

Figure 1: 2019 Area Median Income (AMI) Levels for Arlington County

Family Size	60% of Median	80% of Median	100% of Median	120% of Median
1-Person	\$51,000	\$68,000	\$85,000	\$102,000
2-Person	\$58,260	\$77,680	\$97,100	\$116,520
3-Person	\$65,520	\$87,360	\$109,200	\$131,040
4-Person	\$72,780	\$97,040	\$121,300	\$145,560
5-Person	\$78,660	\$104,880	\$131,100	\$157,320

Source: U.S. Department of Housing and Urban Development; 2020 AMI limits expected in Spring 2020.

Additionally, the N-FBC currently requires a minimum affordability term of 30 years for both rental and ownership properties. When applied to ownership units, this fixed 30-year term prevents tax assessments from being based on the affordable value of those units at the end of that term and they instead become based on the significantly higher market rate values. The resulting tax assessment would therefore prevent the unit from remaining within an affordable range for homeowners as originally intended.

Amendment to Introduce a Cash Contribution for Commercial Projects

In fall of 2019, staff received a proposal for a site in Foxcroft Heights which contemplated various redevelopment options, including a hotel development. While the N-FBC generally addresses commercial development scenarios through use, height, and parking provisions, it does not specify any affordable housing requirements in those instances. Examples of commercial development could include ground-floor retail, office or other commercial uses such as a hotel. There are only seven sites within the N-FBC that could redevelop with commercial uses.

Introducing a cash contribution would require N-FBC projects to pay into the Affordable Housing Investment Fund (AHIF) when commercial uses are proposed. This would help ensure that all new development contributes in some way to the creation/preservation of affordable housing, even when the new development is completely commercial. An affordable housing contribution for commercial uses would be consistent with what is currently required of site plan developments elsewhere in the County. It would also help fulfill goal 1.1.1 of the Affordable Housing Master Plan, which indicates resources for affordable housing production be generated through land use/zoning policy.

Analysis

Amendment to Increase the Income Limits for Homeownership Units

The U.S. Department of Housing and Urban Development (HUD)¹ defines [housing affordability](#) as housing costing no more than one-third of a household's gross monthly income to sustain. Therefore, the maximum cost burden of an affordable ownership unit (including mortgage payment, real estate taxes, condo fees, and private mortgage insurance) should equal approximately 33 percent of a household's gross monthly income. In addition to this guidance, staff's recommendation to increase the existing income limits for home ownership units delivered through the N-FBC is also informed by the following rationale:

- Increasing the AMI levels would increase the pool of eligible, qualified buyers able to purchase in a timely manner. According to estimates provided by the AHMP, in 2020 there will be 11,000 Arlington households that earn between 80% to 120% AMI.
- Households earning up to 60% AMI have more difficulties affording a mortgage and other housing costs associated with future increases in utilities, taxes, condominium fees or homeowner association (HOA) dues, as well as typical maintenance and repair costs or other unforeseen expenses.
- The risks associated with homeownership can be detrimental to low-income households who often lack cash reserves in the face of short-term job loss, family illness and other brief setbacks.
- A 2018 HUD [study](#) examined the effectiveness of its Housing Counseling Program. Findings reflect that low-income households who participate in housing counseling exhibit stronger outcomes than those who do not. Such education is directly correlated to better credit, reduced debt, greater savings, higher satisfaction with the mortgage process and fewer foreclosures. The County provides funding to support homebuyer education and one-on-one financial counseling for Arlington homebuyers.
- Since the N-FBC was adopted in November 2013, the County has approved only one development project, Carver Homes, which offered for-sale housing units. Within the total of 73 units delivered through this project, six were provided as affordable units for purchasers earning up to 60% AMI, in conformance with the current N-FBC. Eventually, all six units were sold for approximately \$287,000. However, the development had a very limited pool of eligible applicants as buyers are required to secure a mortgage through a traditional lender and many did not qualify based upon debt and overall percentage of income going toward mortgage, condo fees and other monthly costs.

¹ Defining Housing Affordability | HUD USER. [Huduser.gov
https://www.huduser.gov/portal/pdredge/pdr-edge-featd-article-081417.html](https://www.huduser.gov/portal/pdredge/pdr-edge-featd-article-081417.html)

Beyond the increase to income limits for homeownership units, staff also proposes adding language to Section 902 of the N-FBC to address instances where a rental apartment building could be converted to ownership condominiums once it's been approved or constructed. The proposed language would stipulate the treatment of affordable rental units approved originally with N-FBC project in the event the property owner decides to convert the building to an ownership condominium structure.

Specifically, the proposed language would require the applicant to:

1. Provide at least 60 days' notice to the County prior to recording the Declaration of Condominium; and
2. Concurrently record a Deed of Declaration of Restrictive Covenants, approved by the County Manager or designee, identifying with specificity which of the rental affordable units shall continue to be operated as rental affordable units subject to Section 902 of the N-FBC. Alternatively, the rental affordable housing units may also be offered for sale to qualifying income eligible homebuyers at the affordability level and term as proposed by staff in Section 902.C.2 in Attachment 1, subject to approval by the County Board.

Commercial Cash Contribution Amendment

As previously discussed, the N-FBC does not currently require affordable housing commitments when commercial development projects are proposed along Columbia Pike. To ensure County goals can be met in those instances, staff recommends the applicant provide a cash contribution using the same calculation utilized for site plan projects and as outlined in the Zoning Ordinance section §15.5.8.C.4, otherwise known as the "base ordinance" calculation. This approach would ensure consistency for how commercial developments are treated throughout the County. The cash contribution rates currently used in site plans as of 2020 are as follows:

- \$2.05/SF of Gross Floor Area (GFA) for the first 1.0 Floor Area Ratio (FAR)
- \$5.48/SF of GFA above a floor area ratio (FAR²) of 1.0
- Cash contribution amounts are indexed to the Consumer Price Index for Housing in the Washington-Arlington-Alexandria MSA.

In instances where a mixed-use development is proposed (for example, commercial on the ground floor and residential units above), the proposed amendment would include the application of the current on-site affordable unit contribution to the residential portion of the development, while the cash contribution would be applied to the commercial portion of the development. The cash contribution requirement outlined above would be prohibited from application for the residential square footage of the project.

The following represents two hypothetical examples of potential development applications to further illustrate the application of this cash contribution as part of the overall N-FBC affordable housing requirements.

² FAR is the total GFA divided by the total site area. A FAR of 1.0 means the GFA equals the same square footage as the site area.

Hypothetical Mixed-Use Development Example:

A mixed-use project on a 53,300 square foot (SF) site, designated as “Urban Mixed Use” in the N-FBC, and which is currently occupied by 12 residential units:

- Proposed Mixed-Use Development = 30,000 SF of ground-floor retail and 140 residential units in the upper floors
- Resulting Affordable Housing Contribution = 39 units
 - Calculation: 30% of the 128 “net new” units = 39
- Resulting Commercial Cash Contribution = \$61,500
 - Calculation: 30,000 SF GFA up to 1.0 FAR x \$2.05 contribution rate = \$61,500

Hypothetical Commercial Development Example:

A completely commercial project on the same 53,300 SF site designated as “Urban Mixed Use” in the N-FB, and which is currently occupied by 12 residential units:

- Proposed Commercial Development = 161,000 SF hotel development
- Resulting Commercial Cash Contribution = \$699,461
 - Initial 53,300 GFA up to 1.0 FAR x \$2.05 contribution rate = \$109,265
 - Remaining 107,700 SF of GFA x \$5.48 contribution rate = \$590,196
 - Therefore, \$109,265 + \$590,196 = \$699,461

Proposed Amendments

1. As shown in Figure 2, staff recommends the following changes for homeownership units:
 - a) Income Mix: To incentivize affordability of different tiers within the 80% to 120% AMI income ranges, Staff recommends amending the N-FBC to allow equally tiered affordability levels up to 80%, 100% and 120% AMI for ownership units. The recommendation ensures there is a range of price-points serving households between 80% to 120% AMI, per AHMP guidance; and
 - b) Length of Affordability: Instead of a uniform 30-year affordability term for both rental and ownership affordable housing, staff recommends that ownership units remain affordable for the life and use of the existing improvement as a residential dwelling unit. This will ensure a long-term affordable commitment and enable tax assessments to be based on the affordable value instead of higher market rate values, keeping property tax assessments within an affordable range for the homeowners.
2. Staff also recommends, in instances where commercial development is proposed under the N-FBC, the applicant provide a cash contribution that is consistent with the Arlington County Zoning Ordinance section §15.5.8.C.4 (the “base ordinance” calculation).

Figure 2: Existing and Proposed N-FBC Requirements

Affordable Ownership Units	Existing N-FBC	Proposed N-FBC
AMI Level	60% AMI	Tier at 80% AMI, 100% AMI, and 120% AMI
Affordability Term	30 Years	For the life and use of the existing improvement as a residential dwelling unit
Affordable Rental Units	Existing N-FBC	Proposed N-FBC
AMI Level	60% AMI	60% AMI (no change)
Affordability Term	30 Years	30 Years (no change)

Engagement Process

Staff used engagement tools primarily from the *Communicate and Consult* levels of engagement.

Communicate: Public notice will be given in accordance with Code of Virginia § 15.2-2204, with notices for the Planning Commission and County Board public hearings placed in the Washington Times during the two preceding weeks before each meeting.

Consult: Staff initially met with the Form Based Code Advisory Working Group (FBC AWG) in June of 2017 to discuss an earlier version of this proposal. At the time, the recommended AMI levels ranged between the higher 100% to 120% AMI levels. The feedback captured from that initial discussion informed staff’s current recommendation which now further emphasizes the lower 80% AMI level while still ensuring a broader availability for homeownership given its true need in Arlington County. More recently, staff presented its current recommendation of an evenly tiered approach utilizing 80%, 100%, and 120% AMI levels to the FBC AWG on February 5, 2020. The FBC AWG expressed general support for adjusting the AMI levels for homeownership units and changing the term to “the life and use of the existing improvement as a residential dwelling unit.” As part of that discussion, a couple of FBC AWG members expressed concerns with enabling the highest affordability tier of 120% AMI to fulfill the affordability requirements within the N-FBC. Staff clarified that the proposed language would serve the three income levels specified in the Affordable Housing Master Plan with equal amounts of 80% AMI and 100% AMI units under a proposed development scenario.

The FBC AWG also expressed general support for the proposed cash contribution requirement for commercial uses. As part of the discussion, one FBC AWG member suggested the proposed cash contribution be used for affordable commercial development/tenant purposes, rather than applying those funds as an AHIF contribution. Staff explained that areas eligible to redevelop under the N-FBC were always intended to support affordable housing initiatives. Support for affordable commercial development/tenants along Columbia Pike would need to be studied

further and would be more appropriate as a tool or contribution within the Commercial Form Based Code where such uses and tenants currently exist. Staff also clarified that the proposed amendment is unrelated to the recently completed [Columbia Pike Commercial Market Study](#), a document whose implementation would be better suited to evaluate the feasibility and costs associated with potential support for commercial businesses throughout the corridor.

Staff also met with NAIOP's Northern Virginia Chapter on February 26, 2020 to present the study's recommendations and answer some clarifying questions. Staff will next present its recommendations to the Housing Commission at the March 12, 2020 meeting as an informational item and again on May 7, 2020 for formal action.

Lastly, staff is scheduled to present its findings and recommendations to the Planning Commission's Zoning Ordinance Committee (ZOCO) on March 3, 2020. This meeting will provide staff with an opportunity to receive comment and feedback from Planning Commissioners in advance of public hearings on the text amendment which are anticipated in May 2020.

Anticipated Schedule

- March 3, 2020: Zoning Ordinance Committee (ZOCO)
- March 12, 2020: Housing Commission
- April 18, 2020: County Board Request to Advertise
- May 4, 2020: Planning Commission consideration and recommendation
- May 7, 2020: Housing Commission consideration and recommendation
- May 16, 2020: County Board consideration and action

Attachments

- Attachment 1: Recommended Changes to Section 902 of the N-FBC

ATTACHMENT 1 – N-FBC TEXT CHANGES

New Language is underlined and bold. Deleted language is crossed out and bold.

902. Affordable Housing Requirements

This Form Based Code provides for additional density above the underlying zoning as an incentive for property owners to create and preserve AFFORDABLE HOUSING to meet the current and future needs of the *Columbia Pike Neighborhoods Special Revitalization District*. **Where a property owner takes advantage of the additional density permitted under this Code for the purposes of a commercial DEVELOPMENT PROJECT, the affordable housing cash contribution outlined in 902.A shall be provided and applicable requirements outlined in 902.E shall be met.** Where a property owner takes advantage of the additional density permitted under this Code **for the purposes of residential DEVELOPMENT PROJECT, the following AFFORDABLE HOUSING requirements, outlined in 902.B through G, shall be provided met.**

A. Affordable Housing Cash Contribution for Commercial Development Projects

1. **For commercial DEVELOPMENT PROJECTS (including commerce and retail) equal to or greater than 1.0 Floor Area Ratio (FAR), the proposal shall include a cash contribution to the Affordable Housing Investment Fund calculated using the following tiers:**
 - a. **\$2.05 per square foot of GFA for the first 1.0 FAR; and**
 - b. **\$5.48 per square foot of GFA above 1.0 FAR.**
2. **For mixed-use DEVELOPMENT PROJECTS:**
 - a. **A cash contribution, as outlined in 902.A.1., shall be provided for the proportionate amount of commercial GFA; and**
 - b. **On-site AFFORDABLE HOUSING, as outlined in 902.B through G, shall be provided for the proportionate amount of residential units**
3. **The cash contribution will be indexed to the Consumer Price Index for Housing in the Washington-Arlington-Alexandria, DC-VA-MD-WV, as published by the Bureau of Labor Statistics, and adjusted annually, beginning January 2020. Revised amounts apply only to the applications filed after the adjustment date. Amounts for the calculation of the cash contribution shall be established at the time of a Final Neighborhoods Form Based Code Application filing. A cash contribution for residential DEVELOPMENT PROJECTS will not be accepted.**

~~A.~~ **B. Number of On-Site Affordable Housing Units**

Each ~~residential~~ DEVELOPMENT ~~PROPOSAL PROJECT~~ shall include **on-site AFFORDABLE HOUSING UNITS** as set forth below:

1. The specific percent requirement shall be calculated as a fraction multiplied by ten. That fraction is calculated as the total number of proposed units (new construction and existing) over the maximum number of units permitted by the greater of: 1) the existing underlying zoning or 2) the number of units existing on the site on [time of adoption]. Under no circumstances shall the number of AFFORDABLE HOUSING UNITS required by this 902.~~A.B~~.1 be less than 20 percent or more than 30 percent of the NET NEW UNITS.
2. If AFFORDABLE HOUSING UNITS are proposed within existing buildings, the percent requirement arrived at through application of 902.~~A.B~~.1 above shall be increased by five.

3. New Construction Example: If 500 units are proposed, and 200 units exist today on site, the fraction equals 2.5, and therefore the applicant will be required to provide 25 percent of the 300 NET NEW UNITS as new committed AFFORDABLE HOUSING UNITS (75 units).

Partial Redevelopment Example: If 500 units are proposed, and 200 units exist today on site, and the applicant chooses to place the AFFORDABLE HOUSING UNITS within the existing buildings (rather than demolish and build new), the fraction equals 2.5, or 25 percent of the of the 300 NET NEW UNITS as committed AFFORDABLE HOUSING UNITS. Because the AFFORDABLE HOUSING UNITS are proposed within existing buildings, the percent requirement arrived at through application of 902.A.B.1 above shall be increased by five. Therefore, the applicant will be required to provide 30 percent of the NET NEW UNITS as new committed AFFORDABLE HOUSING UNITS (90 units).

B. C. Affordability Level & Term

1. **Rental AFFORDABLE HOUSING UNITS shall be committed for a term of no less than 30 years and shall be affordable to households earning up to 60 percent of the Area Median Income (AMI) as set by US Department of Housing and Development (HUD) for the Washington, DC Metropolitan Statistical Area, adjusted for household size, commencing at the time of the execution of the required documents ~~Final FBC application submission~~, except as follows:**

- a. ~~1. Projects~~ **DEVELOPMENT PROJECTS** west of George Mason Drive: An applicant may provide up to 33 percent of the required ~~low and moderate income units~~ **AFFORDABLE HOUSING UNITS** at affordability levels of ~~60% percent~~ to ~~80% percent~~ of the AMI at a rate of two (2) units available at ~~60% percent~~ - ~~80% percent~~ of the AMI for every one (1) unit required at ~~60% percent~~ of the AMI.
- b. ~~2. Projects~~ **DEVELOPMENT PROJECTS** east of George Mason Drive: An applicant may provide up to 33 percent of the required ~~low and moderate income units~~ **AFFORDABLE HOUSING UNITS** at affordability levels of ~~40% percent~~ of the AMI at a rate of 0.5 units available at ~~40% percent~~ of the AMI for every one (1) unit required at ~~60% percent~~ of the AMI.
- c. ~~3.~~ By use permit approval, the County Board may adjust the proportions described in 902.B.C.1.a and 902.B.C.2.b to allow for larger quantities of units affordable at ~~60% percent~~ to ~~80% percent~~ of the AMI or ~~40% percent~~ of the AMI units, respectively.

2. **Ownership AFFORDABLE HOUSING UNITS shall be committed for the life and use of the existing improvement as a residential dwelling unit, commencing at the time of execution of the required documents, as follows:**

- a. **Within each DEVELOPMENT PROJECT:**
 - i. **No less than one-third of the required units shall be affordable to households earning up to 80 percent of the AMI;**
 - ii. **No less than one-third of the required units shall be affordable to households earning up to 100 percent of the AMI; and**
 - iii. **The remainder of the required units shall be affordable to households earning up to 120 percent of the AMI.**

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- iv. Area Median Incomes (AMI) will be set by US Department of Housing and Development (HUD) for the Washington, DC Metropolitan Statistical Area, adjusted for household size, at the time of execution of the required documents.

 - b. If there is no more than one required ownership AFFORDABLE HOUSING UNIT, the required unit shall be affordable to households earning up to 80 percent AMI as set by HUD for the Washington, DC Metropolitan Statistical Area, adjusted for household size, at the time of execution of the required documents.

 - c. If there are two required ownership affordable housing units, one required unit shall be affordable to households earning up to 80 percent AMI and the other required unit shall be affordable to households earning up to 100 percent of AMI as set by HUD for the Washington, DC Metropolitan Statistical Area, adjusted for household size, at the time of execution of the required documents.

~~C.~~ D. Unit Mix

One-half of the quantity of required AFFORDABLE HOUSING UNITS within new construction shall have 2 or more bedrooms, of which at least 25 percent of those units have more than two bedrooms.

Where AFFORDABLE HOUSING UNITS are provided in existing buildings, one-half of the quantity of required AFFORDABLE HOUSING UNITS shall have 2 or more bedrooms, of which at least 25 percent have more than two bedrooms. If the requisite number of units with two or more bedrooms are not available within the existing building, and additions to the existing building are not proposed, the applicant may provide the required quantity of AFFORDABLE HOUSING UNITS as 2 bedroom units.

~~D.~~ E. Tenant Relocation Plan

The applicant shall provide information consistent with the Arlington County Tenant Relocation Guidelines including but not limited to tenant profiles, a relocation plan for existing tenants to be displaced with redevelopment, and a description of the relocation assistance proposed (financial and otherwise). The relocation plan shall:

1. Outline strategies the applicant plans to use to mitigate any displacement that may occur as a property is fully or partially redeveloped.
2. Documentation of timely tenant meetings, relocation payment amounts per bedroom size, eligibility criteria, and the proposal of new rents and utilities.

The applicant is responsible for presenting a draft plan to the Arlington Relocation Coordinator for review and approval prior to review with the Tenant Landlord Commission. Upon review and approval from the Tenant Landlord Commission, and during the duration of the relocation process as specified in the approved Tenant Relocation Plan, the applicant is required to meet monthly with the Arlington Relocation Coordinator to review ongoing status, as well as provide monthly statistical and tracking reports.

~~E.~~ F. Affordable Housing Unit Location

An applicant may meet the AFFORDABLE HOUSING requirement by providing units either within new construction or within existing buildings that will remain within the development proposal. All units are subject to the Virginia Uniform Statewide Building Code.

AFFORDABLE HOUSING **UNITS** in existing buildings shall be renovated sufficiently to meet Housing Quality Standards, set by the U.S. Department of Housing and Urban Development (HUD), and the standards set-forth within the Virginia Uniform Statewide Building Code.

G. Condominium Conversion

1. **If, within the thirty (30) year compliance period, the property owner proposes to change the residential DEVELOPMENT PROJECT from rental to a condominium regime pursuant to the Virginia Condominium Act, Title 44, Chapter 4.2, Section 79.39 et seq. of the Code of Virginia, 1950 Edition, as amended, the property owner shall:**
 - a. **Notify the County Manager of the proposed condominium conversion not less than sixty (60) days prior to recording the Declaration of Condominium; and**
 - b. **Concurrent with the Declaration of Condominium, record a Deed of Declaration of Restrictive Covenants, as approved by the County Manager or his designee, and in a form approved by the County Attorney, identifying with specificity:**
 - i. **Which of the rental AFFORDABLE HOUSING UNITS shall continue to be operated as rental AFFORDABLE HOUSING UNITS subject to Section 902.C.1 for the remainder of the thirty (30) year compliance period; or**
 - ii. **Which of the rental AFFORDABLE HOUSING UNITS may be offered for sale to qualifying income-eligible homebuyers at the affordability levels and terms provided in Section 902.C.2, subject to the execution of required documents to be approved by the County Board.**

903. Additional Incentives for Affordable Housing

- A. The following incentives are provided in order to encourage property owners to create or preserve AFFORDABLE HOUSING units beyond the minimum number of AFFORDABLE HOUSING units required in Section 902.
 1. Reduced parking ratio: If an applicant provides at least 1 percent more AFFORDABLE HOUSING UNITS in excess of the minimum required quantity, the applicant may reduce the minimum parking ratio for all AFFORDABLE HOUSING UNITS within the DEVELOPMENT PROJECT from 1.125 spaces per unit to 0.825 spaces per unit, which includes 0.7 space per unit and 0.125 SHARED space per unit.
 2. Bonus Stories: An applicant may request County Board approval of Bonus Stories as set forth in Part 204.A in exchange for additional AFFORDABLE HOUSING UNITS.
 3. Financial Tools available by the County: Please contact the Department of Community Planning, Housing and Development, Housing Division, for more information.
- B. If AFFORDABLE HOUSING units beyond the minimum are provided, the Housing Plan required by Section 206.A shall indicate that AFFORDABLE HOUSING UNITS beyond the number of units required by Section 902 will be provided, as encouraged by Arlington County, and shall also include:
 1. The number of additional AFFORDABLE HOUSING UNITS.
 2. The proposed unit types for the additional AFFORDABLE HOUSING UNITS.
 3. Affordability levels of the additional AFFORDABLE HOUSING UNITS.