Montgomery County Council

From the Office of Councilmembers Nancy Floreen, Steve Silverman, Michael Subin, Michael Knapp & George Leventhal

For Immediate Release **July 20, 2004**

MPDU FACT SHEET

On July 20, 2004, Councilmembers Floreen, Silverman, Subin, Knapp, and Leventhal introduced amendments to Montgomery County's nationally acclaimed Moderately Priced Dwelling Unit (MPDU) program. While this program has been highly successful for 30 years, Montgomery County is nonetheless experiencing a crisis in the lack of affordable workforce housing. Median housing prices have gone sky high in a County with a restricted amount of land available for further development and strict regulatory requirements and environmental limitations on land that can be developed. This coordinated package of legislation and zoning text amendments strikes a balance between Montgomery County's classic attention to the preservation and support of existing communities and its obligation to ensure the provision of housing for all our residents, regardless of income. This legislation will achieve these goals by extending the period under which MPDUs are subject to price control, minimizing existing disincentives to the construction of MPDUs, and generally introducing some flexibility into the regulatory review process while not undercutting neighborhood compatibility concerns.

The County Council will hold a public hearing on these amendments on September 23, 2004.

MPDU Zoning Text Amendment (ZTA) proposals:

Zoning Text Amendments address land use and its process. These proposed amendments introduce some flexibility into current requirements to maximize the number of MPDU's that can be built on site. Current standards for Planning Board review of project compatibility with existing neighborhoods will not be affected.

1. Existing limits on building coverage (the building's "footprint") and the requirements to provide open space (roughly 50% of site) severely limit the ability to provide MPDUs in multi-family residential zones. ZTA 04-11 allows a

reduction in the open space requirement to 20 % and eliminates the building coverage limits for multi-family residential buildings containing MPDUs on site.

2. The purpose of the original MPDU law was to encourage developers to build these lower priced units, which are usually constructed at a loss to the developer. In exchange, the developer is awarded the ability to construct additional market rate units to make up for the loss. However, often other land use requirements or limitations added to Master Plans or Sector Plans unintentionally operate to preclude the developer from building all the MPDUs or gaining the legally determined bonus, even if the zone would allow it. In the Central Business District (CBD), Residential Mixed Use (RMX), and Development Plan zones, ZTA 04-13 allows the Planning Board to permit the Master Plan or Sector Plan height or density limits to be exceeded (only up to the maximum in the zone) to the extent needed to accommodate on-site MPDUs and the accompanying density bonus.

3. ZTA 04-12 encourages the provision of workforce housing in our high density zones close to transit where master plan recommendations may have set limits that constrict affordable housing production. It allows an increase in residential densities in the CBD and Transit Station zones if the building includes MPDUs on site. Zoning limits remain unaffected.

4. There is a public use space requirement for buildings in the Central Business Districts. Developers have met these requirements by providing everything from open-air plazas to community use of otherwise private conference rooms. On occasion, the public use plan has not proven as beneficial as intended. ZTA 04-12 allows the Planning Board to give a reduction in the public use space requirement or allow it to be located off-site for a project that wanted to provide on-site MPDUs but was having trouble fitting all the requirements within the boundaries of the site.

5. In single-family residential zones that require MPDUs, ZTA 04-14 authorizes the Planning Board to permit up to 100% townhouse or one-family semi-detached units if it would enable the developer to achieve more MPDUs on site. This flexibility will give affordable housing the same deference currently given to environmental concerns and would be conditioned on a finding of compatibility with the surrounding community.

6. Similarly, Subdivision Regulation (SRA) 04-1 authorizes the Planning Board to permit a lesser right-of-way width for tertiary streets to accommodate MPDUs, just as can be done if it is more environmentally sensitive.

MPDU Legislation

1. Under the MPDU program, approximately 11,000 units have been built, but because the current control period for MPDUs offered for sale is only 10 years, we have lost thousands of units. The legislation extends the control period to 30 years. This number was arrived at in order to encourage long-term home ownership while still ensuring that the homeowner will maintain the property. It is the length of standard mortgages and the period during which, in order to keep the home sellable, there is likely to be significant reinvestment. The bill also requires that anyone selling an MPDU first alert the Department of Housing and Community Affairs that the unit is for sale so the County has the right of first refusal; this should ensure that we are not losing these units by mistake.

2. In addition to the design flexibility proposed in the Zoning Amendments above, we are proposing a significant disincentive to any developer attempting to buy out of their MPDU obligation. A developer would be required to pay 25% more than the cost of providing the required units on site. While we do not want to foreclose buyouts in extraordinary situations, we believe there will be severely limited justification for buyouts under our comprehensive approach.

3. On occasion, extremely high condominium, Home Owners Association or wrap-around service fees, (e.g., the fixed cost of some parking, swimming pools, security, unique amenities, special services associated with some senior housing, and the like) would make MPDUs effectively unaffordable for eligible buyers or tenants. Also, there are instances where the Planning Board finds that limits on development at a site would not allow a developer to achieve the otherwise applicable density bonus. Under these two narrow conditions, the bill allows the Planning Board to offer the developer several options as a means to meet the required number of MPDUs: a) build MPDUs off-site but within the same Planning Policy Area; b) convert commercial space to MPDUs; c) rehabilitate existing market rate housing units and transfer them into the MPDU program; or d) purchase and return to the MPDU program units for which price or rent controls have expired.

4. In single family subdivisions, the bill requires MPDUs to have the same percentage of bedrooms as market rate units. Effectively, this will result in more 4 bedroom MPDUs to accommodate larger families who often have an especially difficult time finding affordable homes

5. The legislation also requires an annual update of income eligibility standards and, for the first time, requires different income eligibility standards for rental and for sale. This is to ensure that a family eligible to purchase an MPDU can really afford to be a homeowner.