



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of July 18, 2020

DATE: June 30, 2020

SUBJECT: N-FBC-10 Amendment to the Arlington County Zoning Ordinance Article 11.2 Section 902 "CPN-FBC" Columbia Pike Neighborhoods Form Based Code Districts (Appendix B) to allow for a cash contribution into the Affordable Housing Investment Fund (AHIF) in limited instances when the proposed N-FBC development includes commercial uses.

C. M. RECOMMENDATION:

Adopt the attached ordinance to amend, reenact, and re-codify the Arlington County Zoning Ordinance Article 11.2 Section 902 "CPN-FBC" Columbia Pike Neighborhoods Form Based Code Districts (Appendix B) to allow for a cash contribution into the Affordable Housing Investment Fund (AHIF) in limited instances when the proposed N-FBC development includes commercial uses.

ISSUES: This is a proposed Zoning Ordinance amendment to the Neighborhoods Form Based Code (N-FBC), to allow for a cash contribution into the Affordable Housing Investment Fund when commercial uses are proposed. Some members of the community have expressed concern that the commercial contribution may under-incentivize or over-incentive commercial development in these areas. Staff has addressed this concern in the Public Engagement section of this report.

SUMMARY: Staff proposes to amend the affordable housing requirements found in Section (§) 902 of the Columbia Pike Neighborhoods Form Based Code (N-FBC), to allow for a cash contribution into the Affordable Housing Investment Fund (AHIF) in limited instances when commercial uses are proposed as part of a N-FBC development proposal. Staff had originally intended to bring forth this amendment concurrently with a separate recommendation to increase the Area Median Income (AMI) for affordable homeownership units required by the N-FBC while also extending the affordability term of such units. However, as part of its meeting on June 16, 2020, the County Board only authorized the advertisement of July public hearings for the cash contribution objective of these amendments and requested that staff take further steps to collect commission and community feedback on the AMI levels before the County Board

County Manager:

County Attorney:

Staff: Melissa Danowski, DCPHD – Housing Division; Matt Mattauszek, DCPHD – Planning Division

considers those proposed amendments. The consideration of changing the AMI limits for homeownership units as well as their term limits is anticipated to occur at the October public hearings. As a result, the associated analysis and recommendation related to the affordable ownership units will be included in the October staff report.

The N-FBC includes a requirement to provide a percentage of the total number of housing units in a new development proposal as on-site affordable housing units. This requirement was created in anticipation of the N-FBC producing residential projects given its application is generally limited to existing residential properties, a significant majority of which may only redevelop as residential, and to a lesser degree, as civic uses should they utilize the N-FBC. This has proven to be the case as four residential projects have been approved and constructed since the code's adoption in 2013. However, in certain areas of the Columbia Pike corridor, the N-FBC applies to either portions of intersections that are otherwise governed by the Commercial Form Based Code or properties that are currently improved with commercial uses. In those very limited instances, the N-FBC allows a limited set of commercial uses which were deemed appropriate in helping achieve the vision previously established for the commercial nodes. Should those sites redevelop, it is possible that a developer could propose a non-residential project, creating a scenario which currently remains unaddressed by the N-FBC affordable housing requirement.

Staff therefore recommends amending the N-FBC to require a cash contribution into the AHIF should commercial uses be proposed in those limited instances. All new N-FBC developments, regardless of their proposed use, should contribute to the creation or preservation of affordable housing. This change will also help fulfill Goal 1.1.1 of the Affordable Housing Master Plan (AHMP), which indicates resources for affordable housing production be generated through land use/zoning policy.

The recommended cash contribution would be calculated using the same formula utilized for site plan projects, as outlined in Zoning Ordinance §15.5.8.C.4, otherwise known as the “base ordinance” calculation. This approach ensures consistency in the treatment of commercial developments throughout the County. 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 not be applied to the residential square footage.

BACKGROUND: The N-FBC was adopted by the County Board as an implementation tool to realize the vision set forth in the 2012 Columbia Pike Neighborhoods Area Plan. The N-FBC represents an optional zoning district tool that provides incentives and guidance for future redevelopment of multi-family residential areas along Columbia Pike that surround its commercial centers. As envisioned, the N-FBC promotes high quality redevelopment of properties with goals of attaining a mixed-income community and the preservation of affordable housing. From time to time, staff will initiate amendments to the N-FBC in response to new County Board policy, community concerns, or to provide more clarity, with input from advisory boards and commissions. This work facilitates the redevelopment of Columbia Pike in accordance with the community's overarching vision for revitalization of the corridor.

The N-FBC primarily focuses on redevelopment of existing rental properties, many of which represent the County's diminishing stock of Market Rate Affordable Units (MARKs). A fundamental premise of this incentive-based and optional zoning tool involves a commitment from each redevelopment to provide new affordable housing units that would be located on-site in exchange for certain development rights that diverge from and typically exceed the development rights the property owner may be entitled to as a matter of right. This requirement anticipated the N-FBC would typically produce residential projects, as has been the case with four approvals since 2013.

However, in certain areas of the Columbia Pike corridor, the N-FBC applies to either portions of intersections which are otherwise governed by the Commercial Form Based Code or properties that are currently improved with commercial uses. In those instances, of which there are only a handful, the N-FBC accommodates a limited set of commercial uses which were deemed appropriate in helping complete previously established commercial nodes. Should those sites redevelop, it is possible that a developer could propose a non-residential project, creating a scenario which currently remains unaddressed by the N-FBC affordable housing requirement.

In fall of 2019, staff discussed development options with a property owner for a site in Foxcroft Heights which contemplated various redevelopment options, including a hotel development. While the N-FBC generally regulates commercial development through use, height, and parking standards, it does not specify any affordable housing requirements for such uses. Examples of commercial development could include ground-floor retail, office or other commercial uses such as a hotel. There are five areas within the N-FBC that could redevelop with commercial uses, all of which either carry the "Urban Mixed Use" or "Urban Storefront" designations under the Building Envelope Standards.

DISCUSSION: 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 January 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 (FAR¹) 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 effectively require a cash contribution for the commercial portion of the development. The current on-site affordable

¹ 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.

unit contribution would continue to apply to the residential 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.

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-FBC, 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

PUBLIC ENGAGEMENT:

Level of Engagement: The public engagement strategy for this Zoning Ordinance Amendment is **Consult**

Outreach Methods: Public meeting notices were distributed via email listserv which included the FBC Advisory Working Group members, presidents of all Columbia Pike Civic Associations, Columbia Pike Revitalization Organization (CPRO), and the ZOCO GovDelivery listserv. Agenda and meeting materials were also posted on the respective webpages for each group. Public notices will also be given in accordance with Code of Virginia § 15.2-2204, with notices for the Planning Commission and County Board public hearings for this Zoning Ordinance amendment to be placed in the Washington Times during the two preceding weeks before each meeting.

In addition to the above legal notification requirements:

- Staff presented this item to the Form Based Code Advisory Working Group (FBC AWG) on February 5, 2020. Staff presented this item to NAIOP (Commercial Real Estate Development Association) on February 26, 2020.

- Staff presented this item to the Zoning Committee (ZOCO) of the Planning Commission on March 3, 2020.
- Staff presented this item to the Columbia Pike Presidents Group on March 7, 2020.
- Staff shared their presentation detailing the proposed amendment with the Housing Commission before their scheduled April 9, 2020 meeting.
- Staff presented this item to the County Board on June 16, 2020 as part of the Request to Advertise discussion.
- The subject amendment will also be considered by the Planning Commission on July 6, 2020 and Housing Commission on July 9, 2020.

Community Feedback: Staff received the following feedback from the various groups where this proposal was recently presented.

Form Based Code Advisory Working Group (FBC AWG): The FBC AWG expressed general support for the proposed cash contribution requirement as part of future N-FBC developments where commercial uses could be proposed. As part of the discussion, one FBC AWG member suggested the proposed cash contribution be used to support affordable commercial development or existing legacy business 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 or legacy tenants along Columbia Pike would need to be studied further and would be more appropriate as a tool or potential contribution within the Commercial Form Based Code, where such uses and tenants currently exist. In response to this question, staff also clarified that the proposed amendment is unrelated to the recently completed [Columbia Pike Commercial Market Study](#).

Zoning Committee of the Planning Commission (ZOCO): This item was presented to ZOCO on March 3, 2020 and generally received favorable feedback. A ZOCO member indicated that the current site plan cash contribution for commercial uses is less expensive to fulfill as a requirement than what would otherwise be required for residential developments (through delivery of on-site affordable units). In their remarks, there was a concern that if the proposed changes were enacted, the County would begin to receive only commercial developments in the N-FBC areas of Columbia Pike. This contrasted with a separate concern from a member of the Columbia Pike Presidents Group who suggested the proposed cash contribution for commercial uses would prevent commercial development from locating along Columbia Pike altogether.

Staff responded that this amendment would only apply to five areas within the N-FBC Revitalization District and that it was consistent with how commercial uses are treated throughout the County. To date, all of the commercial and mixed-use projects delivered along Columbia Pike have done so by utilizing the Commercial FBC, which is not subject to this zoning ordinance amendment. It is therefore staff's opinion that the proposed commercial cash contribution would neither over-incentivize or preclude commercial development at these five areas where such uses are permitted in the N-FBC. Should any future changes be made to the site plan ordinance commercial cash calculation, staff would evaluate the impact of those changes on the N-FBC while striving to align these mechanisms.

Pike Presidents Group (PPG): Staff presented the proposed amendments to the PPG on March 7, 2020 and provided some clarifying questions to those in attendance. One of the members inquired about how this amendment would impact any Business Opportunity Zones in the area. This term relates to a recent classification of certain census tracts nationwide where investors participating in that area's redevelopment are eligible to qualify for certain tax benefits. Columbia Pike has only one such zone, covering several properties along S. George Mason Drive, just south of Columbia Pike. Within that zone, only the southwest corner of that intersection is eligible to deliver commercial uses within the Neighborhoods Form Based Code.

Staff has not identified any correlation or potential impacts between the proposed amendment or the Opportunity Zones. Another member of the PPG indicated Columbia Pike may soon experience a demand for office space given the arrival of Amazon in nearby Pentagon City and Crystal City. Staff indicated office uses are more likely to be proposed through the Commercial FBC, which will not be impacted by this amendment. Nonetheless, the recommended cash contribution for N-FBC commercial projects would be consistent with how such uses are treated elsewhere in the County.

Planning Commission: Staff presented this amendment to the Planning Commission on July 6, 2020. The Planning Commission voted X-X-X in X of the amendment. Comments included...

Housing Commission: Staff presented this amendment to the Housing Commission on July 9, 2020. The Housing Commission voted X-X-X in X of the amendment. Comments included...

CONCLUSION: The proposed amendment conforms to the vision for the Columbia Pike corridor as expressed in the Neighborhoods Area Plan and is consistent with the Affordable Housing Master Plan. Therefore, staff recommends that the County Board adopt the attached ordinance to amend, reenact, and recodify the Arlington County Zoning Ordinance, Article 11.2 CPN-FBC, Columbia Pike Neighborhoods Form Based Code Districts (Appendix B) as shown in Attachment 1.

N-FB1-10: AN ORDINANCE TO AMEND, REENACT, AND RECODIFY THE ARLINGTON COUNTY ZONING ORDINANCE ARTICLE 11.2 “CPN-FBC” COLUMBIA PIKE NEIGHBORHOODS FORM BASED CODE DISTRICTS (APPENDIX B) TO AMEND SECTION 902 TO REQUIRE A CASH CONTRIBUTION INTO THE AFFORDABLE HOUSING INVESTMENT FUND IN INSTANCES WHERE COMMERCIAL DEVELOPMENT IS PROPOSED, AND FOR OTHER REASONS REQUIRED BY THE PUBLIC NECESSITY, CONVENIENCE, GENERAL WELFARE, AND GOOD ZONING PRACTICE (AS SHOWN IN ATTACHMENT 1).

Be it ordained that the Arlington County Zoning Ordinance Article 11.2 "CPN-FBC" Columbia Pike Neighborhoods Form Based Code Districts (Appendix B) Section 902 is hereby amended, reenacted and recodified to require a cash contribution into the Affordable Housing Investment Fund in instances where commercial development is proposed, and for other reasons required by the public necessity, convenience, general welfare, and good zoning practice (as shown in Attachment 1).

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

Where paragraphs are added or deleted, all subsequent paragraphs are renumbered accordingly and all references throughout this section are updated accordingly.

ATTACHMENT 1
Neighborhoods Form Based Code Amendments

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 F, 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 November 16, 2013. 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).

46 Partial Redevelopment Example: If 500 units are proposed, and 200 units exist today on site, and
47 the applicant chooses to place the AFFORDABLE HOUSING UNITS within the existing
48 buildings (rather than demolish and build new), the fraction equals 2.5, or 25 percent of the of the
49 300 NET NEW UNITS as committed AFFORDABLE HOUSING UNITS. Because the
50 AFFORDABLE HOUSING UNITS are proposed within existing buildings, the percent
51 requirement arrived at through application of 902.~~A.B.~~1 above shall be increased by
52 five. Therefore, the applicant will be required to provide 30 percent of the NET NEW UNITS as
53 new committed AFFORDABLE HOUSING UNITS (90 units).

54
55 ~~B.~~ **C. Affordability Level & Term**

56 AFFORDABLE HOUSING UNITS shall be committed for a term of no less than 30 years and
57 shall be affordable to households earning up to 60 percent of the Area Median Income (AMI) as
58 set by US Department of Housing and Development (HUD) **for the Washington, DC**
59 **Metropolitan Statistical Area, adjusted for household size, commencing** at the time of ~~the~~
60 **execution of the required documents** ~~Final FBC application submission~~, except as
61 follows:
62

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

76
77 ~~C.~~ **D. Unit Mix**

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

80
81 Where AFFORDABLE HOUSING UNITS are provided in existing buildings, one-half of the quantity of
82 required AFFORDABLE HOUSING UNITS shall have 2 or more bedrooms, of which at least 25 percent
83 have more than two bedrooms. If the requisite number of units with two or more bedrooms are not
84 available within the existing building, and additions to the existing building are not proposed, the
85 applicant may provide the required quantity of AFFORDABLE HOUSING UNITS as 2-bedroom units.

86
87 ~~D.~~ **E. Tenant Relocation Plan**

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

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

96
97 The applicant is responsible for presenting a draft plan to the Arlington Relocation Coordinator for review
98 and approval prior to review with the Tenant Landlord Commission. Upon review and approval from the
99 Tenant Landlord Commission, and during the duration of the relocation process as specified in the
100 approved Tenant Relocation Plan, the applicant is required to meet monthly with the Arlington Relocation
101 Coordinator to review ongoing status, as well as provide monthly statistical and tracking reports.
102

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

104 An applicant may meet the AFFORDABLE HOUSING requirement by providing units either within new
105 construction or within existing buildings that will remain within the development proposal. All units are
106 subject to the Virginia Uniform Statewide Building Code.
107

108 AFFORDABLE HOUSING **UNITS** in existing buildings shall be renovated sufficiently to meet Housing
109 Quality Standards, set by the U.S. Department of Housing and Urban Development (HUD), and the
110 standards set-forth within the Virginia Uniform Statewide Building Code.
111

112 **903. Additional Incentives for Affordable Housing**

- 113 A. The following incentives are provided in order to encourage property owners to create or preserve
114 AFFORDABLE HOUSING units beyond the minimum number of AFFORDABLE HOUSING
115 units required in Section 902.
- 116 1. Reduced parking ratio: If an applicant provides at least 1 percent more AFFORDABLE
117 HOUSING UNITS in excess of the minimum required quantity, the applicant may reduce the
118 minimum parking ratio for all AFFORDABLE HOUSING UNITS within the DEVELOPMENT
119 PROJECT from 1.125 spaces per unit to 0.825 spaces per unit, which includes 0.7 space per unit
120 and 0.125 SHARED space per unit.
 - 121 2. Bonus Stories: An applicant may request County Board approval of Bonus Stories as set forth in
122 Part 204.A in exchange for additional AFFORDABLE HOUSING UNITS.
 - 123 3. Financial Tools available by the County: Please contact the Department of Community Planning,
124 Housing and Development, Housing Division, for more information.
- 125 B. If AFFORDABLE HOUSING units beyond the minimum are provided, the Housing Plan required by
126 Section 206.A shall indicate that AFFORDABLE HOUSING UNITS beyond the number of units
127 required by Section 902 will be provided, as encouraged by Arlington County, and shall also include:
- 128 1. The number of additional AFFORDABLE HOUSING UNITS.
 - 129 2. The proposed unit types for the additional AFFORDABLE HOUSING UNITS.
 - 130 3. Affordability levels of the additional AFFORDABLE HOUSING UNITS.
131