M-NCPPC

MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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MCPB
Item #21
July 6, 2006

June 30, 2006

Memorandum

To: Montgomery County Planning Board

From: Karl Moritz and Sharon Suarez, Research & Technology Center

Re: **Bill 30-05: Workforce Housing Program and ZTA 05-16: Workforce Housing –** Update on Status of Pending Legislation/Opportunity for Additional Comment by the Planning Board

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Summary

The Montgomery County Planning Board last reviewed proposed Workforce Housing legislation on November 17, 2005. Since then, the County Council held a public hearing; the Planning, Housing and Economic Development Committee has held several worksessions; and the County Council has held two worksessions. A vote on the workforce housing bill and zoning text amendment is scheduled for July 11, 2006.

At the Council's worksession on Tuesday, June 27, Councilmember Subin noted the Planning Board's concern about the provision of the proposed program that allows the developer to exceed the current maximum density allowed on the parcel in order to provide the workforce units. The Board's concern is illustrated in the following quote from the Planning Board's testimony at the public hearing on this legislation:

A majority of the Planning Board also expressed serious reservations about an approach that relies on an added component of density. The Board notes that zoning in master plans is set at what is determined at the time to be the maximum that is appropriate for the area. Going above that maximum is a major issue, and the Board was not convinced that the added density is necessary to make the program work. The Board observed that, in the case of condominiums, the additional density will remain for the life of the building, while the price controls on the workforce units will expire in 10 years.

Councilmember Subin asked if the Planning Board's position would change if the price controls were to stay in place for a much longer period.

Since the Planning Board's review in November, additional analysis has been completed on the workforce housing program, especially on the financial feasibility issue. The Department of Housing and Community Affairs retained Eric Smart of the consulting firm of Bolan Smart to prepare a number of pro forma analyses; a real estate economics consultant retained by Park and Planning to assist with Clarksburg issues reviewed Bolan Smart's figures.

Staff will be providing the Planning Board with a full presentation on the density bonus issue at your meeting on July 6, 2006, including a review of the financial analyses and related issues. We regret that there was not time for a complete analysis in this packet.

Recommendation

Planning staff believes that the main rationale for the workforce housing density bonus was the belief that the developers would need the density bonus to make the project financially feasible. Planning staff does not believe that the financial analyses make that case.

Staff also notes that there are potential problems with extending the control period of for-sale workforce units. DHCA has pointed out, and Planning staff agrees, that the potential buyers of workforce units will ask if the price advantage of a workforce unit is worth giving up the equity they could expect from purchasing a market rate unit. The price advantage of a workforce unit is, of course, less than that of an MPDU, and DHCA has suggested that the control period of MPDUs has discouraged buyers of MPDUs.

Background

The Workforce Housing program initiated by the legislation referenced above promotes the construction of housing in developments of 35 units or more that is affordable to households with incomes at or below 120 percent of the area-wide median income, adjusted for household size. The legislation applies only to developments of 35 units or more in zones that could achieve 40 dwelling units per acre within Metro Station Policy Areas, only. Planning staff estimates that about 2,500 workforce units would be created over the next 20 to 30 years in these areas, which will broaden the range of housing options for many households.

As crafted, the legislation would allow additional building height and reduce the green space requirement, if needed, to build workforce units on site. Under certain circumstances, developers could build the workforce units off site, but they could not "buy-out" of the requirement. The legislation has proposed that the control period for sale units is 20 years and for rental units is 99 years. The goal of the Council is to generally make the Workforce Housing program operationally similar to the MPDU program.

Among the issues that the Planning Board raised when reviewing this program in November 2005 are the target income levels for households who will live in the units and the density bonus permitted for the required workforce units. The Planning Board raised concerns about setting prices up to a level affordable to households earning 120 percent of the area median income. At that level, workforce units become market rate units, albeit at the lower end of the market. The Planning Board expressed concern that, as proposed, the legislation could result in developments that exceed 132 percent of the density otherwise allowed, instead of the 122 percent already achievable via the maximum MPDU density bonus.

Discussion

The Planning Housing and Economic Development (PHED) Committee recommended the proposed legislation to the County Council on June 27th. During that meeting the Council discussed the following issues in preparation for a vote on the legislation on July 11th. Their comments and positions are discussed in detail in the attachments to this memo and are summarized below. The nature of the discussion has become more specific and certain issues may merit the Planning Board's reconsideration.

- ***Should workforce housing be only available to certain types of employees?*** The PHED recommends not limiting eligibility to any particular type of employee, and recommends the law focus on income and other eligibility issues. The Planning Board suggested that certain types of workers (teachers, firefighters, emergency service workers, or even retail workers) be given a preference.

- ***What income eligibility limits should apply?*** The Planning Board urged the Council to cap the workforce housing income limits to 100 percent of Area Median Income (AMI), because the marketplace did provide a choice in housing types to households earning 100 percent of AMI, as of the fall of 2005. Additionally, the Planning Board was concerned that a cap of 120 percent of AMI would result in all workforce housing being built for that income range. While the PHED recommends a cap of 120 percent of AMI, it now recommends that the implementing regulation assure that workforce housing is available to a range of incomes, not just those at or near 120 percent of AMI.

- ***Should any preference be given to County residents or people employed in the County?*** The PHED committee recommends that the same type of point system used in the MPDU program be used in the Workforce Housing program. That is, a preference would be given to applicants with a connection to the County — either they currently reside here, have a job here, or have a job offer here.

- ***Should eligibility be limited to first-time homeowners?*** The PHED Committee recommended that workforce families should not be restricted by previous home-ownership. They may have owned a home elsewhere, but cannot afford one in Montgomery County.

- ***In what size subdivision should workforce housing be required?*** The Workforce Housing legislation will apply to developments of 35 units or more in Metro Station Policy Areas in those zones that can achieve 40 units or greater. The Committee reviewed the Planning Board's suggestion that the program apply to subdivisions with as few as 20 units, but additional analysis showed that there are very few subdivisions of that size in the zones where the program would apply.

- ***Should projects developed under an affordable housing tax credit program be exempt?*** The majority of the PHED Committee recommends that dwelling units affordable to households earning 60 percent or less of AMI be exempt from the units used to determine the number of workforce housing units.

- ***Should the law specify the proportion of bedroom sizes in workforce housing units?*** The PHED Committee recommends that the law specify that the ratio of efficiency and one-bedroom apartments cannot be greater than it is for the market rate units, which is the same as for the MPDU law.

- ***Should workforce-housing units add to current base density and MPDU requirements?*** With Councilmember Praisner dissenting, the PHED Committee recommends that the workforce housing units be additional density – that is, added to the market rate units and MPDUs allowed by the zone and required by the MPDU law. In a 100-unit building with the minimum of 12.5% MPDUs, the building would have 87 market units, 13 MPDUs, and 8 workforce units. In a 100-unit building with the maximum 22.5% MPDU and market unit bonus, the building would have 103 market units, 19 MPDUs, and 10 workforce units.

  The Planning Board recommended that the workforce units be accommodated within the market units, not as a density bonus. Staff will be reviewing the Board's position, additional analysis that has occurred wince the Board's review, and related issues, at the Board's July 6 meeting.

- ***Should the law allow alternatives to providing workforce-housing units on site?*** The PHED Committee recommends no buyout alternative, while allowing for an off-site alternative, especially if the additional density might require changing from stick-built to concrete construction.

- ***Should rental projects be exempt from providing workforce housing?*** The PHED Committee does not believe that rental projects should be exempt from workforce housing.

- ***What price/rent control periods should apply to workforce housing units?*** The majority of the PHED committee recommends that the sales price control period be 20 years, though Ms. Praisner has stated that she will introduce an amendment to extend that period to 30 years, so that it is consistent with the MPDU control period for sale units. The rental control period will be 99 years, as it is for the MPDUs. As with the MPDUs, DHCA and the Housing Opportunities Program will have the right of first refusal for workforce housing units.

- ***Equity Recapture?*** The PHED recommends that the basis for equity sharing should be the original appraised market value rather than the original sales price. As is similar for the MPDU program, the PHED Committee recommended that the owners of workforce housing units not refinance for more than the DHCA-approved sales price.

- ***Definition of "built" – does it require the unit to be completed?*** The PHED Committee recommends that all workforce housing be built before or at the same time as the other dwelling units.

- ***Should workforce housing units pay County transportation and school impact taxes?*** The PHED was split on whether workforce housing should be exempt from these impact taxes. Council staff Mike Faden pointed out that Metro Station Policy Area already have very low impact taxes and Enterprise Zones have none. Ms. Praisner recommends that workforce housing be taxes as productivity housing is taxed, which is at 50 percent of the normal rate.

- ***Does the calculation for MPDUs include the workforce housing units?*** No. The PHED has clarified that the total number of units to be used to determine the workforce housing requirement will not include MPDUs.

- ***Annual Report?*** DHCA will be required to submit an annual report to the Council and Executive.

- ***Fiscal Impact?*** The Council will consider any recommendations for additional staff and operating costs. The Executive Regulations will be submitted to the Council by October 1, 2006.

- ***Grandfathering:*** The ZTA requiring workforce units would go into effect December 1, 2006. The PHED Committee recommends that the grandfathering provision be broad enough to include pending zoning applications, development plans, project plans, preliminary plans of subdivision, and site plans.

- ***Sunsetting?*** The PHED Committee agreed to sunset this legislation, in order to reevaluate it. Council staff recommends six years, instead of five, as was originally recommended.