

**PLEASE BRING YOUR PACKET FROM JUNE 20
(AGENDA ITEM #8)**

MEMORANDUM

TO: County Council

FROM: *JMM* Michael Faden, Senior Legislative Attorney
JMM Linda McMillan, Senior Legislative Analyst

SUBJECT: **Worksession: Bill 30-05, Housing - Workforce Housing Program**
(continued from June 20 worksession)

Background

Bill 30-05, Housing – Workforce Housing Program, sponsored by Councilmembers Silverman, Floreen, and Subin, was introduced on October 11, 2005. A public hearing was held on November 22, 2005. The Planning, Housing, and Economic Development Committee held worksessions on December 12, 2005, and January 23, March 27, April 18, April 28, and June 12, 2006. The Council held a worksession on June 20 and ended its discussion at issue #5a, *Should projects developed under an affordable housing tax credit program be exempt?*

Additional Issues

Date for Submission of Executive Regulations

The bill as recommended by the PHED Committee requires the Executive to submit all regulations necessary to implement the program by October 1, 2006 (©14, lines 332-334 of June 20 packet). The Department has raised concerns about this requirement. In order to meet this deadline the regulation would have to be completed by July 20 to be published in the August Register for comment.

Sunset Provision

The PHED Committee agreed at their June 12 worksession that they wanted the Council to be able to consider a sunset provision or some other mechanism that would require the Council to review and re-authorize workforce housing after a set period of time. The Committee did not approve specific language but asked staff to provide the Council with draft language. Councilmember Praisner noted that Personal Living Quarter licenses originally had a sunset date after three years. They were then re-authorized for an additional five years, and in 2005 the sunset provision was repealed. Council staff suggests inserting the following language on line 339 if a workforce housing sunset provision (rather than only a program review) is necessary,

Article V of Chapter 25B, as inserted by Section 1 of this Act, does not apply to any development for which an application for a local map amendment, development plan, project plan, site plan, or preliminary plan of subdivision is filed after December 1, 2012.

Council staff is suggesting a period of six years, rather than five years, as it will be one or two years before the first workforce housing units are built and December 1, 2012 would allow that Council to hold its review during the second year of its term rather than the first.

6:30-05
Guthrie, Lynn

From: Leventhal's Office, Councilmember
Sent: Friday, June 23, 2006 1:22 PM
To: Montgomery County Council
Subject: FW: Civic Fed Workforce Housing comments--FOR 6/27 COUNCIL DISCUSSION

023657



Workforce Housing
amended anal...

Patty Vitale
Acting Chief of Staff
to Councilmember Leventhal
240-777-7972

-----Original Message-----

From: Jim Humphrey [mailto:theelms518@earthlink.net]
Sent: Friday, June 23, 2006 1:14 PM
To: Leventhal's Office, Councilmember; Silverman's Office, Councilmember; Floreen's Office, Councilmember; Praisner's Office, Councilmember; Subin's Office, Councilmember; Denis' Office, Councilmember; Knapp's Office, Councilmember; Andrews' Office, Councilmember; Perez's Office, Councilmember
Cc: waynengoldstein@hotmail.com; gilligan.j@worldnet.att.net; Wilson, Ralph
Subject: Civic Fed Workforce Housing comments--FOR 6/27 COUNCIL DISCUSSION

Dear Montgomery County Councilmembers-

I wanted to take this opportunity to share comments from the Civic Federation on the draft amended Workforce Housing legislation, prior to the upcoming discussion and possible vote next Tuesday, June 27. The latest MCCF analysis with recommendations is also being sent to our membership and email distribution lists (see attachment).

We thank you in advance for considering out comments.

- Jim Humphrey
Chair, Montgomery County Civic Federation Planning and Land Use Committee
(301)652-6359 day/evening/weekends
email - theelms518@earthlink.net

cc: MCCF President Wayne Goldstein
MCCF Housing Committee Chair Sarah Gilligan

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June 23, 2006

MCCF Housing Committee & Planning and Land Use Committee

**Analysis of Workforce Housing Legislation-- ZTA 05-16 & Bill 30-05 Amended Draft Versions
Bill 30-05**

pg. 6 of Council staff report to PHED, dated 6/12/06, states "Workforce Housing units are an addition to the market rate units and MPDUs that would already be allowed." (would be required in projects with 35 more market rate units)

ZTA 05-16

The ZTA requires WFH units on properties with density over 40 dwelling units per acre, in the following zones in Metro station areas--R-10, R-20, R-30, RH, C-2, TS-R, TS-M, and the CBD Zones--calculation of WFH units would include any TDR density used--and PHED Committee added RMX (Residential Mixed Use) for Glenmont, and TOMX2 (Transit Oriented Mixed Use) for Shady Grove, so the ZTA impacts all Metro stations areas except Medical Center.

pg. 4 of draft #8 of ZTA 05-16, dated 5/18/06, reads--

"59-A-6.18.2 Workforce Housing - Requirements

"(c) to allow the construction of all workforce housing units on site, the Planning Board must permit:

"(1) any residential density or residential FAR limit of the applicable zone to be exceeded to the extent required for the number of workforce housing units that are constructed, but not by more than 10 percent;" (RECOMMEND capping density increase at no more than 8 percent--see chart below**)

...and, (2) Applicant can exceed master or sector plan limits but not to more than maximum density and FAR of the zone EXCEPT AS PROVIDED IN PARAGRAPH 1 (which allows density or FAR limit of the zones to be exceeded by up to 10%).

...but, (3) states Applicant has to keep to the maximum height allowed by the zone (which is why green area/public use space would be reduced and could be provided off-site, so buildings can grow larger to accommodate MPDUs & WFHUs even though not taller. (maximum allowed height by right in the CBD Zones would be--CBD-0.5 up to 90 feet maximum, CBD-1 up to 143 ft., and CBD-2 up to 200 ft.)

EXAMPLE OF POSSIBLE ALLOWABLE DENSITY INCREASE UNDER ZTA

<u>Total units</u>	<u>Market rate</u>	<u>MPDUs</u>	<u>WFH</u>
100 units currently (w/12.5% MPDUs)	87	13	
108 units (w/12.5% MPDUs and WFH units equal to 10% of mkt. rate)	87	13	8**
130 units (w/WFH equal to 10% mkt. rate--not MPDU bonus density units-- plus added 22% density bonus for 15% MPDUs)	103	19	8**

MCCF MEMBERSHIP UNANIMOUSLY RECOMMENDS

- not approving the current version of the legislation because:
 - it violates every Metro area master plan in the county (except Medical Center) and density limits in 11 residential zone categories.
 - it only proposes reduced rate housing in areas where land and housing prices are highest, and does not address needs of those who want housing other than 1 or 2 bedroom apartment near a Metro station.

MCCF Committees Analysis of Workforce Housing Legislation

June 23, 2006

Page 2.

- MCCF Housing and PLU Committees think Council should consider other alternatives, such as:
 - offering long-term low-cost leases of publicly owned land for housing in exchange for increased percentage of affordable units (perhaps 25% MPDU, 25% Workforce Housing, and 50% market rate units)--this would produce a significantly greater number of WFH units in a shorter time than the proposed legislation.
 - creating employer-assisted housing program for County government employees, similar to that proposed by Park & Planning for their employees or in place in Alexandria, Virginia.
 - reducing the rate of new jobs created in ratio to new housing units, since an economic policy that creates jobs out of ratio with housing can exacerbate any shortage and drive housing prices higher.
 - partnering with private sector in down payment assistance and mortgage interest rate reduction initiatives.

IF LEGISLATION IS APPROVED, the MCCF Housing and PLU Committees recommend

- capping density increase to accommodate Workforce Housing units at 8% over what is recommended in master plans or allowed by the zone (** - see asterisked entries on page 1).
- setting the effective date of legislation at no later than 20 days after approval (to prevent rush of plan applications at Park & Planning to avoid providing Workforce Housing in project, similar to what happened two years ago when developers had several months warning that new development impact taxes would take effect March 1, 2004).
- establishing the same control period for Workforce Housing units as the MPDU Program--30 years for sale units and 99 years for rental units.
- requiring all sale units go to applicants on waiting list (to prevent up to 58% of sale units being purchased and converted to rental units by HOC and affordable housing nonprofits, as happens currently with MPDU sale units).
- amending Chapter 25A, the MPDU law, to exclude Workforce Housing unit density from calculation of any MPDU bonus density in a project.

AGENDA ITEM #15

June 27, 2006

June 26, 2006

ADDENDUM #2

The Honorable George Leventhal, President
Montgomery County Council
Sixth Floor, 100 Maryland Avenue
Rockville, Maryland 20850

Dear President Leventhal,

At the June 20 County Council worksession on the workforce housing bill, several members of the Council raised some questions about exempting certain developments from the requirement to provide workforce housing. The specific issue related to developments that utilize financing from the Low Income Housing Tax Credit.

Tax credit development must provide at least 20% of the units at rates affordable to households at 40% Area Median Income (AMI). The PHED committee is recommending that only that tax credit portion of the developments be exempt from the requirement. The remaining units are presumably market rate units. If the development reaches 25% of the units affordable to MPDU and workforce housing units, then the entire development would be exempt. The rationale is that it will motivate developers to exceed the 20% minimum if only the tax credit units are exempt.

After careful consideration, HOC believes it is proper to exempt projects utilizing tax credit financing. The financial structure is complex with internal cross subsidies to reach affordable levels for the units. Imposing the additional burden of a workforce housing component, it is argued, could add to the difficulty of successfully financing the project.

We believe that either rationale is valid. Tax credit developments typically exceed the 20% minimum requirement, and the housing that they provide is normally affordable to moderate and workforce households.

I will be attending the Council's June 27 discussion of the workforce housing bill if Council members have additional questions.

Sincerely,

D. Scott Minton
Director, Housing Opportunities Commission