Text Amendment #2025-00004
Amendment to RMF Zone

Issue: (A) Initiation of and (B) Public Hearing and consideration of a Text Amendment to the Zoning Ordinance to amend the RMF/Residential multi-unit zone to comply with updated Virginia Housing Development Authority lending policies related to long-term affordability.	Planning Commission Hearing:	May 6, 2025
	City Council Hearing:	May 17, 2025

Staff:

Tony LaColla, AICP, Division Chief	anthony.lacolla@alexandriava.gov
Helen McIlvaine, Director, Office of Housing	helen.mcilvaine@alexandriava.gov
Sam Shelby, Principal Planner	sam.shelby@alexandriava.gov
Bill Cook, Urban Planner	william.cook@alexandriava.gov
Kenneth Turscak, Housing Analyst	kenneth.turscak@alexandriav.gov

Staff recommendation: Staff recommends that the Planning Commission INITIATE and recommend APPROVAL of the text amendment.

PLANNING COMMISSION ACTION, MAY 6, 2025: On a motion by Vice Chair Koenig, seconded by Commissioner Dubé, the Planning Commission voted to initiate and recommend approval of ZTA #2025-00004 by unanimous consent.

I. SUMMARY

Staff propose a text amendment to the RMF zone to align with Virginia Housing (VH) lending requirements that limit the level of affordability allowed to remain following an event of an uncurable default where VH, as the senior lender, assumes ownership and operation of the property.

II. BACKGROUND

Rationale for Proposed Text Amendment

The City imposes income and rent restrictions through zoning (the Residential Multifamily Zone, Section 7-700, and other rezoning policy) and development conditions. Six Alexandria affordable housing projects with land use approvals (Sanse + Naja, Witter Place, Samuel Madden North, Ladrey, Elbert Avenue, Parkview II) plan to use (or may use) financing that includes a form of financing not used before on projects in the City. These include 4% tax credits and tax-exempt bonds issued by Virginia Housing (VH). The VH underwriting requirements regarding survivability of affordability are new.

While many safeguards are in place within the underwriting and legal frameworks involved in these transactions allowing the City to intervene (e.g., notice and cure to allow the City to make payments on behalf of a borrower; rights of first refusal that enable the City to designate a project to be transferred to another entity) which make the likelihood of default very remote, complying with the letter of VH's affordability guidelines is essential to assure its potential investors that VH would have maximum flexibility to provide the anticipated return should a project not perform as proposed. In this worst-case situation, where VH takes over a project, under their guidelines all units could be converted to market rate rents, except for 20% that would be allowed to remain affordable at 60% AMI.

III. DISCUSSION OF PROPOSED TEXT CHANGES

To comply with VH underwriting requirements for the six City projects that have development approvals, an interdepartmental staff group comprised Office of Housing, Planning & Zoning and the City Attorney's Office, working in consultation with Virginia Housing's lending team, propose a text amendment to acknowledge the possibility of default as narrowly as possible.

Staff propose an amendment to the Zoning Ordinance Article III Section Residential Zone Regulations Section 3-1406 RMF/Residential multi-unit zone to address projects where affordability is tied to use of the zone.

Going forward, a discussion regarding the requirements will be incorporated in the staff reports associated with development that is likely to use VH financing. Proposed DSUP condition language also addresses this issue. In addition, staff will work with developers to mitigate the potential loss of affordability in future projects by structuring the project phases to distribute affordable units in a way to fall under the 20% survivability cap, if possible.

IV. RECOMENDATION

Staff recommends initiation and approval of the proposed text amendment.

Staff: Tony LaColla, AICP, Division Chief
Sam Shelby, Principal Planner
Bill Cook, Urban Planner

Attachment: Proposed Zoning Text Amendment #2025-00004

3-1406 Floor area ratio.

The permitted floor area ratio of a development in the RMF zone shall be as follows:

(A) *Permitted.* The maximum permitted FAR shall not exceed .75.

(B) *Special use permit.* The floor area ratio may be increased to an amount not to exceed 3.0 if the applicant commits to providing committed affordable housing in the building or project which is the subject of the permit application in compliance with the following requirements:

(1) The committed affordable housing shall be equivalent to at least one third of the increase in the floor area ratio above the maximum permitted in section 3-1405(A).

(2) An affordable housing plan and a relocation plan shall be submitted consistent with published city standards for such plans.

(3) Rents payable by households for the committed affordable units shall not, on average, exceed the maximum rents allowed under the Federal Low-Income Housing Tax Credit program for households with incomes at 40 percent of the area median income for the Washington D.C. Metropolitan Statistical Area. Average rents payable by households for the committed affordable units may be increased up to the maximum rents allowed under the Federal Low-Income Housing Tax Credit program for households with incomes at 50 percent of the area median income for the Washington D.C. Metropolitan Statistical Area subject to the submission of a revised affordable housing plan. Any existing housing assistance payment contract in effect as of March 16, 2019 and any extension thereof or new contract which maintains the material aspects of the existing contract shall be deemed to be in compliance with this subsection.

(4) If the Virginia Housing Development Authority or successor is the first lienholder of the permanent loan and if there is a foreclosure by the Virginia Housing Development Authority and it is the successful bidder and becomes the successor in interest, then the committed affordable housing units required may be reduced to no less than 20 percent of the originally approved units at 60 percent of the area median income for the Washington D.C. Metropolitan Statistical Area. Under no other circumstances will a reduction in the committed affordable units be allowed or considered.

(C) *Continuum of care facility.* The maximum permitted floor area ratio is .75 and a maximum of 50 percent of the floor space of the proposed development may be residential use. Except that, if a special use permit is approved pursuant to the provisions of section 3-1406(B), the maximum floor area ratio may be increased to an amount not to exceed 3.0 and a maximum of 70 percent of the floor space of the proposed development may be residential use.

City of Alexandria, Virginia

MEMORANDUM

DATE: MAY 1, 2025

TO: CHAIR McMAHON AND MEMBERS OF PLANNING COMMISSION

FROM: HELEN S. McILVAINE, DIRECTOR
OFFICE OF HOUSING

SUBJECT: COMPLIANCE WITH VIRGINIA HOUSING AFFORDABILITY REQUIREMENTS

I am writing in response to two questions Chair McMahon submitted to staff regarding changes to the City's Zoning Code and conditions updates for select projects to comply with Virginia Housing (VH) lending requirements. Proposed language to Zoning Code Section 3-1406, under the Residential Multi-unit Zone (RMF), is in the text box below; the language will be considered under Zoning Text Amendment (ZTA) #2025-00004.

If the Virginia Housing Development Authority or successor is the first lienholder of the permanent loan and if there is a foreclosure by the Virginia Housing Development Authority and it is the successful bidder and becomes the successor in interest, then the committed affordable housing units required may be reduced to no less than 20 percent of the originally approved units at 60 percent of the area median income for the Washington D.C. Metropolitan Statistical Area. Under no other circumstances will a reduction in the committed affordable units be allowed or considered.

Question 1: Could you please provide illustrative examples of how many affordable units and at what rates of affordability are approved in the affected projects today, and how many would at minimum remain at 60% AMI in the worst-case scenario of VHDA successor ownership this language is designed for?

Except for Samuel Madden South, the 325-unit market-rate component of Samuel Madden, all projects affected by the ZTA and conditions updates are 100-percent affordable as approved by City Council. A breakdown of Council-approved project affordability is detailed in Table 1 on the following page.

Per Virginia Housing's lending requirements, 20 percent of units remaining affordable following a default and foreclosure may be affordable at 60 percent of the area median income (AMI). The remaining affordable units in this scenario would be numerically fewer than that which Council approved, with the additional loss of deeply affordable units at 40 and 50 percent AMI (excluding units with Project-Based Vouchers or another federal subsidy), detailed further in Table 2.

Table 1: Project Affordability Mix

	30% AMI	40% AMI	50% AMI	60% AMI	80% AMI	Total Units	Total Affordable Units	Percent Affordable
Witter Place- CHP	0	21	26	47	0	94	94	100%
Samuel Madden North- ARHA	77	0	27	52	51	207	207	100%
****Samuel Madden South- ARHA***	*84*	*0*	*0*	*0*	*0*	*325*	*84*	*26%*
Sansé – Housing Alexandria	0	105	38	185	88	417	417	100%
Naja (homeownership)- Housing Alexandria	0	0	0	0	58	58	58	100%
Elbert Ave- CLI	6	15	6	64	0	91	91	100%
Parc View II- Wesley	25	45	51	179	73	373	373	100%
****Ladrey – ARHA/Winn**	170	0	0	20	80	270	270	100%
**All Samuel Madden South units will charge market-rate rents. Affordable units reflected in this portion of the project are projected to be supported by Project-Based Vouchers and Faircloth-to-RAD Project-Based Vouchers. These affordable units are unaffected by the ZTA and conditions update as they are subsidized by the U.S. Department of Housing and Urban Development (HUD) and will remain affordable in perpetuity.*								
***Ladrey's 170 units affordable at 30 percent AMI will be Resolution 2876 public housing replacement units and will be subsidized with Project-Based Vouchers tied to the property, making up the difference between what the household can afford to pay and the fair market. These vouchers are funded by HUD and will remain in perpetuity.*								

It is noted that the ZTA will apply only to projects that have utilized the RMF zone, which includes all projects except for Sansé + Naja.

Question 2: Regarding 20 Percent of "Originally Approved" Units

The question posed to staff surrounds the clause "… then the committed affordable housing units required may be reduced to no less than 20 percent of the originally approved units at 60 percent of the area median income for the Washington, DC, Metropolitan Statistical Area." Chair McMahon asked if this clause could be interpreted as 20 percent of the originally approved affordable units, and not of the project's total originally approved units. Additionally, the Chair asked whether 20 percent of the originally approved affordable units are provided in the event of a default and foreclosure, affordability would be further limited based on a smaller unit denominator.

Virginia Housing requirements apply only to projects or portions of projects that receive Virginia Housing financing, which are typically 100-percent affordable projects. Five of the six projects for which the City is updating the conditions and/or the Zoning Ordinance to comply with VH lending requirements—Sansé + Naja, Ladrey, ParcView II, Elbert Avenue Residences, and Witter Place—are 100-percent affordable. In these cases, each project's total number of units and Council-approved affordable units are identical. In a worst-case default scenario, which remains extremely remote due to City safeguards in place in the loan agreements, 20 percent of total units in the above-mentioned projects (excluding Samuel Madden South) will remain affordable at 60 percent AMI.

While other projects may utilize multiple condominium structures to comprise one affordable project for tax credit financing purposes, Samuel Madden differs from the other five projects because one of its condominium structures—Samuel Madden South—is a market rate project. Samuel Madden South is legally required to maintain a certain number of affordable units (detailed in Table 2 below) due to zoning entitlements, but the ZTA and conditions updates will not apply to Samuel Madden South as this structure did not receive Virginia Housing financing; therefore, units required to remain affordable in this portion of the project will remain affordable due to federally subsidized Project-Based Vouchers. The Samuel Madden project overall will provide 532 units, including 207 units in Samuel Madden North (affordable) and 325 units in Samuel Madden South (market-rate), with the proposed updates applying only to the former. If Samuel Madden North experiences default and foreclosure, the ZTA and conditions update will allow the reduction required by Virginia Housing of 20 percent of its 207 units, with 41 units to remain affordable at 60 percent AMI.

Table 2: Units Required to Remain Affordable in Event of Foreclosure

<table>
<tr><th>Project</th><th>Total Units by Condo Structure</th><th>20% Originally Approved Units by Condo Structure</th><th>Total Project Units</th><th>Total Council-approved Project Affordable Units</th><th>Total Project Units to Remain Affordable after Default</th></tr>
<tr><td>Witter Place- CHP</td><td>94</td><td>19</td><td>94</td><td>94</td><td>19</td></tr>
<tr><td>Samuel Madden North (9%)- ARHA/Fairstead</td><td>75</td><td>15</td><td rowspan="2">207</td><td rowspan="2">207</td><td rowspan="2">41</td></tr>
<tr><td>Samuel Madden North (4%)- ARHA/Fairstead</td><td>132</td><td>26</td></tr>
<tr><td>*Samuel Madden South- ARHA</td><td>325*</td><td>NA</td><td>325</td><td>0</td><td>0</td></tr>
<tr><td>**Sansé (9%A)- Housing Alexandria</td><td>76</td><td>15</td><td rowspan="4">474</td><td rowspan="4">474</td><td rowspan="4">74</td></tr>
<tr><td>**Sansé (4%A)- Housing Alexandria</td><td>130</td><td>26</td></tr>
<tr><td>**Sansé (4%B)- Housing Alexandria</td><td>210</td><td>42</td></tr>
<tr><td>**Naja- Housing Alexandria</td><td>58</td><td>12</td></tr>
<tr><td>3908 Elbert Ave- CLI</td><td>91</td><td>18</td><td>91</td><td>91</td><td>18</td></tr>
<tr><td>ParcView II- Wesley</td><td>373</td><td>75</td><td>373</td><td>373</td><td>75</td></tr>
<tr><td>Ladrey- ARHA</td><td>270</td><td>54</td><td>270</td><td>270</td><td>54</td></tr>
<tr><td colspan="6">*Samuel Madden South has not received Virginia Housing Financing. The proposed Zoning Text Amendment and conditions update will not apply to this portion of the project. Affordable units within this portion of the project are Project-Based Vouchers and will remain affordable in perpetuity through federal subsidy.</td></tr>
<tr><td colspan="6">**Sansé + Naja is not utilizing the RMF zone and is therefore not subject to the proposed Zoning Text Amendment. The units required to remain affordable through zoning entitlements are less than the 20% threshold required by Virginia Housing.</td></tr>
</table>

From: Holly Lennihan <holly.lennihan.pc@gmail.com>
Sent: Tuesday, May 6, 2025 7:51 AM
To: Kendra Jacobs <Kendra.Jacobs@alexandriava.gov>
Subject: Re: May 6, 2025 Planning Commission Docket Update #3

Good morning,

I do have one (belated) question regarding the **Docket Item #2, Zoning Text Amendment #2025-00004** Memo from Helen McIlvaine dated May 1, 2025 – Compliance with Virginia Housing Affordability Requirements: *what "power" does the APC have with regard to this change? Is this procedural or are we able to question what is being proposed? I have questions regarding the "formula" (is there one?) for the final, required percentage of affordable units.*

Sincerely,
Holly

From:	Helen McIlvaine
To:	Kendra Jacobs; Karl Moritz; Paul Stoddard; Kenneth Turscak; Eric Keeler
Cc:	Tony LaColla; Nancy Williams
Subject:	Re: May 6, 2025 Planning Commission Docket Update #3
Date:	Tuesday, May 6, 2025 12:01:15 PM
Attachments:	CC Informational Memo re VH Affordability Requirements 040225.pdf

Ms. Lennihan, thank you for your question.

The text amendment is being driven by a Virginia Housing (VH) underwriting requirement that no more than 20% of the units in a project can remain affordable in the case of an uncurable default where VH assumes ownership and, as operator, must meet the performance expectations of investors. Staff from PZ, Housing and the City Attorney's office discussed this criterion at length, and the amendment reflects VH's threshold criterion. .

Virginia Housing funding is a key source of advantageous financing for affordable housing projects. The City considers the risk of default minimal because of multiple safeguards in place where the City can act to intervene. The City is creating the path proposed to administratively and retroactively address VH's requirement for six projects that have already received development approvals, including some that need VH funding now to move forward toward construction. The calculation of units in the matrix reflects the application of the 20% requirement.

In case it is helpful, a more fulsome memo - that was sent to City Council last month - is attached for your review, too. I will be in the office later this afternoon, so please feel welcome to call me at 703-746-3088 if you'd like to talk about this further before tonight.

Helen

Helen S. McIlvaine
Director, Office of Housing
421 King Street, Suite 215
Alexandria VA 22314
703-746-3088 (office direct)
571-289-9683 (mobile)

City of Alexandria, Virginia

MEMORANDUM

DATE: MARCH 24, 2025

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: HELEN S. MCILVAINE, DIRECTOR
OFFICE OF HOUSING

THROUGH: JAMES F. PARAJON, CITY MANAGER

SUBJECT: COMPLIANCE WITH VIRGINIA HOUSING AFFORDABILITY REQUIREMENTS

I am writing to make City Council aware of a Virginia Housing (VH) lending requirement which limits the level of affordability allowed to remain following an event of an uncurable default where VH, as the senior lender, assumes ownership and operation of the property because the borrower is not able to make loan payments.

The City imposes income and rent restrictions through zoning (the Residential Multifamily Zone, Section 7-700, and other rezoning policy) and development conditions. Because six Alexandria affordable housing projects with land use approvals (Sansé + Naja, Witter Place, Samuel Madden North, Ladrey, Elbert Avenue, Parkview II) plan to use (or may use) financing that includes a form of financing not used before on projects in the City, which are 4% tax credits and tax-exempt bonds issued by VH, their underwriting requirements regarding survivability of affordability are new to us. While many safeguards are in place within the underwriting and legal frameworks involved in these transactions allowing the City to intervene (e.g., notice and cure to allow the City to make payments on behalf of a borrower; rights of first refusal that enable the City to designate a project to be transferred to another entity) which make the likelihood of default ***very*** remote, complying with the letter of VH's affordability guidelines is essential to assure its potential investors that VH would have maximum flexibility to provide the anticipated return should a project not perform as proposed. In this worst-case situation, where VH takes over a project, under their guidelines all units could be converted to market rate rents, except for 20% that would be allowed to remain affordable at 60% AMI.

To comply with VH underwriting requirements for the six City projects that have development approvals, an interdepartmental staff group comprised Housing, P&Z and the City Attorney's Office, working in consultation with Virginia Housing's lending team, propose two revisions to acknowledge this possibility as narrowly as possible:

a. The first is the addition of a new administrative DSUP condition to Final Site Plans which states**, "When Virginia Housing Development Authority ("Virginia Housing") or successor**

is the senior permanent financial lender the affordability levels shall be reduced to meet the Virginia Housing Survivability requirement at the time of foreclosure but no less than 20% of the units shall remain affordable at 60% of area median income, adjusted for family size."

b. The second revision is a text amendment to the Residential Multifamily Zone (RMF) to address projects where affordability is tied to use of the zone. To cover these cases, the following language would be added to Zoning Code Section 3-1406: **"If the Virginia Housing Development Authority or successor is the first lienholder of the permanent loan and it is the successful bidder and becomes the successor in interest, then the committed affordable housing units required may be reduced to no less than 20 percent of the originally approved units at 60 percent of the area median incomes for the Washington D.C. Metropolitan Statistical Area. Under no other circumstances will a reduction in the committed affordable units be allowed or considered."**

As proposed, these changes enable an administrative solution to meet VH underwriting criteria for Alexandria affordable housing projects that have already been approved. Going forward, a discussion regarding the requirements will be incorporated in the staff reports associated with development that is likely to use VH financing. In addition, staff will work with developers to mitigate the potential loss of affordability in future projects by structuring the project phases to distribute affordable units in a way to fall under the 20% survivability cap, if possible.

It is noted that the VH requirements have created an issue among borrowers throughout the Commonwealth; however, staff feel administrative and/or legislative options to seek changes in VH policies involving third party investors are limited, given the timeframes for some current projects to close on financing. While not minimizing the risk to "zero", staff would emphasize the City's strong working relationship and excellent communications with VH, including its willingness to allow the financing for some projects to proceed pending agreement on a mutually satisfactory solution. VH has proven to be a steadfast partner in a range of circumstances, including during the pandemic, and City staff believe the safeguards available to intervene offer adequate protection.

Staff will discuss the proposed changes with AHAAC at its April 3 meeting: A Zoning Text Amendment to the Residential Multiunit Zone with these changes will be brought to City Council this spring.

Cc: Emily Baker, Deputy City Manger
Christina Zechman Brown, Deputy City Attorney
Karl Moritz, Director, Department of Planning and Zoning
Eric Keeler, Deputy Director, Office of Housing
Tony LaColla, Division Chief, Land Use Services, Department of Planning and Zoning
William Cook, Urban Planner II, Department of Planning and Zoning
Stephanie Sample, Urban Planner III, Department of Planning and Zoning
Catherine Miliaris, Principal Planner Department of Planning and Zoning
Kenneth Turscak, Housing Analyst, Department of Planning and Zoning