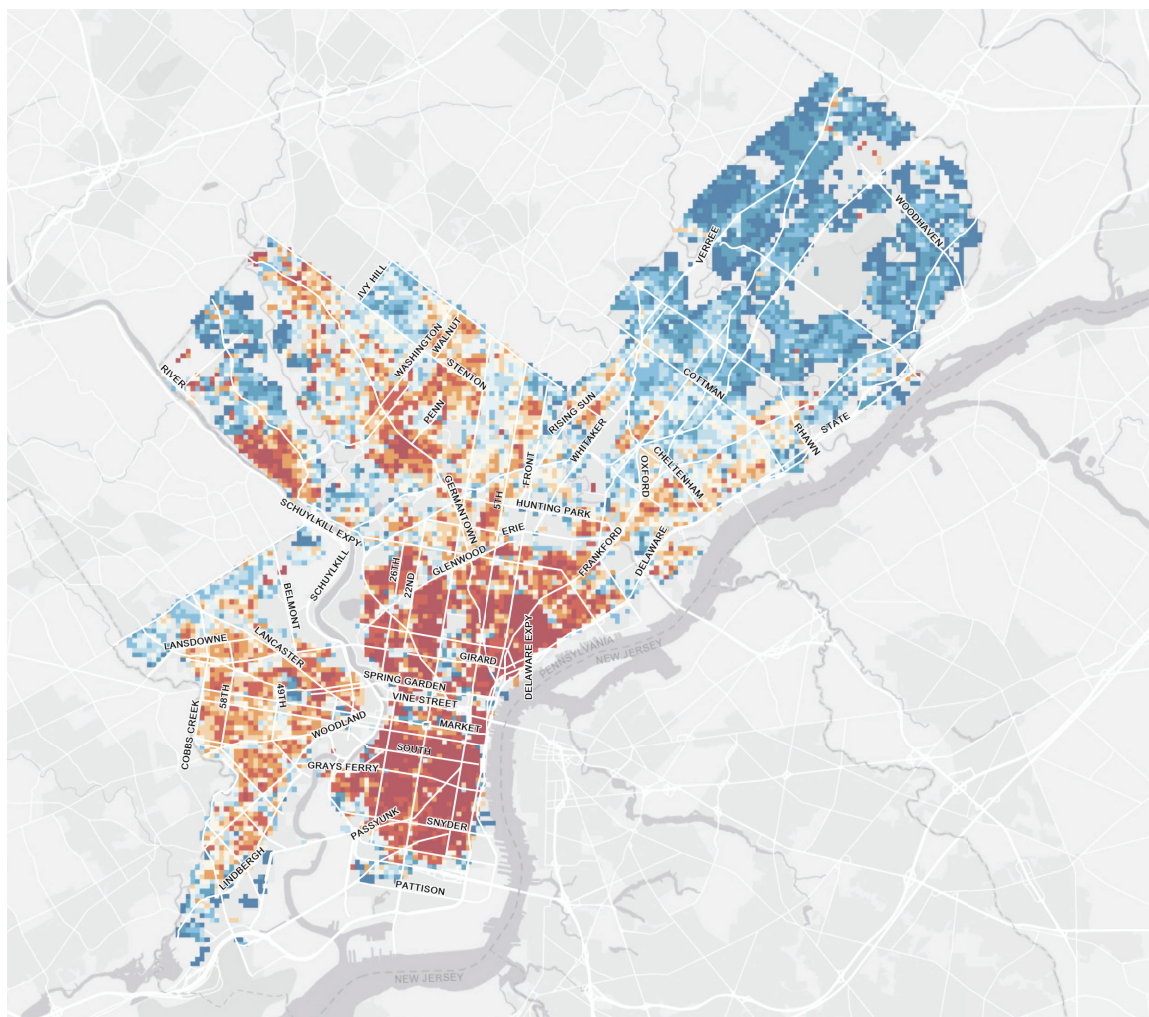


Figure 13 | Philadelphia Character Score Map, Partnership for Building Reuse, 2014.

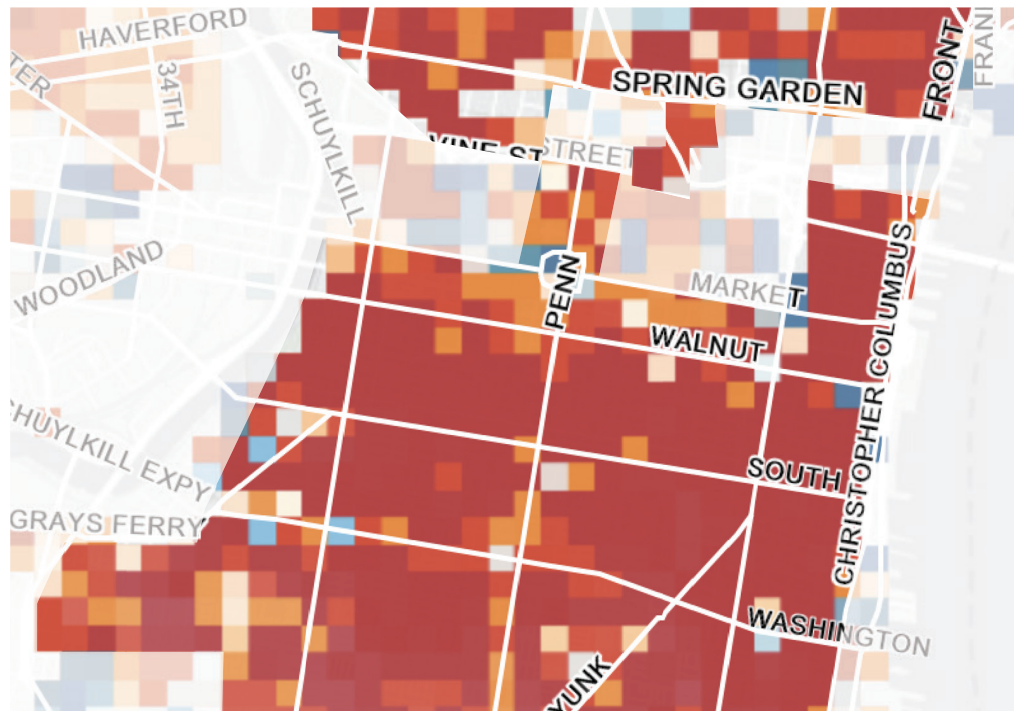


Figure 14 | Center City Philadelphia Character Score Map, Partnership for Building Reuse, 2014.

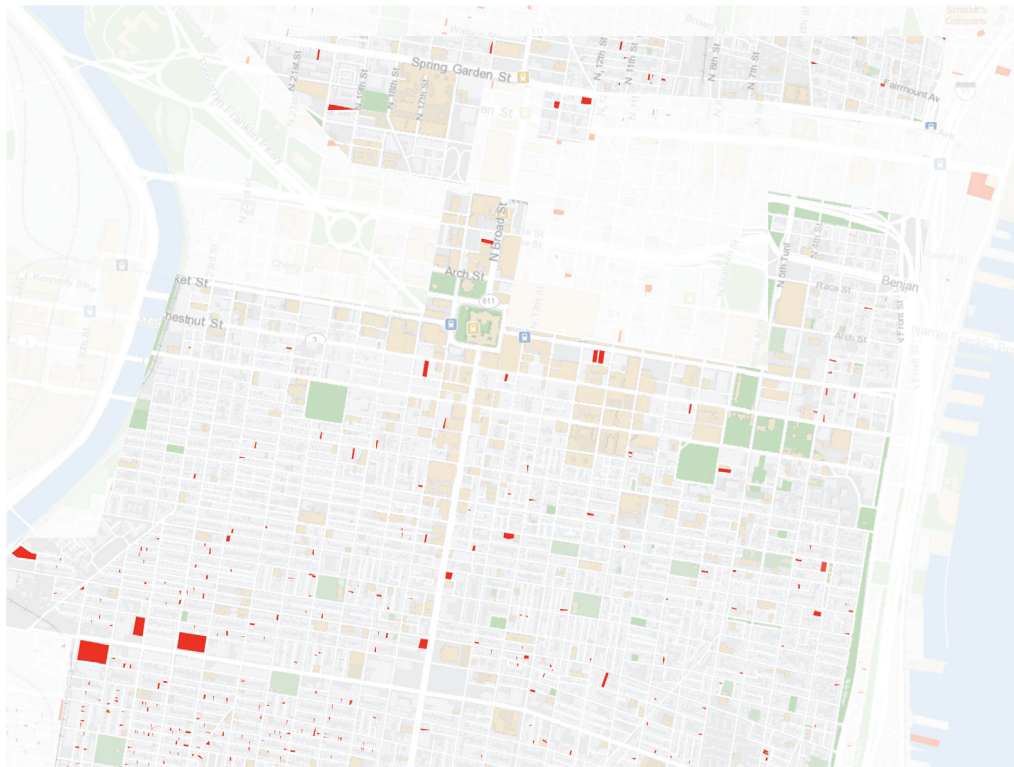


Figure 15 | Center City Philadelphia Vacant Building Indicators, City of Philadelphia OpenMaps.

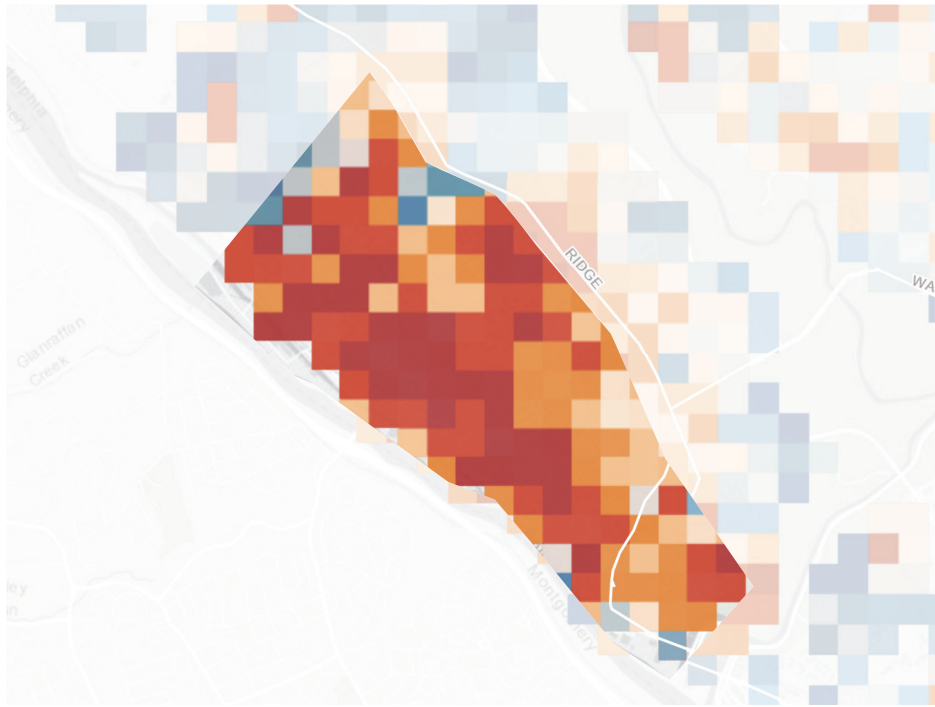


Figure 16 | Manayunk Neighborhood Character Score Map, Partnership for Building Reuse, 2014.



Figure 17 | Manayunk Neighborhood Vacant Building Indicators, City of Philadelphia OpenMaps.

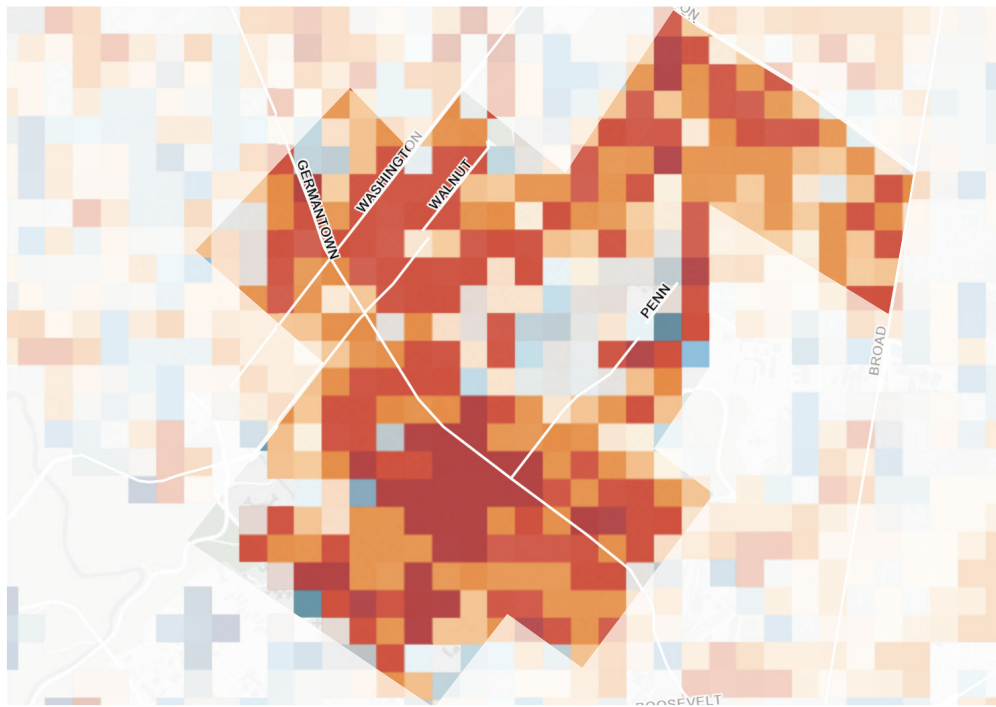


Figure 18 | Germantown Neighborhood Character Score Map, Partnership for Building Reuse, 2014.

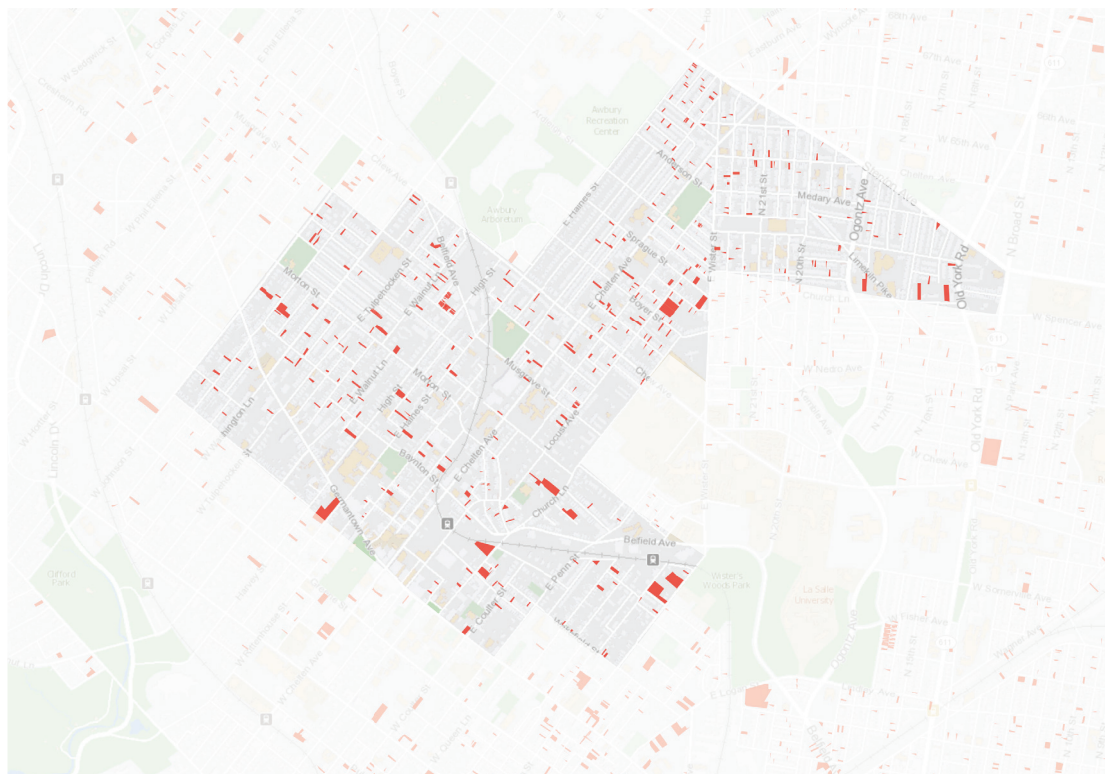


Figure 19 | Germantown Neighborhood Vacant Building Indicators, City of Philadelphia OpenMaps.

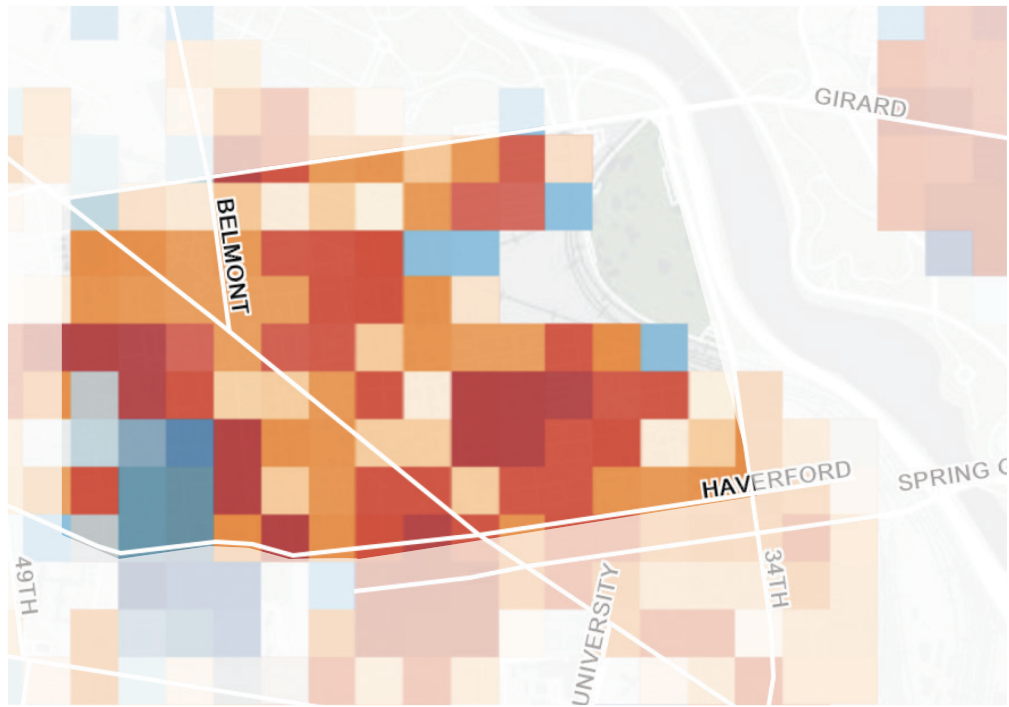


Figure 20 | West Philadelphia Neighborhood Character Score Map, Partnership for Building Reuse, 2014.

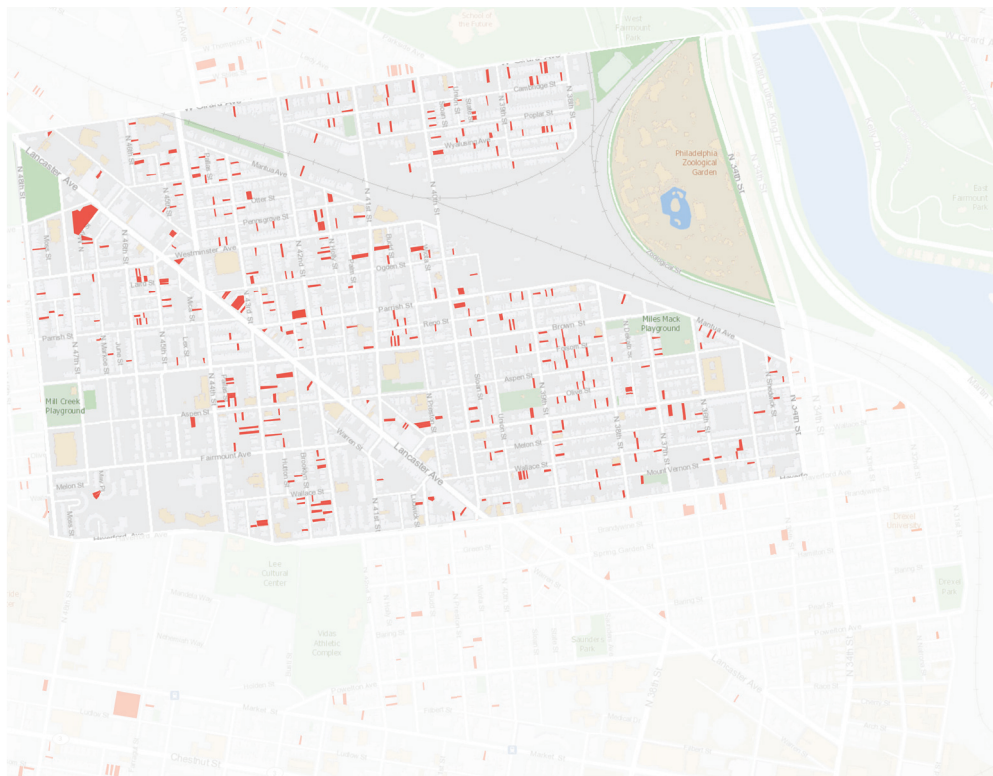


Figure 21 | West Philadelphia Neighborhood Vacant Building Indicators, City of Philadelphia OpenMaps.

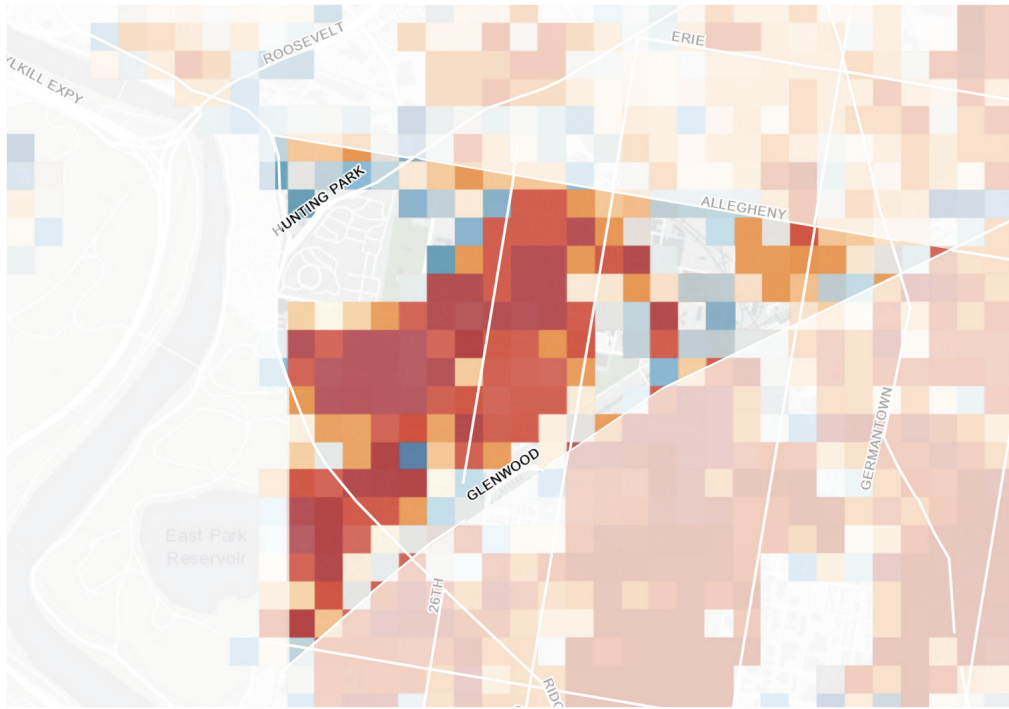


Figure 22 | Strawberry Mansion Neighborhood Character Score Map, Partnership for Building Reuse, 2014.

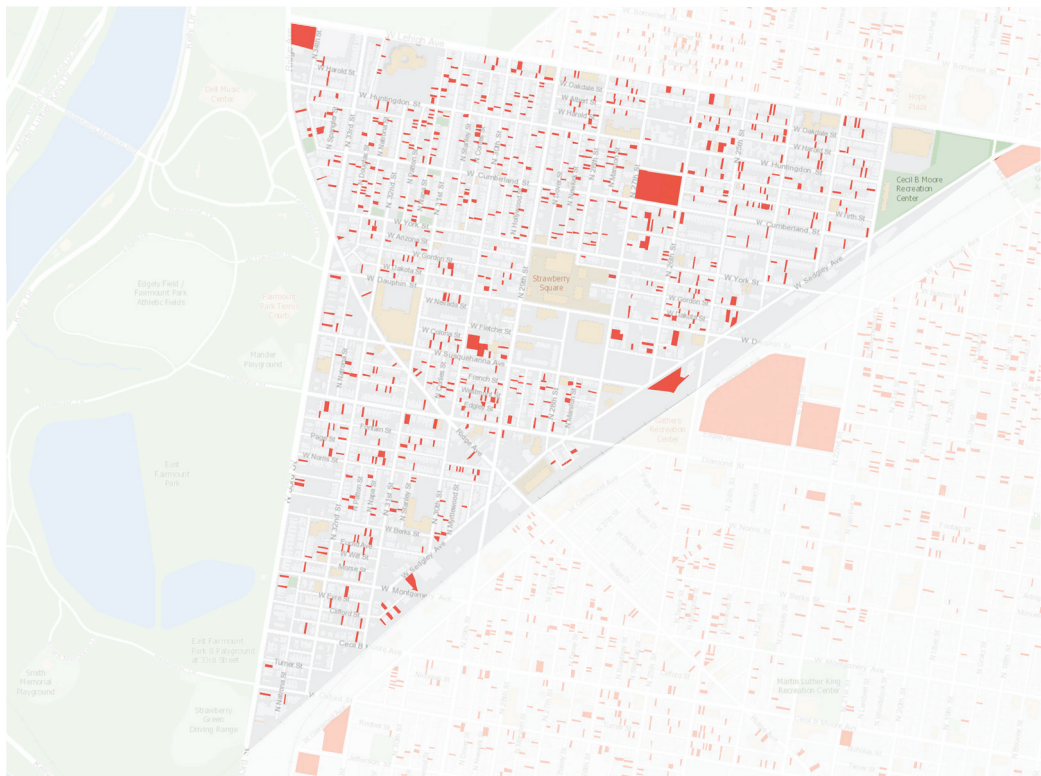


Figure 23 | Strawberry Mansion Neighborhood Vacant Building Indicators, City of Philadelphia OpenMaps.

Appendix B

The following is a proposed draft of a model Adaptive Reuse Ordinance for the City of Philadelphia. It utilizes a framework developed by the Preservation Green Lab of the National Trust for Historic Preservation, which was included in the October 2017 publication, “Untapped Potential: Strategies for Revitalization and Reuse.”¹ This model ordinance for Philadelphia was crafted to create a sample framework, within which the adaptive reuse of both locally designated historic buildings and non-historic older buildings can be incentivized.

Based on the five cities and one state described above, the creation of such a model ordinance is a critical step towards providing incentives for adaptive reuse projects in Philadelphia. It anticipates that the city would establish a new process for permit review, for reuse projects, to operate in tandem with the policies and regulations proposed in this model. As suggested in the 2017 Preservation Green Lab publication, “jurisdictions should consider creating a multi-departmental team that will become familiar with the adaptive reuse code and coordinate to provide efficient review of proposed projects.” The creation of a multi-departmental team to facilitate adaptive reuse projects would allow the City of Philadelphia to address lengthy permit review times, which have been identified as a key barrier to building reuse.

The purpose of this ordinance is to make undertaking an adaptive reuse project in the City of Philadelphia an attractive opportunity. This ordinance is aimed at promoting

¹ National Trust for Historic Preservation, Preservation Green Lab, “Untapped Potential: Strategies for Revitalization and Reuse,” 25-31.

neighborhood revitalization and encouraging reinvestment in targeted areas of the city. More specifically, this model policy is meant to stimulate the reuse of buildings that are often considered too difficult to convert, due to current regulatory practices. To accomplish this objective, the following model ordinance promotes a simplified and predictable regulatory process. The suggested model includes appropriate building reuse incentives, which would allow for multiple building types to be reused for several purposes. It should be noted, for this Ordinance to function properly within the City of Philadelphia, a series of implementing rules and regulations would also need to be created. This process would engage several city agencies, including the City Council, the Planning Commission, and the Department of Licenses and Inspections (L&I). Assuming full participation and commitment to the creation of this Ordinance, it is reasonable to assert a development timeframe of approximately 18 months would be appropriate.

The following model ordinance should be read as a policy framework that has been crafted using an existing sample structure, provided by the Preservation Green Lab of the National Trust for Historic Preservation.

To clarify aspects of this policy framework that have been added or edited to reflect the specific utility of an Adaptive Reuse Ordinance for Philadelphia, two different type-styles have been employed. Text that appears in the Preservation Green Lab's sample ordinance is indicated in plain-text, whereas content generated by the author of this thesis has been underlined.

Model Adaptive Reuse Ordinance

1. **Purpose.** The purpose of this Adaptive Reuse Ordinance is to provide a consolidated approach to enabling eligible buildings and adaptive reuse projects to meet zoning, building, fire protection, and public utility standards. The provisions of this program apply to all or portions of eligible buildings located in a designated adaptive reuse incentive area.
2. **Definitions.**
 - 2.1. *Adaptive Reuse Incentive Area*—An overlay district designated on the Philadelphia Zoning Map where adaptive reuse projects in eligible buildings are incentivized.
 - 2.2. *Adaptive Reuse Project*—Any building being used to create new business or residential opportunities. Change of use shall not be a requirement for a project to be considered for adaptive reuse.
 - 2.3. *Eligible Building*—Any building within an Adaptive Reuse Incentive Area that is at least 50 years old and that was constructed in accordance with building and zoning codes in effect at the time of construction.
3. **Applicability.**
 - 3.1. The provisions of this Adaptive Reuse Ordinance apply to adaptive reuse projects taking place in eligible buildings within an adaptive reuse incentive area. The change of use of an existing vacant or underutilized building to new uses that promote community goals is permitted subject to compliance with the standards in this chapter.²
 - 3.2. The provisions of this chapter can also apply to buildings that are listed or eligible for historic designation located in an adaptive reuse incentive area; however, additional regulation under the Philadelphia Historical Commission and any other related historic guidelines, including the Secretary of Interior Standards, may apply if the building or structure is listed on the Philadelphia Register.
 - 3.3. Expansions to the floor area of an eligible building must comply with the development standards of the underlying zone and are eligible for the incentives provided in Section 7, so long as the floor area expansions do not exceed the

² ‘Community goals’ are neighborhood specific. They include development objectives such as the creation of more residential housing and expanded opportunities for businesses through the development of commercial spaces.

property boundaries and allowable building volume, as defined by the underlying zoning.

3.4. The provisions of this Ordinance are intended to supplement the standards otherwise applied to the site by its underlying zoning. Unless specifically modified by this chapter, all other standards adopted shall apply.

4. Eligibility. Projects must meet the following criteria to be eligible for consideration as an adaptive reuse project:

4.1. Project site shall be located in an Adaptive Reuse Incentive Area.

4.2. The building must be an eligible building, as defined in Section 2.3.

5. Development Standards. Adaptive reuse projects shall, at minimum, comply with the following development standards:

5.1. Residential Unit Size. The minimum allowable residential unit size for an adaptive reuse project is 480 square feet. This minimum size standard does not include hallways, common areas, rooftop, or balconies.

5.2. Ground Floor Use. At least 50 percent of the ground floor of a multi-level building with 3 stories or more, containing street frontage, must be used as commercial and/or retail space.

5.3. Open Space. Adaptive reuse projects that occupy less than 50 percent of the associated lot area shall provide open space at a rate of 10 percent of the building square footage. At minimum, 25 percent of the open space may be allocated for community/recreation room(s). The remaining open space may be used for private purposes, such as balconies and building amenity areas.

5.4. Historically Significant Buildings. Buildings listed on the Philadelphia Register of Historic Places shall comply with Chapter 14 of the Philadelphia Municipal Code.

6. Incentives.

6.1. Density. The project can exceed the maximum density established by the Philadelphia Zoning Code for the site, provided the adaptive reuse project is in compliance with any minimum residential unit size standards established by this code.

- 6.2. *Setbacks.* Existing building setbacks may remain and shall be considered legally nonconforming. Changes of more than 25 linear feet to the façade must comply with current standards, unless waived.
- 6.3. *Height.* The height of the structure, if it exceeds the maximum height of the zoning district, may remain and shall be considered legally nonconforming. If the current height of the structure does not exceed the maximum height of the underlying zoning district, it may be vertically expanded. Any rooftop construction needed for building circulation, drainage, ventilation, utilities, or passive recreation shall be included within the height exemption.
- 6.4. *Parking.* New parking spaces shall not be required for any converted use within the existing footprint of the building, however, the existing number of parking spaces on a given site must be maintained. Should an adaptive reuse project result in expanded floor area for residential or commercial purposes, supplemental parking shall be provided. Off-site and shared parking shall be allowed, but must be located within a one-quarter mile radius of the adaptive reuse project.
- 6.5. *Transfer of Development Rights Program.* This section authorizes a program through which building owners choosing to reuse older, smaller buildings, may transfer unused zoned development potential to an approved receiving site in exchange for payment. (Note: A Transfer of Development Rights Program would have to be created for Philadelphia).
- 7. Approved Land Uses.** Subject to the limitations of Section 9.2, a broad range of land uses or mix of uses shall be allowed in the Adaptive Reuse Incentive Area, irrespective of the underlying zoning, as part of an adaptive reuse project. The applicant must demonstrate that any new uses will not negatively impact the surrounding neighborhood.
- 8. Alternative Building Code Regulations**
- 8.1. *Applicability.* The alternative building code regulations adopted in this section are applicable to eligible buildings located in an adaptive reuse incentive area.
- 8.2. In permitting repairs, alterations, and additions necessary to accommodate adaptive reuse projects, adherence to Chapter 34 of the Building Officials Code Administrators (BOCA) shall be required.
- 8.3. Nothing in this section shall be construed to allow the reduction of existing seismic or fire and life-safety elements of an eligible building where such elements provide a greater level of protection than the minimum requirements established by this section.

8.4. Procedure.

- 8.4.1. The use of alternative construction methods and alternative building materials shall be allowable for the purposes of adaptive reuse.
- 8.4.2. The applicant must submit an Alternative Methods and Materials application to the Department of Licenses and Inspections (L&I).³ Upon review of such application, the Building Official or its associated staff is authorized to grant approval when the proposed design is found satisfactory and complies with the intent of the provisions of accepted performance-based codes, such as Chapter 34 of the Building Officials Code Administrators (BOCA).
- 8.4.3. The Building Official or its associated staff shall review adaptive reuse project proposals on a case-by-case basis.

9. Alternative Fire Code Regulations

- 9.1. *Applicability.* The alternative fire code regulations adopted in the section are applicable to eligible buildings located in an adaptive reuse incentive area.
- 9.2. *Uses and Occupancies.*
 - 9.2.1. Adaptive reuse projects must adhere to the fire and life-safety requirements of accepted performance-based codes, such as of Chapter 34 of the Building Officials Code Administrators Code (BOCA).
 - 9.2.2. Subject to the approval of the Fire Official, the use or occupancy type of an eligible building shall be allowed to be changed as part of an adaptive reuse project without conforming to all requirements of the Philadelphia Building Construction and Occupancy Code, provided the new or proposed occupancy is equally or less hazardous, based on life and fire risk, than the existing use, under the requirements of accepted performance-based codes, such as Chapter 34 of the Building Code Administrators Code (BOCA).

³ Alternative Methods and Materials applications are used to identify any non-standard procedural approaches to a project as well as any new materials being used for the purposes of adaptive reuse. Use of alternative methods and materials, as allowed by this sample Ordinance, are similar to the allowances made in the New Jersey Rehabilitation Subcode. As with the Subcode, “materials and assemblies may be replaced with like materials and assemblies, and there is no limit to how much repair may be undertaken in connection with a given project. There are, however, a few exceptions to this rule, including requiring certain products and practices.” (NJAC 5:23-6.4).

9.2.3. *Modifications.* Whenever there are practical difficulties involved in carrying out the provisions of the Philadelphia Fire Code, the applicant may file an appeal, to be reviewed by the Fire Official and by the Department of Licenses and Inspections (L&I) Review Board, to assess the proposed modifications and their compliance with requirements of accepted performance-based codes, such as Chapter 34 of the Building Officials Code Administrators (BOCA).

9.3. *Procedure.*

9.3.1. The applicant must submit an Alternative Methods and Materials application to the Department of Licenses and Inspections. Upon review of the application, the Department is authorized to grant approval when the proposed design is found satisfactory and complies with the intent of the provisions of the current fire codes in effect, and that the material, method or work offered is at least equivalent of that prescribed requirements of accepted performance-based codes, such as in Chapter 34 of the Building Officials Code Administrators (BOCA) in quality strength, effectiveness, fire resistance, durability, and safety.

9.3.2. The applicant must submit a Fire Life Safety (FLS) Report which shall identify the eligible building's existing features and evaluate existing fire and life-safety features against the current code requirements of accepted performance-based codes, such as Chapter 34 of the Building Officials Code Administrators Code (BOCA).

9.3.3. The Fire Official shall review adaptive reuse project proposals on a case-by-case basis, to assess conformance with the requirements of accepted performance-based codes, such as Chapter 34 of the Building Officials Code Administrators Code (BOCA).

10. **Severability.**

10.1. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Philadelphia hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

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