

Comment and Opposition Regarding Proposed Zoning Ordinance Amendment for PDC/PRM Districts

Fairfax County Planning Commission Public Hearing
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1. Introduction

Subject proposed zoning ordinance amendment (the “amendment”) would allow the Board of Supervisors to approve 5.0 FAR developments in PRM and PDC zoning districts anywhere in “selective areas,” that is, anywhere in all of the county’s Community Business Centers (CBCs), Commercial Revitalization Districts (CRDs), and Transit Station Areas (TSAs). The comments and opposition expressed in this paper reflect community concerns about potential negative consequences for surrounding communities associated with high-density development in selective areas, including loss of existing community services and retail outlets, congested roads, cut-thru traffic, parking overflowing into adjacent neighborhoods, incompatible landscaping and screening, tall buildings looming over homes, and overcrowded schools and parks.

2. Summary

A principal objection to the amendment is that it nominates every CBC, CRD, and TSA in the county together with all future CBCs, CRDs, and TSAs for unlimited high-density development with floor area ratios (FARs) as high as 5.0. The consequence would be intense pressure on communities from property owners, developers, and the county to accept high-density developments that ultimately could damage surrounding communities. (See Sect. 6).

- The staff report argues that the Comprehensive Plan would protect communities from 5.0 FAR developments. In particular, page 7 of the report states, “the actual development potential for any given land area would be further limited to the recommendation of the comprehensive plan.” However, the Comprehensive Plan would not provide reliable long-term protection for any selective area. (Sect. 4).
- The county has provided no credible requirement for the amendment. The only specific requirements for FARs exceeding 3.0 apparent in the staff report are in small areas surrounding Metrorail stations – insufficient justification for the scope and potential consequences of the proposed amendment. (Sect. 5).

A second principal objection is the amendment fails to adequately protect surrounding communities from the negative consequences of high-density development. It would relax bulk, landscaping, and screening requirements (Sect. 7); and it implies that locating 50% or more of open space above ground level (e.g., on rooftops) could be the norm and would be acceptable to the county community (Sect. 8).

Finally, the wording of the proposed amendment allowing 5.0 FAR developments is awkward and ambiguous. It should be rewritten. (Sect. 3). The ambiguous wording and a misleading Q&A on the amendment Web site have substantially impeded community efforts to understand the intentions of the amendment.

Sect. 9 recommends that the county consider developing a high-density overlay district in lieu of the proposed amendment. The high-density regulations should be applicable to any parcel appropriate for high-density development; should not single out CBCs, CRDs, and/or TSAs; and should include provisions that adequately protect surrounding communities from negative consequences of high-density development. The PDC and PRM regulations would not be changed. PDC/PRM regulations overlaid with the high-density district regulations would provide regulations for high-density PDC/PRM districts. The ability of the Board to approve high-density developments in the Richmond Highway Corridor and elsewhere would be no less than under the terms of the amendment. The amendment's nomination of all CBCs, CRDs, and TSAs for unlimited high-density development is unnecessary and threatens communities; it would be avoided.

The need for the amendment has not been substantiated, its broad scope threatens to damage communities, and it is opposed by the large majority of residents responding to the proposal. Subject zoning ordinance amendment for PDC/PRM districts should not be adopted.

3. Amendment Language Is Ambiguous

One troubling aspect of the amendment is the confused and confusing manner in which it is proposed. The proposed regulation regarding floor area ratio is ambiguous. For PRM districts, the regulation would read as follows under Option 1 of the amendment:

Maximum floor area ratio: 3.0. However, the Board may approve an increase up to 5.0 for developments located in a Commercial Revitalization District, Community Business Center Area and/or Transit Station Area only when the proposed development is implementing the site specific density/intensity and other recommendations in the adopted comprehensive plan, in furtherance of the purpose and intent of this district.

In essence, the intended meaning of this language is that the Board could approve 5.0 FAR PRM developments in any selective area except where the Comprehensive Plan explicitly recommends a maximum FAR lower than 5.0. There are two issues:

- The language does not clearly communicate the intended meaning.
- The Comprehensive Plan would not provide reliable long-term protection against 5.0 FAR developments in any selective area.

The first issue is apparent from reading the italicized language above and should be resolved by rewriting the text.

4. Comprehensive Plan Would Not Provide Reliable Long-Term Protection Against 5.0 FAR Developments

The second issue has three dimensions: form-based plans, concurrent plan amendments in CRDs, and Fairfax Forward.

Form-Based Plans. In areas with form-based plans (Annandale, Seven Corners, and much of Bailey's Crossroads), plans do not recommend FARs; they recommend only max floor areas and, in some cases, max building heights. Consequently, no form-based plan explicitly recommends a

max FAR, much less a max FAR less than 5.0. Adoption of the amendment immediately would allow the Board to approve 5.0 FAR developments in these areas. With form-based plans, the Comprehensive Plan provides no protection against 5.0 FAR developments.

CRDs. In CRDs, Board policy encourages concurrent plan amendments with rezoning applications. If a developer wants 5.0 FAR in a CRD for which the plan recommends a lower max FAR, s/he may submit a proposed change to the Comprehensive Plan and the Board could approve it. In CRDs, the Comprehensive Plan provides no reliable protection from 5.0 FAR developments.

Fairfax Forward. For the rest of the county, all selective areas included, the new Fairfax Forward process that the Board has adopted for managing changes to the Comprehensive Plan minimizes requirements for citizen participation in plan changes while expediting processing of changes recommended by supervisors, property owners, and developers. While it may take Fairfax Forward some time to raise a FAR recommendation in a plan to 5.0, the task can be accomplished with little or no effective citizen participation.

The Board readily would be able to increase the allowable FAR to 5.0 anywhere in any current or future CBC, CRD, or TSA. In areas with form-based plans, the increase would be immediate upon adoption of the amendment; in CRDs, it could be accomplished via concurrent plan amendments submitted with rezoning applications; and in any selective area, it could be accomplished in a Fairfax Forward plan update. The Comprehensive Plan would not provide reliable long-term protection against 5.0 FAR developments in any selective area.

Mason District is a special case. We have a turbulent history going back at least seven years of citizen exclusion from the land use planning process.

- In 2010, county staff rewrote, the district supervisor recommended, and the Board adopted a plan for Bailey's Crossroads that overrode the 2007 plan developed by a citizen task force. The purpose was to increase the number of planned residences to 8900 in anticipation of a Columbia Pike streetcar. The streetcar is gone; the 8900 residences remain in the plan.
- In 2012 thru 2015, representatives of neighborhood associations were not allowed to participate on the Seven Corners task force for which the supervisor selected a developer to direct both the public meetings and the county staff supporting the task force. The activity began with a supervisor's promise to realize the community's vision of the future of Seven Corners. It ended with the county's plan for Seven Corners universally opposed by citizens. At the Board hearing, 70 citizens stood up to demonstrate their opposition to the plan and 37 spoke against it. One citizen spoke in favor. An account of the task force process and the events that imposed the county's plan on the community is on line at https://holmesrun.files.wordpress.com/2015/03/task_force_plan_rev.pdf
- More recently, the supervisor commonly submits menacing plans and plan amendments to the hearing process without first vetting them with the community.

In this environment, the Mason District community has little effective protection from 5.0 FAR developments.

5. The County Has Not Cited a Credible Requirement for the Amendment

Within one-quarter mile of the four Metrorail stations at Tysons, the Comprehensive Plan places no limit on FAR. In a small area north of the Reston Town Center Metro station, the plan allows up to 4.0 FAR, 4.5 FAR with the bonus for affordable housing. The Reston area is approximately one-half of a one-quarter mile circle centered on the Metrorail station. Otherwise, no requirement for FARs in excess of 3.0 is apparent other than the possibility that limited areas around future Metrorail stations may warrant higher densities. These few small areas around Metrorail stations are insufficient justification for allowing the Board to approve 5.0 FAR developments anywhere in all current and future selective areas of the county. While Reston has a maximum requirement for 4.5 FAR in one small area of one TSA, the amendment would allow 5.0 FAR developments everywhere in all three of the Reston TSAs, which extend six miles along the Metrorail line. The need for 5.0 FAR within transit-oriented developments surrounding Metrorail stations does not justify the broad scope and potential community consequences of the proposed amendment.

The staff report inconclusively alludes to the need for higher FARs in areas with form-based plans. No specific example is given. None of the three form-based plans in Mason District requires more than 3.0 FAR. Today, the plans for these areas limit intensity in terms of max floor area and building heights. The zoning ordinance further limits intensity at 2.5 and 3.0 FAR for PDC and PRM zoning districts respectively. The max floor areas and building heights can and should be realized within the FAR constrains currently imposed by the ordinance. That was the intention at the time the plans were developed and adopted. There is no apparent requirement for FARs higher than 3.0 in areas with form-based plans.

The county has not established a credible requirement for the amendment. It is not justified by a few transit-oriented developments close by Metrorail stations or by purported needs arising in form-based plans. Nowhere in the county does a CRD or a CBC plan need more than a 3.0 FAR.

6. Adoption Would Imply Nomination for High-Density Development

The implication of adopting the zoning ordinance amendment would be Board nomination of all CBCs, CRDs, and TSAs for high-density redevelopment. This intention is explicit on page 5 of the 29 Oct draft of the amendment. It states, “Selective Areas are locations where high density, mixed use residential districts are desired.”

The consequence of the Board’s nomination would be enormous pressure on communities from property owners, developers, and the county to accept these high-density developments – the same intense pressure that recently was applied by the county in producing the Seven Corners plan. Yet the county has made no determination that the selective areas nominated are appropriate for such developments. Nor has the county determined that the developments would be consistent with the values and interests of affected citizens.

The requirement for the amendment is unsubstantiated. There is no apparent need to nominate all selective areas for high-density redevelopment and there is no evidence of the necessary citizen support. At the same time, adoption of the amendment would subject communities to intense pressures to accept high-density developments that ultimately could damage surrounding neighborhoods.

7. Bulk, Landscaping, and Screening Requirements Should Not Be Relaxed

In order to complement development on adjacent properties, the zoning ordinance requires that, at all peripheral boundaries of PDC and PRM districts, bulk regulations and landscaping and screening provisions shall generally conform to the provisions of the conventional zoning district that most closely characterizes the type of the development. The objective is compatibility with adjacent properties to assure that high-density development is not allowed to degrade the quality of life in neighboring communities. The amendment would waive this requirement in selective areas except at their peripheries. Inside a CRD, as an example, a high-rise mixed-use or commercial development abutting a residential district of single-family homes or townhomes then could be approved without compatible landscaping and screening and with no requirement to taper down the heights of buildings facing the residences. The Ellery Place townhouse community at Ellery Circle in the SE Quadrant of Bailey's Crossroads, as one example, could be engulfed and overwhelmed.

The staff report justifies relaxation of bulk, landscaping, and screening requirements with the following statement:

Again, this proposed change is recommended in order to ensure that any specific design guidelines, landscaping and screening treatments and regulations pertaining to building height and yard requirements expressed in the comprehensive plan can be utilized in the development of property in the Selective Areas.

The report suggests that requirements should be relaxed in the zoning ordinance and specifics written into the Comprehensive Plan. Whether or not this would be an appropriate division of functions between the ordinance and the plan, the proposal appears to overlook the fact that existing plans have been written and adopted based on the current regulations. If the current regulations were changed, it would be necessary to revisit existing plans and make appropriate changes there as well.

The current regulation requires only "general conformance" thereby providing flexibility in its application. However, relaxing the regulation as proposed would allow high-rise PDC and PRM developments to overwhelm and clash with neighboring communities. The proposal to relax the regulation should not be adopted.

8. Open Space Should Be at Ground Level

The amendment proposes that, in a PRM district, no more than 50% of open space should be above "street" level (meaning "ground level?") unless otherwise modified by the Board upon specific request. Presumably, by request more than 50% could be above ground level. Adopting the amendment would imply that locating 50% or more of open space above ground level is the norm and is acceptable to the county community.

Few subjects received more attention from the Seven Corners community during the plan development process than the need for adequate open space and parkland. The community insisted upon the full quota of open space and park area prescribed by current county regulations and policy. None of this space was described or envisioned as being above ground level.

The current zoning ordinance provides the Board adequate flexibility for determining areas that qualify as open space, including areas above ground level. The language proposed in the amendment is unnecessary and its implications do not reflect the values of the community. The proposal to modify the open space regulation should not be adopted.

9. Recommendation for an Alternative Approach

The county should consider developing a high-density overlay district in lieu of the proposed approach. The high-density regulations should be applicable to any parcel in the county appropriate for high-density development; should not single out CBCs, CRDs, and/or TSAs; and should include provisions that adequately protect surrounding communities from negative consequences of high-density development.

The amendment proposed by the county would allow high-density development only in selective areas and presumes, certainly incorrectly, that all selective areas are appropriate for high-density development. An overlay district would allow high-density development on a case-by-case basis wherever it would be appropriate and supported by the community.

The PDC and PRM regulations would not be changed. PDC/PRM regulations overlaid with the high-density district regulations would provide regulations for high-density PDC/PRM districts. This approach would be the same as the current practice of applying Appendix 7 overlay regulations in CRD districts. The ability of the Board to approve high-density developments in the Richmond Highway Corridor and elsewhere would be no less than under the terms of the amendment. The nomination of all CBCs, CRDs, and TSAs for high-density development is unnecessary and threatens communities; it would be avoided.

The regulations for the new overlay district should assure that adjacent communities are adequately protected from the negative consequences of high-density development. The proposed amendment cuts the other way; it relaxes current requirements that protect adjacent communities thereby threatening their wellbeing.

10. Conclusion

The need for the amendment has not been substantiated, its broad scope threatens to damage communities, and it is opposed by the large majority of residents responding to the proposal. Subject zoning ordinance amendment for PDC/PRM districts should not be adopted.

A summary of the paper is in Sect. 2.

CC:

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