



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**  
**Item #6**  
**2/06/03**

**DATE:** January 31, 2003  
**TO:** Montgomery County Planning Board  
**VIA:** Joseph Davis, Chief, Development Review *JAD*  
**FROM:** Greg Russ, Zoning Coordinator *GR*  
**REVIEW TYPE:** Transmittal to County Council for introduction as a Zoning Text Amendment  
**PURPOSE:** To amend the Zoning Ordinance to establish Moderately Priced Dwelling Unit (MPDU) requirements and optional development standards for the RE-1, RE-2C and RNC Zones  
**TEXT AMENDMENT:** Not applicable until introduced  
**REVIEW BASIS:** Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance  
**INTRODUCED BY:** N/A  
**INTRODUCED DATE:** N/A  
**PLANNING BOARD REVIEW:** February 6, 2003  
**PUBLIC HEARING:** N/A

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**STAFF RECOMMENDATION:** TRANSMIT to County Council for introduction

#### **PURPOSE OF THE TEXT AMENDMENT**

- To establish Moderately Priced Dwelling Unit (MPDU) requirements and optional development standards for the RE-1, RE-2C and RNC Zones based on Master Plan recommendation for public sewer service.

#### **BACKGROUND**

- In the Fall of 2001, the County Council requested staff to provide additional analysis of the MPDU law in order to consider a series of possible amendments pertaining to: 1) MPDUs in Large Lot Zones; 2) Extending the MPDU requirements to subdivisions of 35 or more units; and 3) Providing rental MPDUs in For-Sale Subdivisions. Amendments pertaining to Issues 2 and 3 have been completed. Staff has now been directed to provide MPDU requirements for those large lot zones that are Master Plan designated for sewer service.

## ANALYSIS

Currently, the MPDU law applies to residential zones with a density greater than one unit per acre. The Council's Planning, Housing and Economic Development (PHED) Committee expressed support for extending the MPDU law to large lot zones served by sewer. As seen below and in Attachment 1, staff is recommending that MPDU requirements be extended to the RNC (under the optional provisions where public water and sewer are required), the RE-2C Zone and RE-1 Zone (under the optional cluster provisions that are Master Plan designated for sewer). Below is a summary of the proposed text amendment.

**Unit Type-**Proposed unit types are limited to one-family detached and semi-detached (duplex) units to minimize compatibility issues in unit design.

**Lot Area-** Lot area requirements are proposed as follows:

MPDU MINIMUM LOT AREA REQUIREMENTS (In Sq. Ft.)				
	Proposed (w/MPDUs)		Existing (w/o MPDUs)	
	Detached units	Semi-detached	Detached Units	Semi-detached
<b>RNC (optional method)</b>	4,000	3,500	4,000	NA
<b>RE-2C (cluster provisions)</b>	15,000	7,500	25,000	NA
<b>RE-1 (cluster provisions)</b>	10,000	5,000	15,000	NA

As seen above, with the exception of the RNC Zone, staff is proposing a smaller minimum lot area requirement for one-family detached units in MPDU developments than in the standard method of development. In each case, one-family semi-detached units are currently not permitted in the standard method of development. For the RNC Zone, staff is recommending using the existing lot area requirement of 4,000 square feet for the optional method of development for one-family detached units, with or without MPDU. This rationale is based on the already small minimum lot area requirement for the optional method of development. Staff is proposing a lot area for a semi-detached unit that is slightly smaller than the one-family-detached unit lot area.

**Maximum Height for Main Building**—The maximum height for a main building in the RE-2C and RE-1 Zones, using the MPDU provisions, would be 40 feet, consistent with the height currently in the R-200 and R-150 Zones for MPDU developments.

**Maximum Percentage of Semi-Detached Units in a Subdivision**—Staff is recommending, for all three zones, that a maximum of 30% of the units be semi-detached when located in subdivisions including MPDUs.

Staff has also included, as Attachment 2, a memo prepared by Council staff summarizing previous PHED Committee discussions on the need for MPDUs in the large lot zones.

## **RECOMMENDATION**

The staff recommends that the proposed text amendment to establish Moderately Priced Dwelling Unit (MPDU) requirements for the RE-1, RE-2C and RNC Zones based on Master Plan designation for public sewer be transmitted to the County Council for introduction.

Attachment 1 depicts the proposed text amendment as proposed by staff.

GR

### **Attachments**

1. Proposed Text Amendment
2. Memorandum from Aron Trombka to the PHED Committee dated November 29, 2001;  
Memorandum from Sally Roman to the Planning Board regarding Recommendations to the PHED Committee on Proposed Amendments to MPDU Law

ATTACHMENT 1

Zoning Text Amendment No:  
Concerning: MPDUs in RE-1, RE-2C  
& RNC Zones  
Draft No. & Date: 1 – 01/31/03  
Introduced: N/A  
Public Hearing: N/A  
Adopted:  
Effective:  
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

By: \_\_\_\_\_

**AN AMENDMENT** to the Montgomery County Zoning Ordinance for the purpose of:

- establish Moderately-Priced Dwelling Unit (MPDU) requirements and optional development standards for the RE-1, RE-2C and RNC Zones based on Master Plan recommendation for public sewer service.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-1	“RESIDENTIAL ZONES, ONE-FAMILY”
Section 59-C-1.32	“Development standards”
Section 59-C-1.6	“Development including moderately priced dwelling units”
DIVISION 59-C-9	“AGRICULTURAL ZONES”
Section 59-C-9.3	“Land uses”
Section 59-C-9.4	“Development Standards”
Section 59-C-9.57	Special regulations for development in the Rural Neighborhood Cluster zone.”

**EXPLANATION:** ***Boldface** indicates a heading or a defined term.*  
*Underlining indicates text that is added to existing laws by the original text amendment.*  
*[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\*\*\* indicates existing law unaffected by the text amendment.*

*ORDINANCE*

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

1           **Sec. 1. Division 59-C-1 is amended as follows:**

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3   **DIVISION 59-C-1. RESIDENTIAL ZONES, ONE-FAMILY.**

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5   **59-C-1.32. Development standards.**

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7   In addition to the following, the regulations in sections 59-C-1.34, 59-C-1.35 and  
8   59-C-1.36 shall apply:

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	<b>RE- 2<sup>1</sup></b>	<b>RE- 2C<sup>1</sup></b>	<b>RE- 1<sup>1</sup></b>	<b>R- 200</b>	<b>R- 150<sup>3</sup></b>	<b>R- 90</b>	<b>R- 60</b>	<b>R- 40<sup>2</sup></b>	<b>R-4 plex</b>	<b>RMH 200</b>
* * *										
<b>59-C-1.329. Additional Development Requirements</b>										
* * *										
(b) In the zones indicated thus (*), moderately priced dwelling units are required in accordance with the provisions of chapter 25A and section 59-C-1.6.		<u>*8</u>	<u>*8</u>	*	*	*	*	*	*	*
* * *										

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11   8   Required under the cluster method of development only.

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14   **59-C-1.6. Development including moderately priced dwelling units.**

15   \* \* \*

16   **59-C-1.62. Development standards.**

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	<u>RE-2C</u> <sup>8</sup>	<u>RE-1</u> <sup>8</sup>	R-200	R-150	R-90	<u>R-60</u>	R-40
<b>59-C-1.621. Uses Permitted.</b> No uses are permitted except as indicated by the letter "P" in the following schedule. Special exceptions may be authorized as indicated in section 59-C-1.31, title "Land Uses," subject to the provisions of article 5[8]9-G.							
Dwelling unit, one-family attached. <sup>1</sup>			P	P	P	P	P
Dwelling unit, one-family detached.	<u>P</u>	<u>P</u>	P	P	P	P	P
Dwelling unit, one-family semidetached. <sup>1</sup>	<u>P</u>	<u>P</u>	P	P	P	P	P
Townhouse. <sup>1</sup>			P	P	P	P	P
Mobile home, double-wide. <sup>2</sup>	<u>P</u>	<u>P</u>	P	P	P	P	P
Registered living unit. <sup>3,5</sup>	<u>P</u>	<u>P</u>	P	P	P	P	P
Accessory apartment. <sup>3</sup>	<u>SE</u>	<u>SE</u>	SE	SE	SE	<del>SE</del>	
Bed-and-breakfast lodging with one or 2 guest rooms. <sup>3,4</sup>	<u>P</u>	<u>P</u>	P	P	P	<del>SE</del>	
Bed-and-breakfast lodging with 3, 4 or 5 guest rooms. <sup>3,4</sup>	<u>SE</u>	<u>SE</u>	SE	SE	SE	<del>SE</del>	
Accessory buildings and uses.	<u>P</u>	<u>P</u>	P	P	P	P	P
<b>59-C-1.622. Density of development.</b> The maximum number of dwelling units per acre of usable area, as defined in section 59-C-1.628(a), is	<u>0.48</u>	<u>1.22</u>	2.44	3.17	4.39	6. 10	10.12
<b>59-C-1.623. Setbacks from street (in feet).</b>							
No detached dwelling must be nearer to any public street than:	<u>35</u>	<u>35</u>	25'	25'	25'	20	20
<b>59-C-1.624. Yard requirements (in feet).</b> For a side or rear yard that abuts a lot that is not developed under the provisions of this section 59-C-1.6, the setback must be at least equal to that required for the abutting lot, provided that no rear yard is less than	<u>35</u>	<u>35</u>	20	20	20	<u>15</u>	15
<b>59-C-1.625. Lot area and width.</b>							
(a) Minimum net lot area (in sq. ft.):							
(1) For a one-family detached dwelling unit	<u>15,000</u>	<u>10,000</u>	6,000'	6,000'	5,000'	4,000'	4,000
(2) For each one-family semidetached dwelling unit	<u>7,500</u>	<u>5,000</u>	3,500	3,500	3,500	3,500	3,500
(3) For a townhouse, unless a smaller lot size is approved by the planning board. <sup>6</sup>			1,500	1,500	1,500	1,500	1,500
(4) Where an individual lot for each dwelling unit is deemed to be infeasible because of the manner in which individual units are attached to each other the board may approve a site plan depicting more than one dwelling unit on a lot.							
(b) Minimum lot width for a one-family detached dwelling unit at existing or proposed street line (in feet):	<u>25</u>	<u>25</u>	25	25	25	<u>25</u>	25
<b>59-C-1.626. Maximum Building Height (in Feet).</b>							
(a) For a main building. The height must not exceed 3 stories or 40 feet. If the abutting lot is not developed under the provisions of this section 59-C-1.6, the yard abutting that lot must be increased by one foot for each 2 feet of height above 35 feet							
(b) For an accessory building. The height must not exceed 2 stories or 25 feet.							
<b>59-C-1.627. Green area.</b> Green area must be provided for each townhouse or one-family attached dwelling unit erected in the subdivision, at the rate, in square feet per unit, of			2,000	2,000	2,000	2,000	1,500

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1 The maximum percentage of one-family attached or semidetached dwelling units, townhouses, or a combination thereof, in a subdivision is:

RE-2C and RE-1: 30%;

1 R-200 and R-150 Zones: 40%;

2 R-90 Zone: 50%;

3 R-60 Zone: 60%.

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5 The balance must be one-family detached dwelling units. Except in the RE-1  
6 and RE-2C Zones, [T]the [p]lanning [b]Board may, however, approve a  
7 development in which up to 100 percent of the total number of units consists  
8 of one-family attached dwelling units, one-family semidetached dwelling  
9 units, townhouses, or a combination thereof, upon a finding that a proposed  
10 development is (1) more desirable from an environmental perspective than  
11 development that would result from adherence to these percentage limits, and  
12 (2) compatible with adjacent existing and approved development.

13 \* \* \*

14 § Only applicable if served by public water and sewer as designated by the  
15 Master Plan.

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17 **Sec. 2. DIVISION 59-C-9 is amended as follows:**

18 **DIVISION 59-C-9. AGRICULTURAL ZONES.**

19 \* \* \*

20 **59-C-9.3. Land uses.**

21 No use is allowed except as indicated in the following table:

- 22 - **Permitted uses.** Uses designated by the letter "P" are permitted on  
23 any lot in the zones indicated, subject to all applicable regulations.  
24 - **Special exception uses.** Uses designated by the letters "SE" may be  
25 authorized as special exceptions, in accordance with the provisions of  
26 Article 59-G.



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	Rural	RC	LDRC	RDT	RS	RNC
* * *						
<b>(e) Residential:<sup>2</sup></b>						
Dwelling, one-family detached	P	P	P	P	P	P
<u>Dwelling, one-family semidetached*</u>						<u>P</u>
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\* Permitted only as part of a moderately-priced dwelling unit development.

The maximum percentage of one-family semi-detached dwelling units in a subdivision is 30%.

**59-C-9.4. Development standards.**

The following requirements apply in all cases, except as specified in the optional standards for cluster development set forth in sections 59-C-9.5 and 59-C-9.57 and the exemption provisions of section 59-C-9.7.

\* \* \*

	Rural	RC	LDRC	RDT	RS	RNC
* * *						
<b><u>59-C-9.48. Additional Development Requirements</u></b>						
<u>In the zones indicated thus (*)</u> , moderately priced dwelling units are required in accordance with the provisions of Chapter 25A and Section 59-C-9.57.						<u>*5</u>

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5 Required under the optional method of development only.

**59-C-9.5. Cluster development--Option in Rural Cluster zone and Low Density Rural Cluster zone.**

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1 **59-C-9.57. Special regulations for development in the Rural Neighborhood**  
2 **Cluster zone.**

3 **59-C-9.571. Purpose.**

4 The cluster method of development required in this zone is intended to  
5 preserve large areas of rural open space consistent with the  
6 recommendations of the applicable master or sector plan. Cluster  
7 development is required under either the standard method of development or  
8 the optional method. Under the optional method of development the  
9 maximum development unit density allowed may be increased to  
10 accommodate the construction of Moderately Priced Dwelling Units in  
11 accordance with Chapter 25A.

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13 The following classes of uses are not permitted in the rural open space area.  
14 The exceptions noted in subsections (d) and (f) are not excluded from this  
15 area; they are permitted by right or special exception, as stated in section 59-  
16 C-9.3:

17 \* \* \*

18 (d) Residential, with the following exceptions:

- 19 - a one-family detached dwelling;
- 20
- 21
- 22 - accessory apartment;
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- 24 - a farm tenant dwelling in existence prior to application of
- 25 the Rural Neighborhood Cluster zone, or a structure
- 26 converted to a farm tenant dwelling included as part of a
- 27 historic site designated in the Historic Master Plan;

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- a one family semidetached dwelling as part of a moderately-priced dwelling unit development;

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**59-C-9.573. Optional method of development.**

The density of development under the optional method must not exceed one dwelling unit per gross acre. However, the maximum development unit density allowed may be increased to accommodate the construction of Moderately Priced Dwelling Units in accordance with Chapter 25A. The number of moderately priced dwelling units must be at least 12.5 percent of the total number of dwelling units in accordance with Chapter 25A. The density must conform to the recommendations and guidelines of the applicable master or sector plan. In such cases, the following development standards apply:

- (a) Minimum area of development: 10 acres, except that the Planning Board may waive this requirement where the property abuts an existing property developed under the provisions of this section, and the resulting development is a logical extension of the existing development.
- (b) Diversity of Lot Sizes: Under the optional method, a diversity of lot sizes is required for developments of 70 acres or more. Diversity of lot sizes is also encouraged in developments of less than 70 acres in order to provide for a range of housing opportunities. Where diversity of lots is provided, the Planning Board must consider the compatibility of the proposed development with existing development on adjoining properties.

1 (c) Development standards: The standard method requirements of section 59-C-  
2 9.4[2] do not apply:

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4 (i) Minimum lot area-4,000 sq. ft. for one-family detached units; 3,500  
5 sq. ft. for one-family semi-detached units.

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7 (ii) Minimum setback from the street-15 feet.

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9 (iii) Yard requirements (in feet). A side yard, if provided, must be at least  
10 8 feet. For a side or rear yard that abuts a lot that is not developed  
11 under the optional method of this section, the setback must be at least  
12 equal to that required for the abutting lot, provided that no rear yard is  
13 less than 30 feet.

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15 (iv) Minimum lot width for a one family detached dwelling unit at the  
16 existing or proposed street line-25 feet.

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18 (v) Maximum building height-35 feet.

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20 (vi) Maximum lot coverage for a one family detached dwelling unit-35  
21 percent.

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23 (vii) The rear and side yard setbacks for accessory structures [should] must  
24 be consistent with the requirements in the R-60 Zone, 5 feet for rear  
25 and side yard setbacks and 60 feet from the street.

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**Sec. 3. Effective date.** This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

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Mary A. Edgar, CMC  
Clerk of the Council

PHED COMMITTEE #2  
December 3, 2001

MEMORANDUM

November 29, 2001

TO: Planning, Housing, and Economic Development Committee  
AT  
FROM: Aron Trombka, Legislative Analyst  
SUBJECT: MPDU Law: Possible Amendments

In previous worksessions, the Planning, Housing, and Economic Development (PHED) Committee considered a series of possible amendments to the Moderately Priced Dwelling Unit (MPDU) law. At an October 22 session, the PHED Committee asked Staff to conduct further analysis of three issues.

1. MPDUs in Large Lot Zones: potentially extending the MPDU program to apply to subdivisions in certain one-acre and larger residential zones;
2. Minimum Number of Units in MPDU Subdivisions: potentially extending the MPDU requirement to subdivisions of 35 or more units (rather than the current minimum of 50 units);
3. Rental MPDUs in For-Sale Subdivisions: potentially permitting developers to meet MPDU requirements in for-sale subdivisions by providing rental units with 20-year price controls.

Planning Board and Department of Housing and Community Affairs (DHCA) Staff assisted Council Staff in preparing recommendations for each issue. On November 16, the Staff recommendations were presented the MPDU Steering Committee, a group consisting of representatives from government agencies, the building industry, and civic associations. Comments from the Maryland-National Capital Building Industry Association appear on © 1 – 2.

Following review of each of the issues discussed in this memorandum, PHED Committee members should consider whether to proceed with legislation to amend the MPDU law.

## **MPDUs in Large Lot Zones**

Currently, the MPDU law applies to residential zones with a density under one unit per acre. The PHED Committee asked Staff to evaluate the feasibility of extending the MPDU requirement to subdivisions in one-acre and larger residential zones. At the October 22 worksession, Committee members expressed support for extending the MPDU law to large lot zones served by sewer. In addition, the PHED Committee asked Staff to assess whether the current waiver provision in the MPDU law was adequate for the Planning Board to address possible environmental constraints on large lot zoned properties.

**Staff Analysis and Recommendation:** Staff recommends amending the zoning ordinance to apply the MPDU program to the Rural Neighborhood Cluster (RNC) zone and master plan designated properties in the RE-2C zone that are Master Plan designated for sewer service. None of the other large lot residential zones reviewed (RE-1, RE-2, and RC) are served by sewer.

An increased need for waivers to address environmental constraints may have arisen from application of the MPDU law to large lot euclidean zones such as RE-1 or RE-2. However, as the large lot zones recommended by Staff for inclusion in the MPDU law are both cluster zones, the Planning Board has an existing method for addressing environmental constraints, and so, likely would not need to consider waivers. DHCA and the Planning Board Staff report that no requests for waivers have been received in recent years. Moreover, only two partial MPDU waivers have been approved in since the mid-1980s and none within the last decade.

To implement this recommendation, master plan designations for RNC zoned properties must specify a single base density. Calculating the MPDU requirement for a property becomes difficult when the designated base density is expressed as a range. Staff notes that the pending Potomac Master Plan includes a base density range for a RNC zoned property. The Council could address this matter either by designating a single base density for the property or by maintaining a range but establishing in the Master Plan a single base density exclusively for the purpose of calculating the MPDU requirement.

Planning Staff conducted an analysis of the four RE-2C and RNC subdivisions (of 35 or greater units) approved from 1995 through 2000 (see © 3). Application of the MPDU law to those subdivisions would have produced approximately 30 MPDU units.

Finally, the Planning Board has recommended that properties in large lot zones other than RE-2C and RNC be considered as possible TDR receiving areas when master plans are revised. The Board notes that TDR receiving areas generally produce densities that would require MPDUs.

## **Minimum Number of Units in MPDU Subdivisions**

Under the current law, the MPDU requirement is applied to subdivisions of 50 or more units. The PHED Committee has considered whether to extend MPDU requirements to subdivisions with 35 to 49 units. At the October 22 worksession, Committee members requested

that Staff develop examples of how the MPDU requirement might apply to 35-49 unit subdivisions. The Committee inquired whether the MPDU formula for subdivisions of this size would generate an increase in both MPDU and market rate units over the base density.

Staff Analysis and Recommendation: County Code Chapter 25A establishes the formula for calculating subdivision MPDU requirements. As illustrated by the following table from the Code, a direct relationship exists between overall density bonus provided to a development and the amount of MPDUs required.

**Subdivision Density Bonus and MPDU Requirements**  
(County Code, Section 25A-5(b)(3))

<i>Achieved Density Bonus</i>	<i>MPDUs Required</i>		<i>Achieved Density Bonus</i>	<i>MPDUs Required</i>
Zero	12.5%		Up to 11%	13.6%
Up to 1%	12.6%		Up to 12%	13.7%
Up to 2%	12.7%		Up to 13%	13.8%
Up to 3%	12.8%		Up to 14%	13.9%
Up to 4%	12.9%		Up to 15%	14.0%
Up to 5%	13.0%		Up to 16%	14.1%
Up to 6%	13.1%		Up to 17%	14.2%
Up to 7%	13.2%		Up to 18%	14.3%
Up to 8%	13.3%		Up to 19%	14.4%
Up to 9%	13.4%		Up to 20%	14.5%
Up to 10%	13.5%		Up to 22%	15.0%

As mentioned above, the PHED Committee sought information on whether application of the MDPU law to subdivisions of 35 to 49 units could generate an increase in both MPDU and market rate units. Staff finds that the application the MPDU formula to subdivisions of this size would generate an increase in market rate units only in certain circumstances. At all but the highest density bonus levels, the MPDU formula applied to smaller subdivisions yields no increase or a decrease in the number of market rate units, compared to what would have been achieved at the base density without an MPDU requirement. The two examples that follow illustrate this point.

Example #1: A property with a base density of 40 units and an ability to accommodate a 12 percent (4 units) density bonus under the MPDU formula would 3 three market rate units.

Current		With Addition of MPDU Requirement				
Subdivision Base Density	Market Rate Units	Density Bonus (Percent)	Density Bonus (Units)	Total Units w/ Density Bonus	MPDUs Required	Market Rate Units
40	40	12%	4	44	7	37



**Example #2:** A property with a base density of 49 units and an ability to accommodate an 18 percent (8 units) density bonus under the MPDU formula would lose one market rate unit.

Current		With Addition of MPDU Requirement				
Subdivision Base Density	Market Rate Units	Density Bonus (Percent)	Density Bonus (Units)	Total Units w/ Density Bonus	MPDUs Required	Market Rate Units
49	49	18%	8	57	9	48

The table below displays the minimum density bonus levels that are necessary to achieve an increase of one market rate unit under the current MPDU formula.

**Minimum Density Bonus Levels that Achieve Increase of One Market Unit  
Subdivisions with Base Density of 35 to 49 Units  
(Current MPDU Formula)**

Base Density	Density Bonus		MPDU Requirement
	Percent	Units	
35	--	--	--
36	--	--	--
37	22%	8	7
38	22%	8	7
39	--	--	--
40	20%	8	7
41	22%	9	8
42	22%	9	8
43	22%	9	8
44	22%	9	8
45	20%	9	8
46	20%	9	8
47	22%	10	9
48	22%	10	9
49	22%	10	9

As illustrated, for subdivisions of 35 to 49 units a net increase of one market rate unit is never achieved at bonus densities below 20 percent. Therefore, Staff recommends that the MPDU law apply to subdivisions of 35 to 49 units only when the Planning Board finds (based on environmental and neighborhood compatibility factors) that the property can accommodate a bonus density of at least 20 percent.

For properties that could accommodate at least a 20 percent density bonus, Staff recommends applying the existing MPDU formula with one modification. If a project does not generate a single bonus density market rate unit, then the number of MPDUs would be reduced by one and the number of market rate units would be increased by one to create a market rate bonus density unit. The maximum number of units would not change. Properties with base densities of 35 to 49 units that could not accommodate a 20 percent density bonus (as determined by the Planning Board) would be exempt from the MPDU requirement and receive no density bonus.

Planning Staff analyzed the 22 subdivisions of 35 to 50 units approved from 1995 through 2000 (see © 4). Application of the MPDU law to those subdivisions would have produced approximately 100 MPDU units excluding large lot zones, or approximately 120 MPDU units including the RE-2C and RNC zones.

### **Rental MPDUs in For-Sale Subdivisions**

The current MPDU law mandates that a subdivision's rental-to-sale ratio be identical for both market rate units and MPDUs. The Council has received a request from members of the development community to permit developers to meet MPDU requirements in for-sale subdivisions by providing rental units with 20-year price controls. Because condominium fees may limit the purchasing ability of certain potential buyers, this proposal might make more affordable units available to those in need. However, successful incorporation of MPDU rentals in an otherwise for-sale subdivision might necessitate introduction of new property management competencies that may be beyond the expertise of the property owners. At the October 22 worksession, PHED Committee members asked Staff to develop a proposal that would give DHCA discretion to approve rentals in for-sale subdivisions under certain conditions.

**Staff Analysis and Recommendation:** Staff suggests that effective rental property management is most successfully achieved in a multi-family development. Staff believes that an enclave of MPDU rental units among for-sale units in a single-family development would be difficult to manage well. Staff recommends that allowing rental MPDUs among for-sale market rate units should be limited to multi-family subdivisions.

Staff recommends adding text to Chapter 25A to allow DHCA to approve rental MPDUs in a for-sale development after considering various factors, including the County's housing policy, local housing market conditions, prevailing condominium fees, and likelihood of effective rental property management. Specifically, Staff recommends adding the following language to Chapter 25A-8 (a)(6):

- (C) The Director may allow an applicant to offer a higher proportion of multiple family MPDUs for rent in a subdivision if the Director finds that:
  - (i) offering more rental units in that subdivision would advance the purposes of the County housing policy, be consistent with local housing market conditions, and avoid imposing excessive

mandatory condominium fees or other costs that would reduce the affordability of sale MPDUs; and

- (ii) the applicant submits an effective management plan for the rental units in that subdivision.

## Attachments

F:\Trombka\PHED Packets - 2001\MPDU Outstanding Issues 12-3-01

November 28, 2001

Elizabeth B. Davison  
Department of Housing and Community Affairs  
100 Maryland Avenue, 4<sup>th</sup> Floor  
Rockville, MD 20850

Sally Roman  
MNCPPC  
8787 Georgia Avenue  
Silver Spring, MD 20910

Dear Elizabeth & Sally:

**Re: Proposed revisions to MPDU program**

Per your request at the last MPDU Task Force meeting, the following is a synopsis of MNCBIA's position regarding the proposed revisions to the MPDU program.

MNCBIA continues to oppose reducing the threshold from 50 to 35 units and expanding the program to include the RE2C and RNC zones. There has been broad based consensus between our BIA representatives, advocates for affordable housing and government agency representatives that these proposals will provide very few additional MPDUs, but could unfairly burden small and infill residential projects. In addition, these units would be costly to build and to administer – both for the builder and the County. Finally, by reducing the threshold to 35 units, we believe the amount of new single-family homes would decrease and the amount of town homes would increase as a result.

MNCBIA is in favor of exploring ways of retaining units already in the program. We feel the County and non-profit organizations like HOC should exercise their first right of refusal prior to and after the price control period which would keep a much greater number of MPDUs in the program.

However, if these proposals continue to be seriously considered, we concur with the bulk of the revised staff draft recommendations language, with some clarifications:

- Every member of the MPDU Task Force agrees that the fundamental concept of the MPDU program - builders be required to build MPDUs only when they are able to secure bonus density above the base density for the project - must not be compromised. This concept has allowed the program to avoid legal scrutiny and has resulted in the building community's continuing support for the program.

Continued next page ....

- Base density for RNC projects must be clarified to reflect that the top number in the density range reflected in master plans for RNC projects reflects the base density for the project for purposes of calculating MPDU bonus units. (The top number in the ranges specified for RNC zones in master plans usually correlates to the equivalent zoning density under the prior RE2 zones - slightly more than two acres per lot).
- If the minimum project size threshold is reduced to 35 units, it is even more critical that MPDUs be derived only out of bonus density above the project's base density, and that the builder of the MPDUs derives a bonus market lot to offset the subsidized MPDU lots.

For example, if a project's base density is 35 SFD lots, and it can achieve the minimum five bonus lots that would be built as MPDUs, then the builder would be subsidizing the difference between the actual development costs of those five lots and the cost allowed by DHCD to be charged as qualifying development cost. Current average Single Family Detached (SFD) lots cost between \$40,000 and \$50,000 per lot to develop in Montgomery County, while the builder can recapture no more than \$20,000 per lot for an MPDU. As a result, the builder is subsidizing the MPDU lots approximately \$25,000 per lot (note that RE2C and RNC lots cost far more to develop per lot than conventional SFD lots, which would further increase this subsidy effect). If five MPDUs were created in a 35 market SFD lot project, the project MPDU subsidy would be about \$125,000. The one bonus market SFD lot that we are requesting would then be used to offset this subsidy, thus zeroing out the builder's subsidy for the MPDUs and resulting in the "win/win" framework on which the MPDU program's success has been based. Similarly, the development subsidy for MPDU townhouses is approximately \$15,000 per lot, requiring a project subsidy of \$75,000 for this same example. One bonus market townhouse lot would offset this subsidy.

The proposed staff revisions distributed at the last MPDU Task Force meeting incorporate the logic shown above in the recommendations presented. Although MNCBIA continues to oppose applying MPDUs to RE2C and RNC zones, and opposes dropping the minimum qualifying threshold to projects with at least 35 base density lots, we feel that the staff recommended language accurately reflects the concepts needed to ensure that the program revisions don't result in either unfairly encumbering builders with an unsustainable subsidy, or in putting the fundamental industry and legal support for the MPDU program at risk.

We thank you again for your efforts in involving our industry in this process, and look forward to working with your departments and the County Council to formulate MPDU program revisions that will have substantive benefit to the County's stock of affordable housing.

Sincerely,  
MARYLAND-NATIONAL CAPITAL BUILDING INDUSTRY ASSOCIATION

John Clarke  
Co-Chair, MPDU Subcommittee

Rick Sullivan Jr.  
Co-Chair, MPDU Subcommittee

**Subdivisions in the RE-2C and RNC Zones  
Approved 1995 Through 2000  
35 Units or More and Community Sewer Service**

**Total Units and Total Cases by Zone:**

Zoning	Num Subdivisions	Num Units	Potential MPDUs	
			12.5%	15%
RNC	3	132	18	24
RE-2C	1	52 <sup>1</sup>	7	10
<b>TOTALS:</b>	<b>4</b>	<b>184</b>	<b>25</b>	<b>34</b>

**Subdivisions in the RE-2C and RNC Zones  
Approved 1995 Through 2000  
35 Units or More (Includes Projects on Septic)**

**Total Units and Total Cases by Zone**

Zoning	Num Subdivisions	Num Units	Potential MPDUs	
			12.5%	15%
RNC	3	132	18	24
RE-2C	4	172	24	33
<b>TOTALS:</b>	<b>7</b>	<b>304</b>	<b>42</b>	<b>57</b>

<sup>1</sup> RE-2C subdivision with sewer service is also a TDR receiving area.

**Subdivisions of 35 to 50 Units  
1995 Through 2000  
Excluding Large Lot Zoned Projects**

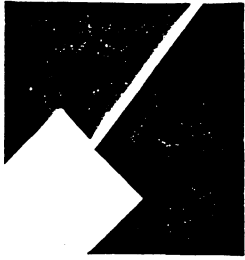
**Total Units and Total Cases by Zone:**

Zoning	Num Subdivisions	Num Units	Potential MPDUs		Total MPDUs @ 15% With Guaranteed Market Rate
			12.5%	15%	Unit
RNC	3	132	0	0	0
RC	2	84	0	0	0
RE-2C	4	156	0	0	0
R-200	2	79	10	16	14
R-200/TDR	3	125	16	25	23
R-90	2	84	12	16	15
R-90/TDR	2	85	11	16	16
R-60T /TDR	1	39	5	8	7
RT-12.5	1	42	6	8	8
RMXZ	1	39	5	8	7
<b>TOTALS:</b>		911	71	106	99

**Subdivisions of 35 to 50 Units  
1995 Through 2000  
With Sewer and Water Service**

**Total Units and Total Cases by Zone**

Zoning	Num Subdivisions	Num Units	Potential MPDUs		Total MPDUs @ 15% With Guaranteed Market Rate
			12.5%	15%	Unit
RNC	3	132	18	24	24
RC	2	84	0	0	0
RE-2C	4	156	0	0	0
R-200	2	79	10	16	14
R-200/TDR	3	125	16	25	23
R-90	2	84	12	16	15
R-90/TDR	2	85	11	16	16
R-60T /TDR	1	39	5	8	7
RT-12.5	1	42	6	8	8
RMXZ	1	39	5	8	7
T-S	1	46	6	9	9
<b>TOTALS:</b>	22	911	89	130	123



## MONTGOMERY COUNTY DEPARTMENT OF PARK &amp; PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760MCPB  
October 11, 2001  
Item #2**MEMORANDUM**

**DATE:** October 4, 2001

**TO:** Montgomery County Planning Board

**FROM:** Sally Roman, Research and Technology Center *SR*

**SUBJECT:** Recommendations to the PHED Committee – Proposed Amendments to the MPDU Law

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**Recommendations:**

1. Support Bill 31-01 to restart the price control period when MPDUs are sold during the initial price control period and to expand the right of first refusal. Also, support the proposed technical amendments to the Bill.
2. Add the RNC Zone to the MPDU program, providing for greater specificity of the base density in the master plans. Also add RE-2C properties where sewer service is available. Do not include the remaining large lot zones but study each as a possible TDR receiving area as master plans are revised. TDR receiving areas generally produce densities that require MPDUs.
3. Include MPDUs in subdivisions of 35 to 50 units, guaranteeing that there will be, at least, one bonus market rate unit if the subdivision provides more than the minimum number of MPDUs and permitting more generous waivers than are currently available for small subdivisions that cannot achieve some level of density bonus.
4. Do not support lengthening the MPDU price control period from 10 to 15 years unless Bill 31-01 does not pass.
5. Permit rental MPDUs in multi-family condominiums.
6. Study townhouse community parking issues separately from the MPDU initiatives.

At its meeting of July 16, the PHED Committee requested additional study of several possible amendments to the MPDU law, Chapter 25A of the Montgomery County Code. The results of these studies are to be discussed at a Committee meeting on October 15. The issues include extending the MPDU program to large lot zones, applying the MPDU requirement to subdivisions of 35 to 50 units, lengthening the MPDU price control period



from 10 to 15 years, and allowing rental MPDUs in for sale subdivisions. The Planning Board discussed preliminary studies of these proposals on July 5. The packet from that meeting is attached. The research in that report is generally not repeated in this memorandum.

The PHED Committee also voted to introduce an amendment to Chapter 25A that would restart the price control period when an MPDU is sold during the price control period and allow both DHCA and HOC the right of first refusal for MPDUs sold both during and at the first sale after the price control period. This amendment to the MPDU law has been introduced and the public hearing has been held. The amendment will be discussed at the October 15 PHED Committee meeting.

Subsequent to the July meeting, the PHED Committee asked staff to add the Rural Neighborhood Cluster (RNC) and Rural Cluster (RC) Zones to the study of extending the MPDU program to large lot zones. The Committee also asked staff to assess the adequacy of parking for MPDUs in response to citizen correspondence. The correspondence is attached.

In addition to preparing various analyses, staff has met with the MPDU Steering Committee composed of members of the development community and affordable housing advocates, members of MNCBIA, HOC staff, and a wide range of Department staff. This project is a joint effort of Department and DHCA staff. A summary of the Steering Committee meeting and a memo summarizing MNCBIA's views are attached.

As the County becomes more built out, MPDU production is slowing. People involved with many different aspects of the program are struggling to adapt this national model to changing conditions, while still maintaining its strengths. The discussion below summarizes the current proposals, presents analysis prepared since the July meetings, and a recommendation for each item.

1. **Bill 31-01 Moderately Priced Dwelling Units – Amendments.** This bill is intended 1) to restart the price control period at 10 years if an MPDU is sold during the price control period and 2) to give both DHCA and HOC the right of first refusal to purchase MPDUs during or at the first sale after the end of the price control period. The Bill is attached.

The Planning Board supported this Bill in concept at your July 5 meeting. Four of the five speakers at the County Council's public hearing supported it with some recommendations for technical amendments. The exception was DHCA. DHCA would like the broader right of first refusal so that it and HOC can buy units for repair and resale with a new price control period but is concerned that restarting the price control period in all cases will make resale MPDUs more difficult to sell.

Staff continues to support this concept and the resulting Bill. We appreciate DHCA's concern but believe that the below market prices will continue to make these units desirable, even with a longer price control period for the new buyer. We understand

that the most likely difficulty is resale of garden apartment condominiums in some parts of the County. We believe that adoption of the recommendation to allow rental MPDUs in for sale subdivisions is a solution to this problem. In addition, if a unit does not sell because it is in poor condition, it seems appropriate for DHCA or HOC to buy and refurbish the unit for resale with a new price control period.

One technical amendment would add HOC to the 60-day period when resale units are offered exclusively to DHCA. This change seems consistent with the intent of the Bill. The other technical issue is the current right of the government to match a private buyer's price for a resale MPDU and purchase the unit. Several realtors pointed out that this can mean a tremendous hardship for potential buyers. Many will already have spent a significant amount of money toward buying the unit, for items such as home inspections, that would be lost if the County steps in and buys the unit.

MNCBIA expressed concern about the effect of multiple resales and many extensions to the price control period. They believe this could have a negative effect on the maintenance of the property and should only happen once. They do not want this law to apply to rental properties.

**Recommendation:** Support Bill 31-01 to restart the price control period when MPDUs are sold during the initial price control period and to expand the right of first refusal. Also, support the proposed technical amendments to the Bill.

2. **Apply the MPDU Program to RE-1, RE-2, RE-2C, RNC, and RC Zones.** This proposal would extend the MPDU program to these large lot zones. As staff research from last summer shows, most of the eligible properties in these zones are not designated for community sewer service.

The Planning Board did not support extending the MPDU program to the estate zones at your July 5 meeting. The hurdles included numerous environmental constraints, particularly lack of sewer service, the limited potential yield, and the distance from jobs, shopping, and other amenities and services. The PHED Committee expressed a continuing desire to pursue this option and asked staff to conduct further analysis. They particularly asked for information about the potential use of alternative sewage systems in these zones. The Committee also asked staff to add the Rural Cluster (RC) and Rural Neighborhood Cluster (RNC) Zones to the analysis.

Staff met with a representative of the Well and Septic section of the County's Division of Land Development Services to discuss this issue. While many innovative systems are becoming available, the State does not permit alternative sewer systems except to replace failing existing systems. The County, of course, abides by the State policy. Given this policy, the densest housing type that would be supportable on the well and septic systems of these zones appears to be the duplex. The requirements for septic fields preclude multiplexes or townhouses.

Staff also conducted additional research to better understand the environmental constraints on large lot properties of sufficient size to support MPDUs. This analysis revealed a number of properties that are designated as parkland or in other uses that will not realistically lead to redevelopment in the foreseeable future. As a result, the 62 parcels identified as having MPDU potential in the July study shrank to 40 parcels. Two parcels zoned RC and two zoned RNC raised the number to 44.

Staff then identified the percentage of each property with significant environmental constraints, primarily steep slopes, streams, and mandatory stream buffers. These percentages ranged from 14 to 76 percent. The average was about 32 percent.

The table shows the potential MPDU yields for these large lot properties. To adjust the yields for environmental constraints, MPDUs were calculated for the unconstrained land only for the RE-1 and RE-2 Zones. The cluster zones were not adjusted because it was assumed that their substantial open space requirements could accommodate typical environmental constraints of 35 percent or less. One RE-2C property with 76 percent of its area constrained was removed from the calculation. Even unadjusted, the yields from the new research are substantially below the range of 562 to 826 in the earlier, less site specific study.

Zone	Unadjusted		Adj. for Environmental Constraints	
	12.5% MPDUs	15% MPDUs	12.5% MPDUs	15% MPDUs
RC	12	17	12	17
RE-1	62	92	51	73
RE-2	128	183	90	123
RE-2C	83	114	76	83
RNC	9	12	9	12
Total	294	418	238	308

Only the properties in the RNC Zone<sup>1</sup> and 3 properties in the RE-2C Zone are designated for sewer service. These properties comprise 287 acres and could generate a maximum of 20 to 27 MPDUs. Another site may be designed for the RNC Zone in the proposed Potomac Master Plan and one RE-2 property is proposed for the PD Zone.

Observing that subdivisions often have difficulty reaching the potential zoned density because many parts of the County do not perk well for septic fields, staff compared the actual yields with the potential yields in the 21 large lot subdivisions approved from 1995 through 2000. All had zoned capacity of 35 or more units. This research showed that actual yields for projects with septic systems were 23 units below the zoned capacity. Projects with sewer service only averaged 8 units less than the zoned capacity. This finding would further reduce the potential yield of most large lot properties, many to densities below either the current or proposed MPDU thresholds.

<sup>1</sup> The RNC Zone is designated for sewer service.

The Steering Committee agreed that the MPDU program could work in the large lot zones with sewer, the ability to cluster in all cases, and the ability to achieve the MPDU density bonus. Members felt that the RNC Zone meets these conditions and would be a good addition to the MPDU program. The other cluster zones, RC and RE-2C, also have potential as future MPDU locations but would require sewer service to be successful. The group did not support adding the RE-1 and RE-2 Zones.

MNCBIA does not support this proposal. They believe that it could work in the RE-1 and RE-2 Zones if projects can achieve the zoned density and the MPDU bonus density and if they are provided with community water and sewer. MNCBIA expressed concern about the cluster zones, especially the RNC Zone, because the flexible base density, expressed as a range, complicates calculation of a bonus density.

**Recommendation:** Add the RNC Zone to the MPDU program, providing for greater specificity of the base density in the master plans. Also add RE-2C properties where sewer service is available. Do not include the remaining large lot zones but study each as a possible TDR receiving area as master plans are revised. TDR receiving areas generally produce densities that require MPDUs.

3. **Apply MPDU Requirement to Subdivisions of 35 or More Units.** This proposal would add these smaller subdivisions to the MPDU program. As the program is currently structured, most, if not all, subdivisions of this size would be unable to achieve a market rate density bonus unit. To achieve the maximum density, townhouses are likely to be the most prevalent unit type because they require less land.

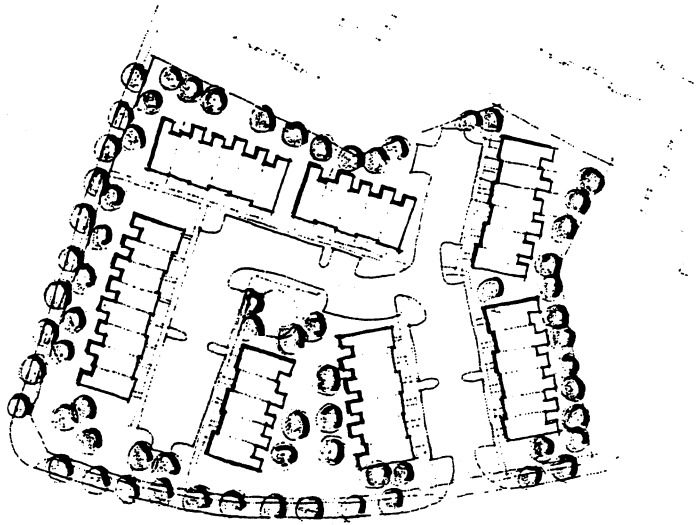
The Planning Board did not take a position on this issue in July, choosing to wait for more study of design issues. As you may recall, staff analyzed the potential yield for subdivisions of 35 to 50 units approved from 1995 through 2000. Their yield would be slightly higher than previously reported if the Council decides to include the large lot zones in the program. Adding the RNC Zone would have had the greatest effect. It accounted for 3 of the 22 approved subdivisions and would have added a total of 18 to 24 MPDUs. The RC Zone would have added 12 to 16 MPDUs. Overall, the potential yield for these subdivisions increased from a range<sup>2</sup> of 93 - 136 MPDUs to 123 - 167 total, or 20.5 to 27.8 units per year, by adding large lot zones to the zones that currently require MPDUs to this analysis.

To better understand the effect of MPDUs on small subdivisions, possible layouts were developed that would accommodate maximum MPDUs on three of the sites from the list of approved plans. The drawings show that each site could accommodate MPDUs at the maximum density bonus, in most cases with additional landscaping.

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<sup>2</sup> The low end of the range represents the number of MPDUs if only 12.5 percent are built. The high end includes 15 percent MPDUs and a 22 percent density bonus.

## Site A: RT-12.5 Zone



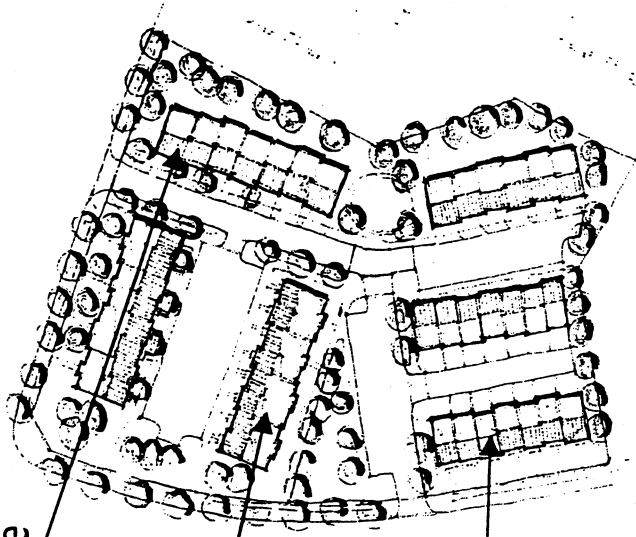
### Existing Development:

42 Townhouses

7 front-loading garage townhouses

12 attached units

7 rear-loading garage townhouses



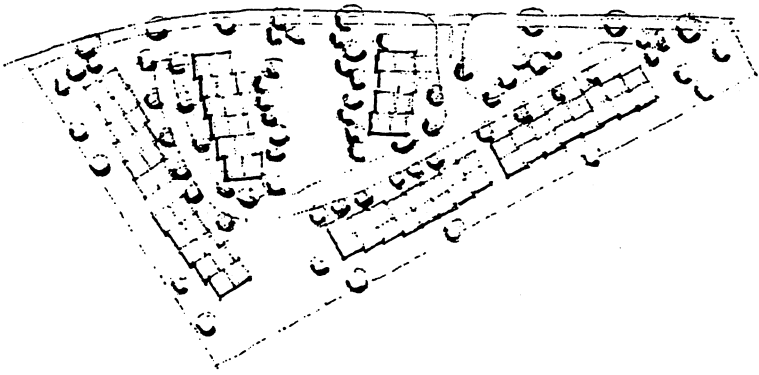
### Alternative Development:

51 units: 13 front-loading garage townhouses; 14 rear-loading garage townhouses; and 24 attached units including 6 MPDU's.

The additional density is achieved through the use of garage townhouses and attached units.

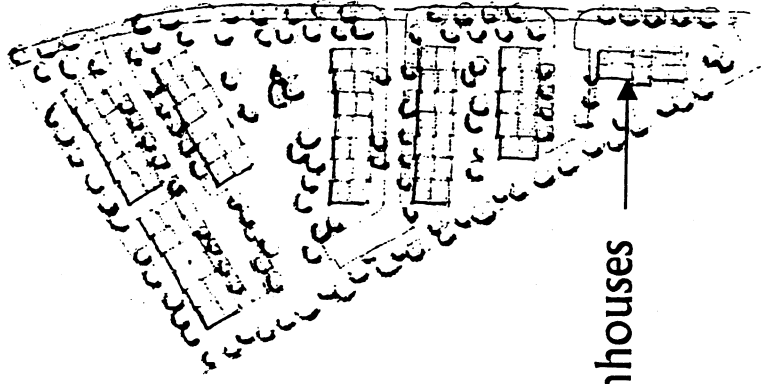
Housing Assessment Study. M-NCPPC. September 2001

## Site B: R90-TDR Zone



### Existing Development:

37 garage townhouses



MPDU townhouses

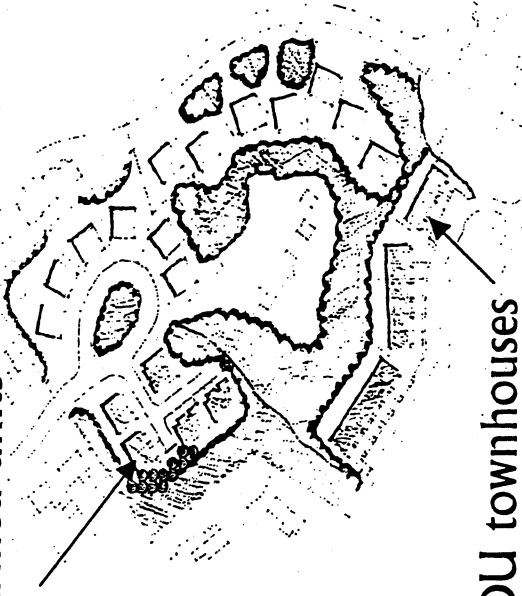
### Alternative Development:

42 townhouses: 37 garage townhouses and 5 MPDU townhouses.

The revised layout provides the additional MPDU units without the bonus density.

## Site C: R-90 Zone

Single family semi-detached units



MPDU townhouses

### Existing Development:

35 units: 20 Single Family Detached and 15 Townhouses

### Alternative Development:

42 units: 15 single family detached; 10 single family semi-detached; 12 garage townhouses; and 5 MPDU townhouses.

The higher density is achieved by using single family semi-detached units.

The resulting plans are very tight, however, and there is a tendency toward increased townhouses. The MPDU Steering Committee suggested accessory apartments as an efficient way of achieving density in small subdivisions. The difficulty would be the administrative impact of requiring one private property owner to rent MPDU units to others.

The building industry position is basically opposed to this proposal. They indicate that it could be acceptable if the base density and a density bonus can be achieved and if a market rate bonus unit is included. The analysis of recent subdivisions was not definitive. There was no clear pattern demonstrating whether applicants usually achieve the zoned density in these subdivisions.

Staff is persuaded that small subdivisions face greater costs for the MPDU program than larger subdivisions. They are more likely to need to design a separate unit type for a small number of units and less likely to be able to interest the County's large builders of MPDUs in their small projects. Environmental constraints also appear to limit options more than in most larger subdivisions, since the amount of land for clustering is very limited. Therefore, it seems reasonable to consider some concessions for these subdivisions if this proposal is adopted. These might include more generous waivers of the MPDU requirement for environmental constraints and guaranteeing a market rate bonus density unit as part of the MPDU bonus density, even if the total number of MPDUs then falls to lower levels than the density bonus would normally require.

**Recommendation:** Include MPDUs in subdivisions of 35 to 50 units, guaranteeing that there will be, at least, one market rate bonus unit if the subdivision provides more than the minimum number of MPDUs and permitting more generous waivers than are currently available for small subdivisions that cannot achieve some level of density bonus.

#### **4. Lengthen the MPDU Occupancy and Resale Price Control Period to 15 Years.**

In July, the Planning Board agreed not to recommend a change from the current 10-year price control period to 15 years. You did not believe the value of any benefits from this change would outweigh the loss of some of the economic empowerment element of the program.

The research showed that more than one-third of MPDUs sold in 2000 after the end of the price control period were already at or below current prices for new MPDUs and almost 86 percent sold below \$150,000, a price affordable to a low-income family of four with good credit and some savings.

At Council request, staff determined the percentage of MPDUs sold between year 10 and year 15. The table below shows that only about one-third sold during that time period. The years were selected to assure that each unit was out of the control period for, at least, five years. A look at more recent sales shows a slowly increasing



percentage of sales. This may be due to the excellent real estate market of the last few years. In addition, MPDUs that were built with the improved facades permitted by changes in the law in 1989 are just starting to end their control periods, so the effects of that change are not yet known. It appears that a substantial number of households benefit from market rate sales at the end of the price control period but that there is no overwhelming rush to sell as soon as price controls end.

End Control Period	Year 11	Year 12	Year 13	Year 14	Year 15	Sum Years 11 - 15
1990	11.8%	8.8%	14.7%	11.8%	0.0%	47.1%
1991	7.7%	3.8%	0.0%	3.8%	0.0%	15.4%
1992	5.3%	9.8%	3.8%	3.8%	6.8%	29.5%
1993	3.7%	6.3%	6.3%	3.0%	3.0%	22.1%
1994	7.1%	11.0%	4.8%	7.1%	6.7%	36.7%
1995	8.4%	8.4%	4.6%	8.4%	4.6%	34.4%
1996	8.1%	15.5%	9.7%	9.7%	7.4%	50.5%
Average	6.8%	10.2%	6.4%	6.8%	5.3%	35.5%

Source: Montgomery County Department of Park and Planning, DHCA, July 2001.

Both MNCBIA and the Steering Committee have stated that they would prefer passage of just one alternative, either the restart of the price control period in Bill 31-01 or this provision. Both prefer passage of the Bill and reliance on restarting controls during the initial 10 years or DHCA or HOC purchase and resale with a new control period. They expressed concern about the quality of maintenance and the impact on the neighborhood with very long potential price control periods and about the impact on the MPDU buyers.

**Recommendation:** Do not support lengthening the MPDU price control period from 10 to 15 years unless Bill 31-01 does not pass.

**5. Allow Developers the Option of Providing Rental MPDUs in for Sale**

**Subdivisions.** This proposal would permit an applicant to offer for rent all or some portion of MPDUs in a for sale subdivision. The rent would be controlled for 20 years similar to other rental MPDUs. Currently, MPDUs in for sale subdivisions must also be for sale. There is some concern about the quality of management and impact on the community of small numbers of rental units in a community not necessarily structured to manage them.

Condominium garden apartments are difficult to sell in some parts of the County. Condo fees are often a difficult burden for MPDU residents. Most condos already have some level of management in place. In addition, rental units remain affordable for 20 years rather than 10. For these reasons, permitting rental MPDUs in multi-family condos makes sense. This position is supported by the industry, the MPDU Steering Committee, and Park and Planning Department staff. Passage of this

alternative would remove some of the more difficult to sell MPDUs from the market and facilitate the success of Bill 31-01.

Permitting rental MPDUs in single-family subdivisions is not as clear-cut. The advantages would be the longer price control period and the addition of large, 3 to 4 bedroom, units to the County's very tight rental market. The major disadvantage is the difficulty of managing units in such scattered sites. DHCA reports that single-family rentals are one of the largest sources of housing code violations. The one exception may be back-to-back condominium townhouses. The MPDU site plan guidelines strongly discourage such units, and few, if any, have been built in recent years. If they are structured as condos, however, it might make sense to allow the MPDUs to be rental instead of for sale for the same reasons as garden condos.

Neither the industry nor the Steering Committee is supporting single-family MPDU rentals.

**Recommendation:** Permit rental MPDUs in multi-family condominiums.

6. **Modify the Parking Requirements for MPDUs.** In response to citizen correspondence, Councilmember Berlage asked staff to examine whether MPDU parking requirements provide sufficient parking.

The only unique MPDU parking provisions apply to high-rise multi-family zones near transit. These do not appear to generate community concern. Planning staff members report that Park and Planning is receiving complaints about insufficient parking from residents of a range of townhouse communities. Garage townhouses that convert garages to other uses especially put pressure on neighborhood parking lots. Most of these are not MPDUs. (The constituent writing to Mr. Berlage also lives in a townhouse community.) This issue does not appear to be directly related to the presence or absence of MPDUs.

The Steering Committee and Planning staff support studying this issue separately from the review of MPDU proposals.

**Recommendation:** Study townhouse community parking issues separately from the MPDU initiatives.

Attachments:

- 1) Memorandum to the Montgomery County Planning Board, July 5, 2001
- 2) Correspondence between Councilmember Berlage and Mr. Zilliacus regarding MPDU parking issue
- 3) Summary of MPDU Steering Committee September 19 meeting
- 4) Memorandum from Rick Sullivan, Jr. outlining MNCBIA position regarding MPDU issues
- 5) Bill 31-01, proposed amendments to the MPDU law.