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HOMEOWNERS, HOMEBUYERS, RENTERS, AND DEVELOPERS BEWARE: ARLINGTON COUNTY AGAIN TO ISSUE MISSING MIDDLE HOUSING (MMH) PERMITS

New video shows completed MMH and what's next for Arlington.

Arlington County's website now welcomes developers to move forward with Missing Middle Housing (MMH – also called Expanded Housing Options (EHO)) permits:

> **As of October 1, the EHO Permit type in Permit Arlington is available for new applications. Property owners with approved EHO permits or permits that were under review at the time of Circuit Court ruling should email contactzoning@arlingtonva.us.**

After the October 2024 final judgment that MMH was invalid, the trial judge issued an order allowing the County Board to issue permits for existing EHO permit holders to begin or continue construction. But this was allowed only after the County ensured that developers placed language in the land records that this housing would become illegal if the homeowners won in the appellate courts.

But now, **potential purchasers won't be warned that MMH units will again become illegal if the Supreme Court of Virginia rules in favor of the homeowners** who brought the original case against the County Board.

The County Board's decision to plow ahead with MMH permits comes despite a written request by Neighbors for Neighborhoods that it pause the permitting process while the case is pending in the appellate courts.

Despite the pending litigation, the County has pulled out all the stops allowing developers to seek new EHO permits and to continue with ones they obtained before the trial. **The County's EHO tracker has changed the status of EHO permits that were listed as "void" to "approved**."

As a result, **today the homeowners petitioned the Supreme Court of Virginia to stay the September 5 decision of a 3-judge panel of the Court of Appeals** that a developer should have been allowed to intervene in the case. That decision was issued even though the developer sought intervention only after the trial was over and the judge ruled against the County. This follows the Petition for Appeal filed on October 6th in the Supreme Court of Virginia to overturn the September 5 decision.

If the County and developers are allowed to barrel ahead with MMH, housing for sale and rent with up to six units can and will be built on lots previously zoned for single family homes throughout the County **– but these units will become illegal if the Supreme Court reverses the decision of the Court of Appeals.**
Dan Creedon of Neighbors for Neighborhoods stated: "**A stay in the Supreme Court of Virginia putting Missing Middle Housing (MMH) on hold will protect homeowners, homebuyers, renters, and developers in Arlington. If the Supreme Court reverses the Court of Appeals and MMH is again invalid – a decision that could take up to a year – illegal MMH housing will be spread across the County. Then what?"**

It is important to note that the litigation does not address whether or not the MMH policy benefits Arlington residents. The case focused on the adoption and implementation of MMH zoning, which the trial judge ruled violated Virginia law.

But whether or not MMH policy has delivered on the County's promises of affordability matters in light of the County's decision to issue MMH permits and to continue to litigate the case.

The attached video shows that MMH zoning in Arlington has not produced housing that is affordable for the groups that the County promised would benefit from it: teachers, firefighters, police officers, and young professionals.

And MMH has nothing to do with "affordable housing" – which in Arlington focuses on households earning 60% or less of Area Median Income (AMI).

As Neighbors for Neighborhoods has repeatedly pointed out, the 2025 Profile (page 19) shows that Arlington has and will have more housing units than households.

Arlington County's own data (page 7) shows that we have a **deficit of rental units for households earning less than 50% AMI, while there is a surplus of rental housing for those earning more than 50% AMI.**

The sales price of $1,795,000 for a MMH unit in a duplex on Troy Street shows that the MMH policy is producing more housing types for upper-income households, not for low or middle-income households.

So why is the County Board adding to its existing legal bills of more than $1.4 million, funded with taxpayer dollars, to pursue a failed MMH policy?

Why is the County Board encouraging developers to build more MMH that is affordable to only upper income households, when the real need in Arlington is for rental housing that households earning 50%-60% or less can afford and for affordable home ownership opportunities?

Why isn't the Board focused more on efforts like the Goodwill project that will add approximately 120 affordable housing units or workforce housing that is available in Fairfax?

Dan Creedon, with Neighbors for Neighborhoods, LLC, states**: "The County Board has dug in its heels on a failed MMH policy that has produced more housing units for upper-income households, but not a single one for those who need affordable housing. Imagine how many low and moderate-income households could benefit from $1.4 million – the amount of taxpayer funds that the County has spent on its outside lawyers, not to mention the huge amounts it will continue to spend defending MMH."**

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