

DATE: March 15, 2007

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief, Development Review *RK*
Ralph Wilson, Acting Zoning Supervisor *RW*

FROM: Karl Moritz, Chief, Research & Technology Center *KM*
Roselle George, Research Manager *RG*
Sharon K. Suarez, AICP, Housing Coordinator *KS*

REVIEW TYPE: Zoning Text Amendment

PURPOSE: To increase workforce housing and to increase density within metro station policy areas by providing incentives, including additional height over and above that allowed in the master plans. Zoning Text Amendment (ZTA) 07-03 proposes to allow and encourage the provision of at least 10 percent addition workforce housing on tracts in metro station areas that have zoned densities less than 40 dwelling units per acre. The incentives proposed included allowing additional height over and above that allowed in the Metro Station Sector Plan/Master Plan and reductions in green space requirements.

TEXT AMENDMENT: No. 07-03

REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance

INTRODUCED BY: Councilmember Floreen

INTRODUCED DATE: February 13, 2007

PLANNING BOARD REVIEW: March 22, 2007

PUBLIC HEARING: March 27, 2007

RECOMMENDATION: APPROVAL with modifications.

The ZTA should be modified to allow voluntary workforce housing within the height limits established by the master plans or sector plans and under the development standards of the zone.

QUESTIONS

Within metro station policy areas, ZTA 07-03 (attached) allows and encourages voluntary inclusion of workforce housing for development that would not otherwise be required to provide workforce housing. Such development typically, but not always, includes tracts of land along the edges of metro station areas that are zoned for less than 40 dwelling units per acre and that are large enough to allow projects of 35 dwelling units. In order to accommodate the voluntary workforce units, this ZTA expands the **requirement** that the Planning Board permit certain



incentives, specifically additional height over and above that allowed in the Metro Station Sector Plan or Master Plan and additional reductions in green space requirements below those allowed in the zone. Can ZTA 07-03 be supported as written? It depends on the answers to the following questions:

- Is it consistent with previous Planning Board decisions related to Workforce Housing legislation?
- How would ZTA 07-03 affect adopted and approved metro station policy area sector plans?

DISCUSSION

Is the ZTA 07-03 consistent with the Planning Board’s position on the need to provide incentives to produce workforce housing?

The short answer is “no.” In the November 2005 memo to the County Council, the Planning Board told the County Council that workforce housing should be considered market rate housing. In fact preliminary sales data for the first three quarters of 2006 indicates that nearly half of the new condos sold at prices affordable to households earning workforce incomes.

Preliminary sales data for first 3 Quarters of 2006 indicates that many new condos were affordable to the workforce. (STAR 2007)

Price Range	New Condos	Running Percent	Income Required
\$100K - \$124,999	17	4.7%	\$40,800
\$125K - \$149,999	9	7.2%	\$48,500
\$150K - \$199,999	19	12.4%	\$63,700
\$200K - \$249,999	63	29.8%	\$79,600
\$250K - \$299,999	45	42.3%	\$97,800
\$300K - \$349,999	37	52.5%	\$110,000
\$350K - \$399,999	27	59.9%	
\$400K - \$449,999	55	75.1%	
\$450K - \$499,999	46	87.8%	
\$500K or more	38	98.3%	
\$99,999 or less	6	100.0%	
	362		

The Planning Board recommended that workforce housing units be produced within the base density permitted and that the threshold for requiring workforce housing should

be 20 units, not 35. The following recommendation is taken from page 6 of the November 2005 memo (attached) and explains the Planning Board’s position.

- Clarify in 25B-24(d) that the requirement to build workforce housing units would be triggered in the same way MPDUs are triggered: “A developer of any subdivision with ~~35~~ 20 or more dwelling units, excluding any MPDU bonus density units, at one location must build the number of workforce housing units...” *As discussed earlier, staff’s research indicates that workforce housing is market rate housing and, as such, is profitable. Workforce housing should be required as part of the base number of units provided.*

The July of 2006 memo (attached) to the County Council staff confirms the Planning Board’s position of November of 2005, which was that the workforce housing requirement should be accommodated *within*, rather than in addition to, the base density permitted on the parcel. In July of 2006, the Board also refuted several arguments typically used to justify density bonuses:

- *A density bonus is needed for financial feasibility.* The Planning Board did not find that a density bonus would be needed to make workforce housing financially feasible, for several reasons. First, the financial analyses undertaken at the time suggested that the difference between the scenarios with a density bonus and those without was quite modest – less than 5 percent in all cases. That percentage indicates that there are other ways to accommodate the workforce housing requirement. As our consultants pointed out, each of the major inputs to the analysis (land, labor and materials costs, among others) can easily vary by more than 5 percent from project to project.
- *Land is too expensive.* The cost of land is determined, first and foremost, by the potential uses for that land. Ultimately, the impact of a workforce housing requirement without a density bonus could be resolved by lowering the amount that a developer would be willing to pay for land.
- *A density bonus will compensate developers for a new requirement.* The Planning Board noted that government can and does impose new requirements, including those that cost money, without compensating actions. At the regularly scheduled November 17, 2005, meeting, the Planning Board considered the staff's research that indicated workforce housing, even in projects of as few as 20 units, could be considered market rate housing and not in need of any incentive other than profit.

How would this ZTA affect adopted and approved metro station area sector plans? Are there any trouble spots?

Community-Based Planning's (CBP) March 1 memo states that additional height could create problems in certain metro station policy areas. The CBP Division also cautions against reducing green space below the reductions already allowed. On the second page of their memo they state, **"Developers should be able to propose workforce housing but also be required to conform to master plan guidance if any is given. Not all master plans have compatibility guidelines and those that do usually have it for a reason. It is important to plan communities not by legislation but rather than by master plans."** CBP states that five metro station policy areas have transitions to single-family neighborhoods that would be jeopardized by additional height: Friendship Heights, Bethesda, Grosvenor, Shady Grove, and Glenmont. Their memo and accompanying metro station policy area maps are attached, with the potential trouble spots identified.

RECOMMENDATION

The Planning Department supports the goal to increase housing opportunities that are affordable to our workforce within metro stations areas. However, there are several reasons why additional incentives are not needed to accomplish it. First, though workforce housing is considered more affordable than many market rate units, it is, in the opinion of the Planning Board, still considered market rate housing. Because a significant portion of recent new condos were sold at prices affordable to workforce incomes, financial feasibility is not a strong argument for relaxation of development standards. Second, where needed, certain metro station policy area sector plans have carefully crafted transitions between single-family residential densities and other more intense uses, including multifamily residential uses. Not all master plans have compatibility guidelines, but those that do have them for a reason. Therefore, the proper

recommendation is to allow voluntary workforce units within the height limits established by the appropriate master plans or sector plans and within the development standards of the zone.

SKS

Attachments

1. ZTA 07-03
2. Community-Based Planning Memo (March 2007)
3. Metro Station Area maps
4. Memo (November 2005)
5. Memo (July 2006)

Attachment 1. ZTA 07-03

Zoning Text Amendment No: 07-03
Concerning: Workforce Housing - Option
Draft No. & Date: 1 – 2/7/07
Introduced: February 13, 2007
Public Hearing: March 27, 2007; 1:30 p.m.
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- clarifying that a developer in a metro station policy area may voluntarily provide workforce housing; and
- generally amending the provision for workforce housing.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-2	“DEFINITIONS AND INTERPRETATION”
Section 59-A-2.1	“Definitions”
DIVISION 59-A-6	“USES PERMITTED IN MORE THAN ONE CLASS OR ZONE”
Section 59-A-6.18.	“Workforce housing
Section 59-A-6.18.2	“Requirements”
DIVISION 59-C-7	“PLANNED UNIT DEVELOPMENT ZONES”
Section 59-C-7.14	“Density of Residential Development”
Section 59-C-7.16	“Green Area”

*EXPLANATION: **Boldface** indicates a heading or a defined term.
Underlining indicates text that is added to existing laws
by the original text amendment.
[Single boldface brackets] indicate text that is deleted from
existing law by the original text amendment.
Double underlining indicates text that is added to the text
amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted
from the text amendment by amendment.
* * * indicates existing law unaffected by the text amendment.*



ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

28 housing units that is not less than 10 percent of the total number of
29 proposed market dwelling units, not including any MPDUs or
30 resulting bonus density units, or dwelling units excluded under
31 Chapter 25B.

32 (b) Any subdivision that would contain 35 or more market dwelling units,
33 and that would be located in a zone with a maximum permitted
34 residential density less than 40 dwelling units per acre and in a Metro
35 Station Policy Area, may include an amount of workforce housing
36 units that is not less than 10 percent of the total number of proposed
37 market dwelling units, not including any MPDUs or resulting bonus
38 density units, or dwelling units excluded under Chapter 25B.

39 ([b]c) A site plan is required under Division 59-D-3 for any project that
40 includes a workforce housing unit.

41 ([c]d) To allow the construction of all workforce housing units on site, the
42 Planning Board must permit:

43 (1) any residential density or residential FAR limit of the
44 applicable zone to be exceeded to the extent required for the
45 number of workforce housing units that are constructed, but not
46 by more than 10 percent;

47 (2) any residential density or residential FAR limit established in a
48 master or sector plan to be exceeded to the extent required for
49 the number of workforce housing units that are constructed, but
50 not to more than the maximum density and FAR of the zone,
51 except as provided in paragraph (1), and

52 (3) any building height limit established in a master or sector plan
53 to be exceeded to the extent required for the number of

54 workforce housing units that are constructed, but not to more
55 than the maximum height of the zone.

56 * * *

57 **Sec. 3. DIVISION 59-C-7 is amended as follows:**

58 **DIVISION 59-C-7. PLANNED UNIT DEVELOPMENT ZONES.**

59 * * *

60 **59-C-7.1. P-D zone—Planned development zone.**

61 * * *

62 **59-C-7.14. Density of residential development.**

63 * * *

64 (c) The density of development is based on the area shown for residential
65 use on the master plan and must not exceed the density permitted by
66 the density category granted. However, the maximum density
67 allowed under subsection (a) may be increased to accommodate the
68 construction of Moderately Priced Dwelling units and workforce
69 housing units as follows:

- 70 (1) For projects with a residential density of less than 28 dwelling
71 units per acre, the number of Moderately Priced Dwelling Units
72 must not be less than either the number of density bonus units
73 or 12.5 percent of the total number of dwelling units,
74 whichever, is greater.
- 75 (2) For projects with a residential density of more than 28 dwelling
76 units per acre, the number of Moderately Priced Dwelling Units
77 must be at least 12.5 percent of the total number of dwelling
78 units in accordance with Chapter 25A.
- 79 (3) Any project with a residential density at or above 40 dwelling
80 units per acre that contains 35 or more market dwelling units

81 must provide workforce housing units as required by Section
 82 59-A-6.18 and Chapter 25B.

83 (4) Any project with a residential density less than 40 dwelling
 84 units per acre that contains 35 or more market dwelling units
 85 may provide workforce housing units as described in Section
 86 59-A-6.18 and Chapter 25B.

87

88 * * *

89 **59-C-7.16. Green Area**

90 Green area must be provided in amounts not less than indicated by the following
 91 schedule:

92 Density	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114
<u>Category</u>																						
	*	*	*																			
Medium high																						
PD-15																						
PD-18																						
[PD-13																						
PD-22																						
PD-25																						
High																						
PD-28																						
PD-35																						
PD-44																						
Urban High																						
PD-60																						
PD-68																						
PD-75																						
PD-88																						
PD-100																						

115 *Green area may be reduced to 35 percent for “Medium High” and “High”
116 densities and to 20 percent for “Urban High” densities to allow the construction
117 of all workforce housing units on site.

118

119 * * *

120 **Sec. 5. Applicability.**

121 The requirement to construct workforce housing under Chapter 25A and
122 Section 59-A-6.18 does not apply to any development for which an
123 application for a local map amendment, development plan, project plan,
124 preliminary subdivision plan, site plan filed before December 1, 2006. But
125 any development so excluded may voluntarily construct workforce housing.

126

127 **Sec. 6. Effective date.** This ordinance takes effect 20 days after the date of
128 Council adoption.

129

130 This is a correct copy of Council action.

131

132

133

134

135 _____
Linda M. Lauer, Clerk of the Council

Attachment 2. Community-Based Planning Memo (March 2007)

March 1, 2007

Memorandum

TO: Karl Moritz, Chief, Research Division *KJM*
Sharon Suarez, Research Division *SKS*

Via: John Carter, Chief, Community Based Planning Division *JC*
Karen Kumm Morris, Lead Planner Shady Grove Sector Plan *KKM*

Subject: Workforce Housing ZTA 07-03

Recommendation: Allow properties with less than 40 units per acre to apply for workforce housing if conformance to master plan guidance is achieved.

Proposed ZTA 07-03

The purpose of the proposed ZTA 07-03 is to allow more property within Metro Policy Areas the option to provide workforce housing and benefit from the reduced development standards. The original workforce housing legislation for Metro Policy Areas was limited to property zoned for 40 units per acre or greater and required workforce housing to be provided. The original legislation allowed a reduction in green space and an increase in building heights by the amount of proposed workforce housing over master planned recommended heights but not more than allowed by zoning.

The proposed ZTA 07-03 eliminates the 40 unit per acre threshold and would allow any subdivision with more than 35 units in Metro Policy Areas to propose workforce housing and thus, reduce green space and increase building heights over the recommendations in the applicable master plan.

Analysis

There is a need for workforce housing in the County to help improve housing affordability to those who exceed the MDPU income ceiling but still struggle to afford housing in Montgomery County. The recently approved, initial workforce housing legislation requires workforce housing and allows a reduction of green space and taller buildings than recommended in the master plan but not taller than required in the zone. The required workforce housing was limited to areas within Metro Policy Areas where the greater densities were desired at 40 units per acre or greater.

The new text amendment will allow properties with less than 40 units per acre to propose workforce housing in exchange for reduced green standards and taller buildings than recommended in the master plans. This affects many properties along the edge or transitional areas of Metro Policy Areas and raises compatibility concerns. The number of areas affected by the proposed legislation is listed below.

14

Developers should be able to propose workforce housing but also be required to conform to master plan guidance if any is given. Not all master plans have compatibility guidelines and those that do usually have it for a reason. It is important to plan communities not by legislation but rather than by master plans.

Affect on Communities within Metro Policy Areas

The proposed text amendment affects properties in the following planning areas: Shady Grove, Bethesda, and Friendship Heights.

Shady Grove Sector Plan

The proposed ZTA 07-03 will have an impact upon three properties at the edge of Old Derwood, an R-200 single family neighborhood, and along Redland Road where building heights were designated at four stories to create a Main Street.

The Plan was recently adopted and approved with workforce housing factored into the density and building height recommendations. Higher densities and building heights were focused around the Metro station. The two transitional properties that abut Old Derwood are recommended for PD 35 zoning and the Derwood Bible site is recommended for R-90/TDR 13, less than 40 units per acre and with building heights that stepped down from four stories to three stories towards the existing single family neighborhoods.

The proposed ZTA 07-03 would allow five story buildings on the transitional properties and establish a five story character along Redland Road thus changing the character from the Sector Plan's four story recommendation. Also, the amount of green space would be reduced from a 50% green space requirement of the PD 35 zone to a reduced 35% green space requirement. This would have the affect of creating a more intense development than intended by the Sector Plan on these transitional properties. See attached map of affected Shady Grove properties.

Twinbrook Sector Plan

Twinbrook has R-20 and R-30 zoned, existing garden apartments on the east side of the planning area that not likely to change. Areas within the Twinbrook planning area are all being considered for densities higher than 40 dwelling units per acre. See attached map.

North Bethesda -White Flint Plan

The existing Master Plan recommends rezoning several parcels with TSR and TSM zoning, achieving higher than 40 units per acre. The current master planning effort continues to consider development at higher densities appropriate for the Metro station area. Therefore, the proposed amendment does not affect this area.

North Bethesda - Grosvenor Plan

The Master Plan recommends PD 25 zoning for parcels adjacent to the Metro station and that back up to the existing Garrett Park community. Several of the parcels recently have been developed with five floor multi-family housing and four story townhouses in accordance with master plan recommendations. There is one remaining, undeveloped parcel directly adjacent to the Metro station where the master plan does not give specific building height restrictions. Therefore, the proposed amendment does not affect this parcel. See attached map.

Bethesda Sector Plan

The Sector Plan recommends a PD 22 for a property in East Bethesda at the corner of Pearl Street and East West Highway and sets building height limits at four stories to transition to the existing single family neighborhood. See attached map.

Friendship Heights Plan

The Sector Plan recommends an R-60/TDR for the GEICO site allowing 28 dwelling units/acre, single family attached units with four story building heights. The property would be affected by the proposed ZTA and would allow taller buildings and less green space. See attached map.

Silver Spring Sector Plan

The Sector Plan recommends CBD .5 zoned development for the east side of the Central Business District. These properties are transitional to single family neighborhoods. The Sector Plan does not recommend specific height limits. The proposed ZTA amendment does affect the nearby neighborhoods.

Wheaton

The Sector Plan has R-20 and R-30 existing apartments along the east side of the CBD that are transitional to existing single family neighborhoods. These properties are not likely to redevelop in the near future. These properties would not be affected by the proposed text amendment.

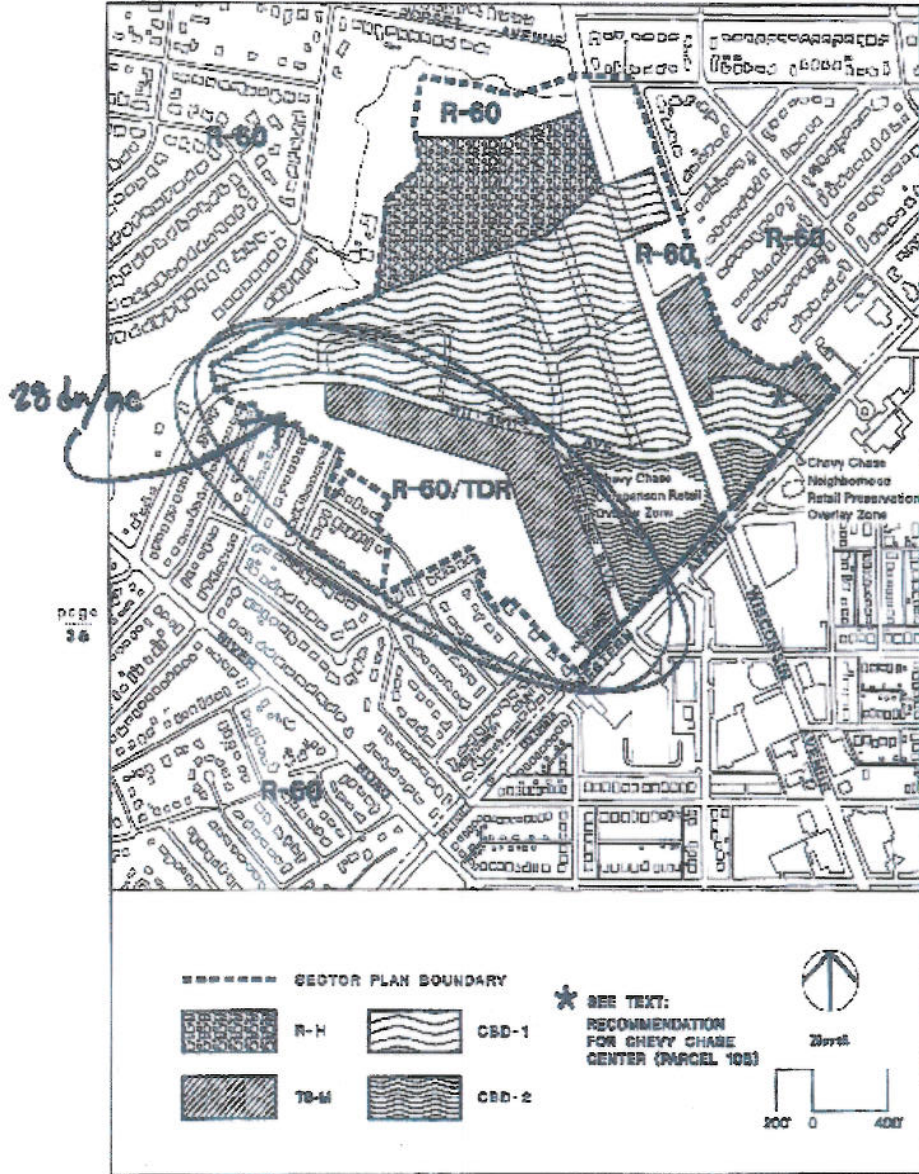
Glenmont Sector Plan

The Sector Plan recommends a PD 15 in the Georgia Avenue West Neighborhood of the Plan that directly abuts the Denley Community. The Plan does not have any specific design guidelines that address building heights or green area. See attached map.

Attachment 3. Metro Station Policy Area Maps with Trouble Spots Identified

Friendship Heights
PROPOSED ZONING

FIGURE 21

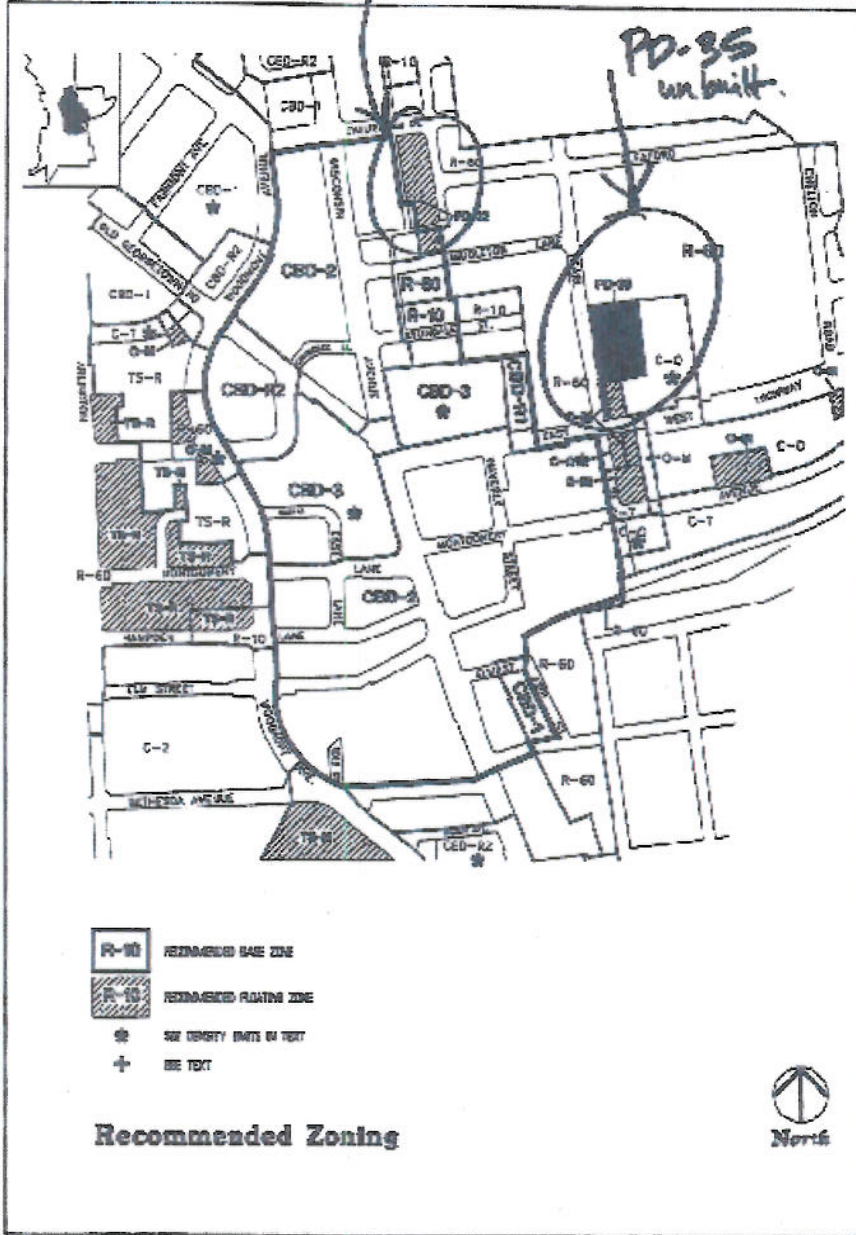


page
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286/nc

Bethesda
METRO CORE DISTRICT

FIGURE 4.6

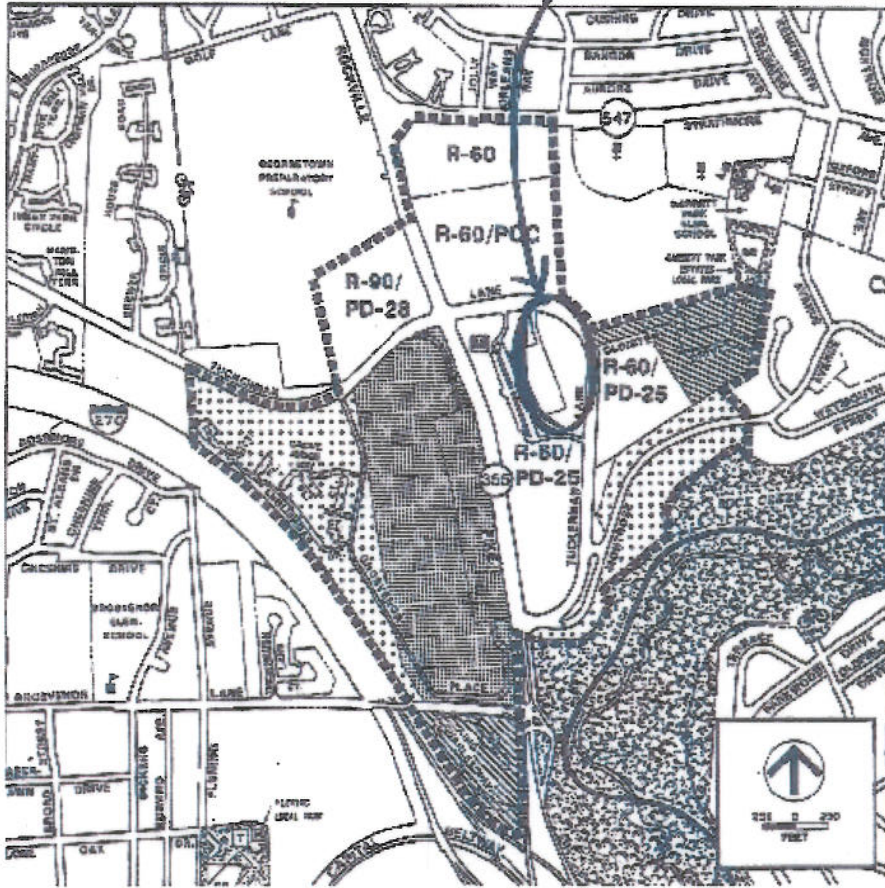


BETHESDA CBD - APPROVED & ACCEPTED JULY 1994








GROSVENOR SECTOR PLAN AREA - PROPOSED
BASE/FLOATING ZONES

FIGURE 22

PD 25 on lot



page
65

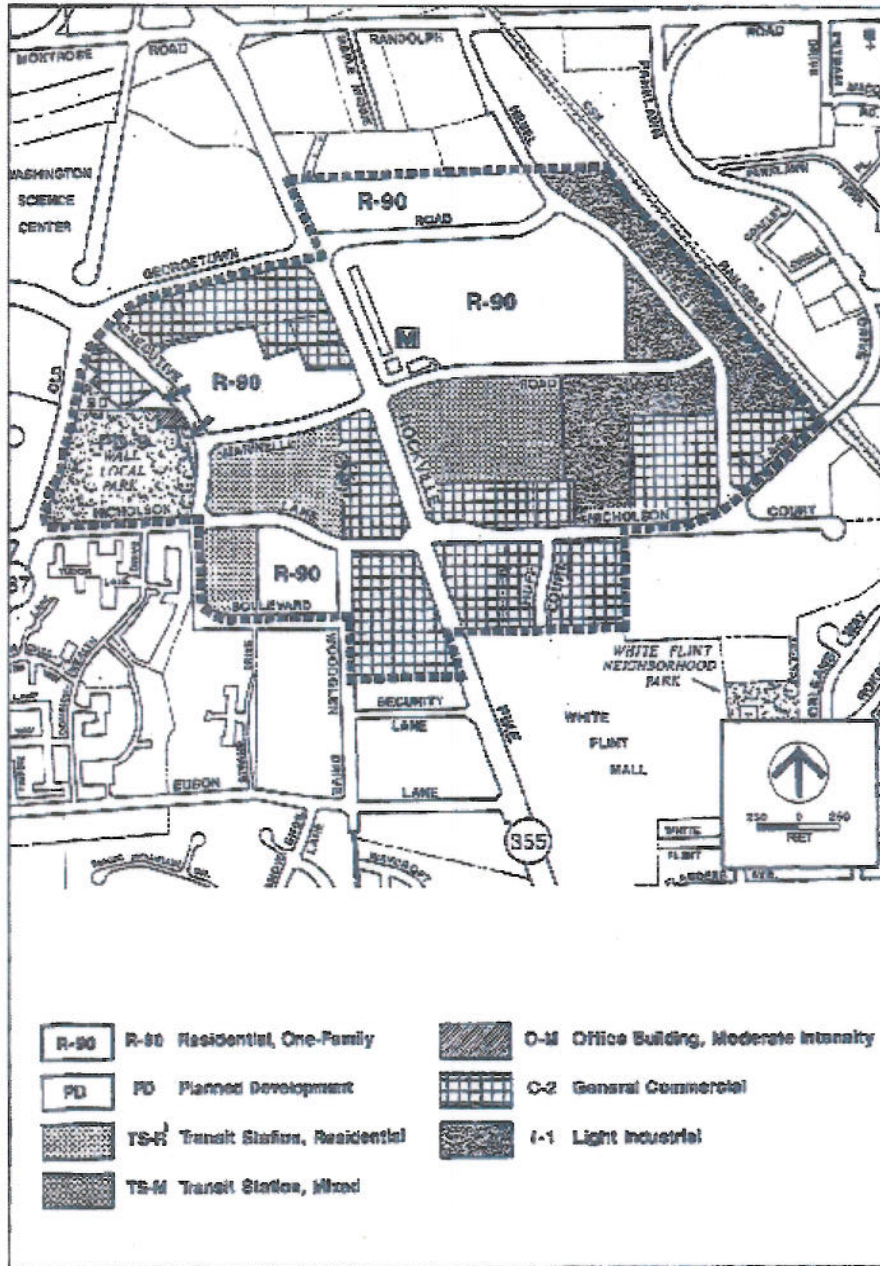
 R-90/ PD-28 Residential, One-Family/ Planned Development	 R-30 Multiple-Family, Low Density Residential
 R-60/ PCC Residential One Family/ Planned Cultural Center	 R-10 Multiple-Family, High Density Residential
 R-80/ PD-25 Residential, One Family/ Transit Station, Residential	 RT-12.5 Residential, Townhouse
 R-60 One Family Detached Residential	

NORTH BETHESDA/GARRETT PARK APPROVED & ADOPTED

No properties less than
40 do/ac

WHITE FLINT SECTOR PLAN - EXISTING ZONE

FIGURE 17

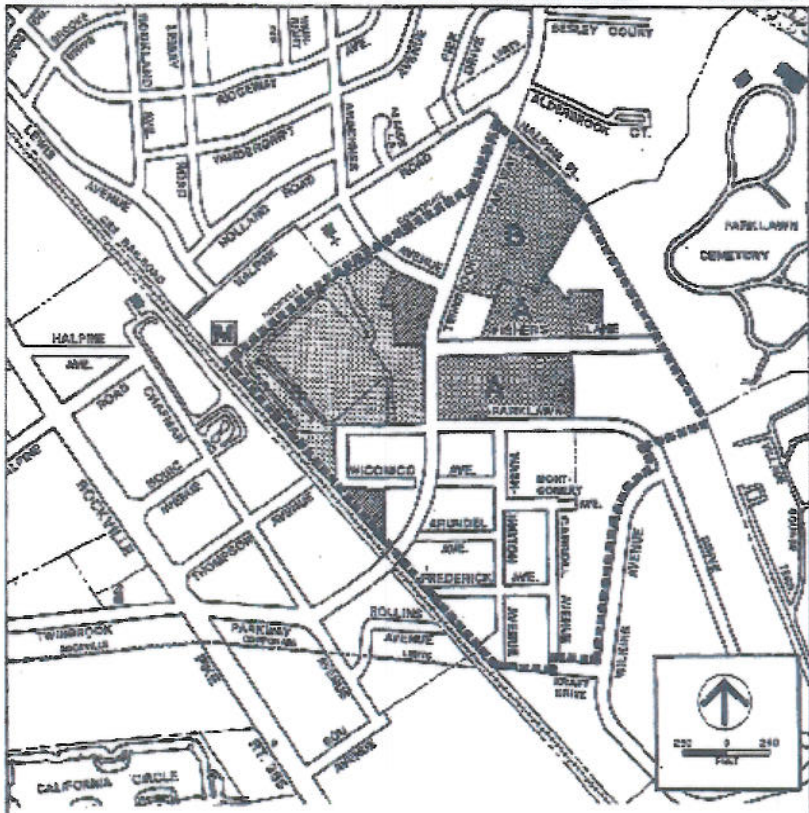


Page 55




North Bethesda/Cornett Park Alignment & Adjacent

No properties less than
40 du/ac

TWINBROOK SECTOR PLAN AREA - PROPOSED FLOATING ZONES FIGURE 15

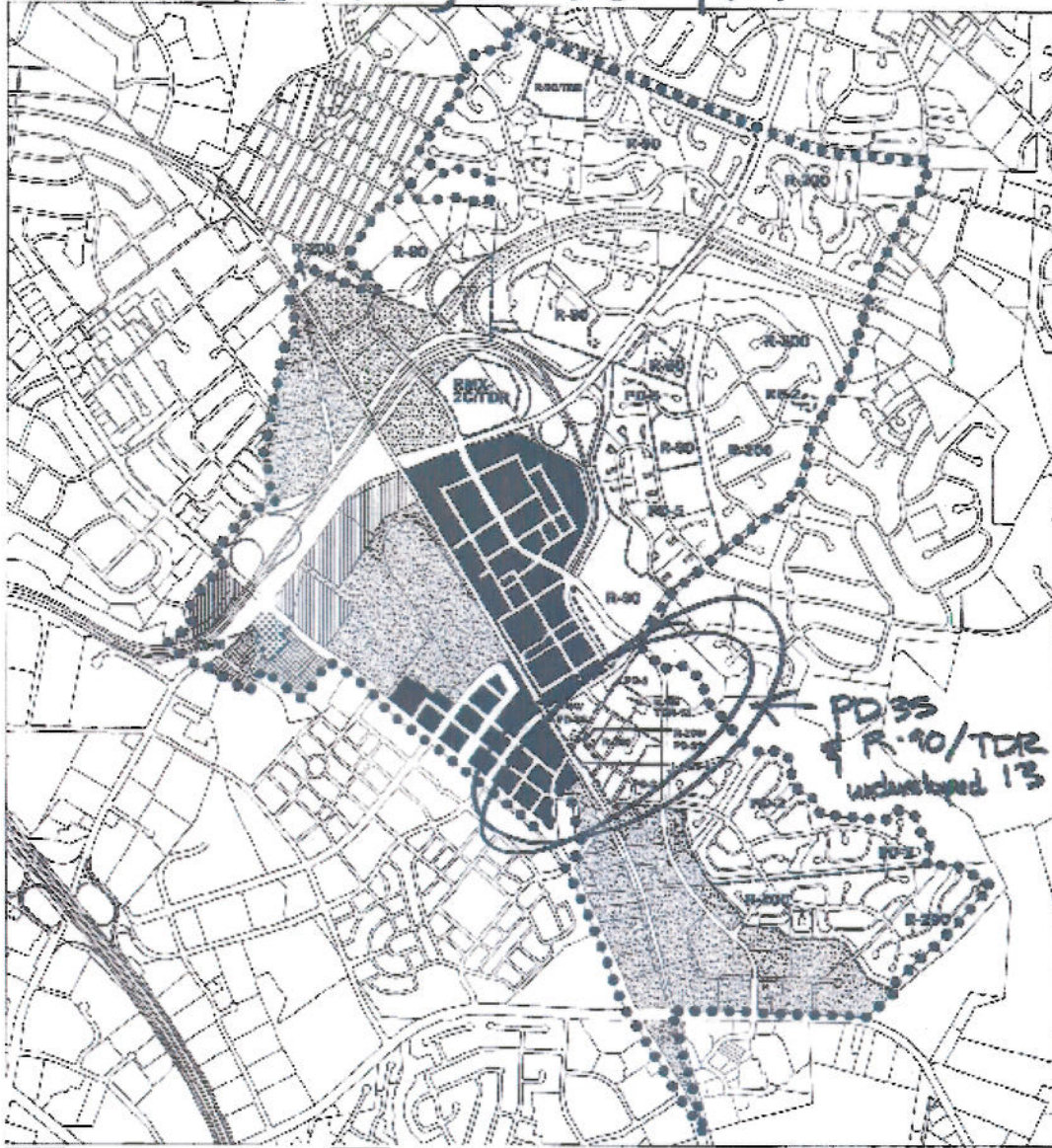


page
47

- | | | | |
|---|---|----------|-----------------------|
|  | TS-R Transit Station, Residential | A | Commercial Component |
|  | TS-M Transit Station, Mixed | B | Residential Component |
|  | O-M Office Building, Moderate Intensity | | |

NORTH BETHLEHEM/CASEY PLAN APPROVED & ADOPTED

Proposed Zoning *Shady Grove Sector Plan*



RS-2 Residential, Single-Family	PD-5 Planned Development	TS-M Transit Station, Mixed
RS-2005 Residential, Single-Family	PD-13 Proposed Planned Development	O-M Office Building, Moderate Intensity
R-80 Residential, Single-Family	PD-15 Proposed Planned Development	C-3 Convenience Commercial
TDR Residential, Transferable Development Rights	PD-22 Proposed Planned Development	I-1 Light Industrial
RT-4 Residential, Townhouse	PD-35 Proposed Planned Development	I-3 Proposed Industrial Park
R-20 Residential, Multi-Family	TDR New Residential, Metro Mixed Use	R&D Proposed Research & Development
PD-2 Planned Development	MIX-CC Mixed Use, Commercial	----- Zoning Boundary Lines

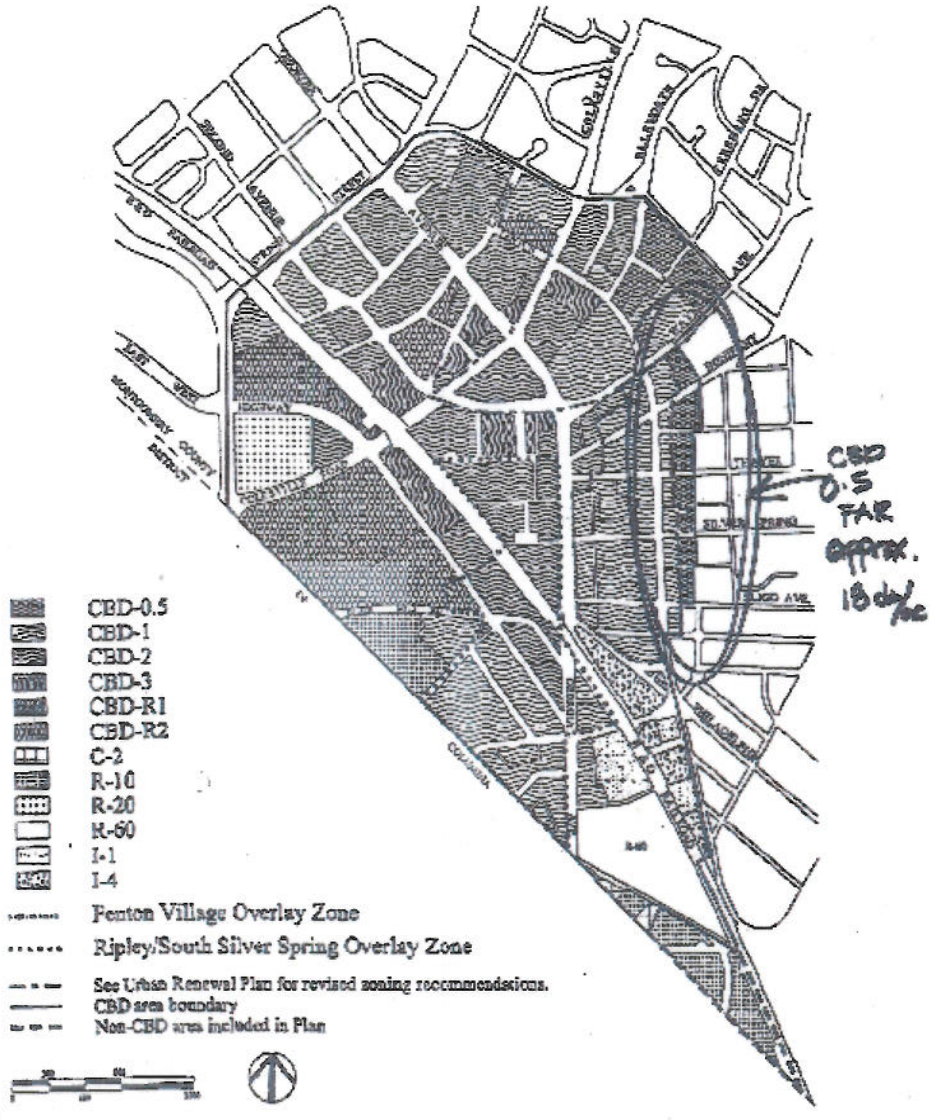
Shady Grove Sector Plan

0 2200'

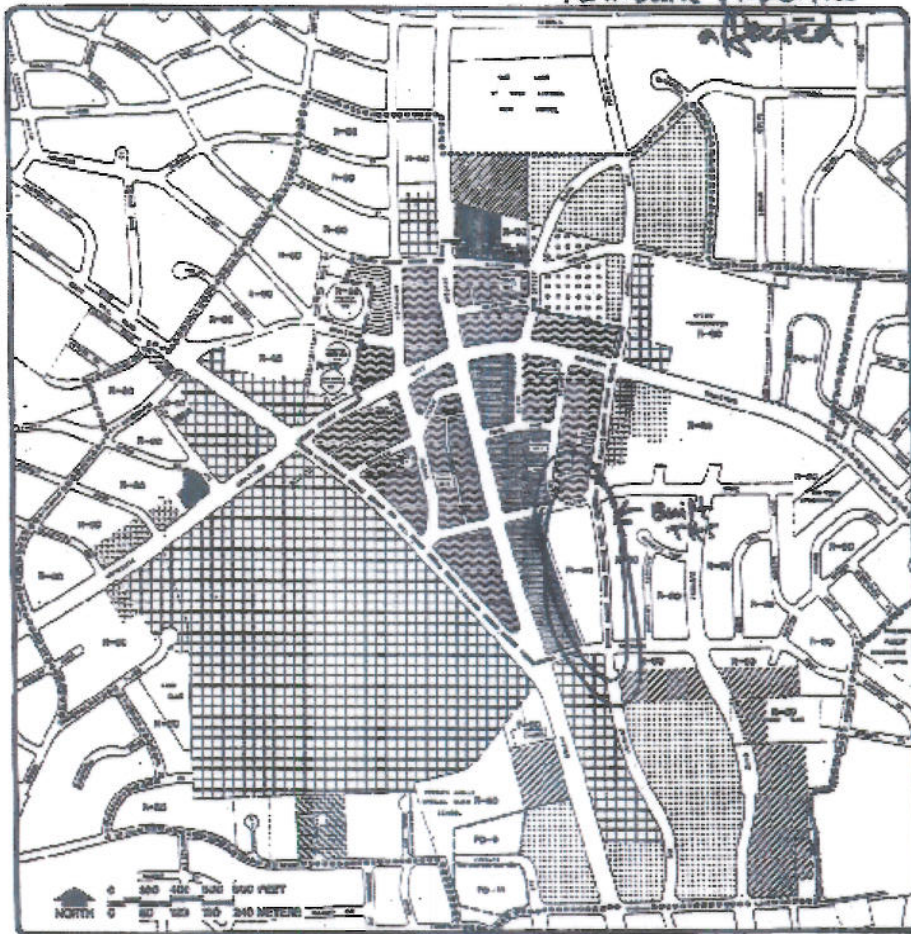
January 2016

NOTE: This corrected map replaces page 33 in the bound version of the February 2000 Silver Spring CBD Sector Plan.

Map 6 Proposed Zoning Plan



No un-built properties affected



EXISTING ZONING

R-10 One Family	R-15 Low Density Apartment	C-1 Local Commercial
R-20 Two Family	P.D. Planned Development Zone	C-2 General Commercial
RT-12.5 Townhouse	C-M Office Building Moderate Intensity	CBD-1 Central Business District
R-12.5 Townhouse	C-H High Density Office	CBD-2 Central Business District
R-10A Medium Density Apartment	C-T Commercial Transition Zone	CBD-3 Central Business District
		Sector Plan Boundary
		Central Business District Boundary
		Proposed Street Not Constructed

WHEATON

SEPT. 1990

8

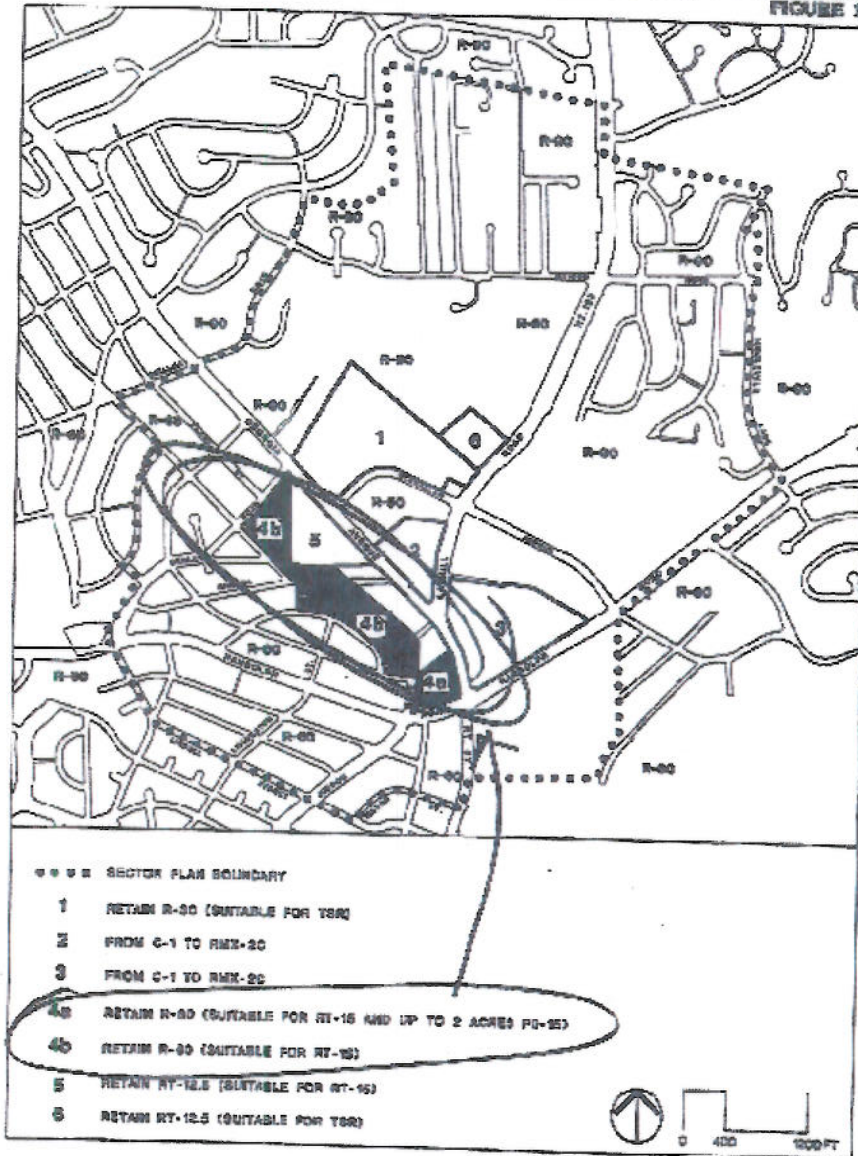
SECTOR PLAN

KW

PLANNING AREA

Glennmont PROPOSED AREAS FOR REZONING

FIGURE 12



26

Attachment 4. Memo (11/9/05)

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

November 9, 2005

Memorandum

To: Montgomery County Planning Board
Via: Karl Moritz, Chief, and Research & Technology Center
From: Sharon K. Suarez, AICP, Housing Coordinator, Research & Technology Center
Subject: Council Bill 30-05 and Zoning Text Amendment 05-16 – Workforce Housing

Background

The Planning Board has been asked to review Council Bill (CB) 30-05 and Zoning Text Amendment 05-16, both of which have been proposed to increase the production of new housing units affordable to working households earning between 80 and 120 percent of the Area Median Income (AMI). This body of proposed legislation seeks to complement the Moderately Priced Dwelling Unit (MPDU) program, the Productivity Housing Program, and other County affordable housing programs.

The purpose of this memo is to provide comments on the bill and ZTA introduced by the County Council in October, as well as to introduce the staff's workforce housing policy proposal, technical supplement, and related memos to Council. Copies of Bill 30-05, Zoning Text Amendment (ZTA) 05-16, the latest version of staff's Workforce Housing Policy proposal and related technical supplement, and the various related memos are attached.

Council Bill 30-05

As proposed, Council Bill 30-05 creates "Article 5: Workforce Housing" and in doing so:

- Defines a workforce housing project as one with ten percent of the dwelling units—not counting any MPDUs or any resulting bonus density units—are sold or rented to households with incomes at or below 120 percent of the AMI.
- Requires that a developer of any subdivision with 35 or more dwelling units at one location to build the number of workforce housing units required under Chapter 59.

- States that the program’s administration will be similar to or at least consistent with the regulations that govern the MPDU program.
- Requires the developer of a workforce housing project, together with the Department of Housing and Community Affairs (DHCA), to execute an agreement to build workforce housing units. This agreement must address staging, mix, and sales prices or annual rents.

Zoning Text Amendment 05-16

As proposed, ZTA 05-16 defines a workforce housing unit, stipulates the applicable zones, and provides standards for the development of workforce housing units, as follows:

- Defines a workforce housing unit as one that is subject to rent limits or sales controls under Chapter 25B, and states that a workforce housing unit is not an MPDU or a Productivity Housing Unit.
- Defines a workforce housing development as one located in a zone with a maximum permitted residential density at or above 40 dwelling units per acre AND located in a Metro Station Policy Area. The applicable zones include R-10, R-H, C-2, CBD-.0.5, CBD-R1, CBD-1, CBD-2, CBD-3, and CBD-R2.
- Requires workforce housing for any preliminary plan of subdivision that proposes the development of 35 or more dwelling units, not counting any MPDU bonus density units.
- The R-10 and R-H zones require workforce housing in developments stipulates that the number of workforce housing units will be based on the total number of dwelling units – including TDRs—but not counting any MPDUs or resulting Bonus Density units.

Workforce Housing Policy Proposal

Staff proposes that the County consider a comprehensive approach to the provision of workforce housing. Staff has prepared a proposed amendment to the County’s housing policy. Staff is not sure that there is sufficient time on the Board’s November 17 agenda to review this proposed policy, but staff would like to review the main elements of our proposed policy with the Board to determine if the Board would like to schedule a work session on this matter.

Summary of Recommendations

The Department’s staff agrees that there is a pressing need to increase the supply of housing affordable to Montgomery County’s workforce households and applauds the intent of the initiative encompassed in Bill 30-05 and ZTA 05-16. Staff agrees that this program will indeed complement the County’s other affordable housing initiatives. With that in mind, staff submits the following three recommendations to the Planning Board.

1. *Approve Bill 30-05 with the following modifications:*

- Define “Planning Board” in Section 25B-23 (Definitions).
- Cap workforce incomes at 100 percent of AMI, instead of at 120 percent of AMI. (See 25B-23 (j), 25B-24(b), 25B-27(a), and elsewhere.)
- Clarify in 25B-24(c) that the intent to complement the MPDU program means that there will be no gap between the upper income limits of the MPDU program and the lower limits of the workforce housing program.
- Clarify in 25B-24(d) that the requirement to build workforce housing units is not yet expressly required in any zone under the current version of Chapter 59. ZTA 05-16 is being introduced to provide that expression. Rewrite the sentence as follows: “A developer of any subdivision with 35 or more dwelling units, excluding any MPDU bonus density units, at one location must build the number of workforce housing units...”
- Add a numbered subparagraph under 25B-25(a) (Agreement) (1) to indicate that the DHCA Director will provide a copy of the original agreement to build workforce housing and any subsequent modifications of that agreement to the Planning Board, and the Planning Board will, in turn, notify the Director of any and all amendments to the approved site plan. In (2) provide relief from escalating construction costs and housing valuations, so that there can be anticipated adjustments to the sales prices for units built several years after the agreement to build is executed. Staff recommends using the Consumer Price Index (CPI).
- In paragraph (25B-25(b) (Issuance of building permit), make the Article more enforceable by providing clear guidance as to what percentage of the workforce housing units must be constructed or approved in comparison to a percentage of market rate units. Staff recommends using 50 percent, as is done in for MPDUs.
- Add a numbered subparagraph under 25B-26(a) (Alternative location agreement) to indicate that the Director provide a copy of the intent to execute an alternative location agreement to build workforce housing to the Director of the Maryland-National Capital Park and Planning Commission (M-NCPPC) (or the Director’s designee) for review and comment.
- Consider setting an upper limit for the “reasonable sales commission” referred to in 25B-27(b)(5) and 25B-27(c)(1)(D).
- Provide language in section 25B-28(c)(2) similar to the specific and clear language used in the MPDU ordinance to require that 50 percent of the workforce housing units be built or under construction before building permits for the last half market rate units are granted. Also strike the last sentence: ~~...The Planning Board may revoke any previously approved preliminary plan of subdivision, site plan, or development plan, if the Board finds a violation of this Article.~~

2. *Approve Zoning Text Amendment (ZTA) 05-16 with the following modifications:*

- In section 59-A-6.1.7.2, 59-A-6.1.7.2 (d), and elsewhere, state that calculation of the workforce housing requirement is 10 percent of the base number of dwelling units, excluding MPDUs or MPDU bonus units.
- In section 59-A-6.1.7.2, reword line 28 to read "...percent of the ~~total~~ base number of dwelling units in the development, ~~not counting~~ excluding any MPDUs or ~~resulting~~ MPDU bonus density units...This workforce housing requirement applies...~~35~~ 20 or more dwelling units, ~~not counting~~ excluding any MPDU bonus density units...)"
- Because Chapter 25A already allows an developer to achieve over 22 percent density, staff is unclear about the impact of the last sentence in section 59-A-6.1.7.2. Staff is not sure whether this language could reduce the production of MPDUs and/or whether it would remove the requirement to produce workforce housing units, if the MPDU density bonus units were to exceed 10 percent of the maximum density allowed in the zone.
- Stipulate clearly whether the calculation of workforce housing shall be rounded down in situations where the calculation of 10 percent does not yield a whole number.

3. *Review Park and Planning staff's proposed amendment to the County's existing Housing Policy, which was adopted in 2001. (Attached)*

Following a period of research and analysis this spring, Park & Planning staff prepared a workforce housing policy proposal and distributed it to a review team comprising staff from the County Council, the Department of Housing and Community Affairs (DHCA), and the Housing Opportunity Commission (HOC). Concurrent with this effort, County Council sought specific answers to certain issues, which staff did answer with memos on topics such as profitability of workforce housing and housing sales near transit zones, to name a few. Staff's intent is to introduce the attached policy proposal and supporting data to you at this time. Without going into great detail, the big concepts in the proposed Workforce Housing Policy include:

- Ensuring that there is no gap between the workforce housing program and the County's Moderately Priced Dwelling Unit (MPDU) program. That is, the lower limits of the workforce housing program should be the upper limits of the MPDU program.
- Targeting households earning 100 percent of the Area Median Income (AMI) or less. In 2004, over 40 percent of the homes sold at prices affordable to households earning 100 percent of less of the AMI. Staff determined that those households earning more than 100 percent of AMI had many housing choices available to them in the market.
- Treating workforce housing as market rate housing. Staff believes that workforce housing can be profitably developed. It may be at the low end of the market rate prices, but it can be market-rate, nonetheless, and profitable enough to not require a subsidy, density bonus, or other incentive.

Discussion

Bill 30-05

- In 25B-23 (j) workforce housing projects are defined as those with at least 10 percent of the dwelling units, exclusive of MPDUs and MPDU bonus units, are sold or rented to workforce households, but the Article does not address the methodology of calculation of the 10 percent nor does it explain whether the workforce housing units will be in addition to the base units, MPDUs, and any MPDU density bonus units; or whether the workforce housing units will affect 10 percent of the base units, without adding any additional density. *Staff supports the provision of workforce housing as 10 percent of the base units only, because workforce housing units will sell for market rate prices – albeit at the lower-end of what is considered market rate, and, as such, there will be enough profit to the developer without giving any additional density bonus. In the attachments to this memo, staff includes research performed to determine that (1) new market rate construction targeted for workforce incomes could be profitable and (2) the marketplace currently produces housing units at this price range- over 8,300 units – well over a third of all units sold – sold for less than \$300,000 in 2004, and households earning 100 percent of the 2004 AMI (\$85,400) could afford up to approximately \$325,000. New single-family attached units and condominium units were available in this price range, depending on the location of the unit, as well as existing detached and attached housing, and condominiums.*
- Cap workforce incomes at 100 percent of AMI, instead of at 120 percent of AMI. (See 25B-23 (j), 25B-24(b), 25B-27(a), and elsewhere.) *Park and Planning staff determined that a household earning above the Area Median Income (AMI) could already afford many of the houses offered for sale in the county in 2004. (Tables 1 and 2) While the selection tightened up below AMI, nearly a half of the housing units sold last year were affordable to households earning at or below AMI.*

Washington, DC--MD--VA--WV PMSA									
Number of Persons in Family		1	2	3	4	5	6	7	8
Percentage of AMI Per Family Size		70%	80%	90%	100%	108%	116%	124%	132%
HUD Program Limits									
30% of Median	30.0%	\$18,750	\$21,450	\$24,100	\$26,800	\$28,950	\$31,100	\$33,200	\$35,350
Very Low Income (50%)	50.0%	\$31,250	\$35,700	\$40,200	\$44,650	\$48,200	\$51,800	\$55,350	\$58,950
Low-Income (65%)	65.0%	\$40,600	\$46,400	\$52,200	\$58,000	\$62,650	\$67,300	\$71,900	\$76,550
2005 MPDU Limits									
Renters	65.0%	\$41,000	\$47,000	\$52,000	\$58,000	\$63,000			
Buyers	73.5%	\$46,000	\$53,000	\$59,000	\$66,000	\$71,000			
Workforce Housing - 80% AMI	80.00%	\$50,008	\$57,152	\$64,296	\$71,440				
Workforce Housing - 90% AMI	90.00%	\$56,259	\$64,296	\$72,333	\$80,370				
Workforce Housing - 100% AMI	100.00%	\$62,510	\$71,440	\$80,370	\$89,300				
Workforce Housing - 120% AMI	120.00%	\$75,012	\$85,728	\$96,444	\$107,160				

Sources: HUD and DHCA.

Table 2. 2004 SALES Number of Units by Type of Unit Ranges	New SFD	% of Total Sales in County	Exist SFD	% of Total Sales in County	New SFA	% of Total Sales in County	Exist SFA	% of Total Sales in County	New Condo (all types)	% of Total Sales in County	Exist Condo (all types)	% of Total Sales in County	Line Total	Line % of Total Sales in County	Cumulative % of Total Sales in County
\$0 to \$99,999	0	0.00%	2	0.0%	14	0.1%	7	0.0%	60	0.3%	138	0.6%	221	1.0%	1.0%
\$100,000 to \$149,999	1	0.00%	13	0.1%	30	0.1%	98	0.4%	53	0.2%	647	2.8%	842	3.7%	4.7%
\$150,000 to \$199,999	0	0.00%	54	0.2%	0	0.0%	497	2.2%	180	0.8%	1,104	4.9%	1,835	8.1%	12.7%
\$200,000 to \$249,999	0	0.00%	257	1.1%	0	0.0%	1,243	5.5%	401	1.8%	670	2.9%	2,571	11.3%	24.0%
\$250,000 to \$299,999	1	0.00%	751	3.3%	5	0.0%	1,427	6.3%	299	1.3%	419	1.8%	2,902	12.8%	36.8%
\$300,000 to \$349,000	0	0.00%	1,290	5.7%	64	0.3%	931	4.1%	251	1.1%	265	1.2%	2,801	12.3%	49.1%
Subtotals < \$350,000	2	0.01%	2,367	10.4%	113	0.5%	4,203	18.5%	1,244	5.5%	3,243	14.3%	11,172	49.1%	49.1%
Sub Totals -Over \$350,000	894	3.9%	7,734	34.0%	552	2.4%	1,561	6.9%	414	1.8%	430	1.9%	11,585	50.9%	100.0%
Totals	896	3.9%	10,101	44.4%	665	2.9%	5,764	25.3%	1,658	7.3%	3,673	16.1%	22,757	100.0%	

Source: STAR data for 2004. Preliminary, July 2005.

- Clarify in 25B-24(d) that the requirement to build workforce housing units would be triggered in the same way MPDUs are triggered: “A developer of any subdivision with ~~35~~ 20 or more dwelling units, excluding any MPDU bonus density units, at one location must build the number of workforce housing units...” *As discussed earlier, staff’s research indicates that workforce housing is market rate housing and, as such, is profitable. Workforce housing should be required as part of the base number of units provided.*
- Add a numbered subparagraph under 25B-25(a) (1) (Agreement) to indicate that the Director will provide a copy of the original agreement to build workforce housing and any subsequent modifications of that agreement to the Planning Board, and the Planning Board will, in turn, notify the Director of any and all amendments to the approved site plan. *This type of cooperation is currently being considered for the MPDU program and will allow both agencies to better monitor compliance with their respective programs and regulations.* Under 25B-25(a)(2), anticipate requests for adjustments to the sales prices for units built several years after the agreement is executed. *Staff recommends using the Consumer Price Index (CPI) to cap allowable increases in the sales price portion of the agreement.*
- In paragraph (25B-25(b) (Issuance of building permit), make the Article more enforceable by providing clear guidance as to what percentage of the workforce housing units must be constructed or approved in comparison to a percentage of market rate units. *Staff recommends stipulating that by the time 50 percent of the market rate units are constructed, fifty percent of the workforce housing units must also be constructed, and until 50 percent of the workforce housing units are constructed no more building permits may be issued for the second half of the other market rate units.*

- For 25B-26(a) (Alternative location agreement), *staff recommends specifying that the Director of DHCA provide copies of requests for alternative location agreements to the Planning Board for review and comment .*
- Increase the control period in 25B-27(a) (Sales, control period) from 10 years to 30 years, which is comparable to the MPDU control period. *Staff recommends keeping the control periods for rental AND sales workforce housing units consistent with the MPDU control periods.*
- Consider setting an upper limit for the “reasonable sales commission” referred to in 25B-27(b)(5) and 25B-27(c)(1)(D). *“Reasonable” is subjective. Staff points out that the surging price of homes also is pressuring the industry to rethink its commissions. As reported in the Wall Street Journal this spring, “The average level of commissions has gradually fallen in recent years as more sellers -- spurred by publicity about discounters -- haggle with their agents. In areas with high home prices, agents tend to be more willing to shave the percentage. Real Trends, an industry publication, last year estimated that the average commission was 5.1%, down from 6% in the early 1990s.”¹ Staff recommends capping the commission rate at five percent or less.*
- In section 25B-28(c)(2), staff recommends language similar to the specific and clear language used in the MPDU ordinance: *require that 50 percent of the workforce housing units be built or be under construction before building permits for the last half market rate units are granted.* With regard to the last sentence of this paragraph, *staff recommends striking the last sentence: ~~...The Planning Board may revoke any previously approved preliminary plan of subdivision, site plan, or development plan, if the Board finds a violation of this Article.—The planning board does not have an enforcement role per Chapter 25A.~~² The Planning Board already has the right to revoke plans if the applicant does not comply with the requirements of the Board’s approval.*

ZTA 05-16

- In section 59-A-6.1.7.2, 59-A-6.1.7.2(d), and elsewhere, state that calculation of the workforce housing requirement is described consistently throughout the ZTA as being 10 percent of the base number of dwelling units, excluding MPDUs or MPDU bonus units. *As discussed in greater detail in the attachments, staff recommends that workforce housing units be considered units targeted to the middle-income market. As such, there will be enough profit to the developer without giving any additional density bonus. Staff recommends that a table be included in the ZTA, as an example, that will provide transparency to the calculation of workforce housing, as well, that shows how the workforce housing units are provided as compared with the MPDUs for certain size developments.*

¹James R. Hagerty and Ruth Simon, “Realtor Commissions Face New Pressure,” [The Wall Street Journal Online](#), May 11, 2005.

² See discussion provided in Attachment 3 of Item 11 on the Planning Board Agenda for October 6, 2005, at the following link: <http://insite.mncppc/Search/SearchAgenda1.htm?AgendaLinks=1>

- In section 59-A-6.1.7.2, reword line 28 to read “...percent of the ~~total~~ base number of dwelling units in the development, ~~not counting~~ excluding any MPDUs or ~~resulting MPDU bonus density units~~...This workforce housing requirement applies...~~35~~ 20 or more dwelling units, ~~not counting~~ excluding any MPDU bonus density units...” *This would mean that a developer of 100 units who does not seek any additional MPDU density bonus would provide the following: 13 MPDUs, 8 workforce housing market-rate units (assuming that workforce housing calculations are “rounded down,” and 79 other market rate units. The reduction from 35 to 20 units is consistent with our recommendation in CB 30-05.*
- Because Chapter 25A already allows an developer to achieve over 22 percent density, staff recommends striking the last two sentences in section 59-A-6.1.7.2, which prohibit ANY residential density or FAR from exceeding 10 percent of the maximum density allowed in the zone. *As before, staff is unclear as to the intent of the prohibition of any residential density or FAR from exceeding 10 percent of the maximum density allowed in the zone. The MPDU ordinance allows up to 22 percent more density than is allowed in the zone. Staff wonders what would happen if the MPDU bonus density exceeds the maximum allowed in the applicable zone by more than 10 percent? Would the language in this Article undermine the already allowable MPDU bonus density? Staff believes it could, as written, and recommends striking this language wherever it occurs in this ZTA, such as in 59-C-6.215 (a) and (b). Staff recommends striking all other references to an additional density bonus for the provision of workforce housing throughout this ZTA. As stated earlier, staff supports the provision of workforce housing as 10 percent of the base units, only, because workforce housing units will profitably sell for market rate prices – albeit at the lower-end of what is considered market rate. Also, to require workforce housing units as bonus units, while capping the additional bonus by 10 percent, seems as if it would undermine the MPDU program, which can already provide up to 22 percent additional density bonus.*
- Stipulate that results of the calculation of workforce housing shall be rounded down in situations where 10 percent does not yield a whole number. *Staff noticed that the ZTA cover memo from Mr. Silverman provided an example in which the workforce housing percentage was rounded down to eight, even though the result was clearly more than eight ($87 \times .1 = 8.7$). Staff notes that in the MPDU program, the calculations of MPDUs are rounded up.*
- In section 59-A-6.1.7.2, 59-A-6.1.7.2(d), and elsewhere, state that calculation of the workforce housing requirement must be described consistently throughout the ZTA as being 10 percent of the base number of dwelling units, excluding MPDUs. *If workforce housing is provided as part of the base number of units, there is no need to mention MPDU bonus units, because the workforce housing calculation will only be determined by the base number of units, which does not, by definition, include density bonus units.*
- In section 59-A-6.1.7.2, reword line 28 to read “...percent of the ~~total~~ base number of dwelling units in the development, ~~not counting~~ excluding any MPDUs or ~~resulting MPDU bonus density units~~...This workforce housing requirement applies...~~35~~ 20 or more dwelling units, ~~not counting~~ excluding any MPDU bonus density units...*The reference to*

MPDU bonus units is valid here, because it is possible to reach the number “35” through the provision of MPDUs density bonus units. Staff does recommend using 20 units as the threshold for the provision of workforce housing, especially because much of the redevelopment/infill opportunities in the transit areas may involve smaller unit yields.

- In the last sentence of 59-C-2.44(d), staff recommends adding “or permit” as follows: “...The MPDU density [increase provided by Section ...] bonus does not require or permit the acquisition of additional development rights.”
- In 59-C-6.23, proposed footnote 4, staff recommends adding “a substantial” as follows: “the proposed development will provide a substantial amount...” Under footnote 11(1), in the next to the last new sentence (“...a revitalization area designated in the applicable sector plan and is located fully or partially within 800 feet of an entrance to a metro station.”), staff would like to know how the “800 feet” was determined.
- In 59-C-10.3.7 (Maximum residential density), add the RMX zones, because 59-C-10-3.7 of the Optional Method provisions for the RMX zone allow a maximum residential density of 40 dwellings per acre where residential development is proposed within a proposed commercial area.

Workforce Housing Policy Proposal

In the spring of 2005, housing staff began a concerted research and analysis effort to develop a workforce housing policy proposal, because the County’s Housing Policy does not address Workforce Housing, per se. During the summer, drafts were reviewed by a working team consisting of staff from DHCA, HOC, and the County Executive. The draft policy and technical supplement were shared with the County Councilmember Steve Silverman and his staff, as well. Subsequently, Councilmember Silverman requested additional information, which was provided. This information is provided in the attachments. *Staff recommends that the Planning Board approve our request to forward this Workforce Housing Proposal to the County Council for their consideration. We realize that the proposal will likely be significantly modified, but we believe that it will get the ball rolling, nevertheless.*

Attachment 5. Memo (7/06/06)



July 7, 2006

Memorandum

To: Linda McMillan, Legislative Analyst
Montgomery County Council

From: Karl Moritz, Chief, Research & Technology Center (RTC) 301-495-1312
Sharon K. Suarez, AICP, Housing Coordinator, 301-495-4720

Re: Workforce Housing: Response from Planning Board and Other Items

On June 27, 2006, the County Council asked if the Planning Board would reconsider its position on the proposed workforce housing density increase if the proposed control periods were longer. As you are aware, the Planning Board's position on the "density bonus" issue is that the workforce housing units should be accommodated within the density permitted on the parcel.

On July 6, 2006, the Planning Board members Mr. Berlage, Ms. Wellington, Dr. Bryant, and Ms. Perdue took up the issue after receiving an update on the progress of the proposed workforce housing legislation at their regularly scheduled meeting. The Planning Board received a detailed presentation of the financial analyses prepared for the Planning, Housing and Economic Development Committee because those analyses were not available when the Board discussed the issue in November 2005.

By a 3-1 vote, Dr. Bryant opposing, the Planning Board confirmed its previous position that the workforce housing requirement should be accommodated *within*, rather than in addition to, the base density permitted on the parcel. The majority opinion was that the control period was not the defining issue that led the Board to its position on the density bonus issue. Instead, the Board made the following points:

- A rationale for the density bonus is that "this is where we want more housing." The Planning Board agrees that increased density for housing near Metro stations is a legitimate issue, but believes that the master planning process is where that issue is best resolved.
- Another rationale for the density bonus is that it is needed for financial feasibility. The Planning Board's did not find that argument persuasive on several counts. First, the financial analyses suggest that the difference between the scenarios with a density bonus, and those without, was quite modest – less

than 5 percent in all cases. That percentage indicates that there are means other than a density bonus for accommodating the workforce housing requirement. As the consultants pointed out, each of the major inputs to the analysis (land, labor and materials costs, among others) can easily vary by more than 5 percent from project to project).

- The Board notes that one of the major inputs that govern the financial feasibility of development projects is the cost of land. The cost of land is determined, first and foremost, by the potential uses for that land. Ultimately, the impact of a workforce housing requirement without a density bonus could be resolved by lowering the amount that a developer would be willing to pay for land. The terms of the workforce housing's grandfather clause provide opportunities for developers who purchased land prior to the program to move ahead before the requirements are imposed.
- Another rationale for the density bonus is to compensate developers for a new requirement. The Planning Board noted that government can and does impose new requirements, including those that cost money, without compensating actions.

In his support for the density bonus, Commissioner Bryant noted the County's immediate need for additional housing for the workforce, that the County is looking to the private sector to build that housing, and that the density bonus is a contribution to that goal that the public sector can and should make. Commissioner Bryant has been very supportive of increasing the use of financial and economic analyses for planning decision-making, but noted that data represents the market – what really happens in the market is what's important, and he believes that without the density bonus, the market will produce less housing.

Planning staff notes that, due to the quick turnaround required, we were not able to review this memo with Chairman Berlage before transmittal. Staff will review the memo with Chairman Berlage before the Council's next worksession on this issue.

The County Council requested information on two subjects, as well:

- *Parking:* Council members expressed concerns about the amount of parking in multi-family projects in transit zones. Council members asked about minimum parking requirements, the ability of developers to request and receive waivers, and other issues. There is a minimum parking requirement in zoning ordinance. Developers do have the ability to request a waiver and the Planning Board may grant those waivers. It is easier for developers to provide fewer parking spaces in parking districts. Typically the parking waiver discussion occurs at site plan. Research staff did not have an opportunity to compile information about how often, and under what conditions, parking waivers are granted, but we would be happy to do so. We can also summarize previous reports/studies related to the issue.

- *What has been the density achieved in transit zones in the past?* The Residential Capacity Study (MNCPPC, RTC, 2005) determined that the average density achieved in transit zones has been between 37 and 65 dwelling units per acre, which is approximately 28.5 to 35.4 percent of the maximum density allowed in the zone. CBD zones have achieved a higher percentage of the maximum density, with CBD-1 achieving over 62 percent of the maximum yield. Staff notes that these data are for the past 15 years; although we would expect yields to increase over time, we are not comfortable forecasting how often future development projects will attempt to achieve the maximum density permitted in a zone.

Zone	Theoretical Maximum	15-Year Yield	Percent of Maximum
CBD-1	152	94.4	62.1%
CBD-2	244	101.5	41.6%
CBD-3	244	97.1	39.8%
CBD-R1	244	30.6	12.5%
CBD-R2	244	126.4	51.8%
TS-M	131	37.3	28.5%
TS-R	183	64.8	35.4%