Condominium Fees and Moderately-Priced Dwelling Unit Home-ownership in Montgomery County

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Introduction

Montgomery County's flagship inclusionary zoning program, the Moderately-Priced Dwelling Unit (MPDU) program, requires developers in the County to include a certain percentage of affordable homes in any new development of 20 or more homes. This applies to both rental and for-sale developments, with the goal of increasing both rental and ownership options for low-income residents. The County's MPDU program is widely regarded as a success for its production of more than 17,300 affordable units (the largest amount amongst comparable programs in the nation) since the beginning of the program in 1974.[1]

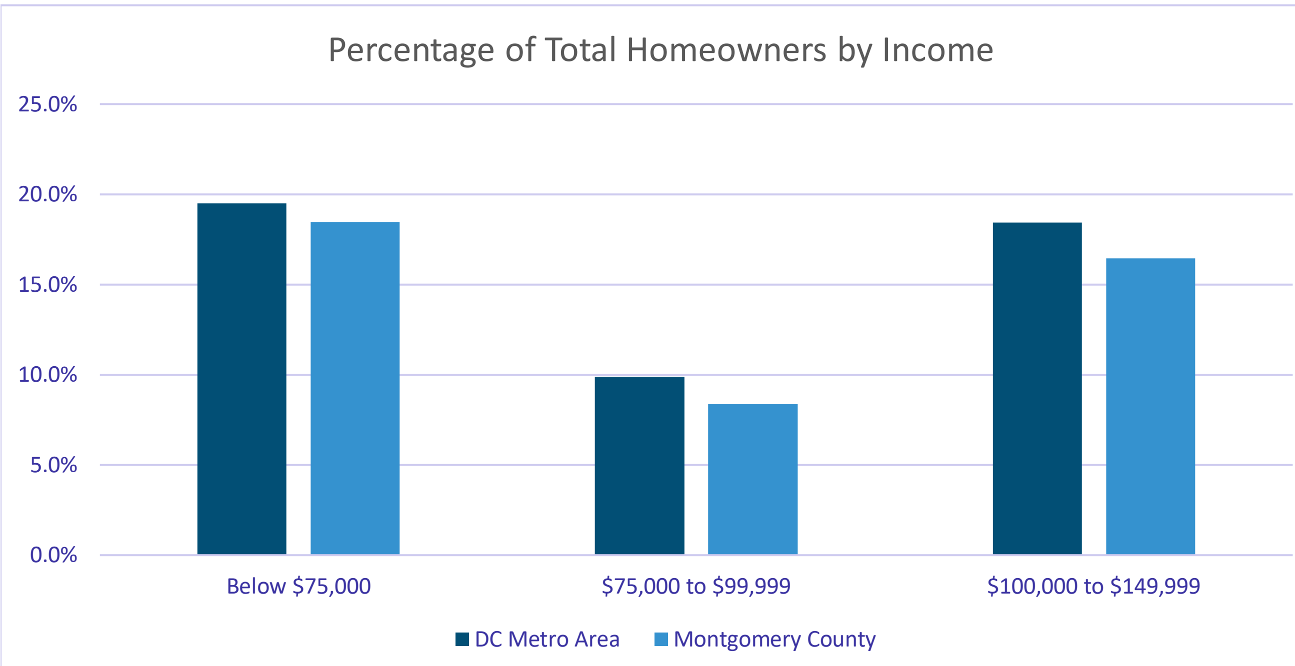
Historically, the MPDU for-sale program has failed to produce affordable high-rise condos due to prohibitively high condominium fees making it difficult to provide these types of units affordably. Condo developers routinely enter into alternative agreements with the Department of Housing and Community Affairs (DHCA) to pay fees or offer units in a different location in lieu of MPDU condos. Cited consistently in alternative agreement applications is that condominium fees, which are decided by condo associations and are under state jurisdiction, would be too high even for condos with low sale prices to stay affordable for MPDU residents.

Given that most of future zoned housing capacity is in urban areas of the County, ensuring access to high-rise condo ownership (the primary form of ownership in areas that are densely developed) for residents of all incomes is essential to the County's goal of providing broad access to homeownership. According to the 2021 Residential Development Capacity Analysis, the vast majority of potential housing capacity in the County is located on plots zoned Commercial-Residential (CR), which are predominantly located in town center areas. CR zones contain 52,871 potential units of housing if they are built to their zoning capacity, which is 79% of the total housing capacity of the County under current zoning laws.

This report investigates recent geographic and housing type patterns in MPDU homeownership and proposes recommendations on how the County can incentivize MPDU high-rise condo provision despite high condominium fees.

The State of Homeownership in Montgomery County

American Community Survey data for 2023 shows that homeownership amongst low- and moderate-income groups in Montgomery County is slightly below the DC Metro average, but within the margin of error. This is a success for the County, in large part because of its investment in robust homeownership assistance and low-income housing programs.



However, this data does not tell us about where low-income homeowners are located in the County, or about what kinds of units they tend to live in. These details are important factors to understand the potential risks and benefits of homeownership for low-income homeowners.

To understand the relative distribution of low-income homeowners throughout the County, this paper evaluates where MPDU for-sale units are being built. The program

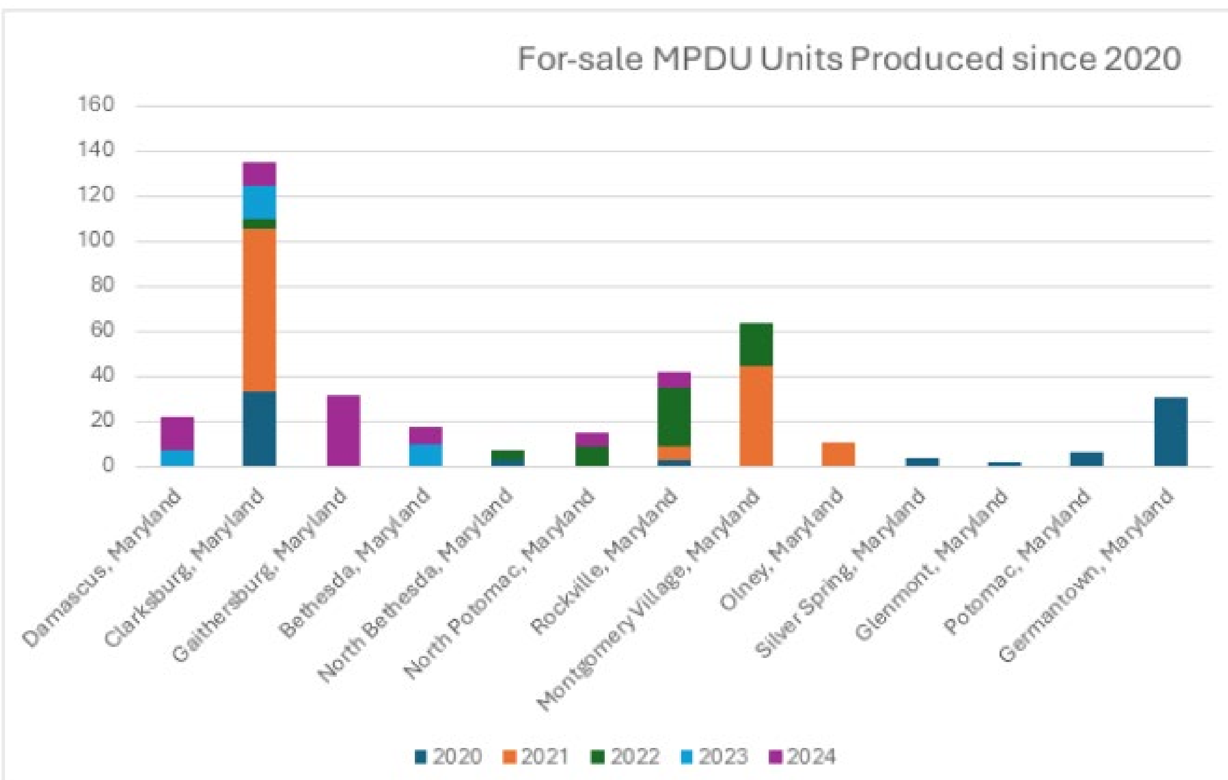
[1] Sturtevant, Lisa A. "Separating Fact from Fiction to Design Effective Inclusionary Housing Programs." *Center for Housing Policy*, May 2016

has a for-sale portion that applies to developers of for-sale developments, which, according to Planning staff, is the most productive way the County has historically produced affordable for-sale housing for residents. Thus, it provides a good proxy for trends in low-income homeownership.

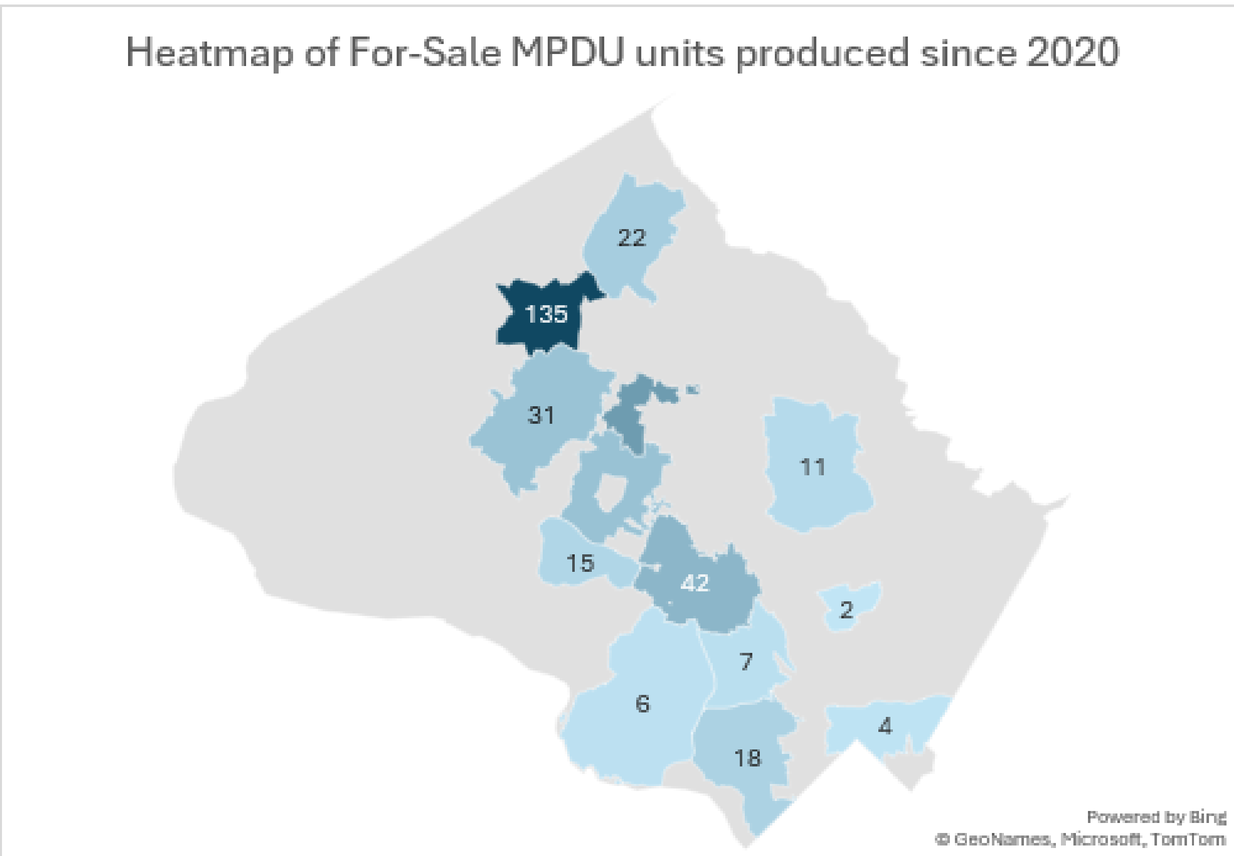
The For-Sale MPDU Program

The Moderately Priced Dwelling Unit (MPDU) program requires 12.5 to 15% of units in developments of over 20 units to be affordable (the maximum income to be eligible for a for-sale MPDU is [70% of area median income).]() DHCA estimates that 1,839 for-sale MPDU units [are currently under its control]().

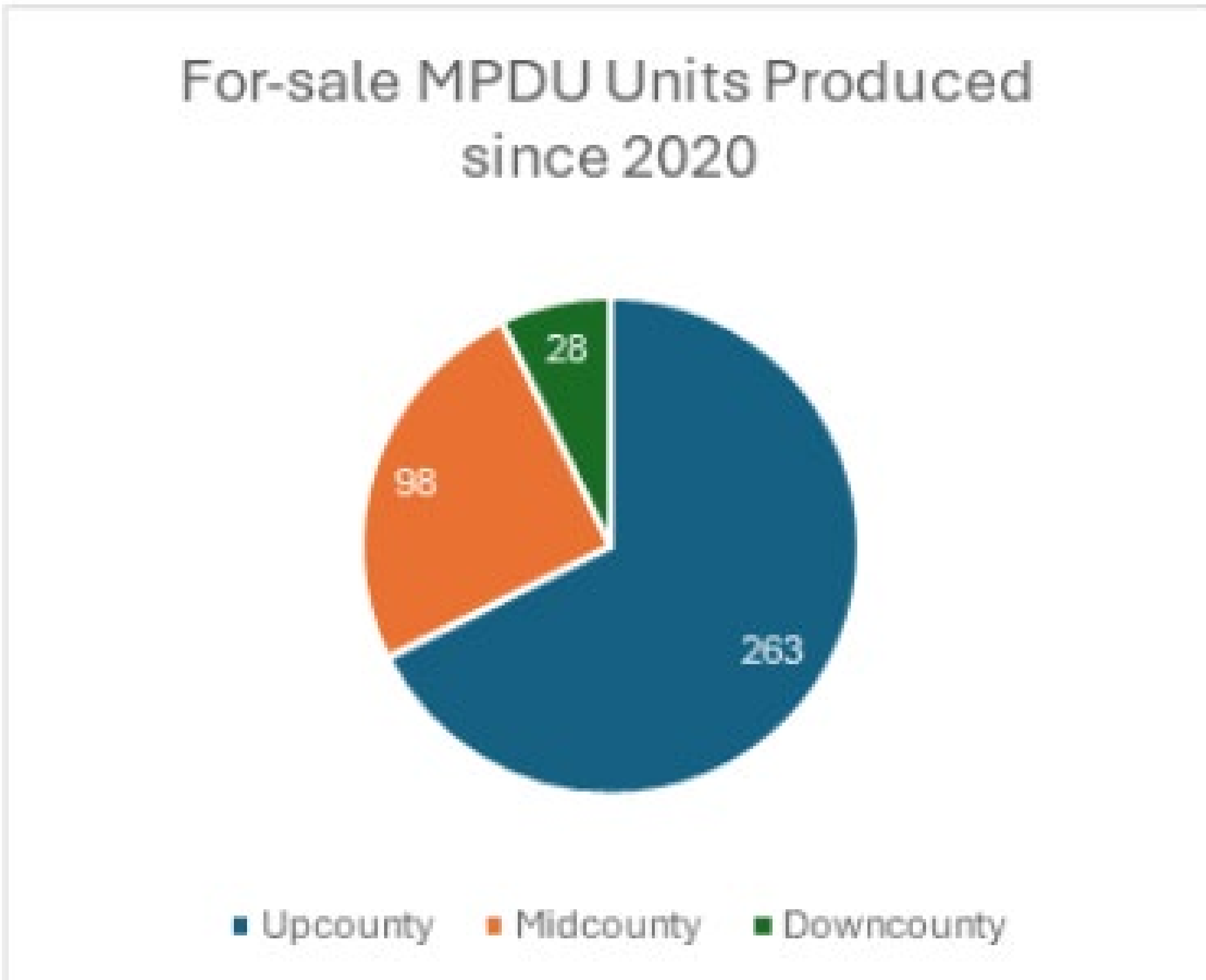
Overall, my finding from [yearly MPDU reports]() is that for-sale MPDU production has been mostly upcounty since 2020 and has been exclusively townhome production.



As shown in the map and the graph, Clarksburg saw the greatest number of new units by far at 135, followed by Montgomery Village with 64 and Rockville with 42. Germantown and Damascus were the next biggest producers of MPDU for-sale units at 31 and 22 respectively. Most of these locations are upcounty.



Overall, most MPDU for-sale units over the past 5 years were produced upcounty, which saw 263 new units. Midcounty followed, with 98, and downcounty saw the smallest increase, with only 28 MPDU for-sale units added since 2020.



Notably, none of the 389 total MPDU for-sale units in the County built in the last 5 years have been high-rise condo units. The vast majority (383) are townhome units (6 are single-family). This is despite high-rise condo production far outpacing townhome production in the County since 2020.

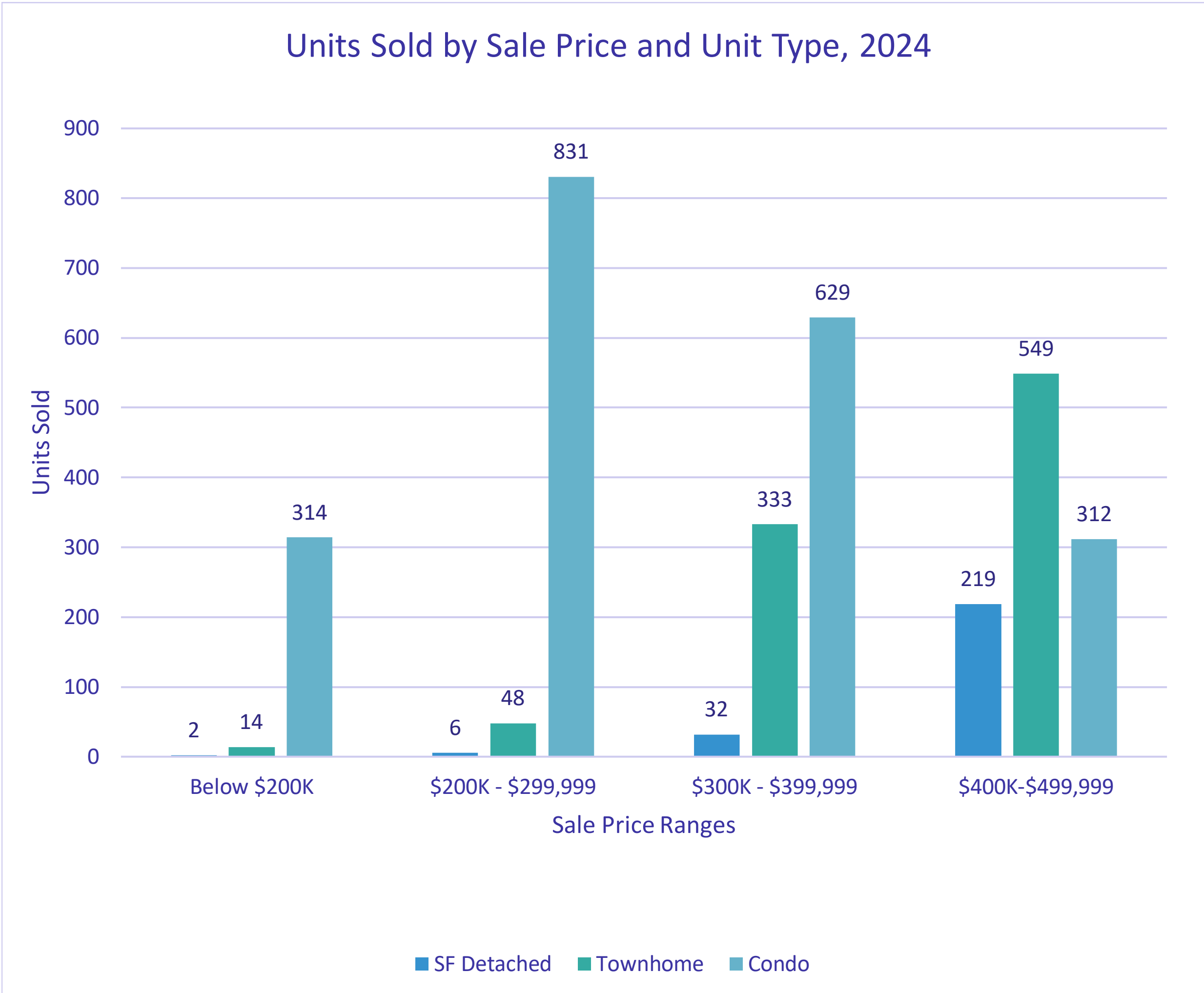
Benefits of Condo Development

Despite no MPDU high-rise condos having been produced in the past 5 years, there are clear benefits to this style of development.

There are several reasons that condo development aligns with County sustainability and equity goals. Firstly, condos are a much more sustainable form of development than townhomes or single-family homes, since they have the same dense development pattern as multifamily apartments. They cause less sprawl and can help preserve wildland or agricultural land. They are also usually built in urban areas near transit, which reduces commuting time and emissions. Denser development also has benefits of energy efficiency, since more shared walls and smaller unit sizes lead to less heat loss per unit. In addition, more compact building locations lead to more efficient infrastructure provision, leading to more fiscally and environmentally sound development patterns.

Theoretically, high-rise condos should also be cheaper than less dense forms of housing like townhomes. When land is scarce, like in relatively built out Montgomery County, one way to offset land costs is to build denser developments, so that the cost of land on a single parcel is then split between several tenants or owners. High-rise condos are thus a great starter home option since the splitting of these costs leads to lower-cost housing.

This is reflected in condo prices in the County today. According to a 2024 market study contracted by the Planning Department, high-rise condos are by far the most common unit type having a sale price below $400K. As shown in the graph that follows, the number of townhomes sold only exceeds high-rise condo sales at sale prices above $400K. Aligning with economic theory, the smaller size and higher density of high-rise condo units makes them by-and-large cheaper.

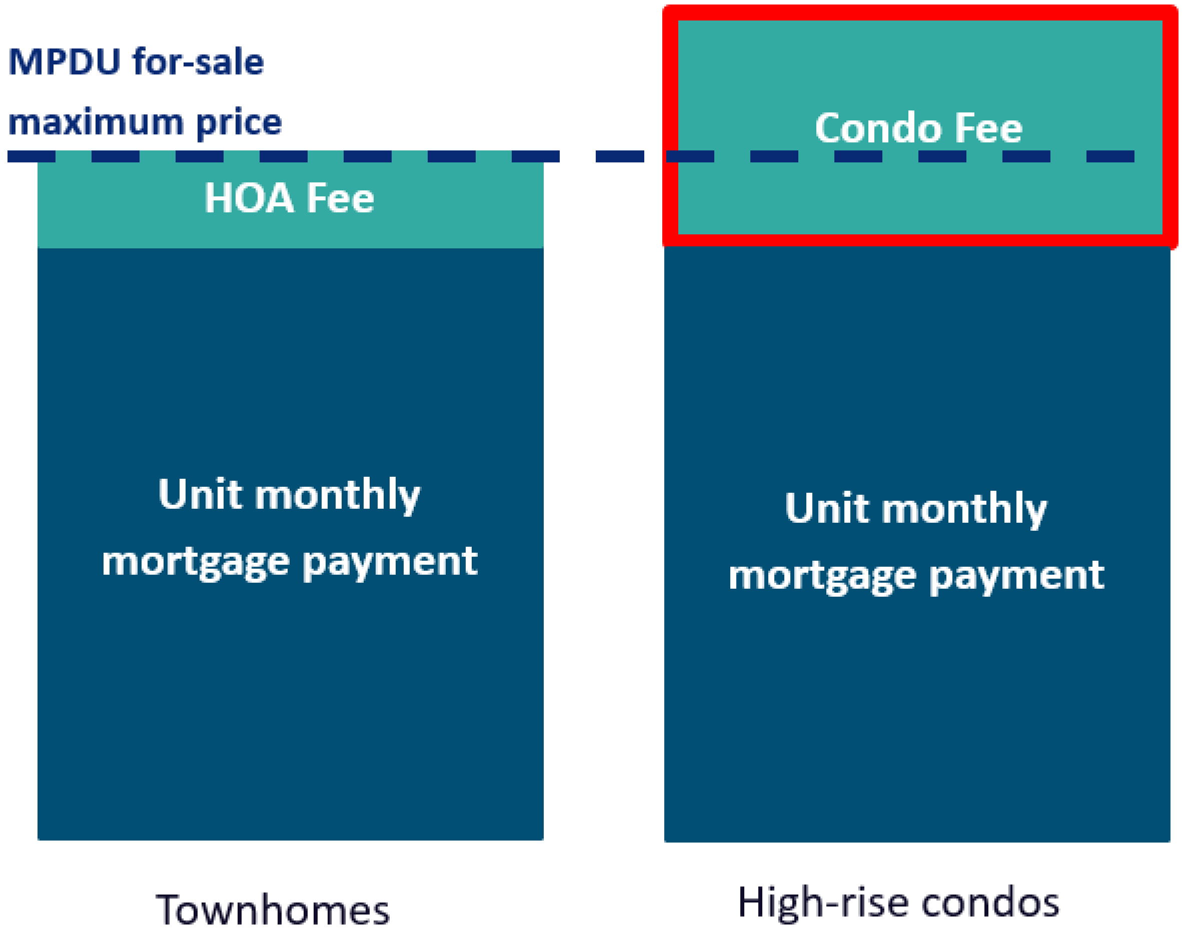


Problems with MPDU High-rise Condo Provision

Given that MPDU high-rise condos have many benefits, why do we see so few in the County?

One reason could be that they are harder to produce compared to other MPDU units. Since 1990, 12 multifamily condo developments in the County and two in the pipeline have negotiated alternative agreements with the County instead of building MPDU units. In these agreements, developers have uniformly cited high condominium fees as a reason they cannot provide affordable units.

Condo fees pose an issue to providing MPDUs since the fees are not considered when determining an affordable sale price based on MPDU income levels. The graphic below illustrates this structural issue. Condo fees tend to be higher than HOA fees since condos have higher amounts of shared amenities and services. When the monthly condo fee is added to the unit cost for an MPDU high-rise condo unit, this drives the cost above the affordability threshold.



Note: Developers do not charge condominium fees: they project in their pro-forma financial models how much the condo association may charge monthly to cover the costs of the amenities provided. These amenities developers provide are decided by the market, i.e. what the developers feel is needed to sell the market-rate condominium units.

In the past, the County prioritized production of affordable units anywhere in the County as opposed to locating housing units in a certain area or in high-rise developments. Enacted Bill 34-17 in 2018 states "The public benefit of affordable housing throughout the County outweighs the value of locating MPDUs in each subdivision throughout the County."

The Alternative MPDU agreements system was passed exactly for this reason. In 1989, the County amended its MPDU law to allow for alternative ways to meet MPDU requirements when condominium fees or HOA fees are prohibitive to keeping units affordable. The options for alternative agreements are alternative payments or alternative location agreements. Alternative payment agreements allow developers to contribute to the Housing Initiative Fund, while alternative location agreements allow for MPDUs to be relocated to a different area (if they would be more affordable in the new location or more units could be provided). A 2018 amendment (Enacted Bill 34-17) added flexibility to these requirements, allowing developers to apply for an alternative location agreement in a different planning area of the County if their project is being built in a higher-income planning area and they give 30 days' notice.

This flexibility for developers is good: giving developers more options when implementing inclusionary zoning ensures that they continue building in the area.[2] However, there are ways to maintain this flexibility and still incentivize the production of MPDU high-rise condo units given their benefits. I detail these recommendations in the next section.

[2] Williams, Stockton. "The Economics of Inclusionary Development." *Urban Land Institute*, 2016.

Recommendations

1. Tax Credit for MPDU high-rise condo owners

The County could provide a tax-credit for MPDU high-rise condo owners that allows them to offset fee costs. In this case, a developer would have to show that condo fees are still too high for potential MPDU high-rise condo owners even after accounting for the tax credit to apply for an alternative agreement. A tax credit provides more flexibility to the County than a direct subsidy program, which would require the County to set aside funding immediately for the program.

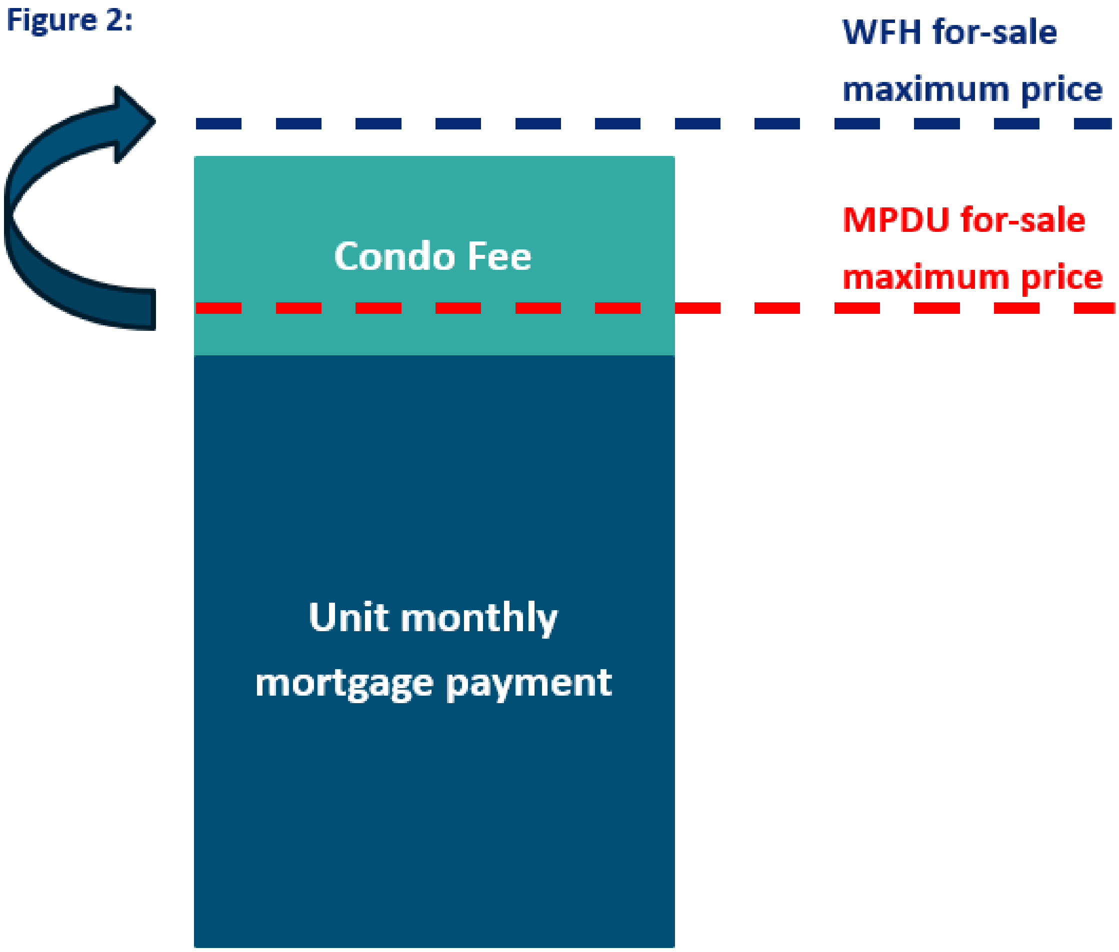
The County already provides many property tax credits. This new MPDU high-rise condo tax credit could be structured in a similar way to other credits with a per-year cap on how much abatement the County would provide. The cost specifics would be determined by how responsive to sale price of units the credit is: i.e. whether the amount of abatement changes based on the fee breakdown per development or whether it is a flat credit based on average condo fee prices.

Another question about this policy would be whether the tax abatement should be provided for as long as the homeowner is in the unit. If the credit is structured in this way, then the amount of subsidy would keep increasing as MPDU units increase, which would be an important fiscal consideration for the County.

2. Workforce Housing Alternative Agreements

The County could also allow developers that project high condo fees to provide additional Work Force Housing (WFH) units in their development instead of MPDUs. The County's Workforce Housing Program provides benefits to developers who keep costs for units below 120% of AMI. Since this is a higher income threshold, the proportion of the development required to be workforce housing could be higher than the 12.5% to 15% required of the MPDU program. This provides additional runway for fee prices to stay below the affordable threshold. It also could serve a market that the County is interested in attracting—middle-income professionals. If this alternative agreement option is instituted, there is still a possibility that alternative payment or location agreements might be more desirable to developers than the workforce housing option; the County should monitor the use of this program to ensure that it sees adequate levels of uptake.

Figure 2:



Other Factors Affecting Condo Affordability and Development

There are additional factors that merit further research that could be contributing to the lack of MPDU high-rise condo unit production in the County.

Slowdown in the Development of Condominium Units

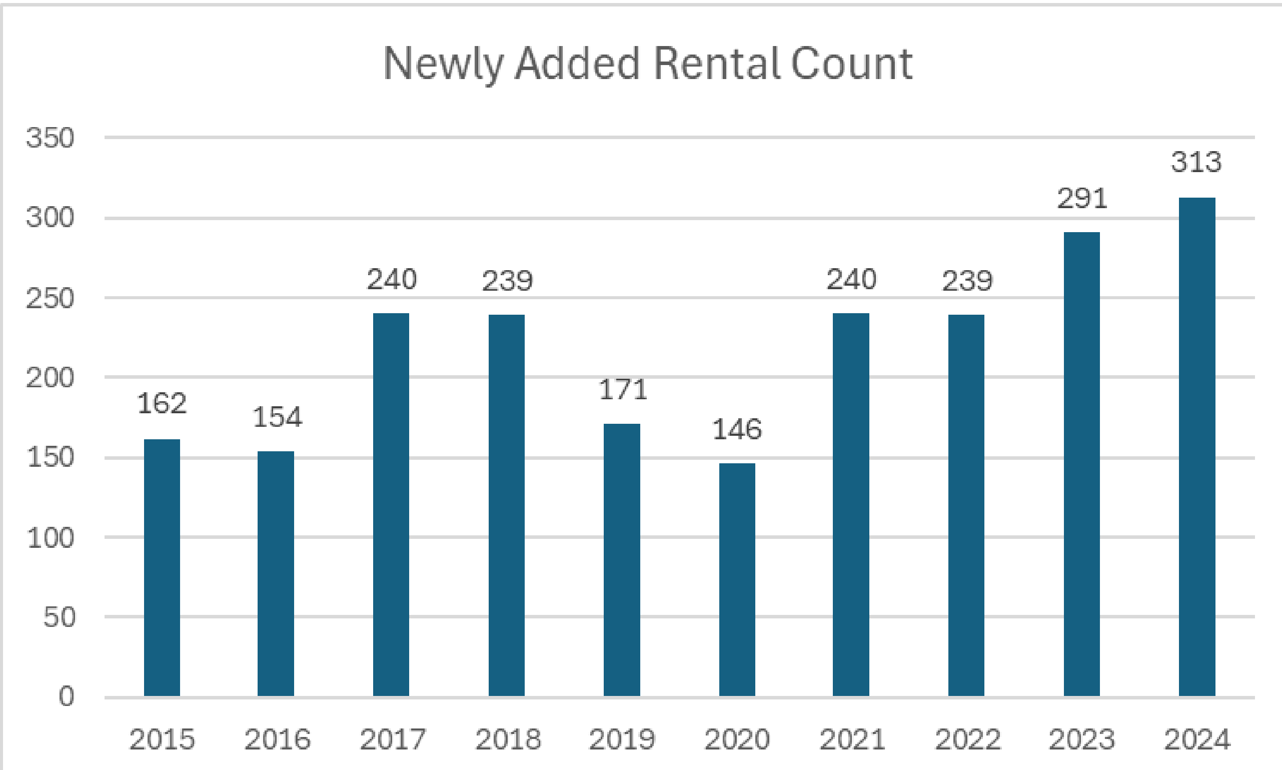
The County should investigate whether high-rise condominium units are generally being produced in the County. In an interview with the developer of a recent high-rise condo project, I was told that both market conditions as well as legal risks of condominium development make high-rise rental development more desirable. Future studies should compare the amount of high-rise condo development to high-rise rental development to get a better picture of how market demand is influencing what gets built. Non-market related barriers to high-rise condo development may include financial and legal constraints.[3] These include the cost of defect litigation, which can pose a large unknown cost to developers. The County should investigate the specific legal and financial constraints facing condominium developers in the County as well as what other states and localities have done to solve the problem, like Denver's defect litigation changes.[4]

Factors Contributing to Increasing Condo Fees

This report treated condo fees as outside of the jurisdiction of the County, since they are regulated by the state. However, it is worth understanding what can cause increases to fees. In this report I focused on new development, in which fees are determined by the amenity and service costs of a new building split amongst its owners. Luxury amenities increase costs, but developers may consider the provision of these amenities to be a necessity to sell market-rate condo units. Developers estimate what monthly condo fees will be by projecting costs of maintenance of the amenities they provide. A factor specific to increasing fee costs in aging buildings is statewide reserve requirements that mandate associations that have not been conducting adequate maintenance to have residents shoulder the burden.[5] This is a factor that may affect MPDU high-rise condo provision in older buildings that merits research.

Condo to Rental Conversion

Lastly, a nontrivial amount of high-rise condominium units are converted into rental units each year. This process is tracked by DHCA through rental licenses approved for converted condo units. Over the past 10 years, there have been hundreds of units each year of condos that have transitioned from ownership to rental tenure, shown in the graph below, which draws on this DHCA data.



Each of these units in the graph is a former condominium unit that has been converted into a rental unit. In addition to the MPDU program not producing affordable ownership opportunities, a consistent number of condo conversions means that fewer starter homeownership opportunities are being preserved for

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[3] Neal, Michael, and Laurie Goodman. "The Housing Market Needs More Condos. Why Are so Few Being Built?" *Urban Institute*, 31 Jan. 2022.
[4] "Construction Defects: Who Decides Whether to Sue?" *Esquire Deposition Solutions*, 30 Nov. 2017
[5] Burke, Raymond. "New Legislation Requires Condominiums to Fund the Amounts Specified in a Reserve Study." *Maryland Condo Lawyer Blog*, Gordon Feinblatt LLC, 13 May 2025

residents. It could be valuable for the County to investigate how to ensure condo conversions happen less frequently to preserve ownership options in the County.

A Note on the Risks and Benefits of Low-Income Homeownership

Homeownership offers both risks and benefits to low-income homeowners, so any policy that aims to increase low-income homeownership (like the one recommended in this paper) should ensure these factors are taken into account.

Firstly, there are affordability advantages in the financial structure of ownership versus renting. Most notably, renters are vulnerable to rising rents, while owners have predictable, consistent monthly payments assuming they have a fixed-rate mortgage (the most common way of financing a home in America). In addition, monthly mortgage payments do not adjust to inflation the way rents often do, meaning that homeowners pay proportionally less of their income on housing as time goes on. These benefits are reasons that low-income homeowners tend to spend less of their income on housing compared to low-income renters. According to a 2021 Urban Institute study, 50% of low-income homeowners are not cost burdened, compared to only 26% of renters.[6] If owners live in a market where rentals are relatively more desirable than owning a home, they also would be saving by choosing to own instead of rent.

Homeownership has many positive effects when it comes to educational, social, and health outcomes. According to Habitat for Humanity, children of low-income homeowners are 11% more likely to graduate from high school and are 4.5% more likely to complete post-secondary education than children of low-income renters.[7] For lower- and moderate-income families, a $10,000 increase in housing wealth raises the probability of college attendance by 14%. Homeowners are more likely to vote in local elections than renters in comparable neighborhoods and are also more likely to be involved in neighborhood groups and civic associations than renters. Harvard's

[6] Loftin, Mike. "Homeownership Is Affordable Housing." *Urban Institute Housing Finance Policy Center*, May 2021

[7] "Research Series: Outcomes Associated with Homeownership." *Habitat for Humanity*.

Joint Center for Housing Studies reports causal connections between positive homeownership experiences and social and political participation, better psychological health, neighborhood attitudes, and educational completion.[8] However, its effects on metrics like physical health and cognitive and behavioral effects on children are more tenuous.

Homeownership can also provide some wealth-building benefits in the form of capital gains from home price appreciation. However, this comes with caveats. One is that there are other assets that appreciate more consistently and at higher rates than real estate. According to the Cleveland Fed, the US home price index has grown much slower than the S&P 500 and investment-grade corporate bonds since the Great Recession.[9] Even high-appreciation areas like San Francisco see relatively low price index gains compared to stocks and bonds. Despite this, only 17% of low-income households own stocks compared to 90% of the highest-income households.

Homeownership with the express purpose of wealth-building also comes with risks. Most notable is location risk, or home prices in an area not appreciating as much as expected. It is very difficult to speculate in which areas prices will consistently increase due to the volatility of the housing market. In addition, low-income homeowners tend to hold their homes for shorter periods of time, and returns to homeownership accumulate the more stake a homeowner has in the home. Low-income homeowners also tend to have most of their wealth stored in their home and lower disposable income, which makes them more susceptible to housing market booms and busts. These factors make it difficult to design surefire policy around homeownership and wealth-building. Because of these risks, homeownership should not be seen as the only strategy to build wealth. It should instead be pursued as part of a suite of policies supporting financial security.

[8] Rohe, William, and Mark Lindblad. "Reexamining the Social Benefits of Homeownership after the Housing Crisis." *Joint Center for Housing Studies*, Aug. 2013.
[9] Carroll, D., & Cohen-Kristiansen, R. (2021, December 20). *Evaluating Homeownership as the Solution to Wealth Inequality*. Federal Reserve Bank of Cleveland

Conclusion

This report finds that the County has produced many more MPDU for-sale units upcounty than downcounty and has produced no MPDU high-rise condominium units in the past five years. Historically, one issue with MPDU high-rise condominium provision has been high condominium fees that make even MPDU units affordable. This has meant that developers regularly enter into alternative agreements with DHCA to provide a fee or locate MPDU units elsewhere. This report focused on how to address the issue of condo fees preventing MPDU high-rise condo provision and provided two recommendations:

1. A tax credit program for high-rise condo MPDU owners to offset fee costs
2. An alternative agreement program allowing developers to provide Workforce Housing units instead of MPDU units

Most future housing capacity is in higher-density areas of the County, and there are many equity and sustainability benefits to denser development patterns. The recommendations from this report can ensure that prohibitive condominium fee costs do not prevent lower-income homeowners from living in the denser, amenity-rich areas of the County where high-rise condo units are allowed to be built.

Areas of future study include understanding the landscape of high-rise condo development writ large in the County, and what factors might be preventing it from occurring. These may include defect litigation standards or market factors. Investigating this may require looking into condominium development data as well as speaking to additional condominium developers about what issues they face in building condominium projects. Understanding the dynamics of high-rise condo development is important to ensure recommendations from this report are relevant, since these recommendations only matter if high-rise condominium projects are being built in the first place.

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