

Memorandum

To: Zoning Committee of the Planning Commission (ZOCO) **Date:** July 16, 2024

From: Kellie Brown, Comprehensive Planning Section Supervisor, CPHD
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Subject: Zoning Study to Permit By-Right Interior Structural and Non-Expansionary Exterior Alterations in Nonconforming Multifamily and Townhouse Dwellings

Executive Summary

The traditional practice of zoning, in Arlington and other communities, has restricted improvements that can be made to nonconforming uses and buildings. While this is intended to set in motion the eventual replacement of nonconforming properties with a new building that meets current standards, the requirement conflicts with goals for preservation of older buildings that may have cultural or historic value and/or provide lower-cost living options compared to newer buildings.

Given these challenges for nonconforming properties, the Arlington County Zoning Ordinance (ACZO) provides flexibility for structural interior alterations, as well as additions, and expansions for nonconforming one-family and two-family dwellings and Expanded Housing Option uses. However, nonconforming townhouses or multifamily buildings are not eligible for similar types of alterations and expansions. These properties are in zoning districts amended over time to become incrementally more restrictive. It is impractical to bring these dwellings into compliance with the ACZO. There are only two paths to pursue structural interior alterations or expansions and additions for these dwellings. The first path is obtaining a County Board use permit for additions and expansions and modification of regulations on setback, yard, coverage, parking, and/or density with provision of a low- and moderate-income housing plan, including a Neighborhoods Form Based Code use permit for properties along portions of Columbia Pike, which is not applicable or feasible in many circumstances. The second path is through a variance from the [Board of Zoning Appeals \(BZA\)](#).

Recently obtained data, which confirms the presence of nonconformities in numerous Fairlington residences, has triggered a considerable increase in variance requests over the past two years. The Code of Virginia ([§15.2-2309](#)) requires that certain criteria must be met to warrant a variance. These BZA variance requests are for a particular circumstance, heard frequently, and consistently approved for situations that are not unique to a small number of property owners. When a trend of frequent approvals emerges, it is appropriate to consider amendments to the ACZO that provide uniform and objective criteria for such applications.

Introducing measures that allow for greater zoning flexibility for nonconforming townhouses and multifamily properties would alleviate the burden of pursuing BZA approval for certain home improvement projects in communities including Fairlington and in other parts of the County where nonconforming townhouses and multifamily properties are present and built by-right. These changes would establish consistency with the regulation for one- and two-family dwelling types in which property owners have the by-right ability to make interior structural renovations to improve livability, functionality, and safety of individual units, or an entire multifamily building, with limited or no impacts on adjacent property owners.

To achieve these objectives, staff has developed draft zoning text for the Zoning Committee's consideration, enclosed as Attachment 1.

Background

Arlington's Zoning Ordinance (ACZO) requires nonconforming buildings and structures to be brought into conformance with current zoning standards before structural interior alterations, defined in the AZCO as "any change that would tend to prolong the life of the supporting members of a building or a structure, such as bearing walls, columns, beams or girders", and building additions and expansion may be permitted. The intent of this requirement is to encourage eventual replacement with new buildings and structures that meet current standards.

Bringing a building and other site conditions into full conformance may be impractical in many circumstances given the differences between existing conditions such as building placement, setbacks, and parking and current zoning requirements. Thus, despite the intent, the result of this requirement is continuation of the use or building in an identical fashion to its originally approved use, height, and/or placement.

Furthermore, this requirement conflicts with policy goals for the preservation and maintenance of older buildings, which may have cultural or historic value and in the case of housing may provide lower cost living options compared to newer buildings. The County has an interest in retaining older housing stock, as provided in Affordable Housing Master Plan Policy 1.1.3.¹

Given these challenges for nonconforming properties and conflicts with policy goals, nonconforming one-family and two-family dwellings and Expanded Housing Option (EHO) uses have explicit allowances for interior structural alterations, additions, and expansions to nonconforming structures. However, such allowances are not extended to by-right townhouse or multifamily properties.

In addition, the BZA has the authority to grant use permits for properties in R-20, R-10, R-8, R-6, R-5, and R2-7 districts for modifications of placement requirements². The criteria for approving a BZA use permit are focused on compatibility or a similarity with surrounding properties.

¹ Affordable Housing Master Plan Policy 1.1.3: "Make every reasonable effort to prevent the loss of market-rate affordable rental housing."

² [§15.6.6](#).

The County Board may, by use permit approval, allow additions to or enlargement of building(s) on the property and modification of regulations on setback, yard, coverage, parking, and/or density for nonconforming buildings in “RA” districts. However, the proposed use permit must include a low- or moderate-income housing plan and a request for designation as a Voluntary Coordinated Housing Preservation and Development District (VCHPDD) by the County Board.³ This path is not feasible for individual homeowners within townhouse or multifamily developments. The County Board may also, by use permit approval of a Neighborhoods Form Based Code application, approve modifications to similar zoning requirements to enable additions to or enlargements of existing buildings as part of an infill or partial redevelopment proposal, which also requires inclusion of affordable housing.

Other than these existing tools, the only path for structural interior alterations or expansions and additions in nonconforming multifamily buildings and townhouses is through a variance from the BZA. The number of variance requests for home improvement and renovation projects for nonconforming townhouses and multifamily dwellings increased considerably in 2023, with 24 requests for variances in Fairlington and one request in Arlington Village through May 2024. Before 2023, these buildings' nonconforming status could not be verified in reviewing building permit applications. The County now has access to better records with plats showing house locations, improving ability to measure dimensions and identify nonconformities. Nonconformities have been identified as resulting from the building 1) not meeting the street setback requirement and/or 2) not meeting the 20' separation requirement for multiple multifamily buildings on the same lot.⁴

The variance requests most frequently stem from homeowners seeking to obtain building permit approval for interior structural alterations to remove walls separating the kitchen from the dining room, or limited additions for installation of basement egress windows, or some combination of these improvements. Either through consultation ahead of time or during the building permit review process, staff identifies the dwelling as a nonconforming townhouse or unit in a nonconforming multifamily building.

The Fairlington nonconformities are located in the RA14-26 zoning district, yet nonconforming townhouses and multifamily dwellings are also located in the Two-Family and Townhouse “R2-7” district, and the other Residential Multifamily “RA” districts. The Code of Virginia (§15.2-2309) requires that certain criteria must be met to warrant a variance. When BZA variance requests are for a particular circumstance and are being frequently heard and consistently approved for situations that are not unique to a small number of property owners, as they are for home renovations to nonconforming buildings, it is appropriate to consider amendments to the ACZO that provide uniform and objective criteria for such applications.

The ongoing Multifamily Reinvestment Study (MRS) is examining the County’s multifamily housing stock, including the existing options for and barriers to reinvestment in older multifamily properties. The study will evaluate potential new options to reinvest in

³ [§12.3.7.B](#)

⁴ [§3.2.6.A.6](#)

nonconforming multifamily housing stock, including not only interior structural alterations but also expansions and additions.

The issue of interior alterations for nonconforming townhouses and multifamily dwellings was initially included within the scope of the MRS. However, given the significant volume of BZA variance requests for modest structural renovation projects with limited or no exterior impacts, and the presence of nonconforming multifamily and townhouse dwellings in both RA districts and the R2-7 zoning district, this zoning study will be brought forward in advance of MRS recommendations to provide near-term relief for property owners seeking to make improvements to their existing dwellings.

Adopted Policy

The County's [Affordable Housing Master Plan](#), an element of the Comprehensive Plan, includes numerous policies, including promotion of the construction and preservation of affordable rental housing and the production and preservation of family-sized (e.g. 3+bedroom) moderately-priced ownership units.

Introducing measures that allow for greater zoning flexibility for nonconforming by-right townhouses and multifamily properties would facilitate the ongoing renovation and maintenance needed to keep older properties safe and livable, a critical part of the County's rental and homeownership housing stock that provides less expensive options than newer housing. The scope of study as described below proposes specific opportunities for greater flexibility.

However, it is also important to acknowledge that some of these units are located in areas with adopted sector or area plan guidance. Adopted planning guidance may encourage preservation of existing buildings. In other cases, however, plan guidance may envision redevelopment of existing housing to achieve other community priorities including increased housing supply, commitment of housing affordability, public realm improvements, and transportation network investments.

In addition, as noted previously, the ACZO currently requires nonconforming multifamily properties in "RA" districts to submit a low- or moderate-income housing plan and obtain a use permit for additions and expansions and modification of regulations on setback, yard, coverage, parking, and/or density (§12.3.7.B). This requirement provides for preservation of lower cost housing, which is not guaranteed with by-right development.

Given these considerations, as noted in the Scope of Study, this study documents the location of units within adopted planning districts and the inventory of committed affordable units (CAFs) and market rate affordable units (MARKs) that may be granted new by-right flexibility to make structural interior alterations and limited exterior changes. In all planning districts, as in the rest of the County, non-structural interior renovations (i.e. any change that would NOT tend to prolong the life of the supporting members of a building or a structure, such as bearing walls, columns, beams or girders) may already occur by right. However, the study considers the potential impacts of proposed ACZO amendments on these units, including consistency or conflict with other County goals and policies.

Scope of Study

The purpose of this Zoning Study is to develop recommendations for Zoning Ordinance amendments that eliminate the need for the BZA to grant variances for nonconforming townhouses and multifamily dwellings for interior structural alteration home improvement projects, including finishing attics and kitchen remodels, and other projects that extend to the home exterior, such as additions for window wells to create basement egress, areaways, exterior stairs, ramps, and decks. While the intent of this amendment is to allow for structural changes to existing individual dwellings, enabling these types of improvements would also allow for renovation of entire multifamily buildings. This could support improved accessibility for individuals with disabilities, or conversion of an existing shared space in a multifamily building (e.g. laundry rooms, rental offices) into an additional unit pursuant to district standards for maximum allowable units per acre.

Options to address the study's purpose include modifying the standards, such as setbacks, density or parking requirements, that made these properties nonconforming, or extending the same provisions to allow structural interior alterations and expansions and additions to multifamily and townhouse dwellings as are allowed for one-family and two-family dwellings. These types of changes would enable thousands of multifamily dwelling units and townhouses throughout the County, which are nonconforming due to setback, building separation, density, building height, and parking requirements, to make structural interior alterations and expansions and additions by-right.

By-right expansions and additions requires careful study of potential impacts, compared to the more modest impacts of allowing only interior alterations and certain limited additions, as sought in Fairlington (e.g. kitchen renovations, basement egress windows). Study of expansions and additions to multifamily dwellings in "RA" districts is within the scope of the MRS.

Enabling modification of placement standards via BZA use permit in RA districts could also be considered. However, this option would also require study of potential impacts. Furthermore, allowing modification of placement standards would still require BZA consideration, which would not address the underlying issue of requiring BZA action for property improvements that have been frequently heard and consistently approved.

Given these considerations, the recommendations of this study seek to support by-right structural interior alterations and only limited exterior changes that conform to the existing placement standards of the Zoning Ordinance, both within individual multifamily units or townhouses and as part of renovation projects for an entire multifamily building.

Within this limited scope, the study considers allowing these changes for multifamily and townhouse properties in "RA" districts and the R2-7 district. Other zoning districts in the Residential "R" and Commercial/mixed use "C" districts allow for multifamily and townhouse properties; however, such development in these districts occurs through special exception review, thus conforming subject to the provisions of the adopted site plans or use permit. It is

only the “RA” districts and the R2-7 district that have permitted townhouses and multifamily buildings by-right since they were originally established and where amendments over time may render them now nonconforming and trigger the need to request a BZA variance.

As presented in the Analysis section below, nonconformities are wide-ranging and prevalent, and so the study does not seek to identify all nonconforming properties but rather identifies the location and quantity of townhouse and multifamily properties in “RA” and R2-7 zoning districts as well as tenure and affordability data (i.e. MARK or CAF). Analysis identifies planning districts (i.e., areas covered by adopted sector or area plans) in which these properties are located, and whether allowing greater flexibility for by-right change is consistent with or supportive of County policies for the existing housing stock or if certain sector/area plans (i.e. Columbia Pike Neighborhoods Plan) have their own expectations and regulatory tools to support renovations.

Analysis also evaluates the extent to which the proposed amendment would address the variance requests received in Fairlington. This evaluation recognizes that variance requests may still need to be considered in situations where additions would not conform to Zoning Ordinance standards for setbacks and encroachments.

Finally, the study considers the racial equity impacts of potential Zoning Ordinance recommendations, seeking to answer: Who benefits? Who is burdened? Who is missing? Are refinements to recommendations needed based on the responses to these questions?

Analysis

Distribution of Townhouse and Multifamily Units

As indicated in Figure 1, there are 1,622 townhouses and 29,043 multifamily units in “RA” and R2-7 zoning districts that were not developed through a special exception. Multifamily units include CAF⁵ units, MARK⁶ units (up to 80% AMI), non-MARK rental units (over 80% AMI), and condo units.

⁵ Committed Affordable Housing units (CAFs) are privately owned apartments guaranteed to remain affordable to low- and moderate-income households for a specified period of time (generally 30 to 75 years), with rents in most cases affordable to households earning 60% or less of the area median income (AMI). CAFs are typically subsidized with public funds, loans, or land use tools like bonus density.

⁶ Market Rate Affordable Housing units (MARKs) are privately owned apartments that have affordable rents because of apartment type, location, or amenities but are not subsidized or guaranteed to remain affordable. The affordability of these units ranges from 50 to 80% AMI and fluctuates based on factors that impact housing market conditions. County-wide, there are 11,213 CAFs and 22,039 MARKs

Figure 1: Townhouses and Multi-Family Units by Zoning District (“RA” and R2-7 Zoning Districts), By-Right Development Only

Zoning District	CAF Units	MARK Units (Up to 80% AMI)	Non-MARK Units (Over 80% AMI)	Condo Units	Townhomes	Total
R2-7	0	42	42	74	273	431
RA14-26	1,525	1,495	285	6,385	481	10,171
RA6-15	360	6,856	1,449	2,229	71	10,965
RA7-16	0	0	0	166	45	211
RA8-18	1,090	3,816	1,158	2,071	752	8,887
Total	2,975	12,209	2,934	10,925	1,622	30,665

Source: American Community Survey 2022 5-Year Data and Arlington County Community Planning, Housing, and Development 2024

As indicated in Figure 2 and the maps in Attachment 2, these units are distributed throughout the County, along Columbia Pike and Langston Boulevard, with clusters located in areas including Fairlington, Arlington Village, GlebeWood, Halls Hill High View Park, Buckingham, Pentagon City, and various other apartment and townhouse communities throughout the County.

Of these 30,665 dwellings, 57 percent of these units are located in planning districts, with 639 townhouses and 16,966 multifamily dwellings located in planning districts. From a demographic perspective, 51 percent are located in census tracts with a greater percent of persons of color than the county average (41 percent) and 17 percent are located in census tracts with a greater percent of households that are cost burdened (spending more than 30 percent of their income on housing costs) than the county average (37 percent). All census tracts that have a higher percent of households that are cost burdened also have a higher percent of persons of color, except for one census tract where there are no units located for this analysis.

The multifamily dwellings in these districts include CAFs and MARKs not associated with a special exception approval. County-wide, there are 11,213 CAFs and 22,039 MARKs. There are 2,975 CAFs and 12,209 MARKs in the R2-7 and RA zoning districts that are not regulated by special exception, accounting for 26 percent of CAFs and 55 percent of MARKs county-wide.

Figure 2: Townhouses and Multi-Family Units by Planning District (“RA” and R2-7 Zoning Districts), By-Right Development Only

Planning District	CAF Units	MARK Units (Up to 80% AMI)	Non-MARK Units (Over 80% AMI)	Condo Units	Townhomes	Total
Clarendon Revitalization District	0	25	29	16	11	81
Columbia Pike Special Neighborhoods Revitalization District	1,213	4,236	218	928	232	6,827
Columbia Pike Special Revitalization District	0	279	0	210	21	510
East Falls Church Neighborhood Center District	0	12	0	155	84	251
Fort Myer Heights North Special District	0	244	73	438	68	823
Green Valley Village Center Special Revitalization District	0	26	0	48	37	111
HCD Arlington Ridge	0	830	0	0	0	830
HCD Eastern Langston Boulevard	0	22	18	153	13	206
HCD Lyon Park	0	992	65	0	0	1,057
HCD Penrose	22	184	108	0	9	323
HCD Shirlington	294	436	0	0	0	730
HCD Western Langston Boulevard	0	0	5	0	0	5
HCD Westover	290	131	252	0	45	718
Langston Boulevard Planning District	159	1,091	790	1,083	102	3,225
Langston Boulevard-Cherrydale Special Revitalization District	0	0	0	0	12	12
Pentagon City Coordinated Development District	42	1,373	255	0	0	1,670
Radnor Heights East Special District	0	34	3	184	5	226
Outside of Planning Districts	955	2,294	1,118	7,710	983	13,060
Total	2,975	12,209	2,934	10,925	1,622	30,665

Source: American Community Survey 2022 5-Year Data and Arlington County Community Planning, Housing, and Development 2024

Planning District Policy Considerations

Units located in planning districts are subject to a range of different planning policies and zoning regulations. Policies range from limited to no guidance for preservation of existing units to extensive policy frameworks for preservation or redevelopment of existing multifamily and townhouse properties. In all planning districts, as in the rest of the County, non-structural interior renovations (i.e. any change that would NOT tend to prolong the life of the supporting members of a building or a structure, such as bearing walls, columns, beams or girders) may already occur by right.

Districts including the Green Valley Special Revitalization District, the East Falls Church Neighborhood Center District, and the Clarendon Revitalization District have a limited number of units in “RA” and R2-7 districts, with limited planning guidance and no special zoning tools for preservation of existing multifamily and townhouse units.

The Radnor Heights East Planning District and Columbia Pike Special Revitalization District include a moderate number of multifamily and townhouse units in “RA” districts. In these districts, plan goals and policies are primarily focused on the height, form and design of new construction. These plans do not include guidance for renovation or alteration of existing units. The Fort Myer Heights North Planning District includes areas of existing multifamily buildings where redevelopment is promoted, as well as “Conservation Areas” where redevelopment is not supported. However, there are no specific policies or tools to facilitate renovation or alteration of existing units in the “Conservation Areas”.

The Housing Conservation District areas were established to preserve affordability in those multiple-family residential neighborhoods outside of areas with adopted plan goals that have retained a supply of market-rate affordable rental units. One of the goals of the HCD is to encourage the retention and renovation of existing rental affordable housing units. While townhouses are no longer allowed by-right in HCD areas, other policies and tools to encourage retention and renovation have not yet been developed.

In these planning districts, enabling flexibility for nonconforming townhouses and multifamily units to make interior structural alterations and exterior changes that do not expand the footprint of the building would support homeowner reinvestment and multifamily rental property reinvestment compatible with other adopted planning goals. In HCD areas, this flexibility would complement other policies and tools under consideration through MRS to support reinvestment in these areas.

The Langston Boulevard Planning District, Pentagon City Coordinated Redevelopment District, and the Columbia Pike Neighborhoods Special Revitalization District have a significant number of multifamily MARKs and townhouse units, as well as detailed policies and implementation strategies to realize affordability and other Plan goals including an increased number of housing units overall. This flexibility for structural renovations would support homeowner reinvestment and multifamily rental property reinvestment as in other areas, and until such a time that redevelopment can occur and Plan goals including for committed affordable units may be realized.

Approved Variance Considerations

Staff evaluated the 24 applications for variances in Fairlington from 2023 through May 2024 to determine if the proposed amendment to allow interior structural alteration home improvement projects, including finishing attics and kitchen remodels, and limited additions for window wells to create basement egress, areaways, exterior stairs, ramps, and decks would have eliminated the need for a variance. Sixteen applications were for interior structural alterations, seven were for construction of basement egress windows, and one was for replacing a window with French doors and adding steps. The only application that would still require a variance is the application for replacing the window and adding associated steps. The proposed amendment allows for interior structural alterations and limited additions, but not exterior structural alterations (e.g. replacing the window with French doors) which would perpetuate the nonconforming nature of the dwelling.

Racial Equity Considerations

The following questions provide an opportunity to understand potential impacts of proposed recommendations through a racial equity lens:

- Who benefits?
- Who is burdened?
- Who is missing/left out?
- How should recommendations reflect these findings?

Nonconforming multifamily and townhouse units are located in many areas of the County zoned for these uses. These buildings are nonconforming because they were constructed prior to more restrictive zoning standards that have been adopted over time. In considering benefits and burdens, while non-structural interior alterations are already permitted, allowing for structural interior renovations and limited additions could increase flexibility for property owners to make improvements to their properties. As with non-structural interior improvements, structural interior improvements could result in higher rents and could increase the risk of displacement.

Given these potential impacts, it is important to understand how impacts may be experienced disproportionately by vulnerable households. This can be assessed by identifying areas with greater percentages of persons of color, whom on average have lower median incomes than white individuals, as well as areas with greater percentages of housing cost burdened households. This assessment can indicate where populations live that may experience the greatest benefit from increased flexibility to enable living improvements, as well as most burden given fewer financial resources to absorb increased rental rates and at greater risk of potential displacement. As illustrated in the maps in Attachment 2, 57 percent of townhouses and 51 percent of multifamily units are located in census tracts with a greater percent of households of color than the County average (41 percent). Seven percent of townhouses and 17 percent of multifamily units are located in census tracts that have a higher percent of housing cost burdened households than the County average (37 percent).

Many of these units in census tracts with greater percentages of persons of color and/or housing cost burden are located in the Langston Boulevard Planning District, Columbia Pike Neighborhoods Special Revitalization District, Pentagon City Coordinated Redevelopment District, Housing Conservation District areas, and Buckingham. These areas have a significant presence of MARKs. The planning districts have detailed policies to maintain affordability. The Neighborhoods Form Based Code, an optional zoning tool adopted to support planning policies for the Columbia Pike Neighborhoods district, enables partial or phased redevelopment such that existing multifamily buildings may remain as new development is constructed. When existing buildings are proposed to remain as part of a partial development, or proposed to be enlarged, the N-FBC application is considered through the use permit review process, requiring County Board approval. Any renovation project, whether including structural alterations or not, may lead to increased rental rates and displacement. However, increasing flexibility for by-right reinvestment in existing properties could improve living conditions in these units, until redevelopment per Plan goals is feasible and/or additional MARKs can be converted to CAFs.

Portions of Green Valley, Arlington Village, North Rosslyn, and Bluemont also include units in census tracts with greater percentages of persons of color than the County average. In these areas, there is no adopted planning guidance to support affordability and many units are owner occupied. Enabling the ability to make these types of changes would create new flexibility for homeowners to invest in their properties, build wealth, and better accommodate their households' needs.

In terms of who is missing or left out, the scope of this study is focused on expanding the ability for property owners to renovate properties by-right and does not propose new policies and regulations that would support conversion of MARKs to CAFs at a range of income levels when renovation of existing buildings occur. As noted in the Background section above, the Zoning Ordinance currently requires nonconforming multifamily properties in "RA" districts to submit a low- or moderate-income housing plan and obtain a County Board use permit for additions and expansions and modification of regulations on setback, yard, coverage, parking, and/or density. (ACZO Sec 12.3.7.B). The MRS will also consider policies for reinvestment and affordability. The County also has [other programs](#) to support the housing needs of lower income households.

Recommendations

Given these findings, staff recommends a Zoning Ordinance amendment to enable interior structural alterations, and limited additions for window wells for basement egress, areaways, exterior stairs, ramps, and decks in nonconforming townhouses and multifamily buildings in "RA" districts and the R2-7 district. This amendment should apply to all "RA" and R2-7 districts, inclusive of adopted planning districts, to enable changes by-right, unless in certain circumstances specific zoning requirements would prevail and require use permit review such as the case with a property owner, at their option, pursuing Neighborhoods Form Based Code approval to retain existing buildings as part of a partial development plan.

Staff recommends adding these provisions as proposed in Attachment 1.

Community Engagement

Given the targeted nature of this zoning study, staff has used tools primarily from the Consult level of engagement as referenced in the [Six-Step Public Engagement Guide](#).

To date, staff has conducted the following engagement to inform the study's recommendations:

- Staff has raised awareness of the study through County newsletters and targeted stakeholder outreach and will hold a virtual information session for members of the public on July 18.
- Staff is actively soliciting feedback from members of the public using an online feedback form. The form will remain open through the first week of August, and the findings from the collected feedback will be summarized and accounted for in the staff report for the County Board's September 2024 meeting to review a Request to Advertise (RTA) resolution for this zoning study.

Conclusions

In staff's opinion, a zoning ordinance amendment is appropriate to enable interior structural alterations and limited additions for creation of window wells for basement egress, areaways, exterior stairs, ramps, and decks in nonconforming townhouses and multifamily buildings in "RA" districts and the R2-7 district.

This amendment would reduce costs and eliminate the burden of pursuing BZA approval for certain home improvement projects, in communities including Fairlington and also other parts of the County where nonconforming townhouses and multifamily properties are present. These changes would establish consistency with the interior alteration policy for nonconforming one- and two-family dwelling types, in which property owners have the by-right ability to make interior structural alterations. Limited exterior changes to add basement egress windows, stairs, ramps, and decks would also be allowed. This amendment would improve livability, functionality, and safety of individual units, or an entire multifamily building, with limited or no impacts on adjacent property owners. Units located in other parts of the County with a greater percentage of households of color or housing cost burdened households than the County average would now have the ability to pursue structural renovations by-right, providing greater flexibility for homeowners to invest in their properties and build wealth and for property owners to make improvements to properties for existing and new residents.

Anticipated Schedule

- July 16, 2024: ZOCO Meeting
- July 18, 2024: Virtual Information Session
- Sept. 5, 2024: Housing Commission Briefing
- Sept. 11, 2024: Tenant Landlord Commission Briefing
- Sept. 14, 2024: County Board Request to Advertise
- Oct. 7/9, 2024: Planning Commission final consideration and recommendation
- Oct 19, 2024: County Board final consideration and action

Attachments

- Attachment 1: Draft Zoning Text
- Attachment 2: Multifamily and Townhouse Maps

Attachment 1: Draft Zoning Text

Proposed amendments are shown with **bold underline** to denote new text, and ~~**bold strikethrough**~~ to denote deleted text.

Article 16. Nonconformities

§16.1. Nonconforming Lots

§16.1.1. Lots in R districts

In the R-20, R-10, R-8, R-6, and R-5 districts, where a lot has less width and/or less area than required in the subject district and was recorded under one ownership at the time of the adoption of this ordinance (July 15, 1950), such lot may be occupied by any use permitted in the respective districts.

§16.2. Nonconforming Buildings and Structures

§16.2.1. Applicability

The provisions of this section shall apply to all nonconforming buildings and structures except as otherwise expressly stated in this zoning ordinance.

§16.2.2. Maintenance permitted

Nonconforming buildings or structures may be maintained, except as otherwise provided in §16.2

§16.2.3. Repairs, alterations

- A. Repairs and alterations may be made to a nonconforming building or structure; provided, that no structural alteration shall be made except those required by law or ordinance, or as provided in §16.2. Repairs and alterations to a nonconforming dwelling, building or structure not otherwise permitted under this Zoning Ordinance are prohibited, unless approved under a use permit or variance pursuant to sections §15.6.4 and §15.6.6
- B. Notwithstanding any provision to the contrary in this Ordinance, existing nonconforming one- and two-family dwellings, ~~and~~ nonconforming accessory buildings and structures located in the R and RA districts, **and existing nonconforming townhouses and multifamily dwellings in the R2-7 and RA districts** shall be permitted to make interior repairs and alterations, whether structural or non-structural, provided the repair or alteration is wholly contained within the existing exterior walls of the dwelling, building or structure.
 1. Expanded housing option development is permitted to make interior repairs and alterations wholly contained within the existing exterior walls of the building for the purpose of maintaining or adding dwelling units to an existing building under §10.4.

§16.2.4. Additions, enlargements, moving

- A. A nonconforming building or structure shall not be added to or expanded in any manner unless such building or structure, including such additions and expansions, is made to conform to all the regulations of the district in which it is located.
- B. A building or structure which does not comply with the height, placement or lot coverage regulations shall not be added to or expanded in any manner unless such

addition or expansion conforms to all the regulations of the district in which it is located; provided, that the total aggregate floor area included in all such separate additions and expansions does not exceed 50 percent of the floor area contained in the existing building or structure, as of July 15, 1950.

- C. A building or structure lacking sufficient automobile parking space in connection therewith as required in §14.3 may be altered or expanded, provided additional automobile parking space is supplied to meet, for the entire building, requirements of §14.3.
- D. No nonconforming building or structure shall be moved in whole or in part to any other location on the lot unless every portion of such building or structure is made to conform to all the regulations of the district in which it is located.

E. Exceptions

- 1. The provisions of §16.2.4.A, §16.2.4.B, §16.2.4.C, and §16.2.4.D do not apply to existing nonconforming one-family dwellings and nonconforming buildings or structures accessory to one-family dwellings located in the R-5, R-6, R-8, R-10, R-20, and R2-7 districts.
- 2. The provisions of §16.2.4.A do not apply to existing nonconforming two-family dwellings and nonconforming buildings or structures accessory to two-family dwellings located in the R2-7 district and/or RA14-26, RA8-18, RA7-16, RA6-15, R-5, and R-6 districts.
- 3. **The provisions of §16.2.4.A do not apply to existing nonconforming townhouse or multifamily dwellings located in the R2-7, RA14-26, RA8-18, RA7-16, or RA6-15 districts, only for the purposes of adding or expanding window wells, areaways, decks, ramps, and steps, provided such addition or expansion conforms to all the regulations of the district in which it is located.**
- 4. The provisions of §16.2.4.A and §16.2.4.B do not apply to existing nonconforming dwellings subject to §10.4, including for the purposes of adding dwellings.
 - (a) A building or structure lacking sufficient parking space as required in §10.4.6.A may be altered or expanded, provided that sufficient parking space is supplied to meet, for the entire building, the requirements of §10.4.6.A.
- 5. The additions or expansions permitted through §16.2.4.E shall comply with all current provisions of this zoning ordinance, except as provided in ~~§16.2.4.E.4(a)~~ **§16.2.4.E.5(a)**.
 - (a) Nonconforming one-family dwellings, two-family dwellings, and expanded housing option development subject to §10.4 **that** are permitted to add on to or expand pursuant to §16.2.4.E may construct, within applicable height limits, an addition over an existing one-family or two-family dwelling encroaching on a required setback or yard area provided there is no more of an encroachment into the required setback or yard than that of the existing wall below it, and providing that new construction may not take place over encroaching garages or porches.

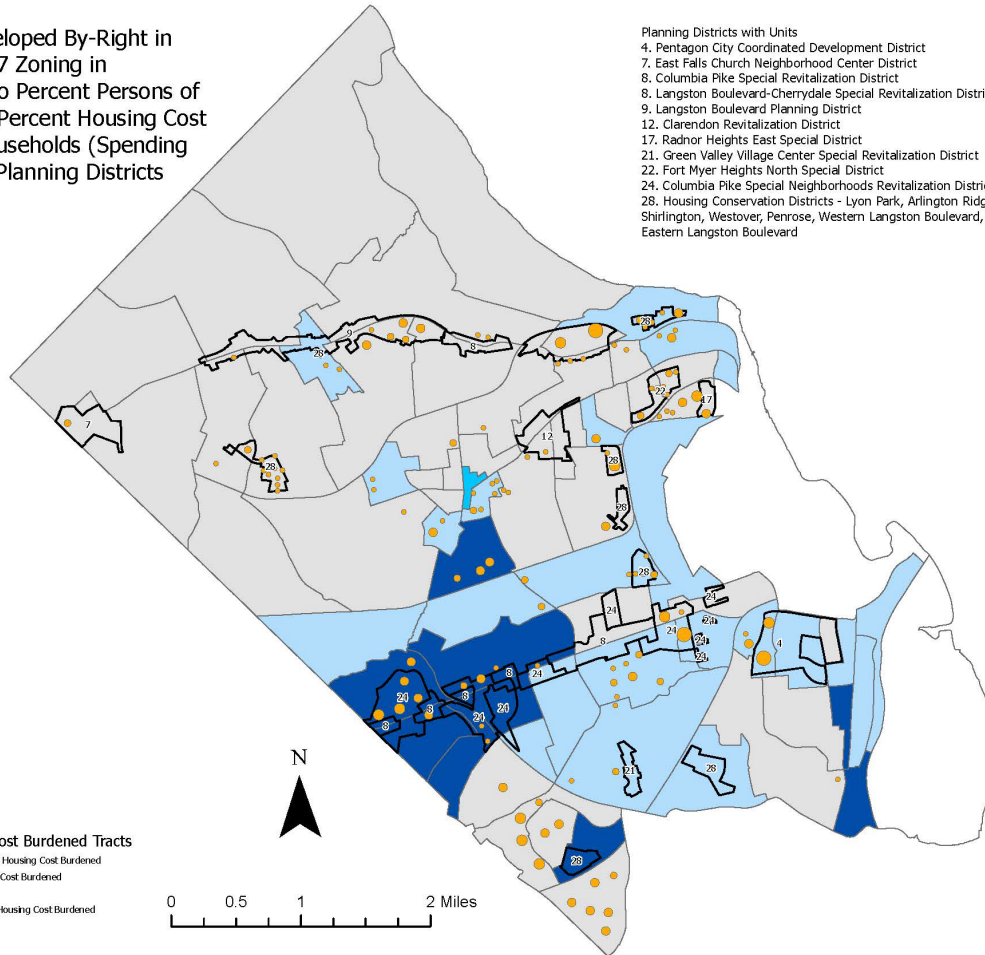
Attachment 2:
By-Right Multifamily and Townhouse Units in RA14-26, RA8-18, and RA6-15, and R2-7
Zoning Districts

All By-Right Multifamily and Townhouse Units

All Units Developed By-Right in "RA" and R2-7 Zoning in Comparison to Percent Persons of Color (POC), Percent Housing Cost Burdened Households (Spending >30%), and Planning Districts

- Planning Districts with Units
- 4. Pentagon City Coordinated Development District
 - 7. East Falls Church Neighborhood Center District
 - 8. Columbia Pike Special Revitalization District
 - 8. Langston Boulevard-Cherrydale Special Revitalization District
 - 9. Langston Boulevard Planning District
 - 12. Clarendon Revitalization District
 - 17. Radnor Heights East Special District
 - 21. Green Valley Village Center Special Revitalization District
 - 22. Fort Myer Heights North Special District
 - 24. Columbia Pike Special Neighborhoods Revitalization District
 - 28. Housing Conservation Districts - Lyon Park, Arlington Ridge, Shirlington, Westover, Penrose, Western Langston Boulevard, and Eastern Langston Boulevard

- Legend**
- Planning Districts
 - Units by Census Block
 - 2 - 99
 - 100 - 199
 - 200 - 399
 - 400 - 799
 - 800 - 1250
 - POC and Housing Cost Burdened Tracts
 - Greater Percent POC and Housing Cost Burdened
 - Greater Percent Housing Cost Burdened
 - Greater Percent POC
 - Lower Percent POC and Housing Cost Burdened

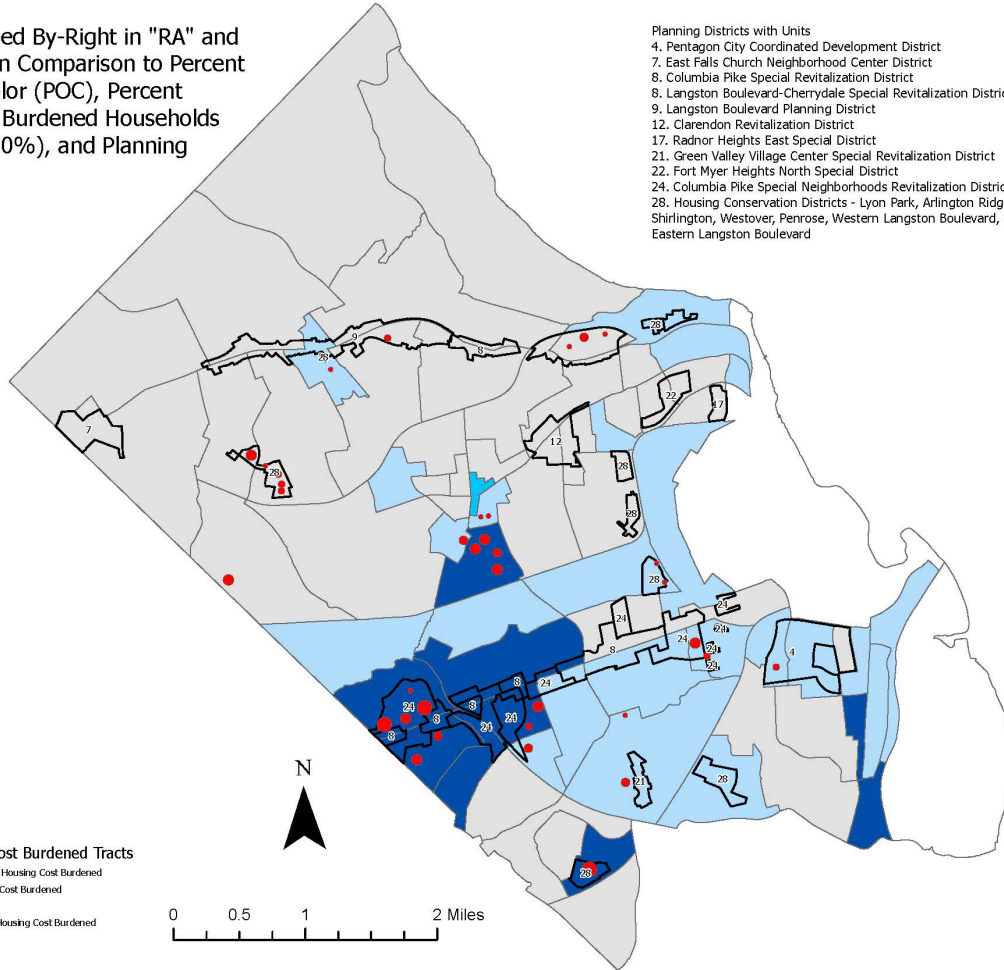


By-Right Committed Affordable (CAF) Units

CAFs Developed By-Right in "RA" and R2-7 Zoning in Comparison to Percent Persons of Color (POC), Percent Housing Cost Burdened Households (Spending >30%), and Planning Districts

- Planning Districts with Units
- 4. Pentagon City Coordinated Development District
 - 7. East Falls Church Neighborhood Center District
 - 8. Columbia Pike Special Revitalization District
 - 8. Langston Boulevard-Cherrydale Special Revitalization District
 - 9. Langston Boulevard Planning District
 - 12. Clarendon Revitalization District
 - 17. Radnor Heights East Special District
 - 21. Green Valley Village Center Special Revitalization District
 - 22. Fort Myer Heights North Special District
 - 24. Columbia Pike Special Neighborhoods Revitalization District
 - 28. Housing Conservation Districts - Lyon Park, Arlington Ridge, Shirlington, Westover, Penrose, Western Langston Boulevard, and Eastern Langston Boulevard

- Legend**
- Planning Districts
 - Units by Census Block
 - 2 - 24
 - 25 - 49
 - 50 - 99
 - 100 - 199
 - 200 - 312
 - POC and Housing Cost Burdened Tracts
 - Greater Percent POC and Housing Cost Burdened
 - Greater Percent Housing Cost Burdened
 - Greater Percent POC
 - Lower Percent POC and Housing Cost Burdened

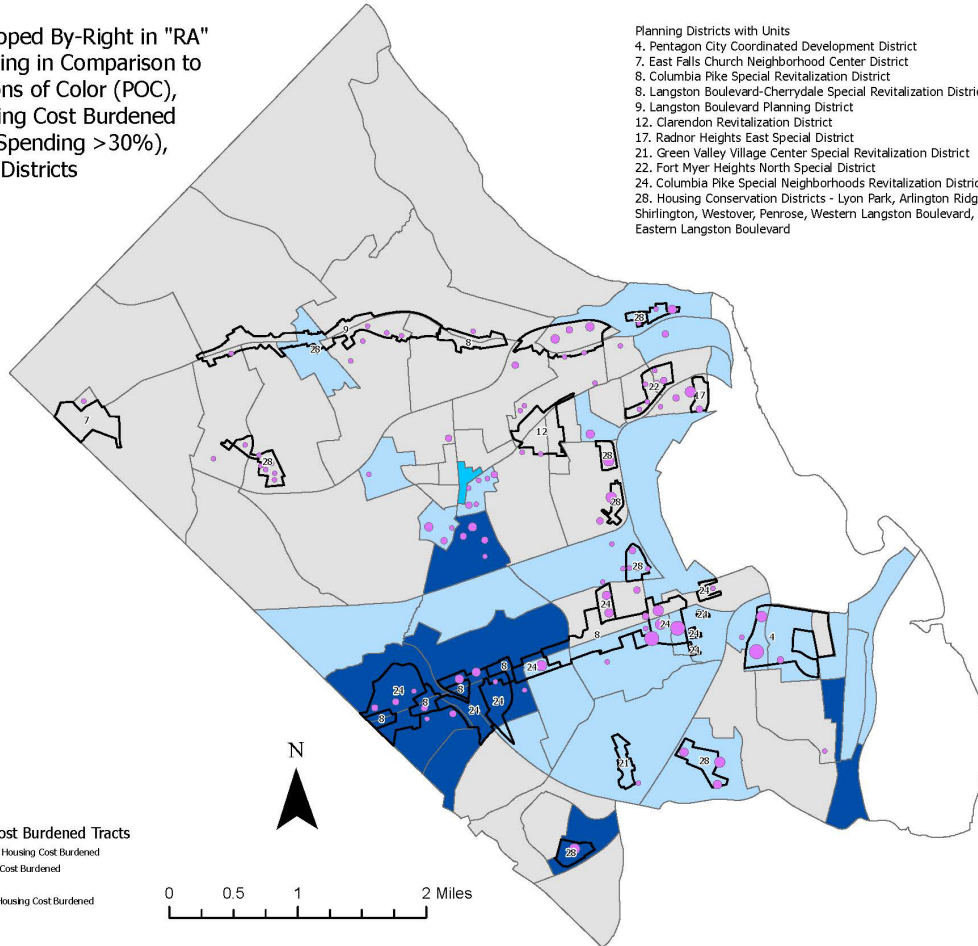


By-Right Market Rate Affordable (MARKS) Units

MARKs Developed By-Right in "RA" and R2-7 Zoning in Comparison to Percent Persons of Color (POC), Percent Housing Cost Burdened Households (Spending >30%), and Planning Districts

- Planning Districts with Units
- 4. Pentagon City Coordinated Development District
 - 7. East Falls Church Neighborhood Center District
 - 8. Columbia Pike Special Revitalization District
 - 8. Langston Boulevard-Cherrydale Special Revitalization District
 - 9. Langston Boulevard Planning District
 - 12. Clarendon Revitalization District
 - 17. Radnor Heights East Special District
 - 21. Green Valley Village Center Special Revitalization District
 - 22. Fort Myer Heights North Special District
 - 24. Columbia Pike Special Neighborhoods Revitalization District
 - 28. Housing Conservation Districts - Lyon Park, Arlington Ridge, Shirlington, Westover, Penrose, Western Langston Boulevard, and Eastern Langston Boulevard

- Legend**
- Planning Districts
 - Units by Census Tract
 - 2 - 49
 - 50 - 149
 - 150 - 299
 - 300 - 599
 - 600 - 1001
 - POC and Housing Cost Burdened Tracts
 - Greater Percent POC and Housing Cost Burdened
 - Greater Percent Housing Cost Burdened
 - Greater Percent POC
 - Lower Percent POC and Housing Cost Burdened



By-Right Non-MARKS Units

Non-MARKS Developed By-Right in "RA" and R2-7 Zoning in Comparison to Percent Persons of Color (POC), Percent Housing Cost Burdened Households (Spending >30%), and Planning Districts

- Planning Districts with Units
- 4. Pentagon City Coordinated Development District
 - 7. East Falls Church Neighborhood Center District
 - 8. Columbia Pike Special Revitalization District
 - 8. Langston Boulevard-Cherrydale Special Revitalization District
 - 9. Langston Boulevard Planning District
 - 12. Clarendon Revitalization District
 - 17. Radnor Heights East Special District
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 - 22. Fort Myer Heights North Special District
 - 24. Columbia Pike Special Neighborhoods Revitalization District
 - 28. Housing Conservation Districts - Lyon Park, Arlington Ridge, Shirlington, Westover, Penrose, Western Langston Boulevard, and Eastern Langston Boulevard

Legend

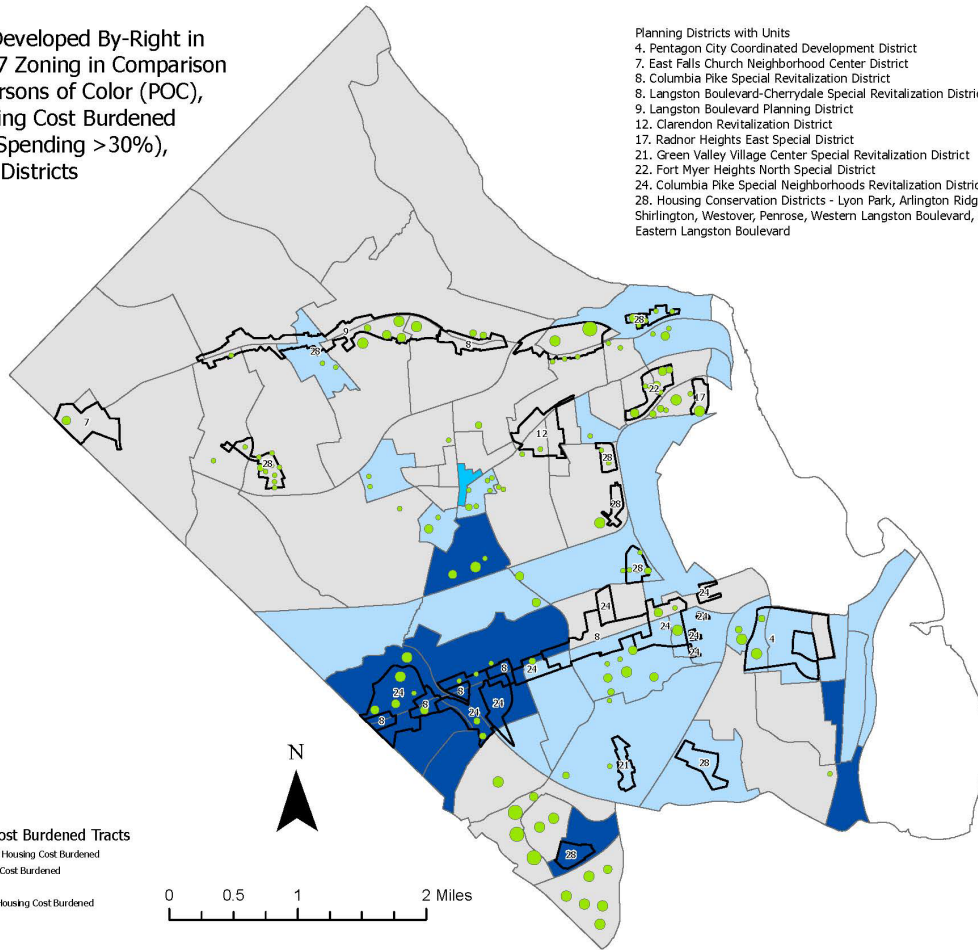
□ Planning Districts

Units by Census Block

- 1 - 49
- 50 - 99
- 100 - 199
- 200 - 399
- 400 - 698

POC and Housing Cost Burdened Tracts

- Greater Percent POC and Housing Cost Burdened
- Greater Percent Housing Cost Burdened
- Greater Percent POC
- Lower Percent POC and Housing Cost Burdened



By-Right Townhouse Units

Townhomes Developed By-Right in "RA" and R2-7 Zoning in Comparison to Percent Persons of Color (POC), Percent Housing Cost Burdened Households (Spending >30%), and Planning Districts

- Planning Districts with Units
- 4. Pentagon City Coordinated Development District
 - 7. East Falls Church Neighborhood Center District
 - 8. Columbia Pike Special Revitalization District
 - 8. Langston Boulevard-Cherrydale Special Revitalization District
 - 9. Langston Boulevard Planning District
 - 12. Clarendon Revitalization District
 - 17. Radnor Heights East Special District
 - 21. Green Valley Village Center Special Revitalization District
 - 22. Fort Myer Heights North Special District
 - 24. Columbia Pike Special Neighborhoods Revitalization District
 - 28. Housing Conservation Districts - Lyon Park, Arlington Ridge, Shirlington, Westover, Penrose, Western Langston Boulevard, and Eastern Langston Boulevard

- Legend**
- Planning Districts
 - Units by Census Block
 - 3 - 9
 - 10 - 19
 - 20 - 39
 - 40 - 79
 - 80 - 116
 - POC and Housing Cost Burdened Tracts
 - Greater Percent POC and Housing Cost Burdened
 - Greater Percent Housing Cost Burdened
 - Greater Percent POC
 - Lower Percent POC and Housing Cost Burdened

