

EXHIBIT NO. 1

27.1  
6-14-08

Introduction and first reading:  
Public hearing:  
Second reading and enactment:

06/14/2008  
06/24/2008  
06/24/2008

### INFORMATION ON PROPOSED ORDINANCE

#### Title

AN ORDINANCE to amend and reordain Article 2 (DEFINITIONS), Article 7 (SUPPLEMENTAL ZONE REGULATIONS), Article 8 ((OFF-STREET PARKING AND LOADING), Article 11 (DEVELOPMENT APPROVALS AND PROCEDURES), and Article 12 (NONCOMPLIANCE AND NONCONFORMITY), of the City of Alexandria Zoning Ordinance, to adopt Infill Zoning Regulations (Text Amendment No. 2008-0005).

#### Summary

The proposed ordinance accomplishes the final adoption of Text Amendment No. 2008-0005 to adopt Infill Zoning Regulations as part of the City of Alexandria Zoning Regulations, as recommended by the Infill task Force, and approved, with amendments, by the Planning Commission.

#### Sponsor

Infill Task Force

#### Staff

Farroll Hamer, Director of Planning and Zoning  
Ignacio B. Pessoa, City Attorney

#### Authority

§§ 2.04(w), 9.12, Alexandria City Charter  
§ 11-800, City of Alexandria Zoning Ordinance

#### Estimated Costs of Implementation

None

#### Attachments in Addition to Proposed Ordinance

None

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend and reordain Article 2 (DEFINITIONS), Article 7 (SUPPLEMENTAL ZONE REGULATIONS), Article 8 ((OFF-STREET PARKING AND LOADING), Article 11 (DEVELOPMENT APPROVALS AND PROCEDURES), and Article 12 (NONCOMPLIANCE AND NONCONFORMITY), of the City of Alexandria Zoning Ordinance, to adopt Infill Zoning Regulations (Text Amendment No. 2008-0005).

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2008-0005 the planning commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, initiated and approved amendments to the Zoning Ordinance to adopt Infill Zoning Regulations;
2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;
3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article 2, Article 7, Article 8, Article 11 and Article 12 of the City of Alexandria Zoning Ordinance, be, and the same hereby are, amended and reordained by incorporating therein the Infill Zoning Regulations entitled "Infill Task Force, Proposed Zoning Text Amendments," showing the June 3, 2008 Planning Commission amendments, attached hereto and incorporated herein fully by reference.

Section 2. That the city attorney be, and hereby is, directed to codify the foregoing amendments in the City of Alexandria Zoning Ordinance.

Section 3. That this ordinance shall become effective on the date and at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which may be filed after such date.

WILLIAM D. EUILLE  
Mayor

Attachment: "Infill Task Force, Proposed Zoning Text Amendments,"  
showing the June 3, 2008 Planning Commission amendments

Introduction: 06/14/2008  
First Reading: 06/14/2008  
Publication:

1 Public Hearing:  
2 Second Reading:  
3 Final Passage:  
4  
5  
6  
7  
8

**INFILL TASK FORCE  
PROPOSED ZONING TEXT AMENDMENTS**

1. *The following changes are proposed to clarify the Floor Area definition to reduce excess deductions.*
- 2-119 *Average finished grade.* The elevation obtained by averaging the finished ground surface elevation at intervals of 20 feet at the perimeter of a building.
- 2-119.1 *Average pre-construction grade.* The elevation obtained by averaging the ground surface elevation at intervals of 20 feet at the perimeter of a proposed building prior to construction.
- 2-120 *Basement.* A story partly or wholly underground. For the purpose of floor area measurement, a basement shall be counted as ~~a story~~ floor area where the average ~~surrounding~~ finished grade is four feet or more below the bottom of first floor construction.
- 2-145 *Floor area.*
  - A. For residential dwellings in the R-20, R-12, R-8, R-5, R-2-5, and single-family and two-family dwellings in the RA and RB zones (not including property located within the Old and Historic Alexandria and Parker-Gray Districts), floor area is the sum of all gross horizontal areas under roof on a lot. These areas shall be measured from exterior faces of walls or any extended area under roof, but does not include areas under the eaves of the roof. Floor area with a ceiling height 15 feet or greater shall be counted twice. Floor area with a ceiling height 25 feet or greater shall be counted three times. Excluded from floor area shall be:
    - (1) Stairs and elevators.
    - (2) Floor space used for water tanks and heating and cooling equipment (but not including ductwork, pipes, radiators or vents).
    - (3) Basements.
    - (4) Attic floor area with less than 5 feet of ceiling height as measured from the attic floor, or floor joists if there is no floor, to the bottom of the roof rafter or truss member supporting the outer roof structure.
    - (5) Open front porches and porticos in accordance with Section 7-2304.
    - (6) Free-standing garages to the rear of the main building in accordance with Section 7-2305.
  - B. For properties except for those specified in A above, the floor area of the building or buildings on a lot or tract or tract of land (whether "main" or "accessory") is the sum of all gross horizontal areas under a roof or roofs. These areas shall be measured from the exterior faces of walls and from the eaves of all roofs where they extend beyond the wall line or from the center line of party walls and shall include all space with a headroom of seven feet six inches or more, whether or not provided with a finished

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**INFILL TASK FORCE  
PROPOSED ZONING TEXT AMENDMENTS**

floor or ceiling. Excluded shall be elevator and stair bulkheads, accessory water tanks, cooling towers and similar construction not susceptible to storage or occupancy. Basements and subbasements shall be excluded from the floor area ratio computations, but for the purpose of computing off street parking requirements that portion of such areas as are occupied by permitted uses shall be subject to the provisions of Article VIII.

2-150.2 *Grade, Average Finished.* See Average Finished Grade.

2-150.3 *Grade, Average Pre-construction.* See Average Pre-construction Grade.

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**INFILL TASK FORCE  
PROPOSED ZONING TEXT AMENDMENTS**

- 2. *The following changes are proposed to identify height measurement for all roof types and to ensure that height is measured from existing grade.***

2-154 *Height of building.* The vertical distance measured from average finished grade to the highest point of the building, except that:

(A) Gable or hip roof.

- (1) In the case of a gable or hip roof, height shall be measured to the midpoint between the eaves and the ridge.
- (2) For purposes of establishing the setback ratio on the gable end of a building with a gable roof, height shall be measured to the midpoint between the eaves and the ridge.

(B) Gambrel roof.

- (1) In the case of a gambrel roof, height shall be measured to the midpoint of the upper slope of the roof.
- (2) For purposes of establishing the setback ratio on the vertical end of a building with a gambrel roof, height shall be measured to the point where the upper slope and the lower slope of the ridged roof meet.

(C) Mansard roof. In the case of a mansard roof, height shall be measured to the roof line.

~~(C)~~ (D) In the case of a flat roof with a parapet wall which is three feet in height or less, the highest point shall be the roof line;

~~(D)~~ (E) In the case of a building with ten feet or less horizontal distance between the building setback line and the right-of-way line, height shall be measured from the average finished grade or the curb grade, whichever is less;

(F) For a building in the R-20, R-12, R-8, R-5, R-2-5, and single-family and two-family dwellings in the RA and RB zones (not including property located within the Old and Historic Alexandria and Parker-Gray Districts), height shall be measured from the average pre-construction grade or average finished grade, whichever grade is lower; and

(G) For treatment of chimneys, flagpoles, steeples, antennas and mechanical penthouses, see section 6-403.

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**INFILL TASK FORCE  
PROPOSED ZONING TEXT AMENDMENTS**

**3. *The following are changes to the established front setback requirements with special exception option and the current interim threshold regulations with a minor change.***

**7-1002 *Residential front setback and front door threshold in line with existing development.***

- (A) Unless a different rule is specified for a particular zone average setbacks, wherever the major portion of a block is developed, and the majority of the buildings built on one side of a street between two intersecting streets or between one intersecting street and a street dead end have been built at a uniform front setback ~~with a different forward or behind the~~ minimum front setback ~~than~~ prescribed for the zone in which such buildings are located, ~~no residential buildings hereafter erected or altered shall project beyond the~~ conform to the minimum setback line so established; ~~provided, that no dwelling shall be required to set back a distance more than ten feet greater than the setback required by the regulations of the zone in which it is located.~~ Absent a majority of buildings at a uniform front setback, the setback shall be established by the average of the front setbacks of the buildings on one side of the street of a block as described above. The board of zoning appeals is authorized to grant a special exception under the provisions of Section 11-1300 to modify the strict application of this requirement.
- (B) Whenever the major portion of a block is developed, no front door threshold of a single family, two-family or townhouse residential building erected or altered after [January 20, 2007] shall exceed the average height of the front door threshold of the residential buildings built on that block (one side of a street between two intersecting streets or one intersecting street and a street dead end) by more than 20 percent, provided, that additional front door threshold height may be permitted if a special use permit is approved pursuant to section 11-500 of this ordinance, and city council determines that the proposed construction will not detract from the value of and will be of substantially the same residential character as adjacent and nearby properties. For the purpose of this paragraph, the height of the front door threshold is defined as the vertical distance between the average pre-construction existing ~~existing~~ grade along the front of the building to the top of the threshold. The front door threshold shall accurately reflect the actual location of the first floor of the building, and in all cases the front door threshold shall be measured to the top of the threshold or the top of the highest elevation of the finished first floor, whichever is greater.
- (C) For the purposes of this section 7-1002, where the number of buildings on one side of a street between two intersecting streets or between one intersecting street and a street dead end is either fewer than five or where the distance between streets as specified above is less than 200 feet or where the number of buildings is greater than 15 or where the distance between streets as specified above is greater

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**INFILL TASK FORCE  
PROPOSED ZONING TEXT AMENDMENTS**

than 600 feet, the director may designate an appropriate block for purposes of calculating front door threshold height without regard to intersecting streets subject to an administrative protocol similar to that applied in substandard lot cases, and subject to city council approval as part of the special use permit, if there is one, granted pursuant to this section 7-1002.

**11-1300 Special exception.**

11-1301 *Authority.* The board of zoning appeals is authorized to review applications for those special exceptions established by this section 11-1300.

11-1302 *Special exception established.* A lot in a single family, two family or townhouse zone may be the subject of a special exception from the following zoning requirements pursuant to this section 11-1300.

(A) Fences on corner lots.

(B) Yard and setback requirements for enlargement of a dwelling...

(C) Yard and setback requirements for a ground level, single story, covered front porch...

(D) Average front yard setback requirements for a main dwelling required by section 7-1002, subject to the following requirements:

(1) Limitation on front setback increase or decrease.

(a) No main dwelling shall be closer to the front property line than the average front setback line calculated for the proposed dwelling.

(b) An adjustment is allowed of as much as 10% from the average front setback line calculated for the project or 5 feet, whichever is less.

(c) The front setback increase or decrease shall be the minimum necessary to achieve the desired result.

(2) The applicant shall demonstrate by clear and convincing evidence that the proposed change in front setback for the dwelling is necessary for environmental and/or critical construction reasons and that the dwelling in the proposed location will be compatible with the character of the rest of the neighborhood block and will not be detrimental to the maintenance of a an established setback along the street.

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INFILL TASK FORCE  
PROPOSED ZONING TEXT AMENDMENTS

4. *The following changes are proposed to establish average height limits, ~~require the front setback to meet the established setback line~~, establish standards for open front porches and detached garages in the rear of the lot, allow tandem parking and permeable driveways to support the detached garages, establish standards for attached garages, and establish a tree cover requirement.*

- 2-124 *Building or setback line.* A line beyond which no part of any building or structure except footings shall project.
- 2-148.1 *Front porch.* A covered landing attached to the exterior of a residential building and generally extending along a portion of or the entire length of the front building wall.
- 2-149 *Garage, private.* A building designed for the storage of not more than three motor-driven vehicles.
- 2-183.2 *Portico.* A small roof projection with or without columns or brackets above an open landing, attached to the exterior of the primary front entrance of a residential building.

**7-2300 Supplemental Regulations for Certain Residential Zones.**

7-2301 Applicability. The supplemental regulations in this section 7-2300 apply to residential dwellings in the R-20, R-12, R-8, R-5, R-2-5, and single-family and two-family dwellings in the RA and RB zones (not including property located within the Old and Historic Alexandria and Parker-Gray Districts). These regulations supplement the residential zone regulations in Article III of this zoning ordinance.

7-2302 Height in line with existing development.

(A) The height of a residential building erected or altered after [effective date] shall not exceed the greater of:

(1) 25 feet, or

(2) The average height along the front of the building of the residential buildings existing on that block (one side of a street between two intersecting streets or one intersecting street and a street dead end) by more than 20 percent.

(B) A height greater than that calculated in Section 7-2302(A) may be permitted if a special use permit is approved pursuant to section 11-500 of this ordinance, and

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**INFILL TASK FORCE  
PROPOSED ZONING TEXT AMENDMENTS**

city council determines that the proposed construction will be of substantially the same residential character and design as adjacent and nearby properties.

- (C) For the purposes of this section 7-2302, where the number of buildings on one side of a street between two intersecting streets or between one intersecting street and a street dead end is either fewer than five or where the distance between streets as specified above is less than 200 feet or where the number of buildings is greater than 15 or where the distance between streets as specified above is greater than 600 feet, the director may designate an appropriate block for purposes of calculating height without regard to intersecting streets subject to an administrative protocol similar to that applied in substandard lot cases, and subject to city council approval as part of the special use permit, if there is one, granted pursuant to this section 7-2302.

7-2303 Front door threshold height in line with existing development. See threshold height regulations in Section 7-1002 (B) and (C).

7-2304 Open front porches and porticos.

- (A) Ground level covered front porches and porticos constructed under the standards of this section 7-2304 shall be excluded from floor area calculated under the provisions of Section 2-145(A)(5).

(B) Standards for porches.

- (1) Extent of front porch exclusion. No portion of the floor area of the porch to be excluded under this section shall extend beyond the side walls of the front building façade.
- (2) Size of porch. To be excluded under this section, a porch shall be a minimum of 5 feet deep and a maximum of 8 feet deep. The maximum floor area to be excluded shall be 240 square feet.
- (3) Construction above not permitted. To be excluded under this section, no second floor balcony, deck, or enclosed construction shall be permitted above the front porch or portico.
- (4) Must remain open. A ground level front porch or portico shall remain open and shall at no time be enclosed with building walls, glass, screens, or otherwise. Railings shall be permitted no higher than the minimum height

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**INFILL TASK FORCE  
PROPOSED ZONING TEXT AMENDMENTS**

required by the building code, and with balusters evenly spaced so as to leave at least 50 percent of the perimeter length of the railings open.

- (C) For front porches and porticos that cannot meet the front setback requirements, the board of zoning appeals is authorized to grant a special exception under the provisions of Section 11-1300.

7-2305 Free-standing garages to the rear of the main building.

- (A) Regardless of other regulations in this zoning ordinance, a free-standing private garage is permitted to the rear of the main building in accordance with the regulations in this section 7-2305 so long as it is the only garage on the lot or adjacent vacant lot under common ownership. The floor area of such a garage constructed in accordance with the standards of this section will be excluded from floor area calculated under the provisions of Section 2-145(A)(6).

(B) Standards.

- (1) Size. For lots with a minimum of 5,000 square feet and with less than 8,000 square feet lot area, the garage shall have a floor area not greater than 250 square feet and a height not greater than 10 feet. For lots 8,000 square feet or larger, the garage shall have a floor area not greater than 500 square feet and a height not greater than 12 feet.
- (2) Setback. The garage shall be set back a minimum of 3 feet from the side or rear property line if windows face the property line; otherwise the minimum setback is 1 foot.
- (3) Access. If there is no direct access to the garage from an alley, a permeable-surfaced driveway is permitted in the side yard for access to the garage. Permeable-surfaced driveways can be composed of grass with ring and grid structure, gravel with a grid structure beneath, paving strips, a grid based surface, or other treatments without significant compaction of the base, but must be approved by the department of planning and zoning and the department of transportation and environmental services. Either the department of planning and zoning or the department of transportation and environmental services can grant an exemption to the permeable-surfaced driveway requirement in cases of steep slopes, adverse soil conditions, constructability, or other conditions that for safety or environmental reasons would require use of a non-permeable surfacing material. Tandem parking in the driveway is permitted. Curb cuts must be approved in accordance

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**INFILL TASK FORCE  
PROPOSED ZONING TEXT AMENDMENTS**

with Section 5-2-2 of the City Code and section 8-200(C)(5) of this zoning ordinance. The number of vehicles permitted on the lot is limited by Section 8-200(C)(6).

- (4) *Compatibility.* The accessory garage shall be compatible with the main dwelling in regard to materials and design.
- (5) *Use.* The accessory garage shall be dedicated to the use and storage of motor vehicles.

7-2306 *Attached garages.* Private garages that are an integral part of the main residential dwelling are only permitted under the following standards.

- (A) If the lot width is 65 feet or more, an attached garage shall have the vehicle opening facing the side yard. Such a garage may be no closer to the front property line than the plane of the front building wall.
- (B) If the lot width is less than 65 feet, an attached garage with a vehicle entrance facing the front yard is permitted, but must be set back a minimum of 8 feet from the plane of the front building wall. No roof or covering is permitted in front of such a garage and any construction above shall not extend forward of the front plane of the garage. The garage door shall be compatible with the design of the residence.
- (C) A non-tandem parking or garage access arrangement is permitted only if the parking area is a permeable surface, unless the department of planning and zoning or the department of transportation and environmental services determines that a permeable-surfaced driveway is not appropriate due to steep slopes, adverse soil conditions, constructability, or other conditions that for safety or environmental reasons would require use of a non-permeable surfacing material.

7-2307 *Tree coverage requirement.*

- (A) For all construction that requires a grading plan, trees must be planted or existing trees preserved to provide a minimum of 25 percent canopy cover over the site. Refer to the City of Alexandria Landscape Guidelines to determine tree crown coverage allowances.
- (B) The director shall approve this requirement as part of the grading plan.

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**INFILL TASK FORCE  
PROPOSED ZONING TEXT AMENDMENTS**

**7-100 *Accessory uses and structures.***

Accessory uses and structures are permitted, but only in connection with and incidental to a permitted principal use or structure and in compliance with the restrictions of this section 7-100.

**7-101 *Permitted accessory uses.*** Permitted accessory uses and structures shall be limited to the following and any additional use or structure which the director finds is similar to those listed in scope, size and impact, is customarily associated with residential dwellings, and is otherwise in compliance with this ordinance:

- (A) Private garage;
- (B) Private greenhouse;
- (C) Private tennis or outdoor recreational court;
- (D) Above ground deck;
- (E) Private swimming pool;
- (F) Storage structure;
- (G) Freestanding air conditioning machinery;
- (H) Fence or wall;
- (I) Guest house, accessory to a single-family dwelling, provided it is used by temporary guests or occupants of the main residence, contains no kitchen facilities and is not rented or otherwise used as a separate dwelling;
- (J) Gazebo or treehouse;
- (K) Home occupation, subject to section 7-300;
- (L) Child or elder care home, subject to section 7-500.

**7-102 *Prohibited accessory uses.*** Prohibited uses accessory to residential dwellings include, but are not limited to:

Outdoor storage; provided that a reasonable amount of cut fire wood for personal use and building materials on a temporary basis for use on site may be stored on a residential lot.

**7-103 *Use limitations.*** The following limitations apply to accessory uses and structures:

- (A) No accessory use or structure shall be located forward of the front building line, except as provided in section 7-202(A).
- (B) No accessory use or structure shall be located in a required rear or side yard, except as provided in sections 7-202 and 7-2305.

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**INFILL TASK FORCE  
PROPOSED ZONING TEXT AMENDMENTS**

- (C) Accessory structures shall be included in the calculations required by this ordinance for the purpose of complying with height and bulk regulations, except as provided in sections 7-2304 and 7-2305.
- (D) An accessory use or structure shall be located on the same lot as the principal structure or use served, except where it is located on an adjoining lot which contains no principal building and which is adjacent to and in common ownership with the lot on which the principal building which it does serve is located or as otherwise expressly authorized by the provisions of this ordinance.

7-200 *Permitted structures in required yards.*

7-201 *General prohibition.* Every part of a required yard shall be open and unobstructed from the lowest point to the sky except as may be permitted in section 7-202.

7-202 *Permitted obstructions.* The following obstructions shall be permitted when located in a required yard and placed so as not to obstruct light and ventilation and when otherwise permitted by law:

(A) In all yards:

- (1) Open fences which do not exceed three and one-half feet in height.
- (2) Awnings or canopies provided they do not project more than five feet in depth from the existing building face.
- (3) Bay or display windows, projecting 20 inches or less into the yard and gutters, eaves, cornices or window sills projecting 12 inches or less into the yard.
- (4) Chimneys projecting 30 inches or less into the yard, provided that such projection does not reduce the width of the remaining side or rear yard to less than five feet.
- (5) Arbors and trellises.
- (6) Flag poles which do not exceed 15 feet in height.
- (7) Open stairs, provided that the stairs do not reduce a side or rear yard to less than five feet.

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**INFILL TASK FORCE  
PROPOSED ZONING TEXT AMENDMENTS**

- (8) Ramps and similar structures necessary to provide access for the handicapped.
- (9) Porticos, provided that they do not extend more than six feet from the main building wall, do not extend more than and nine feet in length, which dimensions include any roof overhang, and provided further that they remain open.

(B) In any yard except a front yard:

- (1) Sandboxes, swings and other small items of childrens' play equipment.
- (2) Clotheslines.
- (3) Open and closed fences which do not exceed six feet in height.
- (4) Small sheds, doghouses, dollhouses and structures used for storage, provided:
  - (a) On land zoned R-20, R-12, R-8, R-5 or R-2-5 and used for single-family dwellings, such structures may not exceed 80 square feet in floor area in the aggregate and eight feet in height when measured at the structure's highest point.
  - (b) On land zoned and used for semi-detached or townhouse dwellings, such structures may only be placed in the rear yard at the rear property line, may not exceed 50 square feet of floor area in the aggregate and seven feet in height when measured at the structure's highest point.
- (5) Freestanding air conditioning machinery, provided it can be demonstrated to the director that it will not exceed a noise level of 55 decibels (55 dB(A)) when measured at any property line of the lot, and provided it is placed in a location which has the least adverse impacts to adjoining lots of those locations available.
- (6) Open terraces and decks not over two feet above the average level of the adjoining ground and two feet above ground at any property line of the lot but not including a roofed-over terrace or porch.
- (7) Free-standing private garages to the rear of the main building in accordance with section 7-2305.

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PROPOSED ZONING TEXT AMENDMENTS**

- (C) In the Old and Historic Alexandria and the Parker-Gray Districts, the requirement of sections 7-202(A)(1) and 7-202(B)(3) may be waived or modified by the board of architectural review where the board finds that a proposed fence would be architecturally appropriate and consistent with the character of the district.
- (D) In any residential zone a ground level covered open front porch is permitted to project a maximum of eight feet from the front building wall into the required front yard, or primary front yard if a corner lot, of a single-family, semi-detached, duplex or townhouse dwelling; provided that a special exception under section 11-1302 of this ordinance is approved.

**8-200 General parking regulations.**

(C) *Location of parking facilities.*

- (1) For all single-family detached and two-family residential dwellings; required off-street parking facilities shall be located on the same lot as the main building. Tandem parking is permitted to meet this requirement.

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PROPOSED ZONING TEXT AMENDMENTS**

**5. *The following shows no changes to the previously adopted language of the subdivision regulations.***

Sec. 11-1710(B)      No lot shall be resubdivided in such a manner as to detract from the value of adjacent property. Lots covered by a resubdivision shall be of substantially the same character as to suitability for residential use and structures, lot areas, orientation, street frontage, alignment to streets and restrictions as other land within the subdivision, particularly with respect to similarly situated lots within the adjoining portions of the original subdivision. In determining whether a proposed lot is of substantially the same character for purposes of complying with this provision, the Commission shall consider the established neighborhood created by the original subdivision, evidence of which may be shown by

- (1) Subdivision plat documents, including amendments to the subdivision over time, as well as the development that has occurred within the subdivision, and
- ✓ (2) Land in the same general location and zone as the original subdivision with the same features so as to be essentially similar to the original subdivision area.

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INFILL TASK FORCE  
PROPOSED ZONING TEXT AMENDMENTS

6. *The following changes are proposed to require an SUP for teardown and new construction on developed substandard lots.*

**12-900 Developed Substandard Residential Lots**

12-901 A residential dwelling on a lot in the R-20, R-12, R-8, R-5, R-2-5, and single-family and two-family dwellings in the RA and RB zones (not including property located within the Old and Historic Alexandria and Parker-Gray Districts) which lot has less lot area, lot width, or lot frontage than the minimum required for use in the zone where it is situated (referred to hereafter in this section as a substandard lot), is subject to the following requirements.

(A) ~~Addition~~ Expansion. An expansion of a residential dwelling on a substandard lot is permitted subject to the following standards.

(1) Construction complies with the requirements of Section 12-102(A);

(2) At least 50% of the existing first floor exterior walls in their entirety (measured in linear feet) must remain as adjoining exterior walls. The determination of first floor exterior walls is that the walls must have its finished floor surface entirely above grade.

(B) ~~Replacement~~ Reconstruction. Demolition and replacement reconstruction of a same-size residential dwelling on a substandard lot is permitted subject to the following standards, regardless of the provisions of Section 12-102(B):

(1) Construction shall not exceed the pre-existing gross floor area by more than 10%, with gross floor area defined as the floor area of Section 2-145(A) without any exclusions; and

(2) Construction shall not exceed the height of the pre-existing dwelling.

(C) Redevelopment. A residential dwelling not meeting the standards of section 12-901(A) or ~~and~~ (B) above is subject to the following provisions:

(1) A special use permit is granted under the provisions of section 11-500; and

(2) City council, upon consideration of the special use permit, finds that the proposed development will be compatible with the existing neighborhood character in terms of bulk, height and design.

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**INFILL TASK FORCE  
PROPOSED ZONING TEXT AMENDMENTS**

**12-102** *Noncomplying structures.* Noncomplying structures shall be permitted to continue indefinitely and shall be considered legal structures, but subject to the following restrictions:

- (A) *Expansion.* No noncomplying structure may be physically enlarged or expanded unless such enlargement or expansion complies with the regulations for the zone in which it is located.
- (B) *Reconstruction.* If a noncomplying structure is destroyed, demolished or otherwise removed, it may be reconstructed provided that there is no increase in the floor area ratio, density, height or degree of noncompliance which existed prior to such destruction.
- (C) *Repairs and maintenance.* A noncomplying building may be remodeled, renovated, maintained, repaired and altered so long as such work complies with section 12-102.
- (D) *Residential reuse.* A building which faces the unit through 1500 block of King Street, and which is a noncomplying structure because it exceeds the floor area ratio of the CD zone, may be converted from nonresidential to residential use, notwithstanding any requirement of the CD zone applicable to residential uses, provided that a special use permit is approved to allow such conversion.

**Note:** New text is underlined;

Deleted text is shown with a ~~strikethrough~~

June 3, 2008 Planning Commission amendments shown with yellow highlighting

16