

COVER SHEET FOR FILING CIVIL ACTIONS
COMMONWEALTH OF VIRGINIA

Case No. CL 24001039
(CLERK'S OFFICE USE ONLY)

Alexandria

Circuit Court

The Coalition For A Livable Alexandria, et al.

v./In re:

City of Alexandria, et al.

PLAINTIFF(S)

DEFENDANT(S)

I, the undersigned [] plaintiff [] defendant [x] attorney for [x] plaintiff [] defendant hereby notify the Clerk of Court that I am filing the following civil action. (Please indicate by checking box that most closely identifies the claim being asserted or relief sought.)

GENERAL CIVIL

Subsequent Actions

- Claim Impleading Third Party Defendant
- Monetary Damages
- No Monetary Damages
- Counterclaim
- Monetary Damages
- No Monetary Damages
- Cross Claim
- Interpleader
- Reinstatement (other than divorce or driving privileges)
- Removal of Case to Federal Court

Business & Contract

- Attachment
- Confessed Judgment
- Contract Action
- Contract Specific Performance
- Detinue
- Garnishment

Property

- Annexation
- Condemnation
- Ejectment
- Encumber/Sell Real Estate
- Enforce Vendor's Lien
- Escheatment
- Establish Boundaries
- Landlord/Tenant
- Unlawful Detainer
- Mechanics Lien
- Partition
- Quiet Title
- Termination of Mineral Rights

Tort

- Asbestos Litigation
- Compromise Settlement
- Intentional Tort
- Medical Malpractice
- Motor Vehicle Tort
- Product Liability
- Wrongful Death
- Other General Tort Liability

ADMINISTRATIVE LAW

- Appeal/Judicial Review of Decision of (select one)
 - ABC Board
 - Board of Zoning
 - Compensation Board
 - DMV License Suspension
 - Employee Grievance Decision
 - Employment Commission
 - Local Government
 - Marine Resources Commission
 - School Board
 - Voter Registration
 - Other Administrative Appeal

DOMESTIC/FAMILY

- Adoption
 - Adoption - Foreign
- Adult Protection
- Annulment
 - Annulment - Counterclaim/Responsive Pleading
- Child Abuse and Neglect - Unfounded Complaint
- Civil Contempt
- Divorce (select one)
 - Complaint - Contested*
 - Complaint - Uncontested*
 - Counterclaim/Responsive Pleading
 - Reinstatement - Custody/Visitation/Support/Equitable Distribution
- Separate Maintenance
 - Separate Maintenance Counterclaim

WRITS

- Certiorari
- Habeas Corpus
- Mandamus
- Prohibition
- Quo Warranto

PROBATE/WILLS AND TRUSTS

- Accounting
- Aid and Guidance
- Appointment (select one)
 - Guardian/Conservator
 - Standby Guardian/Conservator
 - Custodian/Successor Custodian (UTMA)
- Trust (select one)
 - Impress/Declare/Create
 - Reformation
- Will (select one)
 - Construe
 - Contested

MISCELLANEOUS

- Amend Death Certificate
- Appointment (select one)
 - Church Trustee
 - Conservator of Peace
 - Marriage Celebrant
- Approval of Transfer of Structured Settlement
- Bond Forfeiture Appeal
- Declaratory Judgment
- Declare Death
- Driving Privileges (select one)
 - Reinstatement pursuant to § 46.2-427
 - Restoration - Habitual Offender or 3rd Offense
- Expungement
- Firearms Rights - Restoration
- Forfeiture of Property or Money
- Freedom of Information
- Injunction
- Interdiction
- Interrogatory
- Judgment Lien-Bill to Enforce
- Law Enforcement/Public Official Petition
- Name Change
- Referendum Elections
- Sever Order
- Taxes (select one)
 - Correct Erroneous State/Local
 - Delinquent
- Vehicle Confiscation
- Voting Rights - Restoration
- Other (please specify)

[] Damages in the amount of \$ 0.00 are claimed.

01/17/2024

DATE

Alexander Francuzenko

PRINT NAME

3050 Chain Bridge Road, Suite 200, Fairfax, VA 22030

ADDRESS/TELEPHONE NUMBER OF SIGNATOR

703-865-7480

alex@cookcraig.com

EMAIL ADDRESS OF SIGNATOR (OPTIONAL)

PLAINTIFF

DEFENDANT

ATTORNEY FOR

PLAINTIFF

DEFENDANT

***"Contested" divorce means any of the following matters are in dispute: grounds of divorce, spousal support and maintenance, child custody and/or visitation, child support, property distribution or debt allocation. An "Uncontested" divorce is filed on no fault grounds and none of the above issues are in dispute.

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ALEXANDRIA

THE COALITION FOR A
LIVABLE ALEXANDRIA
3008 DARTMOUTH RD.,
ALEXANDRIA, VA 22314

PHYLIUS BURKS,
1027 WOODS PL.,
ALEXANDRIA, VA 22301

JOYCE PASTORE,
202 EAST LURAY AVE.,
ALEXANDRIA, VA 22301

WILLIAM CORIN,
3208 CIRCLE HILL RD.,
ALEXANDRIA, VA 22305

DAVID & MEGHAN RAINEY
3206 CIRCLE HILL RD.,
ALEXANDRIA, VA 22305

JOSHUA & MARIA CARIAS PORTO,
5110 ECHOLS AVE.,
ALEXANDRIA, VA 22311

JIMM ROBERTS,
2916 DARTMOUTH RD.,
ALEXANDRIA, VA 22314

JOHN E. CRAIG,
627 NORTH WEST STREET
ALEXANDRIA, VA 22314

Plaintiffs,

v.

CITY OF ALEXANDRIA,
Serve: Cheran Cordell Ivery– City Attorney
301 King Street, Suite 1300
Alexandria, VA 22314

FILED
CITY OF ALEXANDRIA
2008 JUN 17 PM 3:09
J. CLARENCE CLEGG, CLERK
OF THE CIRCUIT COURT

Civil Action No. CL24001039

ALEXANDRIA CITY COUNCIL :
 Serve: Mayor Justin Wilson :
 Alexandria Municipal Building :
 301 King Street, :
 Alexandria, VA 22313 :
 :
 PLANNING COMMISSION, :
 Serve: Cheran Cordell Ivery – City Attorney: :
 301 King Street, Suite 1300 :
 Alexandria, VA 22314 :
 :
 Defendants. :

COMPLAINT FOR DECLARATORY RELIEF

COME NOW the plaintiffs, The Coalition for A Livable Alexandria (CLA), Phylis Burks, Joyce Pastore, William Corin, David & Meghan Rainey, Joshua & Maria Carias Porto, Jimm Roberts, and John Craig, , by and through their undersigned counsel, Alexander Francuzenko, Esq., Broderick C. Dunn, Esq., Philip C. Krone, Esq., John David Coker, Esq., and the law firm of Cook Craig & Francuzenko, PLLC, and challenge the validity of the Ordinance No. 5514 and Ordinance No. 5515 asking this Court for declaratory judgment against the Defendant, the City of Alexandria, Virginia, (the “City”) Alexandria City Council (the “City Council”), and the Alexandria Planning Commission (the “Planning Commission”) on the following issues:

JURISDICTION AND VENUE

1. This Court has jurisdiction over the Defendants and the venue is proper pursuant to Va. Code § 8.01-184.

PARTIES

2. Plaintiff The Coalition for A Livable Alexandria (CLA) is a 501(c)(4) Virginia nonstock corporation.

3. Plaintiff Phylis Burks is an adult resident of the Commonwealth of Virginia who resides at 1027 Woods PL, Alexandria, VA 22302

4. Plaintiff Joyce Pastore, is an adult resident of the Commonwealth of Virginia who resides at 202 East Luray Ave, Alexandria, VA 22301

5. Plaintiff William Corin is an adult resident of the Commonwealth of Virginia who resides at 3208 Circle Hill Rd., Alexandria, VA 22305.

6. Plaintiffs David Rainey and Meghan B. Rainey are adult residents of the Commonwealth of Virginia who reside at 3206 Circle Hill Rd., Alexandria, VA 22305.

7. Plaintiff Joshua Porto and Maria Carias Porto are adult residents of the Commonwealth of Virginia residents of Alexandria who reside at 5110 Echols Ave, Alexandria, VA 22311.

8. Plaintiff Jimm Roberts is a resident of Alexandria who resides at 2916 Dartmouth Rd., Alexandria, VA 22314.

9. Plaintiff John Craig is an adult resident of the Commonwealth of Virginia who resides at 627 North West Street, Alexandria, VA 22314.

10. Plaintiffs purchased their houses in Alexandria neighborhoods zoned for single-family houses because of the low population density, quiet atmosphere, green space, trees, proximity to nature habitat, ample parking, and reduced traffic.

11. Defendant, the City of Alexandria is the local municipality established by Charter of the Virginia General Assembly.

12. The Defendant, the City Council of Alexandria, is the governing body of the City of Alexandria, Virginia. The City Council has the power to adopt by ordinance a master plan for the physical development of the city, pursuant to § 9.01, et seq., of the City Charter of Alexandria. The City Council has the power to adopt by ordinance a comprehensive zoning plan designed to, among other things, lessen congestion in streets, promote health, sanitation and general welfare,

avoid undue concentration of population, and preserve existing and facilitate the provision of new housing that is affordable to all segments of the community pursuant to § 9.09 of the City Charter of Alexandria.

13. The Defendant, the Alexandria Planning Commission, was established pursuant to City Charter § 9.02, The Alexandria City Planning Commission has the duty to prepare and submit to the City Council a comprehensive zoning plan for the City of Alexandria pursuant to § 9.11 of the City Charter of Alexandria.

FACTUAL ALLEGATIONS

14. On December 16, 2023, the Alexandria City Council adopted and incorporated an ordinance to amend and reordering the Master Plan of the City of Alexandria (the “Zoning Amendments”).

15. The Zoning Amendment was put forward by Alexandria’s Department of Planning and Zoning and adopted at the December 16, 2023 City Council meeting.

16. This included “Zoning for Housing/Housing for All grew out of the 2020 expansion of City forecasts for housing production and affordability. *Zoning for Housing* is a comprehensive proposal of zoning reforms with the goal of expanding housing production and affordability and addressing past and current barriers to equitable housing access. *Housing for All* is the equity component of *Zoning for Housing*, and it explores the extent of past discriminatory housing policies and the impacts that may continue today, especially on people of color and/or low-income.”

17. The Zoning Amendments initiative included a package of specific land-use proposals in: Single-Family Zoning; Removal of Restrictive/Exclusionary barriers from the zoning code; Expanded Transit-Oriented Growth; Industrial Zones; Coordinated Development Districts

(CDDs); Inclusionary Zoning; Townhouse Zoning; Property Conversions; Expansion of the Residential Multi-Family Zone (RMF).

18. The information on proposed ordinance summary for Ordinance No. 5514 states, “The proposed ordinance accomplishes the final adoption of Master Plan Amendment No. 17 2023-00005 to (1) amend the following sentence wherever it occurs, from “Areas of the City currently zoned residential should remain zoned for residential use at no higher than their current density” to “Areas of the City currently zoned residential should remain zoned for residential use;” (2) incorporate the following notes in all Master Plan chapters: “References to low density will continue to refer to development configuration that limits overall building height and lot coverage compatible with the existing neighborhood” and “Ensure race and social equity is ‘incorporated and centered in all planning’ per City Council’s Resolution 2974 including, but not limited to, all references to preserving and protecting neighborhoods and character”; and (3) amend the Housing Master Plan, Zoning Tools Section, Page 107, to add a statement supporting use of the Residential multifamily/RMF zone in areas planned and/or zoned for medium or higher density development and other potentially suitable locations approved by the City Council on November 28, 2023.”

19. The information on proposed ordinance summary for Ordinance No. 5515 states, “The proposed ordinance accomplishes the final adoption of Text Amendment No. 2023-00007 21 to adopt the following zoning for housing/housing for all amendments: (1) Expanding Housing Opportunities in Single-family Zones: amend the R-20, R-12, R-8, R-5, and R-2-5 zones to increase the number of housing units permitted; amend lot and yard requirements 24 in the R-2-5 zone for two-unit dwellings; amend Article VIII to reduce minimum parking requirements, and amend Article XII to exempt lots developed with small scale multi-unit dwellings from site plan requirements; amend the limitation on occupancy limits per unit to allow the same number of

occupants allowed by the building code; and delete “rooming house” definition and regulations. (2) Industrial Zone: add standards for ground floor uses and limitations on locations of vehicular entrances and parking and loading spaces (3) Residential 30 Multifamily Zone: allow neighborhood-serving commercial uses as permitted and special uses (4) Historic Development Patterns: in all zones that allow multi-unit dwellings, amend yard and open space requirements for multi-unit uses, delete maximum dwelling units per acre and minimum lot size requirements for multi-unit uses, and delete zone transition setback requirement and require compliance only with other supplemental yard and setback regulations. (5) Townhouses: amend yard, bulk, and open space requirements for single-unit, two-unit, and townhouse dwellings in all zones that allow townhouses; amend lot requirements in the CL, CC, CSL, CG, CD-X, OC, OCM-50, OCM-100, OCH, CRMU-L, CRMU-M, CRMU-H, CRMU-X, and W-1 zones for two-unit dwellings; delete noncomplying provisions in the RA, RB, and RM zones; and create new provisions that allow RM development rights to single-unit, 40 two-unit, and townhouse dwellings on certain lots outside of the RM zone.”

20. The Zoning Amendments, as adopted, will rezone and allow plots of land that are currently zoned for single family homes (“Single-Family Zones”) to be replaced, by right, with “multi-unit” buildings on the same footprint. The change will allow multi-unit dwellings up to four-unit dwellings on plots of land as small as 5,000 square feet.¹ Lots of land ranging from 5,000 sq. ft. to 20,000 sq. ft. are treated exactly the same, with the “permitted uses” being a single-unit dwelling, two-unit dwelling, or multi-unit dwelling up to four units.”

21. “Zoning for Housing has three goals in mind: (1) to expand geographic accessibility to new housing opportunities; (2) to expand affordability; and (3) to expand availability of new

¹ <https://alexandria.legistar.com/LegislationDetail.aspx?ID=6448306&GUID=12E57F2F-AD15-40AA-8BBD-24EEC8E96063>. last accessed on January 15, 2024.

housing opportunities in terms of choice of price points, typologies, and tenures. Between 2021 and 2022, three of twelve Zoning for Housing reforms were adopted by City Council, following community engagement processes.”

22. As it relates specifically to “Expanding Housing Opportunities within Single-family Zones Zoning Reform” the purpose “consists of changes to the Zoning Ordinance to broaden access to traditionally single-family neighborhoods” to help address Alexandria’s housing affordability challenges and reverse generational impacts.

23. The recommendation adopted by City Council “is to:(1) add the opportunity to construct two-unit, three-, and four-unit dwellings in the R20, R12, R8, R5 zones and three and four units in the R2-5 zone, resulting in an estimated 66 new residential buildings containing an estimated 178 units developed over a 10-year period; (2) delete the definition of “family” from the Zoning Ordinance, shifting away from a land use emphasis that limits the composition of dwelling occupants to ensuring the health and safety regulations of the state building code are met; and (3) amend the parking regulations to achieve: (a) no minimum parking requirements for dwellings up to four units within the Enhanced Transit Area and (b) a minimum of 0.5 parking spaces per unit for dwellings up to four units outside of the Enhanced Transit Area. There is an identified phase 2 as a proposed continuation of this reform.”

24. The Zoning Amendments, as adopted, however, do not reflect the stated purpose.

25. Instead, the Zoning Amendments make traditional single-family neighborhoods more accessible to developers, who are likely the ones that have benefited from those generational impacts.

26. If taken advantage of, the Zoning Amendments will undeniably allow for development that will achieve higher density through increased housing diversity in current low-density areas.

27. The studies done for the Housing Opportunities in Single Family Zones Zoning Reform only relate to the economic feasibility of development, whether the changes will impact the developers' market. Essentially, the study is a "10 ways to snag a developer" click-bait article.

28. It fails to provide any insight, projections, or substance as to what the purchasing and rental market will look like after development.

29. There are no studies and there is no factual basis that higher density amounts to cheaper housing or resident diversity.

30. Moreover, the studies as to the developer market seemingly indicate that when land value is high developers are more likely to develop for luxury to increase profits.

31. Brand new luxury higher-density housing at an affordable price is not even a dream, it is an outright delusion.

32. In other words, the purpose of the Zoning Amendments is not to broaden access to traditionally single-family neighborhoods and to create affordable housing reversing generational impacts, but to simply create more housing – not affordable housing and not homeowners – by sacrificing the single-family home in Alexandria. This is unreasonable.

33. City Council and the Planning Commission's failure to offer studies that show how sacrificing low density housing areas for higher density housing areas will create more affordable housing and more housing opportunities for diverse groups of people is unreasonable.

34. City Council and the Planning Commission's failure to offer studies regarding the impact of increased density in an area that has developed and sustained as low density as it relates

to the traffic, schools, community resources, emergency response, sewage, and flooding is unreasonable.

35. This is contrary to the power vested by the Alexandria City Charter § 9.09 “to adopt by ordinance a comprehensive zoning plan designed to lessen congestion in streets, secure safety from fire, panic and other danger, promote health, sanitation and general welfare, provide adequate light and air, prevent the overcrowding of land, avoid undue concentration of population, facilitate public and private transportation and the supplying of public utility services and sewage disposal, preserve existing and facilitate the provision of new housing that is affordable to all segments of the community, and facilitate provision for schools, parks, playgrounds and other public improvements and requirements.”

36. Plaintiffs purchased their properties because the land use was as a single-family residence in quiet, low-density neighborhoods suitable for young children with low traffic volumes, adequate public facilities and parking, and denser tree canopies, and in reliance on low-density zoning that for decades honored the City’s Comprehensive Plan's commitment to a diversity of density in districts and the preservation low-density areas.

37. The Zoning Amendments will deprive them of that.

38. Only high-income individuals and families will benefit from these changes as the anticipated units, while more dense than single-family homes, will be priced well above what is affordable to residents earning the average incomes in this region.

39. Ostensibly, City Council summarily concluded without the benefit of studies that, despite the increased density permitted by the proposed Zoning Amendment, it would have minimal effects on the surrounding properties, neighborhoods, utilities, and services in the previously Single-Family Zones. Specifically, City Council concluded “Single-Family Zones:

Allow up to 4 units within current development envelope in zones that are currently limited to single family detached dwellings. Units: Approximately 150-178 units over 10 years on 66 parcels. The potential increase in use of the transportation network, water and sewer systems, open space network, and public school system is extremely minor.”

40. Although City Council and the Planning Commission was required to consider the Comprehensive Plan under, City Council and the Planning Commission could not have considered all the elements of the Comprehensive Plan because there is no indication that any studies regarding these other elements were conducted, and the other elements were not updated to incorporate the intense population density increase permitted by-right by the Zoning Amendments.

41. There is no indication that City Council and the Planning Commission conducted sufficient studies for reasonable consideration of the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies and the community's transportation, schooling, recreational areas, and public services requirements.

42. There is no indication that City Council and the Planning Commission addressed the increased strain on the City's sanitary sewer, energy, and water distribution systems that will be caused by the Zoning Amendments' increase in by-right development of multiplexes will further stress the systems without requiring the necessary upgrades.

43. There is no indication that City Council and the Planning Commission commissioned or conducted appropriate and requisite studies and planning to mitigate the Zoning Amendment's increased burden on already overburdened schools and other public facilities, parking and traffic congestion in residential, low-density neighborhoods, flooding and associated

stormwater drainage issues, sanitary sewer overflow, and tree canopy degradation, among other things.

44. The Zoning Amendment will increase taxes due to the Virginia Constitution's requirement that taxation be assessed at 1000/4 of the property's fair market value. Houses will invariably be valued at higher rates because of the higher multiplex use authorized, and these increased taxes will burden low and fixed-income homeowners closest to the margins.

45. Moreover, developers will purchase more affordable single-family dwellings to build expensive multiplexes, keeping them out of reach for many Alexandrians.

46. The Zoning Amendments do not promote the original goals, the newly developed units will not improve access to affordable housing, and it will not improve diversity of residents.

47. For Plaintiffs, the Zoning Amendments will adversely reconfigure the neighborhood, diminish quality of life and happiness, cause sewage issues, increase taxes, overcrowd schools, increase traffic, increase noise, diminish green and open space, create parking issues, increase density, increase gentrification, and burden first responders the neighborhood relies on.

48. For the Plaintiffs whose American Dream it was to be landowners and own a single-family home and for those Alexandrians whose dream it may still be, the Zoning Amendment tells them, "if you don't like it, then go somewhere else."

COUNT I

The Zoning Amendment is void ab initio because City Council and the Planning Commission acted ultra vires

49. The foregoing paragraphs are incorporated herein by this reference.

50. Localities may exercise only powers that are “expressly or impliedly granted to them.” *Town of Jonesville v. Powell Valley Village Ltd. P’ship*, 254 Va. 70, 74, 487 S.E.2d 207, 210 (1997).

51. City action not authorized by statute or charter is ultra vires and *void ab initio*. See *id.*

52. Section § 9.09. of the City Charter provides that

In addition to the powers granted elsewhere in this charter, the council shall have the power to adopt by ordinance a comprehensive zoning plan designed to lessen congestion in streets, secure safety from fire, panic and other danger, promote health, sanitation and general welfare, provide adequate light and air, prevent the overcrowding of land, avoid undue concentration of population, facilitate public and private transportation and the supplying of public utility services and sewage disposal, preserve existing and facilitate the provision of new housing that is affordable to all segments of the community, and facilitate provision for schools, parks, playgrounds and other public improvements and requirements. The comprehensive zoning plan shall include the division of the city into zones with such boundaries as the council deems necessary to carry out the purposes of this charter and shall provide for the regulation and restriction of the use of land, buildings and structures in the respective zones

53. City Council and the Planning Commission failed to consider the Comprehensive Plan, which includes the Stormwater Master Plan, the Master Transportation Plan, the Sanitary Sewer System Master Plan, Recycling Program Implementation Plan, Public Spaces Master Plan, the Community Energy Plan, and the Water Distribution Master Plan, among others.

54. Under City Charter § 9.01, et seq., City Council and the Planning Commission must reasonably consider the Comprehensive Plan when drawing and applying zoning ordinances.

55. “A comprehensive plan provides a guideline for future development and systematic change, reached after consultation with experts and the public. ‘[T]he Virginia statutes assure [landowners] that such a change will not be made suddenly, arbitrarily, or capriciously but only after a period of investigation and community planning.’” *Town of Jonesville*, 254 Va. at 76, 487

S.E.2d at 211 (*quoting Bd. of Supervisors of Fairfax Cnty. v. Snell Constr. Corp.*, 214 Va. 6S5,6S8, 202 S.E.2d 889,892 (1974)).

56. Without adequate studies or investigations, the Comprehensive Plan could not be updated, and the Plan's elements could not address what is otherwise a drastic increase in density in formerly low-density areas.

57. The Zoning Amendments as it relates to the Single-Family Zones are unrelated to the powers bestowed by the Charter, so the actions of City Council and the Planning Commission were ultra vires.

58. City Council and the Planning Commission gave no consideration for the exiting use and character of the property as it relates to the Single-Family Zones.

59. As a result, City Council and the Planning Commission failed to abide by and comply with its enabling legislation in enacting the Zoning Amendment

60. The City Council and the Planning Commission acted outside the scope of its express and implied power to amend zoning ordinances.

61. Because City Council and the Planning Commission enacted the Zoning Amendment ultra vires, the Zoning Amendment is void ab initio.

WHEREFORE, Plaintiffs respectfully request this Court find that City Council and the Planning Commission acted beyond the authority under the City Charter and violated City Charter § 9.01, et seq., and as such, further find and declare that City Council's and the Planning Commission's approval of the Zoning Amendment in contravention of its enabling authority ultra vires, and thus, the Zoning Amendment is void ab initio.

COUNT II

The Zoning Amendments are arbitrary and capricious and bear no reasonable relationship to public health, safety, morals, or general welfare

62. The foregoing paragraphs are incorporated herein by this reference.

63. City Council and the Planning Commission may amend zoning ordinances so long as the amendment is reasonable, not arbitrary or capricious, and bears a “reasonable or substantial relation” to powers granted by the City Charter to promote the public health, safety, morals, comfort, prosperity, or general welfare. *See Norton v. Bd. of Sup'rs of Fairfax Cnty.*, 299 Va. 749, 8S8 S.E.2d 170, 173 (2021) (*citing Bd. of Cnty. Sup'rs of Fairfax Cnty. v. Carper*, 200 Va. 653, 660, 107 S.E.2d 390, 395 (1959)).

64. The stated purpose of the Zoning Amendments was to diversify housing types and provide more affordable housing options than the current single-family housing market, while addressing Alexandria’s housing affordability challenges and reverse generational impacts.

65. City Council and the Planning Commission’s proffered study addressed the feasibility of different housing types within low-density neighborhood lot requirements and what would entice developers but then concluded without the benefit of any other studies that the Zoning Amendments would minimally affect surrounding properties, neighborhoods, utilities, services, and infrastructure despite drastically increasing population density in formerly low-density neighborhoods.

66. The Zoning Amendment does not serve the goals outlined by City Council and the Planning Commission.

67. The Zoning Amendments sabotage the goals the Zoning Amendments claim to achieve such as racially exclusive policies, diversity, gentrification, housing affordability, and housing-type diversity.

68. There is no indication that City Council and the Planning Commission reasonably considered the basic statutory requirements outlined in City Charter § 9.01, et seq., such as

transportation requirements, schools, recreation areas and parks, public services, natural resource conservation, flood plain preservation, and property conservation.

69. Similarly, City Council and the Planning Commission did not design the ordinance to give reasonable consideration to the factors outlined in City Charter § 9.01, et seq.

70. There is no indication that City Council and the Planning Commission reasonably investigated the basic considerations of modern urban planning when population density is drastically increased by right, such as impacts on stormwater management, flooding, sanitary sewer and waste removal systems, water supply, traffic congestion, and tree canopy depletion.

71. Due to the lack of consideration, study, and planning, the Zoning Amendment is unreasonable, arbitrary and capricious, and bears no reasonable or substantial relation to public health, safety, morals, or general welfare.

72. Rather, the Zoning Amendment will worsen the health, safety, morals, and general welfare of Plaintiffs and Alexandrians.

WHEREFORE, Plaintiffs respectfully request this Court find that the City Council and the Planning Commission's enactment of the Zoning Amendments was arbitrary and capricious and not reasonably related to public health, safety, morals, and general welfare and thus is void ab initio.

COUNT III

The Zoning Amendments were enacted without proper notice

73. The foregoing paragraphs are incorporated herein by this reference.

74. Upon information and belief, City Council and the Planning Commission did not comply with Section 11-301² and Section 11-302³ of the City of Alexandria Zoning Ordinance when giving notice as to the public hearings regarding Ordinances 5514 and 5515.

WHEREFORE, Plaintiffs respectfully request this Court find that the City Council and the Planning Commission's Zoning Amendments are invalid for failure to comply with Section 11-301 and Section 11-302 of the City of Alexandria Zoning Ordinance and are void ab initio.

COUNT IV
The Zoning Amendments violate the Constitution of Virginia

75. The foregoing paragraphs are incorporated herein by this reference.

76. The Zoning Amendments violate Article I Section 1 of the Constitution of Virginia because it deprives Plaintiffs of equal protection as it treats similarly situated single-family homeowners of land with restrictive covenants which prevent development under the Zoning Amendments differently than the Plaintiffs.

77. The Zoning Amendments violate Article I Section 11 of the Constitution of Virginia because they deprive the Plaintiffs of the use of their property as it was purchased; single-family homes in the Single-Family Zones.

78. The Zoning Amendments violate Article I Section 1 of the Constitution of Virginia because it deprives Plaintiff Phylis Burks, an African American, of equal protection by moving the goal post as to land ownership after Plaintiff Phylis Burks purchased a single-family home despite the generational impacts the Zoning Amendments claim to redress.

²https://library.municode.com/va/alexandria/codes/zoning?nodeId=ARTXIDEAPPR_DIVAADENORNOPUHE_11-301RENO.

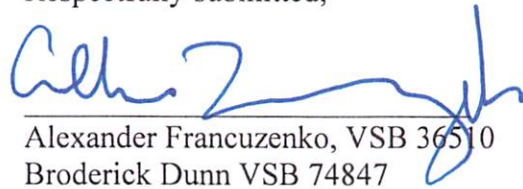
³https://library.municode.com/va/alexandria/codes/zoning?nodeId=ARTXIDEAPPR_DIVAADENORNOPUHE_11-302NOREPAHE.

PRAYER FOR RELIEF

Plaintiffs request that this Court declare:

- a. As to Count I, declare that City Council and the Planning Commission enacted the Zoning Amendment, Ordinances 5514 and 5515, ultra vires, and that they are void ab initio and invalid
- b. As to Count II, declare that City Council and the Planning Commission's enactment of Zoning Amendments, Ordinances 5514 and 5515, was arbitrary and capricious and not reasonably related to public health, safety, morals, and general welfare and thus they are void ab initio and invalid.
- c. As to Count II, declare that City Council and the Planning Commission failed to give proper notice under Sections 11-301 and 11-302 as it relates to Ordinances 5514 and 5515, and thus they are void ab initio and invalid.
- d. As to Count IV Zoning Amendments, Ordinance 5514 and 5515, are not valid because they violate Article I Section 1 and Article I Section 11 of the Constitution of Virginia.

Respectfully submitted,



Alexander Francuzenko, VSB 36510
Broderick Dunn VSB 74847
Philip C. Krone, VSB 87723
John David Coker VSB 92883
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