

ATTAINABLE HOUSING STRATEGIES: WORK SESSION #9 LARGE SCALE ATTAINABLE HOUSING AND OTHER POLICIES



Attainable Housing Strategies

Description

Work session to discuss the recommendations for large scale attainable housing, other recommended changes to the zoning code, and additional code and policy considerations for implementing attainable housing.

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SUMMARY

- On March 4, 2021, the Montgomery County Council directed Montgomery Planning to review and analyze housing options in the county. To explore these housing options and to provide a comprehensive overview of housing options in the county, Montgomery Planning launched the [Attainable Housing Strategies](#) (AHS), an initiative aimed at evaluating and refining various proposals to spur the development of more diverse types of housing, including Missing Middle Housing, in Montgomery County.
- The Planning Board hosted a public listening session on March 21, 2024, to allow the public to provide comments on the draft AHS report.
- Attainable housing recommendations are broken into three scales: small, medium, and large. This report discusses the large scale recommendations, in addition to other recommended changes to the zoning code, and other code and policy considerations relevant to attainable housing.
- Key recommendations include utilizing zoning and master plans to achieve large scale attainable housing, to add the multiplex building type to existing optional methods of development and certain standard method of developments, and a list of other code and, policy changes that the County Council should consider as part of implementing attainable housing.

INFORMATION

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Work session #9 – Large scale attainable housing and other policies

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RECAP FROM WORK SESSION EIGHT

At the AHS work session #8 on April 25, 2024, the Board agreed to the following recommendations relate to small-scale attainable housing:

- Allow duplexes anywhere within the R-200, R-90, R-60 and R-40 zones.
- Allow triplexes anywhere in the R-90, R-60, and R-40 zones.
- Allow quadplexes within the Priority Housing District (PHD).
- Redefine townhouse living as five or more dwellings in a townhouse building, and multi-unit to include the multiplex building type.
- Make multi-unit living a limited use in the R-90, R-60, and R-40 zones, limiting it to the multiplex building type with pattern book conformance.
- Require a pattern book for small scale housing for standard method applications. Staff will produce a draft scope of work to complete the pattern book and suggest a deadline for completion.
- Add the duplex and multiplex building types to the standard method development standards tables.
- Rename Section 1 to Building Site and Lot, shifting area, and building site width to be based on the building site.
- Remove density standards and instead rely on building site area.
- Change lot coverage to building site coverage.
- Keep the recommended specification to accommodate sub-standard lot sizes, but remove the standard that clarified lot area is an average.
- Keep the standards the same for Placement, Height, Form, and Agriculture, except to reference building site in the standards that currently rely on lot.
- Reduce parking by 50% in areas with on-street parking outside the PHD, and 75% inside the PHD. Per ZTA 10-23, parking within ½ mile of Metrorail and Purple Line stations and within ¼ mile of an existing BRT station or a BRT station funded for construction in the six-year CIP at the time of application is not required.
- Create a new minor subdivision process to subdivide individual existing lots.
- Create a new administrative subdivision and administrative site plan process to expedite reviews at the Director level for smaller (19 or fewer dwellings) AHS projects.

The Board requested Montgomery Planning Staff to provide follow-up information on the following topics:

- Consider expanding the PHD to a ¼ mile buffer from corridors and provide a count of current and proposed eligible lot within the buffer.
- Consider adding R-200 to the PHD, updating the multi-unit living standards to include R-200 within the PHD.

- Revisit whether width at front lot line and frontage requirements could be shifted from lot to building site, potentially eliminating all lot standards.
- Determine if there is a ‘threshold’ where too much concentrated scale development may be reducing the quality of life within a neighborhood.
- Conduct an analysis in 3-5 years evaluating the outcomes of any adopted AHS policy initiatives.

Tentative Attainable Housing Strategies Schedule (2024)	
April 11, 2024	Planning Board Work Session #7 – medium scale
April 25, 2024	Planning Board Work Session #8 – small scale
May 16, 2024	Planning Board Work Session #9 – large scale and other policies
May 30, 2024	Planning Board Work Session #10 – wrap-up
June 13, 2024	Planning Board Work Session #11 – wrap-up
Early Summer 2024	Planning, Housing, and Parks Briefing

LARGE SCALE ATTAINABLE HOUSING

LARGE SCALE OVERVIEW

The large scale attainable housing recommendations in the draft AHS report are focused on providing guidance to future master planning efforts rather than short term zoning changes. Since the initial work on AHS, *Thrive Montgomery 2050* was adopted. This plan envisions transforming the county’s growth corridors into more dense and walkable communities that connect major activity centers and leverage high quality bus and rail transportation options. Specifically, Thrive (page 73) recommends “concentrating growth in centers of activity and along corridors through compact, infill development and redevelopment to maximize efficient land use.” Furthermore, it recommends achieving this by “Amend[ing] land use, design, and zoning regulations, including the Zoning Ordinance and Subdivision Regulations, to support corridor-focused compact development. Appropriate densities will vary but should be sufficient to support, at a minimum, the efficient provision of transit service along these corridors.” In line with this guidance, Planning Staff is recommending incorporating the themes of Thrive Montgomery 2050 into the large scale discussions.

[Redefining Large Scale](#)

As drafted in 2021, the AHS report and other publications on attainable housing, large scale AHS has been described as incorporating mixed-use, live/work, and small apartment buildings that are up to 4-5 stories in height, implemented through master plan zoning recommendations. Planning Staff has reconsidered whether these limits are appropriate, as they may unintentionally constrain the ability to implement corridor-focused growth. Therefore, Planning Staff now recommends modifying large

scale housing to revise the heights to four or more stories, and to include apartment buildings rather than specifying small apartment buildings (four stories).

Recommendation: *Modify the definition of large scale to reference any buildings four or more stories, and to replace small apartment buildings (four stories) with apartment buildings.*

LARGE SCALE APPROACH

Current Zoning

There are opportunities to start achieving the vision of large scale attainable housing within the county's existing zoning options and master planning process. Planning efforts such as the *University Boulevard Corridor Plan* and the *Eastern Silver Spring Communities Plan* will be undertaking this process of reimagining their respective corridor segments as a more housing dense, walkable boulevard. The opportunities include:

- Recommending AHOM development for areas not already covered through medium scale recommendations.
- Recommend an existing zone including a Townhouse Zone, an Apartment Zone, or the CRN zone.

There are limitations in urban form and the ability to achieve public amenities with these zones. Creating an overlay zone specifically for corridors could be utilized to require the desired outcomes in allowed land uses, urban form, and process.

Strategic Corridor Planning

Looking forward, the Planning Department intends to shift its planning efforts to focus on corridor planning. This includes focusing future master plan initiatives along our identified Growth Corridors, and ensuring the tools we have to implement these plans fit the unique challenges and opportunities corridors provide. A strategic plan is needed to help better understand the different types of corridors we have, what the best practices should be in land use, urban design, transportation, and environmental. The final AHS report should include brief mention of this strategic plan vision since it will set the tone on corridor planning and large scale attainable housing going forward.

In addition to the strategic plan, the areas along our Growth Corridors may be prime candidates for exploring the Zoning Code's first true form based zones. Existing zoning opportunities have shortcomings. For example, townhouse zones do not allow apartment buildings, and without specific design standards, the CRN zone is often more appropriate for larger apartment buildings at the edges of our major activity centers. A form based zone could help incorporate many of the desired design and urban form outcomes directly into the zone, reducing the need for overlay zones, lengthy design guides, and for smaller projects the need for a site plan review. While Planning Staff does not

recommend the establishment of any new form based zones as an immediate action item for AHS, they should be studied and potentially implemented in the near future.

Recommendations:

- Pursue a corridor planning strategic plan that develops corridor typologies which define the land use, urban design, transportation and environmental characteristics of corridor planning.
- Use existing available process for achieving large scale AHS development, and recommend future consideration of specific form based zone(s) that could be applied to advance large scale attainable housing.

ADDITIONAL ZONING RECOMMENDATIONS

To maximize the effect of the AHS recommendations, and to provide extra flexibility in existing zones, the draft AHS report recommends adding the multiplex building type, for up to to four units in any existing zones optional method of development standards table. These optional methods of development are all subject to site plan review and with the exception of the cluster optional method in the RE2-C, RE-1 and R-200, already all allow for townhouse buildings. Because the cluster method in these three zones do not allow townhouses, they were exempted from this recommendation by the previous Planning Board. Planning Staff recommends adding those three zones cluster method to the list of eligible developments for simplicity and consistency. Townhouses would still be prohibited but house scale multiplex buildings would be allowed with a site plan review. Table 1 demonstrates all of the different zones where either the cluster or MPDU optional method of development apply.

Table 1 Zones with Optional Method Development

	Ag	Rural Residential			Residential												Commercial/ Residential			Employment				
					Residential Detached							Residential Townhouse			Residential Multi-Unit									
	AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	CRT	CR	GR	NR	LSC	EOF
Cluster						X	X	X	X	X														
MPDU				X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

The use table in [Section 3.1.6](#) would need to allow multi-unit living as a limited use in all of the Residential Detached and Residential Townhouse zones shown above, and the use standards would reflect that multi-unit living is allowed for up to four units if reviewed through an optional method of development. The use is already permitted in the Multi-Unit, Commercial/Residential, and Employment zones.

Recommendation: Add the multiplex building type to all of the existing optional methods of development standards tables.

For the same reasons, the draft AHS report recommends adding the multiplex to optional method developments, it also recommends adding the multiplex building type in the development standards table to all of the existing zones where townhouses are already allowed under standard method development. These zones include the RNC, TLD, TMD, THD, R-30, R-20, R-10, CRN, CRT, CR, GR, NR, LSC, and EOF zones. The Use Table in [Section 3.1.6](#) would also add multi-unit living as a limited use to the Townhouse and RNC zones and the use standards would be updated accordingly.

Table 2 Zones with Townhouse as a Standard Method Building Type

	A g	Rural Residential			Residential											Commercial/ Residential			Employment					
					Residential Detached							Residential Townhouse			Residential Multi-Unit									
	AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	CRT	CR	GR	NR	LSC	EOF
Townhouse in Standard Method				X								X	X	X	X	X	X	X	X	X	X	X	X	X

Recommendation: Add the multiplex building type to all existing zones that allow townhouse under the standard method of development standards tables.

The last way current development applications are able to develop townhouses is through the Transfer of Development Right (TDR) Overlay Zone in [Section 4.9.18](#). For areas with a TDR Density Designation of 3 or more, duplexes and townhouses are permitted as a building type. Therefore Planning Staff is recommending adding multiplex to the table shown in Section 4.9.18.B.2.b. in the zoning code, and shown as updated as Table 3 below. The limited use standards for multi-unit living would also be updated to reflect buildings with up to four units as an option in TDR developments. The zoning code also includes basic formulas for how many dwellings each purchased TDR allows. In Metro Station Policy Areas, one TDR is generally worth two duplex units or townhouse units, and in Non-Metro Station Policy Areas, one TDR is worth one duplex or townhouse unit. The multiplex building should be added to this section, and follow the same formula as the duplex and townhouse dwelling units.

Table 3 Building Types in TDR Zone Based on Density Designation

TDR Density Designation	Size of Development	Building Type (minimum required as a percentage of total units)					Common Open Space (Min)
		Detached House	Duplex	Multiplex	Townhouse	Apartment	
1	Any size	100%	0%	0%	0%	Not permitted	0%
2	Any size	100%	0%	0%	0%	Not permitted	0%
3-5	< 800 units	30%	0%	0%	0%	Not permitted	20%
	800+ units	30%	0%	0%	0%	0% (20% max)	20%
6-10	< 200 units	15%	0%	0%	0%	Not permitted	20%
	200+ units	15%	0%	0%	0%	0% (35% max)	20%
11-15	< 200 units	0%	0%	0%	0%	0%	25%
	200+ units	0%	0%	0%	0%	35% (60% max)	25%
16-28 <	200 units	0%	0%	0%	0%	0%	25%
	200+ units	0%	0%	0%	0%	25% (60% max)	25%
> 28	Any size	0%	0%	0%	0%	25%	25%

Recommendations:

- Add the multiplex building type to the zoning table expressing the minimum percentage of each building type required based on the TDR density designation.
- Set 1 TDR to equal two dwellings in a multiplex building in Metro Station Policy Areas, and 1 TDR to equal one dwelling in a multiplex building in a Non-Metro Station Policy Area.

OTHER CODE AND POLICY CONSIDERATIONS

Since Planning Staff restarted the initiative, a number of other code and policy considerations have come up. The list below is by no means a comprehensive list of policies and codes that may need to be updated to best implement attainable housing, rather, they represent areas that Planning Staff are more familiar with as potential points of contention. While some of these these are not included in the initial report, Planning Staff recommends the following code and policy considerations be included in the final report.

- **Driveway Standards:** Current driveway standards for residential projects require a 10-20 foot driveway with an additional 5 foot wide flaired apron at each end. To minimize imperviousness and conflicts with driveway aprons extending beyond side lot lines, Planning Staff recommend the county consider width maximums for attainable housing of 10 feet and reducing or eliminating the driveway apron width, which would allow the driveway to be located along the side property line.
- **Street Trees and Tree Canopy:** Tree canopy loss both on lot and in right-of-way is a major concern voiced by residents and Planning Staff alike. In public right-of-way, major species tree standards require 50 foot on center placement in right-of-way, to maximize soil volume. However these rules can greatly reduce the number of trees along a street and decrease the likelihood that trees will create a continuous canopy. Similar concerns have been raised about the minimum 400 square feet of open area requirement prohibiting property owners from receiving credit for on-site tree canopy in the County tree canopy law. Efforts should be undertaken to explore ways to reduce tree spacing in right-of-ways and to reduce the open area requirements on private lots to lessen the canopy loss issues with attainable housing.
- **Fire and Rescue:** In 2019 the county adopted “Fire Access Performance-Based Design Guidelines” to help minimize the impacts fire access has on new community design. Planning Staff are concerned there may still be access issues with multiplex building types as they will likely be classified as commercial construction and the fire and rescue access standards are much stricter than for a detached house, potentially limiting building and door placement. Efforts should be included to specifically look at the multiplex building type to consider context sensitive fire access solutions.
- **Stormwater Management:** Stormwater management provisions exist for small lots (under 15,000 square feet) that address lot-to-lot drainage for residential lots for one-family and two-family properties. The current code is silent on protections for three and four unit multiplex buildings and Planning Staff recommends updating the code to require control of water runoff from small building sites including detached, duplex, and multiplex building types.

Recommendation: *Include in the final AHS report a brief description of the above issues explaining why coordination on these subjects is necessary to maximize the effectiveness of AHS, acknowledging that there may be additional policy and code areas not directly covered herein.*

CATALYST POLICIES AND PROGRAMS

The previous Planning Board believed certain catalyst policies may assist the development of attainable housing. The previous Planning Board identified several policies for the County Council to consider. These policies are broadly divided into two types, catalysts for Owners Occupied Conversions and Community-level Incentive Programs.

OWNER-OCCUPIED CONVERSIONS

- **Property Tax Refunds or Credits:** a property tax refund as an incentive to convert an existing single-family home to create small scale attainable housing.
- **Conversion Assistance Toolkit:** create a countywide multiagency team to develop an “Attainable Housing Conversion Assistance Toolkit” as a part of a new effort.
- **Owner-Occupied Conversion Loan Fund:** establish a loan fund to assist with the conversion to multiplex.

Recommendation: Support providing a list of potential owner-occupied attainable housing incentives including tax refunds/credits, a conversion assistance toolkit, and a special loan fund.

COMMUNITY LEVEL INCENTIVES

The previous Planning Board recommended exploring certain incentives that would apply to the community that sees a greater degree of growth in attainable housing typologies.

- **Improvement Grant Program:** a grant program accessible to all homeowners in the neighborhoods with the highest number of attainable housing typologies. Potential uses of the grant funds include stormwater mitigation, fire safety improvements, and energy efficiency updates.

In addition, Planning Staff have identified another community level incentive that it recommends adding to the AHS report.

- **Community Improvement Program:** A program that sets aside county funds for neighborhoods experiencing the highest number of attainable housing permits to making infrastructure upgrades such as adding or expanding upon sidewalks, bikeways or bikelanes, bus shelters, lighting, street trees, stormwater retrofits, and other community amenities.

More detail on the catalyst policies can be found on pages 43 – 44 in the [draft report with markup from the previous Planning Board](#).

Recommendation: Support including catalyst policies in the Attainable Housing Strategies as a potential way to assist with the development of attainable housing types.

OTHER TOPICS

As part of the original Attainable Housing Strategies report, Planning Staff looked into other topics related to the building of attainable housing. The “other topics” are listed in the report, starting on page 41. The other topics include:

- **Collection of Impact Taxes and the Applicable Rates:** Attainable housing typologies would pay impact taxes. Impact taxes are set by the Montgomery County Council and assessed on new residential and commercial buildings and additions to commercial buildings to help fund improvements necessary to increase transportation and public school systems capacity. Soon the Planning Board will be reviewing the 2024-2028 update to the [Growth and Infrastructure Policy](#). In the update, Planning Staff recommends that attainable housing typologies be included in the “single-family attached” rate for the collection of impact taxes, as attainable housing typologies behave most similarly to attached structures for the purposes of student generation rates (SGRs).
- **Role of HOAs:** Many HOAs have restrictions against renting property or having more than one unit on a property. Covenants between a homeowner and an HOA are private binding documents. The Planning Board felt it was important to note that they understand the current role of HOAs, but would like the state and county to explore legal mechanisms to remove covenants given their impact on limiting attainable housing typologies.
- **Role of Municipalities:** Municipalities may have more restrictive conditions under several elements potentially related to attainable housing typologies, including residential parking, setback requirements, dimensions of structures, and lot cover.

In addition to the three topics listed above, Planning Staff have also identified additional topics worth noting in the final AHS report.

- **Limits and conditions of preliminary plans and site plans:** Existing preliminary plans and site plans, and on occasion record plats, often contain conditions of approval that limit development to a specified number of units or amount of density. Record plats occasionally contain notes prohibiting further subdivision, especially if a site was developed using the cluster method of development, to dissuade people from trying to re-subdivide larger lots in the future. These limitations would prohibit including attainable housing types on existing residential lots. Planning Staff recommends as part of any zoning text and subdivision text amendments that provisions be added exempting redevelopment for purposes of implementing the small scale attainable housing from density and subdivision conditions.
- **Adequate Public Facilities:** [The Growth and Infrastructure Policy](#) administers the Adequate Public Facilities (APF) requirements and guides adequacy assessment during the development review process. APF is usually tested at preliminary plan, but can be tested at building permit if a preliminary plan is not required. If applicable, attainable housing typologies will be tested for APF.
 - For schools, each residential development application (including attainable housing types) is evaluated to forecast its demand for schools facilities and to determine if and how the applicant will mitigate inadequacies. Should there be inadequacies, mitigation is required in the form of Utilization Premium Payments (UPP). Utilization Premium Payments (UPP) are fees charged to new residential units when a school serving the project is projected to be inadequate, or the additional demand from the

development is found to trigger certain adequacy thresholds. The fee is calculated by applying the appropriate UPP factor, outlined in the [School Adequacy Analysis report](#), to the undiscounted and unexempt school impact tax rate applicable to the project. Attainable housing typologies would be subject to UPP fees should they trigger one, along with impact taxes.

- For transportation, all projects that generate 50 or more net new peak hour person trips are subject to the [Growth and Infrastructure LATR requirements](#), which are detailed in the LATR Guidelines. It is unlikely that any of the small scale or medium scale housing typologies would generate 50 or more net new peak hour person trips to be subject to the LATR requirements.

Recommendations: *Keep in the AHS report recommendations and comments on:*

- *How impact taxes should apply and be calculated.*
- *The roles and potential code changes needed to work with HOAs and Municipalities.*
- *The need to exempt small scale attainable housing development from density and subdivision controls found in the conditions of preliminary and site plans.*
- *The relationship between APF and attainable housing types.*

ENGAGEMENT

In developing the draft report, Planning Staff included a section on engagement. Planning Staff used several tools to reach the largest audience possible with special attention paid to coordinating with other ongoing initiatives to remove redundancy and to create consistent, comprehensive messaging about attainable housing. Planning Staff recommend updating the engagement section of the report to include completed engagement efforts that have occurred since the last report was drafted.

Recommendation: *Update the report with new, completed engagement activities.*

STAKEHOLDER CONCERNS

During the initial completion of the report, Planning Staff included a section on commonly heard stakeholder concerns and respective responses. One of the commonly heard concerns heard then and now was regarding gentrification and displacement, with Planning Staff including an analysis completed on the topic in the report. Since the report was published, the Planning Department has completed related initiatives on Neighborhood Change and Income Change that Planning Staff recommend including in the report. The report would include the following text:

[Neighborhood Change](#)

The [Neighborhood Change in the Washington DC Region](#) study found that census tracts that added the most housing in Montgomery County between 2000 and 2019 saw inclusive growth, meaning

increases in both higher- and lower-income residents. In contrast, tracts that added little housing saw displacement of low-income people or poverty concentration. Finally, in adding housing to neighborhoods was statistically correlated with increases rather than decreases of Black and Hispanic residents.”

Income change

A three-part blog called “Repositioning Montgomery County for Prosperity”^[1] finds that from 2005 to 2022, Montgomery County has lost more middle-income residents than any other jurisdiction in the Washington DC region, and its share of middle-income population has decreased faster than all but two of the 50 largest counties in the US. This research suggests that the lack of additional attainable housing options is forcing middle-income residents to look for housing in other places in the region and the nation.

Recommendation: *Include language related to Neighborhood Change and Income Change in the final AHS report.*

ATTACHMENTS

Attachment A – DRAFT Attainable Housing Strategies Report with markup from the previous Planning Board

Attachment B – AHS Comment Matrix

^[1] The three “Repositioning Montgomery for Prosperity” blogs are:

[Part 1: Montgomery County’s Income Shifts](#)

[Part 2: Montgomery County’s Income Shifts in Regional and National Contexts](#)

[Part 3: Abundant Housing for Inclusive Growth](#)

[The full research brief is Navigating Income Shifts in Montgomery County: Towards Shared Prosperity](#)