

Docket Item #8
TEXT AMENDMENT #2005-0005

Planning Commission Meeting
October 4, 2005

ISSUE: Consideration of a text amendment to amend Section 7-700 of the Zoning Ordinance to regulate affordable housing options for approved zoning bonuses.

STAFF: Department of Housing; Department of Planning and Zoning

STAFF RECOMMENDATION: Staff recommends that the Planning Commission recommend **approval** of the text amendment.

DISCUSSION

The reason for this text amendment is establish certain standards for the provision of affordable housing units with the use of a bonus density allowance. This text amendment will:

1. Provide a clear definition of affordable housing units;
2. Establish the number of affordable housing required with the use of bonus density provisions;
3. Identify where the affordable housing units may be located; and
4. Provide that a Special Use Permit for bonus density consider mass, scale and character of the immediately adjacent neighborhood and the surrounding community.

Background

This text amendment is the result of several years of work on the important issue of affordable housing. The full history is set out in the attached City Council docket memorandum of June 8, 2005. In short, Alexandria has successfully addressed the problem of the need for additional affordable housing with a committee of developers, landowners and housing advocates who formulated a system of voluntary contributions, as well as recommended an affordable housing density option.

In June 2005, Council considered the issue of affordable housing and accepted a report (attached) from the Developer Housing Contribution Policy Work Group, the committee that had been working on the issue since September 2004. Council then requested that staff prepare a zoning amendment regarding bonus density for affordable housing as recommended by the committee.

Proposed Text Amendment

The Zoning Ordinance, in Section 7-700, has for many years allowed a bonus of increased density or height in a development which committed to include affordable housing units on site. The provision defines the level of affordability for both rental and sales units, and requires SUP approval for any density or height bonus. The provision limits the bonuses that may be approved: a density bonus may not exceed an additional 20% of floor area or number of units; if bonus height is granted, and it is only allowed in certain zones, then a maximum of 25 feet extra height is allowed.

The existing bonus provision does not specify the number of affordable housing units that are required and does require that the units be located on the development site.

The proposed text amendment does several things to modernize the affordable housing bonus provisions.

1. Definition of Affordability

First, the amendment modifies and modernizes the definitions of affordability, so that units contributed under the bonus system are in line with other City affordable housing programs.

2. Number of Affordable Units Required

The proposed zoning change also specifies that the number of affordable units required in the event a bonus is approved is 1/3 the number of units made possible by the bonus granted. See Section 7-702 (A)(1). As an example, were a development is to be granted a bonus that results in 12 additional units, then four of those units are required to be affordable.

3. Where the Affordable Units Can Be Located

The most innovative and complex portion of the text amendment is the concept, recommended by the committee and accepted by City Council, that the affordable units required by a zoning bonus under Section 7-700 may be located on a site other than the development site. Therefore, the text amendment provides that an applicant for a bonus may elect to propose adding affordable units to an “alternative” site, not the development site, under certain circumstances. The text amendment includes the following requirements for off-site locations:

- First, the proposal to place the units off-site becomes part of the SUP approval, and the plan for the receiving site is subject to that discretionary review process, as well as the requirement that notice to surrounding landowners of the alternative site be given.
- The plan for off-site units must be specific. If a new building or a redeveloped building is proposed, the development plan must be approved as part of the SUP review process. If the applicant proposes to purchase existing dwelling units off site, then the plan must identify the existing unit type and location units with specificity, as part of the SUP process. A plan cannot be a vague promise to provide a certain number of units without identifying the specific units to be purchased or built.
- The units to be provided off site need to be provided at the same time, and not later than, the development that receives the bonus proceeds to completion. Whether the units will be part of a new development scheme off site, or are to be purchased, the plan must include sufficient evidence to assure that the off-site units will definitely be provided, and will not be subject to future unknown circumstances. For example, if off-site units are to be purchased, it is anticipated that the SUP application will include contracts to purchase with scheduled closing dates.

- The site that receives the units must comply with zoning. The bonus density cannot be transferred to the alternative site. The only exception provided in the proposed text, and it was suggested by those involved in the committee discussions and familiar with actual development cases, is where a developer is seeking approval of two separate sites, and requesting a bonus on each, with an affordable dwelling unit requirement for each. In that unusual case, the applicant could opt to place all the affordable units on only one of the sites.

4. Special Use Permit Review

The affordable housing bonus system has always required a special use permit for approval. That requirement is retained, and language added to address the concern expressed for additional density or height in inappropriate places. Section 7-702 C expressly states that the City Council must, in granting a special use permit, consider whether the increased size of a development is consistent with the mass, scale and character of a neighborhood.

Analysis

The proposed text amendment addresses and modernizes the provision of affordable dwelling units where a zoning bonus, in the form of increased height or density, is granted.¹ The specific changes improve the ordinance, providing more specificity for developers and the community. Setting a limit on the number of units required and allowing them to be placed off-site may provide both the certainty and flexibility to make the exchange of density for housing more appealing to developers.

While there is some concern about approving bonus density or height in the abstract, the process – including the new language regarding the importance of assessing mass, scale and character of development – allows staff, the Commission and Council to address individual projects for particular neighborhoods on a case-by-case basis, and to impose conditions as appropriate through the SUP process.

¹ Section 7-700 also provides for a reduced number of required parking spaces. That section predates the parking reduction SUP at section 8-100(A)(4), which also provides for the same relief without the requirement of providing affordable housing, thus making the bonus in section 7-700 not desirable to a developer or a realistic mechanism to be concerned about in this text amendment. Staff decided to retain the original language of 7-700 for the possibility that a developer may seek both a density increase and a parking reduction for the same development. In any event, the SUP process allows sufficient review of the project in either situation to address any unforeseen issues.

Therefore, staff recommends approval of the text amendment.

STAFF: Mildrilyn Davis, Director, Office of Housing
Eileen Fogarty, Director, Department of Planning and Zoning
Mark Jinks, Assistant City Manager

ATTACHMENTS:

Memorandum from James Hartman to City Council (6/14/05, # 37)

PROPOSED TEXT CHANGES

Sec. 7-700 Allowance for increases in floor area ratio, density and height and reductions in required off-street parking as incentive for provision of low- and moderate-income housing.

7-701 *Definitions.* For the purposes of this section 7-700, low- and moderate-income housing units shall be determined in accordance with regulations which are issued by the city manager and approved by the city council and which reflect the following guidelines.

(A) Low- and moderate-income rental units are rental units for which the combined cost of rent and utilities does not exceed the maximum rents published by the Virginia Housing Development Authority (VHDA) for the Low Income Housing Tax Credit Program, at 30% of income for households at 60% of area median income ~~30 percent of the maximum income limits used by the United States Department of Housing and Urban Development for its section 8 and Housing Voucher programs, as adjusted for family size and corresponding number of bedrooms, and which are occupied by persons or households with incomes not exceeding 60% of median income as adjusted for family size and published by VHDA, whose gross income does not exceed the limits applicable to the section 8 program.~~

(B) Low- and moderate-income sales units are units with sales prices ~~for which a person or household whose gross annual income is at or below the~~ limits established by the City for its Moderate Income Homeownership Program, median income for the Washington, D.C., Metropolitan Statistical Area, adjusted for family size, could qualify using the lending criteria applied by the Virginia Housing Development Authority in its single family mortgage assistance program ~~and which are occupied by such persons or households whose gross annual income is at or below the limits established by the City for that same program, whose gross annual income is at or below such median income level.~~

7-702 *When increases and reductions may be allowed.* Increases in allowable floor area ratio, density and height and reductions in required off-street parking may be allowed for a building which contains one or more dwelling units or a project which includes one or more such buildings through a special use permit when:

(A) The applicant for the special use permit commits to providing low- and moderate-income sales or rental housing units in conjunction with the building(s) or project(s) which are ~~is~~ the subject of the permit application, in compliance with the following:

(1) *Number of units required.* The number of units required shall be equivalent to 33 $\frac{1}{3}$ % of the increased number of units achieved by the bonus approved under this section 7-700.

(2) *Location of units.* Affordable units shall be provided either on the development site or on an alternative site as provided below:

(a) *Development Site.* The required affordable units may be provided on the development site that receives the bonus provided under this section 7-700.

(b) *Alternative site.* The required affordable units may be provided on a site other than the development site, if:

(1) the alternative site and the plan for the units is approved as part of the SUP required under this section 7-700;

(2) a specific plan for the alternative site is submitted and approved as part of the SUP application which includes sufficient detail, as determined by the Director of Planning and Zoning, to identify the units to be provided;

(3) any plan for development or redevelopment must comply with zoning restrictions with no bonus applied to the alternative site; provided that in the case of two development sites each approved for a bonus, then all the required units from both sites may be constructed on only one of the sites;

(4) if the plan for the alternative site includes development of new units, documentation,

or a performance bond must be provided to assure that development at the alternative site will proceed before or within twelve months of development at the development site;

(5) if the plan for the alternative site includes the purchase of existing units, the plan must include specific arrangements for purchase prior to the issuance of building permits for development on the bonus site, acceptable to the Director of Planning and Zoning, the Director of Housing and the City Attorney; and

(6) the applicant shall provide required notice of the SUP application with regard to the alternative site pursuant to section 11-300 of this ordinance

(B) The applicant for the special use permit agrees and provides sufficient assurance, by way of contract, deed or other recorded instrument acceptable to the city attorney, that the low-and/or moderate-income housing units to be provided will remain in these categories for the period of time specified in the special use permit.

(C) City council determines that the building(s) or project(s) which is subject to the special use permit, with the increase in allowable floor area ratio, density and height and the reduction in required off-street parking, meets the standards for the issuance of a special use permit set forth in section 11-500. As part of the review under section 11-500, the Planning Commission and City Council shall consider whether the bonus density and/or increased height results in a development that is consistent with the mass, scale and character of the adjacent buildings, neighborhood and the surrounding community.

7-703

Limits on increases which may be allowed.

(A) Floor area ratio and density may not be increased pursuant to this section 7-700 by more than 20 percent of the floor area ratio and density otherwise permitted by this ordinance. The increase permitted under this section 7-700 is exclusive of any other floor area ratio and density increases allowable under any other section of this ordinance.

- (B) Height may not be increased pursuant to this section by more than 25 feet beyond the height otherwise permitted by this ordinance; provided, however, that no building located in any zone or height district where the maximum allowable height is 50 feet or less may be allowed to exceed such height limits.

**REPORT ATTACHMENTS AVAILABLE
IN THE PLANNING AND ZONING OFFICE**