

## Lot Coverage Reform

### *Recognition of the Problem*

- Since February 2022, a majority of the Board have requested staff for a study of the need for reform of the lot coverage provisions of the Zoning Ordinance enacted in 2005.
- In its 2014 Stormwater Management Plan nine years ago, staff recognized the need for “a more comprehensive look” at lot coverage.
- Five years later, in its 2019 Stormwater Action Plan, staff similarly identified the importance of review of lot coverage ratios.
- Now, in the July 2023 draft Forestry and Natural Resources Plan (FNRP), staff also proposes to “re-evaluate” lot coverage (and how to define it).
- This draft plan reflects input from the staff’s 2021 Online Engagement Summary of public comments, compiling 1,018 submissions by 576 participants. These comments identified this issue in various ways, in two of the most frequently mentioned of six major themes:
  - “Find ways to discourage or limit development and impervious surfaces”
  - “Discourage development of large homes on small lots”
  - “Increase or strengthen requirements for tree protection”
  - “Place restrictions on single-family home sizes”
- Lot coverage reform is essential for three independent reasons:
  - Increased impervious surfaces in residential teardowns will continue to pose massive stormwater problems in the face of accelerating climate change.
  - Teardowns result in loss of mature trees as our tree canopy declines, and only 13% of Arlington’s tree canopy is on land owned by the County.
    - The 10% to 20% tree canopy requirement for private residential development – effective only after 20 years -- cannot serve to replace the present value of *mature* trees.
    - The draft FNRP recognizes that such mature tree canopy is valuable “in and of itself,” as well as to “soften the impacts of climate change,” quite apart from its important supplemental role in absorbing stormwater.
  - Preventing massive structures towering over more modest neighboring homes lies at the core of well recognized zoning concerns about privacy and quiet enjoyment.

### *The Need for Prompt Action*

- With every passing month since staff identified this problem nine years ago, teardowns have continued to wreak irreparable damage to Arlington neighborhoods and their mature tree canopy. We have provided the Board with numerous examples. For another recent one, see 3908 Military Road.
- The accelerating frequency and intensity of storms makes the problem even more urgent.
- So does the expansion of these lot coverage provisions to MM/EHO (with an option for 5% extra). This is particularly true in R-5 and R-6 neighborhoods, where 20 MM/EHO applications are already under active review.

- Delay has already forced the County to pay substantial sums to acquire residential properties (e.g., Westover and Waverly Hills) in efforts to mitigate the stormwater management problems that lot coverage reform should be addressing.
- The Board should not delay any longer in addressing this recognized and growing problem. **The study should begin no later than the end of calendar year 2023, with a report due from staff by second quarter 2024.**

### *The Scope of the Study*

- We would like to meet with the Planning Director to discuss this question.
- We agree with the draft FNRP that the study should include:
  - Whether the current percentage limits should again be reduced (as in 2005)
  - Whether the limits should differ among residential districts. (The limit now ranges from 45% for R-5 lots to 25% for R-20 lots.)
  - Whether the limits should be reframed as square foot rather than percentage limits
  - What should count toward lot coverage limits. Currently, the following impervious surfaces do not count:
    - Detached rear garages (5% addition)
    - Front porches of at least 60 square feet (3% addition)
    - Accessory buildings of 150 square feet or less
    - Patios less than 8 inches above finished grade
    - Decks, stoops, and landings less than four feet from finished grade
    - Sidewalks and other pedestrian walkways
    - Exterior basement steps
  - How to address undersized and oversized lots. E.g., why should a new home on a 10,000 square foot lot in an R-5 district, surrounded by lots half its size, be permitted much larger lot coverage than the smaller homes it surrounds?
    - The study should explore whether the separate main building limit adopted in 2005 adequately addresses this issue.
    - In addressing this question, the study should also examine how the subdivision ordinance should apply to oversized lots.
  - Setback and height limits.
  - However, under no circumstances should reduced lot coverage footprints be traded off for *increasing* the 35-foot height limit for residential structures.
    - This would defeat the purpose of zoning as long recognized by the Supreme Court – to prevent “interfering by . . . height and bulk with the free circulation of air and monopolizing the rays of the sun which otherwise would fall upon the smaller homes.” *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365, 394 (1926), cited, e.g., in *Cedar Point Nursery v. Hassid*, 141 S. Ct. 2071-72 (2021).
    - In fact, although the 2005 ordinance deferred action on height limits, there is widespread recognition that the current height limit is far too generous, because it fails to account for the steep slopes in Arlington (by using calculations based on the average height of four corners of the structure), and counts only half the height of gables.
- The study should include a comprehensive examination of how other comparable jurisdictions address this issue.