

Dartmouth Road, Alexandria VA 22314; John Fehrenbach, 2809 Valley Drive, Alexandria VA 22302; William L. Shen, 307 East Luray Avenue, Alexandria VA, 22301; Yvonne Weight Callahan, 735 South Lee, Alexandria VA, 22314; Sylvia Alimena, 6017 Jewell Court, Alexandria VA 22312; and David S. Rainey, 3206 Circle Hill Road, Alexandria, VA 22305. All of the board members are residents of the City of Alexandria.

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

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

5. Plaintiffs David Rainey and Meghan B. Rainey (the “Raineys”) are adult residents of the Commonwealth of Virginia who reside at 3206 Circle Hill Road, Alexandria, VA 22305.

6. Plaintiffs Joshua Porto and Maria Carias Porto (the “Portos”) are adult residents of the Commonwealth of Virginia residents of Alexandria who reside at 5110 Echols Avenue, Alexandria, VA 22311.

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

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

9. 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.

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

11. Defendant, 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.

12. Defendant, 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

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

14. The Zoning Amendments were put forward by Alexandria’s Department of Planning and Zoning and adopted at the December 16, 2023 City Council meeting.

15. The City claims that “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.”

16. 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; and Expansion of the Residential Multi-Family Zone (RMF).

17. The information on the proposed ordinance summary for Ordinance No. 5514 states, “The proposed ordinance accomplishes the final adoption of Master Plan Amendment No. 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.”

18. The information on the proposed ordinance summary for Ordinance No. 5515 states, “The proposed ordinance accomplishes the final adoption of Text Amendment No. 2023-00007 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 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 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, two-unit, and townhouse dwellings on certain lots outside of the RM zone.”

19. Defendants held public hearings on November 14 and 18, 2023 to receive public comment on the Zoning Amendments.

20. Defendants advertised these public hearings in a local newspaper, the Alexandria Times on October 19, 2023.

21. The advertisement included the summaries in Paragraphs 17 and 18 above.
22. The October 12, 2023 issue of the Alexandria Times did not include an advertisement for the public hearings.
23. The October 26, 2023 issue of the Alexandria Times did not include an advertisement for the public hearings.
24. The November 2, 2023 issue of the Alexandria Times did not include an advertisement for the public hearings.
25. Upon information and belief, the October 19, 2023 advertisement was the only advertisement of the public hearings published in a newspaper.
26. 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 to not exceed the existing floor area ratio limit.² The change will allow multi-unit dwellings up to four-units on plots of land as small as 5,000 square feet.³ Parcels 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.”
27. The City claims that “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 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.”

² Most of the older houses are well below the limits, so new construction would inevitably cover more area.

³ <https://alexandria.legistar.com/LegislationDetail.aspx?ID=6448306&GUID=12E57F2F-AD15-40AA-8BBD-24EEC8E96063>. last accessed on May 29, 2024.

28. As it relates specifically to “Expanding Housing Opportunities within Single-family Zones Zoning Reform” the stated 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.

29. 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.”

30. The Zoning Amendments, as adopted, however, do not reflect the stated purposes or alleged effects.

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

32. If taken advantage of, the Zoning Amendments will undeniably allow for development that will achieve higher density in current low-density areas.

33. 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.

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

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

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

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

38. 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 and single-family neighborhood in Alexandria. The single-family homes most at risk would be the more affordable homes, as they would allow for the most profit. This is unreasonable.

39. 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.

40. City Council and the Planning Commission’s failure to perform any studies regarding the impact of increased density on traffic, public safety, schools, community resources

and infrastructure, emergency response, sewage infrastructure, light and sound pollution, green space, open space, tree canopy, natural habitats, runoff, and flooding is unreasonable.

41. This is contrary to the power and responsibility 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.”

42. 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.

43. The Zoning Amendments will deprive them of that.

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

45. Ostensibly, City Council summarily concluded without the benefit of studies that, despite the increased density permitted by the proposed Zoning Amendments, it would have minimal effects on the surrounding properties, neighborhoods, utilities, infrastructure, traffic, environment, 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.”

46. Although City Council and the Planning Commission was required to consider the Comprehensive Plan, 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.

47. There is no indication that City Council and the Planning Commission conducted sufficient, or any, 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, infrastructure, public safety, green space, open space, tree canopy, natural habitat, and public services requirements.

48. There is no indication that City Council and the Planning Commission assessed or otherwise studied 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, which will further stress the systems without requiring the necessary upgrades. These systems are failing more and more, the sewers especially, causing residents to clean raw sewage out of their basements at their own expense.

49. There is no indication that City Council and the Planning Commission commissioned or conducted appropriate and requisite studies or otherwise appropriately planned

to mitigate the Zoning Amendments' 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, water, green space, open space, natural habitat, and tree canopy degradation, among other things.

50. The Zoning Amendments 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 unduly and inequitably burden low and fixed-income homeowners closest to the margins.

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

52. The Zoning Amendments do not promote the original stated goals and the newly developed units will not improve access to affordable housing, nor will they improve diversity of residents.

53. 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 and light pollution; diminish green and open space, natural habitats, and tree canopies; create parking, traffic, and pedestrian safety issues; increase density; increase gentrification; and burden the first responders on which the neighborhood relies.

54. The Portos purchased their property because it was peaceful and quiet.

55. The Portos have a direct, pecuniary, and substantial interest in the Zoning Amendments because they will result in higher tax assessments to their property due to the higher density multi-unit property use authorized.

56. Under the Zoning Amendments, the Portos will suffer from increased foot and vehicular traffic by their residence, which has already increased due to the construction of a housing complex at the end of their neighborhood. Their neighborhood has lost some of its quiet enjoyment and it will become less peaceful under the Zoning Amendments.

57. The Portos have already experienced the change in Echols Avenue from a through street to a street with no outlet. This narrow street has accessibility issues that will significantly worsen with the Zoning Amendments' increase on traffic and population density. This will result in decreased safety for pedestrians and drivers, as well as issues with response times from emergency responders.

58. The Portos already experience insufficient parking, which will undoubtedly become even more scarce with the Zoning Amendments' increases in traffic and population. This is especially troublesome due to a day care at the end of Echols Avenue which causes severe traffic and parking issues during drop off and pickup times.

59. The Portos also already experience issues turning onto and off of Seminary Road, which will increase with the Zoning Amendments. During rush hours, the commuter traffic is so heavy that the Portos have trouble using the road, which will worsen with more traffic.

60. The Portos already experience some light and noise pollution which will increase with the Zoning Amendments.

61. The Portos have experienced a decline in the tree canopies and greenspaces in their neighborhood which will be exacerbated by development due to the Zoning Amendments. The

loss of trees not only decreases the charm of the neighborhood, but also ruins the shade provided by the tree canopies and the stormwater absorption provided by the greenspaces.

62. The direct, pecuniary, and substantial harms that the Portos will suffer are different than those suffered by other residents because of the Zoning Amendments.

63. Craig purchased his property because the location had easy access to neighborhood amenities such as bike trails, access to the Potomac River, and its walkability.

64. Craig has a direct, pecuniary, and substantial interest in the Zoning Amendments because they will result in higher tax assessments to his property due to the higher density multi-unit property use authorized.

65. Under the Zoning Amendments, the stormwater and runoff which already comes into contact with Craig's house due to inadequate stormwater sewer infrastructure will increase with a denser population. Craig already experiences a stormwater backup into his home. With the Zoning Amendments, there will be a decrease in greenspace and an increase in impervious surfaces which will increase stormwater runoff.

66. Craig's neighborhood is not on the City's list for stormwater capacity sewer projects through 2031. The City recently did a study that indicated an increase in sewer capacity in Craig's neighborhood would not cause the city to fix the problem in Craig's neighborhood, because it would increase the flooding in areas that are downstream of Craig's home.

67. The direct, pecuniary, and substantial harms that Craig will suffer are different than those suffered by other residents because of the Zoning Amendments.

68. Burks purchased her family's home from her mother; it had originally belonged to her grandparents.

69. Burks has a direct, pecuniary, and substantial interest in the Zoning Amendments because they will result in higher tax assessments to her property due to the higher density multi-unit property use authorized.

70. Under the Zoning Amendments, Burks will experience a worsening of the light pollution she already experiences due to the proximity of the high school. Burks will have more light pollution to contend with, spilling over onto her property.

71. Burks will also experience an increase in noise pollution because the Zoning Amendments will allow a significant increase in the population density around her neighborhood.

72. The street on which Burks lives is very narrow, which already causes accessibility issues when many cars are parked along the street. This will undoubtedly worsen with the Zoning Amendments as more people will be parking on the street making ingress and egress of delivery vehicles and emergency vehicles difficult. This is especially important to Burks as she ages.

73. In addition to the increased difficulty in navigating the narrow streets with the Zoning Amendments, there will be even fewer on street parking opportunities for Burks.

74. Furthermore, the new traffic patterns and increased volume of local traffic and commuters under the Zoning Amendments will make driving and walking in the neighborhood more treacherous for Burks.

75. Burks will also experience issues under the Zoning Amendments with respect to the lack of tree canopies and greenspaces. Not only do the tree canopies help provide shade to lower cooling costs, but also the greenspace helps the absorption of stormwaters and prevent runoff damage. With the new construction allowed by the Zoning Amendments, the tree canopies and greenspace will be diminished.

76. The direct, pecuniary, and substantial harms that Burks will suffer are different than those suffered by other residents because of the Zoning Amendments.

77. Corin purchased his home to quietly enjoy the single family home neighborhood.

78. Corin has a direct, pecuniary, and substantial interest in the Zoning Amendments because they will result in higher tax assessments to his property due to the higher density multi-unit property use authorized.

79. Under the Zoning Amendments, driving on the already narrow and poorly maintained local roadways will become increasingly more hazardous. Corin lives close to Washington Circle, which sees a significant amount of traffic, that is not well-managed as it is. When Corin drives to and from his home, he often has to stop and let other motorists through due to the narrowness of the streets and inadequate parking. This will significantly worsen with a population increase.

80. Corin is also concerned about emergency response times under the Zoning Amendments. For the same reason it is difficult for him to navigate the neighborhood, it is difficult for emergency responders to navigate the neighborhood.

81. In line with the other traffic pattern issues under the Zoning Amendments will be the exacerbation of poor pedestrian safety. Because the roadways are so narrow and because there are no sidewalks, when Corin is walking to and from his home, he has to take great care to wind his way through the abundance of parked cars to avoid trespassing and avoid being run over by the ever-increasing commuter traffic. This will worsen with greater population density.

82. Corin also asserts that there is not sufficient public transportation to alleviate the issues that will be caused by increased commuter traffic which will undoubtedly arise under the

Zoning Amendments. The public transportation around Corin's home now (Cameron Mills Road Bus Route to the Metro) is sporadic and infrequent.

83. Corin will also experience an increase in the number of issues with the aging water system under the Zoning Amendments. As it stands, the water mains in the neighborhood are not adequate and multiple leaks have sprung in the past few years. Because of this, it is necessary to dig up portions of the roadway, compounding traffic problems and causing the roadways to fall into a greater state of disrepair due to repeated patching. The water mains are barely managing to service the existing neighborhood. With an increase in population density, the water system will not be able to keep up with the increased demand.

84. Another concern for Corin is the impact that the Zoning Amendments will have on Monticello Park, which is located across the street from his home and which he frequents. The Zoning Amendments would allow development directly adjacent to the park which will increase impervious surfaces thereby increasing stormwater runoff into the park and decrease greenspace and tree canopies. This park is an important haven for migratory birds, and an important part of the neighborhood. Monticello Park has been recognized as a Community Forest by the Old-Growth Forest Network. The park is also part of the Stretch Our Parks program sponsored by the Audubon Society of Northern Virginia.

85. Similarly, with the Zoning Amendments, Corin will experience a further decrease in tree canopies which help mitigate heat within cities and encourage the existence of wildlife, especially the migratory birds. With a decrease in tree canopies, Corin will be deprived of the ability to birdwatch and will likely spend more money keeping his home at a comfortable temperature.

86. The direct, pecuniary, and substantial harms that Corin will suffer are different than those suffered by other residents because of the Zoning Amendments.

87. Roberts purchased his home due to the charm and serenity of his single-family home neighborhood.

88. Roberts has a direct, pecuniary, and substantial interest in the Zoning Amendments because they will result in higher tax assessments to his property due to the higher density multi-unit property use authorized.

89. As it stands, Roberts already experiences parking and traffic issues due to his proximity to the Bishop Ireton High School. During pickup or drop off times and school functions, traffic around the school becomes difficult to navigate and visibility becomes dangerous. Due to the lack of parking, ingress and egress to Roberts' driveway is often difficult. This will be exacerbated by a population increase now allowed under the Zoning Amendments.

90. Roberts is concerned about emergency services being able to access his property due to the problematic traffic patterns, decreasing parking, and increasing drivers under the Zoning Amendments. This concern is especially important to Roberts as he ages.

91. Roberts also experiences issues with the poor condition of the roadways in and around his home, this will only worsen with more traffic due to increased population and heavy construction vehicles driving on the already deteriorating and limited roads because of the Zoning Amendments.

92. Under the Zoning Amendments, the limited number of roadways, especially arterial and smaller roads, will worsen the current issue that Roberts experiences with the Commuter traffic 'cutting through' and using his local neighborhood roads. Currently Roberts experiences this

heavy commuter traffic on weekdays during rush hours especially on Yale, Cambridge, Janney's Lane, and West Taylor Run.

93. Roberts will also experience light and sound pollution due to the increase in height of buildings and the increase in population density which will come from the Zoning Amendments.

94. Roberts already experiences issues due to the inadequate water system in his neighborhood which will become critical when the population density increases due to the Zoning Amendments. Currently, there are issues with the aging water system's ability to handle the increased water pressure needed to keep up with the current population. The system has experienced numerous failures with the current population; with increased demand, it is inevitable that the system will experience an increase in those failures.

95. With the Zoning Amendments, more of the greenspace and tree canopies will be destroyed. This is particularly concerning to Roberts who experiences flooding during major storms due to inadequate stormwater sewers and drainage. More impervious surfaces will only worsen the flooding issues and runoff problems will occur without old growth trees to anchor the soil.

96. The direct, pecuniary, and substantial harms that Roberts will suffer are different than those suffered by other residents because of the Zoning Amendments.

97. The Rainey's have a direct, pecuniary, and substantial interest in the Zoning Amendments because they will result in higher tax assessments to their property due to the higher density multi-unit property use authorized.

98. The Zoning Amendments will cause significant issues for the Rainey's due to the narrowness of the street on which they live. Currently the narrow street with limited parking has cars parked on both sides making the navigable portion of the road even more narrow. This makes

passage during rush hours very difficult, and larger vehicles, such as emergency vehicles already encounter difficulties getting down the street. More population density will come with more vehicles, worsening the issue.

99. Not to mention the already limited parking availability will decrease with the Zoning Amendments, as most of the homes on the Rainey's street do not have garages and therefore rely on street parking.

100. The Zoning Amendments will also worsen pedestrian safety for the same reason. As it stands, there are no sidewalks on the street on which the Raineys live and walking is dangerous. With more traffic due to more people, this will become even more treacherous.

101. The Raineys also currently experience flooding on the street when there are storms due to the lack of capacity of the stormwater sewers. With less greenspace to absorb water due to the development promoted by the Zoning Amendments, the floods will worsen.

102. Greenspace diminishment in and of itself is a serious concern for the Raineys who also live across the street from and regularly enjoy Monticello Park. As explained supra, this Park is extremely important for birds, and the tree canopies and greenspace near the park are now endangered due to the Zoning Amendments.

103. The direct, pecuniary, and substantial harms that the Raineys will suffer are different than those suffered by other residents because of the Zoning Amendments.

104. The board members of CLA have a personal stake in the outcome of this case as they all own property in Alexandria and the organization represents those who own property in Alexandria. Therefore, CLA has a sufficient adversarial interest in the matter so that the issues will be fully developed.

105. CLA board members and those they represent have a direct, pecuniary, and substantial interest in the Zoning Amendments because they will result in higher tax assessments to their property due to the higher density multi-unit property use authorized.

106. CLA members live in older single family home neighborhoods with aging infrastructure and inadequate public utilities for the current population, let alone an increased population which will inevitably follow the Zoning Amendments.

107. CLA members live in older single family home neighborhoods with more backyard privacy compared to denser neighborhoods. The increased density which will inevitably follow the Zoning Amendments will diminish or destroy that sense of privacy. Further, the threatened Phase two zoning amendments, which may include reduced setbacks, increased structure sizes, etc., would likely exacerbate those impacts.

108. The narrow streets in the single-family home neighborhoods cause significant hardship to both drivers and pedestrians as there is not sufficient space. This is especially problematic due to the presence of commuters during rush hours and due to drop off and pickup of students for the schools such as Bishop Ireton High School, George Washington Middle School, and MacArthur Elementary School. An increase in population density due to the Zoning Amendments will worsen the traffic issues.

109. Many streets are so narrow that they require two oncoming cars to pass each other very carefully. Cars will often pull into an empty on-street parking spot to allow another car or especially a large truck to pass. Increased density in these areas without an increase in off-street parking will lead to greater use of on-street parking. This will make passing oncoming traffic on narrow residential streets more difficult and dangerous.

110. Hand-in-hand with the traffic and pedestrian issues are concerns that CLA has about the accessibility to the neighborhood for emergency services. Currently, the narrow streets cause issues for emergency responders to be able to reach the residents. With even more people and even more cars traveling on and parking on the streets because of the Zoning Amendments, this will certainly worsen. Furthermore, CLA worries about whether these services such as police, EMS providers, and firefighters are sufficiently staffed to effectively service the neighborhood.

111. Moreover, the narrow streets are not well maintained. Because of the inadequate water system, the streets have been dug up and patched repeatedly to facilitate repairs. This has led to uneven and dangerous surfaces on the narrow streets which do not hold up well to the current traffic. With the Zoning Amendments, not only will traffic increase, but heavy equipment for construction will increase, exacerbating the deterioration of the streets.

112. Also problematic for CLA members with respect to the streets is the limited parking available. Many of the homes of CLA members do not have garages, making on street parking essential. With an increase in the number of cars which must park on the streets due to the population increase coming with the Zoning Amendments, the already limited parking spaces will quickly disappear.

113. Noise and light pollution will significantly increase for CLA members under the Zoning Amendments. There will likely be an increase in the height of the buildings being built, which will spill light onto neighboring houses. There will also be an increase in not only people and cars in the neighborhood, but also construction, which will turn the quiet and serene neighborhood into an unwanted bustling cityscape.

114. CLA members are already experiencing issues with the water system for their neighborhood. To accommodate the current population, water pressure has been increased to a

level which has caused multiple water main breaks in the aging system. It is unclear how the water system will be able accommodate an even greater population which will result from the Zoning Amendments. It will likely experience more frequent failures and breaks.

115. CLA members are already experiencing problems with stormwater sewers and flooding during storms. The Zoning Amendments will result in less greenspace and more impervious surfaces which will decrease the absorption of stormwater and send more into the already inadequate stormwater drains and sewers. There will be even more flooding in the neighborhood than the CLA members currently experience.

116. CLA members are also concerned about the impact the population increase due to the Zoning Amendments will have on City services in general. It is likely that City recreational, health, social services, and other facilities will become overcrowded, overused, and strained.

117. The diminished greenspace and tree canopies that will come from development under the Zoning Amendments will also result in temperatures rising in the neighborhood, forcing CLA members to pay more to cool their homes. The lack of greenspace and old growth trees will result in a less enjoyable and beautiful neighborhood—the charm of which was one of the reasons the CLA members purchased their homes. This will have a significant impact on Monticello Park, a haven for migratory birds and other wildlife, which many CLA members frequently enjoy.

118. CLA members are also concerned about the impact the population increase due to the Zoning Amendments will have on the school system. Apart from the traffic impacts during school drop off and pickup times already mentioned, it is likely that the schools will become overcrowded, which will cause problems not only with student learning and engagement but also with teacher and administrator retention.

119. The direct, pecuniary, and substantial harms that the board members of CLA and those whom they represent will suffer are different than those suffered by other residents in the city because of the Zoning Amendments.

120. 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 Amendments tells them, “if you don’t like it, then go somewhere else.”

COUNT I
The Zoning Amendments are void ab initio because City Council and the Planning Commission acted *ultra vires*

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

122. 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).

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

124. 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

125. 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.

126. 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.

127. “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. 655,658, 202 S.E.2d 889,892 (1974)).

128. 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.

129. The Zoning Amendments as they relate 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.

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

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

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

133. Because City Council and the Planning Commission enacted the Zoning Amendments *ultra vires*, the Zoning Amendments are *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 Amendments in contravention of its enabling authority *ultra vires*, and thus, the Zoning Amendments are 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

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

135. 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)).

136. 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 reversing generational impacts.

137. 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.

138. The Zoning Amendments do not serve the goals outlined by City Council and the Planning Commission.

139. 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.

140. 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.

141. 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.

142. 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, open and green space, natural habitat, and tree canopy depletion.

143. 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.

144. Additionally, adding more residents to areas that already suffer from flooding simply puts more citizens at risk of flooding and endangers those citizens' health and safety.

145. Rather, the Zoning Amendments 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

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

147. Upon information and belief, City Council and the Planning Commission did not comply with Va. Code § 15.2-2204(A) because it did not advertise the November 14 and 18, 2023 public hearings as to the public hearings regarding Ordinances 5514 and 5515 for two successive weeks, and the notice that was advertised appeared more than 14 days before.

148. Furthermore, the summaries in the advertisement were insufficient to give proper notice and inform the citizens.

149. In the alternative and/or in addition, City Council and the Planning Commission is required to send written notice via first class mail if more than 25 but fewer than 500 parcels are rezoned pursuant to Alexandria City Ordinance 11-302(E).

150. Upon information and belief, City Council and the Planning Commission did not comply with Alexandria City Ordinance 11-302(E) because it did not send notice of the hearing by first class mail.

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 Va. Code § 15.2-2204(A) and City Ordinance 11-302(E) and are *void ab initio*.

COUNT IV

The Zoning Amendments violate the Constitution of Virginia

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

152. 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.

153. 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.

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

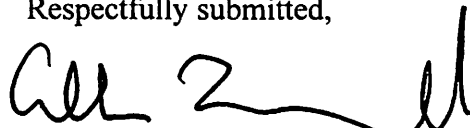
PRAYER FOR RELIEF

Plaintiffs request that this Court declare:

- a. As to Count I, declare that City Council and the Planning Commission enacted the Zoning Amendments, 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 III, declare that City Council and the Planning Commission failed to give proper notice under Va. Code § 15.2-2204(A) and Alexandria City Ordinance 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, award compensatory damages and reasonable attorney's fees and expenses permitted pursuant to applicable statutes.
- e. 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.
- f. Enjoin the Zoning Amendments from remaining in effect because they are *void ab initio*.

Respectfully submitted,

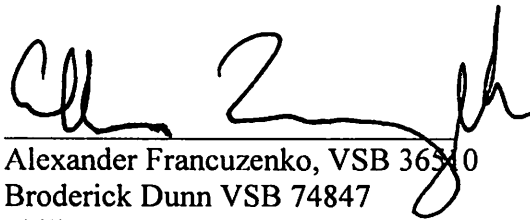


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of June, 2024, a copy of Plaintiffs' Amended Complaint was served on the below Counsel for Defendants via U.S. Mail and fax:

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