



## ARLINGTON COUNTY, VIRGINIA

### County Board Agenda Item Meeting of October 17, 2020

**DATE:** September 23, 2020

**SUBJECT:** N-FBC-11 Amendment to the Arlington County Zoning Ordinance Article 11.2 Section 902 "CPN-FBC" Columbia Pike Neighborhoods Form Based Code Districts (Appendix B) to adjust the Area Median Income (AMI) limit for affordable homeownership units from 60% of AMI to new limits that range up to 80% of AMI and up to 100% of AMI while extending the affordability term for such units, and to stipulate standards for condominium conversion of affordable rental units developed under the N-FBC.

#### **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 adjust the Area Median Income (AMI) limit for affordable homeownership units from 60% of AMI to new limits that range up to 80% of AMI and up to 100% of AMI while extending the affordability term for such units, and to stipulate standards for condominium conversion of affordable rental units developed under the N-FBC.

**ISSUES:** This is a proposed amendment to the Neighborhoods Form Based Code (N-FBC), related to increasing income limits and extending the affordability term for homeownership units. Some members of the community have expressed concern regarding adjusting the AMI levels, which staff has addressed in the Public Engagement section of this report.

**SUMMARY:** The Request to Advise (RTA) the proposed Neighborhoods Form Based Code (N-FBC) amendment was presented at the [June 16, 2020 County Board meeting](#) in conjunction with an amendment to require a cash contribution into the Affordable Housing Investment Fund (AHIF) in limited instances when N-FBC proposals included commercial uses. At that time, the County Board only authorized consideration of the commercial cash contribution amendment for the [July 21, 2020 County Board meeting](#) and subsequently approved that proposal. The N-FBC amendment to increase AMI limits for affordable ownership units, however, was authorized to be considered for the October public hearings to allow further public input and discussion. The

County Manager:

County Attorney:

Staff: Melissa Danowski, Akeria Brown; DCPHD, Housing Division

following staff report reflects the research and public input received both prior to the June advertisement and in the months that followed as staff continued their outreach efforts.

Adopted by the County Board [in 2013](#), the N-FBC requires that all affordable residential units delivered through redevelopment are limited to those residents earning no more than 60% of the Area Median Income (AMI) and will remain affordable for a term of 30 years. As currently written, these standards apply equally to both rental and ownership developments. The County Board subsequently adopted the Affordable Housing Master Plan (AHMP) in 2015 and the Land Use Tools Initiative (under the Housing Arlington umbrella) in 2019 with specific directives aimed at incentivizing the production of moderate-income and missing middle ownership units through land-use and zoning policy. Additionally, market data and research compiled in recent years have informed staff's understanding of local housing needs as well as associated homebuying challenges related to the region's housing inventory.

Staff recommends changing the N-FBC to allow for equally tiered affordability levels up to 80% of AMI and up to 100% of AMI specifically when ownership units are proposed. This change would conform to the AHMP goals, better align with the overall cost of homeownership within the County, and expand the pool of eligible, qualified buyers seeking to purchase an affordable home in the County. Existing affordability requirements for rental projects would remain unchanged.

In instances when ownership units (typically condominiums) are proposed, staff further recommends that the affordability term be extended to coincide with "the life and use of the existing improvement as a residential dwelling unit." The existing fixed 30-year term, when applied to ownership units, prevents tax assessments from being based on the affordable value of those units; they instead become based on the significantly higher market rate values. The resulting increase in property tax assessment would make the units unaffordable to moderate income homeowners as originally intended.

Finally, staff also recommends amending the N-FBC to stipulate how affordable rental units, originally approved and constructed under the N-FBC, would be treated in the event the property owner decides to convert the building to an ownership condominium structure before the conclusion of the rental project's 30-year affordability term. The recommended changes would require the owner to provide at least 60 days' notice to the County prior to recording a Declaration of Condominium and execution of documents that identify which of the affordable rental units shall continue to be operated as originally approved under the N-FBC. Alternatively, the Owner may choose for the affordable rental units to be offered for sale to qualifying income eligible homebuyers, subject to approval by the County Board. The notice to the County in such cases would ensure compliance with N-FBC approvals and regulations. These changes would not apply to similar conversions that could occur in older residential properties which were constructed along Columbia Pike prior to the creation of the Neighborhoods Form Based Code.

**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 2015 Affordable Housing Master Plan (AHMP Policy 1.2.1) includes guidance specifically stating that, “The General Land Use Plan (GLUP), Zoning Ordinance and other regulations affecting land use will be used to encourage the production of ownership housing affordable to households with incomes between 80% and 120% of AMI.” For site plans utilizing bonus density or contributions stemming from GLUP changes, staff has historically negotiated up to 80% of AMI for ownership units. In fact, 89% of the County’s current affordable dwelling unit portfolio is affordable up to 80% of AMI. Figure 1 below illustrates the 2020 AMI levels by household size as established for the Washington Metropolitan Area and which are utilized by local jurisdictions to determine eligibility.

**Figure 1: 2020 Average Median Income (AMI) Levels by Household Size**

<b>Family Size</b>	<b>60% of Median</b>	<b>80% of Median</b>	<b>100% of Median</b>
1-Person	\$52,920	\$70,560	\$88,200
2-Person	\$60,480	\$80,640	\$100,800
3-Person	\$68,040	\$90,720	\$113,400
4-Person	\$75,600	\$100,800	\$126,000
5-Person	\$81,660	\$108,880	\$136,100

Source: U.S. Department of Housing and Urban Development.

Since its adoption in 2013, the N-FBC stipulated that all required affordable units be affordable for residents with annual household incomes of up to 60% AMI. At the time, the N-FBC did not distinguish between rental or homeownership units. Its primary purpose was to create incentives to persuade property owners from pursuing by-right development or large-scale renovations as each of those scenarios would displace existing residents without returning any affordability to the site. Informed by market conditions and a thorough economic analysis during the Neighborhoods Area Plan development, it was also anticipated that much of the N-FBC development would come in the form of rental projects. To date, the N-FBC has resulted in four approved projects, totaling 885 residential units, of which 468 were market rate and 417 were Committed Affordable Units (CAFs). Of the 885 total units, only 73 were ownership (Carver Place townhomes), of which six were provided as affordable to meet the minimum N-FBC requirements.

Beyond the aforementioned income categories, the N-FBC currently requires a minimum affordability term of 30 years for both rental and ownership properties. When applied to ownership units, however, this fixed 30-year term prevents tax assessments from being based on the affordable value and they instead become based on the significantly higher market rate values. This is because a residential property that has a term of anything less than “the life and use of the existing improvement as a residential dwelling unit” would be assessed at the market

rate value. Staff is proposing extending the term because otherwise, the resulting tax assessment would prevent the unit from remaining within an affordable range for homeowners as originally intended.

**DISCUSSION:** The recommendation to increase the existing income limits up to 80% of AMI and up to 100% of AMI for homeownership units delivered through the N-FBC is informed by the following rationale:

- Low-income households 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 unexpected setbacks.
- The County provides funding to support homebuyer education and one-on-one financial counseling for Arlington homebuyers. Of the 367 homebuyer education participants in Fiscal Year 2019, 42 participants were able to purchase homes primarily located in Arlington and Alexandria. At that time, income levels for all 42 purchasers ranged from 80%-120% of AMI.
- 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 the 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 each. However, of the 56 households which met the income and household-size eligibility required to be on the County's Homeownership Unit Notification List, only 7 households were ultimately able to mortgage qualify. Among the households which did not qualify, the overall percentage of income going toward consumer debt, mortgage and/or condo fees exceeded the maximum allowed by current lending standards.

The recommendation to allow a portion of the affordable requirement to be available to households earning up to 100% AMI income level is specifically important as income levels between 81% and 100% AMI help to meet housing demands for families earning above the low-income eligibility threshold, but that do not earn enough to afford market rate ownership within the County. Including an up to 100% AMI tier also acknowledges the importance of creating homeownership opportunities for County employees, including teachers and first responders, to live closer to where they work.

Through the public engagement process, staff noted concerns from some community members that the proposed changes would result in fewer affordable rental units being constructed under the N-FBC. Considering County-wide development trends, staff does not anticipate that a potential condominium development utilizing the proposed standards would diminish the supply of rental units that could serve low-income households. Market conditions have consistently delivered rental housing products along Columbia Pike and throughout the County. Since 2010, condominium units attributed to only 3% of the total net increase in residential units County-wide. The vast majority of new units built within the County during this time have been

apartment units (91% net increase), with the remaining growth represented by townhomes (5%) and single-family homes (1%). This trend in development was also representative of the Columbia Pike corridor during the same period.

Beyond Arlington County, staff has conducted research into the AMI levels of affordable homeownership programs throughout the region. As a basis for comparison, all units in Arlington County’s affordable dwelling unit program are affordable up to 80% AMI, aside from the 6 affordable condo units obtained through the Neighborhoods Form Based Code at Carver Homes. Nearby jurisdictions, on the other hand, rely on a range of maximum income limit caps for ownership units which include AMI levels as high as 120% (see Figure 2). It should be noted that all of the jurisdictions listed in Figure 2 rely on the same HUD income levels which are updated annually for the greater Washington D.C. metropolitan region.

**Figure 2: Maximum AMI Limits for Affordable Homeownership Units as Established by other Regional Jurisdictions**

Locality	Name of Program	Maximum AMI
Washington, DC	Inclusionary Zoning (IZ) Affordable Housing Program	80%
City of Alexandria	Set-aside Homeownership Program	Up to 100%
Fairfax County	First Time Homebuyer (FTHB) Program and Workforce Dwelling Unit Program (WDU)	70% (FTHB); 120% (WDU)
City of Falls Church	Affordable Dwelling Unit (ADU) Program	120%
Loudoun County	Affordable Dwelling Unit (ADU) Program and Affordable Market Purchase Program (AMPP)	70% (ADU); 100% (AMPP)
Montgomery County	Moderately Priced Dwelling Unit (MPDU) Program and Workforce Housing Program (WFH)	70% (MPDU); 120% (WFH)

Source: Arlington County Housing Division

Beyond the increase to income limits for homeownership units, staff also proposes adding language to Section 902 of the N-FBC to stipulate how affordable rental units would be treated in the event the property owner decides to convert the building to an ownership condominium structure. The following would only apply to projects originally approved through the N-FBC.

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 Owner may choose for the rental affordable housing units to 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.

**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, and the ZOCO GovDelivery listserv. Agenda and meeting materials were also posted on the respective webpages for each group. Public notices were also 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.

The request to authorize advertisement of the proposed amendment was considered at the June 13, 2020 County Board meeting. The County Board approved consideration of this item for the October public hearing and directed staff to conduct additional public engagement prior to this meeting. Since that time, and in addition to the above legal notification requirements, staff conducted individual outreach with a variety of stakeholders and organizations. This included representatives of the Columbia Pike Revitalization Organization (CPRO), the Arlington branch of the NAACP, the Northern Virginia Affordable Housing Alliance, the Alliance for Housing Solutions, the Condo and Renters Coalition of Arlington, the Columbia Heights Civic Association, the Columbia Pike's Presidents Group, and members of the development community. Staff also met with the Housing Commission at their July meeting and again at their October meeting for final consideration. In addition, staff held a public webinar on September 15 and met for the second time with the Zoning Committee of the Planning Commission (ZOCO) on September 23. Lastly, as part of the public engagement process, staff created a [website](#) which provides background and meeting materials related to this amendment.

Below is a comprehensive list of all public meetings that have occurred for this item, including those scheduled prior to the Request to Advertise in the first half of this year.

- Staff first presented this item to the Form Based Code Advisory Working Group (FBC AWG) on June 14, 2017 and more recently on February 5, 2020
- Staff presented this item to NAIOP on February 26, 2020 and again on September 23, 2020
- Staff presented this item to the Zoning Committee (ZOCO) of the Planning Commission on March 3, 2020 and again on Sept. 23, 2020
- Staff presented this item to the Columbia Pike Presidents Group on March 7, 2020
- Staff shared their presentation detailing the proposed amendments with the Housing Commission before their scheduled April 9, 2020 meeting. Staff then met with the Housing Commission on July 9, 2020 and October 8, 2020

- Staff presented this item in a public webinar while answering questions from the community on Sept. 15, 2020
- Staff presented its findings and recommendations to the Planning Commission at their October meeting.

Community Feedback:

Beginning in 2020, staff's revised proposal included the affordable ownership units be equally tiered at 80% of AMI, 100% of AMI, and 120% of AMI. However, based upon public feedback obtained in several community discussions since that time, staff re-evaluated the proposed higher affordability tier of up 120% AMI income level recommendation. Although the AHMP recommends incentivizing affordable ownership units up to 120% of AMI, staff received public feedback to target households with incomes at or below 100% of AMI. After further consideration, staff proposes revising the affordability levels to a range of up to 80% of AMI and up to 100% of AMI, based on the following rationale:

- County-wide, the average price of a two-bedroom market ownership unit is **41% above** the average cost of a 2-br affordable ownership unit whose household income is restricted at 120% AMI (including HOA fees).
- However, when solely evaluating the Columbia Pike corridor, the average price of a two-bedroom market ownership unit is already considered affordable for households at approximately 120% AMI (assuming no more than 33% of that household's monthly income would be dedicated to housing). Therefore, absent of any intervention, there is already some availability of units at this income level along Columbia Pike, albeit these units are generally located in older buildings.
- Although the Housing Division receives considerable inquiries regarding the availability of 120% AMI ownership units, considering the overall market landscape, the actual financial investment of an affordable ownership unit is not practical for these households as they generally choose market units over affordable ownership units (the latter have limited annual appreciation).
- As a result and for the reasons listed above, staff recommends affordable ownership units be equally tiered at up to 80% of AMI and up to 100% of AMI (as opposed to three tiers which previously included up to 120% of AMI). This policy adaptation aligns with AHMP goals as well as the objectives of the Land Use Tools Initiative under Housing Arlington, which explores the creative use of new and existing land use and zoning mechanisms to expand both affordable and missing middle housing.

Prior to updating the above recommendation regarding AMI income levels, staff received the following feedback from the various groups where this proposal was recently presented.

Form Based Code Advisory Working Group (FBC AWG): Staff initially met with the FBC AWG in June of 2017 to discuss an earlier version of this proposal. At the time, the originally recommended AMI levels for ownership units ranged between the higher 100% to 120% AMI levels. Feedback captured from that initial discussion informed staff's revised recommendation which further emphasizes the lower 80% of AMI level while still ensuring a broader availability for homeownership given its true need in Arlington County.

On February 5, 2020, staff presented its revised recommendation of an evenly-tiered approach utilizing 80%, 100%, and 120% AMI levels to the FBC AWG. The FBC AWG expressed general support for adjusting the AMI levels for homeownership units and changing their affordability term to “the life and use of the existing improvement as a residential dwelling unit.” However, as part of that discussion, a subset of the FBC AWG members expressed concerns with enabling the highest affordability tier of up to 120% of AMI to fulfill the affordability requirements within the N-FBC. Staff clarified that the proposed language would equally serve the three income levels specified in the Affordable Housing Master Plan when applied to future proposed development involving ownership units.

Zoning Committee of the Planning Commission (ZOCO): This item was presented to ZOCO on March 3, 2020 and generally received favorable feedback. ZOCO members also raised several clarifying questions about the proposal including long-term maintenance of the affordable units. Staff responded that there is ongoing work to address this issue through the County’s Condominium Initiative, which seeks to support sustainability and long-term preservation of moderately priced condominiums. Among the primary elements of this Initiative’s anticipated implementation is the promotion of feasible capital improvement strategies through needs assessment, technical assistance and resource allocation.

A ZOCO member asked if units up to 120% of AMI met the Code of Virginia’s definition for ‘affordable housing’ per §15.2-2201<sup>1</sup>. Staff consulted with the County Attorney’s Office and confirmed that this is permissible and pointed to the language in the same Code section providing that local governments may establish individual definitions of terms such as affordable housing and affordable dwelling units and can further determine the appropriate percent of area median income and percent of gross income to qualify for those units.

Additional Public Input from Columbia Heights Civic Association (CHCA), Pikes Presidents Group, One-on-One Stakeholder conversations, and September 15 Webinar: Staff received a letter from the CHCA, dated February 26, 2020, that outlined several concerns about public process, staff analysis, and area gentrification related to increasing the AMI levels for ownership units within the N-FBC. Similar concerns were also raised by a letter received from the Pike Presidents Group (PPG), dated April 13, 2020. The following represents staff’s responses to the issues raised in both letters, as well as comments that were expressed during one-on-one stakeholder meetings and those received from the September 15, 2020 webinar.

1. *Some members of the community expressed concern that the public process was inadequate and there has not been sufficient analysis of how increasing the AMI for ownership units will impact the rental market along Columbia Pike.*

Staff Response: The civic engagement conducted for the proposed amendment has been thorough and consistent with the approach outlined for zoning studies of similar scope. As

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<sup>1</sup> "Affordable housing" means, as a guideline, housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than thirty percent of his gross income for gross housing costs, including utilities. For the purpose of administering affordable dwelling unit ordinances authorized by this chapter, local governments may establish individual definitions of affordable housing and affordable dwelling units including determination of the appropriate percent of area median income and percent of gross income.

the process has unfolded, additional outreach and engagement has occurred to address comments, questions, and concerns. As mentioned previously, staff has consulted on multiple occasions with a number of commissions and civic organizations including the FBC AWG, ZOCO, Housing Commission, NAIOP, and Pike Presidents Group, as part of meetings which have all been properly noticed. Analysis associated with this amendment spans several years and staff's current recommendations incorporate earlier feedback originally obtained from the FBC AWG in June of 2017. Beyond the extensive public engagement which occurred over the summer, additional opportunities to provide public comment on the proposed amendment will occur at the October 5, 2020 Planning Commission, October 8, 2020 Housing Commission, and October 17, 2020 County Board meetings.

With regard to the impact of the proposed AMI changes on the rental market, it is important to note that the vast majority of multifamily residential development on Columbia Pike, and elsewhere in the County, has consistently produced rental housing. When evaluating Columbia Pike's recent development history, of the 3,400 total residential units constructed under both form based codes, only 150 represented ownership units (4%). This is particularly noteworthy as much of the residential development along Columbia Pike utilized the Commercial Form Based Code which did not include affordability or green (LEED) standards. Despite those incentives, market forces consistently produced rental products, further confirming the minimal impact AMI levels have on decisions developers face when considering the overall construction costs and financing implications. Beyond this corridor, County-wide development data compiled from [Quarterly Development Tracking Reports](#) indicates that of the 10,670 net new residential units constructed from 2010 to 2019, only 311 represented condominium units (3%) while another 630 represented townhomes and single-family units (6%).

Based on the above historic trends and regular communication with the development community, staff has concluded that the majority of new development along Columbia Pike will continue to produce rental housing, regardless of the specific AMI limits set for ownership units within the N-FBC. However, in the limited instances where a N-FBC condominium application may be received, raising the maximum income levels and utilizing a broader range for the affordable ownership units will better align with the goals of the AHMP and more importantly help address the difficulties many current residents face when the N-FBC affordable ownership units are limited to a single category of households earning no more than 60% AMI.

*2. There is some community concern that changes in ownership AMI levels will accelerate gentrification by displacing existing tenants in multifamily apartment buildings, specifically in the Eastern Subarea of Columbia Pike, and hasten the loss of racial and economic diversity.*

Staff Response: This comment is based on the premise that increasing AMI levels for ownership units will somehow cause all future redevelopment under the N-FBC to suddenly be represented by condominiums. Staff does not agree with this premise, as most new development throughout the County has produced rental units and staff has not found any

evidence to suggest that trend will change. Despite this comment being raised multiple times during the review process, to date it has not been substantiated by any evidence or details that help establish its basis.

Staff's discussions with the development community indicate condominium projects are unlikely to exceed 150 units in total size. In the Eastern Subarea of Columbia Pike, many of these sites allow for building heights of 12-14 stories, and therefore may be able to supply much more than 150 units, even if redevelopment were to occur through a phased approach. In fact, the only two ownership projects delivered through the form based code zoning tool include Carver Homes (N-FBC), which represents 3.5 story townhomes containing 73 total units and Trafalgar Flats (FBC), which is a 4-story mixed-use development containing 78 total units.

Furthermore, based on economic analysis conducted during the Neighborhoods Area Plan, sites where significant building heights can be accommodated are unlikely to redevelop until such time when the existing buildings are in disrepair and rental revenue along this corridor can support concrete construction to maximize the available density potential. The consensus among economists, developers, and staff is that if sites such as the ones within the eastern subarea ultimately redevelop, there are more than likely to produce rental housing. Therefore, an increase in the AMI income limits for affordable ownership units does not represent a considerable shift that would expedite the redevelopment of these properties or others which share their characteristics.

The loss of racial and economic diversity was a driving consideration of the adopted N-FBC affordability requirements, which help implement the Columbia Pike Neighborhoods Area Plan. The proposed amendment is consistent with the overarching vision of that plan which prioritizes housing opportunities to serve a broad mix of incomes. As currently constructed, the N-FBC only accommodates households with incomes that can afford new market rate units and those who earn up to 60% of the AMI, therefore excluding a significant population which exists between those categories. As part of the earlier planning efforts which helped establish the vision for the multifamily residential areas, it was anticipated that most units developed under the N-FBC would be delivered through rental projects due to historic development trends. For this reason, the N-FBC did not initially highlight a distinction between rental and ownership requirements for affordability, despite such distinctions in the AMI income levels being made as part of the recommendations in the Neighborhoods Area Plan.

The proposed AMI changes are also informed by staff's past experience with Carver Homes townhomes, the only ownership project to be approved under the N-FBC in 2015. That singular development highlighted a number of challenges with limiting ownership eligibility to a single category, and one which only serves those households earning below 60% AMI. Of the fifty-six households who income qualified for Carver Homes' units during the selection process, only seven were able to obtain a mortgage. Furthermore, of those seven qualifying households, two were previous residents of the Carver Homes Co-op and were provided a financial buy-out by the developer which enabled them to purchase. Since that

time, it has become clear that the AMI income limits need to be increased in order to ensure sustainability and success of such affordable ownership units into the future.

Lastly, the potential of displacing existing tenants represents an element that has always been anticipated with N-FBC redevelopment as that zoning tool specifically applies to sites where residential uses currently exist. To help mitigate that effect any N-FBC redevelopment of existing units must submit a Tenant Relocation Plan and comply with the County's [Tenant Relocation Guidelines](#). Beyond this assistance, staff also remains committed to monitoring pipeline development along Columbia Pike, partly in an effort to evaluate how market forces respond to any changes made to the Zoning Ordinance, of which the N-FBC is a part of. Consistent with this current practice, should any development patterns arise that warrant a change to the N-FBC, staff would be able to revisit this amendment and propose timely adjustments, if necessary.

*3. Some members of the community inquired as to whether a sliding scale of affordability could be implemented, whereas a developer would set aside more units at up to 80% AMI and fewer units at lower AMI levels up to 60% of AMI.*

Staff Response: Staff is recommending the same affordability tiers for ownership units throughout Columbia Pike, and are not recommending a tailored approach to the East and West areas. The primary reason staff is proposing to increase the AMI levels is to produce sustainable homeownership opportunities, which becomes quite challenging when the income limits cannot exceed 60% of the AMI. This is a corridor and County-wide challenge, and not unique to any particular site or neighborhood.

Currently, however, a version of the sliding scale already exists in the N-FBC where developers have the option to set aside a portion of the affordable requirement for households earning up to 80% AMI if the property is located west of George Mason Drive. Sites located east of George Mason Drive can similarly set aside a portion of their affordable requirement for households earning up to 40% AMI. The impetus for this optional flexibility was to help balance the rental market portfolio along the corridor by providing higher income rental units in Western Columbia Pike, which historically had proportionately more committed affordable units than its eastern counterpart. Staff is not proposing any changes to this flexibility and believe it can continue to have a positive impact on future distribution of rental units along Columbia Pike.

In regards to ownership units, the proposed amendment inherently provides higher income units within the Western Columbia Pike. Furthermore, due to the previously mentioned challenges of limiting affordability to no more than 60% AMI, staff does not recommend capping income levels for ownership units at this 60% AMI income level. Therefore, as it relates to affordable ownership units delivered through the N-FBC, staff does not consider a sliding scale as a suitable approach to addressing the previously noted challenges of ownership affordability.

4. *Staff received input from the community questioning whether the increase in AMI for condo units would result in a “give-away” to developers.*

Staff Response: While an increase in AMI would result in moderately higher sale prices for the affordable units, staff has received contrasting input that even with increasing the affordability requirement up to 100% AMI, some N-FBC projects would continue to remain economically infeasible. Others from the development community have highlighted the existing requirements (up to 60% AMI) as being too onerous and contributing to the pursuit of by-right redevelopment, choosing to forego additional density offered by the N-FBC. One such example occurred at 4238 Columbia Pike, previously the site of a single-family home, which is currently being developed by-right into 17 market-rate townhomes. This very scenario represents the primary threat to displacement and lack of diversity along Columbia Pike as by-right redevelopment remains an option for all property owners and is not required to deliver any on-site affordability. In some respects, the N-FBC therefore has to remain competitive with the alternatives offered through by-right zoning in order to incentivize its use for future redevelopment.

5. *Some in the community expressed concern over how N-FBC redevelopment proposals could earn bonus density, particularly on the eastern end of Columbia Pike.*

Staff Response: This concern appears to stem from the potential of future redevelopment in the eastern subarea achieving building heights of up to 14 stories under the N-FBC and particularly focuses on how bonus height can be earned as part of N-FBC redevelopment. The underlying premise in this comment is also based on the assumption that increasing the AMI limits will trigger many of the larger rental complexes to suddenly redevelop as condominiums, which staff believes to be an incorrect assumption. To better understand how the County Board may consider future proposals with bonus height, it is important to first revisit the purpose of this zoning tool. The N-FBC regulations help implement the vision expressed in the 2012 Neighborhoods Area Plan and were developed as a result of a multi-year planning effort that began in 2008. The primary objective included sustaining a supply of housing to serve a community with a broad mix of incomes and to preserve the existing market rate affordable housing, through a combination of preservation and new development.

The above objectives provide a stark difference from alternative scenarios still available to property owners along the corridor, including the eastern end as was noted in the CHCA letter. One such example includes the Dorchester Apartments, a large rental complex comprised of 388 garden-style apartments between Columbia Pike and 12<sup>th</sup> Street S. Absent any County intervention, these units could be extensively renovated or their owner could simply maximize the by-right development potential under the existing zoning which permits heights of up to 6 stories. Both of those scenarios could displace existing tenants without achieving and/or maintaining any level of affordability within the site, a condition which staff believes represents the primary threat to preserving the current rental community along the entire corridor. In response to this threat, a significant amount of economic analysis was conducted during the Neighborhoods Area Plan process and concluded that adequate density incentives would need to be provided for property owners to choose an alternative path to redevelopment from the one available through by-right regulations. This point cannot be

overstated since the N-FBC only represents an optional zoning district for property owners whose sites are located within its boundaries.

To ensure property owners strongly consider N-FBC when contemplating future redevelopment, considerable thought went into developing incentives that would remain competitive with the available by-right potential. As a result, and using Dorchester Apartments as an example, the N-FBC offers additional building height in exchange for streetscape improvements, LEED Silver certification, new public street connections, a 1-acre neighborhood park, and on-site affordable units proportional to the scale of development being proposed. All of these requirements represent quality of life elements that were identified as priorities by the community when the earlier planning efforts were developed.

The incentive for sites to redevelop through taller building heights permitted in the N-FBC was first introduced in the development of the Neighborhoods Area Plan and formally adopted in 2013 as part of the Zoning Ordinance. Some clarity is warranted in confirming how sites may actually qualify for bonus height as part of N-FBC redevelopment. The County Board, at its discretion and per standards specified in the N-FBC, may approve bonus height for buildings that exceeds the base height specified in the N-FBC. Consideration of such requests is contingent upon the applicant demonstrating development commitments referenced in the N-FBC for the following criteria:

- A. Preservation of existing market rate units or open space within one of the Conservation Areas (Barcroft Apartments or Fillmore Gardens);
- B. Providing new on-site affordable units beyond the N-FBC minimum requirement
- C. Providing new affordable units off-site which are still within the N-FBC district (an option available to owners with multiple properties)
- D. Delivering a 1-acre neighborhood park (Dorchester Apartments)

Thus far, the County Board has approved bonus density for one N-FBC project. In 2015, the Columbia Hills proposal achieved two additional (bonus) stories by providing all of its 229 units as affordable rental units. In this example, the proposal significantly exceeded the minimum N-FBC requirements which would have otherwise only yielded 69 affordable units had the development been limited to the base building height parameters. Staff considers this action as an important precedent moving forward which would inform how the County Board considers future N-FBC redevelopments that may be eligible to utilize bonus height provisions.

*6. Some in the community expressed concern over redevelopment in general and its associated impacts on the corridor's transportation network.*

**Staff Response:** From a transportation perspective, it is important to note that new mixed-use developments being constructed along Columbia Pike yield different travel patterns than the surrounding community, particularly with a greater number of walking trips and fewer car trips. The Columbia Pike corridor already has the highest frequency of bus service of any corridor in Arlington and Northern Virginia. Between Metrobus and ART, ridership exceeds 16,000 on an average weekday, with existing transit capacity exceeding 20,000 passengers. Arlington continues to be committed to delivering enhanced transit within this Corridor.

The next phase of transit service expansion is scheduled for FY22 when the 16M service between Skyline and Crystal City will be implemented, along with enhancements to ART 41, 75 and 77. These changes will yield more frequent service and better connections to destinations throughout Arlington. Arlington is also committed to improving multimodal infrastructure throughout the corridor, making it easier and safer to walk, bike and take transit. The first 8 transit stations will be installed by Summer 2021 with 15 additional stations planned, designed and fully funded. It is anticipated that by 2024, the corridor will be substantially supported by public transit options end-to-end.

7. *There is also some community concern of increasing the AMI levels as high as 120% for ownership units.*

Staff Response: As noted above, staff has revised the recommendation to provide affordable ownership units at equally tiered levels of up to 80% AMI and up to 100% of AMI. The 120% AMI category is no longer recommended.

8. *There is some community concern that the amendment will cause an increase in rental buildings converting to condominiums.*

Staff Response: This concern is largely based on the assumption that the proposed amendment will apply to all rental complexes along Columbia Pike. However, the scope of this particular element of staff's proposal only applies to existing built and future built rental projects approved under the N-FBC. In such instances, the proposed amendment is meant to clarify what would happen to the required affordable rental units in the event the existing (and built) N-FBC rental building were to convert to condominiums. The proposed amendment introduces two options to address the conversion of affordable units in such cases. First, the affordable rental units could remain as rental throughout the remainder of their affordability term. The second option would permit the affordable rental units to convert to affordable ownership units, with County Board approval. The proposed amendment clarifies that the property owner would have the discretion to choose between both of these options.

Staff does not believe the proposed AMI change on its own would impact whether an existing N-FBC rental project would convert to condominiums. The decision to convert to a condominium would be a market-based decision and depend on the business plan of the individual owners. The proposed amendment simply clarifies that the owner will need to continue to meet the affordable unit obligation, either as rental units or as affordable homeownership units, should a conversion take place prior to the conclusion of the 30-year affordability term of that N-FBC rental project.

**Housing Commission:** The Housing Commission voted X-X-X in X of the amendment on October 8, 2020. Comments included...

**Planning Commission:** The Planning Commission voted X-X-X in X of the amendment on October 5, 2020. Comments included...

**CONCLUSION:** The proposed amendments conform to the vision for the Columbia Pike corridor as expressed in the Neighborhoods Area Plan adopted in 2012 and are consistent with the Affordable Housing Master Plan adopted in 2015. 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) to adjust the Area Median Income (AMI) limit for affordable homeownership units from 60% of AMI to new limits that range up to 80% of AMI and up to 100% of AMI while extending the affordability term for such units.

DRAFT

**N-FBC-11: 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 ADJUST THE INCOME LIMITS AND TERM FOR OWNERSHIP AFFORDABLE HOUSING UNITS, AND TO STIPULATE STANDARDS FOR CONDOMINIUM CONVERSION OF AFFORDABLE RENTAL UNITS DEVELOPED UNDER THE N-FBC, AND IN ORDER TO FACILITATE THE CREATION OF A CONVENIENT, ATTRACTIVE AND HARMONIOUS COMMUNITY; TO ENCOURAGE ECONOMIC DEVELOPMENT; AND FOR OTHER REASONS REQUIRED BY THE PUBLIC NECESSITY, CONVENIENCE, GENERAL WELFARE, AND GOOD ZONING PRACTICE.**

*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 adjust the income limits and term for ownership affordable housing units, and to stipulate standards for condominium conversion of affordable rental units developed under the N-FBC, and in order to facilitate the creation of a convenient, attractive and harmonious community; to encourage economic development; and for other reasons required by the public necessity, convenience, general welfare, and good zoning practice.*

\*\*\*

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 Amendment**

**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 AFFORDABLE HOUSING requirements, outlined in 902.B through ~~FG~~, shall be 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 ~~FG~~, 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.

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

Each residential DEVELOPMENT 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.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.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

46 buildings (rather than demolish and build new), the fraction equals 2.5, or 25 percent of the of the  
47 300 NET NEW UNITS as committed AFFORDABLE HOUSING UNITS. Because the  
48 AFFORDABLE HOUSING UNITS are proposed within existing buildings, the percent  
49 requirement arrived at through application of 902.B.1 above shall be increased by  
50 five. Therefore, the applicant will be required to provide 30 percent of the NET NEW UNITS as  
51 new committed AFFORDABLE HOUSING UNITS (90 units).

52  
53 **C. Affordability Level & Term**

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

59  
60 a. DEVELOPMENT PROJECTS west of George Mason Drive: An applicant may provide up  
61 to 33 percent of the required AFFORDABLE HOUSING UNITS at affordability levels of 60  
62 percent to 80 percent of the AMI at a rate of two (2) units available at 60 percent – 80 percent  
63 of the AMI for every one (1) unit required at 60 percent of the AMI.

64 b. DEVELOPMENT PROJECTS east of George Mason Drive: An applicant may provide up to  
65 33 percent of the required AFFORDABLE HOUSING UNITS at affordability levels of 40  
66 percent of the AMI at a rate of 0.5 units available at 40 percent of the AMI for every one (1)  
67 unit required at 60 percent of the AMI.

68 c. By use permit approval, the County Board may adjust the proportions described in 902.C.1.a  
69 and 902.C.1.b to allow for larger quantities of units affordable at 60 percent to 80 percent of  
70 the AMI or 40 percent of the AMI units, respectively.

71  
72 2. **Ownership AFFORDABLE HOUSING UNITS shall be committed for the life and use of**  
73 **the existing improvement as a residential dwelling unit, commencing at the time of**  
74 **execution of the required documents, as follows:**

75  
76 a. **Within each DEVELOPMENT PROJECT:**

77 i. **No less than one-half of the required units shall be affordable to households**  
78 **earning up to 80 percent of the AMI;**

79 ii. **The remainder of the required units may be affordable to households earning up**  
80 **to 100 percent of the AMI; and**

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

84  
85 b. **If there is no more than one required ownership AFFORDABLE HOUSING UNIT, the**  
86 **required unit shall be affordable to households earning up to 80 percent of the AMI as**  
87 **set by HUD for the Washington, DC Metropolitan Statistical Area, adjusted for**  
88 **household size, at the time of execution of the required documents.**

89  
90  
91 **D. Unit Mix**

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

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

#### 100 **E. Tenant Relocation Plan**

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

- 105 1. Outline strategies the applicant plans to use to mitigate any displacement that may occur as a  
106 property is fully or partially redeveloped.
- 107 2. Documentation of timely tenant meetings, relocation payment amounts per bedroom size,  
108 eligibility criteria, and the proposal of new rents and utilities.  
109

110  
111 The applicant is responsible for presenting a draft plan to the Arlington Relocation Coordinator for review  
112 and approval prior to review with the Tenant Landlord Commission. Upon review and approval from the  
113 Tenant Landlord Commission, and during the duration of the relocation process as specified in the  
114 approved Tenant Relocation Plan, the applicant is required to meet monthly with the Arlington Relocation  
115 Coordinator to review ongoing status, as well as provide monthly statistical and tracking reports.  
116

#### 117 **F. Affordable Housing Unit Location**

118 An applicant may meet the AFFORDABLE HOUSING requirement by providing units either within new  
119 construction or within existing buildings that will remain within the development proposal. All units are  
120 subject to the Virginia Uniform Statewide Building Code.  
121

122 AFFORDABLE HOUSING UNITS in existing buildings shall be renovated sufficiently to meet Housing  
123 Quality Standards, set by the U.S. Department of Housing and Urban Development (HUD), and the  
124 standards set-forth within the Virginia Uniform Statewide Building Code.  
125

#### 126 **G. Condominium Conversion**

- 127 1. **If, within the thirty (30) year compliance period, the property owner proposes to change the**  
128 **residential DEVELOPMENT PROJECT from rental to a condominium regime pursuant to**  
129 **the Virginia Condominium Act, Title 44, Chapter 4.2, Section 79.39 et seq. of the Code of**  
130 **Virginia, 1950 Edition, as amended, the property owner shall:**
  - 131 a. **Notify the County Manager of the proposed condominium conversion not less than sixty**  
132 **(60) days prior to recording the Declaration of Condominium; and**
  - 133 b. **Concurrent with the Declaration of Condominium, record a Deed of Declaration of**  
134 **Restrictive Covenants, as approved by the County Manager or his designee, and in a**  
135 **form approved by the County Attorney, identifying with specificity:**
    - 136 i. **Which of the rental AFFORDABLE HOUSING UNITS shall continue to be**  
137 **operated as rental AFFORDABLE HOUSING UNITS subject to Section 902.C.1**  
138 **for the remainder of the thirty (30) year compliance period; or**
    - 139 ii. **Which of the rental AFFORDABLE HOUSING UNITS may be offered for sale to**  
140 **qualifying income-eligible homebuyers at the affordability levels and terms**  
141 **provided in Section 902.C.2, subject to the execution of required documents to be**  
142 **approved by the County Board.**  
143

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

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

163