PHED COMMITTEE #1
March 4, 2013

COMMITTEE MEMBERS MAY WANT TO BRING THEIR JANUARY 17 and FEBRUARY 11 PACKETS

**MEMORANDUM**

March 2, 2013

TO: Planning, Housing, and Economic Development Committee

FROM: Linda McMillan, Senior Legislative Analyst

SUBJECT: **Worksession: Montgomery County's 2012 Housing Policy**

On October 17, 2012, the Director of the Department of Housing and Community Affairs (DHCA) forwarded the Draft 2012 Housing Policy for the Council's consideration. If approved, this policy would replace the County's 2001 Housing Policy, "Montgomery County – The Place to Call Home." The Draft 2012 Housing Policy was introduced by the Council on November 13, 2012 and DHCA provided the Council with an overview presentation. The Committee held a public hearing on December 4, 2012.

On January 17, 2013, the PHED Committee held its first worksession on the Draft Housing Policy which was an overview of issues. On February 11, 2013 the Committee held its second worksession and discussed Council staff recommended changes to Chapters 1 and 2 of the Draft Housing Policy, how the Housing Policy should address the Zoning Ordinance re-write, and recommendations on existing programs. This included a discussion of how to streamline the process for developing affordable housing on publicly owned land. The Committee discussed the Draft Housing Policy recommendation that proposes using Mandatory Referral and the proposal from the Planning Board which involved the drafting of a Zoning Text Amendment to allow affordable housing on County-owned land and would set development standards regarding density and structure type. Chair Carrier also proposed an inter-agency work group for this issue and discussed the Planning Board's proposed study about the co-location of public facilities.

At this session, Council staff is asking the Committee to review Council staff recommended changes to Chapter 3 and to discuss Affordable Housing Production goals which is Chapter 4 in the Draft Housing Policy.

Following this session, Council staff will prepare a revised draft of the Draft Housing Policy for the Committee to review and to use to finalize its recommendation to the Council.

## Council Staff Recommended Changes to Chapter 3

Chapter 3 of the Draft Housing Policy contains a very thorough history and status of existing programs along with current issues and recommendations. Attached at © 1-31 are Council staff's recommended edits to the Chapter shown in brackets and underlines. The edits to the history and review of each program are generally efforts to shorten the text and update some data as the Draft Housing Policy has been in process for several months.

However, each program has a series of recommendations and Council staff is also recommending changes to several of these recommendations. Some of the edits are based on the PHED Committee's previous discussions.

The following are the issues and corresponding recommendations as they appear in the Draft Housing Policy (Original Proposed) followed by Council staff's recommendation or the comment that there is no change recommended. This summary of the recommendations is not bracketed and underlined in order to be easier to read.

### Recommendations for Existing Programs

### 1. MPDU Program (©2-11)

**Issue: The number and types of units that are likely to be constructed under the MPDU program might not meet the needs of MPDU households.**

**A. Original Proposed:**

Develop guidelines and program rules that discourage the construction of too many efficiency and one-bedroom condominium MPDUs, especially those with high condominium fees. Identify incentives and program flexibility that can be added to the MPDU program to achieve the construction of more two-, three- and even four-bedroom MPDUs, especially rental MPDUs. For example, DHCA could work with a developer to determine how to provide more three bedroom MPDUs and fewer efficiency units. This would likely result in the developer providing MPDUs that better meet the needs of MPDU households, but probably producing fewer total MPDUs. Although the total square footage of all of the MPDUs in the building might remain the same, the result probably would be fewer total units because the development might include, for example, one three-bedroom MPDU instead of two efficiency units. This type of flexibility would require a change to the MPDU law.

**A. Council Staff Recommended:**

Encourage a mix of MPDUs and provide flexibility in the MPDU program that will allow the construction of more two, three, and four bedroom MPDUs. Flexibility may include allowing the total number of bedrooms required to be provided in fewer MPDUs. This would require a change to the MPDU law.

**B. Original Proposed:**

Provide additional incentives for projects in the Commercial/Residential (CR) zone, and other similar zones that award points for providing certain public benefits, to developments that will have more MPDUs than required, and for projects having more units with 3-or-more bedrooms.

**B. Council Staff Recommended:**

Provide incentives to encourage developments to have more than the minimum number of MPDUs and for projects providing three or four bedrooms units that are not otherwise required.

**Issue: Much potential infill development in central business districts and around transit stations in the future will be high-rise projects. High construction and operating costs make it financially difficult to include MPDUs.**

**C. Original Proposed:**

Explore financial and other incentives for high-rise developments to make the construction of MPDUs more feasible, especially for projects providing more than the minimum amount of MPDUs or units with more bedrooms.

**C. Council Staff Recommended:**

Explore incentives for high-rise developments to make the construction of MPDUs more feasible for projects providing more than the minimum amount of MPDUs or units with more bedrooms.

(In this instance Council staff has refocused the need for incentives by removing "especially" so the incentive are only targeted to developments providing more MPDUs or more bedrooms per MPDU.)

**D. Original Proposed**

In limited instances, continue to allow developers to provide MPDUs at another site within the same planning policy area, if providing the units at the original location is not financially feasible, would create MPDUs with unrealistically high condominium fees, or a greater number of MPDUs can be created. In major redevelopment and development areas, DHCA and County staff could identify a "receiver" building that could be developed as mixed-income housing. For example, this building could have 60% market-rate rental units and 40% rental MPDUs. A developer of a nearby condominium project that has very large monthly condominium fees could meet some or all of its MPDU requirement by locating its MPDUs in this "receiver" building instead. This alternative location flexibility should be allowed only when developers are providing more than the minimum number of MPDUs.

**D. Council Staff Recommended:**

Review the current rules for Alternative Location Agreements to determine if locating MPDUs off-site in "receiver buildings" could result in the production of more than the required number of MPDUs or provide MPDUs in a rental rather than condominium building. Determine if there should be a maximum percentage of MPDUs located in any one building that is part of an Alternative Location.

**E. Original Proposed:**

Analyze and determine whether allowing a mix of condominium and rental units will make it easier and more feasible to provide MPDUs in high-rise projects. Establish guidelines to allow MPDUs as rental units under a separate condominium regime in high-rise, for-sale buildings. Explore the rules under federal financing programs to ensure that this does not present any obstacles to securing mortgage financing.

**E. Council Staff Recommended:**

Analyze and determine whether allowing a mix of condominium and rental units will make it easier and more feasible to provide MPDUs in high-rise projects, what rules are needed to allow rental MPDUs to organize as a separate condominium within the building, and how rules for federal financing rules might impact such a development.

**F. Original Proposed:**

Evaluate options to provide rental units for special populations, such as seniors, in transit-oriented development centers.

**Council staff recommends deleting this recommendation** as it does not fit well with the overall issue of the cost challenge of high construction and operating costs and is addressed elsewhere.

**Council staff recommends adding the following two recommendations** which relate to high operating costs and are in the original proposed Draft but under a different issue.

- Allow developers to create trust funds to provide ongoing condominium fee subsidies for a property.
- Research methods for developers to assess lower condominium fees on MPDUs than on market-rate units.

**Issue: Ensure MPDUs are well integrated into developments and are designed to meet program participants' needs.**

**G. Original Proposed:**

Update the Planning Department's 1995 "Site Plan Guidelines for Projects Containing MPDUs" to make sure that the guidelines reflect current planning practices and development standards, and unit desirability. Continue to prohibit back-to-back townhouses and determine the feasibility of prohibiting the construction of piggyback and two-over-two style MPDUs, unless the subdivision also includes similar market-rate units. Continue to mandate that MPDUs be dispersed throughout the community.

**No recommended change.**

**H. Original Proposed:**

Ensure that MPDUs in single-family and townhouse communities are not divided into small associations that are separate from the overall community master homeowner's association (HOA). HOAs have responsibilities for a range of structural elements and infrastructure such as roads and stormwater management facilities, as well as for operational elements such as snow and leaf removal and care of landscaping in common areas. Small MPDU-only condominium associations often are not financially viable, highlight the differences in the community, prevent a sense of togetherness within the community, and create obstacles for attaining appropriate levels of management and enforcement of HOA covenants.

**H. Council Staff Recommended):** (no substantive change)

Ensure that MPDUs in single-family and townhouse communities are not divided into small Homeowners Associations (HOAs) separate from the overall community HOA. Small MPDU-only HOAs often are not financially viable, highlight the differences in the community, prevent community cohesion and create obstacles for attaining appropriate levels of management and enforcement of HOA covenants.

**I. Original Proposed:**

Evaluate existing and proposed zoning regulations to make sure that they support the overall goal of the MPDU program to disperse affordable housing is maintained. Avoid an over-concentration of too many MPDUs in one building or one section of a community. Subdivisions that contain a mix of housing types need to have affordable units that are well-designed and placed in locations that bring about enhanced community cohesiveness.

**I. Council Staff Recommended:**

Ensure laws and regulations support the goal of the MPDU program to disperse affordable housing.

**Issue: In some instances, developers are unable to take advantage of extra or maximum bonus density provisions in the Zoning Ordinance, including that of the MPDU Program, because of other zoning, environmental, or master plan requirements. This makes the inclusion of moderately priced dwelling units financially difficult.**

**J. Original Proposed:**

When preparing master plans and zoning changes, understand the impact of height and density restrictions on the financial feasibility of the construction of MPDUs, especially in high-rise construction. Take into consideration the impact and provide increased height, increased density, or other considerations for projects including MPDUs and other affordable housing options.

**J. Council Staff Recommended:**

When preparing master plans and zoning changes consider the impact of height and density restrictions on the financial feasibility of the construction of MPDUs, especially in high-rise construction.

**K. Original Proposed:**

While undertaking the Zoning Ordinance Revision, evaluate how well current provisions of the MPDU law apply in more urban and rural areas. New challenges have emerged in implementing the MPDU program in urban areas, CBDs, transit centers, and large lot zones in rural areas, largely in the areas of lot size, setback, amenity requirements, and green space requirements for MPDU developments in most suburban zones.

**Council staff recommends deleting this reference to the Zoning Ordinance re-write.**

**L. Original Proposed:**

Continue and expand the use of zoning tools such as the CR zone that encourage the production of affordable housing by providing incentives for MPDUs in excess of the minimum requirement.

**Council staff recommends deleting the specific reference to the CR Zone.**

**Issue: Applicability of MPDU Program to Types of Developments That Have Special Conditions**

This section discusses the specific problem for providing MPDUs in life care communities (that are generally paid for with entrance and monthly fees) and for-sale age restricted housing (the first-time homebuyer requirement generally makes seniors ineligible for the for-sale MPDUs).

**M. Original Proposed:**

Research viable alternatives for providing MPDUs on site under these limited circumstances.

**Council staff recommends adding a second recommendation:**

Explore whether an alternative payment or alternative location agreement that allows units outside the planning area may be appropriate in these limited circumstances.

**Issue: [Working families and m] Moderate-income households need to be made aware of the MPDU program and the benefits it offers. As the economy changes and real estate conditions change, the MPDU program needs to continue to meet the needs of MPDU households. Prospective MPDU households often require assistance and education about the home-buying process.**

**N. Original Proposed:**

Assess innovative approaches to solving the problem of high condominium fees, for example, allowing developer-created trust funds to provide ongoing condominium fee subsidies within a property, and researching methods to assess lower condominium fees on MPDUs than on market-rate units. In high-density, master-planned transit-oriented development areas, DHCA might consider working with developers to allow several developers to provide all of their required MPDUs in a separate, less expensive to build, rental building so long as the developers agree to provide more than the minimum amount of MPDUS in exchange for the flexibility on where the MPDUs will be located.

**Delete this recommendation. Council staff has recommended moving this to an earlier section on high operating costs. (see Recommendation F)**

**O. Original Recommended:**

Develop a marketing and publicity strategy to educate eligible households and renters about the MPDU program. Develop programs to make income-eligible households seeking first-time homeownership opportunities aware of the program.

**O. Council Staff Recommended:**

Develop a marketing and publicity strategy to educate eligible households and County employers about the MPDU program.

**P. Original Proposed:**

Continue HOC's Single Family Mortgage program that offers affordable mortgages and downpayment loans to qualified homeowners, many of whom are MPDU purchasers.

**No recommended change.**

**Q. Original Proposed:**

Continue to offer homebuyer classes for moderate-income and prospective MPDU households, including information on credit, the variety of mortgage products, and how to avoid predatory lending.

**No recommended change.**

**R. Original Proposed:**

Make prospective MPDU purchasers and applicants aware of organizations that provide Fair Housing and homeownership assistance.

**No recommended change.**

**Issue: The MPDU program is only one element of the County's strategy to address the affordable housing shortage.**

**S. Original Proposed:**

The County must continue to explore, create, and implement additional programs to achieve affordability in housing for the very low income, the middle income, and those households in-between. The County cannot meet its affordable housing needs through the MPDU program. The County recognized many years ago that the MPDU program addresses only one segment of the housing affordability problem. The County developed numerous other programs to address this issue comprehensively.

**S. Council Staff Recommended:**

Explore, create, and implement additional programs to achieve affordability in housing for the very low income, the middle income, and those households in-between.

## 2. Housing Initiative Fund (©12-14)

**Issue: To ensure that [our] affordable housing goals are met, there must be a stable and predictable funding source for the HIF. [to guarantee that affordable housing goals are met. ]**

**A and B Original Proposed:**

Investigate the use of an affordable housing impact fee or similar alternative on all new non-residential development to provide funds for the creation of new housing for workers who will fill jobs in the County.

Research procedures to allow and to encourage contributions and donations to the HIF. Research programs such as the one used in North Dakota that uses contributions from individual, businesses, financial institutions as the primary funding source for the North Dakota Housing Incentive Fund. Contributors receive a dollar-for-dollar state income tax credit in exchange for their financial donation. As of May 2012, the fund had received $6.5 million in contributions ranging from $100 to $2.5 million. The North Dakota program features guidelines such as that tax credits earned through contributions to the North Dakota Housing Incentive Fund are limited to a total of $15 million, are not transferable, and are on a first-come, first-served basis.

**Council Staff Recommended:**

Consider ways to increase resources for the HIF. Research revenue sources used in other jurisdictions that may include affordable housing impact fees and tax credits for private contributions.

**Council staff is recommending combining the recommendations and making the statement briefer based in part on the PHED Committee's last discussion. Councilmember Floreen said that she did not want the Policy to recommend an impact fee on non-residential development. Council staff has left the options but in a broader context.**

## 3. Workforce Housing (©14-15)

**Issue: Montgomery County's housing stock is not keeping up with the needs of the workforce.**

**A. Original Proposed:**

Preserve existing privately-owned rental properties with rents affordable to middle-income households, especially properties located in employment growth centers and transit-oriented areas.

**Council staff recommends adding "moderate income" to this recommendation.**

**B. Original Proposed:**

Assess properties that become available through the County's Right of First Refusal to see if actions should be taken to preserve rents affordable to and middle-income households by assisting the purchase of the properties by HOC and nonprofit housing providers that will preserve the affordable rents at these properties.

**Council staff recommends adding "moderate income" and for-profit housing providers to those who might be part of a right-of-first refusal agreement.**

**C. Original Proposed:**

Research the County's existing single-family housing stock, especially in neighborhoods with stagnant prices or a large number of foreclosed homes, and identify programs or initiatives that can be developed to market and sell these homes to middle-income households and to households with incomes just above the MPDU program.

**No change recommended.**

**D. Original Proposed:**

Analyze the need for voluntary Workforce Housing programs in high-density areas near Metro stations, with a focus on rental housing. Continue the County policy that residents of all incomes have the opportunity to live near Metro stations.

**D. Council Staff recommended:**

Analyze the need for Workforce Housing programs in high-density areas near Metro stations, with a focus on rental housing. Determine if additional incentives are appropriate to increase participation in the voluntary Workforce Housing program so middle income households have new opportunities to live near Metro.

**Council staff believes that the recommendation should be focused on whether there is moderate and middle income housing being built near Metro under the voluntary program and, if not, whether incentives should be put in place to increase this type of housing.**

## 4. State and federally funded housing renovation and special needs housing programs (©15-17)

**Issue: Federal funds to Montgomery County have been reduced and are expected to continue to decrease.**

**A. Original Proposed:**

Focus resources on the renovation and improvement of existing group homes to make sure they are well-maintained and able to serve target populations.

**No recommended change.**

**B. Original Proposed:**

Through the Zoning Ordinance Revision, continue to allow group homes in all areas and evaluate approval procedures to remove any unnecessary restrictions. Since many group homes are licensed by the state of Maryland and assisted by the County, consider administrative approvals wherever possible.

**B. Council Staff Recommended**

Continue to allow group homes in all areas and evaluate approval procedures to remove any unnecessary restrictions.

**Council staff recommends deleting the reference to the Zoning Ordinance re-write. Also, it is not clear what administrative approval process would increase the availability of group homes. Council has approved a change so the County no longer duplicates certain inspections already done by the State.**

**C. Original Proposed:**

Continue to allow experienced nonprofit housing providers to purchase MPDUs to be used as group homes.

**No recommended change.**

**D. Original Proposed:**

Continue HOC's program to set aside some Housing Choice vouchers to be used by nonprofit group home providers to make group homes more financially viable.

**No recommended change.**

**E. Original Proposed:**

Consider developing new special needs group homes when County-owned sites are evaluated for use for affordable housing.

**No recommended change.**

**F. Original Proposed:**

Continue to coordinate between those providing the housing and agencies providing support services.

**No recommended change.**

## 5. Housing First and Homelessness (© 17-20)

**Issue: Unmet Needs of Homeless Persons**

**A. Original Proposed:**

Increase the number of permanent supportive housing units to meet the unmet needs in the County. Develop specific goals and projects to meet the need for nearly 1,000 units of permanent supportive housing. Continue to focus on reducing the time families and individuals spend in temporary shelters and to decrease the use of motels as overflow emergency shelter for families.

**No recommended change.**

**B. Original Proposed**

Explore obtaining State funding for more affordable assisted-living options for individuals with developmental and intellectual disabilities, and individuals experiencing homelessness who have a disability. Existing private facilities are very expensive and are not equipped to address needs of people with multiple behavioral health disorders.

**No recommended change**

**C. Original Proposed:**

Develop a Recuperative Care Facility and other therapeutic recovery programs providing step-down care for homeless persons and persons with chronic behavioral health conditions, especially those who do not qualify for skilled nursing facility care upon hospital discharge or who have no home or trained caregiver during their post-hospital discharge recuperation. Research demonstrates that a Recuperative Care Facility reduces hospital inpatient length of stay and readmissions and prevents patients from being discharged with medical needs that result in readmission to the hospital.

**Council staff recommends deleting the last sentence regarding the research on recuperative care.**

**D. Original Proposed**

Increase the supply of permanent rental housing options for low-income households exiting homelessness. Assess the feasibility of creating more single-room occupancy (SRO) units properties. Also, construct housing with three or more bedrooms for larger families.

**No recommended changes.**

**E. Original Proposed:**

Develop housing options in planned development projects or master planned development areas for target groups such as youth aging out of foster care, domestic violence victims, and those with mental illness and developmental disabilities.

**E. Council Staff Recommended:**

Develop housing options for youth aging out of foster care, domestic violence victims, people with mental illness and people with developmental disabilities who are at-risk for homelessness.

**Council staff does not believe that the need to provide housing for these people is limited to certain types of developments.**

**F. Original Proposed:**

Continue to study the census and other population projections to assess special needs populations and develop long-term strategies based on the changing demographics of the County.

**Issue: Housing First prevents homelessness and shortens the time households spend homeless.**

**G. Original Proposed**

- Continue implementation of Housing First Initiative to reduce homelessness.

**No recommended change.**

**H. Original Proposed**

Increase permanent supportive housing for individuals and families exiting homelessness. Assess the feasibility of setting aside more Housing Choice Vouchers for households in the Housing First Program.

**H. Council Staff Recommended:**

Work with HOC and others to expand the use of Housing Choice Vouchers and other rental subsidies that can be used to reduce the cost of housing for those transitioning from homelessness.

**This language is from the Action Plan item in Chapter 2 that was discussed by the PHED Committee.**

**I. Original Proposed:**

Explore accessing Medicaid dollars for supportive services and for the development of a model that allows for varied intensity of supportive services based on individual need.

**Council staff recommends deleting this language as the County does pursue Medicaid dollars and waivers. With regards to the issue brought the Committee's attention about people in nursing homes who could live in the community if accessible housing is available, they are able to access Medicaid dollars for services but not for housing.**

## 6. County-funded Rental Assistance Programs (©20-22)

**Issue: Many households, both singles and families, are struggling to maintain housing and avoid eviction. [These families need rental subsidies to make it through the crisis.] Households may need short-term rental assistance to cover a crisis or long-term rental assistance based on their income.**

**A. Original Proposed:**

Increase the number of rental subsidies for low-income households. The long waiting lists demonstrate the unmet need. Identify programs that could provide increased rental subsidies through HOC where funds are available.

**A. Council Staff Recommended:**

Explore funding sources that may be available to County Government, HOC or non-profit organizations. Leverage federal and State funds whenever possible.

**B. Original Proposed**

Study the County's rental assistance programs for special populations and, as County funds become available, expand these programs and increase the amount of subsidy to be consistent with current rental market rates.

**B. Council Staff Recommended:**

Study the County's rental assistance programs and determine if an increase in the maximum subsidy should be adjusted to reflect current rental rates.

**C. Original Proposed:**

Continue to provide funds for the repair of homes to reduce utility costs, which continues to be a struggle for low-income households. Explore ways to encourage landlords, especially those with older housing stock, to undertake energy efficiency upgrades to properties. Educate households on energy conservation.

**No recommended changes.**

**D. Original Proposed**

The Recordation Tax Rent Supplement Program Serving Homeless Families has proven to be an extremely successful homelessness prevention program. This policy recommends the continuation of the program, and its expansion when funds are available. It operates on the principle that preventing individuals and families from ever becoming homeless is far more humane and fiscally effective than the steps needed to re-house the homeless.

**D. Council Staff Recommended:**

Expand the Rent Supplement Program. This program has been effective in preventing evictions and homelessness which is more humane and fiscally effective than having to re-house someone after they have become homeless.

## 7. Housing Code Enforcement and Neighborhood Assistance (©22-25)

**Issue: The County's housing stock is aging.**

**A. Original Proposed:**

Continue a vigorous Housing Code Enforcement program to maintain in good condition the County's aging but vital rental housing stock.

**No recommended changes.**

**B. Original Proposed:**

Continue having Code Enforcement staff perform annual reviews of vacant and condemned units. Continue to refer owners of vacant and condemned properties to the Rehabilitation Loan and the Replacement Home Programs, especially for those occupants who are elderly or who cannot financially and physically maintain their home.

**B. Council Staff Recommended:**

Continue having Code Enforcement staff perform annual reviews of vacant and condemned units and refer the property owners to the Rehabilitation Loan and the Replacement Home Programs.

**C. Original Proposed:**

A potential looming large problem is the number of housing units located in common-ownership communities, many built more than twenty years ago. The associations that control these communities maintain sidewalks, roadways, parking lots, playgrounds, recreation facilities, buildings, roofs, and nearly every other possible facility in their communities. Studies should be conducted to determine if the infrastructure in these communities are being maintained, if the communities have adequate financial reserves to maintain their properties.

**D. Council Staff Recommended:**

Conduct studies to determine if infrastructure in older common ownership communities is being maintained and if the communities have adequate financial reserves to maintain their property.

**Issue: Poorly maintained, deteriorated and abandoned properties affect neighborhood stability.**

**E. Original Proposed:**

Continue to identify neighborhoods that are at-risk of deterioration, disinvestment, or disrepair. Bring in other departments, agencies, and nonprofits as needed and involve the community to bring together county resources to respond to the particular needs of the neighborhood.

**No change recommended.**

**F. Original Proposed:**

Continue to monitor foreclosed properties to make sure the buildings and yards are maintained.

**No change recommended. Council Staff recommends the addition of the following in response to concerns raised at the public hearing :**

Determine if new incentives or penalties should be put in place to encourage homeowners not to leave homes vacant and to make sure vacant homes do not negatively impact neighborhoods.

**Issue: In some areas, especially those near mass transit, neighbors and community associations are concerned about homes illegally being converted into businesses and the illegal and improper creation of multiple dwelling units on one residential lot.**

**G. Original Proposed:**

Continue to share information between the DHCA Housing Code Enforcement Section and the Department of Permitting Services Zoning Section on investigations into illegal construction and construction of homes with multiple kitchens units.

**No recommended change.**

**H. Original Proposed:**

Continue to refine informational materials to distribute to community groups and residents, and to add to the existing information on the County website, about how to file zoning complaints, and about the County's Noise Control Ordinance.

**No recommended change.**

## 8. Accessory Apartment (©25-29)

**The Draft Housing Policy was written before the recent changes to the Accessory Apartment law and ZTA. Council staff is recommending the following as a substitute for the section in the Draft.**

Accessory Apartments are additional residential units on single-family lots that are independent of, and subordinate to, the primary, existing single-family home. These separate units have their own kitchen, bathroom and sleeping areas. A related type of unit is a Registered Living Unit. Registered Living units are similar to Accessory Apartments, except that the units are occupied rent-free by either a relative or a household employee of the owner occupant.

Accessory Apartments that meet certain criteria can be licensed by DHCA and do not require a Special Exception. The main criteria are:

- A limit of one Accessory Apartment per detached dwelling unit in non-agricultural zones,
- An Accessory Apartment is not allowed if there is a Registered Living Unit in the home,
- The house must be at least five years old,
- The home must be the primary residence of the owner,
- The street address must be the same as the main dwelling,
- There is a limit of two adults but no limit on minors other than space and other requirements in the Housing Code,
- The Accessory Apartment's floor area must be less than 50% of the main dwelling,
- The home must meet requirements for adequate on-site parking, and
- An Accessory Apartment must be 300 or 500 feet from another Accessory Apartment depending on the zone.

For an Accessory Apartment that can be approved by DHCA, a sign is posted and an objection can be raised if someone believes that the criteria have not been met or that there is not adequate parking.

A homeowner may seek a Special Exception to have an Accessory Apartment that does not meet the criteria.

DHCA inspects and licenses all Accessory Apartments. Accessory Apartments must comply with all applicable parts of housing, health, and safety codes.

**Issue: Some neighbors and civic associations are concerned that illegal Accessory Apartments exist in the County and are worried that too many Accessory Apartments in an area can change the character of a neighborhood.**

In 2012, there were 431 approved, active Accessory Apartments, and 698 Registered Living Units, in Montgomery County. (These rules for Accessory Apartments and Registered Living Units do not apply to properties within the incorporated municipalities of Barnesville, Brookeville, Gaithersburg, Laytonsville, Poolesville, Rockville and Washington Grove.) Units are illegal if they have not been approved by the Department of Housing and Community Affairs or been granted a Special Exception, are not licensed, or do not comply with housing, health, and safety codes.

*Recommendations*

- Develop informational materials to distribute to community groups and residents, and to add to existing information on the County website, about how to file complaints about illegal Accessory Apartments.

- Explore ways to improve the County's ability to inspect for illegal Accessory Apartments.

**Issue: Many people have a difficult time understanding what an Accessory Apartment is and what types of additional units are allowed on a single-family lot.**

The Zoning Ordinance presents several ways that a single-family lot can have more than one unit on it, including:

- Accessory Apartments
- Boardinghouses
- Guest Houses
- Guest Rooms
- Registered Living Units

*Recommendations*

- Develop informational materials to distribute to community groups and residents and to add to existing information on the County website about permitted uses on residential lots and the types of additional units that are allowed.

## 9. Condominium Conversion Transfer Tax (©29-30)

**Issue: Condominium conversions appear to run in cycles, and seem to occur every ten to fifteen years, especially when other market factors make rental housing less profitable and give owners incentives to sell. The frequency of condominium conversions increases in strong markets when rental housing becomes less profitable and owners have more incentive to sell, which can lead to a sudden reduction in affordable rental options.**

**A. Original Proposed:**

Continue to identify rental properties that are likely to convert to condominium.

**No recommended changes.**

**B. Original Proposed:**

Work with nonprofit housing providers and HOC to acquire rental properties at risk of conversion.

**B. Council Staff Recommended**

Work with nonprofit housing providers and HOC to acquire rental properties at risk of conversion when it will result in long-term preservation of the stock of affordable rental housing.

**C. Original Proposed:**

Continue the Condominium Conversion Transfer Tax.

**C. Council Staff Recommended:**

Continue the Condominium Conversion Transfer Tax and determine its applicability to "shelf-condos" that may change from a rental building to a condominium without a conversion.

## 10. Use of County-owned Land for Affordable Housing (©30-31)

**Issue: The high cost of land is a major cost in the development of new affordable housing and impedes the construction of affordable housing. Using available County land can reduce this cost [factor in affordable housing]. County-owned land often has low-density zoning [placed on it] requiring a zoning change before the property can be used for affordable housing.**

**A. Original Proposed:**

Include housing affordable for low, moderate, and middle-income households in all suitable public building projects in appropriate locations throughout the County. Projects involving the redevelopment of public land or facilities, such as parking facilities, must have at least 30% of total units as affordable housing. Property that is designated as parkland is not considered surplus.

**No recommended change.**

**B. Original Proposed:**

Develop a database of County-owned land that indicates the current use of the site, the zoning, water and sewer classifications, master-planned and approved uses for the site, and that identifies which site should be looked at for possible affordable housing use. DHCA and Planning Department staff have assessed County-owned land several times over the past decade. Development of a database would improve the ability of staff to consider available sites

**No recommended change.**

**C. Original Proposed**

Establish housing as a major preferred use when the County sells property. Achieving this objective should take precedence over receiving full market value for the property. The County should establish a price that permits a developer to provide a proportion of affordable housing that exceeds the 12.5% MPDUs now required of residential projects. Developers benefiting from below market pricing of county property should be required to provide at least 30% of the units at below market prices.

**C. Council Staff Recommended** (removes middle sentence)

Establish housing as a major preferred use when the County sells property. Achieving this objective should take precedence over receiving full market value for the property. Developers benefiting from below market pricing of county property should be required to provide at least 30% of the units at below market prices.

**D. Original Proposed**

Review the feasibility of establishing a more streamlined process for affordable housing projects on County-owned land where the subdivision of the land, and the overall land uses and densities, are established through the Mandatory Referral process, and the property then goes through normal site plan reviews. Property owned by Montgomery County that will be used for affordable housing should also have access to the mandatory referral process to establish the appropriate zoning and land uses for the site. Often, the zoning of County-owned land was not addressed in master plans, especially in plans that are more than fifteen years old, and the current zoning is not appropriate for the development of mixed uses on a site or for the construction of affordable housing. County property is a valuable resource from which the County should generate the maximum amount of housing in general and, particularly, affordable housing. The Mandatory Referral process is especially useful and appropriate when the affordable housing is being built next to County facilities and other County uses.

**D. Council Staff Recommended**

Determine how to evaluate, and when needed, modify the zoning of publicly owned land to expedite the development of affordable housing. An affordable housing development on publicly owned land should have at least 30% of its units affordable to households with incomes at or below the income eligible for a MPDU. Options to explore may include enactment of a Zoning Text Amendment, development of a Functional Master Plan, Mandatory Referral, or a process to expedite review of a specific site.

**Council staff has drafted this language based on the last PHED Committee discussion where options other than Mandatory Referral were discussed with Planning Chair Carrier and DHCA Director Nelson. Councilmember Elrich said he was uncomfortable with a process that did not look at specific sites and did not think Mandatory Referral was appropriate. Councilmember Leventhal said he thought the statement on how to make sure affordable housing can move forward on publicly owned land should be strong and that he was still willing to specific look at Mandatory Referral. Councilmember Floreen noted that this a policy document and did not need to decide the process but should state the intent to be able to move forward on these affordable housing projects.**

## Housing Production Goals (Chapter 4) (©32-34)

Chapter 4 of the Housing Policy says that the County needs to add 1,000 housing units per year to assist households earning $50,000 per year and less. The Draft Policy notes that about 27% of County households earn less than $50,000 and that a $50,000 income would support a monthly rent payment of $1,250 while the County-wide average rent in 2011 was $1,440 per month.

The table of annual production goals is similar to the table that was included in the 2001 Housing Policy.

Council staff suggests that the categories in the table are not particularly helpful in monitoring the progress the County is or isn't making in preserving and increasing the amount of affordable housing, in part because some categories add new units while some (like Housing Choice Vouchers) reflect the current inventory. Funding rehabilitation may in some cases add new regulated units and in other cases, such as public housing rehabilitation, provide a very important quality component but not additional units.

Council staff suggests that the Committee discuss whether the Housing Policy should include a statement about a goal for a specific increase. However, Council staff recommends that the actual goals be set outside of this Policy Document and as a part of the budget process, preferably every two years with the CIP. The Council could receive and annual progress report with the operating budget.

There are several ways to add to the stock of affordable housing including for households with low and moderate incomes:

- New construction (MPDUs and non-MPDUs)
- Preservation (acquisition and/or rehabilitation that comes with an agreement that some number of units will be regulated for certain incomes)
- Accessory Apartments
- Rent subsidies that allow people to live in non-regulated housing
- Rent subsidies that allow people to live in regulated housing
- Eviction prevention that assists people with short-term un-affordability

For some of these areas, the Council can set a goal and meet the goal with some certainty through an annual appropriation. This applies to rent subsidies. For example, when the Council appropriated additional funds for the HIP deep-subsidy program, additional people were placed in permanent supportive housing. The agreement to use funds to house 25 medically vulnerable homeless people results in those people being place in housing. In these examples not only was the goal to add affordable housing, but also to target a specific population.

However, some opportunities are unknown and require that resources be provided that may or may not result in additional units in a given year. The balance in the HIF revolving account allowed DHCA to enter into agreements that added substantial numbers of regulated units at he Hamptons, Fireside, and the Argent. This argues for funds being available but does not guarantee that the opportunity will occur in a given year.

At the session, Council staff will provide a table that begins to structure a baseline in each area. The Committee should work through budget to determine the areas where specific unit goals should be set, areas where a priority statement should be made (such as ensuring that some amount of fund increases housing opportunities for very low-income seniors or the medically vulnerable homeless). Once the Executive's budget is transmitted, the Committee will also need to discuss the projected balance in the revolving account of the HIF as well as the un-restricted cash side that would be available for opportunities not yet known.

Assumption can be made about new MPDUs and Accessory Apartments based on historical trends.

Council staff also believes that setting this goals should include discussions with affordable housing providers such as HOC and Montgomery Housing Partnership and the Montgomery County Coalition for the homeless as affordable housing increases through all these avenues should be accounted for when the affordable housing inventory is measured and when the County discusses whether it is meeting its goals.

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# CHAPTER III

# REVIEW OF EXISTING INNOVATIVE HOUSING PROGRAMS

**Tools for promoting housing and communities**

Montgomery County has a long and remarkable record of responding to market and non-market forces and developing many programs that promote an adequate supply of housing and enhance the County's neighborhoods. These programs work together to improve the quality of life in Montgomery County and for its residents.

In this chapter, the following ten programs are reviewed in depth:

1. The Moderately Priced Dwelling Unit (MPDU) Program, Montgomery County's innovative inclusionary zoning program

2. The Montgomery Housing Initiative Fund (HIF) that provides loans for the creation or preservation of affordable housing

3. Workforce housing programs

4. State and federally-funded housing renovation and special needs housing programs

5. Housing First and homelessness housing programs

6. County-funded rental assistance programs

7. Housing Code Enforcement and focused neighborhood assistance programs

8. Accessory Apartments

9. Condominium Conversion Tax Program, and

10. Use of County-owned land for housing

These programs provide opportunities for the construction of new affordable housing for individuals and families not served by the private market, and for the renovation of existing homes to make sure the County's housing stock remains in sound condition. These programs supplement the private housing market and add to the range of housing opportunities in the County.

These programs work in conjunction with other important County programs that will not be reviewed here but continue to promote and provide for the County's housing needs. The other County programs, policies, and projects currently available to enhance the community include:

- Preserving agricultural land and open space through the Transfer of Development Rights (TDR) Program and other agricultural land preservation programs.

- Assisting with the development and renovation of multi-family housing, especially mixed-income and affordable developments, through the use of Federal and State financing programs such as Mortgage Revenue Bonds which are administered by the Housing Opportunities Commission, the Federal Low Income Housing Tax Credit Program, and the federal HOME and Community Development Block Grant programs.

- Giving the Department of Housing and Community Affairs (DHCA) and the Housing Opportunities Commission (HOC) the right of first refusal to purchase multi-family housing in the County and using rental agreements to preserve the affordability of multi-family housing when ownership transfers.

- Programs designed to promote energy conservation, including the Residential Energy Conservation Code, the Commercial Energy Conservation Code, the Residential Energy Conservation Property Tax Credit, and the High Performance Building Property Tax Incentive.

- Zoning incentives for mixed-use development and affordable housing in excess of the minimum requirements and redevelopment of surface parking lots.

[Through this examination of the following programs, this Housing Policy will make recommendations to fine-tune the programs to respond to new conditions and priorities.]

Included in each program review are recommendations on how to respond to new conditions and priorities.

**1. Moderately Priced Dwelling Unit (MPDU) Program**

**Program Summary and Background**

During the 1970s, Montgomery County changed from a bedroom community for Washington, D.C. to one of the region's largest employment centers. The County began to face a shortage of housing affordable to low and moderate-income households. In the early 1970's, housing advocacy groups began discussing the inadequacy of the County's supply of affordable housing. These groups recommended the concept that builders should supply a percentage of all units in new residential developments at prices that would be affordable to low and moderate-income households. This led to the development in 1974 of an innovative, countywide, inclusionary-zoning and density allowance program known as the Moderately Priced Dwelling Unit (MPDU) program.

The MPDU program was the country's first mandatory, inclusionary-zoning law that specified a density bonus allowance to builders for providing affordable housing. The program markets units to renters and first-time homebuyers with moderate incomes. The first MPDUs were built in 1976.

Initially, the legislation required that 15% of the total number of dwellings in every subdivision containing 50 or more units be affordable to moderate-income households. The total density of the subdivision could be increased by 20%. A provision gave the County's public housing authority, HOC, the right to purchase one-third of the moderately priced units produced in each subdivision. The Commission rents these units to low-income tenants through a variety of programs. The County Council later broadened this provision to allow approved nonprofit housing providers to purchase some MPDUs also.

The program has been amended several times over the past three decades. The law presently requires that 12.5% of the total number of units in every subdivision or building of 20 or more units be moderately priced. The law is applicable to property zoned one-half acre or smaller and to subdivisions in many larger lot zoning categories if they are recommended in the area master plan for public sewer.

[For most zones,] In certain zones, the Zoning Ordinance allows a density increase of up to 22% above the normal density permitted under the zone. The Ordinance also allows some attached housing in single-family zones [zoning classifications] so that optimum development of the property can be achieved and less costly housing can be constructed. The density bonus, in effect, creates "free" lots upon which the MPDUs are constructed. The builder [normally] obtains some additional market rate units. [equal to the difference between the density bonus and the MPDU requirement.] Because of physical constraints of the land, the full density bonus cannot always be obtained; the MPDU requirement, therefore, falls within a range from 12.5% to 15% based on the actual bonus density achieved. In some optional method and higher density zones, MPDUs are included in the requirements for additional density and flexibility for development on the site.

Households having an income at or below approximately 65 to 70% of the area's median income, adjusted by family size, qualify for the program. Income guidelines are based on the size of a household, and vary depending on whether the MPDU is for purchase, if it is a garden-style rental building, or it is in a high-rise rental apartment. For example, in [2011] 2012, the program required that for a family of four, the maximum household income could not exceed [$74,500] $75,500 for the MPDU Purchase Program or for a rental apartment in a high-rise apartment building, or [$69,000] $70,000 for a rental apartment in a garden apartment. Priority in the sale of the MPDUs is given to people who either live or work in the County.

The County imposes certain resale and occupancy restrictions on the MPDUs. For owner-occupied, for-sale MPDUs, the price for which the unit can be resold is controlled for 30 years. The MPDU must be owner-occupied and when the unit is first sold at market price after the control period expires, the County and the owner split any profit obtained through the sale, after an allowance for inflation and major capital expenditures. Rental units must comply with MPDU rent restrictions for 99 years.

Since the program's inception through 2011, over 13,200 moderately priced dwelling units have been built. Of these units, about 70% have been for-sale units. Currently, 2,300 units are under MPDU program controls, while the controls have expired on more than 10,800 units.

## Program Goals

The goals of the MPDU program are:

1. To produce moderately priced housing so that County residents and persons working in the County can afford to purchase or rent decent housing;

2. To help distribute low and moderate-income [households] housing throughout the County;

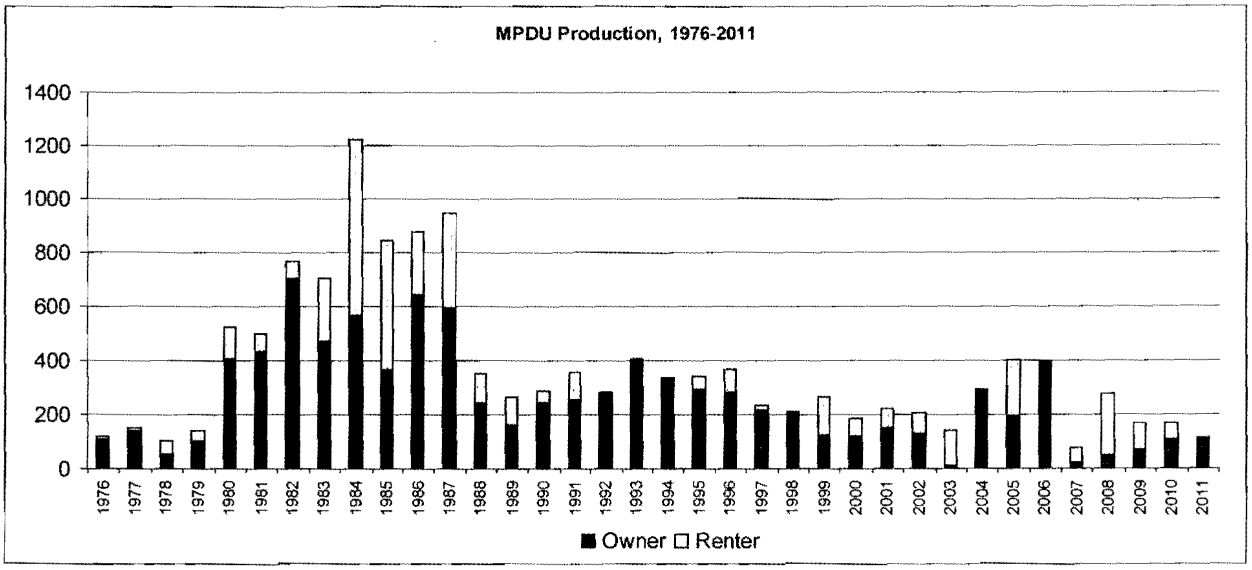
3. To expand and retain an inventory of low-income housing in the County by permitting HOC and recognized nonprofit housing sponsors to purchase up to 40 % of the affordable units (HOC is limited to one-third);

4. To provide funds for future affordable housing projects by sharing the appreciation when MPDUs are first sold at the market price after expiration of the resale price controls.

## Program Successes and Issues

The Moderately Price Dwelling Unit (MPDU) Program has been extremely successful over the past nearly four decades in developing affordable housing for working families. An award-winning program, it has been used by more than 400 jurisdictions across the country as a model and has led to the construction of far more units than any other inclusionary housing program.

Nonetheless, the MPDU program faces many emerging challenges. MPDU production is directly linked to the rate and location of private development. An average of 375 MPDUs have been created per year, but the number each year can vary dramatically depending on private sector market conditions, from a high production of 1,224 MPDUs in 1984 to a low of 77 MPDUs in 2007. Significantly, fewer undeveloped large tracts of land are available today for the construction of subdivisions comprised of single-family homes. The rate of new MPDU production has changed since the program began and will continue to change. Fewer single-family and townhouse units are being built while more MPDUs are being built in multi-family buildings, either as rental units or condominiums. The MPDU program was designed when County land development was predominantly suburban in nature. Implementation of the MPDU program in non-suburban settings gives rise to economic and land use challenges uniquely identified with more urban or rural environments.




*Source: DHCA*

| MPDUs Produced in Montgomery County 1976 - 2011 | | |
|---|---|---|
| Unit Type | Number | Percent of Total |
| For-sale | 9,290 | 70.1% |
| Rental | 3,956 | 29.9% |
| Total | 13,246 | |
| MPDUs percent of all units produced: 8.65% | | |

*Source: DHCA*

In 2001, the Housing Policy listed as the first MPDU issue, "Housing units, including moderately priced dwelling units, are being produced at a slower rate as the supply of developable land decreases." The 2001 Housing Policy recommended that the County, "Evaluate the possibility of requiring moderately priced dwelling units or an in lieu fee for new subdivisions with fewer than 50 units." This recommendation was adopted in 2004 when the County Council revised the MPDU law to require that between 12.5% and 15% of the houses in new subdivisions of 20 or more units be MPDUs.

This change in the MPDU law helped maintain the number of MPDUs being constructed each year, but did not increase the number above the number that had been produced annually in previous years. In the last 10 years, annual MPDU production has been as high as 400 units in 2005, 396 units in 2006, and 278 units in 2008. It is unlikely that the program will ever see the creation of 1,200 MPDUs in one year as occurred in 1984, or the creation of 5,300 units in five years as occurred from 1982 through 1987, just as it is unlikely that the program will routinely see the creation of as few as 77 units as occurred in 2007. The MPDU program has produced an average of 375 units per year since the program began in 1974. If the six unusually high years between 1982 and 1987 are taken out of the calculation, the average drops to 277 MPDUs built each year.

Currently, planning is underway for development around Metro stations, new transit- oriented development areas, and employment centers such as White Flint and the Great Seneca Science Corridor as mixed-use centers, providing for new housing opportunities. [If the County acts quickly and makes specific proposals for these areas being reviewed and planned, developments in these transit centers can produce future housing developments that include affordable housing units, that meet the needs of the County's current residents, and that provide housing for the future jobs that will be created in the County. ]

**Issue: The number and types of units that are likely to be constructed under the MPDU program might not meet the needs of MPDU households.**

By design, the MPDU program produces affordable housing units as a by-product of the development of new market rate housing. The construction of MPDUs is directly linked to the rate and location of development. [As development patterns in the County have changed, and are likely to change even more, the types of units produced by the MPDU program change in a similar manner. A 2009 Planning Department publication, "Reducing Our Footprint" notes that:

> *"There is little vacant land left to develop:*
>
> - *Only four percent of the County zoned for development, about 14,000 acres, remains undeveloped. There is even less developable land when slopes, floodplains, and forest stands are included.*
> - *Forty-seven percent of County land is part of the Agricultural Reserve and various parks at all government levels.*
> - *The County has 8,000 acres of surface parking, with more on the top of parking garages.*
> - *Considering remaining land zoned for development, surface parking, and other strategic growth areas, the County has about 28,800 acres where development should be encouraged."]*

Because the County does not have large tracts of undeveloped land available for new single-family subdivisions, future development will likely be in transit-oriented developments and will include more multi-family buildings than in the early years of the MPDU program. Multi-family buildings often feature smaller units with fewer bedrooms, so the MPDUs that would be generated would likely be [more efficiency] <u>efficiencies</u> and one-bedroom units, and very few three-bedroom units. [These types of units do not meet the needs of most moderate-income households.] <u>These MPDUs would not help address the projected shortage of housing for moderate-income three and four person households.</u>

*Recommendations*

- Encourage a mix of MPDUs and provide flexibility in the MPDU program that will allow the construction of more two, three, and four bedroom MPDUs. Flexibility may include allowing the total number of bedrooms required to be provided in fewer MPDUs. This would require a change to the MPDU law. [Develop guidelines and program rules that discourage the construction of too many efficiency and one-bedroom condominium MPDUs, especially those with high condominium fees. Identify incentives and program flexibility that can be added to the MPDU program to achieve the construction of more two-, three- and even four-bedroom MPDUs, especially rental MPDUs. For example, DHCA could work with a developer to determine how to provide more three bedroom MPDUs and fewer efficiency units. This would likely result in the developer providing MPDUs that better meet the needs of MPDU households, but probably producing fewer total MPDUs. Although the total square footage of all of the MPDUs in the building might remain the same, the result probably would be fewer total units because the development might include, for example, one three-bedroom MPDU instead of two efficiency units. This type of flexibility would require a change to the MPDU law.]

- Provide incentives to encourage developments to have more than the minimum number of MPDUs and for projects providing three or four bedrooms units that are not otherwise required. [additional incentives for projects in the Commercial/Residential (CR) zone, and other similar zones that award points for providing certain public benefits, to developments that will have more MPDUs than required, and for projects having more units with 3-or-more bedrooms. ]

**Issue: Much potential infill development in central business districts and around transit stations in the future will be high-rise projects. High construction and operating costs make it financially difficult to include MPDUs.**

[As large tracts of raw land become more scarce, m] Much of the County's new housing stock will be provided through developments and re-developments located in higher density areas in proximity to Metro and other public transportation. [The County is in a phase of growth that will focus on redevelopment, especially in transit centers.] Due to the cost of land and the zoning of such sites, much if not all of this residential development will be multi-family, either for-sale or rental. High-rise construction is expensive, and under the for-sale MPDU program, the resulting MPDU sales prices, combined with condominium fees, may make the units prohibitively expensive for participants in the MPDU program. [Condominium units in multi-family buildings often require occupants to pay condominium fees that may make the unit unaffordable to MPDU-eligible households.] Many new high-rise buildings that are currently rental are organized in such a way as to be easily converted to condominiums sometime in the future. The rental MPDUs in these buildings would then convert to for-sale MPDUs.

*Recommendations*

- Explore [financial and other] incentives for high-rise rental developments to make the construction of MPDUs more feasible [, especially] for projects providing more than the minimum amount of MPDUs and for those providing units with more bedrooms.

- Review the current rules for Alternative Location Agreements to determine if locating MPDUs off-site in "receiver buildings" could result in the production of more than the required number of MPDUs or provide MPDUs in a rental rather than condominium building. Determine if there should be a maximum percentage of MPDUs located in any one building that is part of an Alternative Location. [In limited instances, continue to allow developers to provide MPDUs at another site within the same planning policy area, if providing the units at the original location is not financially feasible, would create MPDUs with unrealistically high condominium fees, or a greater number of MPDUs can be created. In major redevelopment and development areas, DHCA and County staff could identify a "receiver" building that could be developed as mixed-income housing. For example, this building could have 60% market-rate rental units and 40% rental MPDUs. A developer of a nearby condominium project that has very large monthly condominium fees could meet some or all of its MPDU requirement by locating its MPDUs in this "receiver" building instead. This alternative location flexibility should be allowed only when developers are providing more than the minimum number of MPDUs.]

- Analyze and determine whether allowing a mix of condominium and rental units will make it easier and more feasible to provide MPDUs in high-rise projects, what rules are needed to allow rental MPDUs to organize as a separate condominium within the building, and how rules for federal financing rules might impact such a development. [Establish guidelines to allow MPDUs as rental units under a separate condominium regime in high-rise, for-sale buildings. Explore the rules under federal financing programs to ensure that this does not present any obstacles to securing mortgage financing. ]

- Allow developers to create trust funds to provide ongoing condominium fee subsidies for a property.

- Research methods for developers to assess lower condominium fees on MPDUs than on market-rate units.

- [Evaluate options to provide rental units for special populations, such as seniors, in transit-oriented development centers.]

**Issue: Ensure MPDUs are well integrated into developments and are designed to meet program participants' needs.**

In order to facilitate affordability, current program guidelines permit for-sale MPDUs in single-family subdivisions to be smaller and of a different unit type than market-rate units in the same development. As large tracts of land available for traditional single-family developments become more scarce, developers have financial incentives to build smaller MPDUs located in more compact structure types, such as condominium buildings, two-over-two units, or very narrow townhouses. The MPDUs are therefore sometimes easily identifiable within a development because they are physically separated from the market rate units, or are different from the rest of the community due to the size and exterior appearance. Units located in relatively remote areas of a subdivision that are distant from transit, shopping, and public services may be less attractive to MPDU households, and to HOC and other nonprofit organizations that rent units to lower income households with limited transportation options. In addition, certain unit types and designs are undesirable to MPDU homebuyers. Efficiency and one-bedroom MPDUs often do not meet the needs of MPDU certificate holders. Piggyback and similar types of townhouses with limited ground level access and storage space may be less attractive to families with children. In addition, these unit designs are often perceived as less visually attractive, noisier, and potentially costlier to maintain.

*Recommendations*

- Update the Planning Department's 1995 "Site Plan Guidelines for Projects Containing MPDUs" to make sure that the guidelines reflect current planning practices and development standards, and unit desirability. Continue to prohibit back-to-back townhouses and determine the feasibility of prohibiting the construction of piggyback and two-over-two style MPDUs, unless the subdivision also includes similar market-rate units. Continue to mandate that MPDUs be dispersed throughout the community.

- Ensure that MPDUs in single-family and townhouse communities are not divided into small Homeowners Associations (HOA) [associations that are] separate from the overall community HOA [master homeowner's association (HOA)]. [HOAs have responsibilities for a range of structural elements and infrastructure such as roads and stormwater management facilities, as well as for operational elements such as snow and leaf removal and care of landscaping in common areas.] Small MPDU-only HOAs [condominium associations] often are not financially viable, highlight the differences in the community, prevent community cohesion [a sense of togetherness within the community], and create obstacles for attaining appropriate levels of management and enforcement of HOA covenants.

- Ensure laws and regulations [Evaluate existing and proposed zoning regulations to make sure that the overall] support the goal of the MPDU program to disperse affordable housing. [is maintained. Avoid an over-concentration of too many MPDUs in one building or one section of a community. Subdivisions that contain a mix of housing types need to have affordable units that are well-designed and placed in locations that bring about enhanced community cohesiveness.]

**Issue: In some instances, developers are unable to take advantage of extra or maximum bonus density provisions in the Zoning Ordinance, including that of the MPDU Program, because of other zoning, environmental, or master plan requirements. This makes the inclusion of moderately priced dwelling units financially difficult.**

*Recommendations*

- When preparing master plans and zoning changes, [understand] consider the impact of height and density restrictions on the financial feasibility of the construction of MPDUs, especially in high-rise construction. [Take into consideration the impact and provide increased height, increased density, or other considerations for projects including MPDUs and other affordable housing options.]

- [While undertaking the Zoning Ordinance Revision, evaluate how well current provisions of the MPDU law apply in more urban and rural areas. New challenges have emerged in implementing the MPDU program in urban areas, CBDs, transit centers, and large lot zones in rural areas, largely in the areas of lot size, setback, amenity requirements, and green space requirements for MPDU developments in most suburban zones.]

- [Continue and e] Expand the use of zoning tools [such as the CR zone] that encourage the production of affordable housing by providing incentives for MPDUs in excess of the minimum requirement.

**Issue: Applicability of MPDU Program to Types of Developments That Have Special Conditions**

The County Code and the [County] Zoning Ordinance require that certain types of developments, such as life-care facilities and for-sale age-restricted projects, include MPDUs. Units produced in these types of developments have limited marketability to MPDU eligible households. In many life-care facilities, the living space is not owned under a fee simple title or condominium regime; rather it is provided as one element of a package of services sold to residents. [As they age, residents move from a more independent living residence to a more care-intensive residence within the same facility, all the while receiving the necessary level of services.] Often, the cost of the overall service package makes the development prohibitively expensive for MPDU buyers or renters, and separating out and quantifying the residential component is difficult. Even if the residential component of the service package can be quantified and made available to an MPDU household, the cost of the remaining service package may be too expensive for the MPDU resident. The first-time homebuyer requirement and the 30-year control period make for-sale MPDUs undesirable to age-eligible households in age-restricted developments.

*Recommendation*

- Research viable alternatives for producing MPDUs on site under these limited circumstances.

- Explore whether an alternative payment or alternative location agreement that allows units outside the planning area may be appropriate in these limited circumstances.

**Issue: [Working families and m] Moderate-income households need to be made aware of the MPDU program and the benefits it offers. As the economy changes and real estate conditions change, the MPDU program needs to continue to meet the needs of MPDU households. Prospective MPDU households often require assistance and education about the home-buying process.**

Some MPDU applicants have encountered problems qualifying for a mortgage because they were unfamiliar with the process of obtaining a loan, did not understand their credit score or how to improve it, and because of difficulties caused by the current financial crisis. [Changes to the program in the past decade have increased confusion and doubts to some applicants.]

*Recommendations*

- [Assess innovative approaches to solving the problem of high condominium fees, for example, allowing developer-created trust funds to provide ongoing condominium fee subsidies within a property, and researching methods to assess lower condominium fees on MPDUs than on market-rate units. In high-density, master-planned transit-oriented development areas, DHCA might consider working with developers to allow several developers to provide all of their required MPDUs in a separate, less expensive to build, rental building so long as the developers agree to provide more than the minimum amount of MPDUS in exchange for the flexibility on where the MPDUs will be located.]

- Develop a marketing and publicity strategy to educate eligible households and County employers about the MPDU program. [, and renters about the MPDU program. Develop programs to make income-eligible households seeking first-time homeownership opportunities aware of the program.]

- Continue HOC's Single Family Mortgage program that offers affordable mortgages and downpayment loans to qualified homeowners, many of whom are MPDU purchasers.

- Continue to offer homebuyer classes for moderate-income and prospective MPDU households, including information on credit, the variety of mortgage products, and how to avoid predatory lending.

- Make prospective MPDU purchasers and applicants aware of organizations that provide Fair Housing and homeownership assistance.

**Issue: The MPDU program is only one element of the County's strategy to address the affordable housing shortage.**

The MPDU program generates on average between 200 and 300 housing units each year for moderate-income households ([currently] up to [$52,000] $52,500 per year for an individual, and [$74,500] $75,500 for a family of four in 2012). A great need exists for housing for households with significantly lower income levels, and a great need exists to create more affordable units to meet the housing needs of workers who will fill jobs created in the County.

[The term "affordable housing" encompasses a much broader spectrum of homes and housing types, and a much broader range of household income levels. This policy recognizes that t] The County has a more severe shortage of affordable homes today than in 1974 when the MPDU program began and there is need for a more diverse range of homes.

*Recommendations*

[The County must continue to e] Explore, create, and implement additional programs to achieve affordability in housing for the very low income, the middle income, and those households in-between. [The County cannot meet its affordable housing needs through the MPDU program. The County recognized many years ago that the MPDU program addresses only one segment of the housing affordability problem. The County developed numerous other programs to address this issue comprehensively.]

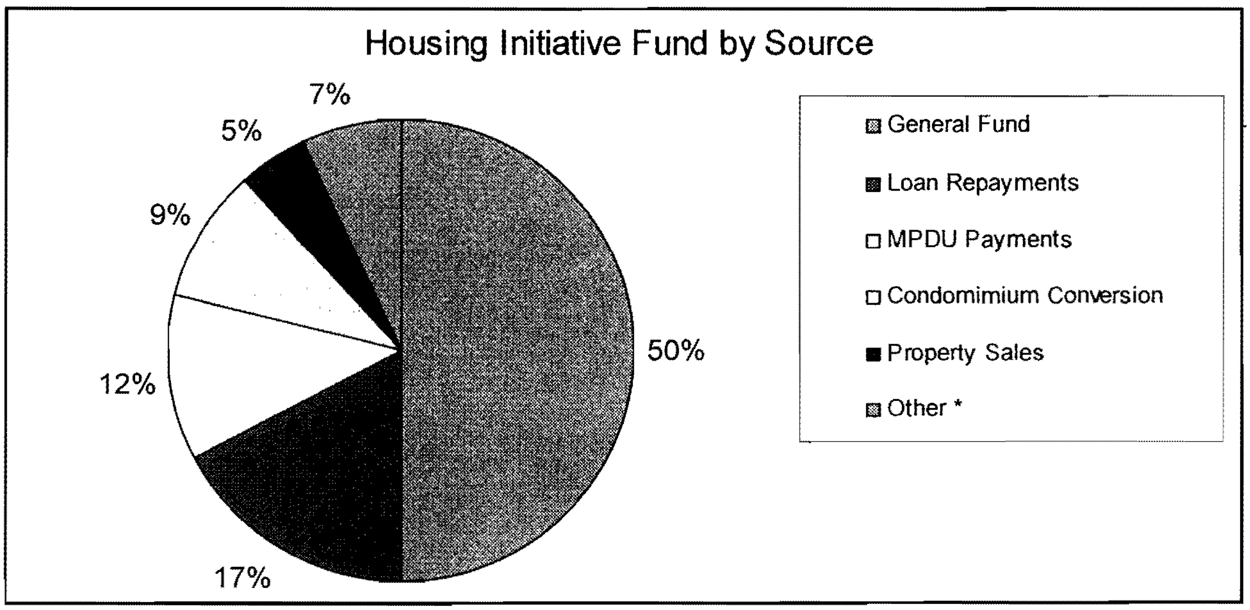
## 2. Housing Initiative Fund

The County Council established the Housing Initiative Fund in 1988 with the purpose of creating and preserving affordable housing throughout Montgomery County. Loans are made to HOC, nonprofit organizations, experienced rental property owners, and for-profit developers to:

- Build new housing units
- Renovate deteriorated multi-family housing developments
- Preserve existing affordable housing
- Provide special needs rental housing.

Between July 1989 and June 2012, more than 15,000 housing units were preserved or created in the County under this program. Emphasis is placed on leveraging County funds with other public and private funds. As a result, the effectiveness of the program relies on having community partners who are able and willing to take on development or rehabilitation projects, and on leveraging funding from other sources with County funds.

The HIF is one of the oldest local housing trust funds in the nation. Housing trust funds help solve three major problems. First, they provide a dependable source of revenue for the production, preservation, or rehabilitation of rental and owned homes, as well as related support services and infrastructure needs. Second, they come without federal restrictions and can be tailored to meet particular local needs effectively [, some of which may be ineligible for funding through other programs or in need of additional resources]. Third, they can be used to leverage other funds to help close the gap between the cost of production and available funds to support affordable housing.

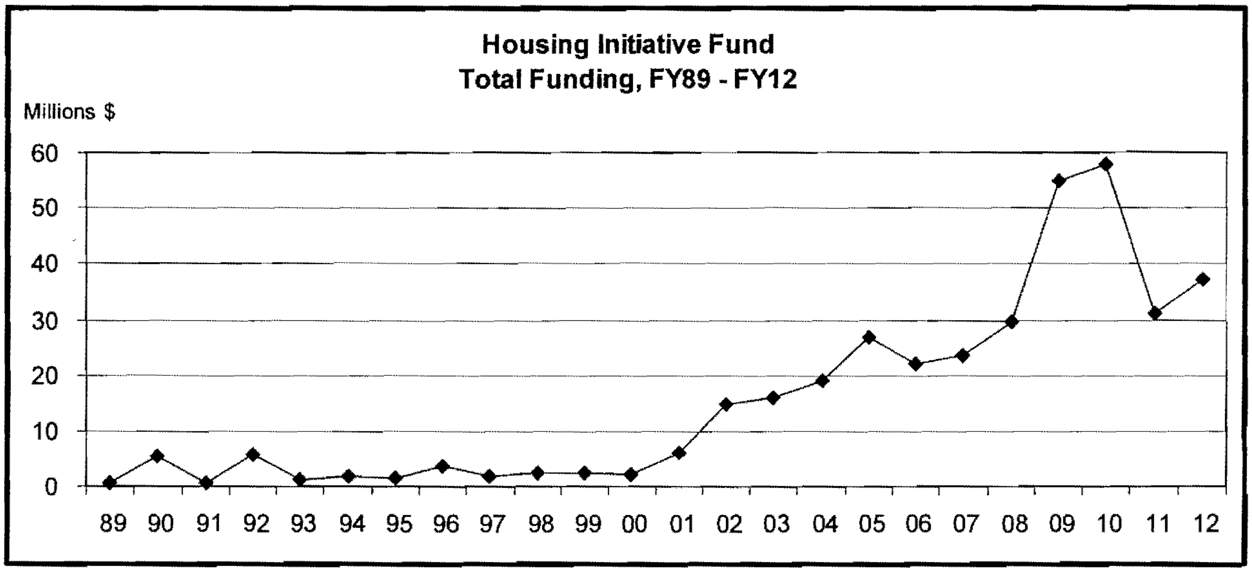



**Other: Includes Recordation Taxes, Investment Income, Development Approval Payment, and miscellaneous revenue*
*Source: DHCA*

Funds flow into the HIF from numerous sources, including:

- A portion of some specified development approval fees, such as the Development Approval Payment
- MPDU profit sharing
- County land sales
- The repayment of existing loans and interest charged on these loans
- Condominium Conversion Tax Payments
- Transfers from the Montgomery County General Fund
- Proceeds from bonds sold to provide [short term] loans

In FY2012, much of the funding in the program came from repayments on previous Housing Initiative Fund loans and from the County general fund.




**Housing Initiative Fund**
**Total Funding, FY89 - FY12**

*Source: DHCA*

**Issue: To ensure that [our] affordable housing goals are met, there must be a stable and predictable funding source <u>for the HIF.</u> [to guarantee that affordable housing goals are met. ]**

The HIF receives funds from many different sources. Since many are tied to taxes and fees from real estate and other activity, the HIF revenue can vary greatly from year to year, making it difficult to provide consistent funding levels. Moreover, in difficult economic times, HIF funding has been reduced in order to provide funds for other governmental functions. Since 2008, funds have been made available to the HIF through the sale of County bonds that generated more than $80 million for the program. When possible, loans made from this funding are structured to be paid back within several years so that the funds can be revolved back in to the HIF and used again.

*Recommendations*

- [Investigate the use of an affordable housing impact fee or similar alternative on all new non-residential development to provide funds for the creation of new housing for workers who will fill jobs in the County.]

- [Research procedures to allow and to encourage contributions and donations to the HIF. Research programs such as the one used in North Dakota that uses contributions from individual, businesses, financial institutions as the primary funding source for the North Dakota Housing Incentive Fund. Contributors receive a dollar-for-dollar state income tax credit in exchange for their financial donation. As of May 2012, the fund had received $6.5 million in contributions ranging from $100 to $2.5 million. The North Dakota program features guidelines such as that tax credits earned through contributions to the North Dakota Housing Incentive Fund are limited to a total of $15 million, are not transferable, and are on a first-come, first-served basis.]

- Consider ways to increase resources for the HIF. Research revenue sources used in other jurisdictions that may include affordable housing impact fees and tax credits for private contributions.

**3. Workforce Housing Programs**

[2006 Workforce Housing Program]

In 2006, the Montgomery County Council adopted a law and Zoning Text Amendment that established a new affordable housing program directed towards families with incomes [near the area median] up to 120% of the Area Median Income. Called the Workforce Housing Program, [this ZTA] it applied only in higher density areas near Metro stations. The Workforce Housing Program required that any subdivision or multi-family building of 35 or more units, in a zone that allows 40 or more units per area, and within a Metro Station Policy Area, would be required to provide Workforce Housing units equal to no less than 10% of the market rate units. [In this program, Workforce Housing was defined as housing available to families earning below 120% of AMI.] The program applied to any projects approved after December 1, 2006.

In April 2011, the County Council amended the Workforce Housing Program. The amendments made [changed] the Workforce Housing program voluntary. [requirement in Metro station policy areas from mandatory to voluntary.] Since the inception of the Workforce Housing program, only three projects had been approved with Workforce Housing units. Two of the projects were County-sponsored, and the other one was an unbuilt private project. According to the development community, providing Workforce Housing was cost prohibitive. Because the required Workforce Housing Program was viewed as an impediment to the development of new multi-family housing, the County Council voted to make the program voluntary.

**Issue: Montgomery County's housing stock is not keeping up with the needs of the workforce.**

*Recommendations*

- Preserve existing privately-owned rental properties with rents affordable to moderate and middle-income households, especially properties located in employment growth centers and transit-oriented areas.

- Assess properties that become available through the County's Right of First Refusal to see if actions should be taken to preserve rents affordable to moderate and middle-income households by assisting the purchase of the properties by HOC or for-profit and nonprofit housing providers that will preserve the affordable rents at these properties.

- Research the County's existing single-family housing stock, especially in neighborhoods with stagnant prices or a large number of foreclosed homes, and identify programs or initiatives that can be developed to market and sell these homes to middle-income households and to households with incomes just above the MPDU program.

- Analyze the need for [voluntary] Workforce Housing programs in high-density areas near Metro stations, with a focus on rental housing. Determine if additional incentives are appropriate to increase participation in the voluntary Workforce Housing program so middle income households have new opportunities to live near Metro. [Continue the County policy that residents of all incomes have the opportunity to live near Metro stations.]

## 4. State and federally-funded housing renovation and special needs housing programs

Federal agencies have provided essential funds to Montgomery County programs for the construction, acquisition, and renovation of housing for special needs populations, and the weatherization and renovation of single-family homes owned by lower income households. Most of these funds have come from the U. S. Department of Housing and Urban Development through programs such as the Community Development Block Grant (CDBG) program, federal HOME Investment Partnership Program, the HUD 202 Supportive Housing for the Elderly Program, and the HUD 811 Supportive Housing for Persons with Disabilities Program. Weatherization Program funds are provided by the U. S. Department of Energy and the State of Maryland.

[Group homes that receive funds from Montgomery County serve those with physical and developmental disabilities, persons with persistent mental illness, and the elderly. Assistance is not provided to group homes owned by for-profit developers.]

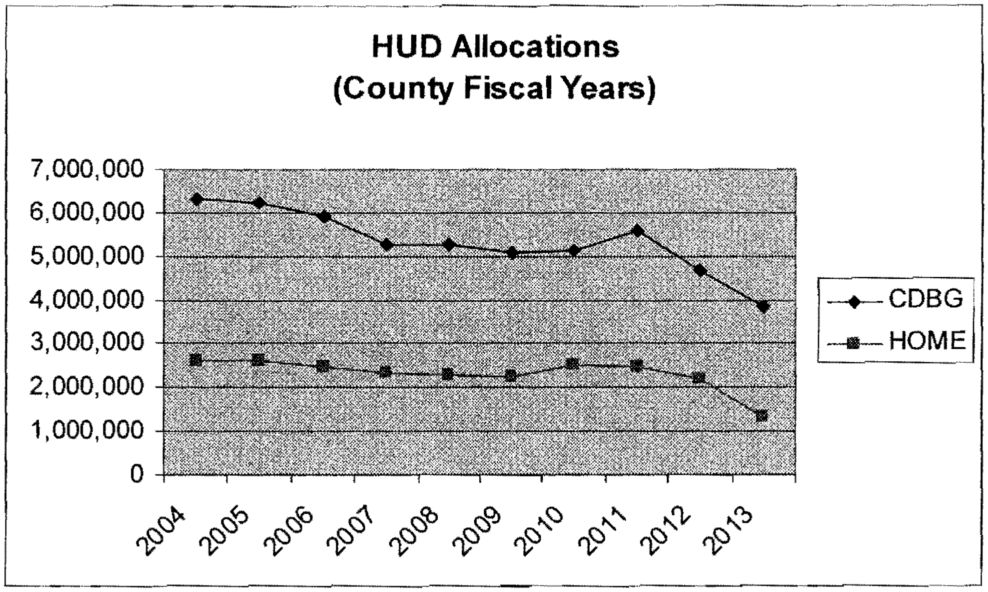
The County assists nonprofit group home providers to construct new housing, acquire single-family homes [to be used as group homes], and repair and renovate existing group homes to assure that they are in good repair, comply with County and State licensing requirements, and continue to be assets to the community. Over the past ten years, the County has provided loans to nonprofit organizations to acquire more than thirty group homes. In addition, the County provides loans and grants for the rehabilitation of approximately twenty group homes each year.

Federal CDBG funds have been used in Montgomery County for more than twenty years to make loans to lower income homeowners to pay for repairs that correct housing code violations, to make homes more accessible, and, along with funds from the federal Weatherization Program and from the state of Maryland, to make repairs that make homes more energy efficient. Between 2008 and 2012, Montgomery County's Weatherization Program provided more than 1.900 grants of less than $5,000 each low-income homeowners and to the Housing Opportunities Commission to make energy efficiency improvements and repairs. The Single-Family Rehabilitation Loan program averages repairs to ten homes each year.

**Home Energy Programs:** This State-funded program is administered by DHHS and provides financial assistance to help low-income County residents pay their electric and home heating bills. In FY2011, the DHHS Home Energy Program provided $9,157,213 to 9,483 households. Federal funding was severely reduced in FY2012. The program serves low-income, vulnerable households. To be eligible households must have income at or below 175% of the poverty line, which was $18,953 for single person household and $32,042 for a three-person household in FY2011. Twenty-six percent of households have a member over 60 years of age while another twenty-three percent have at least one member under the age of five.

**Issue: Federal funds to Montgomery County have been reduced and are expected to continue to decrease.**

Federal budget problems have led to reduced funding for many domestic programs, including the CDBG and Weatherization programs, and near elimination of funding for the HUD 202 and 811 programs. CDBG funds to Montgomery County were reduced by 18% in FY2012, and funds from the federal HOME Investment Partnership Program went down by 40%. Montgomery County needs to maintain the number of group homes providing essential services to Montgomery County residents with disabilities [who, with the proper supportive services and assistance, can receive safe and secure housing in their own community,] and add more group homes as possible. The State of Maryland has been working for more than a decade to close [all] state mental health hospitals and [instead to] serve the chronically mentally ill in community-based settings.




*Source: DHCA*

*Recommendations*

- Focus resources on the renovation and improvement of existing group homes to make sure they are well-maintained and able to serve target populations.

- [Through the Zoning Ordinance Revision,] continue to allow group homes in all areas and evaluate approval procedures to remove any unnecessary restrictions. [Since many group homes are licensed by the state of Maryland and assisted by the County, consider administrative approvals wherever possible.]

- Continue to allow experienced nonprofit housing providers to purchase MPDUs to be used as group homes.

- Continue HOC's program to set aside some Housing Choice vouchers to be used by nonprofit group home providers to make group homes more financially viable.

- Consider developing new [special needs] group homes when County-owned sites are evaluated for use for affordable housing.

- Continue to coordinate between those providing [the] housing and agencies providing support services.

## 5. Housing First and Homelessness Programs

Montgomery County provides important housing and services to homeless individuals and families, persons with mental health and substance abuse issues, individuals with developmental disabilities, and seniors. Working with public and private agencies, [the Montgomery County Department of Health and Human Services (HHS)] DHHS operates a variety of programs to:

- Prevent homelessness.
- Provide stable housing for formerly homeless and other vulnerable households.
- Prevent housing emergencies for the County's residents.
- Link housing with essential supportive services for special needs populations.

County programs to prevent and alleviate homelessness have always been essential. The continued downturn in the economy over the past few years has continued to make this assistance a critical tool in preventing homelessness.

Created in 2008, the ***Housing First Initiative*** provides permanent housing and supportive services to help previously homeless individuals and families move to permanent housing, rather than having them stay in an endless series of temporary or transitional situations. The Housing First model helps chronically homeless and hard to serve individuals and families find permanent, stable housing as quickly as possible. Participants must sign a standard lease agreement and are provided with services and assistance that help them remain successfully housed. This program has shown to be more cost-effective than short-term housing solutions such as the use of temporary shelters and motels. [The program's funds] Housing First funds are used to provide rental subsidies, fund case management provided by County staff or non- profit shelter providers, and pay costs associated with families moving from shelters to more permanent housing. [, including:]

- **The Housing Initiative (Rental Subsidy) Program:** The Housing Initiative Program, funded by the Housing Initiative Fund, provides rental subsidies for special needs households with income below 30% of AMI and provides for service coordination to promote housing stability. Ninety-eight percent of the households receiving this assistance are able to stay in their homes successfully long-term. The program funding in FY2012 had the capacity to serve 224 households.
- **Eviction Prevention and Emergency Housing Assistance**: In FY2011, the County's Emergency Housing Assistance program provided 5,837 grants totaling $3,733,104 to help households experiencing a housing emergency with rent assistance, utility assistance, and moving expenses, in order to resolve crises. Of these, 49% were for housing related costs, 46% were for utilities and 5% were for other emergency costs. Expenditures consisted of $2,569,762 in County funded assistance and $1,163,342 in State funded assistance.
- **Supportive Services**: In addition to financial assistance, the County provides supportive services to help stabilize households through assistance with budgeting and linkages to community resources including physical health, behavioral health, employment and income supports programs. Funding is provided by the State of Maryland through the Department of Human Resource's Emergency Assistance to Families with Children Program as well as the Homelessness Prevention Program, and County funding includes DHHS emergency services grants funded by the County's General Fund.

**Issue: Unmet Needs of Homeless Persons**

In January 2012, according to the annual Homeless Point-in-Time Count, 979 people indicated that they were homeless. Of this total, 598 were single persons, and 372 were in families. The number of people indicating that they are homeless decreased slightly in 2012, after changing very little from year to year since 2007:

**Montgomery County**
*January 2012*

**People Living Unsheltered, In Winter Beds, In Emergency Shelter or In Transitional Housing**

| Year | Single Persons | Persons in Families | All Persons |
|---|---|---|---|
| 2012 | 598 | 381 | 979 |
| 2011 | 761 | 374 | 1,132 |
| 2010 | 692 | 372 | 1,064 |
| 2009 | 668 | 526 | 1,194 |
| 2008 | 694 | 410 | 1,104 |
| 2007 | 640 | 499 | 1,139 |

The census indicates that the County needs nearly 1,000 units of permanent supportive housing. The Continuum of Care, a public-private planning group for homeless and homeless prevention activities, established permanent supportive housing as a priority.

*Recommendations*

- Increase the number of permanent supportive housing units to meet the unmet needs in the County. Develop specific goals and projects to meet the need for nearly 1,000 units of permanent supportive housing. Continue to focus on reducing the time families and individuals spend in temporary shelters and to decrease the use of motels as overflow emergency shelter for families.

- Explore obtaining State funding for more affordable assisted-living options for individuals with developmental and intellectual disabilities, and individuals experiencing homelessness who have a disability. Existing private facilities are very expensive and are not equipped to address needs of people with multiple behavioral health disorders.

- Develop a Recuperative Care Facility and other therapeutic recovery programs providing step-down care for homeless persons and persons with chronic behavioral health conditions, especially those who do not qualify for skilled nursing facility care upon hospital discharge or who have no home or trained caregiver during their post-hospital discharge recuperation. [Research demonstrates that a Recuperative Care Facility reduces hospital inpatient length of stay and readmissions and prevents patients from being discharged with medical needs that result in readmission to the hospital.]

- Increase the supply of permanent rental housing options for low-income households exiting homelessness. Assess the feasibility of creating more single-room occupancy (SRO) units properties and [. Also, construct housing with] three or more bedrooms for larger families.

- [Develop housing options in planned development projects or master planned development areas for target groups such as youth aging out of foster care, domestic violence victims, and those with mental illness and developmental disabilities.] Develop housing options for youth aging out of foster care, domestic violence victims, people with mental illness and people with developmental disabilities who are at-risk for homelessness.

- Continue to study the census and [other population projections to assess special needs populations and develop long-term] develop housing strategies based on the changing demographics of the County

**Issue: Housing First prevents homelessness and shortens the time households spend homeless.**

*Recommendations*

- Continue implementation of Housing First Initiative to reduce homelessness.

- [Increase permanent supportive housing for individuals and families exiting homelessness. Assess the feasibility of setting aside more Housing Choice Vouchers for households in the Housing First Program.] Work with HOC and others to expand the use of Housing Choice Vouchers and other rental subsidies that can be used to reduce the cost of housing for those transitioning from homelessness.

- [Explore accessing Medicaid dollars for supportive services and for the development of a model that allows for varied intensity of supportive services based on individual need.]

## 6. County-funded rental assistance programs

Montgomery County has used General Fund resources since 1985 to fund rental assistance programs for needy households.

**County Rental Assistance Program (RAP):** In 1985, Montgomery County created the Rental Assistance Program. [targeted to the elderly and disabled, low-income (underemployed) intact families, and low-income (underemployed) single parent headed families. Since its inception, t] The program [has provided] provides eligible households with a monthly rental subsidy to help defray the high cost of rent [and enable low-income seniors, disabled individuals, and families to have a suitable rental unit.] The County RAP program provides monthly subsidies ranging from $50 to $200 to households with income below 50% of AMI who are paying a larger than normal percentage of their income for rent. The average subsidy in FY2012 was $195 per month. The program served an average of 1,425 households per month in FY2012 and demand continues to outstrip available resources.

[Due to funding restrictions and continued demand, the RAP program closed enrollment to new households at the start of FY2011, but was able to begin enrolling new households again in March 2011.] The subsidy available to a household has not been adjusted since 2002 and its value has eroded over time due both to inflation and the steep increase in area rents. A household would need $248 dollars in 2012 to match buying power of $200 subsidy in 2002. At the same time, the HUD Fair Market rent for a two-bedroom apartment was $943 in 2002 compared to $1,513 in 2011.

**Rent Supplement [Homelessness Prevention] Program**: In 2007, the County Council established the Rent Supplement [Homelessness Prevention] Program, using proceeds generated by the Recordation Tax, to provide shallow rent subsidies to assist county residents renting in multi-family properties to avoid being displaced or becoming homeless. The Rent Supplement [Homelessness Preservation] Program is administered by HOC and the goals are to:

- Prevent homelessness of very economically vulnerable individuals and families;
- Stabilize families in affordable housing; and
- Increase the number of affordable housing units in the County.

The target population is individuals and families between 30 % and 40 % of AMI who pay more than 40 % of their income for rent. This group, while making slightly more than participants in the deep rental assistance programs like Housing Choice Vouchers and Public Housing, can face difficulties paying rent. [The program is structured on the theory that a relatively small rental supplement would fill the gap. As planned, m] Maximum monthly subsidies do not exceed $600, and the average monthly subsidy of $250 to $350 per month per household is sufficient in most cases to prevent the recipient from falling behind in rent and facing eviction. <u>In FY2013, funding for the Rent Supplement Program was $1.3 million which was expected to serve 219 households.</u>

[Spending for the Rent Supplement Homelessness Prevention Program started at $1.3 million in FY 2010, and was reduced to $1 million in FY2011. In 2010, 350 households were served by this program. Because of lower funding levels, the number of households served was reduced to 250. The goal of the program has been to provide stable housing for at risk households. This has been achieved as seen by the fact that none of the households in the program moved during FY2011.]

<u>Handicapped Rental Assistance Program</u>: The Handicapped Rental Assistance Program provides monthly financial assistance to individuals with a mental illness that constitutes a handicapping condition residing in a group home licensed by either the State of Maryland or Montgomery County. The program serves an average of 215 individuals each month with an average monthly subsidy of $150.

**Issue: Many households, both singles and families, are struggling to maintain housing and avoid eviction. [These families need rental subsidies to make it through the crisis.] Households may need short-term rental assistance to cover a crisis or long-term rental assistance based on their income.**

*Recommendations*

- Increase the number of rental subsidies for low-income households. The long waiting lists demonstrate the unmet need. [Identify programs that could provide increased rental subsidies through HOC where funds are available.] Explore funding sources that may be available to County Government, HOC or non-profit organizations. Leverage federal and State funds whenever possible.

- Study the County's rental assistance programs [for special populations] and, determine if an increase in the maximum subsidy should be adjusted to reflect current rental rates. [as County funds become available, expand these programs and increase the amount of subsidy to be consistent with current rental market rates.]

- Continue to provide funds for the repair of homes to reduce utility costs, which continues to be a struggle for low-income households. Explore ways to encourage landlords, especially those with older housing stock, to undertake energy efficiency upgrades to properties. Educate households on energy conservation.

- Expand the [The Recordation Tax] Rent Supplement Program [Serving Homeless Families]. This program has been effective in preventing evictions and homelessness which is more humane and fiscally effective than having to re-house someone after they have become homeless. [has proven to be an extremely successful homelessness prevention program. This policy recommends the continuation of the program, and its expansion when funds are available. It operates on the principle that preventing individuals and families from ever becoming homeless is far more humane and fiscally effective than the steps needed to rehouse the homeless.]

## 7. Housing Code Enforcement and Focused Neighborhood Assistance Programs

To ensure healthy housing and neighborhoods, Montgomery County adopted a Housing Maintenance Code in 1964. Most of the inspections made under the authority of the Code are mandated by other statutes such as those requiring the licensing of multi-family rental units or accessory apartments, or in response to a complaint from a tenant, neighbor, or other interested community member. The County Housing Code Enforcement Section follows up on complaints, and monitors areas of concern to prevent widespread deterioration in older neighborhoods and to maintain a more stable housing stock that meets health and safety standards and is less likely to become run-down or deteriorated. [Low rental vacancy rates could lead to an environment in which tenants would be willing to accept unsafe or unsanitary living conditions.]

Focused Neighborhood Assistance is a program started in 2009 to address comprehensively community needs identified by residents and other stakeholders in geographically-defined neighborhoods experiencing challenges. These areas are selected approximately every two years after an analysis of residential neighborhoods countywide. This analysis includes review of data on crime, income, single-family rentals, and foreclosure events. County staff further refine neighborhood selection by identifying factors that connect communities, such as school boundaries, as well as those that separate neighborhoods, such as natural features and major roadways. Staff also identify those areas that appear to meet eligibility criteria for certain types of federal or State funding; for example, federal funds to assist in addressing the negative impact of foreclosures. A unique program is then developed for each selected neighborhood.

Some of the projects completed in the first two years include:

- Repairs to the exteriors of seventy single-family homes occupied by income-eligible owners.
- Upgrading and installing energy-efficient lighting in public spaces.
- Acquisition of thirteen vacant, foreclosed, bank-owned homes that were renovated and sold to first-time homebuyers.
- Improvement of five pedestrian pathways, including installation of lighting.
- ADA improvements to a community pool and the installation of lockers and security fencing.

**Issue: The County's housing stock is aging.**

*Recommendations*

- Continue a vigorous Housing Code Enforcement program to maintain in good condition the County's aging but vital rental housing stock.
- Continue having Code Enforcement staff perform annual reviews of vacant and condemned units and [. Continue to] refer the property owners [vacant and condemned properties] to the Rehabilitation Loan and the Replacement Home Programs [, especially for those occupants who are elderly or who cannot financially and physically maintain their home].
- Conduct studies to determine if infrastructure in older common ownership communities is being maintained and if the communities have adequate financial reserves to maintain their property. [A potential looming large problem is the number of housing units located in common-ownership communities, many built more than twenty years ago. The associations that control these communities maintain sidewalks, roadways, parking lots, playgrounds, recreation facilities, buildings, roofs, and nearly every other possible facility in their communities. Studies should be conducted to determine if the infrastructure in these communities are being maintained, if the communities have adequate financial reserves to maintain their properties.]

**Issue: Poorly maintained, deteriorated and abandoned properties affect neighborhood stability.**

*Recommendation*

- Continue to identify neighborhoods that are at-risk of deterioration, disinvestment, or disrepair. Bring in other departments, agencies, and nonprofits as needed and involve the community to bring together county resources to respond to the particular needs of the neighborhood.

- Continue to monitor foreclosed properties to make sure the buildings and yards are maintained.

- Determine if new incentives or penalties should be put in place to encourage homeowners not to leave homes vacant and to make sure vacant homes do not negatively impact neighborhoods.

**Issue: In some areas, especially those near mass transit, neighbors and community associations are concerned about homes illegally being converted into businesses and the illegal and improper creation of multiple dwelling units on one residential lot.**

In some down-county neighborhoods near Metro stations or on major roadways, neighbors and community associations have complained that speculators and absentee owners are illegally converting single-family homes into boarding houses, short-term rentals, and creating several illegal dwelling units on one lot. Often, the complaints focus on the creation of illegal accessory apartments or other secondary units on a lot approved for only one house.

Residents can submit complaints by contacting the MC311 Call Center if they believe that a property is not complying with zoning requirements. [A complaint can be filed with the MC311 Call Center to report or request an investigation of suspected zoning violations and illegal construction activities, such as building on a site without required permits, including specialized construction-related work such as plumbing and electrical work. Complaints are assigned to zoning or building investigators and inspectors who, if they find violations, instruct the violators to take corrective action. If a violation is not corrected within a reasonable time, the investigator or inspector will initiate legal proceedings on behalf of the County, such as issuing civil citations or tickets. DHCA and DPS keep the names of complainants confidential. The zoning official investigating the complaint can inform the complainant of important developments in the case and its outcome, when requested.]

The County's MC311 Call Center also has procedures in place for residents to submit complaints if they believe that residents or guests at a property are violating the County's Noise Control Ordinance, which is in Chapter 31B of the County Code.

*Recommendations*

- Continue to share information between the DHCA Housing Code Enforcement Section and the Department of Permitting Services Zoning Section on investigations into illegal construction and construction of homes with multiple kitchens units.

- Continue to refine informational materials to distribute to community groups and residents, and to add to the existing information on the County website, about how to file zoning complaints, and about the County's Noise Control Ordinance.

**8. Accessory Apartments**

Accessory Apartments are additional residential units on single-family lots that are independent of, and subordinate to, the primary, existing single-family home. These separate units have their own kitchen, bathroom [facilities], and sleeping areas. A related type of unit is a Registered Living Unit. Registered Living units are similar to Accessory Apartments, except that the units are occupied rent-free by either a relative or a household employee of the owner occupant.

Accessory Apartments that meet certain criteria can be licensed by DHCA and do not require a special exception. The main criteria are:

- A limit of one Accessory Apartment per detached dwelling unit in non-agricultural zones,
- An Accessory Apartment is not allowed if there is a Registered Living Unit in the home,
- The house must be at least five years old,
- The home must be the primary residence of the owner,
- The street address must be the same as the main dwelling,
- There is a limit of two adults but no limit on minors other than space and other requirements in the Housing Code,
- The Accessory Apartment's floor area must be less than 50% of the main dwelling,
- The home must meet requirements for adequate on-site parking, and
- An Accessory Apartment must be 300 or 500 feet from another Accessory Apartment depending on the zone.

For an Accessory Apartment that can be approved by DHCA, a sign is posted and an objection can be raised if someone believes that the criteria have not been met or that there is not adequate parking.
A homeowner may seek a Special Exception to have an Accessory Apartment that does not meet the criteria.

DHCA inspects and licenses all Accessory Apartments. Accessory Apartments must comply with all applicable parts of housing, health, and safety codes.

[Delete from here to end of section on page 27] [At the time this Housing Policy is being prepared, the Montgomery County Council is considering a Zoning Text Amendment to revise the procedures for the approval of an Accessory Apartment. Currently, before offering an

Accessory Apartment for rent, an owner must first obtain a Special Exception from the Montgomery County Board of Appeals, and an Accessory Apartment Rental Facility License from Montgomery County Department of Housing and Community Affairs. An owner who operates a rental facility without first obtaining a license is subject to a five-hundred dollar civil citation.

To be eligible for an Accessory Apartment, the existing single-family dwelling must:

- Be a single-family detached home (townhouses and mobile homes are not eligible).
- Be owner occupied.
- Be at least five years old.
- Be located in a zone that permits the approval of Accessory Apartments. (At the time of this Housing Policy Update, those zones were the Rural, Rural Cluster, LDRC, RDT, RMH-200, RE-2, RE-2C, RE-1, R-200, R-150, R-90, or R-60 zone or in a one-family residential area of a Rural Service, Planned Development or Town Sector zone.)
- Have at least a 6000 square foot lot in an R-60 Zone or the minimum lot size in all other one-family residential zones.
- Have at least two off-street parking spaces (driveway, not front yard) or proof of adequate on-street parking.
- Have adequate water and sewer systems for both units.
- Have any separate entrance located so that the appearance of a one-family home is preserved.
- Be compatible with adjacent homes, if modifications are proposed.
- Comply with all applicable laws.

In addition to the rules that apply to the single-family house, the zoning ordinance and the County Code stipulate requirements for the Accessory Apartment. The Accessory Apartment must:

- Be subordinate to the main house.
- Be internal to the existing home, which means it cannot be a separate building, unless the lot is larger than one acre.
- Have the same address as the main house.
- Be the only additional living unit or use on a lot or parcel.
- Not result in an excessive concentration of such units in the neighborhood.

The Owners Must:

- Have owned the property for one year, except when the accessory apartment existed prior to purchase of the home.

- Occupy one of the two units.

- Apply for and be granted a Special Exception through Montgomery County Board of Appeals.

- Obtain necessary building or electrical permits from the Department of Permitting Services if the Accessory Apartment application is approved.

- Contact the Department of Housing and Community Affairs, Code Enforcement Unit, after construction is complete and the Department of Permitting Services has assured compliance with Building Standards, to schedule an inspection for compliance with Housing Standards.

- Submit an Accessory Apartment Rental Facility License Application to the Department of Housing and Community Affairs, Licensing/Registration Unit, once compliance with the Housing Standards is achieved.]

**Issue: Some neighbors and civic associations are concerned that [too many] illegal Accessory Apartments exist in the County and are worried that too many Accessory Apartments in an area can change the character of a neighborhood.**

At the time of the writing of this Housing Policy Update (2012), there were 431 approved, active Accessory Apartments, and 698 Registered Living Units, in Montgomery County. (These rules for Accessory Apartments and Registered Living Units do not apply to properties within the incorporated municipalities of Barnesville, Brookeville, Gaithersburg, Laytonsville, Poolesville, Rockville and Washington Grove.) [Some illegal units may exist throughout the County.] Units are [considered] illegal if they have not been approved by the Department of Housing and Community Affairs or been granted a Special Exception, are not licensed, or do not comply with housing, health, and safety codes.

- [Have not been approved by the Board of Appeals.
- Do not have an approved rental license.
- Have not been inspected to assure compliance with County Housing Code standards.
- Do not meet the standards of the zoning ordinance, such as those Accessory Apartments that

    - do not have proper and safe ways to enter or exit the unit
    - are not subordinate to the existing single-family home
    - the owner of the single-family house does not live on the property.

These issues and concerns are often similar to those expressed about the development of illegal additional units on residential lots, so the recommendations are similar.]

*Recommendations*

- [Currently, most County code enforcement inspections of alleged illegal Accessory Apartments are the result of complaints submitted to the County. Consider stepped up investigation of properties with multiple kitchens and allegations of work conducted without required permits.]

- Develop informational materials to distribute to community groups and residents, and to add to existing information on the County website, about how to file complaints about illegal Accessory Apartments.

- <u>Explore ways to improve the County's ability to inspect for illegal Accessory Apartments.</u>

- [Accessory Apartments exist in many communities across the nation. Studies and reports have looked at accessory apartments in communities. None has indicated a correlation between the number of Accessory Apartments in an area and neighborhood decline. The Planning Department could conduct a study of neighborhoods in Montgomery County with Accessory Apartments to determine if they have affected the quality of life, neighborhood stability, or housing values.]

**Issue: Many people have a difficult time understanding what an Accessory Apartment is and what types of additional units are allowed on a single-family lot. [The Zoning Ordinance has several confusing definitions and uses for additional units in single-family zones. These categories are often confusing and can be difficult to enforce]**

The Zoning Ordinance presents several ways that a single-family lot can have more than one unit on it, including:

- Accessory Apartments
- Boardinghouses
- Guest Houses
- Guest Rooms
- Registered Living Units

*Recommendations*

- [During the Zoning Ordinance Revision, reduce the number of categories that allow for additional units on single-family lots. Eliminate any overlap between uses. Establish clear definitions that can be understood by the community and the agencies charged with enforcement of the Zoning Ordinance.]

- Develop informational materials to distribute to community groups and residents and to add to existing information on the County website about permitted uses on residential lots and the types of additional units that are allowed.

[Issue: The application process for Accessory Apartments is too complicated, can be too costly, and takes too long.

Only about ten new Accessory Apartments approvals are issued annually. According to staff from the Board of Appeals, the Planning Department and the Department of Housing and Community Affairs, almost all applications are approved. The few that are not approved are turned down because the existing house on the property already does not meet a zoning setback requirement (which has nothing to do with the Accessory Apartment application) or the proposed Accessory Apartment does not have proper ways to exit the unit in case of fire or an emergency.

The documentation required to be submitted with an Accessory Apartment Application is quite lengthy and the application form can appear daunting to many homeowners. The application is reviewed by the staff of the Board of Appeals and staff from the Planning Department. The proposed Accessory Apartment is inspected by staff from the Housing Code Enforcement Section when the application is submitted and after the application is approved. The Office of Zoning and Administrative Hearings conducts a hearing and the Hearing Examiner writes a report that is quite detailed and lengthy. The Hearing Examiner's recommendation is reviewed by the Board of Appeals. This whole process often takes between nine to twelve months to complete.

*Recommendations*

- During the Zoning Ordinance Revision, evaluate accessory apartment regulations and ease requirements without jeopardizing neighborhood quality.

- Remove impediments to accessory apartments by making the application process take less time and be less costly to applicants.

- Consider efforts to streamline the approval process or consider establishing limits on the time allowed for the review of Accessory Apartment Special Exception applications. This limit could be for the entire process, such as the County must review and make a determination on an Accessory Application within six months of the date of the application, or such a limit could be established for each step in the process, such as the Planning Department must submit its comments to the Hearing Examiner within 60 days after receiving an application.

- Limit the number of occupants of Accessory Apartments to no more than three people.

- Continue the requirement that applicants for Accessory Apartments must live in one of the units.]

**9. Condominium Conversion Transfer Tax**

The Condominium Conversion program ensures that the conversion process includes tenant notification and displacement mitigation, as well as notification to HOC and to the community of a pending conversion. The Condominium Conversion program includes provisions to alert tenants of their rights to purchase their units within 180 days. The County and HOC have the first right to purchase a rental property with 10 or more units where the owner plans to convert the units to condominiums. The program does not prevent the conversion of rental units to condominiums.

**Issue: Condominium conversions appear to run in cycles, and seem to occur every ten to fifteen years, especially when other market factors make rental housing less profitable and give owners incentives to sell. The frequency of condominium conversions increases in strong markets when rental housing becomes less profitable and owners have more incentive to sell, which can lead to a sudden reduction in affordable rental options.**

*Recommendations*

- Continue to identify rental properties that are likely to convert to condominium.
- Work with nonprofit housing providers and HOC to acquire rental properties at risk of conversion when it will result in long-term preservation of the stock of affordable rental housing.
- Continue the Condominium Conversion Transfer Tax and determine its applicability to "shelf-condos" that may change from a rental building to a condominium without a conversion.

## 10. Use of county-owned land for affordable housing

Surplus public properties suitable for affordable housing have been made available to public and nonprofit agencies for assisted or below market housing. DHCA has worked on the following projects:

- Victory Housing's Victory Court project on Fleet Street in Rockville: 86 total units providing mixed-income housing for seniors. The project is scheduled to be completed in April 2013.
- Bowie Mill: Montgomery Housing Partnership and Elm Street Development will be constructing 114 for-sale housing units serving a mix of incomes. The project is scheduled to be completed in 2014.
- Silver Spring Library: Montgomery Housing Partnership and Donohoe Company are partnering together to build up to 134 units of affordable rental housing next to the new Silver Spring Library. The project expects to be built in 2014.

**Issue: The high cost of land is a major cost in the development of new affordable housing and impedes the construction of affordable housing. Using available County land can reduce this cost [factor in affordable housing]. County-owned land often has low-density zoning [placed on it] requiring a zoning change before the property can be used for affordable housing.**

*Recommendations*

- Include housing affordable for low, moderate, and middle-income households in all suitable public building projects in appropriate locations throughout the County. Projects involving the redevelopment of public land or facilities, such as parking facilities, must have at least 30% of total units as affordable housing. Property that is designated as parkland is not considered surplus.

- Develop a database of County-owned land that indicates the current use of the site, the zoning, water and sewer classifications, master-planned and approved uses for the site, and that identifies which site should be looked at for possible affordable housing use. DHCA and Planning Department staff have assessed County-owned land several times over the past decade. Development of a database would improve the ability of staff to consider available sites

- Establish housing as a major preferred use when the County sells property. Achieving this objective should take precedence over receiving full market value for the property. [The County should establish a price that permits a developer to provide a proportion of affordable housing that exceeds the 12.5% MPDUs now required of residential projects.] Developers benefiting from below market pricing of county property should be required to provide at least 30% of the units at below market prices.

- [Review the feasibility of establishing a more streamlined process for affordable housing projects on County-owned land where the subdivision of the land, and the overall land uses and densities, are established through the Mandatory Referral process, and the property then goes through normal site plan reviews. Property owned by Montgomery County that will be used for affordable housing should also have access to the mandatory referral process to establish the appropriate zoning and land uses for the site. Often, the zoning of County-owned land was not addressed in master plans, especially in plans that are more than fifteen years old, and the current zoning is not appropriate for the development of mixed uses on a site or for the construction of affordable housing. County property is a valuable resource from which the County should generate the maximum amount of housing in general and, particularly, affordable housing. The Mandatory Referral process is especially useful and appropriate when the affordable housing is being built next to County facilities and other County uses.]

- Determine how to evaluate, and when needed, modify the zoning of publicly owned land to expedite the development of affordable housing. Affordable housing developments on publicly owned land should have at least 30% of its units affordable to households with incomes at or below the income eligible for a MPDU. Options to explore may include enactment of a Zoning Text Amendment, development of a Functional Master Plan, Mandatory Referral, or a process to expedite review of a specific site.

# CHAPTER IV

## ANNUAL AFFORDABLE HOUSING PRODUCTION GOALS

### *Need for Affordable Housing*

Montgomery County meets its affordable housing needs through a number of programs. County agencies and the Housing Opportunities Commission are using federal, state, and local programs and funding for the provision of affordable housing. In order to address the production needs identified in the Housing Policy, the County is establishing annual goals for affordable housing production.

Each year approximately 4,500 new households are likely to be formed in the County. At-place employment increases also add to the demand for housing in the County.

The current income distribution of households in the County shows that about 27% of County households earn less than $50,000. At 30% of income for housing costs, $50,000 can support a rent plus utility payment of $1,250 per month. The countywide average turnover rent in 2011 for market rate units was just over $1,440 per month, which means that more than 27% of the households in Montgomery County cannot even come close to affording the average rent for an apartment. Because housing costs are continuing to escalate in the County, we foresee near- and long-term shortfalls of affordable housing units.

To continue to serve households earning $50,000 or less, this housing policy believes that an affordable housing production goal of 1,000 units per year is necessary. The attached chart lists the County's affordable housing production programs and establishes an annual production goal for each program based on market conditions, program history, forecast needs, and industry and provider capacity. The annual goals are a multi-year average, and may vary annually due to changes in the level of funding available to these programs.

### *Cost of Producing and Preserving Units*

To plan and budget for the County's future housing needs, the County's current programmatic costs have been determined. Existing contracts, loans, and development budgets provided the following cost information.

- The cost to the County of preserving federally assisted housing ranges between $8,000 and $12,000 per unit.
- The County's contribution to acquire and renovate multifamily housing is approximately $50,000 per unit.
- The County's participation in funding the acquisition of group homes is approximately $100,000 per house.

***Recommendations: Annual Affordable Housing Production Goals***

The chart on the following pages gives the recommended annual goals for affordable housing production in Montgomery County. These figures should be seen as average annual goals over a 10-year period. The actual annual figures will likely vary, given the need to take advantage of opportunities and address special problems that may arise in any one year. Of the total 2,890 per year unit target, 1,000 are existing units that will be preserved as affordable units, through assistance with rehabilitation, purchase by a public agency or nonprofit organization, or a negotiated rental agreement. The target for new affordable housing is 525 units per year.

These goals are aggressive, but they can be achieved with the funding and organizational focus we propose.

## Affordable Housing Program: Proposed Annual Production Goals

| Programs | Owner Units | Rental Units | Annual Total Cost (County $) |
|---|---|---|---|
| **Moderately Priced Dwelling Units** | 50 | 50 | $0 |
| **Section 8 Certificates/ Housing Choice Vouchers** | | 6,000* | $0 |
| **Create new, and rehab existing, Group Home, Transitional, and Special Needs Housing Units** | | 300 | $7,700,000 |
| **Rental assistance and eviction prevention funded by Recordation Tax funds** | | | $4,400,000 |
| **Acquisition and Rehabilitation of existing rental housing to preserve or create affordable housing, including federally assisted housing** | | 150* | $6,000,000 |
| **New Construction rental housing** | | 100 | $4,000,000 |
| **HOC and Nonprofit MPDU Acquisition** | | 20 | $1,000,000 |
| **Construction of Elderly Housing and Assisted Living Units** | | 50 | $4,000,000 |
| **Accessory Apartments** | | 10 | $0 |
| **HOC Public Housing Rehabilitation** | | 75* | $1,000,000 |
| **Annual New Units: 400**<br>**Annual Preserved Units: 150**<br>**Annual Housing First Units: 220** | **Total Annual County Financing : $31,000,000** | | |

* Units preserved, not added to the housing stock.