

[EXTERNAL]Zoning Text Amendment #2021-00003

Jol Silversmith <jol@thirdamendment.com>

Wed 9/8/2021 5:45 PM

To: PlanComm <PlanComm@alexandriava.gov>

Cc: Joanna Anderson <Joanna.Anderson@alexandriava.gov>; Justin Wilson <justin.wilson@alexandriava.gov>

**ROSEMONT
CITIZENS
ASSOCIATION**

September 8, 2021

Dear Chair Macek and Members of the Planning Commission:

On behalf of the Board of the Rosemont Citizens Association (RCA), I write in regard to Zoning Text Amendment #2021-00003, which is scheduled for consideration at the Commission's September 9, 2021 meeting.

We recently have been alerted, and confirmed, that some of the proposed changes to the Zoning Ordinance up for consideration would make significant substantive changes to existing requirements, such as setback requirements for accessory buildings. However, the meeting agenda describes the purpose of the relevant amendments as being only "to correct technical errors" and "clarify definitions".

Although the RCA currently takes no position about the merits of the changes, it appears that the agenda for the September 9, 2021 meeting is misleading and thus does not comply with state law, including but not limited to Section 2.2-3707 of the Virginia Freedom of Information Act.

The RCA therefore strongly urges the Commission to immediately consult with the City Attorney; in the interim to withdraw this item from consideration at that meeting; and to ensure that this item is the subject of accurate and complete public notice before it is docketed again.

Jol Silversmith
President, RCA

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NRCA, P.O. Box 3242, Alexandria, VA 22302

September 8, 2021

Planning Commission
c/o Department of Planning & Zoning
P.O. Box 178
Alexandria, VA 22314

Delivered Via Email: PlanComm@alexandriava.gov

Re: Zoning Docket Amendment #2021-00003, Zoning Practical Updates #4

Dear Chairman Macek and Planning Commission Members:

North Ridge Citizens' Association (NRCA) respectfully submits these comments on the above-referenced docket item.

NRCA objects to the proposed zoning text amendments relating to setbacks. The changes are described in the Staff Report as consolidations of repeat references, but that description is misleading. The changes are in fact substantive amendments to the ordinance that require full and fair disclosure to the public with an adequate opportunity for comment before they can be considered by the Planning Commission. Further, there is no explanation or justification in the Staff Report as to why the ordinance should be substantively changed for setbacks.

The setbacks for accessory dwelling units (ADUs) were adopted after contentious public debate and Council deliberation. The proposal would substantially change these—with no explanation or justification—by reducing the window or doorway sill height trigger for a 5-foot setback from **20** feet in current 7-203(C)(3)(ii) to **only six** feet in new 7-103(E). Other changes to setbacks are similarly flawed because they are substantive amendments requiring public notice and comment, and are not mere consolidations of repeat references into new 7-103(E): sheds (from the current sill height trigger of **8** feet to a new **6** feet); and garages (from **13.5** feet to **only 6** feet).

We also request that the Commission make clear that the amendments to the zoning code do not apply retroactively, i.e. that the City is not moving the goal posts in the middle of the game.

Sincerely,

John Fehrenbach
President

City of Alexandria, Virginia

MEMORANDUM

DATE: SEPTEMBER 9, 2021

TO: CHAIR MACEK AND MEMBERS OF
THE PLANNING COMMISSION

FROM: KARL W. MORITZ, DIRECTOR
DEPARTMENT OF PLANNING AND ZONING

SUBJECT: ZONING TEXT AMENDMENT (ZTA) #2021-00003 – PRACTICAL
UPDATES

With this memorandum, staff recommends removal of the proposed changes to lot requirements and bulk and open space regulations for mixed use buildings in commercial zones. Staff has observed some inconsistency in understanding of how these provisions apply to mixed use proposals. Staff had intended to amend the Zoning Ordinance text so it more closely matched how staff had historically applied these provisions. Staff had not proposed material changes to these provisions.

Based on feedback from the community, staff determined that additional outreach would be necessary to explain these changes. Because the proposed changes could be included in future round of practical updates and are not urgently needed to ensure proper zoning enforcement, staff proposes that these be removed from ZTA #2021-00003 and considered at a later date. Staff recommends that Zoning Ordinance Article IV (sections 4-100, 4-105, 4-106, 4-200, 4-205, 4-206, 4-300, 4-305, 4-306, 4-400, 4-405, 4-406, 4-500, 4-505, 4-506, 4-600, 4-605, 4-606, 4-800, 4-805, 4-806, 4-900, 4-905, 4-1000, 4-1005, 4-1100 and 4-1105) remain unchanged.

Staff also received concerns from both North Ridge and Rosemont Citizens' Associations, both dated September 8, 2021, regarding the proposed changes to additional setbacks required for accessory buildings and structures (arbors, trellises, pergolas, fences, sheds, garages and accessory dwelling units). The existing regulations, found in various sections of Zoning Ordinance Article VII, state that, if a window or doorway on a dwelling located less than three feet from, and facing a shared lot line, that a new accessory structure or building must provide a setback of five feet. This setback must be provided along the width of the window or door and must extend five feet in both directions beyond the window or door.

The existing rule specifies different window and doorway sill heights for each of these structures or buildings. For example, the window or doorway must be less than six feet in height for the

additional setback to apply for fences, and 20 feet for accessory dwelling units. Staff felt that the sill height should be consistent, regardless of the type of structure or building in question. Under staff's proposed change, any sill height under six feet would require the additional setback for accessory structure and buildings. Staff does not find this change to be substantive as it would only make the sill heights consistent for all accessory structures and buildings that must provide additional setbacks.

Staff inadvertently omitted the requirement for this setback to extend five feet in each direction beyond the width of these openings. To correct this, staff recommends the following change to the proposed language:

7-103 – Building, use and structures limitations:

(E) Outside of the Old and Historic Alexandria and the Parker-Gray Districts, if a principal dwelling on an abutting lot has any openings with sill or threshold heights lower than six feet, as measured from grade, facing the shared lot line and within three feet of the shared lot line, the following accessory structures and buildings shall be located at least five feet from the shared lot line along the width of the openings **and for a minimum of five feet in each direction, along the shared lot line, beyond the width of the openings:**

- (1) Arbors, trellises and pergolas;
- (2) Accessory buildings occupied by an accessory dwelling unit;
- (3) Freestanding private garages pursuant to section 7-2500;
- (4) Sheds and other small storage structures and
- (5) Fences exceeding three-and-one-half feet in height.

Last, Rosemont Civic Association stated concerns about the adequacy of the legal notice. The letter makes a specific reference to Section 2.2-3707 of the Virginia Freedom of Information Act, this section has no requirements related to the content of agendas. In compliance with the City's legal requirements, the notice language, provided below, generally describes the changes and the Zoning Ordinance Article or Section proposed to be amended. Staff has highlighted the language about which it believes Rosemont Civic Association has expressed concerns. As is the practice with practical updates, staff describes the changes generally in the legal notice without going into minute detail about each one. Staff believes that the below language provides sufficient information to serve as a notice to the public as to whether or not they would be interested in the matter and should provide a statement and/or attend the public hearing.

(A) Initiation of a Text Amendment; and (B) Public Hearing and Consideration of a Text Amendment to the Zoning Ordinance to amend sections 1-400, 7-203, 7-2501 and 11-1302 to correct technical errors; to amend various sections of Article II to correct technical errors in definitions, define accessory building and clarify definitions related to accessory uses and structures, floor area, open space and trellises; to amend various sections of Articles IV to clarify lot requirements and bulk and open space regulations for mixed use buildings; to amend section 6-403 to allow solar energy systems as mechanical equipment not subject

to maximum height limits; to amend various sections of Article VII to clarify language related to accessory uses and structures and home occupations, to allow electric vehicle charging structures in required yards, to allow permeable driveways to access accessory buildings containing accessory dwellings, to repeal limitations on aesthetic guidelines governing wireless facilities and to prohibit the use of tall trellises as fences; to amend section 8-200 to allow tandem parking for small multifamily dwellings; to amend various sections of Article XI, Division C to establish procedures for the Board of Zoning Appeals to extend zones for split-zoned properties and to amend section 13-114 to reflect recommendations by the Virginia Department of Environmental Quality, as part of the 2020 Chesapeake Bay Audit and required under the Virginia