



Attainable Housing Strategies – Work Session #5

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DESCRIPTION

On March 4, Montgomery County Council directed Montgomery Planning staff to review and analyze housing options in the county. In order 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. This report is for the fifth work session with the Board where Planning staff will provide an overview of the decisions that were made at previous work sessions, provide follow-up information as requested, and continue to review staff recommendations pertaining to AHS.

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SUMMARY

Through the Attainable Housing Strategies initiative, Planning staff led an evaluation process over the last eight months, in which various proposals were reviewed and refined in an effort to spur the development of more diverse types of housing in Montgomery, including Missing Middle Housing. This process has also provided opportunities for public feedback which has been incorporated into staff’s preliminary recommendations. This report provides the findings of the analysis and presents recommendations to the Planning Board on developing tools that can encourage the creation of a more diverse range of housing typologies.

Previous AHS work sessions focused on the following elements and decisions made by the Planning Board:

- **Definition and scale:** The Planning Board was supportive of the goals of the initiative following a refinement that added more direct language and included a focus on economic development. The Planning Board also supported a definition of attainable housing that includes a focus on the intent of attainable housing, to provide more diverse housing options.
- **Product Type:** Per guidance from the Planning Board, staff will produce draft Zoning Text Amendments to transmit to the County Council for introduction. The ZTAs would detail the recommendations as edits to Chapter 59.
- **Thrive Growth map:** The Planning Board was not supportive of connecting the AHS recommendations to the Thrive Growth map, given that it is not yet adopted. Instead the boundary of zoning blocks will be used.
- **Applicable Residential Zones for Small Scale Attainable Housing:** The Planning Board recommended allowing, by-right, house scale:
 - duplexes in the R-40, R-60, R-90, and R-200 zones;
 - triplexes in the R-40, R-60, and R-90 zones; and
 - quadplexes in the R-40, R-60, and R-90 zones within the Priority Housing District.
- **Priority Housing District:** The Planning Board was supportive of defining the Priority Housing District, in which quadplexes would be allowed and parking requirements would be reduced. The Board defined the Priority Housing District using a straight-line buffer of 1-mile from Red line, Purple Line, and MARC rail stations,¹ plus 500 ft from a BRT Corridor plus River Road (inside the beltway) and Connecticut Avenue.
- **Existing Optional Method:** The Planning Board agreed to update the existing MPDU and Cluster Optional Methods of Development to allow the use of triplex and quadplex buildings.

¹ This is aligned with the reduced parking requirements allowed for Accessory Dwelling Units.

- **Pattern Book:** The Planning Board was supportive of creating a Planning Board approved pattern book which will be mandatory for the creation of new attainable housing.
 - The Planning Board agreed with staff that the pattern book shall be Planning Board adopted mandatory guidelines that apply to small scale attainable housing typologies, which includes duplexes, triplexes, and quadplexes.
 - The pattern book should also include non-binding guidance on other building types such as townhomes and small apartments.
 - The Planning Board directed staff to engage with DPS to ensure creation of an easy to apply pattern book with minimal room for ambiguity around form standards.
- **Development Standards Data Tables:**
 - The Planning Board supports staff's direction of including duplexes and multiplexes within the residential zones, with standards table modifications as necessary.
 - Substandard lots that currently allow single-family detached homes should not have restrictions placed on them prohibiting duplexes or multiplexes.
 - The zoning standard tables should not place a limit on building size, but rather the design requirements of the pattern book should be utilized to help with compatibility.
- **Attainable Housing Optional Method (AHOM) for Medium Scale Attainable Housing:** The Planning Board was supportive of the idea of the AHOM and middle density attainable housing. The intent of the AHOM is to allow greater density and development flexibility in exchange for attainability.
 - **AHOM Geographic Applicability:** Properties zoned R-90 or R-60 that abut a corridor planned for BRT in the *2013 Countywide Transit Corridors Functional Master Plan*, and Connecticut Ave and River Road inside the beltway, properties recommended for AHOM in a Master Plan or properties recommended for a Residential Floating Zone through a Master Plan are eligible for the AHOM.
 - **Maximum Average Unit Size:** The most practical means of ensuring attainability is to establish a maximum average unit size across all unit types within a development project. The Planning Board recommended 1,500 SF as the maximum average unit size.

With today's Attainable Housing Strategies work session, staff would like to discuss and seek Planning Board agreement or direction on the following:

- Affordability
- Displacement
- Trees
- Impact Taxes
- HOAs
- Municipalities
- Parking
- Subdivision
- Desired elements of a pattern book
- Suggested catalyst policies
- Property Assessment

Staff is recommending the following updated timeline for the AHS initiative. Of note, staff will now come back to the Planning Board for the final work session on December 2 instead of November 18.

Date	Topics
11/4	<p>Other Elements to Consider</p> <ul style="list-style-type: none"> • Affordability • Displacement • Trees • HOAs • Municipalities • Impact Taxes • Parking • Subdivision • Desired elements of a pattern book • Suggested catalyst policies • Property Assessment
12/2	<p>Zoning Text Amendments</p> <ul style="list-style-type: none"> • Review of the AHS report • Review of any applicable ZTAs or SRAs

FOLLOW UP FROM PREVIOUS WORK SESSIONS

Density in the AHOM

At the work session on October 7, staff discussed various elements related to the AHOM, including the base density for which AHOM projects should be eligible, and the potential for incentive density based on providing smaller housing units. The Board generally agreed with the direction staff was taking, but asked staff to take another look at the base density recommendations to see if they were appropriate or potentially set too low.

Initially, staff proposed base density for AHOM developments to roughly correspond with the density in the TLD and TMD zones, with 9 units/acre in the R-90 zone and 12 units/acre in the R-60 zone. The density bonus was then set up in three tiers:

- 1 percent increase in density for each 1 percent reduction in average unit size below the maximum, for projects up to 10 percent in unit size reduction
- A 1.2 percent increase in density for each 1 percent reduction in average unit size below the maximum, for projects with 10.1 percent – 20 percent in unit size reduction
- 1.3 percent increase in density for each 1 percent reduction in average unit size below the maximum, for projects in excess of 20 percent in unit size reduction

Staff looked at a few different sources to determine if the density recommendations should be adjusted including the 2018 Missing Middle Housing Studies performed by Torti Gallas + Partners, information on the website www.missingmiddlehousing.com and looking back at some recent development review projects within Montgomery County that were predominantly attached housing. What staff found is actually pinning down a density for this type of housing is difficult, and estimates range between about 10 and 70 units and acre, depending upon the mix of housing types built, site conditions, and how flexible local building codes are. To give some examples of the density possibilities the different sites suggest, staff prepared the table below showing approximately how many units/acre each building type could yield. The data from missingmiddle.com presumed net density which does not calculate for dedications, utilities or other common occurrences that would reduce density. The housing study does not include right-of-way dedications and based on the graphics presumably also does not account for other easements. As the table shows, the density expectations vary greatly between the types of housing, making it difficult to use this alone to determine AHOM density recommendations.

Housing Type	Missingmiddle.com	MM Housing Study
Cottage/Bungalow Court	5-10	10-15
Duplex side-by-side	8-17	14
Townhouse	11-25	24
Multiplex	5-12	
Stacked Flats		30-34
Stacked Triplex	15-38	33
Small Apartment	21-35	20-40

Also, the Missing Middle Housing Study identified a couple of sample sites that were laid out assuming a mix of housing types including multiplexes, stacked triplexes, townhomes, bungalows and carriage houses. Within the study itself it broke each section of the development into smaller pods showing how



different parts of the site hit different density yields, but the overall 2.5-acre project yielded about 30 units/acre. It should be pointed out that this is just an illustrative diagram showing a hypothetical layout and does not fully account for the potential that the gross tract may include some areas of right-of-way, it does not provide a layout that fully meets the development codes of the county today, and also presumed small unit sizes between 650 and 1,450 square feet.

Staff also looked at a couple of built examples of fairly dense, attached housing in the county, along future BRT routes which are areas that would qualify for the AHOM designation. The two sites worth discussing in particular are the Rock Spring Park project, and the Randolph Farms project.

Rock Spring Farms

This project was approved as an I-3 Optional Method of Development pursuant to the procedures of the old Zoning Code which allowed residential uses in industrial zones that were well served by transit. This approval occurred in 2014 in the Rock Spring office park before the Rock Spring Sector Plan was completed. The adjacent right-of-way to the south and east of the property include the potential future BRT route connecting the Montgomery Mall transit center with White Flint. The site contains 168 townhouses on approximately 10.62 acres, a density of approximately 15.8 units/acre. The image below shows the rendered site plan including a couple of new streets and alleys, open space, and setbacks from the future BRT route. The units varied in width between 14 and 22 feet wide and were 40 feet deep. These were 4 story units which is much larger than anticipated by the AHOM development, however for perspective a two-story unit with a dimension of 18*40 would be 1,440 SF so the footprint

of potential AHOM townhomes would not be much different. In this site each unit does provide 2 parking spaces, but it's fully integrated into the unit so there's very little site space dedicated just to parking.



Randolph Farms

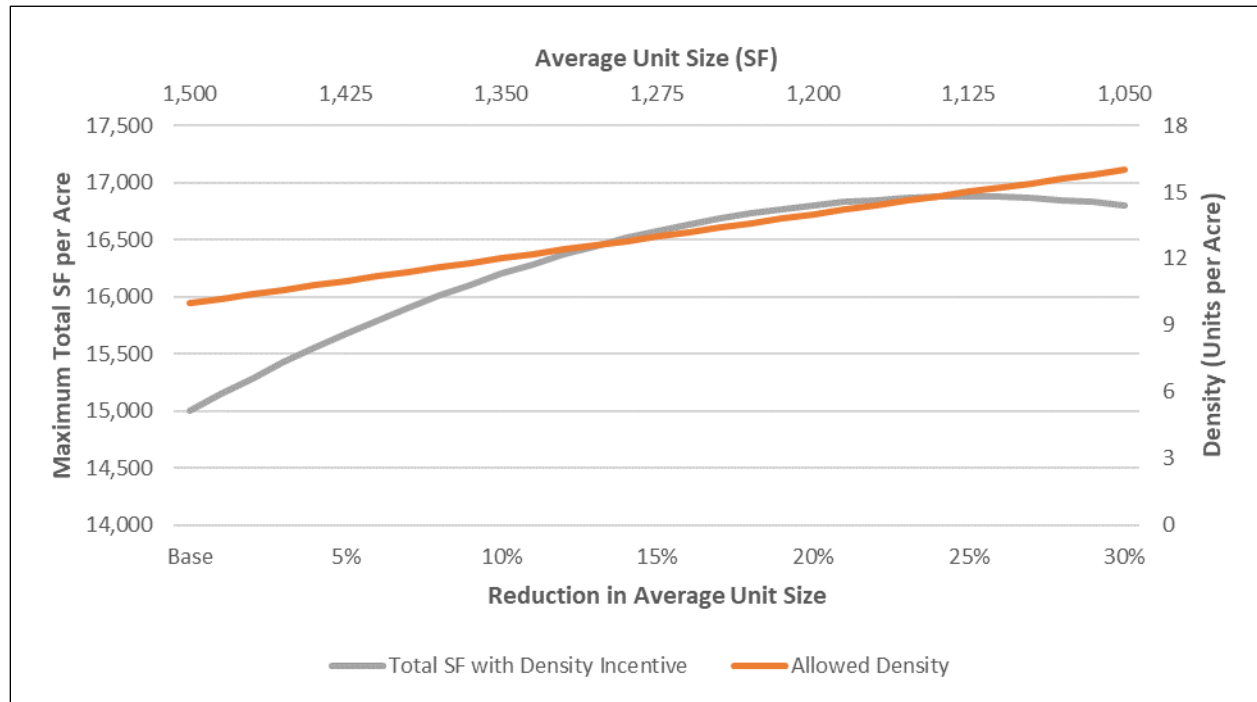
The Randolph Farms community was Site Plan approved in 2017 as a townhouse development in the RT-15 zone under the old Zoning Code. The Site was previously split zoned R-60 and R-90 but was rezoned through a Local Map Amendment G-964. This project is currently under construction on the south side of Randolph road, a future BRT route, just east of Parklawn Drive. This project contains 104 townhouses on approximately 8.44 gross acres of land which is a density of approximately 12.3 units/acre. This site also includes space dedicated to new roads and alleys, and an open space area, and has a mix of units, some with deep driveways that accommodate an extra vehicle and some without deep driveways. The units are either 16 or 20 feet wide and are 40 feet deep. The height is only 3 stories on these units because of zoning height restrictions, and offer a descent glimpse of the size townhouse that could be built on the upper size end of the AHOM standards if some other units were smaller to reach the average unit size of 1,500 SF.



In both examples, the real, gross density that factored in dedications (past and present), open space, roads and alleys, parking, landscaping, and stormwater was only 15.8 and 12.3 units/acre respectively, which is far below the net density of up to 25 units an acre the missing middle site and study suggests is possible. Many of the AHOM sites will likely be considerably smaller than these sites and that may yield a slightly higher density with less new roadways, but it is still worth considering the differences.

Lastly, staff reviewed the density incentives that were proposed to determine if they seemed appropriate or needed refinement. Staff considered changes to the base maximum average unit size, the base density, and the density incentive factors. After reviewing multiple scenarios, staff recommends simplifying the bonus calculation using a straight line incentive rather than a tiered incentive. Staff will be able to review different scenarios with the Planning Board during the upcoming work session. Below are the results of two scenarios which staff is now recommending for the AHOM density: R-90 a base of 10 units/acre and an incentive with a 2 percent increase in density for every 1 percent decrease in average unit size, and R-60 a base of 13 units/acre and an incentive with a 2 percent increase in density for every 1 percent decrease in average unit size. The chart plots the density increase, and the change in total square feet of development that would result on a 1-acre site.

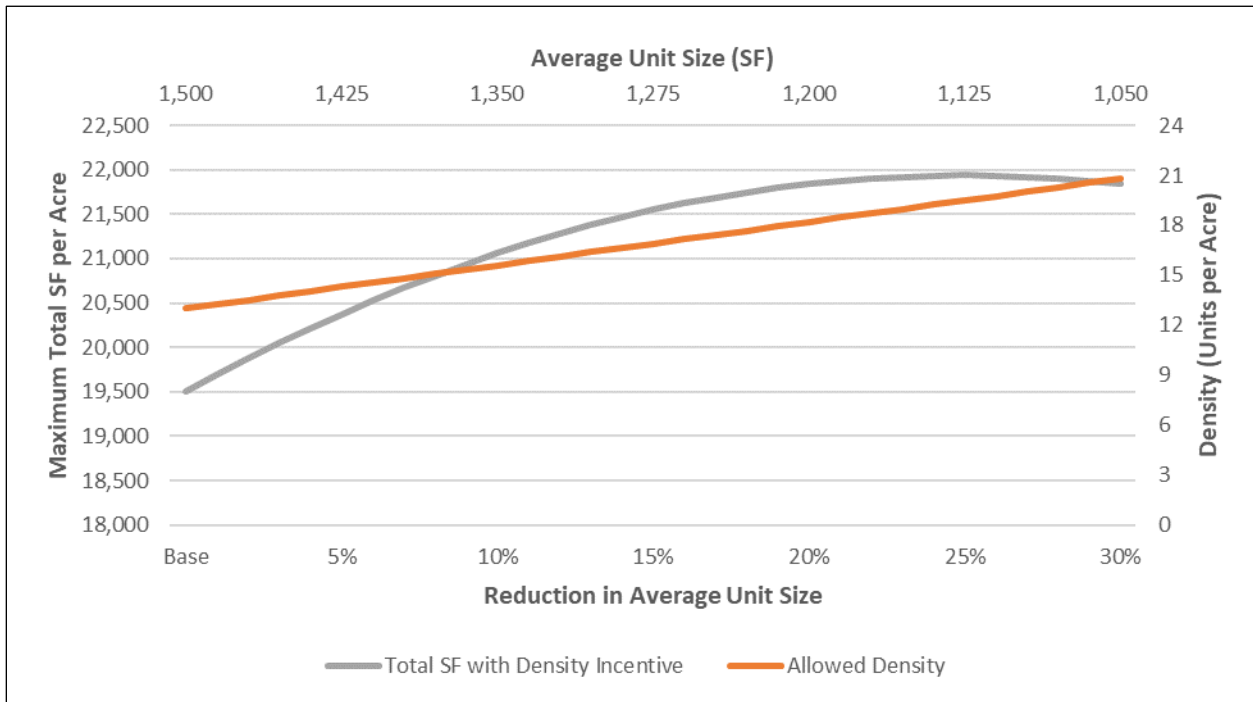
R-90 zone



% Reduction in Average Unit Size	Average Unit Size (SF)	Density Incentive Factor	Net Density (units/acre)	SF of Development (per acre of site)
Base	1,500	100%	10	15,000
5%	1,425	110%	11	15,675
10%	1,350	120%	12	16,200
15%	1,275	130%	13	16,575
20%	1,200	140%	14	16,800
25%	1,125	150%	15	16,875
30%	1,050	160%	16	16,800

In the R-90 zone chart and table above, staff made minor modifications from what was proposed at the previous work session by increasing the base density from 9 units/acre to 10 units/acre and applying the 2 percent density increase for each 1 percent average dwelling unit size decrease. The density increases steadily with one additional dwelling unit/acre for each 5 percent reduction in average unit size. The proposal would put no limit on the average unit size reduction, but the table shows up to a 30 percent reduction which results in 16 units/acre. The increase in total square feet of development per acre does increase with the increased density to a point but starts to decrease after a 25 percent reduction in average square feet.

R-60 zone



% Reduction in Average Unit Size	Average Unit Size (SF)	Density Incentive Factor	Net Density (units/acre)	SF of Development (per acre of site)
Base	1,500	100%	13	19,500
5%	1,425	110%	14.3	20,378
10%	1,350	120%	15.6	21,060
15%	1,275	130%	16.9	21,548
20%	1,200	140%	18.2	21,840
25%	1,125	150%	19.5	21,938
30%	1,050	160%	20.8	21,840

In the R-60 zone chart and table above, staff made minor modifications from what was proposed at the previous work session by increasing the base density from 12 units/acre to 13 units/acre and applying the 2 percent density increase for each 1 percent average dwelling unit size decrease. The density increases steadily with 1.3 additional dwelling unit/acre for each 5 percent reduction in average unit size. The proposal would put no limit on the average unit size reduction, but the table shows up to a 30 percent reduction which results in over 20 units/acre. The increase in total square feet of development per acre does increase with the increased density to a point but starts to decrease after a 25 percent reduction in average square feet.

Because there is a decent incentive for providing very modest reductions in average dwelling unit size, and real world examples show that our likely density yields are at best in the mid-teens of units per acre, **Staff recommends only slight adjustments in base density for the AHOM in the R-90 zone from 9 to 10**

units/acre, and in the R-60 zone from 12 to 13 units/acre. Staff also recommends simplifying the density bonus to allow a 2 percent increase in density for each 1 percent decrease in average unit size.

Cottage Court Housing and Small Houses

The Planning Board also directed staff to take another look at the draft recommendations for Cottage Courtyard housing, and whether detached housing should be an option in the AHOM. There was an expressed desire to allow detached houses if they were smaller in size with minimal setbacks (like a cottage or bungalow court), and a suggestion that the courtyard part of Cottage Courtyard housing was less relevant.

Given the guidance, staff is now recommending not creating a new building type for Cottage Courtyard housing and instead would allow single-family detached houses in the AHOM with minor modifications to the data standards table. First, staff recommends a new specification under “Specification for Dwelling Units” that would restrict detached dwelling units to 1,500 SF or smaller. Staff considered not providing a specification to restrict the unit size of the detached dwellings and let the overall AHOM average unit size be the only control, however there is a concern an applicant may make the detached houses substantially larger and therefore less attainable, and make up for this with many small one- or two bedroom multi-family units.

The other change staff recommends is setting a lower building height for detached dwellings of 25 feet rather than 35 or 40 feet. This lower height would still accommodate a full 2 story dwelling, but also assured the height does not exceed two stories, keeping the detached dwellings smaller.

	Attainable Housing Development				
	Detached House for Cottage Court Living	Duplex	Multiplex	Townhouse	Apartment
* * *					
Specification for Dwelling Units					
a. Average dwelling unit size is measured as the average unit size across all dwellings within the optional method development. Individual units may be larger or smaller.					
b. <u>The maximum dwelling unit size for a Detached House is 1,500 SF</u>					
* * *					
Height (max)					
Principal building	35' <u>25'</u>	40'	40'	40'	45'
Accessory structure	25' <u>20'</u>	25'	25'	25'	25'

OTHER ATTAINABLE HOUSING ELEMENTS TO CONSIDER

Affordability Summary

During a previous work session, the Planning Board asked staff to look into an optional or mandatory affordability provision for Attainable Housing. **Staff does not believe it is economically feasible for small scale, infill housing types to cover the high subsidy required to make units affordable to low- and**

moderate-income households. Staff is not supportive of a mandatory affordability component but believes that an optional affordability component to make it easier for non-profits and other homebuilders to build affordable units should be discussed with the Planning Board.

Staff first wants to highlight existing county affordable programs and how they fit into the development process in Montgomery County. The most well-known affordable housing program in the county is the Moderately Priced Dwelling Unit program. Implemented in 1974, Montgomery County's landmark inclusionary zoning program, the Moderately Priced Dwelling Unit Ordinance is believed to be the country's first mandatory, inclusionary zoning law that allowed an optional bonus density to help offset the cost of constructing units. The program requires that 12.5 percent to 15 percent of units in developments to be set aside as affordable to households earning between 65 percent and 70 percent of Area Median Income.² The MPDU requirement is only triggered in developments with 20 units or more, in recognition of the high cost of providing MPDU units and the need to have a sizeable share of market-rate units to help cover the costs of providing these subsidized MPDU units.

If there are any Attainable Housing developments with 20 units or more (which is only possible for certain medium scale or large scale developments and not small scale/house scale attainable housing types), the MPDU requirement would still apply.

Furthermore, changes made in 2018 require housing developments with 11 to 19 units to make a payment to the Housing Initiative Fund (HIF) at one-half (0.5) percent of the purchase price of the unit, paid at settlement. The HIF is administered by the county's Department of Housing and Community Affairs. HIF funding is used to provide loans to support production of new affordable housing, acquisition and preservation of existing affordable housing, and subsidies to make housing affordable to very low-, low-, and moderate-income tenants. Funding is also used to support homeownership programs. The fund receives revenue from a variety of other sources including taxes, proceeds from bonds, and loan repayments.

There is also a Workforce Housing Unit (WFHU) Program in Montgomery County. The Workforce Housing program is a voluntary affordable housing program, and not required like the MPDU program. WFHU are often required as a condition of development agreements related to the use of county owned land. The goals of Workforce Housing is to promote the construction of housing that will be affordable to households with incomes at or below 120 percent of AMI,³ as well as increase the availability of housing in the county for public employees and other workers whose income cannot support the high cost of housing located close to their workplace.

There are also state and federal affordable housing programs that operate outside county code that have a limited role in development review. Perhaps the most well-known program is the Low-Income Housing Tax Credit, which is the national leader for developing affordable housing. Administered by state housing finance agencies, LIHTC provides funding for the development costs of low income rental housing. LIHTC typically serves households at 40-60 percent of AMI, but recent changes allow for income

² The maximum household income is \$81,500 for a household of three to qualify for a MPDU.
<https://montgomerycountymd.gov/DHCA/housing/singlefamily/mpdu/programsales.html#Are>

³ The maximum household income is \$139,500 for a household of three to qualify for a WFHU.
<https://www.montgomerycountymd.gov/DHCA/housing/singlefamily/workforce/>

up to 80 percent of AMI, so long as the average income/rent limit in the project remains at 60 percent or less of AMI. In Maryland, the building must remain in compliance and is subject to covenant to enforce compliance for a minimum of 40 years. Given the size of small scale attainable housing projects, it is unlikely that these types of projects would apply for competitive 9 percent LIHTC.

Feasibility of Affordability Component

Recently, staff worked with Habitat for Humanity on a post for [Montgomery Planning's Third Place blog](#) on an affordable duplex homeownership project on Garland Avenue in Takoma Park. The blog highlights how it is not economically feasible to require small attainable housing projects to dedicate affordable units:

Habitat estimates that the cost to renovate and sell the Garland Ave property as a single-family home would be about \$800,000 and that the property would appraise for around \$870,000. Habitat serves families earning less than 80 percent of Area Median Income and ensures that families do not pay more than 30 percent of their gross household income on housing. Habitat does this by subsidizing the difference between the cost to renovate the home and what would be an affordable price for the families we serve. Obviously, \$800,000 is not affordable. Habitat calculates that a sales price of closer to \$300,000 is affordable when considering mortgage payments, property taxes and homeowners' insurance. If left as a single-family home, the subsidy would need to be \$500,000 to make up the difference. However, because the property's zoning allows us to create a duplex, we can make the dream of owning a home in Takoma Park realistic for not only one, but for two homebuyers with this single project.

Habitat's total budget for the duplex conversion is \$950,000 or \$475,000 per unit. With two units, the subsidy drops from \$500,000 to \$175,000 per unit or \$350,000 total. That makes a huge difference when it comes to fundraising to fill the gap.

Staff wants to emphasize a couple of points here. First, by creating another unit, Habitat was able to lower the cost of the subsidy and spread it across two units to help fill the fundraising gap to make the units a reality, highlighting the impact of building more and smaller units. Second, the subsidy needed to make this affordable to the families that Habitat serves is still high - \$175,000 per unit. While not a perfect comparison, the average per-unit cost of procuring an MPDU utilizing a loan for the Housing Initiative Fund in 2019 was approximately \$49,000. Staff believes tools, like development standards flexibility or access to the HIF, should potentially be available to allow mission driven housing providers to be able to build this type of housing with regularity. However, staff believes that this subsidy gap is too large for the market-rate sector to be able to build these types of units without financial assistance from the county and it would be infeasible to require a mandatory affordability component. **Staff supports future analysis and implementation of an optional affordability component that would ensure mission driven partners have the tools and flexibility to build attainable housing types with regularity.**

Potential Incentives for Affordability

While staff believes that it is not feasible to require mandatory affordable provisions for small scale or medium scale infill projects with less than 20 units, staff has identified several options for the Planning Board to consider should they want to mandate a requirement, either optional or mandatory.

- **Density bonuses.** Currently, density bonuses are provided through the MPDU Optional Method for housing projects with 20 or more units that exceed the minimum MPDU requirement of 12.5 percent. Staff notes that density increases are an inherent feature of the attainable housing strategies recommendations. Also, the AHOM provides a bonus density for projects where the average unit size is below the maximum average unit standard. The Board may want to consider additional bonus density for medium scale attainable housing projects if they provide MPDUs in excess of the required amount.
- **Relief from development standards (parking, setbacks, height, parking).** Staff has already recommended adjustments to parking requirements and not having the infill development/lot coverage rules apply for small scale attainable housing types. Staff believes it may be appropriate to offer relief from setbacks as an optional affordability component, to allow non-profits and other homebuilders flexibility to build affordable small scale attainable housing.
- **Payment to the HIF.** Currently, projects with 11-19 units are required to make a payment to the HIF at one-half (0.5 percent) of the purchase price of the unit, paid at settlement. **Staff believes that if there is a mandatory affordable component for attainable housing projects, requiring a HIF payment for projects under 10 units is an appropriate avenue to pursue.** Staff believes, however, if there were a payment to the HIF that it should be applied to all developments under 10 units, including 1-unit replacement homes to ensure the processes to build single-unit detached units do not incentivize the production of single-unit detached units over attainable housing types.
- **Financial assistance from the county to subsidize rents, potentially from the Housing Initiative Fund.** Flexible rental programs, such as [DC Flex](#), applied specifically to new attainable housing types can be a win-win for tenants as well as landlords who create the new housing types.
- **Allowing public agencies such as the Housing Opportunities Commission (HOC), other Public Housing Agencies (PHAs), or housing focused non-profits to exercise a Right of First Refusal (ROFR) on certain multiplex properties to create affordable units.** PHAs and Non-profits often struggle to create housing across different geographies since their landbanks and resources may be concentrated in certain neighborhoods. However, the populations they serve may need housing in different parts of the county. An opportunity to exercise a ROFR on units created using the provisions of the AHS may provide access to a greater geography at more reasonable price points. Additionally, for retail sellers, this may save them significant monies in transaction costs (realtor fees, staging, etc.).

Gentrification and Displacement

Staff has heard neighborhood concerns that new construction associated with AHS will lead to gentrification. Staff examined the potential of small scale attainable housing and middle and large scale

attainable housing to cause gentrification separately due to the differing review process and applicable geography. Staff found that the potential for all scales of attainable housing to generate gentrification is small.

Gentrification is defined by the Urban Displacement Program at UC Berkeley as “a process of neighborhood change that includes economic change in a historically disinvested neighborhood —by means of real estate investment and new higher-income residents moving in - as well as demographic change - not only in terms of income level, but also in terms of changes in the education level or racial make-up of residents.”⁴ The Merriam-Webster dictionary defines gentrification as “a process in which a poor area (as of a city) experiences an influx of middle-class or wealthy people who renovate and rebuild homes and businesses and which often results in an increase in property values and the displacement of earlier, usually poorer residents.”⁵ Both definitions emphasize changing demographics at a neighborhood-scale within lower income areas or a neighborhood in which policies actively prevented investment and led to a concentration of poverty and a dearth of opportunity. The Urban Displacement Program’s website further explains the context of gentrification with an emphasis on racial segregation and the intentional economic isolation of people of color.

Small scale attainable housing is unlikely to cause gentrification because it is most likely to be built in neighborhoods that are neither lower income nor have ever been historically disinvested. Under certain conditions, the recommendations for small scale attainable housing would allow duplexes and triplexes by-right in certain residential zones and quadplexes in select areas near transit.

To better understand where builders might construct small scale attainable housing and whether this might cause gentrification, staff modelled the feasibility of replacing properties in the 30th to 70th percentile of value with a 3,000 SF duplex (1,500 SF for each unit) in each transportation analysis zone (TAZ) in the county. The model uses the same process and data on value of the new unit and cost of construction as [the Missing Middle Market Study](#) presented to the Planning Board on March 4, 2021. In slight contrast, the Missing Middle Market Study evaluated the financial feasibility of replacing properties of *average value* (the 100th percentile of value) within each TAZ with new missing middle housing typologies.

To examine the potential of gentrification staff updated the model to analyze the feasibility of replacing properties that are 55 percent of the average value in each TAZ. Average value was calculated using all arms-length sales of single-family properties in each TAZ from 2018 through 2020. 55 percent was chosen as the weighted midpoint of the homes selling within the 30th to 70th percentiles of value; Montgomery Planning’s [investigation of the replacement home market](#), presented to the Planning Board on June 24, 2021, revealed that builders target homes that sell between the 30th and 70th percentile of value for replacement homes. Staff modeled the feasibility of a 3,000 SF duplex as this matches the 1,500 SF average unit size cap discussed at the AHS work-session with the Planning Board on October 7, 2021.

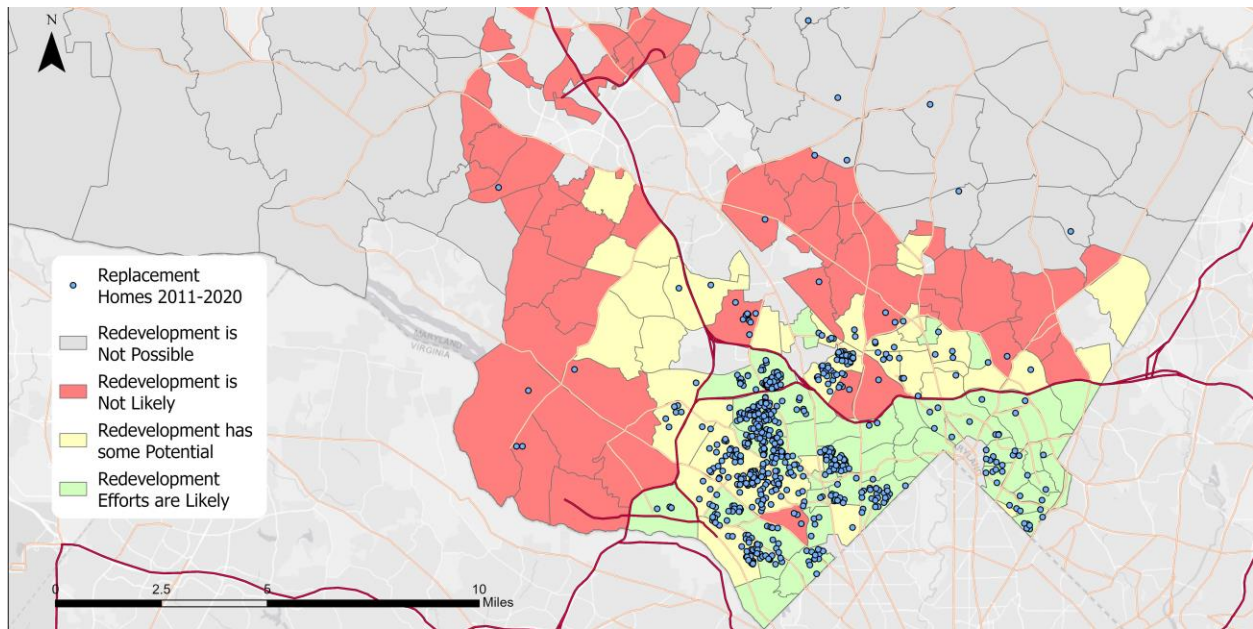
The following map shows the results of this financial modelling, demonstrating that the duplexes, the development typology most easily fit onto an existing single-family parcel, is most likely to occur in the

⁴ Source: <https://www.urbandisplacement.org/gentrification-explained>

⁵ Source: <https://www.merriam-webster.com/dictionary/gentrification>

same neighborhoods where the majority of replacement homes were built since 2010. Neighborhood shown in yellow are where the profit from development of the duplex is expected to generate between 75 percent to 125 percent of the cost of a home at the 55th percentile of value, indicating the builder may be able to find one of these lower-cost properties at a price that enables development to proceed. Neighborhoods in green are where the expected profit exceeds 125 percent of the value of a property at the 55th percentile of local area value, indicating that efforts to acquire the lower-cost properties to build attainable housing would be likely there. Areas in red do not generate enough profit to cover 75 percent of the value of a home in the 55th percentile of value, indicating a builder is unlikely to find a sufficiently low-cost property for a duplex project. Within the areas in grey the anticipated revenue from the new units does not cover the cost of constructing the duplex, indicating that new duplex development replacing homes at the 55th percentile of value is not feasible in these areas at this time. Importantly, the green and yellow areas overlap substantially with the location of the vast majority of replacement homes built since 2010.

Figure 1 Feasibility of a 3,000 SF Duplex Redevelopment of Single-Family Homes at the 55th Percentile of TAZ average sales value and Location of Replacement Homes Built 2011-2020



Source: Montgomery County Planning, Research & Strategic Projects

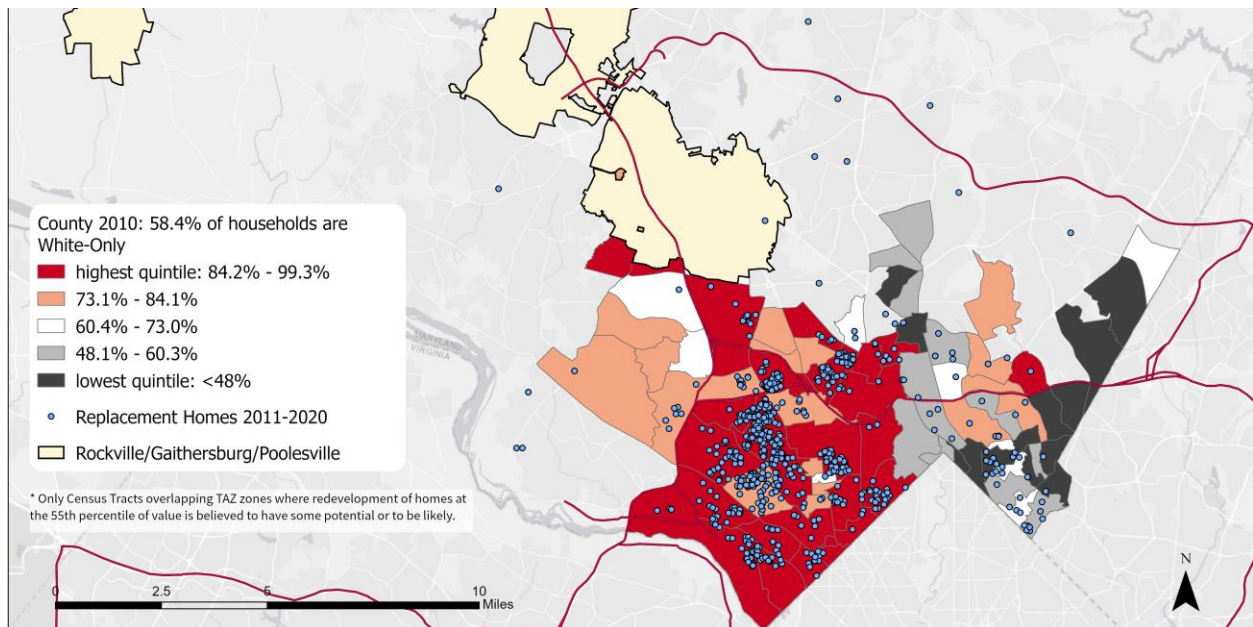
While there is a broad geography in which builders could feasibly replace homes at the 55th percentile of average value with attainable housing, the supply of those lower cost homes is very limited. Montgomery Planning’s investigation of the replacement home market, presented to the Planning Board on June 24, 2021 found that just 10 percent of the approximately 20,000 arms-length sales of single-family homes in the years 2018 to 2020 were between the 30th and 70th percentile of value. This limited supply of properties within the price range required to profitably develop attainable housing will correspondingly limit the impact of the small scale attainable housing permitted by-right to existing single-family neighborhoods.

The finding that small scale attainable housing will likely occur in the same neighborhoods as replacement homes indicates that adoption of the AHS recommendations is unlikely to cause gentrification. This is because the neighborhoods where replacement homes are being built and where we would expect small scale attainable housing generally:

- had a higher proportion of households identifying as White alone, non-Hispanic or Latino in 2010 than the rest of the county;
- saw the proportion of White alone household decline at a slower pace from 2010 to 2020 than the rest of the county;
- had higher median income in 2010 than the rest of the county;
- had median income increase at a faster or similar rate as the rest of the county between 2010 and 2020; and,
- had average or higher than average levels of owner occupancy of the units within 1- to 4-unit properties.

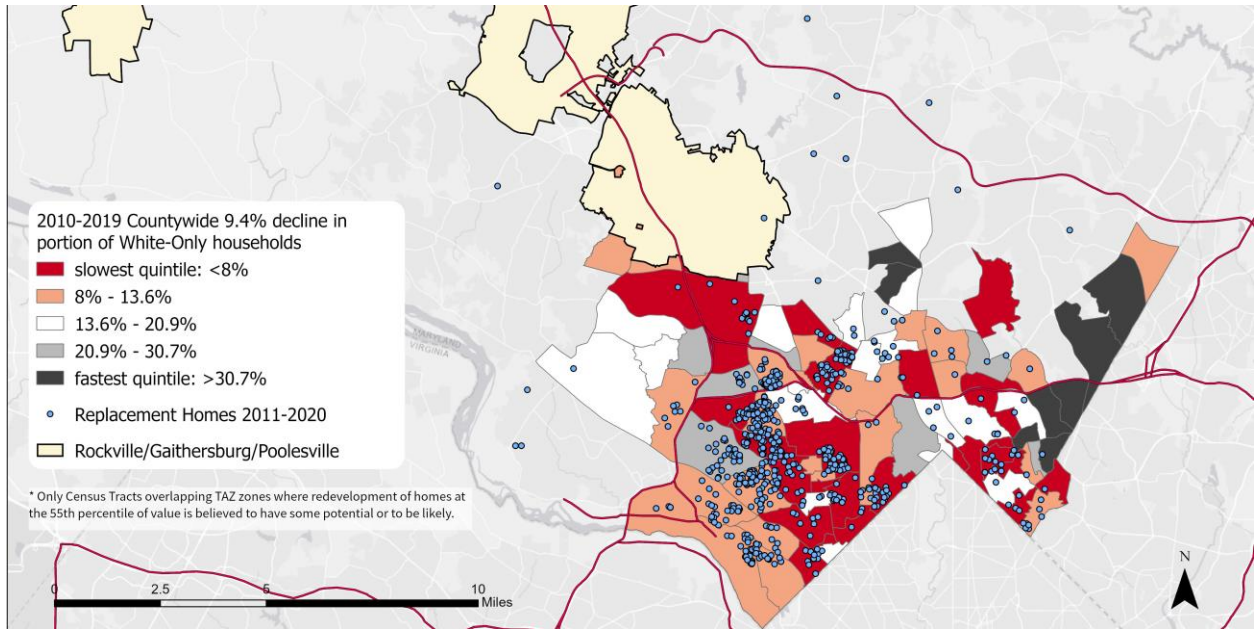
The following series of maps shows the above five points, indicating that small scale AHS is most likely to occur in areas that are neither lower income nor historically disinvested.

Figure 2 Proportion of the Population Identifying as White Only in 2010 by Census Tracts where Redevelopment of Homes at the 55th Percentile of Value has Potential or is Likely



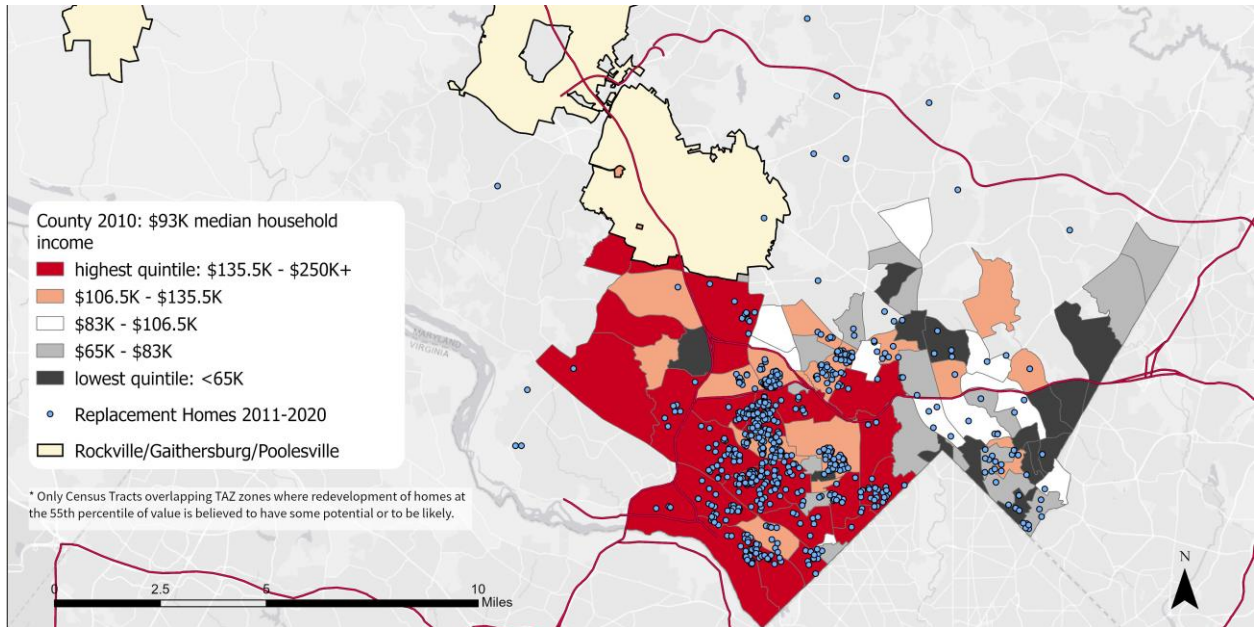
Source: Census 5-year ACS data, Montgomery County Planning, Research & Strategic Projects

Figure 3 Decline in the Proportion of the Population Identifying as White Only from 2010 to 2019 by Census Tracts where Redevelopment of Homes at the 55th Percentile of Value has Potential or is Likely



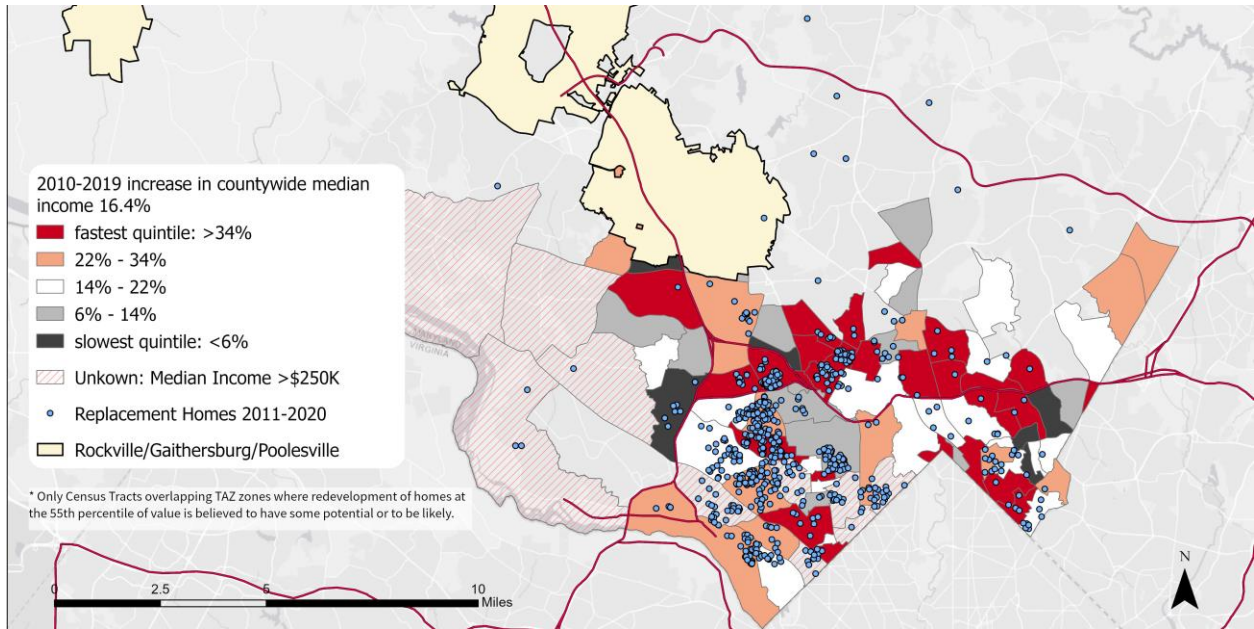
Source: Census 5-year ACS data, Montgomery County Planning, Research & Strategic Projects

Figure 4 Median Household Income in 2010 by Census Tracts where Redevelopment of Homes at the 55th Percentile of Value has Potential or is Likely



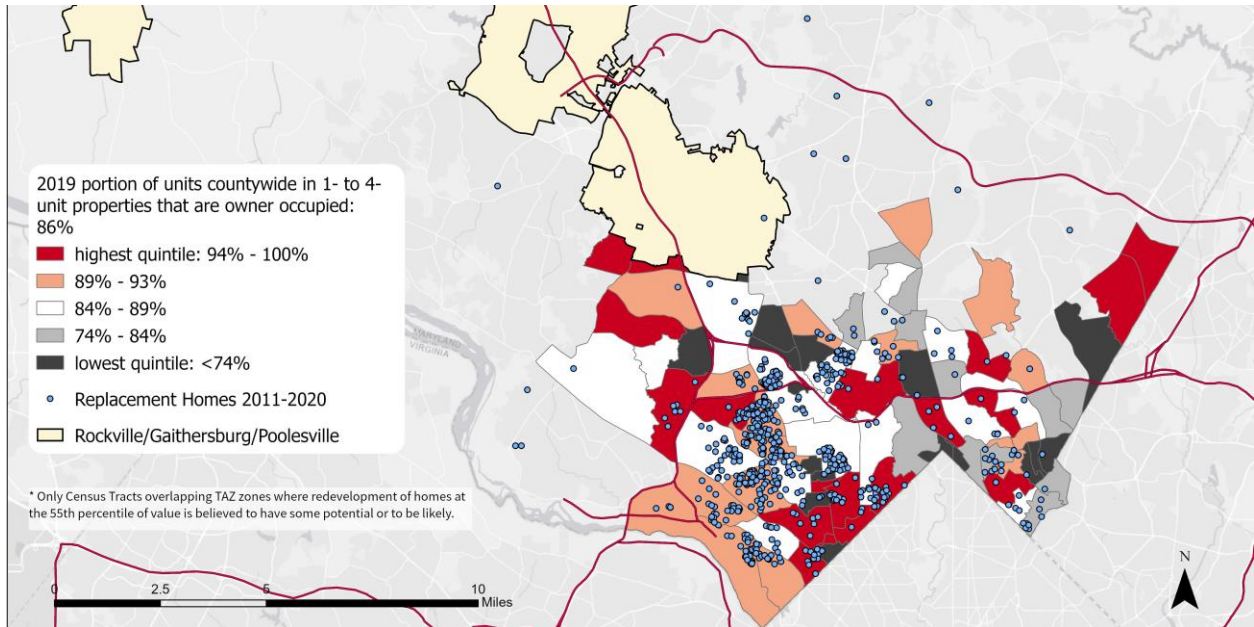
Source: Census 5-year ACS data, Montgomery County Planning, Research & Strategic Projects

Figure 5 Change in Household Median Income 2010-2019 by Census Tracts where Redevelopment of Homes at the 55th Percentile of Value has Potential or is Likely



Source: Census 5-year ACS data, Montgomery County Planning, Research & Strategic Projects

Figure 6 Proportion of Units in 1- to 4-Unit Properties That Are Owner-Occupied in 2019, by Census Tracts where Redevelopment of Homes at the 55th Percentile of Value has Potential or is Likely



Source: Census 5-year ACS data, Montgomery County Planning, Research & Strategic Projects

Staff also found that medium and large scale attainable housing are unlikely to cause gentrification for several reasons:

- there are only a small number of properties eligible for AHOM development in any neighborhood, making this type of development unlikely to generate neighborhood level demographic change;
- Eligible properties are not a source of lower-cost housing;
- A large proportion of properties abutting corridors are owner occupied, and thus there are few renters that development might displace.

Due to the small number of AHOM eligible properties compared to the entire stock of R-60 and R-90 homes, development of medium and large scale attainable housing is unlikely to perceptibly change the demographics of an entire neighborhood. There are approximately 2,380 R-60 and R-90 properties directly abutting the corridors, 2.6 percent of the approximately 89,000 R-60 and R-90 properties in the county. Within the TAZs with properties eligible for AHOM, such properties make up 4 percent of all properties with single-family homes. A portion of the neighborhood south of Randolph Road between Lindell street and Georgia Avenue has the highest proportion of properties eligible for AHOM at 19 percent.

R-60 and R-90 properties fronting the defined corridors are not a source of lower cost housing and thus middle and large scale attainable development is unlikely to remove a key source of relatively affordable homes. Staff evaluated the assessed value and sales from 2018 to 2020 of single-family homes in TAZs with properties eligible for AHOM and found little difference in value between properties fronting the corridors eligible for AHOM and properties with no frontage. The average assessed value of properties with corridor frontage was lower than the neighborhood average by 14 percent. However, 27 of the 75 TAZs with AHOM eligible properties had the average assessed value of properties fronting the corridor exceeding the neighborhood average. Recent sales data from 2018 through 2020 produced a similar finding, with the average price of homes on the corridors sold in those years exceeding the neighborhood average sales price by 28 percent. 59 TAZs with AHOM eligible properties had the average sale price of homes fronting the corridor exceeding the neighborhood average, while in only 16 TAZs was the average sale price lower.

Lastly, existing homes fronting the defined corridors are not a key source of rental units thus few occupants could be displaced by development: approximately 2,000 of the 2,380 properties are owner occupied (84 percent), just somewhat lower than the proportion of all single-family properties (of any zone) in Montgomery County that are owner occupied (92 percent).

Trees

One of the themes in the correspondence about AHS is concern over loss of trees due to infill development. **Staff is sympathetic to these concerns and believes that future analysis and action should look at how to balance new infill development (including attainable housing typologies, as well as other types of infill development like replacement homes) with the protection of tree canopy.**

In June 2021, Planning staff, in consultation with staff from the county's Department of Environmental Protection (DEP), Department of Transportation (MCDOT), and Department of Permitting Services (DPS), wrote a letter to a county resident that addresses the requirements and accomplishments of the county's tree-related laws (see Attachment 1). The County's Tree Canopy Law and Roadside Trees

Protection Law were introduced to work alongside the County's Forest Conservation Law to conserve and mitigate for adverse impacts during development in Montgomery County.

The intent of the Forest Conservation Law is to regulate forest, rather than individual trees, though plans subject to the law do require mitigation for the removal of large specimen trees. The Forest Conservation Law has a primary focus on regulating removal, protection, and planting of forest in the County. All amendments to the Montgomery County Forest Conservation Law must be approved by the state of Maryland to ensure compliance with the enabling state law, the Forest Conservation Act of 1992.

The Tree Canopy Law requires mitigation for all environmental impacts, including disturbance to and removal of trees. Mitigation fees are paid into a dedicated account based on the area of disturbance reported on applications for sediment control permits. The Roadside Trees Protection Law, on the other hand, requires a review of impacts to conserve street trees wherever possible. If a tree in the right-of-way must be removed, then mitigation is required in the form of one replacement street tree planted (adjacent to the disturbance) and payment of a fee equivalent to two additional trees into a dedicated account. This provides a replacement ratio of 3 street trees planted for every 1 removed. The bond rate, codified separately in the regulations, sets the mitigation fee for both of these laws.

The letter also discussed considerations for implementing any additional laws that would require permits or prevent removal of individual trees, discussion of balancing competing requirements through the development process, and ideas for additional tree protection and tree planting in Montgomery County. Staff is supportive of examining and implementing future efforts to expand tree planting and additional protection resources, as mentioned in the letter.

Staff also supports a planned future stakeholder working group aimed at strengthening Montgomery County's Forest Conservation Law and expanding related forest conservation programs to achieve no net loss of forests countywide.

Impact Taxes

Development Impact Taxes⁶ are set by the Montgomery County Council and assessed on new residential and commercial buildings and additions to commercial buildings in the county to help fund the improvements necessary to increase the transportation or public school systems capacity. The residential impact tax rates charged are generally based on two factors – geographic location and type of housing being built.

Currently, impact taxes are not paid on a replacement home, as long as construction on the new home begins within four years of the demolition of the original home. This is because when a single dwelling unit replaces another single dwelling unit, the net housing impact is zero. As attainable housing types will, on net, increase the number of housing dwelling units on a property, they will be assessed an impact tax. Staff believes, given the current categories of impact taxes, that the most appropriate impact tax category for attainable housing types is multifamily low-rise and projects will pay for the net housing unit increase on the property. Staff believes that because the units will be smaller than the

⁶ Transportation and School Impact Taxes, effective July 1, 2021:

<https://www.montgomerycountymd.gov/DPS/Resources/Files/Fees/Impact-Taxes-Handout.pdf>

typical townhouse, they will generate students at a rate similar to multifamily low-rise units. This is also consistent with an analysis staff conducted of student generation rates among existing duplexes and structures with three or four units across the county.

Impact Tax Example: Duplex in Turnover Impact Area/Orange Policy Area			
	School Impact Tax (Turnover Impact Area)	Transportation Impact Tax (Orange Policy Area)	Total
Duplex Unit 1	\$11,354	\$12,835	\$24,189
Duplex Unit 2	\$11,354	\$12,835	\$24,189
Credit (for existing SFD use on property)	(\$21,737)	(\$20,173)	(\$41,910)
Total	\$971	\$5,497	\$6,468

HOAs

Another theme in correspondence has to do with the role of HOAs and covenants in restricting the development of multi-unit development. Many homeowners’ associations (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. Just as with other private contracts, the courts enforce the contracts when asked to do so by one of the parties involved. The county does not enforce private covenants.⁷

While any HOA seeking legal advice should seek out a land use attorney, from staff’s understanding, while HOAs cannot override zoning, they can generally have more restrictive conditions and limit having more than one unit on a property.

Municipalities

Municipalities with their own zoning authority (Brookeville, Poolesville, Laytonsville, Rockville, Barnesville, Gaithersburg, and Washington Grove) are not affected by any changes to county zoning. Under Section 20-509 of the State Land Use Article, other municipalities may:

- Regulate only the construction, repair, or remodeling of single-family residential houses or buildings on land zoned for single-family residential use as it relates to:
 - residential parking;
 - the location of structures, including setback requirements;
 - the dimensions of structures, including height, bulk, massing, and design; and

⁷ The role of HOAs and municipalities was also a discussion point during the debate over Accessory Dwelling Units in ZTA 19-01, and much of the information in this staff report is summarized from that report:

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190709/20190709_3.pdf

- lot coverage, including impervious surfaces

Within the scope of this provision, a municipality may have more restrictive conditions under any of these topics. For example, the Town of Chevy Chase generally has more restrictive setbacks and height requirements.⁸

Parking

As part of staff's analysis of changes that should happen in Chapter 59 to accommodate attainable housing, a review of the parking requirements under Section 6.2 was conducted. One of the areas of focus was on the required minimum parking that is appropriate for attainable housing dwellings, and whether that should vary based on the dwelling type, or the location of the housing. Part of what informed staff's recommendations included the work done in 2018 on Accessory Dwelling Units where the council agreed to reduce parking requirements within a mile of transit or where adequate on street parking was available

A review of professional literature on parking in various other jurisdictions suggests that parking requirements contribute to the high cost of housing. In "The trouble with minimum parking requirements,"⁹ Donald Shoup argues that minimum parking requirements increase the supply and reduce the price – but not the cost – of parking. They bundle the cost of parking spaces into the cost of development, and thereby increase the prices of all the goods and services sold at the sites that offer free parking. In the planning field there is a growing shift of strategies that recognize that parking requirements negatively impact the affordability of housing too. Building parking is expensive and that cost is usually carried over to the tenant or homeowner. A recent American Planning Association¹⁰ article noted that various studies indicate that surface parking lot spaces cost upwards of \$5,000 each, while above-ground parking garages average around \$25,000 per space and below-ground garages average around \$35,000 per space. That can translate into higher rent and higher housing costs.

Staff also wants to recognize that their recommendation for a reduction in parking minimums is exactly that – a reduction in parking *minimums*. Planning staff are not recommending parking maximums, or even recommending no parking minimums. There are times the market will dictate more parking than the minimum. Planning staff has received a lot of correspondence out of concern for parking and took this concern seriously, but ultimately one of the goals of this initiative is to make housing more attainable and reducing parking requirements will hopefully help with that.

In addition, the priority of facilitating more intensive attainable housing (quadplexes) and generally reducing overall parking near existing and planned transit through the Priority Housing District was a factor staff considered.

Adjustments to Vehicle Parking

Section 6.2.3.I allows adjustments to vehicle parking based on certain situations. Subsection 2, Special Uses, includes existing adjustments for Restricted Housing Types, and religious assembly.

⁸ Source: <https://www.townofchevy Chase.org/DocumentCenter/View/203/Land-Use-Handbook?bidId=#page=38>

⁹ Source: <http://shoup.bol.ucla.edu/Trouble.pdf>

¹⁰ Source: <https://www.planning.org/planning/2018/oct/peopleoverparking/>

Staff is recommending a new section be added for attainable housing. This section, similar to the Restricted Housing Types, would offer an adjustment factor that can be applied toward the baseline minimum required parking to reduce the overall off-site parking requirements. The draft recommendations are as follows:

The baseline parking minimums in the parking table under Section 6.2.4.B may be reduced by multiplying the baseline minimum by an adjustment factor of 0.50 under the following circumstances:

- (a) In the R-200 zone, a duplex building built under the standard method that is located on a street with on-street parking;
- (b) In the R-90, R-60 and R-40 zones, a duplex or multiplex building built under the standard method that is located outside of the Priority Housing District and is located on a street with on-street parking;
- (c) In the R-90, R-60 and R-40 zones, a duplex or multiplex building built under the standard method that is located inside of the Priority Housing District and is located on a street without on-street parking; or
- (d) Dwellings built under the Attainable Housing optional method of development where 50% or more of the existing site frontage is along a street without on-street parking.

The baseline parking minimums in the parking table under Section 6.2.4.B may be reduced by multiplying the baseline minimum by an adjustment factor of 0.25 under the following circumstances:

- (a) in the R-90, R-60 and R-40 zones, a duplex or multiplex building built under the standard method that is located within the Priority Housing District and is located on a street with on-street parking; or
- (b) dwellings built under the Attainable Housing optional method of development where 50% or more of the existing site frontage is along a street with on-street parking.

These recommendations would allow modest parking reductions for attainable housing in most circumstances, except for the few where a site is outside of a priority housing district and there is no on-street parking on the block. The greatest reductions would occur within the Priority Housing District which is closest to planned and future transit and lesser reductions would be allowed outside the Priority Housing District.

Subdivision

Most of the direct changes staff has recommended throughout the AHS process have tied into zoning changes that are recommended to implement attainable housing. Staff has also identified opportunities for clarification and streamlining within the Subdivision Code, Chapter 50, that also are worth exploring. These changes could be set up through a Subdivision Regulation Amendment (SRA) concurrently with any ZTAs that come from the AHS, or could follow up as a separate item once there is confidence in the

direction being taken by the County Council on the AHS recommendations. In this regard, Planning staff is looking for guidance from the Planning Board on how or when to proceed.

Types of Subdivisions

To understand the existing process an attainable housing unit would need to follow, it is important to first define Subdivision. The definition of Subdivision from Chapter 50, states:

The division or assemblage of a lot, tract, or parcel of land into one or more lots or parcels or other divisions for the purpose, whether immediate or future, of sale or development. The definition of subdivision does not include a bona fide division of exclusively agricultural land not for development purposes. A resubdivision is a subdivision.

A subdivision can be as small as one existing parcel or tract of land being officially recorded and platted and can be as large as many hundreds (or more) new lots, roads, and open spaces for greenfield development. Given the wide range of scales, and involved complexities, Chapter 50 has established three separate processes for Subdivisions; Preliminary Plans, Administrative Subdivision Plans, and Minor Subdivisions.

Preliminary Plans Division 50.4

A Preliminary Plan is the most comprehensive type of subdivision and is also considered the de-facto means of performing a subdivision in Montgomery County. If you do not qualify to use one of the other two paths, you would follow the Preliminary Plan path, which features a code mandated 120 day review period measured from the date of plan acceptance to the date of the Planning Board hearing. Only the Planning Board may render a decision on a Preliminary Plan. A Preliminary Plan must make all of the required findings outlined in Chapter 50 and must obtain approvals from the various outside government agencies prior to being approved by the Board.

Administrative Subdivision Plans Division 50.6

The Administrative Subdivision Plan is a slightly streamlined review process available to certain specific uses or situations. These plans have a code mandated 90 day review period between the date of plan acceptance and the decision being rendered by the Director or the Board. Generally Administrative Subdivisions have to make the same technical findings as a Preliminary Plan, but the review is less complicated, and the likelihood of unusual circumstances is reduced. Outside agency approvals are requested but are not required until the time of record plat. The Planning Director is permitted to take action on most Administrative Subdivision Plans, but the Board becomes the final decision maker if there are findings that need to be made that only the Board can make, opposition to the plan has been received from the community, or the situation is unusual enough that the Director deems the Board to be the more appropriate deciding body. Examples of allowed Administrative Subdivision Plans include: existing places of worship, up to five lots for detached houses in the AR zone, up to three lots for detached houses in a residential zone, consolidating existing lots or parts of lots in non-residential zones, or lots associated with a Signature Business Headquarters.

Minor Subdivisions Division 50.7

A Minor Subdivision is the least process intensive means of subdividing in Montgomery County, and generally allows an applicant to directly file an application for a record plat, while meeting certain criteria based on the specific use. The uses that may be eligible for Minor Subdivision currently include minor lot line adjustments, converting an existing platted outlot into a buildable lot, consolidating two or more lots into one lot, subdividing commercial property to reflect ownership, plat of corrections, pre-1958 parcels, creating lots from parts of lots, and platting property with existing houses in the R-90 or R-60 zones. As these uses imply, most Minor Subdivisions involve land already platted in some way or are so small and unique that there is no perceived benefit from pursuing a more detailed subdivision review.

As Chapter 50 is written now, there are no provisions under the Administrative Subdivision Plan or the Minor Subdivision section that would pertain to creating lots for duplex or multiplex buildings. Due to the size and potential complexities of a subdivision associated with the Attainable Housing optional method of development, staff has focused their efforts on whether alternative review procedures may be appropriate in some or all situations of creating small scale attainable housing as part of the standard method. As a reminder, attainable housing through the standard method would be a duplex anywhere in the R-200 zone, a duplex or triplex anywhere in the R-90, R-60 or R-40 zone, and a duplex, triplex, or quadplex anywhere in the R-90, R-60, or R-40 zone if also in a Priority Housing District.

New Administrative or Minor Subdivision Procedures

Staff believes there are opportunities through the Administrative Subdivision Plans, Minor Subdivisions, or both, to establish a more streamlined process to subdivide property for the purposes of creating attainable housing. Under the recommended changes to the development standards tables in the Zoning Code, the intended scale of attainable housing projects is small, limited to a tract area no more than slightly larger than two typical existing lots for detached houses at one time. The expected result would be up to two house scale buildings used for duplexes or multiplexes. As such, staff proposes creating a new type of Administrative Subdivision Plan for the creation of up to eight lots under the standard method of development for attached dwelling units in duplex or multiplex building types. Eight lots would accommodate the largest scenario of two quadplexes. The Administrative Subdivision Plan would still make all the same findings as a full Preliminary Plan but may be approved by the Director instead of the Board and does not need to have final outside agency approvals until the submission of record plat(s). The final details of the applicable conditions have not been finalized but staff would propose similar requirements as exist for the *Subdivision for creation of certain residential lots in Section 50.6.1.C*.

Staff is also recommending a new Minor Subdivision process that would apply to certain applications for subdivision for attainable housing. In situations where the proposed subdivision is limited in size to only one pre-recorded lot, staff believes a process under the Minor Subdivision process could be appropriate. In these situations, the existing lot (subdivision tract area) has already been platted and deemed appropriate for a detached house. There is little review benefit to filing formal plans to the Planning Department and having other agencies conduct preliminary reviews since any possible issues such as stormwater, utility hookups, confirmation of forest conservation qualification or exemption, and easement recordation can and do get resolved now through record plats or building

permits. A detailed list of required materials, approvals and documents from an applicant and outside agencies can be established as requirements of a new Minor Subdivision.

Pattern Book Elements

During previous work sessions, the Planning Board was supportive of creating a pattern book for the small scale housing types being promoted by the ZTA. These types include:

- Duplexes in the R-40, R-60, R-90, and R-200 zones.
- Triplexes in the R-40, R-60, and R-90 zones.
- Quadplexes in the R-40, R-60, and R-90 zones within the Priority Housing Districts.

The Board further concurred that conformance to the form-based standards in the pattern book should be a mandatory requirement for building these small scale housing types by-right. The form-based standards in the pattern book will ensure that these multiplex typologies maintain a “house-scale” and blend seamlessly into the county’s many mature residential suburbs. The pattern book does not apply to adaptive reuse projects.

Staff will conduct an existing conditions analysis over the next few months while simultaneously working to procure a consultant for the design services associated with the pattern book. Staff will share the results of the existing conditions analysis with the consultant to ensure delivery of a high-quality product within the approved budget in a timely manner. Subsequently, staff expects a final pattern book ready for Planning Board review in Fall, 2022.

To provide clear guidance for conformance of new-construction duplexes, triplexes, and quadplexes, the pattern book shall graphically illustrate the development standards as laid out in the ZTA. Staff believes that the development of house-scale attainable housing depends on five form-based standards, namely:

1. Building Placement
2. Massing
3. Frontage Design
4. On-Site Parking Layout
5. Neighborly House Details

The pattern book shall provide clear and objective form-based standards for each of the categories listed above. The pattern book will not mandate particular architectural styles or specify construction details or materials. Instead the focus will remain on massing and urban design standards for various multiplex types in different horizontal and vertical configurations.

The consultant shall be expected to provide clear form-based standards for duplexes, triplexes and quadplexes within the R-40, R-60, R-90 and R-200 on various lot shapes and sizes. While the pattern book cannot anticipate every lot type, the overall guidance will ensure that homeowners, architects, and/or homebuilders can build house-scale multiplexes on most lots in eligible zones. The goal is to make the pattern book straightforward to follow while ensuring unambiguous conformance.

The pattern book will also provide an overview of the regulatory process, which will include details about development applications, permitting steps, and links to relevant forms. Additional guidance and

information for other development related issues such as environmental considerations, safety, and off-site parking may be included in an appendix, along with suggested layouts of the various types on typical lots.

Pattern Book Conformance and Implementation

The implementation process may require planning staff to support DPS by reviewing permit applications for conformance with the pattern book standards. A review by planning staff as part of DPS' overall review may provide a straightforward path to ensure pattern book conformance for project approval. Review by Planning staff will require additional resources toward this effort in the Planning Department, and a request for a new position through the budget process. Alternately, DPS may use the pattern book independently without any involvement from planning staff. Staff seeks guidance on the implementation of the pattern book from the Planning Board since this will inform the most useful format for the document.

Finally, the pattern book is being created under the broader planning department work program titled "Innovative Housing Toolkit." Future deliverables within this ongoing effort could include the creation of "pre-certified" permit sets for the various multiplex types in partnership with DPS as well as guidance for additional building types such as cottage courts, townhouses, and small apartment buildings. These will require future discussions and guidance from the Planning Board.

Catalyst Policies

Staff believes certain catalyst policies may assist the development of these housing types. Staff has identified several policies for the Planning Board to consider. These policies are broadly divided into two types, catalysts for Owners Occupied Conversions and Community-level Incentive Policies.

Formulating and implementing these policies and program will require a countywide effort and robust interagency coordination. It is also important to have private entities such as community organizations and non-profits deeply involved with implementation.

Owner Occupied Conversions

These catalyst policies would incentivize and assist existing homeowners who wish to convert their homes to a multiplex.

Property Tax Refunds. If a single-family homeowner or vacant lot owner converts their single-family home to a multiplex or adds multiple units on their single-family zoned lot, their property taxes for the unit that they occupy will be refunded by a factor associated with units added, for up to 10 years as long as the original owner occupies the unit.

- If the converted property is a duplex, the property tax refund on the owner-occupied unit would be 50 percent of the taxes paid, for a triplex the refund would be 66 percent of the taxes paid, and for a quadplex or apartment the refund would be 75 percent of the taxes paid.
- In cases where it is required to temporarily transfer the deed of the house to a developer a signed affidavit from the homeowner and developer may be used as evidence of owner occupancy where repurchase may be required (repurchase within 365 days of deed transfer). This will also apply to cases where developers have carried out a lot consolidation.

- Additionally, for other homebuyers of the multiplex houses the same refund structure should apply for the first five years of their ownership of the new attainable housing types.

Conversion Assistance Toolkit. Staff believes that there may be some initial hesitancy on part of homeowners who wish to convert their Single-family homes or their single-family zoned lots, since any process that requires regulatory input can become daunting. A countywide multiagency team shall put together an ‘Attainable Housing Conversion Assistance Toolkit’ as a part of a new work program, which shall have the following information:

- A detailed list of regulatory requirements and a process guide
- Contact information for relevant officials
- Resources for conflict mitigation
- Guidance on potential bidding resource, where homeowners can invite bids using a simple step by step guide while protecting themselves financially and legally
- Guidance on how to access current incentive and grant programs

Owner Occupied Conversion Loan Fund: Staff believes that it is important to address financial barriers that some homeowners may have while pursuing a conversion to the multiplex type. To that end, staff recommends exploring establishment of a loan fund with a one-time capitalization of \$5,000,000. Potential guidelines for the loan may be as follows:

- The loan shall be issued directly to the owner of any single-family home or single-family zoned lot for a period of five years. The first year of the loan shall be interest-free and the county may set an interest rate adjusted to the Federal Reserve Prime Rate or Montgomery County Municipal Bond Rate for the subsequent four years.
- To access the loan the homeowner shall have to submit an affidavit that specifies that they intend to convert their single-family home to a multiplex or to build a multiplex on a single-family zoned lot.
- The conversion must be completed within 365 days of loan disbursement or the loan will have to be repaid in full.
- The loan shall be capped at \$25,000 and disbursed on a first come first serve basis.

The purpose of this loan is to ensure that the homeowners or landowners have access to credit for any initial activities associated with the conversion which traditional lending mechanisms may not fund. These activities may include consultations with architects, contractors, or legal professionals as they pursue a conversion to a multiplex. Additionally, a project of this scale may require a substantial time commitment for a homeowner and access to credit may alleviate some of the concerns associated with this time commitment. Other municipalities are also exploring similar programs to address their housing needs, for [instance](#) Charleston’s Department of Housing and Community Development intends to provide grants for the creation of housing by single-family homeowners.

Community-level Incentive Policies

TAZ Grant Program: Staff also recommends exploring certain incentives that would apply to the communities that see a greater degree of growth in attainable housing types. The geographies for these incentive programs shall be linked to the transportation analysis zones (TAZ) in the county. All

homeowners (single-family, apartments, and multiplex) in the three TAZs with the highest number of attainable housing types built should be eligible the grant program. To that end, staff recommends exploring establishment of an annual grant fund of \$5,000,000. Each individual grant shall be capped at \$5,000. Potential eligible activities for which homeowners may use the grant dollars are as follows:

- Stormwater Mitigation
 - Rain Barrels
 - Converting Impervious Surfaces to pervious surfaces (such as driveways, lead-walks etc.)
 - Bioswales
 - Gutter Upgrades
- Fire safety Improvements
 - Smoke Alarms/Fire extinguishers
 - Sprinkler System Installations
- Energy Efficiency upgrades
 - Installation of Solar Panels
 - Solar water heaters
 - Energy efficient fixtures and appliances

This list of eligible actives is not comprehensive and will require additional scrutiny and input from partner agencies, however it does align with the values the county espouses.

Property Assessment

Staff spoke with a representative of the State Department of Assessment and Taxation (SDAT) on September 13, 2021 to fully understand the role of zoning on property assessments. Included in this report is a copy of the letter we received from SDAT regarding the potential zoning changes. Attachment 2 also includes a copy of the letter.

SDAT is responsible for assessing the value of property within the State of Maryland. Local County Governments and Municipalities then set their tax rates and apply it to our assessment valuations to generate property tax bills. Montgomery County is divided into three reassessment groups and currently reassesses each group on a three-year cycle, and SDAT analyzes market sales data during a reassessment cycle to determine the property's value change. We use verified sales for comparable properties of a similar use, type, and style that are in a comparable neighborhood or market area to determine the assessed values of properties. SDAT also reassesses properties out of cycle when they have had a use change or recent new construction resulting in an increase in assessment adding over \$100,000 in value.

If a property were to be redeveloped by plat and subdivide lots or were to change in use to create a multi-family unit on the parcel, the immediate change would only directly impact that particular parcel. However, if properties are acquired at lower or higher purchase prices over time and the comparable sales warrant a decrease or increase in the assessed value of those similar properties upon the next reassessment cycle, it may indirectly impact the assessments for similar properties in that market area. Property that is reassessed and is owner occupied and eligible for any applicable Homestead Tax Credits or Homeowners Tax Credits may continue to receive those credits.

In sum, the zoning code changes proposed by Montgomery County that are under consideration allowing for multiple living units or more development potential in single-family zones may or may not result in changed assessed value for properties subject to that change. SDAT can only follow the market trends after they occur. Local governments may offset any change in assessment by the implementation of their local property tax rates.

Similarly, based on conversations with Montgomery County's Office of Management and Budget, the tax rates applied by the county to the assessed values of residential properties are based on the actual use, not the potential use as allowed by zoning.

ATTACHMENTS

Attachment 1: Tree Considerations for Infill Development Email

Attachment 2: Letter from SDAT