

November 4, 2022

Quick Take on Phase 3 Missing Middle Zoning Draft of October 31

[Arlington's Phase 3 Missing Middle zoning proposal](#) (to permit duplexes up to 8-plexes on all "single-family" lots) contains new and very consequential elements that the County Board claims reflect some of the community concerns after the release of its [Phase 2 proposal](#) on April 28. Overall, however, the document makes clear that the County Board intends to radically upend the zoning in most low-density residential neighborhoods, representing approximately one-half of Arlington's 26 square miles.

This is a HUGE departure from the transit-oriented development of the past, and we have just 6.5 weeks before the Board votes to approve whatever Missing Middle version if any it can agree on. ASF sees almost no likelihood that the Board will forego some form of upzoning to allow **by-right** multifamily structures in our lower density neighborhoods. That said, we note that Board Vice Chair Dorsey told a neighborhood forum (with ASF present) that "a November 8 win for Audrey Clement might send a message" to the Board.

On Short Timeline, Plan Offers Options for Maximum Density, Some Moderation

The [new draft zoning amendments](#), released October 31, as noted in an ARLNow article, "allow the by-right construction of duplexes, 3-unit townhouses and multifamily buildings with up to eight units on lots no larger than one acre in districts currently only zoned for single-family homes."

The plan's first public hearing is at 7:00 pm, November 9 [at consecutive meetings of both the Zoning and Long Range Planning Committees of the Planning Commission \(PC\)](#); then it heads to the full Planning Commission on December 5. The Board has also sent an explanatory [letter](#) to the PC. On December 17, the Board is expected to work out which elements of the draft it supports and then vote on whether to publish the draft code for a public comment period (known as a request to advertise). A final vote to enact the new zoning provisions into law would occur in January or February 2023.

Oct. 31 proposed zoning changes have been characterized as addressing some residents' concerns as reflected in several new options for the code, outlined below. In most cases the denser option offered in Phase Two is also still on the table:

Number of Units allowed per multiplex overall (p. 22, lines 88–89): The new draft contains provisions to limit the maximum MM types to either 6-plexes or 8-plexes. With no options to cap units at quadplexes, this becomes the most expansive MM proposal released in the U.S.

(Portland allows six-plexes but there is an affordability requirement and no 6-plexes have been built. Minneapolis capped its by-right units at triplexes.)

Number of Units per Lot (Option 2B, p. 23, line 105 of the Zoning Ordinance): There is a new option to vary what can be built where. As one example, for an R-6 neighborhood Option 2A would allow 2–8 plexes on all lots (same as the Phase 2 proposal). Option 2B—with lower density—would allow 2–4 units on any lot, with a sliding scale for more units as lot size increases, for example, a 6-plex on a 10,000 SF lot up to an 8-plex on a 12,000 SF lot.

Type of Development: County staff told ASF that the board *might* also cap “by right” development at some number of units less than 8 per lot and/or impose a special use permit or special exception process for 6- or 8-plexes, requiring community input and County Board approval prior to any construction.

Missing Middle: 8-plexes on any lot

8-plex on 5200 ft² lot

The County Board (not you) votes **Nov. 2022** on new rules to allow 2-8 unit buildings on any single-family lot. No limit. **28,000 homes** affected.

County Plan is *not* affordable (3-BRs for \$1.15M-\$1.5M; 2-BRs, <1500 ft² start at \$571k).

Plan results in **90% 1-2 BRs** by replacing low-cost 3-BR starter homes.

Not diverse or inclusive. Plan prices out most minorities, teachers, first responders, seniors.

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There are options to limit the number of units allowed on lots depending on their size; the Board could also forego any limits and permit by-right construction of 8-plexes; ASF has shown that an 8-plex could fit on a 5200 square foot lot

Tree Canopy options (p. 29, line 210): ASF believes that tree canopy for single-family homes will be reduced from the current 20% to 10%, because the Virginia and its Chesapeake Bay Preservation Ordinance have lower lot coverage standards as base density rises. If the board chooses an 8-plex zoning standard, the new lot coverage will also go to 10% in all zones for the MM units except in R-20 where it will go to 15%. The county is adding a revolutionary concept for additional tree canopy in the MM rezoned areas only, offered as option 6B, Section 10.4 of the new code. ASF is not yet able to assess if this new development mechanism is valid; if not, we are left with the original Phase 2 idea (option 6B, Section 10.4), which represents a loss of 584 acres of canopy and puts the canopy goal of 40% out of reach for our county. (see “Bombshell” paras below for more details).

Pace of Redevelopment (p. 29, line 224): In its letter to the PC, the County Board says the new zoning changes may include “annual caps on the number of properties that may be developed through the new zoning tool” and that it will be “evaluating questions such as geographic distribution and distribution of annual allotments based on form, and the appropriate number for an annual cap.” Such a cap is strongly opposed by MM advocates.



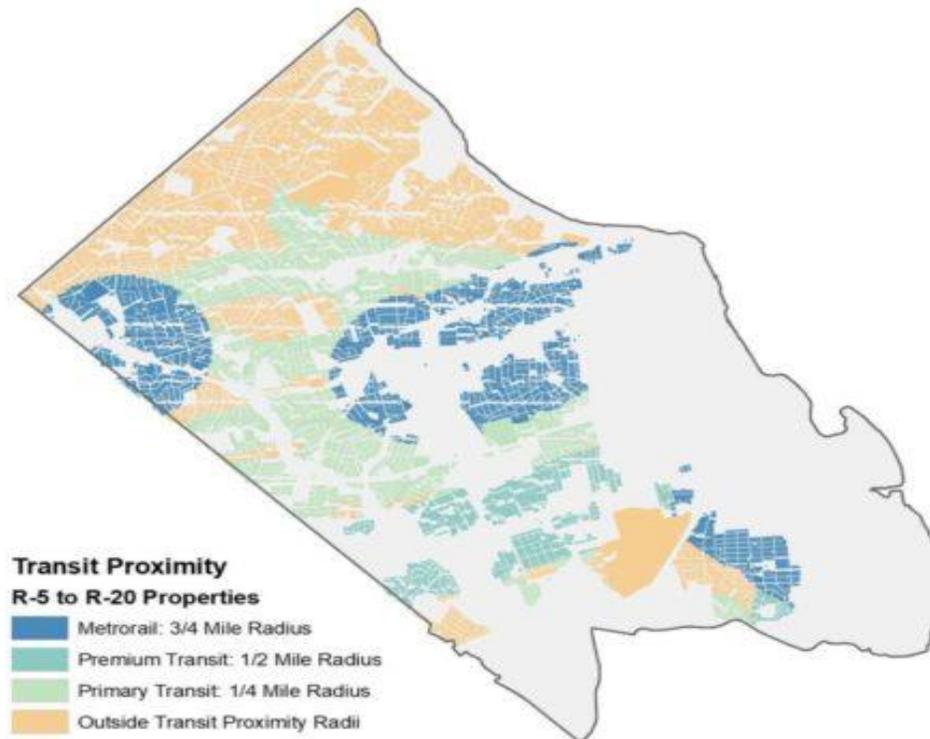
Aside from caps, the county continues to assert that the pace of redevelopment will be slow; ASF reminds everyone that Ballard, Washington, may be 35- 40% multifamily only 20 years after zoning allowed denser infill in single family areas. [A 2018 blogpost](#) noted that “Central Ballard grew 54.1% in population since 2010, faster than any North Seattle neighborhood, according to this earlier [Seattle Times report](#) by Gene Balk.” **With by-right development, Ballard shows that only the market – not the Arlington government – will determine what is built, where, and when.**

Charles Taylor with the home builder Classic Cottages told a Northern Virginia Association of Realtors forum in October 2022 that his company was ready to build 6- and 8-plexes across all rezoned areas. Max Lyons, a local economist, has projected [more robust infill based on expected profits](#) (based on the full 8-plex zoning option). The county continues to reject any need for additional infrastructure or other public planning for new residents, “because the pace of change will be gradual and incremental.”

Change of Character in Architecture and Style (p. 28): In its letter to the PC, the Board refers to interest by the “Long-Range Planning Committee . . . in continuing to discuss design standards for missing middle forms . . . on p. 28 to ensure compatibility with existing neighborhoods.”

Parking (p. 27, line 165): The Board can choose from options of reducing on-site parking to 1/2 spot per unit (i.e., 4 cars on-site per 8-plex) or doubling this ratio if the lot is some distance from mass transit (see chart) or sits on a cul-de-sac. There is also a process to reduce higher ratios administratively (without Board approval) if other parking is available. The map below shows how the parking ratios might be altered based on transit proximity.

ATTACHMENT 5: Transit Proximity Map



Transit proximity map (via Arlington County)

Two Bombshells: “Expanded Housing Option Development” and Subdivision for 3-Unit Complexes

The draft zoning changes contain major surprises. First, owners will retain the option, under section 5 of the Arlington Zoning Code (AZCO), to build single-family homes by right. All current rules (setbacks, tree canopy, etc.) will apply. But the Oct. 31 changes include a new Section 10.4 of AZCO (p. 22-29 of the new draft), called “Expanded Housing Option Development.” This which will govern the development of Missing Middle units via a very unusual (legally questionable) “by-right” tool. As explained to ASF by staff, this tool reportedly allows the county to “offer bonus elements” (density, lower parking ratios) in exchange for the owner/developer adding “optional” deliverables (e.g., more trees). Such “tradeoffs” are offered now only by exception but not by right. With the site-plan special exception process that offers similar “tradeoffs,” as but one example, each proposed project is subject to community input and County Board approval.

Section 10.4 would instead give “by right” authority to develop projects that in all other instances would normally require more scrutiny. **Let’s call this unprecedented arrangement “optional by-right zoning.”** We believe such a formula can and will be challenged in court. And if section 10.4 does not survive a legal challenge, the MM tree replacement requirement would then revert back to the state’s guidelines of 10% canopy coverage (down from today’s 20% requirement). This novel system may also open the door to an entirely new “bonus density”

process for other purported “community benefits.” ASF has expressed deep concerns about “bonus density” as granted under existing processes and is skeptical that new tools would benefit the community more than developers.

The county also will now allow owners to subdivide and sell on a “fee simple basis” all the new “Section 10.4 MM duplexes and 3-unit townhomes. That means R-6 lots averaging 6,000 square feet could be converted into 2,000 SF lots by right — likely gutting the whole zoning framework for R “single-family” zones, especially the concept of “average” lot size. Staff disagrees that we must understand the long-term impacts of this decision before implementation, saying only that it was a positive step to encouraging more home ownership.

October 31 Proposal – More Questions than Answers

New ideas, such as allowing more lot subdivisions, could increase home ownership options. But as noted, we don’t know the long-term impacts: would every R-zoned lot become one-half or one-third its former size? How might that impact the application of existing single-family rules? Would a lot developed under MM revert back to Section 5 “single-family” rules, allowing an owner to convert a duplex, for example, into a single-family home? If many of the multiplex buildings are rentals, how might these income-generating properties (normally considered “commercial” properties) impact the “residential” zoning? ASF questions whether property owners will challenge the Section 10.4 option for them to add trees because [Virginia law](#) now states: “in no event shall any local tree replacement or planting ordinance adopted pursuant to this section exceed the requirements of this subsection.” Could the use of this new “optional by-right” section of code be applied to multi-family housing in other residential zones?

Some new ideas are poorly explained. The County needs to provide a thorough economic analysis of lot subdivision, buildable/allowable lot size, impacts of caps, or any changes from by right to special exception use permits to see what would be built, where, and at what price, for each MM type. If there is a cap on 4-plexes, for example, more 3-bedroom units would likely be constructed — which would come with a higher student-generation factor. We need to compare what is likely to be built to housing already on the Arlington market; potential sale prices must be adjusted upward to reflect recent large mortgage rate hikes; we must see an analysis of adding density so far from transit and its impact on our infrastructure, our plans and our budgets, especially if population rises more quickly than projected. But who in this county, among staff, among commissions, among board members, is asking these questions?

Finally, the Phase 3 rezoning proposal contains nothing to clarify the impact of displacement of existing residents. A Portland city planner presenting at the NVAR seminar stated that new MM rezoning there has produced over 280 added units but also said that the homes torn down were disproportionately located in more affordable areas. Arlington’s more affordable areas tend to be its most diverse. We have also documented how existing Missing Middle-style zoning in Arlington’s most diverse neighborhoods has already triggered displacement/ gentrification. Portland instituted anti-displacement policies as part of the rezoning effort in 2021; ASF recommends that the County Board should direct the county government to solicit

information on Portland’s anti-displacement efforts in order to identify preventive steps proactively, before the Board votes to advertise the proposal in December.

In Conclusion

The county has delivered a very meaty, in some cases revolutionary, new plan. It gives us a lot to think about, with only 6.5 weeks to work out any compromise proposals. The two bombshells alone — Optional By-Right Development and Subdivision for 3-Unit Complexes — merit a repeat of Phase 1, where the county aimed to “create a common understanding.” What’s the RUSH? ASF proposes a four-month delay and a better engagement process that avoids hasty voting one week before Christmas on a policy from which there’s no turning back.