

February 3, 2023

Dear Chairman Stevens and Members of the Planning Commission:

The T-zone initiative began almost two years ago when the City Council asked the Planning Division to propose changes to promote residential infill development. Possible amendments to the zoning ordinance governing transition districts soon became the focus of this effort. For over a year, the Council sought feedback from and engaged in ongoing dialogue with developers but did not engage the public. The City held no information sessions or pop-ups, conducted no surveys or focus groups, and did no outreach to people living in or adjacent to T-zones. In May 2022, the City Council referred out a proposal that significantly differed from the recommendations of former Arlington planning director and City-hired planning consultant, Susan Bell. The Council proposal disregarded environmental concerns, bore little resemblance to existing code provisions for residential districts—whether cottage, cluster residence, townhouse, single family or multifamily—and invited B-1-level development in T-zones, for both residential and by-right commercial projects.

The public overwhelmingly opposed the ordinance at the City's single public listening session before the Planning Commission on November 2, and hundreds of residents have since signed petitions and written the Council and the Commission registering their opposition to the proposed ordinance. Because the City has not engaged in any two-way conversation in response to resident concerns, residents have been left to rely on written submissions and three-minute statements to the Commission that, although respectfully received, afford no opportunity for a constructive dialogue surrounding the goals and the specific provisions of the ordinance. The upcoming February 9 staff presentation and Q&A session, hosted by a nonprofit volunteer group rather than the City itself, also provides little opportunity for the public to engage with the City on difficult planning issues.

The Commission should vote to disapprove the ordinance. If the Planning Commission makes recommendations to the Council, it should ask the Council not to proceed to a second reading and to not even have a new first reading until it offers the public a real opportunity to work with City staff to restructure and improve the ordinance.

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If the Commission nevertheless proceeds to support the ordinance on February 15 and makes specific recommendations to the Council, we urge you to do so in the context of the following ten concerns.

- 1. Incremental Change** – Gradual and incremental change in T-zones may be appropriate to facilitate diversity in housing that respects neighborhood concerns, strictly limits coverage, and provides adequate setbacks. In Virginia, property rights, once granted, cannot be taken away. Fundamental alterations to the T-zone ordinance risk losing what is special about our urban village and inviting one more condo canyon or mini-Ballston/Tysons. As the Chair of the Commission observed on January 25, the Council and the Commission can revisit the ordinance in the future if it does not spur the small residential infill development that is ostensibly at the core of this proposal. In the meantime, would-be developers retain the same rights to use existing mechanisms to seek lot-specific variances where justified.

2. **Appropriately Scaled Development** – Managed development can be a good thing. Adding duplexes, triplexes, quadplexes, and townhouses as permissible uses in T-zones would enhance housing diversity while maintaining the current 40% lot coverage and would result in development that blends well with adjoining residential districts. City-hired consultant Susan Bell recommended increasing lot coverage to 50% for both buildings and impervious surfaces after consulting with at least four developers—Bob Young (who is the registered agent for OakPark One LLC, which acquired two T-zone properties at the corner of N. Oak Street and Park Avenue in June 2021), BCN Homes (the principal of which is the registered agent for 200 Park Avenue Ventures, which owns a T-zone property at 200 Park Avenue), the developers of Whittier Park, and a developer from Arlington. Ms. Bell explained that this slightly higher lot coverage would enable residential development while also limiting environmental impacts by maintaining the tree canopy and reducing impervious surfaces. Nevertheless, the Council referred out a proposal that authorizes 80% lot coverage with no explanation or justification. The Planning Commission should not support lot coverage beyond 50% unless it can provide specific facts and analysis that show that greater coverage is warranted and will result in development that is more harmonious with nearby neighborhoods and adjacent properties.

Moreover, adhering to the expert-recommended 50% lot coverage has several benefits. It encourages smaller-scale residential development that comports with preexisting residential neighborhoods and it promotes the creation of actual missing-middle housing, such as triplexes and quadplexes. By limiting the scale of development, the City can encourage smaller, less expensive development that can meet the needs of residents at reasonable costs. Smaller lot coverage also avoids unintended impacts on residential neighborhoods from open-ended by-right commercial development.

3. **Make Development Decisions in a Disciplined Way** – The precise details of any amended ordinance should be based on a fact-driven analysis, including the need for additional and specific types of housing in the face of current and anticipated City-wide development. Before implementing a consequential zoning change, the City should rigorously analyze its likely effects. There has been no economic analysis, environmental study, engineering review, or traffic study underlying the details of the T-zone proposal. Nor does the proposal reflect citizen input, which, as here, often identifies unresolved issues that still need attention. Instead, numbers seemingly have been pulled from thin air or in response to the specific input of developers who own T-zone lots and stand to benefit from a more permissive ordinance. The Commission should renew its request for input from uninterested third-party developers (*e.g.*, DC residential infill expert Jim Abdo, who Commissioner Hyra asked Planning Staff to contact following the December 7 meeting), the City Arborist, City stormwater staff, and the City Attorney.
4. **Carefully Weigh, Reconsider, and Explain Any Loss of Property Rights** – The proposed ordinance would prohibit single-family homes, duplexes, and boarding houses as permissible uses in T-zones. About one-third of the City’s 58 T-zone properties, including townhouses, are categorized as single-family homes. This issue deserves the City’s utmost attention. The Commission should insist that the Planning Division inform affected citizens of the loss of their property rights in specific and detailed terms.

To date, postings and announcements say nothing about the effect that the new zoning will have on current homeowners. Making single-family homes a prohibited use can affect future home sale prices, personal use, expansion of structures, and replacement rights. Legal analysis regarding code provisions governing non-conforming uses should be left to the City Attorney or a land-use attorney whom the City should engage to help protect homeowners and provide them with information that they can rely on.

5. **Promote Affordable Housing and Diversity of Housing** – We support adding small-scale multifamily residences and townhouses as a permissible use in T-zones and recommending a by-right option for triplexes and quadplexes the size of single-family homes to promote the creation of actual missing-middle housing. Although several Council members have stated that this proposal is not an “affordable housing play,” the creation of affordable and workforce housing should be a **key** feature of any new housing in the City. This means the construction of actual affordable housing units.

Commissioner Hyra has suggested an affordable housing fund in lieu of actual housing, but we see practical issues with this recommendation. First, if development proceeds slowly, there will be little or no money added to the fund. Second, the fund could create an unintended windfall to developers. Instead of putting a significant investment into affordable housing in order to build their projects, nothing is required of developers. Third, by looking primarily at how much any proposed project will benefit the fund, an incentive will exist to chase the greatest return instead of fully considering all relevant factors. Finally, limited land exists City-wide for affordable housing, which should be an element of any new City-approved, small or large residential and mixed-use development in addition to the City’s other affordable-housing strategies.

Indeed, rather than erasing the proposed 10% affordable housing component from the proposed T-zone ordinance, the Commission should consider recommending a 20% affordable and workforce housing component. Neighboring jurisdictions have required builders to provide housing for a range of affordable and workforce housing from 60% of AMI to 120% of AMI in order to create a diverse and expansive range of opportunities for people with a broader range of incomes who cannot otherwise purchase or rent homes in our costly real estate market. Fairfax County has essentially eliminated “in lieu of” payments because developers have gamed the system to provide inadequate funds and buy their way out of building actual affordable housing.

6. **Recognize the Diversity of T-Zone Properties** – Citizens have clearly documented that T-zone properties are wildly dissimilar. The 2010 ZOAC study should not dictate the creation of a uniform T-zone where, as here, one set of zoning rules does not fit all T-zone properties. The Commission’s review has focused primarily on Park Avenue and North Washington Street. At a minimum, there should be separate treatment of these areas:
 - a. **Park Avenue** is receiving major attention and significant investment totaling \$11.5 million in grant and local funds to become a “Great Street.” What sense does it make to invest and improve Park Avenue from the State Theatre to the library, but then allow oversized development of large buildings on the next

three blocks? Accepting a large grant to improve part of Park Avenue carries with it a responsibility to manage the street as it continues westward. As Commissioner Krasner has repeatedly emphasized, Park Avenue has a predominantly residential feel. Adding single-family-sized triplexes and quadplexes as a by-right use on Park Avenue, as Commissioner Caumont suggested, would be reasonable. In addition to being scaled to the existing residential neighborhood, triplexes and quadplexes are likely to result in lower-priced units on Park Avenue. And they will more quickly become available for occupancy.

Low-scale cottages, townhomes, and multifamily units at 50% lot coverage, with 35-foot, three-story height maximums and front and rear setbacks consistent with residential districts (*i.e.*, 25-foot front setbacks and 20- to 40-foot rear setbacks), are all appropriate options for a special-use process. Building on such a scale also makes it practical for the City to impose impervious-surface maximums, tree-canopy requirements, and shade-tree provisions, and to ensure a reasonable buffer between new construction and existing residential multifamily buildings such as The Kensington or the Broadway. Regardless of how these buildings are zoned, the Commission should consider the reality of the needs of the residents of buildings the City has authorized and profited from for decades.

- b. Likewise, **North Washington Street** between Great Falls Street and Gresham Place has received a \$22.5 million grant for sidewalk widening, improved intersections, signal improvements, crosswalks, utility undergrounding, lighting, and landscaping. It makes little sense to allow unconstrained and random development in that area at the same time the City is trying to create effective and attractive streets. Right now, there is no pressure to develop this area. Eventually, North Washington Street should receive more careful review to make it a “Great Street” and integrate it harmoniously with the residences around it and create important connections to nearby transit. In the meantime, the Commission should be wary of drastically modifying the rules for this area, which may have incidental effects on the Sunrise facility, the Miller House, and several historic homes on this corridor, all of which the City should actively seek to preserve. The Commission should also counsel against action that undercuts small business use of the townhouses and modest office buildings at Park Washington Court.

7. **Explain the Basis for New Retail Uses** – Because of the focus on residential projects, there has been little discussion of the 14 new categories of retail plus human care clinics the City has proposed to authorize in T-zones. In 2021, the City amended its Special Exception criteria to no longer require retail in new large projects because, as explained by City-hired consultant Susan Bell, the market “can be slow to absorb new [retail] space” because that space is “overbuilt in the areas surrounding Falls Church.” In fact, the City Council is currently considering relaxing retail requirements in buildings on West Broad and S. Washington Streets in order to fill or repurpose vacant storefronts. The City should explain why these specific categories of retail were included in the proposed ordinance and what analysis supports their likelihood of success in T-zones.

8. **Reduce Incentives for High Density By-Right Development** – Although justified as a housing initiative, the proposed ordinance inadvertently favors commercial buildings over residential buildings. It allows by-right construction of commercial buildings to the full scope of the ordinance—80% lot coverage, 50-foot height, and 10-foot setbacks—without any Special Use Permit or Special Exception process. It also does not have the one-acre limitation applied to it that applies to residential buildings. Buildings of this size, whatever their purpose, will have stormwater impacts, traffic impacts, environmental impacts, etc. They should be subject to the same sorts of control and review as applies to residential buildings.

9. **Preserve Historic Homes** – The loss of historic properties should not be treated as a necessary casualty of growth. The proposed amendments place enormous economic pressure on five designated historic homes. Lower lot coverage and height allowances will help protect these homes, which should be a priority if the City truly values history and a meaningful sense of place.

10. **Preserve Green Space and Attend to Environmental Concerns** – Current and anticipated development is projected to double the City’s population. The health of the City and its current and future residents depends on environmental stewardship and infrastructure planning. The Urban Forestry Commission persuasively outlined the need to maintain a mature tree canopy, reduce impervious surfaces, ensure stormwater controls, and update infrastructure for climate resilience. Ample front and rear setbacks (*i.e.*, of 25 to 40 feet) on all lots and required step-backs (*i.e.*, of 20 feet) for buildings over 35-foot tall help preserve the many mature trees in T-zones, provide space for street trees, ensure adequate air and light, protect the natural environment, encourage safely bikeable, walkable streets, and recognize the concerns of affected residents, many of whom are seniors, living in residential units at the Broadway and The Kensington.

Conclusion

We appreciate the significant effort the Commission has undertaken as it has grappled with the Council’s proposed amendments. We regret that the City did not involve the public from the beginning to work together to craft a proposed ordinance that reflects the City’s stated goals while responding to the interests of residents City-wide and those specifically affected by T-zone changes. We also have serious concerns that local developers with a direct financial interest in the outcome of the proposal have weighed in on specific changes while affording the Commission and the public no insight into active plans they have for parcel consolidation and how they will benefit from the new ordinance. Because of the impact and complexity of the ordinance and the numerous problematic issues that it raises, the Planning Commission should vote **NO** on the proposed ordinance, while recommending that any future Council action first actively engage the public and respond to neighborhood concerns.

Sincerely,

City Residents Who Support Responsible Development

Mary Chaves Erin Flynn Charlie Lord Peng Si Highnam Maritza Hyde Jimmy Jung
 Linda Anne Messick Edith Snyder Sarah Snyder Lauren Thomas Fred Thompson