

Government Mandated or Facilitated Development Programs

A major source of Montgomery County's affordable housing is government programs that mandate or provide incentives for the provision of affordable units. A density bonus or permission to develop in the presence of a growth policy moratorium are examples of incentives. Montgomery County offers three such programs: the Moderately Priced Dwelling Unit (MPDU) program, the Special Ceiling Allocation for Affordable Housing in the Annual Growth Policy, and the Productivity Housing program. Housing constructed through these programs is generally developed and sold or rented by the private sector, although the government may build, finance, identify appropriate buyers and tenants, or own and manage the units. In most cases, government's principal role is to require or facilitate development of the housing, administer the programs, and provide incentives. Public costs are extremely low in most cases.

1) Moderately Priced Dwelling Units (MPDUs)

The Moderately Priced Dwelling Unit (MPDU) program is one of Montgomery County's most widely admired programs. This program is a nationally known prototype of inclusionary zoning. MPDUs are a major resource for affordable housing in the County and an important mechanism for distributing below market rate housing throughout the County.

The MPDU ordinance was adopted in 1973 as Chapter 25A of the Montgomery County Code. The law requires that residential developments of 50 or more units provide 12.5 to 15 percent of the units at prices affordable to moderate income households. Projects that include more than the minimum 12.5 percent MPDUs percent are eligible for a density bonus on a sliding scale up to 22 percent if 15 percent of the units are MPDUs. The program is intended to be revenue neutral for the developer. The density bonus and the ability to build smaller, simpler units are designed to permit the seller to break even at lower prices.

Between 1976 and the end of 1999, almost 10,600 MPDUs were offered for sale or for rent. The majority are for-sale units. Sales prices are controlled by the Department of Housing and Community Affairs for a period of 10 years. Rents are controlled for 20 years. The County receives a share of the proceeds of the first sale after the control period ends, less the cost of the unit, including improvements, inflation, and sales commission.

The Housing Opportunities Commission (HOC) and other qualified government and non-profit agencies have the right of first refusal for between one-third and 40 percent of new

MPDUs. These units are usually incorporated into other programs, such as HOC's scattered site housing program, and rented to households with incomes below the MPDU income limits. So long as HOC or a nonprofit owns them, these MPDUs remain in the affordable housing stock. To date, HOC has bought about 14 percent of the MPDUs produced, rather than the possible 33.3 percent. A combination of other priorities, availability of funds, and HOC's locational goals for affordable housing determine whether or not the agency exercises its right of first refusal. (See Appendix D for more information on the provisions of the MPDU program.)

Tables 3 and 4 show the distribution of MPDUs by policy area and by planning area. Each chart presents the total number of MPDUs ever built in each area, the number that were price controlled in 1999, and the number owned by HOC and nonprofit organizations. The tables also present the percentages of all housing units in each area that are currently price controlled MPDUs.

Units owned by HOC or a nonprofit organization, such as Montgomery Housing Partnership or Bethesda Interfaith Housing Coalition, are not included in the price controlled totals in the charts to avoid double counting in later tables where MPDUs are combined with assisted affordable housing. Instead, most HOC MPDUs are counted as scattered site units in the assisted housing tables. Most of these units will remain available to low and moderate income households for the foreseeable future. On rare occasions, HOC or the nonprofit owner may decide to sell a unit, often as part of a turnkey program for lower income households.

In addition, the HOC/nonprofit total in these tables understates HOC's holdings. HOC owned about 1,500 MPDU units in 1999, rather than most of the combined 1,441 HOC and nonprofit total in the tables. The difference appears to reflect HOC's ownership of units that meet the MPDU requirement but also fulfill the requirements for other programs, such as HOC's own mixed income programs. Such units are rented through the other programs rather than the MPDU lottery system and, generally, have longer price control periods and lower income ceilings.

By requiring affordable units in most sizable new subdivisions, the MPDU program is a major vehicle for dispersing affordable housing throughout the County. As a result, the distribution of MPDUs reflects the County's growth patterns of the last 20 years. Since almost all of Germantown's development has taken place since 1974, Germantown has the highest percentage of MPDUs. Silver Spring, on the other hand, has had comparatively little development during the period, and has no MPDUs per se.⁵

⁵Silver Spring contains Alexander House and Lenox Park, which have units that fulfill the MPDU requirement but are administered under other programs with different price control periods. These two projects have a total of 717 units, of which 108 meet the MPDU requirement. These MPDU substitutes represent about 1 percent of all MPDUs in the County and about 2.8 percent of currently price-controlled MPDUs. The same situation applies to the Metropolitan in Bethesda CBD. Such units are included in the Assisted Housing Table.

Table 3

MPDUs by Policy Area
Total and Currently Price Controlled
1999

	Total MPDUs	County	Current Price Controlled MPDUs			
			MPDUs*	MPDUs	Controlled	MPDUs
	(A)	(B)	(C)	(D)	(E=C+D)	(F)
Aspen Hill	558	5.3%	114	116	230	6.0%
Bethesda-Chevy Chase	115	1.1%	7	6	13	0.3%
Bethesda CBD	115	1.1%	31	6	37	1.0%
Clarksburg	20	0.2%	20	0	20	0.5%
Cloverly	264	2.5%	3	54	57	1.5%
Damascus	238	2.3%	14	25	39	1.0%
Darnestown/Travilah	0	0.0%	0	0	0	0.0%
Derwood	298	2.8%	5	26	31	0.8%
Fairland/White Oak	1,162	11.0%	71	102	173	4.5%
Gaithersburg City	116	1.1%	25	7	32	0.8%
Germantown East	772	7.3%	310	113	423	11.1%
Germantown Town Center	12	0.1%	8	4	12	0.3%
Germantown West	2,016	19.1%	548	177	725	19.1%
Grosvenor	110	1.0%	0	8	8	0.2%
Kensington-Wheaton	285	2.7%	23	26	49	1.3%
Montgomery Village	1,544	14.6%	289	268	557	14.6%
North Bethesda	388	3.7%	93	43	136	3.6%
North Potomac	980	9.3%	172	179	351	9.2%
Olney	752	7.1%	191	129	320	8.4%
Potomac	395	3.7%	98	106	204	5.4%
R&D Village	194	1.8%	155	25	180	4.7%
Rural	95	0.9%	44	21	65	1.7%
Silver Spring CBD**	0	0.0%	0	0	0	0.0%
Silver Spring/Takoma Park	0	0.0%	0	0	0	0.0%
Wheaton CBD**	0	0.0%	0	0	0	0.0%
White Flint	143	1.4%	143	0	143	3.8%
Total	10,572	100.0%	2,364	1,441	3,805	100.0%

*Total price controlled less HOC and nonprofit

** These areas have low cost bond financed housing that requires affordable housing that also meets the MPDU requirement.

Note: HOC owns other units that meet the MPDU requirement but were rented through other programs, such as low cost bond financing.

Source: Montgomery County Planning Department, Research and Technology Center
Department of Housing and Community Development, May 2000.

Table 4

**MPDUs by Planning Area
Total and Currently Price Controlled
1999**

Planning Area	Total MPDUs	County	Current Price Controlled		
			MPDUs*	MPDUs	Controlled
	(A)	(B)	(C)	(D)	(E=C+D)
Aspen Hill	558	5.3%	114	116	230
Bethesda-Chevy Chase	230	2.2%	38	12	50
Clarksburg	20	0.2%	20	0	20
Cloverly	277	2.6%	6	57	63
Damascus	238	2.3%	14	25	39
Darnestown	255	2.4%	36	44	80
Fairland	972	9.2%	57	74	131
Four Corners	50	0.5%	15	0	15
Gaithersburg	2,239	21.2%	486	343	829
Germantown	2,800	26.5%	866	294	1,160
Goshen	47	0.4%	13	11	24
Kensington-Wheaton	235	2.2%	8	26	34
North Bethesda	641	6.1%	236	51	287
Olney	752	7.1%	191	129	320
Potomac	395	3.7%	98	106	204
Rock Creek	23	0.2%	16	7	23
Seneca	12	0.1%	12	0	12
Silver Spring/Takoma Park	0	0.0%	0	0	0
Travilah	638	6.0%	124	118	242
White Oak	190	1.8%	14	28	42
Total	10,572	100.0%	2,364	1,441	3,805

*Total price controlled less HOC and nonprofit

Note: HOC owns other units that meet the MPDU requirement but were rented through other programs, s
bond financing.

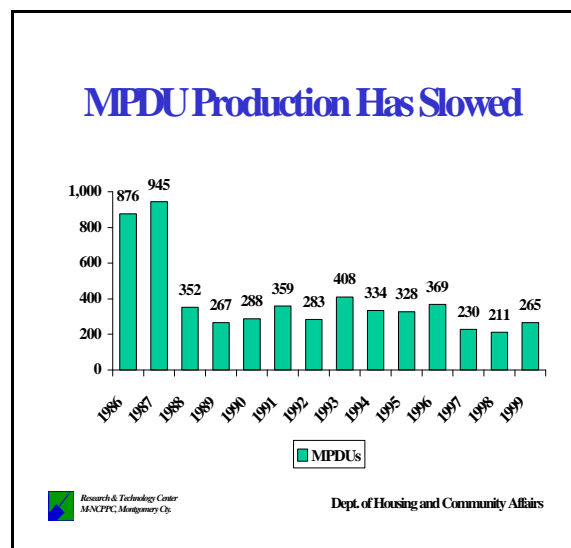
*Source: Montgomery County Planning Department, Research and Technology Center
Department of Housing and Community Development, May 2000.*

In General Plan geography, the majority of MPDUs are in recently developed areas of the Corridor and the Suburban Communities, such as the Montgomery Village and Germantown West Policy Areas and the Germantown and Gaithersburg Vicinity Planning Areas. Older sections of the County, such as the Wheaton and Bethesda Central Business Districts, have few or no units, nor are there MPDUs in most of the rural planning and policy areas of the Wedge. The more mature areas of the County were largely developed before the MPDU program was instituted, while most of the land in the rural areas is zoned for large lots without public sewer and water and so are not included in the program.

The City of Rockville is not covered by the County MPDU law. Instead, the City has its own, similar program. No MPDUs have been built in Rockville to date, but a sizable number are currently approved and expected in the next several years. The King Farm will have 350 MPDUs when it is fully developed. Rose Hill will have 16 and Falls Grove is approved for over 200 MPDU units. Forty-five MPDUs have already been sold in Rose Hill and the King Farm in anticipation of their construction.

The slowdown in housing construction in the 1990s also slowed construction of MPDUs. The number of MPDUs still in the price control period declined substantially during the decade. At the end of 1992, about 4,500 privately owned MPDUs were price controlled. By the end of 1999, the number had fallen to 2,364. However, the share of all new housing completions that are MPDUs actually rose in the '90s compared to the late 1980s, reaching a high of 13.2 percent in 1993 compared to 4.4 percent in 1989.

While more housing completions are expected in 1999 and 2000 than in the preceding years, the trend toward fewer new MPDUs is likely to continue as decreasing amounts of land are available for large new subdivisions in the County. As a result, the County is placing greater emphasis on higher density infill, including high-rise apartments. This has created a new challenge for the MPDU program. High construction costs and other unique aspects of high-rise housing impact the financial feasibility of providing MPDUs. Staffs of DHCA, HOC, and Park and Planning are working to solve this problem for planned new high-rise apartment buildings in Bethesda and elsewhere. Staff is also seeking other approaches to expanding the program or viable alternatives to achieve the units.



Findings

About 80 percent of Montgomery County's 2020 housing forecast has already been built. The forecast is reasonably close to the total current zoning capacity. As fewer and fewer large housing projects are built in the County, the number of potential MPDUs becomes limited. The slow growth 1990s resulted in a significant decrease in the number of price controlled MPDUs. There were almost 1,000 fewer price controlled units in 1999 than there were in 1993.

While there is reasonable MPDU potential in the near future in Clarksburg and major infill projects down-County, it is not too soon to plan alternatives for the future. Moderate income housing that is approved automatically with other housing approvals has been a very valuable resource for the County. Adjustments to the program to include smaller projects or a parallel program that yields moderate income units in major revitalization efforts might be two possibilities.

2) Special Ceiling Allocation for Affordable Housing

In order to balance development and available infrastructure, Montgomery County relies on its Annual Growth Policy (AGP) to implement its Adequate Public Facilities Ordinance. Each year, the County Council adopts staging ceilings for each of the County's policy areas. The ceilings specify the development capacity for housing and jobs in each area based upon the capacity of the area's existing and programmed public facilities, such as roads and schools. When the amount of approved development in a policy area reaches or exceeds the staging ceiling, the area is placed in moratorium for subdivision activity, and no further development may be approved there until adequate infrastructure is programmed to support it.

Recognizing the need for affordable housing, the County Council amended the AGP in March 1988 to include a special ceiling allocation for affordable housing. This provision permits the Planning Board to approve up to 300 housing units in policy areas where there is no remaining residential staging ceiling capacity. Special ceiling allocation developments must either be developed by HOC – up to 125 units – or meet certain requirements for affordable units. If the housing is privately developed, 20 percent of the units must be occupied by households at or below 50 percent of the area median income, or 40 percent must be occupied by households at or below 60 percent of the median income. Below-market price units may also meet the requirements of the MPDU program. Prices are controlled for 15 years.

Since this provision of the AGP was adopted, the Planning Board has approved 30 special ceiling allocation developments. As shown in Table 5, these projects contain 2,432 units, of which 734, or 30 percent, are below market rate. The majority of these projects offer about 20 percent of their units at below market prices. Two developments – Burnt Mills Crossing and Ridgeview – designate 100 percent of their units as affordable.

The Planning Board has approved affordable housing projects under the special ceiling allocation in nine policy areas. Because these units can be approved only in areas that are in

Table 5

Affordable Housing Units Approved Under the AGP
Special Ceiling Allocation for Affordable Housing
January 2000

Policy Area	Project Name	Total Units	Below Market Rate Units*	% of Below Market Rate	Planning Board Approval Date	New Traffic Zone
Aspen Hill	Strathmore at I	60	12	20.0%	02/95	112
Cloverly	Bonifant Wood	40	8	20.0%	01/91	110
Cloverly	Naples Manor	20	4	20.0%	12/91	110
Damascus	Magruder Villa	159	32	20.1%	06/89	280
Damascus	Oakridge (HOC	156	104	66.7%	04/91	280
Damascus	Plantations**	20	5	25.0%	01/94	280
Damascus	Ridgeview (Ma	4	4	100.0%	10/91	280
Fairland/White Oak	Blackburn Villa	73	16	21.9%	FY90	
Fairland/White Oak	Brooks Farm F	38	12	31.6%	06/92	94
Fairland/White Oak	Burnt Mill Cros	96	96	100.0%	08/88	88
Fairland/White Oak	Dring's Reach	104	32	30.8%	09/90	98
Fairland/White Oak	Percon at Marl	40	18	45.0%	11/91	97
Fairland/White Oak	Soper Property	84	17	20.2%	07/90	98
Fairland/White Oak	West Fairland	39	8	20.5%	06/92	100
Fairland/White Oak	Willow's Run (C	191	39	20.4%	07/91	99
Germantown Center	Churchill Town	138	36	26.1%	03/90	283
Germantown East	Fox Run (Cam	218	44	20.2%	06/88	290
Germantown East	Wexford**	35	7	20.0%	03/91	291
Germantown West	Chestnut Oaks	80	16	20.0%	07/91	255
Germantown West	Churchill View	140	29	20.7%	03/90	251
Germantown West	Clopper Hills	60	12	20.0%	07/93	255
Germantown West	Clopper's Mill E	50	10	20.0%	01/92	256
Germantown West	Clopper's Mill W	125	25	20.0%	12/92	256
Germantown West	Kingsview Ridg	48	10	20.8%	07/92	252
Germantown West	Seneca Knolls	138	28	20.3%	FY90,92	
Germantown West	Seneca View E	100	20	20.0%	09/92	253
Germantown West	Waterford Plac	70	14	20.0%	06/89	251
North Bethesda	Timberlawn Cre	24	15	62.5%	06/89	127
North Bethesda	Timberlawn Cre	83	61	73.5%		127
Olney	Pond Ridge (La	59	12	20.3%	04/91	241
Total		2,432	734	30.2%		

* May include MPDUs.

** Some or all units completed (Also included in Tables 6 and 7)

Source: Montgomery County Planning Department, Research and Technology Center, November 1993. Updated 2/96, 8/98, 4/

moratorium for housing, not all policy areas are eligible for the program at any given time. In addition, the special ceiling allocation is not available in a policy area that already has a cumulative total of 500 units approved under this program and that has been in moratorium for four or more consecutive years with a substantial ceiling deficit. An area ceases to be eligible for the program when it has a ceiling deficit of between 1,000 and 2,000 units, depending on the length of the moratorium.

The special ceiling allocation has been used only three times since the last Affordable Housing Inventory in 1994. Two alternatives to it have proven more attractive to the development community. One was the “Expedited Development Approval” (“Pay & Go”) provision which was available to residential development for a brief period. This program permitted development to proceed if the applicant paid a special excise tax. The other, longer-lasting alternative, is the “Limited Residential Development” option, which also requires payment of a special fee or “Development Approval Payment” to help fund necessary transportation improvements. Similar to the special ceiling allocation, this provision permits up to 300 units per year with no more than 100 in a single location or built in a single year. Required MPDUs must be provided in concert with the staging of the rest of the project. Affordable housing other than MPDUs is not required. Moratorium areas that are not eligible for the special ceiling allocation provision are not eligible for this provision.

Findings

The Special Ceiling Allocation for Affordable Housing is a valuable addition to the County arsenal of housing programs. However, when there are other, easier ways of building housing in AGP moratorium areas, developers don’t use this program. Its potential is also limited because the program is confined to moratorium areas that meet certain conditions.

3) Productivity Housing

Growing concern about the ability of middle income households to afford appropriate housing led the County Council to adopt the Productivity Housing program in October 1990. The initial legislation permitted approval of projects in a number of commercial and industrial zones. Revisions to the legislation, passed in 1992, expanded the program to the County's one- and two-acre residential zones. The legislation was repealed in 1995 and readopted in 1996. The latest version is applicable only in a limited number of commercial and industrial zones.

Productivity Housing projects may be approved by special exception by the County Board of Appeals. The program establishes a base residential density of six units per acre for the relevant zones and permits an increase to 21.5 units per acre if 35 percent of the units are affordable to households with incomes at or below the area-wide median income. Except through this program, most of the relevant zones do not permit residential development. The development standards of the applicable zone apply to residential projects with additional requirements regarding access and parking to accommodate residential use. No more than 25 percent of the

land zoned for commercial and industrial use in each master plan area can be used for multi-family housing.

Table 6

Distribution of Subsidized Affordable Housing by Policy Area
Excluding Privately-Owned MPDUs
Montgomery County, 1999

	Total Units in Complex (Assisted & Market)	Opportunity Housing Units (A)	Family Assisted Units (B)	Family Rev.Bond Units (C)	Elderly/ Disabled Units (D)
Aspen Hill	3,437	27	979	41	415
Bethesda CBD	998	30	516	0	156
Bethesda Chevy Chase	556	59	153	43	0
Cloverly	155	5	150	0	0
Damascus	207	2	127	24	0
Derwood	323	19	304	0	0
Fairland/White Oak	3,351	287	605	289	96
Gaithersburg City	2,466	406	428	262	175
Germantown Center	16	0	16	0	0
Germantown East	1,081	15	183	178	0
Germantown West	2,113	307	273	170	0
Grosvenor	409	0	5	101	0
Kensington-Wheaton	1,117	16	147	0	827
Montgomery Village/Airpark	488	102	245	0	28
North Bethesda	445	52	103	0	249
North Potomac	75	13	62	0	0
Olney	335	17	185	20	8
Potomac	673	6	278	0	173
R & D Village	17	4	13	0	0
Rockville	1,290	0	485	0	594
Rural	190	0	90	0	100
Silver Spring CBD	1,632	257	282	187	170
Silver Spring/Takoma Park	1,996	147	647	128	590
Wheaton CBD	293	0	257	0	0
White Flint	752	0	51	110	0
Total	24,415	1,771	6,584	1,553	3,581

Note: This chart includes MPDUs owned by HOC and nonprofits that are permanently price controlled. It does not include low cost market rate housing.

*Source: Montgomery County Planning Department, Research and Technology Center
Department of Housing and Community Development, HOC, September 2000.*

To date, only one project has been approved under this program. This project is a garden apartment complex of 174 units in the I-4 Zone near the County airpark. The project has not yet been built.
