MONTGOMERY COUNTY

RENTAL HOUSING STUDY

JUNE 2017

M-NCPPC

DHCA

RKG ASSOCIATES INC

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APD Urban Planning + Management

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I. Introduction

Montgomery County is a county of diversity – ethnically, racially and economically. The county boasts strong schools, major employment centers, and a range of amenities that make it a highly desirable place to live. Despite the pioneering efforts Montgomery County has initiated surrounding the development and the preservation of price-appropriate rental housing for a range of income levels, housing market conditions within the Washington, DC metropolitan area continue to put substantial pressure on the county's rental housing market. Simply put, the supply and demand equilibrium has been out of balance for decades, with demand constantly outweighing supply. This phenomenon is not unique to Montgomery County or the metro DC area, as urban communities throughout the United States have resisted development of rental housing for several reasons. However, the economic—and consequently household growth—of the metro DC area has exacerbated the rental housing shortage, with documented research showing existing market-rate affordable housing steadily diminishing as rental rates increase faster than income.

Exacerbating this challenge is the sustained pressure from the development community to maximize the development potential within the county. This focuses on those properties that have the potential to yield substantially higher returns if existing development is demolished and replaced with higher-density, more lucrative development. Regional reinvestment patterns reveal suburban-scale retail centers and older, less dense garden apartment complexes tend to be most targeted. The repositioning of older, less competitive apartment complexes, which tend to have the most affordable rental rates, for newer, more upscale mixed-use developments adversely affects price diversity.

Montgomery County, through the Maryland-National Capital Park and Planning Commission (M-NCPPC) and its Department of Housing and Community Affairs (DHCA), is seeking a thorough assessment of the county's rental housing market, trying to understand the stressors that have the greatest impact on rental housing affordability. This report is aimed at [1] determining issues, barriers, and opportunities related to price-appropriate rental housing; [2] understanding the geographic impact of housing cost/development relevant to rental housing supply/demand balance; and [3] determining a "business case" for recommending new and modified housing policies that address the County's need within context of its overall growth and development goals and objectives.

A consulting team led by RKG Associates, Inc. of Alexandria, Virginia (RKG) was retained to perform the analysis and work with the Client Team and an Advisory Committee of community and housing leaders in Montgomery County to provide recommendations on how the County leadership can position itself for success into the future. The RKG Team includes APD Urban Planning and Management of Atlanta, Georgia (APD) and Lisa Sturtevant & Associates of Alexandria, Virginia (LSA).

RKG is a full-service economic, planning and real estate consulting firm with extensive experience analyzing residential markets and residential financial modeling. RKG analyzed the existing conditions of rental housing in Montgomery County and evaluated the current and potential market needs by income level. RKG Associates also produced an interactive financial feasibility model to assess the potential impact new and revised policies can have on the viability of rental housing preservation and development. In addition to these efforts, APD provided the Neighborhood Assessment to assess the feasibility of area-specific recommendations based on the immediate market context and potential. LSA was included as a policy and best practices expert. LSA helped translate the market research and analysis into policy recommendations and best practices that are relevant to Montgomery County.

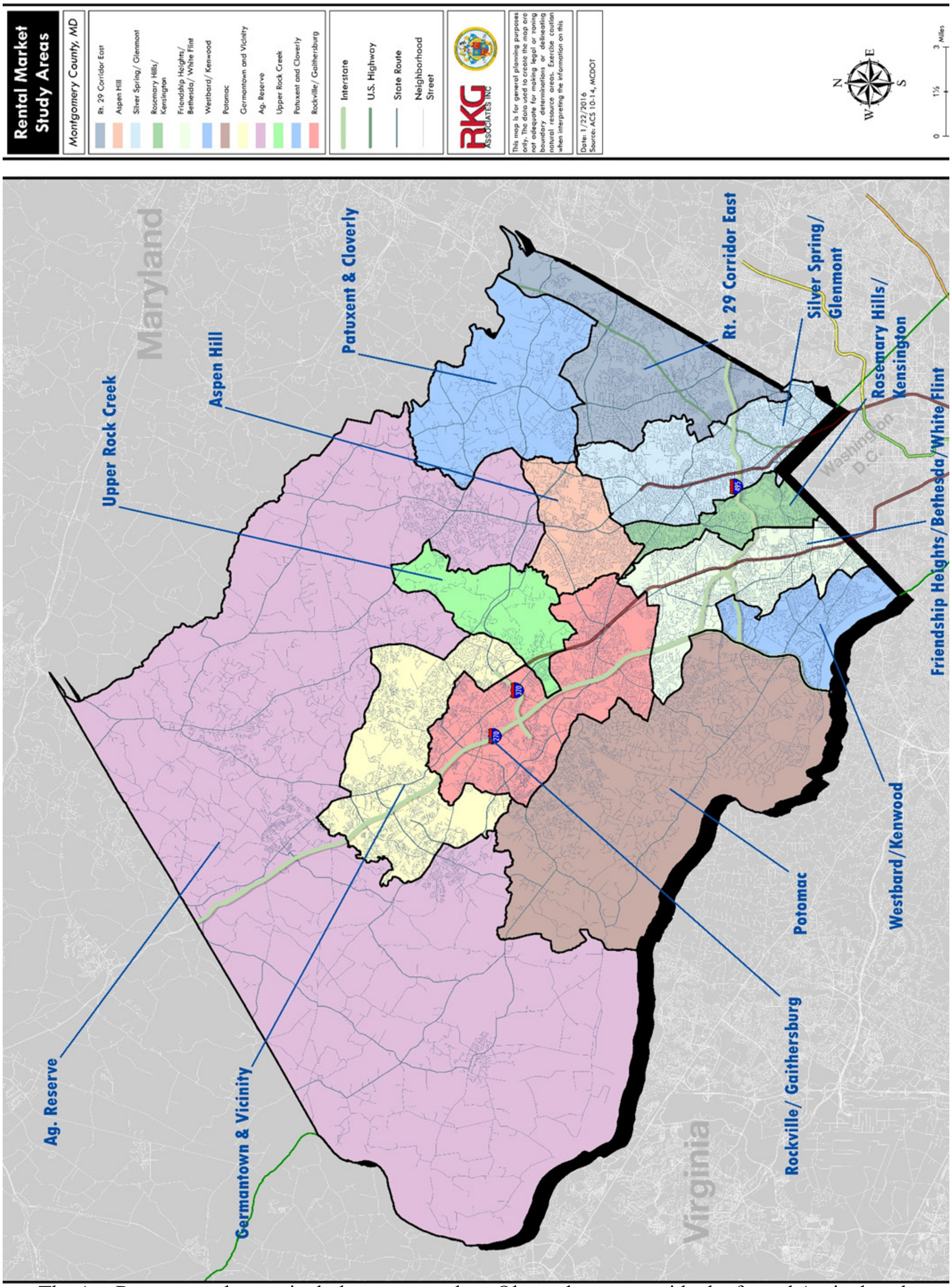
Over the course of 18 months, the RKG team met with a Technical Advisory Committee and Strategic Advisory Committee to present the findings of the analyses, present potential implementation strategies, and garner feedback and input on how to refine and focus the final recommendations. The Technical Advisory Committee included representatives from M-NCPPC and DHCA. The Strategy Advisory Committee included representatives from County government leadership, housing advocacy groups, for-profit and non-profit developers, and key stakeholders with knowledge and critical perspectives on rental housing. Most critical to understanding Montgomery County's rental housing market, focus groups and interviews were conducted with a broader range of stakeholders, including representatives from the residential broker community, multi-family developers, housing advocates, property managers, non-profit organizations, and interested citizens who were not part of the Technical or Strategic Advisory Committees.

These efforts produced two documents finalized at completion of the project. The first is this Report on Recommendations and Tools that provides the final recommendations and action items for the county leadership to consider. These recommendations are intended to position the county to be even more efficient and effective at promoting high quality, diverse rental housing with its resources. The second document is a Technical Appendix companion document that includes the detailed countywide and neighborhood-specific analysis of rental housing in Montgomery County.

The findings detailed in this Report on Recommendations and Tools are the result of the analysis outlined within the Technical Appendix, stakeholder feedback gathered throughout the project, input from the Technical and Strategy Advisory Committees, and M-NCPPC/DHCA staff, and collective content-area expertise from the RKG team.

It is important to note that this document refers to 'subareas' and neighborhood types. These designations were created through thorough analysis of the local housing market to identify any market idiosyncrasies within the county that may require policy recommendations to be location or development type specific. In other words, the analysis recognizes that not all areas of the county are the same, and as such will require different approaches to best preserve and provide true integration of price appropriate housing throughout Montgomery County. The map in the next page shows the subarea boundaries. The neighborhood designations are described below. A more detailed discussion of subarea and neighborhood designations is provided in the Technical Appendix that is available separately online.

NEIGHBORHOOD AREA TYPOLOGIES	
Future Purple Metro Line	Communities that are to be included in the future Purple Line light rail transit system.
Existing Metro Line	Communities that have existing Metro Red Line rail transit service.
Established Suburbs	Communities that have limited public transportation (i.e., no metro line).
Concentration of Existing Rental Units	Communities that have a high concentration of affordable rentals.



- The Ag. Reserve study area includes areas, such as Olney, that are outside the formal Agricultural Reserve Master Plan boundaries.

II. Key Findings from Data Analysis

As part of this effort, the RKG Associates team performed an in-depth, empirical analysis of current and projected rental housing needs for Montgomery County. The technical analysis used a myriad of data sources and analytical approaches to ensure the results best reflect actual market conditions within the county. A full assessment of that analysis is contained in the Technical Appendix companion document to this Report on Recommendations and Tools. The following narrative represents the key findings from that analysis effort.

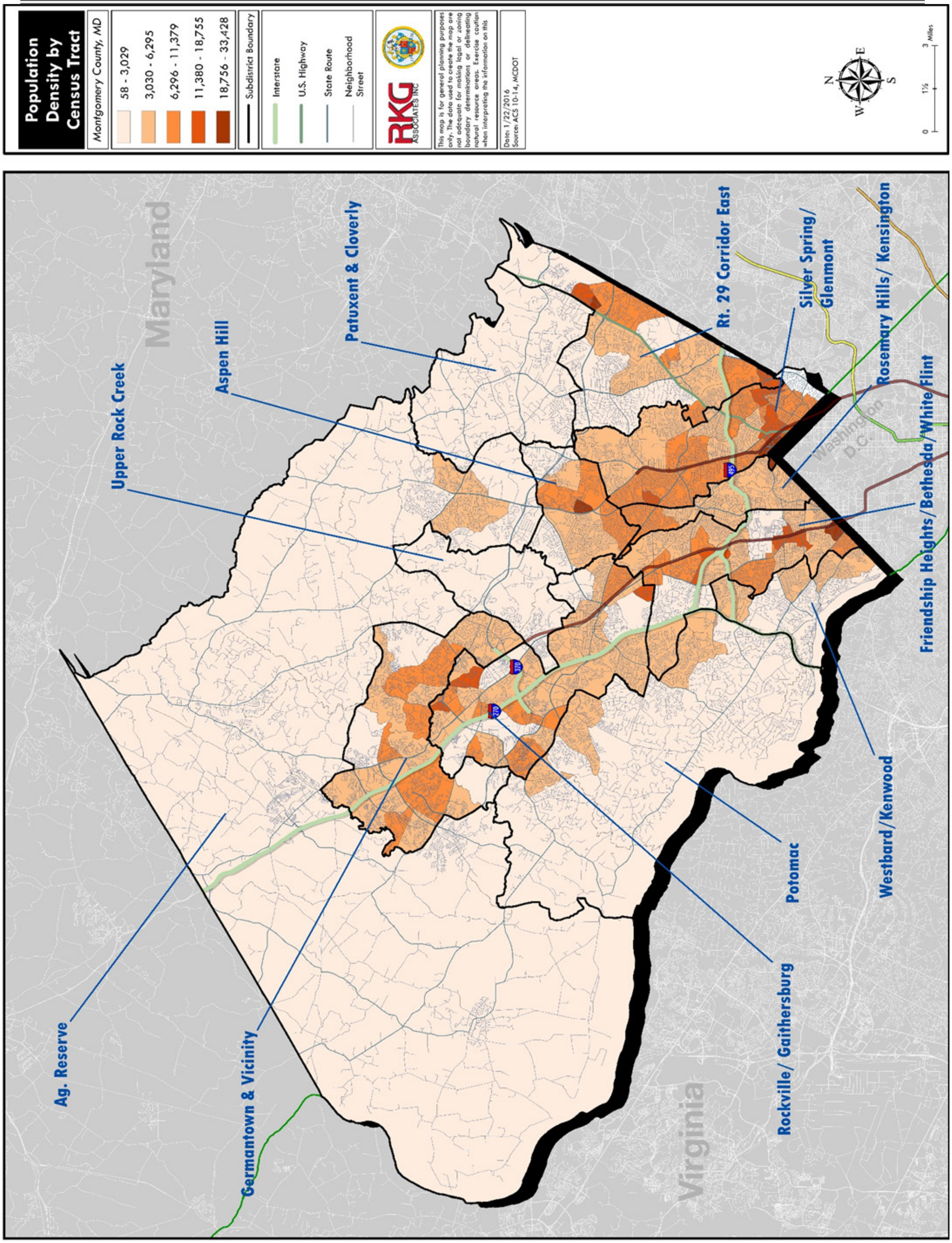
DEMOGRAPHIC ANALYSIS

To better understand demand for rental housing by Montgomery County residents, the RKG team analyzed a variety of socioeconomic data from population trends to at-place employment. This analysis provides insight into the well-known diversity within the county and frames the discussion of rental housing demand at a subarea level. Additionally, the RKG team can identify the characteristics of existing renters and potential renters throughout the county. The key findings of this analysis are:

- ***Population and household data indicate that there is an urban/rural dichotomy in development patterns within Montgomery County.*** Population and household densities are greater inside I-495 and along I-270, reflecting higher intensity development in these areas. Communities inside I-495 often see themselves as suburban communities; however, their development more closely represents urban development patterns. Population and household density are lowest in the northeastern and western parts of the county exemplifying the range of development patterns. From a housing perspective, this variation in development patterns indicates that rental housing is not one-size-fits-all but varies in type, density and prevalence consistent with the diversity of development within the county.

- ***Settlement patterns defined primarily by preference and income.*** Increases in the population of persons 25 years to 34 years of age are most notable within subareas with development clustered around transit. Conversely, the greatest increase in the population of persons 65 years of age or older generally occurs in subareas that are more affluent and suburban. The demographic data also indicate settlement patterns and housing preferences, which impact demand for rental housing throughout the county.

- ***Most of the county's population are racial and ethnic minorities.*** Montgomery County's population is diverse and still diversifying. The Hispanic population experienced a notable increase in recent years, particularly in areas that are most affordable and transit-focused. During this time, the county has also experienced notable international migration which further diversifies the county. The growth of both populations impacts rental housing as cultural influences and priorities can influence housing choices.


Population Density by Census Tract
Montgomery County, MD
58 - 3,029
3,030 - 6,295
6,296 - 11,379
11,380 - 18,755
18,756 - 33,428
Subdistrict Boundary
Interstate
U.S. Highway
State Route
Neighborhood Street
RKG ASSOCIATES INC
This map is for general planning purposes only. The data used to create the map are not adequate for making legal or zoning boundary determinations or delineating natural resource areas. Exercise caution when interpreting the information on this
Date: 1/22/2016
Source: ACS 10-14, MCDOT
0 1½ 3 Miles
Maryland
Virginia
Washington D.C.
Upper Rock Creek
Aspen Hill
Patuxent & Cloverly
Rt. 29 Corridor East
Silver Spring/ Glenmont
Rosemary Hills/ Kensington
Friendship Heights/Bethesda/White Flint
Westbard/Kenwood
Potomac
Rockville/ Gaithersburg
Germantown & Vicinity
Ag. Reserve

- ***A strong correlation exists between education and income in Montgomery County.*** Overall, there is a comparatively high level of education attainment in every subarea. Given the correlation between education and income, the data also show the county has a high concentration of persons earning over the 100% AMI for the region. These higher incomes are driving up costs of living, including housing. At a subarea level, the areas with the highest levels of educational attainment are more affluent with substantially higher median household incomes.

- ***Real household income has not kept pace with the Consumer Price Index (CPI).*** While there are areas of affluence within the county, incomes in these areas have generally declined in terms of real income. Only two subareas experienced real income growth since the 2008 recession. This general decline impacts housing affordability as incomes have not kept pace with the increasing costs of living, particularly for the lowest income households.

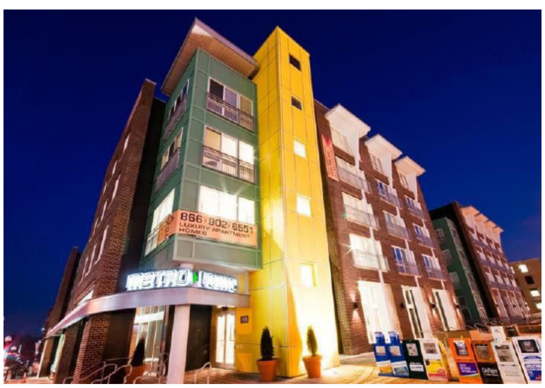
- ***The Red Line-Shady Grove/I-270 corridor is the employment center for the County.*** A substantial portion of the jobs in Montgomery County are located along this corridor from North Bethesda to Gaithersburg. Government jobs represent a notable portion of the employment in this area. This corridor is also a major importer of workers which creates an opportunity for additional rental housing demand from commuters that are interested in living closer to their jobs.

RENTAL HOUSING ANALYSIS

The phrase "rental housing" often recalls large apartment complexes and suburban garden-style apartments. Historically, renting a home was viewed as the lesser alternative to owning a home. In recent years, demand for rental housing has increased as Millennials and younger Generation Xers are choosing to rent for longer to better match their transient lifestyles. Furthermore, households at a range of income levels are renting by choice or necessity to offset economic hardship experienced during the 2008 recession. As demand for rental housing has increased, many markets have experienced a diversification in rental supply to meet this demand. This diversification has resulted in several single-family conversions into full-house rentals or multiple rental units. With these more recent trends in mind, the consultant team analyzed the existing supply and demand for rental housing within the county and its subareas to more fully understand the rental market as it exists today. The key findings from this analysis are:

- ***Rental housing accounts for approximately one-third of all units in Montgomery County.*** These units are concentrated primarily along Metro lines and near employment centers where development intensity is greatest. A notable number of units are rental conversions, or traditional owner occupied housing units that are currently being rented. Rental conversions generally serve non-traditional renters and larger households. These units are in the greatest number in older communities inside I-495, large employment centers, and areas with more traditional single-family development patterns. Generally, rental units include a variety of unit sizes and building types to meet the range of rental housing needs in the county.

- ***The renter population in Montgomery County is more diverse than many other communities.*** A notable portion of rental households have more than 3 people, a number influenced by the wide range of larger traditional rental units in older multifamily buildings. Additionally, larger renter households that prefer single-family-style living have contributed to the relatively high level of single-family unit conversion in the county to accommodate this demand. In addition to larger households, renters in Montgomery County earn a wide range of incomes from extremely low or modest incomes to higher incomes of more than 120% of Area Median Income (AMI). This indicates the demand for rental units includes both those that cannot afford other housing options and those who prefer to rent for reasons such as flexible commitment, amenities and low maintenance.



- ***The renter population diversity extends beyond household size and characteristics to age.*** More than half of the renter households in Montgomery County are over 35 years of age. Active adults (55 and older) account for one quarter of all renter householders. This indicates that renter households are not just young persons in their 20s, but also established households and members of the Baby Boomer generation. The range in age of renter households will shape the type of units and amenities that will be necessary to address their respective preferences. Developers of new housing will need to account for location amenities and attributes when designing product types.

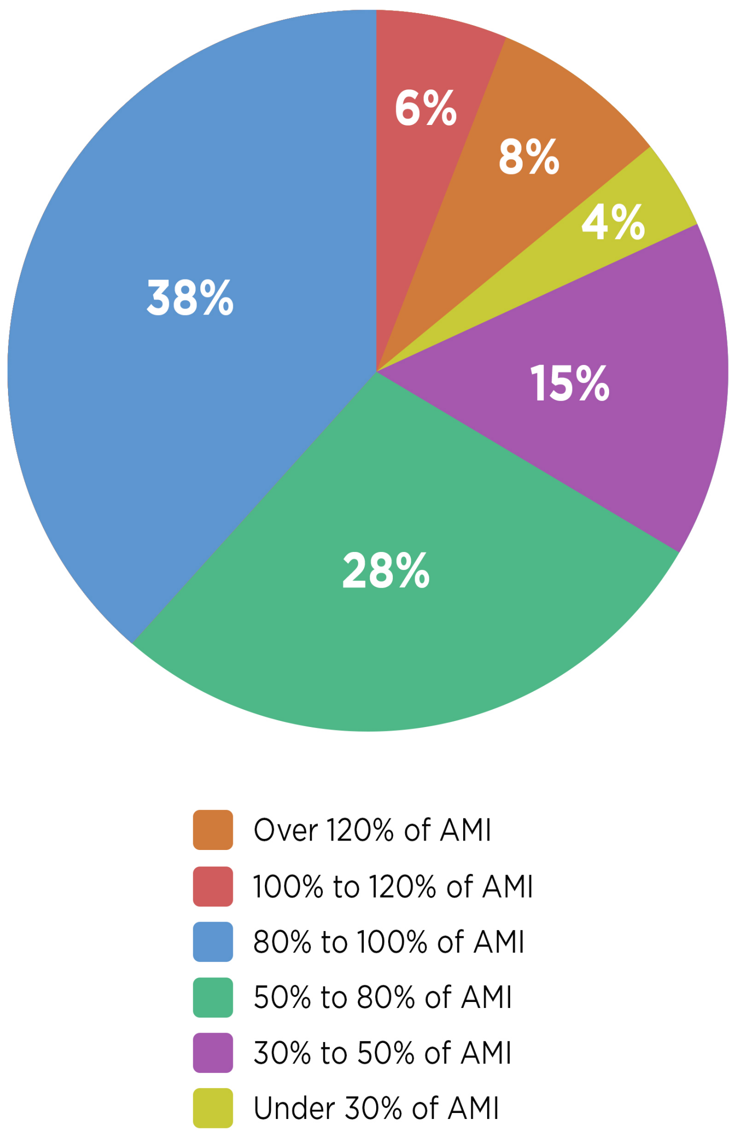
- ***Montgomery County's rental base provides a range of offerings.*** The variety of rental housing developments, particularly due to the age of these projects, has created a naturally occurring range of price points and product type. The older rental supply typically rents for less than newly built units.

  However, market forces are eroding this natural affordability. At a base level, the imbalance between supply (relatively low) and demand (extremely high) within the market is driving up costs for existing tenants. This challenge is exacerbated by the continued—and increasing—demand for rental housing in Montgomery County from potential renters currently living elsewhere. These factors, in combination with the loss of real income for current renter households due to the economic downturn, has reduced the number of naturally occurring market rate affordable units.

AFFORDABILITY ANALYSIS

The affordability analysis is a critical part of understanding the existing balance of rental housing supply and demand at a variety of price points. It helps the consultant identify where there are mismatches and indicates potential opportunities for additional units, redevelopment of existing units, or, in a few instances, a reduction of units. The affordability analysis relies primarily on the U.S. Department of Housing and Urban Development's definition of affordability. This metric provides a nationally-recognized standard for judging affordability and frames the criteria in a manner that is consistent with many local, state, and federal housing programs. Over the next several pages, the

RENTAL HOUSING SUPPLY, BY AFFORDABILITY THRESHOLD 2014



Source: 2014 County Assessment, 2014 County Rental Survey, ACS 2010-2014

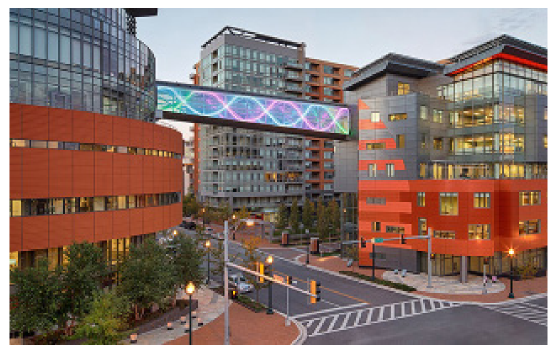
rental housing supply in Montgomery County will be analyzed by affordability and compared to the existing rental housing demand. The results of this analysis can help to inform future development, redevelopment, and incentive efforts by identifying what type of housing is most needed in each subarea.

Additionally, this analysis can be used to consider alternate scenarios for the existing inclusionary zoning requirements that might better meet the current need for rental housing. The key findings from this analysis are:

- ***The income level of renter households in Montgomery County varies substantially.*** More than 73% of renter households earn less than 100% of the Area Median Income (AMI) for a 3-person household ($96,300).* Additionally, nearly 40% of these renter households earn less than 50% of AMI ($48,150). In some subareas, a substantial majority of households have low to moderate incomes. This indicates that the most demand for rental units is generated by lower income households. That said, more than 20% of rental households earn more than 120% of AMI ($115,561), creating a diverse housing market.

- ***Households at the lowest incomes are the least served in the County.*** There are more renter households earning 50% of AMI or less than rental units that are priced appropriately and affordable for these households. The shortage of units is most notable for households earning 30% of AMI or less. This indicates that the current market for rental housing units is beyond the maximum affordability for these households. Providing price-appropriate units will likely require public investment such as subsidies because existing market forces and zoning regulations are not meeting this need.

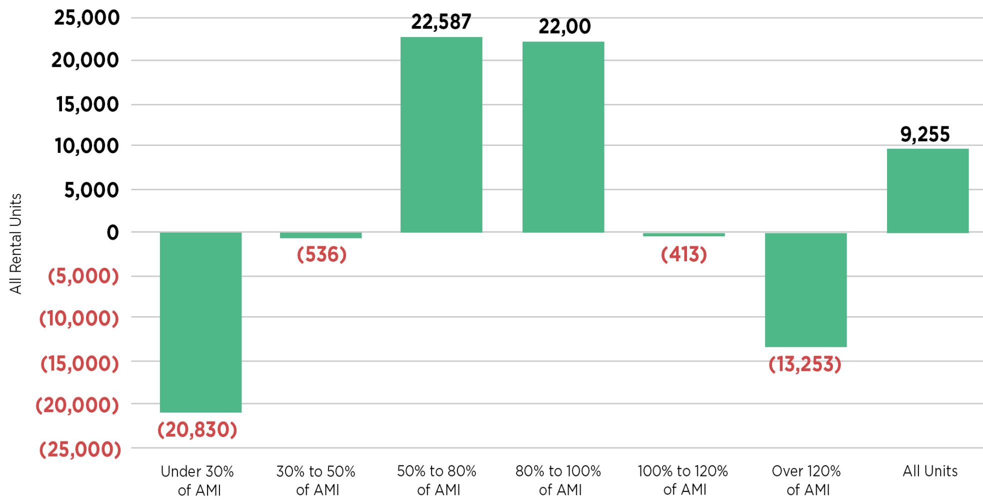
- ***Affordability is greatest in smaller units. Smaller units typically have lower rents.*** However, 1-bedroom and efficiency units only meet the needs of smaller households of 1 or 2 persons. Larger households with the lowest incomes will have difficulty finding an affordable unit that is an appropriate size. Only a small number of 3+bedroom units are affordable to households earning below 80% of AMI, and newer developments typically do not have 3-bedroom units at all. Flexible, multi-functional spaces such as dens provide more options for larger households with low incomes in addition to more traditional rent-based assistance.



- ***The rental market in Montgomery County is unbalanced at lowest/highest end.*** Notable shortages of rental units exist for households earning under 30% of AMI and those earning more than 120% of AMI. The shortage of housing units within the under 30% of AMI threshold indicates that these households are cost burdened and spending more than 30% of their annual income on housing. At the other end of the spectrum, households earning over 120% of AMI may choose to not to maximize their ability to pay. These households create more competition for lower priced units and put downward pressure on the market, resulting in fewer choices for households at the lowest income levels. This indicates that an approach is needed to provide additional units for these households and how they might

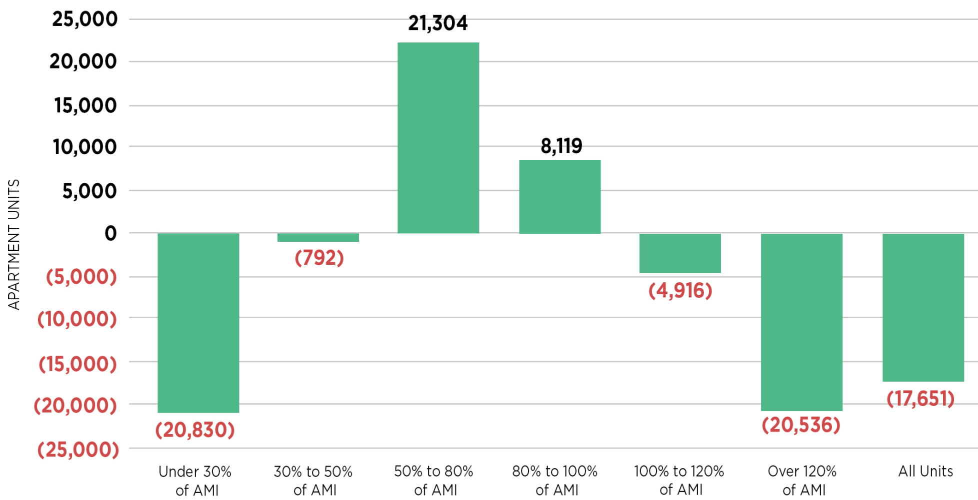
* The 3-person household thresholds were used since the average rental household size is over 2.75 persons in 10 of the 12 subareas

SUPPLY/DEMAND EQUILIBRIUM | ALL RENTAL UNITS 2014



Source: 2014 County Assessment, 2014 County Rental Survey, ACS 2010-2014

SUPPLY/DEMAND EQUILIBRIUM | APARTMENT UNITS ONLY 2014



Source: 2014 County Assessment, 2014 County Rental Survey, ACS 2010-2014

impact the market overall.

- ***There is a concentration of units between 50% and 100% of AMI which indicates further market unbalance.*** The substantial concentration of units within this AMI range has led to the county having more units priced at this level than the number of households that can afford housing in this price point. The notable number of rental units in this category is due to several factors including inclusionary zoning requirement capped at 65% of AMI and the older rental housing stock. While this supply provides ample options for higher income households seeking to minimize housing costs, it impacts the distribution of the rental housing supply across the affordability thresholds.

- ***Approximately 50% of all renter households in Montgomery County are cost burdened.*** As the shortage of price-appropriate rental units for households earning below 50% of AMI is greatest, almost all households earning 50% of AMI or less are cost-burdened. Most are severely burdened, spending more than 50% of their annual income on housing. In other terms, a household earning approximately $50,000 (before taxes) is likely to be spending at least $25,000 of that income for housing. These households are also most vulnerable to pricing changes and economic disruptions. The challenge for larger households is exacerbated, as most 3+bedroom units are priced above 80% of AMI.

- ***New development will be necessary to meet the need for existing/growing unmet demand for units that are affordable for a range of incomes.*** The preservation of existing market rate affordable rental housing is a more cost-effective way of delivering affordability outside the MPDU program. This is particularly true given the demand for 3+bedroom units and the need to protect these assets within the Montgomery County rental market. However, the supply/demand equilibrium indicates that preservation is only one small piece of addressing existing and future rental housing needs for Montgomery County. To this point, greater investment in new construction in addition to the MPDU program needs to be a part of the county's approach to addressing rental housing needs.

FINANCIAL ANALYSIS

At the baseline of any effective real estate policy is the market and financial feasibility assessment. The previous analyses have focused on defining the market potential/needs for existing and future rental households in Montgomery County. This effort focuses on understanding the financial realities of developing and rehabilitating rental housing in the county. Most real estate investment is a business decision. Private and non-profit development entities will only undertake a new rehabilitation or construction project if it meets that entity's return expectations. While those expectations vary greatly between the non-profit and private sectors, they are all dependent upon the project creating the financial return necessary to sustain the individual investment and the organization overall. The key findings from this analysis are:

- ***Market performance for rental housing development varies within Montgomery County.*** The financial analysis revealed that the cost of land and the potential revenue thresholds vary based on location within the County. Not surprisingly, areas closest to Metro, employment centers, and community services have the highest land costs as well as the highest rental housing price points. However, the variations in cost/revenues are not proportional. To this point, the financial impact of delivering income-controlled rental units varies.

- ***Changing the target income threshold (from the MPDU 65% of AMI) has substantial effects on the profitability of development.*** The Montgomery County rental housing real estate market was shaped by the implementation of the county's MPDU program. The requirement to deliver 12.5% of units at 65% of AMI reshaped the value of land within the County.

- ***Changing the target income threshold (from the MPDU 65% of AMI) has substantial effects on the profitability of development.*** The Montgomery County rental housing real estate market was shaped by the implementation of the County's MPDU program. The requirement to deliver 12.5% of units at 65% of AMI reshaped the value of land within the County. Today, land values for new construction are determined, in part, by that MPDU requirement. Shifting the income threshold from 65% of AMI to something lower can change the financial proforma by millions of dollars. For example, the value difference between a current MPDU unit and one priced at 30% of AMI has a negative financial impact ranging from $150,000 (efficiency) to $230,000 (3-bedroom) for each unit. To this point, the county leadership needs to consider the financial impacts of policy decisions to change both the amount of set aside as well as the target income.

- ***While the value differential between MPDU and other income levels is fixed, the value differential between income controlled and market varies throughout the County.*** The market analysis revealed that rent levels vary throughout the county based on location. New construction rental housing is priced between $2.00 and $5.00 per square foot depending on where the project is built. To this end, the financial impact of increasing the percentage requirement of income controlled units will impact the financials of a project differently depending on where the project is located. In certain Study Areas (e.g. Route 29 East), the MPDU rent threshold is much closer to market rate rents than others (e.g. Friendship Heights/ Bethesda/White Flint).

- ***The type of development also influences the financial impacts of changing affordability requirements.*** High-rise development is almost exclusively found within transit areas. While current zoning regulations limit higher density development to these areas, the financial reality of construction costs/potential revenues would preclude high rise development in most other areas of the County. Age restricted development ha s a much lower impact on financial feasibility than construction type.

- ***Increasing the requirement for the percentage of units to be income controlled and/ or lowering the target income threshold requirement could have a chilling effect on rental housing development.*** Rental housing development costs and revenues generally are fixed based on construction type, location, amenities, etc. For example, the cost of materials and labor to construct the buildings does not change based on location or affordability requirements. The primary variables that can easily change are profitability (rate of return) or land costs. Since real estate developments require a level of financial sustainability, the variable most often negotiated is land. Making new construction less profitable by increasing affordability requirements will most likely manifest in lower land purchase prices. Historic trends in other communities that have implemented similar changes without implementing corresponding cost offsets have resulted in short-term development 'freezes' until the marketplace reaches equilibrium.

- ***Rehabilitation typically has a lower per unit cost than new construction of income controlled units.*** While rehabilitation costs vary based on property conditions, the data indicates per-unit costs typically are much lower than the financial impact of a new income controlled unit. While this decrease indicates preservation is a more efficient expenditure of public dollars to ensure affordability, it has two primary challenges. First, preserving an already affordable unit does not increase supply, it maintains it. Second, the cost for new construction of income-controlled units (through the MDPU program) is borne by the developer, and not by the community. Preservation will require capital outlay by the county to achieve. To this point, preservation is most effective if the county decides to proactively increase its spending on affordable housing. That said, the RKG team recommends the county continue to seek balance between production and preservation.

III. Principles

While ultimate policy recommendations are guided by the economic and neighborhood analyses, several general principles have guided the process for developing this set of recommendations for rental housing in Montgomery County. Even as the County seeks to develop the most efficient and effective set of housing programs and policies to meet its housing needs, there is an understanding that there will be trade-off among priorities. However, these principles below remain central to the County's goals:

- ***Montgomery County is committed to actively promoting local programs that expand housing options throughout the county.*** Based on the assessment of housing needs in the county, there is an insufficient supply of housing to meet demand among both low-income and higher-income individuals and families. Montgomery County commits to actively partnering with non-profit and for-profit entities—and will also act on its own when prudent—to conscientiously find ways to meet the full range of housing needs.

- ***Flexibility—combined with predictability—in the county's housing programs and policies is important for meeting the broad range of current and future housing needs.*** Housing needs in Montgomery County vary considerably in different neighborhoods. Housing needs will also change over time. Therefore, Montgomery County is committed to developing a comprehensive housing strategy that includes flexibility to best serve the needs of the community. However, that flexibility should be transparent and clearly stated to ensure predictability for the development community and others working on housing issues in the county.

- ***Montgomery County remains committed to policies that promote economic integration.*** For more than 40 years, the county has been heralded as a champion of housing policies that promote integration of individuals and families from all socioeconomic backgrounds in housing developments. Recognizing that market forces have changed over time, the county remains committed to the important goal of ensuring that all residents have access to housing in opportunities across the county.

- ***Housing production and housing preservation go hand in hand in Montgomery County.*** To help provide housing options to individuals and families across the income spectrum, the county is committed to adopting policies that enable housing preservation. However, a preservation strategy alone is insufficient to meet housing needs, and an essential component of a comprehensive housing strategy will be the development of joint preservation-production strategies.

- ***Montgomery County intends to develop strategies that meet its goals while avoiding negative shocks to the housing market.*** To the extent possible, the County is committed to developing new and revised policies that do not substantially change the feasibility of development in the County. A key part of the County's comprehensive strategy is to ensure that the local housing market remains healthy.

IV. Introduction to Policy Recommendations

Based on the assessment of rental housing needs in Montgomery County, it is clear that the county needs to modify and expand its resources and tools to be able to respond to growing and changing housing demand. Montgomery County already has in place a set of housing policies and programs that is effective at meeting some of the county's rental housing needs. Building on those tools, the county can be better positioned to meet its growing and changing needs. An individual strategy will not be sufficient to meet the full range of housing needs in the county; therefore, it will be important to implement a broad and comprehensive set of tools that target different household types and different areas of the county, as defined by the results from the needs assessment.

The recommendations discussed below are based on a thorough and quantitative assessment of the county's housing needs, as well as an evaluation of current County programs and the strengths, weaknesses, opportunities, and threats to the housing policy development and housing delivery system in the county. A quantitative analysis of the potential impacts on development feasibility in different submarkets of the county also guided the final recommendations.

The recommendations are based not only on an assessment of current conditions in the county but also on an assessment of best practices from around the greater Washington, DC region and around the country. Virtually every local jurisdiction across the country is struggling with how to ensure there is a sufficient supply of housing, located in areas that are connected to opportunity, and affordable to residents all along the income spectrum. With declining federal resources and growing needs, local communities across the country are adopting innovative strategies for producing and preserving affordable rental housing. Therefore, these recommendations are based on a review of new strategies new or underutilized in Montgomery County.

The range of policy recommendations for Montgomery County include modifications its long-standing MPDU policy, land use/zoning tools, preservation tools and financial tools. In combination, modifications to the county's existing programs and the implementation of new policies can more efficiently and effectively meet housing needs.

MPDU PROGRAM

Background

Montgomery County's Moderately Priced Dwelling Unit (MPDU) program has been the County's main affordable housing program since its inception in 1974. Currently, the MPDU program is applied countywide and requires developers of 20 or more housing units to make 12.5% of the units affordable to households earning no more than 65-to-70% of area median income (AMI).

In certain residential zoning categories, developers can receive a density bonus of up to 22% by increasing the share of below-market- rate rentals to 15%. In the CR zones, MPDU units do not count against the density total on projects that deliver more than 15% of the units as MPDUs. The CR zone also allows additional height if the existing height requirement is insufficient to accommodate the additional building envelope.

Typically, MPDUs must be constructed in the same development as the market-rate homes. But under some circumstances and, with approval from the DHCA director, developers can also meet their affordability obligations by dedicating land for the construction of MPDUs elsewhere in the same policy area or by making a payment to the county's Housing Initiative Fund. Developers of high-rise buildings have additional options, also subject to DHCA Director approval, including building the MPDUs elsewhere in the same policy area or placing affordability restrictions on existing market- rate housing units. In practice, however, these alternative, off-site compliance options have rarely been used in the county due to the priority of creating true housing inclusion at the project level.

Opportunity

The MPDU program will continue to be an important element of a comprehensive rental housing strategy. It should be flexible to respond to the county's changing housing needs and the specific economic conditions of different submarkets of the county. At the same time, however, the MPDU policy should have clearly stated goals, objectives and procedures to bring as much certainty to the process as possible.

LAND USE/ZONING TOOLS

Background

Land use tools include policies that follow the zoning code or otherwise use land use regulations to incentivize the production and/or preservation of housing. Land use tools are critical for supporting the development of housing not just for lower-income households but for individuals and families at all income levels. Of course, changes to land use or zoning will be appropriate in some parts of the county and not others and these policy decisions should be made as part of broader comprehensive planning efforts.

Opportunity

Land use tools will be critical for supporting the development of housing not just for lower-income households but for individuals and families at all income levels, and allow for the preservation and production of housing often without the need for direct financial subsidy from the County.

PRESERVATION TOOLS

Background

Both subsidized and non-subsidized (e.g. naturally occurring) affordable rental housing may be at risk of becoming unaffordable due to expiring affordability contracts, as well as market pressures that can lead to redevelopment and rent increases or condominium conversion. Preservation policies can target resources to specific units or buildings, or can more generally focus on preserving residents' access to a certain number or share of affordable units in a particular neighborhood or area. Preserving units can mean preserving rents at certain below-market levels or can go further to require that units be occupied by renters with incomes below a particular threshold.

Opportunity

Because the largest source of rental housing that is affordable to lower-income households is found within the existing housing stock, identifying a clear and comprehensive preservation strategy is critical to ensuring that there are housing options affordable to lower-income households. Preservation strategies cannot be enacted alone, however, and to work most efficiently, they must be coupled with strategies that promote new development.

FINANCIAL TOOLS

Background

Montgomery County's housing trust fund, the Montgomery Housing Initiative (MHI) Fund, provides loans to the Housing Opportunities Commission (HOC), nonprofit developers, experienced rental property owners, and for-profit developers to build new housing units, renovate deteriorated multi-family housing developments, preserve existing affordable housing and provide special needs rental housing. The Fund also supports direct rental assistance programs, and can help finance for-sale MPDUs. It is the county's primary financial tool available for the preservation and production of rental housing.

Historically, the Housing Initiative Fund has been supported primarily by revenue from a deed recordation tax dedicated to the county's rental assistance program, general appropriations, shared equity contributions from the sale of older MPDUs, and a condominium transfer tax. The fund also receives loan repayments from MPDU homeowners that it may lend back out. New sources of revenue for the Housing Initiative Fund (discussed later) could expand opportunities for producing and preserving rental housing. Other financial tools include those that incentivize the production or preservation of housing, or directly assist low-income families to access affordable housing.

Opportunity

The biggest obstacle to helping to ensure sufficient housing affordable to lower-income households is the availability of resources. To meet the county's growing and changing rental housing needs and in the context of declining federal housing resources—it is essential for the county to look for new and expanded financial resources dedicated to the preservation and production of price-appropriate rental housing.

V. Recommended Tools

The RKG Associates Team has synthesized the empirical, anecdotal, and value-based input surrounding the rental housing market in Montgomery County. Based on the goals detailed earlier in this report, the RKG team is recommending the County consider adopting the following tools to meet its growing rental demand. It is the opinion of the consulting team that these recommendations—which include both new tools and modifications to existing county policies—will assist the County in being more effective and efficient at delivering high-quality, income diverse rental housing communities in a manner that enhances overall quality of life.

These recommendations should not be construed as an "all or nothing" concept. The RKG Associates Team strategies, particularly surrounding location-based performance measures, are based on a point-in-time assessment of current and future need. The RKG team understands that local leadership may prefer to adopt a variation of the proposed tool, and supports this action, assuming the variation remains within the intent of the recommendation.

The recommended tools include:

- MPDU Program
  - Increase base set aside percentage
  - Floor Area Ration (FAR) based
  - Sliding scale
  - Offsite (within planning area)
- Land Use and Zoning Tools
  - Adaptive reuse
  - Reduced parking requirements
  - Modified bonus density
  - Use of public land and co-location of public facilities
- Preservation Tools
  - Inventory of at-risk properties
  - Expanded right of first refusal
  - Redevelopment/preservation
  - Financial education
- Financial Tools
  - Expanded Housing Initiative Fund (HIF) appropriations
  - Payment in lieu for small projects
  - Demolition fees
  - Tax increment financing/tax refunds
  - 9% LIHTC set aside
  - Expanded local housing vouchers

Increase Base Set Aside Requirement

DESCRIPTION

Increase the base affordability requirement under the MPDU program from 12.5 percent to 15 percent.

NEED AND BENEFIT

There is a substantial need for rental housing affordable to low- and moderate-income renters in Montgomery County. The county's MPDU program has a long track record of producing affordable rental housing as part of market rate development. In addition to modifications to increase flexibility of the MPDU program (see below), an increase to the affordability requirement in the existing program could result in the production of more below market-rate housing within the well-known structure of the MPDU program.

BEST PRACTICES (PRECEDENTS)

In general, the affordability requirements in inclusionary zoning (IZ) programs across the country tend to be modest; however, some high cost areas (e.g. Cambridge, Massachusetts) have been successful at raising the set aside percentage, at least in some sub-markets. Increasing the affordability requirements can result in the production of a greater number of homes affordable to lower income households if the requirements consider local market conditions are successful when accompanied by appropriate cost offsets, such as density bonuses.

The vast majority of rental IZ programs around the country have set aside percentages of between 10 and 15 percent of units in new residential developments. However, places that have required a higher percentage of affordable units have typically been places with high-cost housing markets and places that accompany affordability requirements with well-designed density or other incentives. A growing number of localities nationwide are conditioning upzoning generally on the provision of affordable housing, often by layering additional affordability expectations on top of existing inclusionary zoning requirements.

New York City recently passed a far-reaching mandatory inclusionary housing program that expanded the affordability requirements that had been part of its previous voluntary program. When a new housing development is approved through land use actions, the City Planning Commission and the City Council can choose whether to require 20 to 30% affordability on-site, or 25 to 35% affordability off-site.

CHALLENGES

It is possible that increasing the base set aside percentage could have a chilling impact on new rental housing construction for a period of time. Implementation is key and phasing in the new requirement or modifying other program elements (see below) will be important for minimizing any negative impacts on new development.

An increase to the base set aside percentage to 15 percent would require changes to the CR zone requirements which currently allow for increased density in exchange for 15 percent affordability. A new, higher affordability set aside percentage for the CR zone would need to be determined.

LOCATION

An increase in the base affordability requirements could be applied countywide as there are substantial housing needs in all parts of the county.

IMPLEMENTATION

The RKG Team recommends that the County consider two implementation approaches:

- Increase MPDU requirement immediately to 15 percent but change the income targets, requiring 5 percent of units affordable at 50% of AMI and 10% of units affordable at 80% of AMI. This change would be revenue neutral.

- Increase the MPDU requirement to 15%, with the increase phased in at a 0.5% increase each year for the next five years. This phasing in approach would mitigate to some extent a shock to the market from the new requirement.

Floor Area Ration (FAR) Based Option

DESCRIPTION

Create a FAR-based option which bases affordability requirements on a percentage of the total building square footage rather than on a percentage of units in a project.

NEED AND BENEFIT

The county's MPDU program could be more effective at producing different types of units that are most needed by lower-income individuals and families by basing the affordability requirements on a percentage of the total development square footage rather than on a percentage of the total units. Currently, MPDU units are built at the same distribution of units by bedroom count as the market-rate units. Basing affordability requirements on FAR rather than on units could facilitate the development of units of different sizes to better meet needs.

In some Study Areas in the county, the biggest need is for affordable family-sized units (e.g. 3 or more bedrooms). Currently, a large share of the affordable, family-size stock is in older rental buildings, including many naturally-occurring affordable buildings where the affordability of units is not guaranteed. Redevelopment pressures create risks that these units may be lost from the affordable stock. Building new family-sized units through the MPDU program would be one way to help stem the loss of supply of these larger units.

Along with adding more flexible options to the MPDU program (see Off-Site Option, Sliding Scale Option), the FAR option would allow the county to incentivize the development of units of sizes that meet particular needs in particular submarkets.

BEST PRACTICES (PRECEDENTS)

In most inclusionary housing programs, including Montgomery County's MPDU program, the requirement states that a percentage of units must be affordable to households at different income ranges and that the affordable units be of the same sizes and quality as the market-rate units. However, increasingly, jurisdictions are linking affordability requirements to FAR rather than to units. This allows flexibility to determine the types of below-market rate housing needed on a project-by-project or neighborhood-by-neighborhood basis. Developers have the certainty of knowing that a particular percentage of the development's FAR must be dedicated to affordable housing units, but the specific unit sizes are negotiated during the development review process. Bellevue and Seattle, Washington; Vail and Basault, Colorado; Washington, DC; and Austin, Texas all have IZ (or IZ-like programs) where affordability requirements are based on FAR rather based on units or the FAR approach is an option.

CHALLENGES

Because the FAR option is designed to be revenue neutral, there should be no negative impacts on development feasibility. However, the switch to FAR-based requirements reflects a change from existing policy and it requires good outreach and education to the development community. In addition, Montgomery County should establish clear policy for the Study Areas where an FAR option is desired specifically to achieve a greater number of family- sized units. The County will have to ensure that developers understand the FAR-based requirements early in the development review process (e.g. before the project is designed).

It is likely that the FAR option would produce fewer overall MPDUs. However, analysis has demonstrated a substantial need for units that can accommodate larger, low-income families which may make this trade-off acceptable.

LOCATION

The impact of the FAR-based option would likely be greatest in parts of Montgomery County where there is a mismatch between supply of and demand for larger, family-sized rental units, particularly in Future Purple Line neighborhoods and Existing Rental Neighborhoods. The FAR-based option would also be appropriate in Established Suburban Neighborhoods where there is a different kind of mismatch—greater demand for smaller rental units (often from senior households) and supply of those units.

Under the current MPDU program, the number of bedrooms of the MPDUs in the project mirror those built as market- rates units. However, this stipulation does not reflect potentially different demand from households of lower-incomes who would qualify for MPDUs. Application of an FAR-Based Option provides the developers the flexibility build larger rental units in Future Purple Line and Existing Rental Neighborhoods, while building smaller rental units in Established Suburban Neighborhoods.

RECOMMENDATION

The RKG team recommends creating an FAR-based option as part of the County's MPDU program, knowing that a shift to an FAR-based option could lead to a lower overall number of MPDUs created. However, the benefit of the FAR-based affordability requirement is better targeted of units of different sizes to meet different needs. As part of a larger move toward greater flexibility in the MPDU program, the FAR-based option should be targeted at specific Study Areas where the mismatch between the demand for price-appropriate housing of certain sizes is not being met under the current program.

Other potential considerations include:

- FAR-based option within the development review process – When should the FAR-based option be discussed with the developer? The RKG team recommends that the FAR-based option be presented to the developer at the earliest possible stage of the development review process, and once the FAR-based option is decided upon, it cannot be shifted back to units-based compliance.
- Location within the project – Should there be a requirement that MPDUs be scattered throughout the project? Through its MPDU program, the county has long promoted integration of MPDUs throughout market-rate developments so as not to isolate or call specific attention to the MPDUs. Creating MPDUs that are larger (or smaller) than market-rate units might require the developer to cluster MPDUs in certain parts of the building. The RKG team recommends that the County work with developers to ensure that MPDUs continue to be fully integrated into buildings with no unnecessary separation or segregation.

Sliding Scale Option

DESCRIPTION

Develop a sliding scale providing a menu of income targets and set aside percentages to meet affordability obligations under the MPDU program. Use the menu options to target different income groups in different parts of the county depending on the needs.

NEED AND BENEFIT

The County's MPDU program can be more effective at producing housing units affordable to households at higher and lower incomes, and meeting different needs in different types of submarkets by offering a sliding scale option. Currently, the county's

MPDU program requires developers of 20 or more housing units to make 12.5% of the units affordable to households earning no more than 65% of AMI. The MPDU program has been successful at meeting housing needs at this income level, based on an assessment of current housing gaps in the county, but not effective for income bands above and below 65%. A sliding scale option would help the County better target households with incomes at lower and higher levels.

A sliding scale option of income targets and set aside percentages could be set up as a menu of options that meet affordability requirements. The County would set out the menu options for particular Study Areas to target local needs, while at the same time making the options revenue neutral to the development. The menu would include the baseline option (e.g. 12.5% of on-site units affordable to households at 65% of AMI), as well as a set of options that would include different income targets (e.g. 30% AMI, 50% AMI, 80% AMI and/or 100% AMI) and set aside percentages (e.g. 5%, 10%, 15%, and/or 20%). Therefore, the sliding scale option could help the County meet the needs of both lower-income households and households with higher incomes where there is a significant need for affordable rental housing. Coupled with other flexibility (e.g. FAR Option, Off-Site Option), the menu of options could also allow developers to meet the requirements with units of different sizes (e.g. family-sized units).

BEST PRACTICE (PRECEDENTS)

Throughout the country, local jurisdictions with inclusionary housing programs have begun allowing developers to select from a menu of income targets to meet their affordability obligations. For instance, a program that normally asks a developer to make 10% of total units affordable to households at 80% of AMI might also allow the developer to meet their obligation by making a smaller share of apartments affordable to households at 50% of AMI, or a greater share affordable at 100% of AMI. This "sliding scale" approach to income targeting can make affordability requirements more feasible for developers by allowing them to customize their income targeting to the financial necessities of a given property. More importantly, the sliding scale can be used to incentivize the production of more deeply affordable rental units or more middle-income rental units, depending on the local needs.

Santa Monica's Affordable Housing Production Program (AHPP), for example, uses a sliding-scale affordability requirement for rental properties. If the affordable units are priced for low-income households (earning 80% of AMI), 20% must be affordable. The affordability percentage drops to 10% if units are priced for very low-income households (earning 50% of AMI), and to five percent if units are affordable to extremely low-income households (earning 30% of AMI). To date, the program has generated approximately 1,000 affordable apartments. Developers frequently choose the option of providing fewer units at a deeper level of affordability.

CHALLENGES

As discussed earlier, changing income targets with the MPDU program will impact the financial proforma of the development. Because the sliding scale is designed to be revenue neutral, it should have no negative impacts on development feasibility. The challenge is designing a set of menu options that allows flexibility but also predictability to the process, while at the same time producing units that meet need. Updating the menu of options on an on-going basis to reflect needs could also be challenging without an in-depth housing market and demand analysis. The County would also have to devote resources to working with developers early in the review process to ensure that they understand the requirements.

Education will be an important component of a change like this to the MPDU program. Outreach to the development community, as well as neighborhood groups and advocates, will be critical to explain how this option helps meet the county's housing goals. In addition, the presentation of the options should be straight-forward so that developers understand the county's expectations.

LOCATION

A sliding scale option as part of the County's MPDU program could be implemented countywide, it could offer a different menu of options for different parts of the county to reflect different needs. Existing Metro-accessible Neighborhoods face the challenge of having substantial unmet demand for price-appropriate rental housing for households with incomes at or below 50% of AMI as well as from households with incomes at or above 100% of AMI. The sliding scale option can be used in Existing Metro-accessible neighborhoods to simultaneously provide the needed supply of rental housing for households with incomes at or above 100% of AMI as well as for households with incomes at or below 50% of AMI.

Future Purple Line neighborhoods have a sufficient supply of rental housing affordable to low-income households (mostly naturally-occurring affordable housing), but lack a supply of rental housing for extremely low income households and moderate income households (e.g. 80% AMI). The sliding scale option can be used in Purple Line neighborhoods to provide the needed supply of rental housing for households with incomes at or above 80% of AMI as well as for households with incomes at or below 30% of AMI.

RECOMMENDATION

For the sliding scale option to be considered, the RKG team recommends that set aside percentages and income targets be based on a financial analysis of development costs in different markets, defined by the county subareas. The matrix below provides a framework for the menu that the county should publish not as part of a change to the MPDU law, but rather as a supplemental and up-dateable policy document, which can be updated.

The RKG team further recommends that the menu of options be available to developers, but the choice of specific income targets and set aside percentages for a particular project be determined by M-NCPPC and DHCA staff in consultation with the developer.

Other potential considerations include:

- *Extent of options- Is it necessary to have the full range of options tied to each of the study areas?* To simplify the sliding scale option, it is possible to offer a menu of options that combines Study Areas together, making the policy less complex.

		INCOME TARGET				
	STUDY AREA	30%	50%	MPDU	80%	100%
SET ASIDE PERCENTAGE	ROUTE 29 CORRIDOR EAST	6.5%	9.0%	12.5%	20.5%	100.0%
	SILVER SPRING/GLENMONT	7.5%	10.0%	12.5%	17.0%	32.0%
	ROSEMARY HILLS/KENSINGTON	6.5%	9.5%	12.5%	20.5%	100.0%
	FRIENDSHIP HEIGHTS/BETHESDA/WHITE FLINT	9.0%	10.5%	12.5%	15.0%	20.5%
	WESTBARD/KENWOOD	7.0%	9.0%	12.5%	16.0%	35.0%
	PATUXENT/CLOVERLY	6.5%	9.5%	12.5%	21.0%	100.0%
	ASPEN HILL	6.5%	9.0%	12.5%	20.5%	100.0%
	UPPER ROCK CREEK	6.5%	9.0%	12.5%	21.0%	100.0%
	ROCKVILLE/GAITHERSBURG	6.0%	9.0%	12.5%	23.0%	100.0%
	POTOMAC	8.0%	10.0%	12.5%	17.0%	32.5%
	GERMANTOWN & VICINITY	6.0%	9.0%	12.5%	22.5%	100.0%
	AGRICULTURAL RESERVE	6.0%	9.0%	12.5%	23.0%	100.0%

- *Updating sliding scale menu of options* - How and how often should the menu of income targets and set aside percentages be updated? The RKG Team recommends that county staff monitor economic conditions and housing production and affordability data to update menu options, with a full economic analysis to support changes to the menu should occur concurrently with the SSP.
- *Current requirement as an option* – Should the current MPDU requirement (e.g. 12.5% of units affordable at 65% AMI) be included as an option? The RKG team recommends keeping a baseline requirement (whether 12.5% or 15%) as an option; however, the choice of a particular option for a particular development should depend on needs in the community.

Off-Site Option (Within a Planning Area)

DESCRIPTION

Allow an option whereby developers can meet MPDU requirements by building affordable units at an off-site location within the same planning area as the market-rate development. The option would be at the discretion of the County and would include greater affordability requirements than the on-site compliance option.

NEED AND BENEFIT

The county's MPDU program can be more effective at producing housing units affordable to those most in need by offering flexible compliance alternatives, such as an off-site compliance option. Currently, Montgomery County's MPDU program requires that affordable units be included as part of the market-rate development. An off-site option is available only on a case-by-case basis at the discretion of the DHCA director although the option has been rarely exercised.

In subareas where land and construction costs are high, the cost of each affordable unit produced is also high. A policy that allows MPDUs to be built off-site, on parcels that are less expensive (e.g. further from Metro) and/or with materials that are less costly (e.g., wood frame versus steel) could yield a greater number of units affordable to lower-income households. An off-site option within the county's MPDU program could continue to promote economically integrated neighborhoods if the policy is designed with appropriate geographic boundaries for eligible off-site locations.

Coupled with other changes to the MPDU program that encourage flexibility, an off-site option could result in the production not only of more affordable housing units, but also could allow for the development of the types of units that are most needed to meet demand in the particular planning area (e.g. family-sized units, senior housing).

BEST PRACTICES (PRECEDENTS)

A growing number of IZ programs in the region and across the country offer flexible compliance options, including the option for providing affordable units off site. Flexibility in inclusionary housing policies helps improve development feasibility and can encourage different types of projects (e.g. smaller, targeted locations) by offering developers various ways to meet affordability obligations. Developers given an off-site option could be required to significantly increase the share of MPDUs provided. If the county could increase access to off-site compliance options without sacrificing its overarching objective of creating inclusive, mixed-income neighborhoods, such a policy change could increase the availability of affordable rental housing in opportunity- connected areas of the county.

Presently, DCHA director approval is required before developers can utilize alternative compliance options in the county. One factor that helps a developer gain approval is to provide (or otherwise support) a greater number of affordable units off-site. But the county does not have a firm policy on how much additional affordability it expects.

Several high-cost jurisdictions in the country have inclusionary housing programs that permit an off-site compliance option. San Francisco's Inclusionary Housing Program generally requires 12% affordability with units affordable to households earning no more than 55% of AMI. Developers can build their affordable units on-site or choose from one of three alternatives: paying an "inclusionary fee", dedicating land or constructing the units off-site. In each of these cases, the affordability requirement increases to 20%. Typically, off-site construction or land dedication must occur within one mile of the market-rate units, though an appeal can be made for an exception.

San Diego's Inclusionary Housing Program allows for developers to meet their affordability requirements through off-site development, in addition to on-site affordability. The off-site option is subject to administrative approval from the city's planning director and the CEO of the San Diego Housing Commission. The city's location preference for off-site development is within the same community planning area as the market-rate development. However, these units may also be located outside of the community planning area if the reviewing staff finds that these units will assist the county in meeting its goal of "providing economically balanced communities" and "providing transit-oriented development." The city of Boulder, Colorado's Inclusionary Housing policy allows developers to build or preserve affordable units off-site to meet affordability requirements. Off-site preservation or development does not need to occur in the same community as the market-rate property, but the location must be: consistent with Boulder Valley Comprehensive Plan policies related to the integration of permanently affordable housing throughout the city; suitable for residential use; and supportive of various non-car modes of transportation including walking and biking.

CHALLENGES

A primary challenge for implementing on off-site option is ensuring that MPDUs get constructed in areas connected to transit, employment, good schools and other opportunities, and that the county fulfills its vision to promote economically integrated neighborhoods. A benefit of requiring all MPDUs to be constructed within the same development as the market-rate units is that the affordable units will necessarily have access to the same neighborhood opportunities and amenities. The off-site option should be used carefully, to ensure that the MPDU units have the same access and connections to services and amenities as do the market-rate units.

An off-site option may suggest greater flexibility for complying with MPDU requirements and could result in an overall greater number of below market-rate units; however, due to a lack of remaining developable land, particularly in high- cost submarkets, it may be difficult for developers to find land on which to develop off-site units. In addition, to maximize the potential of an off-site option, the county would have to devote additional resources to work with developers, likely on an exception basis. To this point, the use of publicly owned land may assist in the off-site option.

LOCATION

The off-site option has the greatest potential impact in Metro-accessible areas, including along the branches of the Red Line and along the proposed Purple Line station areas. Existing Metro-accessible neighborhoods face an unmet demand for price-appropriate rental housing for households with incomes at or below 50% of AMI. Allowing developers to build affordable rental units on nearby sites, with less expensive land and materials, could provide an affordable component with a greater unit total. Site selection of a nearby lot can result in lower acquisition costs, leading to increased developmental feasibility and lower costs per unit. Lower costs grant developers the flexibility to provide affordable rental housing at lower price points to appease the unmet demand present in these neighborhoods.

RECOMMENDATION

The off-site option must be offered at the discretion of the county. For the off-site option to be considered, the RKG team recommends three thresholds be met: [1] proximity, [2] benefit and [3] timing. For proximity, the RKG Team recommends that any off-site development must be done within the same planning area boundary (as defined by M-NCPPC). This is a critical component, as neighborhood economic diversity has been a county priority for affordable housing development for decades. From a benefit perspective, the off-site option should provide a net increase in unit/square footage delivery of affordable housing for the County. The RKG team recommends a 50% increase in unit/ square footage delivery to be eligible for an off-site option. The timing requirement would ensure the delivery of the off-site units occur concurrently with the primary development. Certificates of occupancy in the primary project should be contingent on certificates of occupancy for the off-site units.

Other potential considerations include:

- *Rehabilitation* – Should the rehabilitation of existing income-qualified units count towards unit delivery? The RKG team recommends off-site require new construction OR a higher net benefit yield (e.g. 100% more units/square footage of committed affordable housing).
- *Cash equivalency* – Should any off-site development require the developer to provide documentation that shows the off-site investment matches the net revenue gain for not having to deliver the units on-site? The RKG Team recommends this be part of the application process.
- *Distance* – Should there be a distance requirement more restrictive than the same planning area? It is not uncommon to assign a specific distance (e.g. one mile) to an off-site option. However, the RKG team recommends the planning area as the boundary to allow for the greatest flexibility/benefit to the county.

Adaptive Re-Use

DESCRIPTION

Identify commercial or industrial properties that may be suitable for redevelopment as housing. Develop a strategy for coordinating with property owners and the community to re-purpose appropriate properties.

NEED AND BENEFIT

Adaptive re-use projects create new housing in existing buildings once used for commercial, industrial or public purposes. Housing created through adaptive re-use projects can be made more affordable than new, market-rate developments since infrastructure is generally already present on the site. In addition, existing sites may provide for new opportunities to create housing options in areas connected to transit, employment and other amenities. An adaptive re-use program would help facilitate the construction of more housing, opening redevelopment opportunities that are particularly valuable as land available for new development becomes increasingly scarce. New projects would create new MPDU units and could also facilitate the development of housing affordable to moderate-income households because of cost savings associated with site preparation and infrastructure delivery.

The county has successfully supported adaptive reuse projects (e.g., The Octave, a Silver Spring office building converted into a condominium) but a coordinated adaptive reuse strategy could help facilitate the development of a greater number of below market- rate units.

BEST PRACTICES (PRECEDANTS)

Housing created through adaptive re-use projects can be made more affordable than new, market-rate developments since infrastructure is generally already present on the site. In addition, existing sites may provide for new opportunities to create housing options in areas connected to transit, employment and other amenities. In December 2016, Fairfax County, Virginia released a report describing opportunities for adaptive reuse of commercial, industrial and public buildings in the county, with an emphasis on using those properties for affordable housing.

CHALLENGES

A key challenge to an adaptive re-use program is identifying commercial, industrial or public properties that would be suitable for conversion to housing. In some cases, building design makes it difficult to transform commercial space into residential space (e.g. large commercial office buildings with large floor plates and interior office space). In addition to difficulties with design, many commercial and industrial projects may not be in locations best suited for housing. It is likely that smaller buildings—including small office and public buildings—located in transit-accessible neighborhoods would be most suitable for adaptive re-use.

Another challenge relates to the balance between ensuring sufficient available commercial space with ensuring sufficient housing in the county. When commercial vacancy rates are high—as they are now—it is easy to see the upside of converting office and other commercial space to housing. But when vacancy rates decline and the demand for office and other commercial space increases, there may be downsides to taking commercial space out of the inventory through an adaptive re-use program.

LOCATION

An adaptive re-use program could be valuable throughout the county, though the impact of the policy would be greatest in parts of the county where there are available commercial or industrial buildings that are connected to transit, employment options and other amenities and services. Existing transit and highway corridors are the most logical places to focus initial efforts.

RECOMMENDATION

The RKG team recommends that Montgomery County conduct an inventory of unused or underutilized commercial or industrial properties in the county, with an assessment of the viability of conversion of these properties into housing. The evaluation should include not only an assessment of the current use of the buildings, as well as an assessment of potential future commercial uses, the ease or difficulty of converting the property to residential uses, and the appropriateness of the site for residential uses. Using this list, the County can engage in an outreach effort to educate property owners of their alternatives. Direct interaction with owners will facilitate the entitlement process, as expectations and requirements can be established early.

Other potential considerations include:

- *Proactive vs. reactive* – Is it appropriate for the County to 'make the first move in suggesting adaptive reuse?' There is a valid debate that can be had about the County proactively contacting property owners about potential reuse of their property. The issue should be discussed to determine the best approach for Montgomery County. It is likely that direct outreach may be acceptable in certain situations, but not others.
- *Reuse or redevelopment* – When should the County promote redevelopment of these targeted properties rather than re-use? There are several factors that need to be considered when developing a strategy for outreach to a property owner. One should be understanding the financial reality of repurposing the owner's asset. DHCA should assess how realistic re-use of the building(s) would be prior to engaging the owner.

Reduced Parking Requirements

DESCRIPTION

Implement a formal policy that reduces parking requirements in transit-accessible residential developments in exchange for additional affordability of rental units.

NEED AND BENEFIT

Low- and moderate-income households benefit from having access to housing that is close to transit options. At the same time, residents who live in transit-accessible housing tend to use private cars at lower rates than do residents in housing that is not connected to transit.

Building parking—either underground or in structured parking garages—contributes significantly to the cost of development. Therefore, reducing parking requirements can lower the overall cost of development which could allow the developer to make some additional units (e.g. above the MPDU requirements) affordable to households at 80 or 100% of AMI. Thus, more moderate-income households could have access to affordable housing near transit.

Montgomery County currently has the following parking requirements for multi-family buildings: 1 space for a dwelling unit with no separate bedroom,1.25 spaces for each dwelling unit with one separate bedroom, 1.5 spaces in a dwelling unit with 2 separate bedrooms, and 2 spaces for a dwelling unit with 3 or more separate bedrooms.

There is evidence from parking studies—including the county's own 2011 parking study—that minimum parking requirements could lead to developments that have too much parking. Formalizing a policy that reduces parking requirements at transit-accessible buildings could "right-size" the parking levels at these buildings while also reducing development costs to promote greater affordable options for moderate-income households.

BEST PRACTICES (PRECEDENTS)

Most zoning ordinances require that new residential developments include a certain number of parking spaces per unit or bedroom. These requirements can add significantly to the cost of developing housing and have been found to have a substantial impact on the financial feasibility of affordable housing developments. Per one recent study, requiring one parking space per unit increases the cost of development by 12.5% and two spaces per unit increases costs by 25%. Areas near transit are particularly well-situated for the elimination or reduction of parking requirements.

Many local jurisdictions are reducing parking requirements for transit-accessible properties, often with a requirement of a greater number of affordable units. The city of El Cerrito, California adopted a zoning code that generally eliminated parking minimums and instead imposed parking maximums. The code differentiates between mid-intensity and high-intensity transit-oriented developments. Mid-intensity projects are allowed up to 1.5 parking spaces per unit, while high-intensity projects are allowed a maximum of 1.0 space per unit. While there is technically no minimum parking requirement, developers wishing to include a ratio of between 0 and 1.0 (mid-intensity) or 0 and 0.5 (high-intensity) spaces per unit may be required to submit a parking study to provide a detailed analysis of the parking needs for the project. They may also propose transportation demand management techniques to meet demand without additional parking.

CHALLENGES

In some cases, the development community has been hesitant to build multi-family buildings with reduced amounts of parking, stating that such a decrease makes marketing of the property more difficult. In addition, neighborhood residents, particularly those in single- family neighborhoods near new multifamily buildings, are often concerned that lower on-site parking would result in more people parking on county streets in single-family neighborhoods.

In addition, proximity of services is as important as transit access for reduced parking to be most effective. Isolated buildings near a transit or bus station will likely not fare as well from a marketing perspective as those that are integrated into a more full-service area (e.g., Bethesda or downtown Silver Spring).

Montgomery County can respond to these concerns through education and policy. There is increasing evidence of reduced use of private vehicles, with substitutions not only to transit but also to car sharing and bicycle. This information could be provided to both the development community and residents. In addition, the County could implement parking restrictions and parking stickers in single-family neighborhoods to alleviate concerns about increases in street parking.

LOCATION

Reducing parking requirements is most appropriate, and could have the biggest impact, in Existing Metro-Accessible neighborhoods. There is a need for more rental housing affordable to households at low and moderate incomes, and a reduction in parking requirements could achieve greater affordability for required MPDUs, allowing those units to be targeted at lower incomes or to require additional units affordable to higher-income households (e.g. 100% AMI households). Because development in Metro-accessible neighborhoods tends to be higher density, these projects typically require some amount of structured parking. To this point, it is likely that a reduction in parking requirements will have a substantial positive impact on the cost of development and the ability to provide more affordable units or units affordable to lower-income households.

Future Purple Line neighborhoods may be another opportunity for reduced parking requirements. With the introduction of new transit, residents in Future Purple Line neighborhoods may be less reliant on cars and therefore new residential properties could supply less parking and developers could be required or incentivized to translate the savings related to reduced parking to lowering rents.

RECOMMENDATION

The RKG team recommends that the county should review results from its 2011 Parking Study to establish modified parking requirements in Existing Metro- accessible neighborhoods in exchange for higher numbers (or greater subsidy levels) of MPDU units. Furthermore, the RKG Team recommends the County develop a policy of reduced parking requirements for Future Purple Line neighborhoods that will be implemented as the transit line is being constructed.

Other potential considerations include:

- *Education* – How can or how should we convince developers that reduced parking will not make their properties less attractive to market-rate renters and get financing? The RKG team recommends that as the county develops new, lower parking requirements that staff educate the development community about the potential impacts on less parking, both on development costs and desirability of rental properties from a market standpoint.

Modified Bonus Density

DESCRIPTION

Modifying Montgomery County's density bonus program to better incentivize the development of more affordable rental housing.

NEED AND BENEFIT

Currently, there are two primary ways a development can receive bonus density. In certain rural and residential zones, a residential development may exceed the residential density by up to 22% for providing up to 15% of the units as MPDUs. Within the CR zones, developments providing more than 15% MPDUs receive a density exemption for all of the MPDU units. CR zone projects also are allowed additional height if the building envelope cannot accommodate the additional development resulting from exceeding 15% MPDUs.

Exchanging density for affordable units can often be an effective way to increase the supply of committed affordable units. However, the extra density must provide a meaningful benefit sufficient to offset the additional cost of providing the below-market rate units. In Montgomery County, there has been little participation in the density bonus program, likely because of the way the program is designed.

To maximize the potential of its density bonus program, the County could evaluate the mechanics of the program, consult with the development community, and consider changes that reflect a more effective offset.

BEST PRACTICES (PRECEDENTS)

Under Fairfax County, Virginia's Workforce Development Unit (WDU) policy, developers must offer 12 to 20% of new units as affordable to take advantage of redevelopment options created through new specific plans that increase development potential in a given area. WDUs must be priced at various tiers between 60 and 120% of AMI. The exact affordability expectation varies from specific plan to specific plan. To access expanded redevelopment options outlined in Fairfax County's Tysons Corner plan, developers are expected to include 20% low- and moderate- income housing serving households between 60 and 120% of AMI, or contribute $3 per square foot to the county's affordable housing trust fund. By adhering to these guidelines, developers can build to an unlimited floor-area-ratio (FAR) within a quarter mile of each Metro station, or up to a FAR of 2.4 or 3.0 elsewhere in each transit district.

CHALLENGES

It is challenging to get the level and structure of a density bonus right to encourage the development of affordable units without "giving away" density. One key challenge is identifying areas where increased density above what is allowed in the zoning code is appropriate. Montgomery County has already done a good job at identifying these areas through a recent zoning code re-write. Therefore, for the County, the specifics of the bonuses are that will be the biggest challenge. An important obstacle will be related to height; extra density without extra height is often not valuable.

Overall, the density program should be clarified so that there is better understanding about the allowable densities and heights, how the MPDUs are counted toward density, and how requirements that result in partial floors of units are treated.

LOCATION

A bonus density program is best suited for the county's Established Metro-accessible Neighborhoods, where greater densities are appropriate given the presence of transit and the cost of land. In addition, Existing Metro-accessible Neighborhoods provide some of the best connections not only to transit, but also to employment and other amenities; therefore, a successful bonus density program in these neighborhoods could increase the overall supply of rental housing affordable to lower-income households in opportunity-rich neighborhoods.

RECOMMENDATION

The RKG Team recommends that the county review its current density bonus program to better understand the limitations to the program. As part of that review, the County should assess Fairfax County's density bonus program currently part of the Tysons Corner plan that allows for virtually unlimited density in exchange for the provision of 20% affordable units.

The RKG Team is not recommending Montgomery County offer unlimited density, but in Existing Metro-Accessible Neighborhoods with CR zoning, it is recommended that the County consider increasing the allowable density for up to 20% affordability. The industry standard for bonus density is three market rate units for every one affordable unit. The current policy generally adheres to that rule. To this point, calculating the density bonus required to reach 20% of MPDU units/square footage will be necessary.

Other potential considerations include:

- *Intensity versus height* – How much density is too much density? Even in the Metro-accessible neighborhoods, the County often experiences substantial push back from citizens over the approved density levels. This challenge is not unique to Montgomery County, as all the DC Metro areas struggle with urbanization of inner ring neighborhoods. The issue typically has more to do with height than density levels.
- *Scaling the program* – Should the bonus density program be uniform throughout Montgomery County? There is a legitimate discussion that should occur while the County creates and updates area plans. The bonus density program could be customized by planning area to fit the proposed scale of the community. If the County opts to pursue a modified program, maintaining a consistent ratio of bonus density to additional affordable requirements is important. Scaling can also be done within a given planning area/Study Area based on proximity to specific landmarks (Metro stations being the most obvious).

Use of Public Land/Co-Location of Housing

DESCRIPTION

Develop a comprehensive public land policy that pro-actively creates opportunities to use public land for housing and to co-locate housing and public services (e.g., fire stations, policy stations, libraries).

NEED AND BENEFIT

Public land policies make government-owned land available at reduced or no cost for affordable or mixed-income housing. Such policies can be a valuable way to help address local affordability needs, particularly in areas with high land costs and can be a helpful strategy for siting affordable housing in dispersed, opportunity-connected settings. Co-locating public services, including new fire and police stations, new libraries, etc., with housing can be an efficient way to use shared infrastructure to lower the overall costs of development.

In Montgomery County, surplus public properties suitable for affordable housing have been made available to for-profit and non-profit developers for assisted or below market housing. In addition, new county facilities, such as police and fire stations, often consider an on-site affordable housing component. The County could formalize its public land policy, expand opportunities by creating a public land inventory and a public process for disposition of public land, and create a cross-agency/department public land for housing team.

BEST PRACTICES (PRECEDENTS)

Because localities often own land in myriad locations throughout a jurisdiction, public land redevelopment can be a helpful strategy for siting affordable housing in dispersed, opportunity-connected settings. In high- cost jurisdictions, using public land has become an essential tool for incentivizing the production of new affordable housing.

A successful public land policy involves a transparent process that balances competing interests in the publicly-held properties. In addition, the provision of free or reduced price land can have a major impact on the costs of development—and, therefore, on the ability to produce below-market rate homes—in some types of neighborhoods and less of an impact in others. Several jurisdictions across the country have implemented successful, formal public land programs (e.g. San Francisco, California and King County, Washington).

In 2002, the City of San Francisco amended its Surplus City Property Ordinance to require the transfer of underutilized or surplus property to the Mayor's Office of Housing for the development of affordable housing, particularly housing for the homeless. Examples of agencies subject to the policy include public works, public health, libraries and parks and recreation. Properties that are suitable for housing development are to be sold or leased to a nonprofit for the development of affordable housing. Properties that are unsuitable for housing development are sold in order to generate financing for affordable housing.

Washington, D.C.'s Disposition of District Land for Affordable Housing Amendment Act of 2014 requires that all new multifamily residential developments on city-owned surplus land include at least 20 to 30% affordable housing. The exact level of affordability depends on the site's location; the percentage rises to 30% for sites within a half-mile of a Metrorail station, within one-quarter mile of a streetcar line or within one-quarter mile of a Priority Corridor Network Metrobus Route.

CHALLENGES

While using publicly-owned land for housing is often an effective way of lowering development costs and creating more affordable housing opportunities, there are often competing preferences for the use of public land. Preserving public land as open space, for example, is particularly important to many residents. Identifying specific publicly-owned parcels for affordable housing development could generate community opposition if there is not a public citizen participation process in the site identification process.

LOCATION

The housing needs and market analysis conducted for the Montgomery County Rental Housing Study has identified vacant and underutilized parcels in neighborhoods throughout the county. To this point, developing a strategy for the use of public lands to meet affordable housing needs should be done on a countywide basis. Part of this assessment should consider the appropriateness of the location to accommodate income-controlled rental housing.

RECOMMENDATION

Montgomery County has been successful in using public land for affordable housing and has found opportunities in the past to co-locate public services on sites with new affordable rental housing. The RKG team recommends that the County 'increase its efforts to identify vacant and underutilized public land, and expand the use of publicly-owned land to subsidize the development of housing affordable to low-income households (e.g., below 50% AMI).

Other potential considerations include:

- *Land Swaps* – What should we do if a publicly owned site is better situated to be a private development? In addition to a more proactive approach to assessing a disposition for public land, the County should consider the potential for land swaps. These land swaps entail trading public land that may be best suited for residential/mixed use development for private land that is suitable to meet the public use needs of the county land. This approach is most appropriate when considering a public parcel where co-location is inappropriate (e.g. a jail facility).

Inventory of At-Risk Properties

DESCRIPTION

Create and maintain up-to-date and maintained inventory of both subsidized and non-subsidized affordable rental properties in the county to be able to plan for strategic investments in the preservation of existing affordable rental housing.

NEED AND BENEFIT

The effectiveness of even the most well-designed preservation programs depends on the timely identification of at-risk properties. A strong data collection effort can help municipalities identify better quality affordable rental properties that appear to be at risk of loss and for what reason, and prioritize their outreach and preservation efforts accordingly.

However, equally important to tracking subsidized units is the ability to identify and track naturally occurring affordable units in the County. Few local jurisdictions across the country have demonstrated successful processes for tracking unregulated units.

If the county can identify naturally occurring affordable properties (e.g. non-subsidized properties), there could be expanded opportunities to purchase those properties and establish long-term affordability through the County's Right of First Refusal Program OR to work with property owners to provide incentives (e.g. tax exemption/abatements) to maintain some or all the units as affordable for a period.

BEST PRACTICES (PRECEDENTS)

The recently created National Housing Preservation Database can provide states and localities with a good head start on creating their own databases of at-risk properties. This database incorporates all available data on federally subsidized housing properties and includes nine separate funding streams.

CHALLENGES

Creating an inventory of rental properties at risk of redevelopment, condominium conversion or rent increases is an important first step. However, the challenge is being able to act on that information. Significant public resources, along with collaboration with non-profit developers, would be needed to purchase entire developments. County resources would also be required to proactively work with developers to encourage maintenance of units as affordable over the long-term. It is likely that tax abatement/exemptions would not be a sufficient inducement for property owners. Instead, the County might need to be more active in working with property owners to explore redevelopment options that increase the potential for market-rate development on-site while preserving some share of existing units as affordable.

LOCATION

An inventory of rental properties is a countywide effort, but the benefits of the inventory to assist in the preservation of existing affordable housing is most likely in Existing Metro-accessible Neighborhoods, Future Purple Line Neighborhoods, and Existing Rental Neighborhoods. The largest stock of rental housing in Metro-accessible Neighborhoods include

Future Purple Line Neighborhoods contain a plethora of older and smaller rental structures which can lead to difficulties in tracking affordable housing units. However, gathering information about the stock of affordable rental housing, particularly naturally occurring affordable rental housing, and the prospects for redevelopment will be critical with the development of the Purple Line. Existing Rental Neighborhoods contain an extraordinary amount of affordable rental housing which will be important to track and find opportunities for preserving as affordable or incentivizing opportunities for redevelopment with preservation.

RECOMMENDATION

The RKG team recommends Montgomery County take four steps to better understand locations and character of existing affordable rental housing 1) develop a comprehensive inventory of rental properties affordable to households with incomes below 80% AMI, including both subsidized/regulated units and naturally occurring affordable units, 2) map the locations of those properties, 3) track information related to those properties, including subsidy expiration date (as applicable), ownership and sales transaction information, code enforcement information, among other information and 4) develop a set of criteria to rank properties based on their prospects for redevelopment and/or rezoning.

Having a detailed inventory and a ranking of existing naturally occurring affordable rental housing could help guide the county's policies related to acquisition (e.g. right of First Refusal) and could also guide planning and rezoning efforts undertaken as part of small area plans.

Other potential considerations include:

- *Scoring* – How do we determine which properties are the highest priority to target? Several criteria should be used to determine how valuable a particular property is, relative to affordable rental housing. At a minimum, the County should assess proximity to transit, services and employment centers, total number of affordable units, income groups served by the property, property condition and number of family units. However, the final list and weighting of the attributes need to be determined by M-NCPPC, DHCA and the Montgomery County leadership.

Expanded Right of First Refusal

DESCRIPTION

Expand the county's Right of First Refusal policy by increasing resources dedicated to affordable housing and encouraging more collaboration between the County, HOC, and other non-profit developers.

NEED AND BENEFIT

Montgomery County and its combined public housing and housing finance agency, the Housing Opportunities Commission (HOC), have the right to match contracts on rental facilities built before 1981 or on rental buildings being sold for conversion to condominiums. The county's Right of First Refusal (RoFR) program is a powerful and proactive tool for preserving affordable housing and promoting equitable redevelopment in the county. Through the RoFR, the County and its developer partners can ensure long-term affordability, setting rents and income targets at levels that most align with needs.

BEST PRACTICES (PRECEDENTS)

By law, Montgomery County and its combined public housing and housing finance agency, the Housing Opportunities Commission (HOC), have the right to match contracts on rental facilities built before 1981 or on rental buildings being sold for conversion to condominiums. Certified tenant associations also have the right to match the contract on rentals built prior to 1981. The right can be waived if the purchaser commits to preserving the building as a rental property for five years with rent acceptable to the County, or makes a cash contribution to the Housing Initiative Fund, which supports affordable housing countywide.

Across the country, right of first refusal laws vary in the length of time that they provide to designated buyers to make an offer to purchase, but typically range from 30 to 90 days. In some cases, existing residents can preserve the property as affordable by agreeing to waive their rights to purchase the property in exchange for a promise by the purchaser to keep some or all the units affordable for a certain number of years. In other cases, the tenants either purchase the property themselves or transfer their rights to a nonprofit or mission-driven for-profit company that agrees to maintain the property as affordable rental housing.

For a right of first refusal to be successfully exercised, two factors need to be put into place very quickly. First, there must be a capable buyer, which typically involves residents partnering with an entity that has experience purchasing and operating rental housing. Second, the buyer needs quick access to capital to close the transaction. Government funding programs that can respond quickly and flexibly to requests from nonprofits and tenant groups seeking to purchase and rehabilitate at-risk housing can therefore enhance the effectiveness of notification and purchase rights laws.

Some jurisdictions have also made use of Right of First Refusal laws to mitigate the impacts of condominium conversion on the supply of affordable rental housing. For example, Boston's condominium conversion ordinance gives tenants a right of first refusal to purchase their units, along with several other protections. Before converting a rental unit to condominium, Boston requires developers and property owners to give a five-year notice to senior, disabled and low-income tenants. If the lease expires within the notice period, the owner must extend the lease to allow the tenant to stay for the entire notice period. Also, throughout the notice period, annual rent increases cannot exceed 10% of the Consumer Price Index. Owners must provide displaced tenants a relocation stipend of up to $10,000 if they are low-income, elderly or disabled.

CHALLENGES

The cost of purchasing multi-family rental properties in the county is a huge obstacle to the expansion of the county's RoFR program, and competing on the open market can be prohibitive.

Despite these financing challenges, with increased funding and an explicit strategy for deploying Housing Initiative Fund funds, the county and/or HOC could make use of the RoFR opportunity more often. Dedicating resources to the MHI for acquisition could face opposition from residents that want county resources to be deployed for other services.

LOCATION

The most significant opportunities for use of an expanded RoFR program in Montgomery County are in Future Purple Line Neighborhoods and Existing Rental Neighborhoods. These areas of the county have a significant number of older rental properties which may be less expensive than properties in Existing Metro-accessible Neighborhoods. With the arrival of the Purple Line, neighborhoods near the new transit may experience increased redevelopment pressure. The oldest multifamily buildings in these neighborhoods will be attractive to investors but may also be good targets for purchase by the county and its partners. Existing Rental Neighborhoods have some of the oldest multifamily stock and will likely see an increase in the amount of multifamily buildings that are purchased, renovated and have their units converted to higher rents in the years to come. Therefore, properties in these neighborhoods also offer potential opportunities for investment by the county and its partners.

RECOMMENDATION

The RKG team recommends that the County expand use of its RoFR program by pursuing the following steps: 1) identify new and dedicated sources of funding for the Housing Initiative Fund that are specifically to be used for supporting the purchase of multifamily rental properties, 2) work closely with HOC and other non-profit developers to identify additional sources of flexible capital that would allow quick action when properties become available, 3) establish a capital fund that holds the money outside the county structure that can be used within the timeframe allowed under the existing RoFR policy and 4) use the inventory of at-risk properties to prioritize acquisition activities.

Other potential considerations include:

- *Capital fund* – How much money should the county be putting into acquisition/preservation? While the amount of money earmarked for all affordable housing programs is not set amount each year, it was reported that the annual contribution can reach $50 million. While DHCA makes the most of these resources, they are woefully insufficient to enact a sizable RoFR program. To put this in perspective, it was reported that apartment sales generally range from $150,000 to $250,000 per unit. A single 300-unit complex could have a purchase price of $45 million to $75 million, effectively wiping out the entire affordable housing budget on a single property.
- *Inventory list* – How does the RoFR policy mesh with the Inventory action? The inventory of at-risk properties will help make go/no go decisions on implementing the RoFR policy as housing complexes come up for sale/condo conversion. Having a targeted list will help determine if a particular complex is worth the investment.

Redevelopment with Preservation Incentives

DESCRIPTION

Develop a tool within the zoning code that allows density to be shifted from one part of a site with an existing affordable multifamily rental building(s) to another part of that site in exchange for a portion of the existing affordable housing to be preserved as part of the redevelopment.

NEED AND BENEFIT

A significant share of the affordable rental housing in Montgomery County is in existing naturally occurring affordable rental buildings. These buildings, however, often face significant redevelopment pressures that could result in rent increases or condominium conversions. These properties are often located on parcels that allow for higher densities than the current properties account for, so there is an incentive to demolish existing units and rebuild a new complex at much higher densities. Even with the provision of units required through the County's MPDU program, this almost redevelopment always results in a net loss of affordable units.

A tool that promotes redevelopment along with preservation incentives could be effective at both preserving existing units and allowing for the development of new units. In areas designated by an overlay zone or some other policy mechanism, owners of naturally occurring affordable rental properties would be allowed to redevelop one section of their property at a level of density that averages out—including the preserved units—to the maximum allowable density. In other words, the redeveloped portion would be built to a higher level of density that when combined with the preserved section, equal to the maximum allowable density. This tool has the advantage both of promoting development of new market-rate units and MPDUs, while at the same time preserving existing units with new affordability terms.

The tradeoff for the developer would be reducing construction costs (from new construction to renovation) for a portion of the affordable units in exchange for a higher percentage of overall affordability (above the 12.5% or 15% based on zoning).

BEST PRACTICES (PRECEDENTS)

A significant share of the affordable rental housing in high-cost communities around the country is in existing, naturally occurring affordable rental buildings. These buildings, however, often face significant redevelopment pressures that could result in rent increases or condominium conversions. When these properties are located on parcels that allow for higher densities, there is an incentive to demolish existing units and rebuild a market-rate building or buildings at much higher densities. There is also an opportunity to allow for a density transfer within the same site and require a certain share of existing units to remain affordable even as the development of higher-density market-rate housing is allowed. In Arlington County, Virginia, the non-profit developer AHC successfully worked with the County to complete a redevelopment with preservation option in the Court House neighborhood of Arlington.

CHALLENGES

There may be challenges with identifying sites on which this type of redevelopment with preservation is appropriate. It is likely that the property owner would have to be allowed to construct buildings denser/higher than if the site was uniformly redeveloped. Depending on where the property is located in the county, there may be resistance from nearby residents to increased density.

Another challenge relates to the preservation of existing, naturally occurring affordable units. It may be difficult to determine the appropriate share of units that should be preserved (e.g. 25%, 50%) and it may be that the existing units are beyond their useful life, meaning that the level of rehabilitation needed to bring them up to quality standards would be too high to make it economically feasible.

LOCATION

Given how the onsite density averaging strategy transfers density onto a smaller portion of the lot, it is most likely that participating property owners will need to have taller buildings than currently allowed under the zoning. To this point, the redevelopment with preservation likely is most appropriate in existing urban centers and along transit lines. The Purple Line neighborhoods are an ideal candidate, as redevelopment pressures already have begun affecting naturally occurring market rate rental properties. Any location where the property is not immediately adjacent to several single-family neighborhoods is likely a good candidate.

RECOMMENDATION

The RKG team recommends that the Montgomery County pursue a strategy that incentivizes preservation alongside redevelopment. Three key steps are suggested for moving forward on this strategy: 1) identify potential sites for redevelopment with preservation, 2) determine the appropriate mechanism for implementation, and 3) determine the appropriate level of preservation.

The inventory of at-risk properties the RKG team is recommending the county develop will be instrumental in the county's ability to pro-actively work with property owners to maximize redevelopment potential along with preservation. The mechanism for this type of density shift could be written formally into the zoning code, or could be a more ad hoc process of working on a case-by-case basis with property owners. In the early stages of implementation of this strategy, it is likely that a more ad hoc implementation would be most effective. Finally, the preservation of existing units depends critically on the viability of the units (e.g. housing that can be upgraded to create high quality affordable housing). The condition of the existing housing will determine the number or share of units that should be required to be preserved under this strategy, which is another reason why implementing the strategy on a case-by- case is the preferred option. Therefore, the policy should require a greater percentage of MPDU units than called for under the current zoning (e.g. 20% MPDU units rather than 12.5%, 25% in CR zones)

Other potential considerations include:

- *Variances* – What about the inevitable "exception to the rule?" Parcels that are oddly shaped, are impacted by reclamation of wetlands, or other conditions that prohibit the full development of the site should have a prescriptive remedy to address the situation. The RKG team recommends that the M-NCPPC staff review the site in question and preempt any potential challenges to meeting the policy's maximum benefit. Remedies could include greater height requirements, Resource Protection Area (RPA) waivers, or some other tool that enables the development.

- *Small parcels* – What about parcels that are too small to shift density? It is likely that this policy will only work for larger complexes with multiple buildings (the RKG Team believes three buildings at a minimum). If the lot is only big enough for one building, onsite density averaging will not work.

Financial Education

DESCRIPTION

Provide financial education/credit counseling for income-qualified households to make them more creditworthy tenants.

NEED AND BENEFIT

Obstacles to finding affordable housing sometimes go beyond simply the cost of housing. Many households may have sufficient income to rent a home but may need credit counseling or other assistance to find and qualify for suitable housing. Improving renters' financial literacy can also better position them for homeownership, if that is their goal. In any case, data provided by existing rental housing management companies within Montgomery County have indicated that households receiving credit counseling tend to maintain their leases for longer than their counterparts.

Financial education and literacy programs tend to focus on households seeking to achieve homeownership. These efforts oftentimes are connected to public housing programs. That said, there are good examples of financial education programs already in place within Montgomery County. DHCA has a financial literacy program for households seeking to become homeowners, while the local rental housing financial literacy program is privately operated.

CHALLENGES

Financial education and literacy programs can be beneficial but can be challenging in their effectiveness. This type of credit and financial counseling does not ensure individuals and families will have access to a greater range of housing opportunities. It can sometimes be difficult to get renters to participate in these types of programs, so it is important to make them as convenient as possible. Finally, the county should be prepared to decide how to handle participation by non-county residents.

LOCATION

Renters in all parts of Montgomery County could benefit from a financial education/literacy program.

RECOMMMENDATION

The concept here is for Montgomery County to partner with the current education effort within the county as well as other private entities to create a countywide, centralized financial education program. The RKG team recommends that the county design and administer a financial education program for current and potential renters in Montgomery county, partnering with non-profits and the private sector and building off existing programs in the county.

BEST PRACTICES (PRECEDENTS)

Expanded Housing Initiative Fund Appropriations

DESCRIPTION

Allocate County funds to the Montgomery Housing Initiative (MHI) fund during the budget process.

NEED AND BENEFIT

To increase the ability of the County to pursue strategies to proactively support the production and preservation of rental housing affordable to low- and moderate-income households, it will be essential to expand the amount of resources available for housing programs. An allocation in the County budget specifically for housing initiatives is an important tool for expanding resources. A general appropriation allows the County flexibility to decide how to allocate funding to meet specific housing needs in the county. Additional funding from the budget creates opportunities to leverage other public and private-sector funding for expanding housing options. Because general funding is not tied to a specific state or Federal program, these funds would allow a great deal of flexibility.

BEST PRACTICES (PRECEDENTS)

Across the country, communities are looking for new and innovative sources of funding at the local level. In high-cost communities, it is increasingly unlikely for resources to be made available from the Federal or state government. Since the 2008 recession most local jurisdictions have stepped away from dedicating local resources to local housing trust funds. However, as housing affordability challenges grow across the country, and as there is growing awareness of the importance of housing to strong and healthy communities and economies, and as local budgets improve, it is likely that more local jurisdictions will be looking for ways to support housing preservation and production through general appropriations.

CHALLENGES

While a general appropriation can provide the most flexible and useful funding to a local housing trust fund, it can be challenging to negotiate that appropriation. The primary obstacle is the competing priorities for local funding, particularly schools. With limited local revenue, there is little to no discretionary spending which means that if spending increases for one priority (e.g. housing) then it must decrease for other priorities (e.g. schools, transportation, parks, social services, etc.).

Some communities have dedicated a small share of the property tax rate to an affordable housing fund which can amount to a dedicated source of funding. However, without raising the county's property tax rate, there still exists the challenge of making the case that funding for housing is as important—or more important—than spending on other public services.

LOCATION

Increasing resources for the production and preservation of affordable rental housing would be beneficial to all parts of the county since many of the proposed tools—targeted at all areas throughout the county—depend on increasing resources.

RECOMMENDATION

The RKG team recommends assessing the political will for dedicating general funding for housing during the budget process, including a better understanding of the education or outreach to Montgomery County Council members and the public that would help build support for that funding.

Other potential considerations include:

- *How much?* – How much money should the county be putting into rental housing? As noted on the RoFR recommendation, although the amount of money earmarked for all affordable housing programs is not a set amount each year, it was reported that the annual contribution can reach $50 million. The rental housing need analysis revealed existing housing need would take billions of dollars to address. The RKG team recommends that Montgomery County follow the District of Columbia's lead and increase dedicated funding to at least $100 million annually.

Payment in Lieu for Smaller Projects (<20 units)

DESCRIPTION

Implement a payment in lieu for smaller projects not subject to the MPDU program requirements (e.g. less than 20 units) that would be used to support the county's Housing Initiative Fund.

NEED AND BENEFIT

Additional sources of funding are needed to meet the County's growing housing needs. One new source of potential funding is from developers of projects that have fewer than 20 units which are currently not subject to the county's MPDU requirements.

While it can be difficult to build below market-rate units into smaller rental projects, the developers of these smaller projects could contribute a payment to the county's housing trust fund (the Montgomery Housing Initiative Fund) to support the development, rehabilitation or acquisition of affordable rental housing in the county. New funds could also be used for a local housing voucher program operated by the county or other rental assistance programs.

BEST PRACTICES (PRECEDENTS)

Some local jurisdictions with inclusionary zoning policies allow developers to meet the affordability requirements by paying a fee into a local housing trust fund. This fee in lieu can then be leveraged with other public and private resources to support the development of other 100% affordable or mixed-income housing developments. To ensure that collected in-lieu fees are invested in ways that lead to economically inclusive neighborhoods, a handful of localities place basic restrictions on where these funds can be spent.

As part of San Francisco's Inclusionary Housing Program, developers can meet affordability requirements by building their affordable units on-site or choosing from one of three alternatives: paying an "Inclusionary Fee," dedicating land or constructing the units off-site. In each of these alternative options cases, including the fee option, the affordability requirement increases from 12% to 20%.

San Diego's Inclusionary Housing Program allows for developers to meet their affordability requirements through payment of a fee or off-site development, in addition to on-site affordability. The city of Boulder's Inclusionary Housing Policy allows developers to pay an in-lieu fee, dedicate land, build new units off-site and, since 2000, rehabilitate and preserve existing market-rate rental or for-sale housing using a deed restriction. Boston's Inclusionary Development Policy requires the equivalent of 13% affordability for residential developments built with public assistance, located on public land or requesting zoning relief. Developers have the option of building the affordable units within the proposed development, constructing them off-site or paying a "buyout fee." Buyout fee revenues are deposited in a trust fund that supports affordable housing citywide.

In these examples, the fee option is an alternative compliance option under the city's inclusionary housing program and does not apply to a specific type of housing development (e.g. small projects). However, these communities provide precedent for developing a fee option to capitalize on market activity and support a local housing trust fund.

CHALLENGES

Requiring a cash contribution from developers would mark a shift in county policy related to developer participation in the MPDU program. In addition to education about the new program, there could be challenges related to implementation. First, the County should set the payment appropriately to balance the need for additional resources for housing with the desire not to stymy market-rate housing development. The payment formula should be public and could be developed in collaboration with the development community.

Second, the total amounts collected through the new fee could be small enough to have only a small impact on the availability of public resources, and since it depends on market activity, it will be unpredictable. Third, even with the additional funding, the County will still face challenges having sufficient resources to acquire and redevelop buildings in the county.

LOCATION

This new fee associated with the development of smaller projects would be implemented countywide, however the impact would likely be greater in areas of the county where smaller projects are more likely to be built, including Existing Suburban Neighborhoods.

RECOMMENDATION

The RKG team recommends that the County assess a fee for projects with 1 to 20 units. The amount of the fee should be set based an on evaluation of market conditions and a review of similar in lieu fees in other communities. Most importantly, the in-lieu fee should be a sliding scale, and not triggered as specific unit counts. Many other communities with threshold values have affected development by having projects delivered just below the threshold that otherwise would have provided more units. A starting point for discussion would be to capitalize the equivalent of 12.5% of the units being under the MPDU program.

Other potential considerations include:

- *Market impact* – Enacting a payment in lieu of fee for smaller projects could have a similar chilling effect on new development in the short term. Adding cost to these smaller projects will adversely impact land values. New construction could be halted if property owners become unwilling to sell based on these new market values.

Demolition Fees

DESCRIPTION

Implement a demolition fee or tax on property owners for every demolished unit in a multi-family rental building.

NEED AND BENEFIT

Other sources of potential funding for affordable housing are demolition fees or taxes. These fees or taxes are designed not just to generate revenue, but also to help mitigate the loss of affordable rental housing through demolition and redevelopment. Resources generated from a demolition fee could be used to support acquisition or redevelopment of affordable rental housing in the county. The imposition of a tax or fee—coupled with an incentive, such as a tax exemption/abatement—could also encourage dialogue with property owners to maintain their properties as affordable.

BEST PRACTICES (PRECEDENTS)

Demolition fees or taxes seek to prevent or mitigate the loss of low-cost, affordable housing by requiring property owners to pay a fee and/or tax for every demolished residential unit. While demolition taxes are rarer than other forms of developer impact fees, these taxes are getting a closer look in hot housing markets where single-family "tear-downs" or the demolition of older apartment buildings are impacting the availability of affordable housing. Demolition taxes are best suited for jurisdictions with hot housing markets, and less helpful in areas with high levels of blight or abandoned properties.

In 2002, the Chicago suburb of Highland Park established an Affordable Housing Demolition Tax to fund the city's Affordable Housing Trust Fund (created in the 1980s). The city imposes a fee of $10,000 per building or $3,000 per residential unit (whichever is greater) on properties of which 50% or more is demolished. The tax does not apply in the case of demolition for the development of affordable housing, if the occupant has owned the home for five years and plans to own the home for at least five years after the demolition, or in the case of city-ordered demolitions. The Affordable Housing Demolition Tax brings in around $750,000 annually and most of the revenue received is allocated to the city's housing trust fund, while one-third goes into the city street and bridge fund.

CHALLENGES

Demolition fees limit the ability of a property owner to sell and/or redevelop the property. In some instances, this limitation could result in a property being maintained in less than optimal quality and potentially in conditions that do not meet the ideals of the community.

LOCATION

A demolition fee or tax would likely be implemented at the county level. However, the demolition fee rate could vary across neighborhood types. Complexes in areas that have the greatest value to maintain (e.g. close to Metro/services) could have higher fee rates. The Future Purple Line neighborhoods and Metro Accessible neighborhoods are the most logical to have premiums for demolition.

RECOMMENDATION

The RKG team recommends that the County explore implementing a demolition tax. The evaluation of a potential demolition tax should include an assessment of political support for such a tax, as well as an assessment of the appropriate fee level and the ability to dedicate income generated from the fee or tax to the county's Housing Initiative Fund. Given the rates used in similar communities, a tax rate ranging from $1 to $3 per square foot is realistic.

Other potential considerations include:

- *Unit condition* – When is demolition preferred over preservation? Conversations with the development community, the advisory committee and the technical advisory committee revealed that not all properties are equally worth preserving. Issues such as modernization of units, energy efficiency, and onsite amenities are challenging to address in some properties. To this point, the inventory assessment proposed earlier should include rehabilitation value as a measured characteristic. In lieu of that approach, the County can implement a variance process where the developer can provide documentation about the challenges of rehabilitation in exchange for a fee waiver. The final decision should be at the discretion of DHCA.

Tax Increment Financing / Tax Refunds

DESCRIPTION

Enact a Tax Increment Financing (TIF)/tax refund policy and use revenue based on increased property values to support the production and/or preservation of affordable rental housing.

NEED AND BENEFIT

Both incentives provide financial relief for a real estate development project in exchange for the delivery of a public benefit. Whether the county uses TIF or a rebate program, the intent is to mitigate the additional cost of delivering more MPDU units and/or serve households with incomes below the 65% AMI threshold. The County uses several 'stick' approaches to deliver greater affordability within rental housing, this is a potential new "carrot" approach.

Furthermore, the TIF/refund strategy can be effective for both the preservation of units as well as new construction projects. It is important to note that TIF requires the money to be spent on a public investment, making it an indirect tool for preservation or new construction.

While the County currently has the potential of using payment in lieu of taxes (PILOT), PILOT is capped by the state in terms of total allowable incentives in any given year. The TIF/tax refund strategy provides additional tools to expand the value of this incentive, providing greater preservation/new construction.

BEST PRACTICES (PRECEDENTS)

TIF is a tax revenue based incentive where the government entity commits some/all of the incremental increase in real property tax revenues for a defined period of time to defray the cost of public improvements on that site. Similar to TIF, tax refunds are refunds of a portion/all of the incremental growth of real property tax revenues provided by a government entity for a defined period of time in exchange for the delivery of a public good (e.g. additional income-controlled housing).

TIF has become a popular source of revenue for economic development projects in many cities, but can also be leveraged for the development of housing. TIF is used within 48 states to finance redevelopment projects against the anticipation of future tax revenue resulting from new development. While the base amount of property tax revenue (the level before redevelopment investments) continues to fund city services, the increase in tax revenue is used to pay bonds, reimburse investors and is often captured as city revenue and allocated to other projects. The use of TIF revenue to finance affordable housing programs can ensure that new economic development and growth do not have a negative impact on affordability in the city.

Since the early 1970s, the Salt Lake City Redevelopment Agency (RDA) has dedicated a percentage of TIF income toward housing projects, serving households at a variety of income levels. From 1999 to 2009, the RDA contributed a total of more than $6 million to the Salt Lake City Housing Trust Fund. In addition to these contributions, the RDA allocates revenue into two RDA housing funds: a project-area housing fund and a citywide housing fund.

CHALLENGES

Communities are potentially challenged anytime a financial inducement is offered to influence real estate decisions. The use of real property tax dollars can be particularly inflammatory, given the impact that deferred collection can have on increases in school funding. While either option should be measured against the "but for" test, many people still see TIF/refunds as giving away potential revenue. As noted in other tool discussions, the county has many funding priorities. Committing TIF/refund revenues to affordable housing could bring resistance from individuals who would rather see that money spent elsewhere (e.g., parks/schools).

LOCATION

The use of TIF/tax refunds should be a countywide policy. That said, the implementation of these tools should be reserved for projects that address particular needs within the county (e.g. households earning below 30% of AMI or persons with special needs). At a minimum, the county should ensure that the value of the incentive is matched by the value of the additional benefit for renter households.

RECOMMENDATION

The RKG team recommends the county enact a TIF/tax refund policy that offers 75% of the realized increment for 20 years in exchange for an equal capitalized value in either the increase in percentage of units provided as income controlled or meeting a lower income threshold than the current 65% of

AMI. DHCA can calculate the capitalized value and apply that to increasing unit/square footage or targeting a lower AMI threshold.

Other potential considerations include:

- *Share of increment* – How much of the increment should be committed increasing rental housing affordability? The threshold for the share of increment available will be set by the County leadership. The proposed 75% attempts to strike a balance between creating enough value to make the incentive effective and respecting that there are other priorities to consider. By preserving 25% of the increment for use elsewhere, it can alleviate some community concern surrounding underfunding. A greater discussion around the ultimate threshold will need to occur.

Lobby for 9% LIHTC Credit Set Aside

DESCRIPTION

Participate in a regional effort to lobby the state for a special set aside of tax credits for the Maryland suburbs of Washington DC.

NEED AND BENEFIT

The Low Income Housing Tax Credit (LIHTC or Tax Credit) program has become the primary funding tool for rental housing affordable to low- and moderate-income households. The program provides federal tax credits that are sold to investors to raise equity to construct affordable housing and maintain affordable rents. LIHTC projects typically target household earning 50 to 60% of area median income (AMI).

Nine percent credits (typically used for new construction) are awarded to developers by the state through a competitive process outlined in the state's Qualified Action Plan (QAP). Since the program's inception in the mid-1980s more than 80 properties developed in Montgomery County using the LIHTC. However, many projects in the county remain uncompetitive for tax credits due to how the state QAP awards points to projects. County areas with greater numbers of low-income families and more areas of concentrated poverty tend to be more competitive for the tax credits in Maryland.

A special set aside for the DC suburbs (Montgomery County, Prince George's County) that recognizes the higher costs of development as well as the different housing needs could be an important mechanism to increase funding for affordable rental housing in the County. The Virginia suburbs of Washington DC have negotiated a special set aside of tax credits with the Commonwealth of Virginia, a process which Maryland could follow.

BEST PRACTICES (PRECEDENTS)

Partially because of a lobbying effort on the part of Northern Virginia jurisdictions, the state's housing finance agency (VHDA) divides the available annual 9-percent credit amount into pools based on geography. Northern Virginia is allocated 18.02 percent of the state's competitive tax credits in the latest tax credit allocation process.

CHALLENGES

It can be difficult to negotiate for a change to housing policies at the state level, particularly when housing needs in other parts of the state remain acute. There would need to be buy-in from local political leadership and a well-organized advocacy effort to hope to bring change in Annapolis. Furthermore, the set aside for the DC suburbs would involve partnership with Prince George's County, and elected offcials there may not have the same interest in expanding tax credit projects in their community.

LOCATION

The ability for the Montgomery County to attract more tax credits ould benefit projects throughout the county.

RECOMMENDATION

The RKG team recommends that the county begin working internally and with Prince George's County to develop a strategy for lobbying at the state level for a set aside. Part of this effort should include reviewing the Northern Virginia set aside, and gathering information from localities that were engaged in that effort.

Other potential considerations include:

- *Opportunity cost* – Should the county pursue this effort? There will be a cost to pursuing a state-level change, both from human and financial capital. The county (hopefully in partnership with Prince George's County) will need to secure a professional lobbying effort. Assigning staff to work with the lobbyists, and the cost of the lobbyists themselves, will take resources away from other potential affordable housing investments available.

Expanded Local Housing Voucher Program

DESCRIPTION

Consider expanding the local housing voucher program, funded with dedicated resources.

NEED AND BENEFIT

Housing vouchers are a key component of a comprehensive rental housing strategy in the county, and are particularly important for ensuring that very and extremely low income households can find housing they can afford. The federal Housing Choice Voucher (HCV) program provides rental subsidies to income-eligible households and is administered by HOC. Applicants receive a voucher that entitles them to rent an apartment in the private marketplace, while limiting their rental payment to between 30 and 40% of their adjusted income. HOC pays the landlord the remaining portion of the rent through HUD appropriated funds called Housing Assistance Payments. The maximum amount that HOC can pay is determined by HUD. There is a waitlist for HCVs and it is unlikely that resources for the HCV program will expand in the future.

BEST PRACTICES (PRECEDENTS)

Arlington County, Virginia's Housing Grants program provides rental assistance to low-income Arlington residents. These grants cover a portion of monthly rent, depending on household income, household size and rent amount. Applicants must meet income requirements (generally up to 50 AMI) and personal assets may not exceed $35,000. Priority is given to seniors (65 years or older), individuals who are totally and permanently disabled, working families with at least one child under age 18, and clients and patients of a county-operated or county-supported mental health program.

Arlington County also has a small local housing voucher program. The county's Rental Assistance Program (RAP) aids households who meet income, age, disability, need or other requirements. RAP helps low income families pay their rent by issuing a monthly check payable to the tenant and the landlord each month. The county's Handicapped Rental Assistance program helps low income disabled individuals with support towards rental expenses in licensed care facilities.

HOC administers Montgomery County's Rent Supplement Program. This program provides a shallow rental subsidy (about $250 to $350 per month) to working poor households living in five privately-owned rental properties.

CHALLENGES

The county would need to dedicate new resources to an expanding local housing voucher program and these resources would need to be committed over the long-term. The cost of the program would vary based on market rents and, therefore, would vary by submarket. For example, to provide a voucher to a family with an income of 30% AMI in Bethesda/White Flint would cost between $21,000 and $63,000 per year, while the annual cost would be between $13,000 and $22,000 in the Route 29 corridor.

Another challenge to the voucher program is a lack of landlords willing to take vouchers. Without a law related to source of income discrimination, landlords are not required to rent to voucher holders Therefore, families with access to a new voucher may have difficulty finding a unit in the county where they can use it

LOCATION

An expanded voucher program would benefit residents throughout the cunty.

RECOMMENDATION

The RKG team recommends that the county fund an additional 10 vouchers each year for five years and to analyze potential constraints on units and assess potential priority groups for future expansions of the program.

VI. Other Tools Considered

The list of recommended tools should not be interpreted as the only potential actions the county can take to best meet the needs of current and future renter residents. Rather, these tools have the greatest potential to achieve the study's stated goals within the context of market and financial feasibility. Many of these tools were considered that are relevant to rental housing policy formation, but are not recommended by the RKG Team for implementation at this time.

Nevertheless, the RKG Associates team felt it necessary to present the county leadership with all options, especially since market conditions/ financial markets can change. To this point, it is the recommendation of the RKG team that all of the proposed tools be revisited on a periodic basis to assess their current/potential effectiveness.

Other tools considered include:

- Off Site Density Averaging/Transfer of Development Rights
- Property Tax Abatement for Rehab
- Commercial Linkage Fees
- Enhanced Eviction Prevention and Protection
- Rent Control/Stabilization
- 4% LIHTC Program

Off-Site Density Averaging/ Transfer of Development Rights

DESCRIPTION

A process whereby allowable density on one parcel can be transferred to another parcel within the county or within a designated planning area.

NEED AND BENEFIT

Density averaging, or transfer of development rights (TDR), is a market-based tool used to simultaneously promote protection of open space and encourage development in areas that are underutilized, and accommodate higher densities. TDR works by designating "sending areas," where future development will be limited, and "receiving areas," on which more intense land use will be targeted. For a negotiated price, landowners in sending areas shift the right to develop their land to owners in receiving areas, who are then entitled to build at greater densities.

While the mechanics of TDRs can be complicated, a clear and detailed TDR policy can help communities achieve a broad set of local goals while allowing land use flexibility that would not otherwise be permissible under traditional zoning policies. TDRs do not increase overall density; rather they use the economic value of increased density to make funds available for the development or rehabilitation of affordable homes.

There may be ways to use TDR more creatively to produce more affordable rental housing in areas where there is the most demand while meeting other county goals (e.g. public open space) in specified parts of the county. Increased density in designated areas can create more opportunities for rental housing options that are well-connected to transit, employment and amenities.

BEST PRACTICES (PRECEDENTS)

Montgomery County's TDR program has been upheld as a model successful program for protecting the county's rural and historic land in a way that works for farmers and developers. However, the County has not used TDR to produce more affordable rental housing in areas where there is most demand. Other communities have used TDR for this purpose.

Under Seattle's TDR program, commercial developers who want more density than allowed under zoning rules can purchase unused density from owners of downtown properties with affordable housing, landmark buildings, or major open space. To enhance efficiency, nonprofits that need funds to repair and preserve their properties can sell the development rights to the city, which deposits them in a "TDR Bank" for later sale to office and hotel developers on an as-needed basis.

CHALLENGES

TDRs can be complex to set up and a TDR program requires that both "sending" and "receiving" areas or parcels be designated, generally through an overlay to the zoning code. Identifying areas as "sending" or "receiving" areas changes the value of the land and therefore could significantly impact property owners and could generate public opposition. In addition, the transfer or sale of density is usually entirely voluntary; owners of "sending" properties are not required to sell their density under a TDR

LOCATION

A density averaging/transfer of development program would be implemented countywide. The availability of sending and receiving locations would vary based on the existing zoning and the availability of land.

RECOMMENDATION

The RKG team is not recommending a broad density averaging/transfer of development rights programs for housing at this time. The county's current density averaging concept involves establishing an average density for specific planning areas, and allowing property owners not interested/unable to maximize their lot density to sell the excess density to neighboring properties that are interested in (re) development. This strategy is not optimal to create cohesive, consistent neighborhoods. It is the RKG team's concern that this approach will create a 'jack o' lantern' look to these areas. A more traditional sending (e.g. agriculture reserve) and receiving (e.g. Friendship Heights/Bethesda/White Flint) strategy would be a better solution, and is one the County already implements.

That said, this recommendation is separate from the previous recommendation that encourages on-site density transfer to accommodate affordable housing preservation (Redevelopment with Preservation Incentives)

Property Tax Abatements/ Exemptions for Rehab

DESCRIPTION

Property tax incentive programs work by freezing or lowering the real estate tax assessments for properties that preserve affordability over a designated period of time.

NEED AND BENEFIT

A significant share of Montgomery County's affordable rental housing is in market-rate-affordable properties—that is, buildings where units are affordable to households earning below 100% of AMI because of the age, condition, amenities and/or location of the property. Many of these units could be lost from the stock of affordable housing through redevelopment, rent increases or condominium conversion. Mechanisms for both incentivizing and requiring units to remain affordable could be an important part of the county's strategy for ensuring a sufficient supply of housing affordable to lower-income households.

A tax abatement/exemption program is one incentive to encourage property owners either to keep rents at affordable levels and potentially to change leasing processes to ensure renters with incomes below certain thresholds occupy the units.

BEST PRACTICES (PRECEDENTS)

States and localities have adopted various types of tax incentives to encourage owners to preserve the affordability of subsidized and unsubsidized affordable rental homes. Some incentives are intended to make it financially feasible for owners of low-cost rentals to bring their properties up to current living standards without raising rents to levels unaffordable to low-income residents. Others seek to encourage property owners receiving federal, project-based Section 8 assistance to continue to participate in the program.

In Cook County, Illinois, the Class S program encourages owners of project-based Section 8 multifamily housing in high-cost markets to keep their units affordable by reducing the tax assessment by up to 33%. The Class 9 program offers a similar reduction to owners of unsubsidized properties who complete new construction or major rehabilitation of multifamily buildings and reserve 35% of the units as affordable. In 2001, Cook County extended the Class 9 program from just low-income census tracts to all areas of the county, an important strategy for encouraging mixed-income development. In 2008, to reduce incentives for converting rentals to condos, the county lowered the property tax assessment for apartment buildings from 26% to 20%, and to 16% in 2009. Each program is administered by the Cook County Assessor's Office.

CHALLENGES

Montgomery County faces obstacles to implementing tax exemption/abatements from the State, and would have to structure the program as a grant back to property owners on taxes paid. Furthermore, it is unlikely that a property tax exemption/abatement would be a sufficient inducement to a property owner to maintain units as affordable if market pressures existed for condominium conversion or rent increases. In other words, the financial benefit from the abatement would not offset the cost of preserving affordability.

Another important challenge is the issue of determining which existing naturally occurring affordable rental units should be preserved as affordable through programs such as a tax abatement/exemption program. The County would need to establish a procedure for deciding which properties could be efficiently preserved with targeted investment and which are beyond rehabilitation.

In addition, the County would need to determine a process for determining whether it wanted to preserve the rent levels of units or to go further to ensure that individuals and families below certain income thresholds occupied the units.

LOCATION

A property tax abatement/exemption could be beneficial in Existing Metro-accessible neighborhoods, Future Purple Line neighborhoods, Existing Rental Neighborhoods. In these areas, there are naturally occurring affordable rental housing that could be preserved with an incentive such as a property tax abatement/exemption, along with other incentives and requirements.

RECOMMENDATION

The RKG team is not recommending the county adopt a property tax abatement/exemption program for rehabilitation, but rather work with existing programs to better incentivize preservation.

Commercial Linkage Fees

DESCRIPTION

Commercial linkage fees are assessed on new commercial construction. They are based on assessment of the new housing that would be needed to meet the demand from new workers generated by new commercial development.

NEED AND BENEFIT

Commercial linkage fees are another potential source of funding for housing programs in the county. Commercial linkage fees are often based on studies that estimate the unmet need for new housing that new employees will generate locally. These fees are frequently tailored to land use to account for different employee generation rates for different types of commercial types (e.g., hotel vs. retail, office, or industrial). Such fees are also typically set below the actual cost-per-square-foot of producing new housing for new workers to balance the needs for job attraction with the provision of workforce housing.

The commercial linkage fees could be another source of funding for Montgomery County's Housing Initiative fund. Because commercial and residential development are often countercyclical, a fee based on commercial activity could be beneficial during times when affordable units and other payments based on residential development are low.

BEST PRACTICES (PRECEDENTS)

Several jurisdictions around the country have used commercial linkage fees to fund housing programs. Boston has assessed a linkage fee on commercial developments since 1986. The fee provides significant, dedicated revenue for the city's Neighborhood Housing Trust. The linkage fee applies to all new or expanding office, retail, hotel and institutional developments exceeding 100,000 square feet that are requesting zoning relief. In September of 2015, the suburban city of Boulder began collecting an Affordable Housing Linkage Fee on non-residential development to mitigate the upward pressure on home prices and rents resulting from strong job growth. It is estimated that the fee could bring in between two and three million dollars a year for affordable housing in Boulder. The fee rates are based on a 2009 jobs-housing nexus study for various types of commercial use.

Locally, Fairfax County's 20-year comprehensive plan for Tysons Corner, adopted in 2010, will allow significantly greater development intensity within walking distance of four of the county's new Metrorail stations, along with mixed-use development, a walkable street grid and other physical changes that support transit use. Any developer interested in accessing the lucrative redevelopment options outlined in the plan must include a "proffer" to support the production of workforce housing in the plan area. Commercial and mixed-use developers are expected to contribute $3 per square foot to the county's affordable housing trust fund. By adhering to these guidelines, developers can build to an unlimited floor-area-ratio (FAR) within a quarter mile of each Metro station, or up to a FAR of 2.4 or 3.0 elsewhere in each transit district.

CHALLENGES

The biggest challenge of a commercial linkage fee is setting the fee amount in such a way that it does not deter commercial development in the community. Ideally, the formula for the fee would be constructed in a way that ties the payment directly to the increase in needed housing, specifically housing that would require some type of public subsidy to support its development. When commercial vacancy rates are high and commercial development activity is low, a commercial linkage fee could be a non-starter politically.

LOCATION

The commercial linkage fee strategy is most appropriately applied in employment centers and along transportation corridors (both road and rail).

RECOMMENDATION

The RKG team does not recommend the commercial linkage fee at this time. Most notably, the county's non-residential market currently is not healthy enough to incur the additional cost. The implementation of this tool at this time could adversely impact non-residential developments, particularly mixed-use developments.

Enhanced Eviction Prevention and Eviction Protection

DESCRIPTION

Eviction prevention includes enhanced support services, financial assistance, and regulation to help renters at-risk of being evicted to remain in their homes.

NEED AND BENEFIT:

Evictions can be disruptive and destabilizing for any household, and especially so for low-income families, older adults and disabled renters. In Montgomery County, landlords do not have to cite a reason for evicting a tenant. Similarly, landlords can choose not to renew a lease, without cause, or to assess a surcharge for the right to continue on a lease month-to-month. Also, the state of Maryland does not forbid foreclosure as a rationale for evicting existing tenants, though the state does require advanced notification for tenants.

Montgomery County uses multiple tools to stabilize renters and help prevent evictions and homelessness, including its Eviction Prevention and Emergency Housing Assistance Program which assists households experiencing a housing emergency. The county could expand this type of assistance to renters, through enhanced counseling and financial assistance. In addition, the county could pursue options for enacting a good cause eviction law which would require landlords to demonstrate "good cause," such as nonpayment of rent or property destruction, before they can evict a tenant.

BEST PRACTICES (PRECEDENTS)

The State of Maryland has dedicated resources to help families or individuals that are faced with homelessness, and some of these resources are used to prevent the eviction or foreclosure from occurring in the first place. Assistance can take the form of emergency rental assistance or grants that can be provided for paying a security deposit on a new home. Other services include landlord - tenant mediation as well as access to transitional housing. The state has partnered with non-profits in local communities to connect families with these services.

CHALLENGES

The biggest challenge to expanded services and financial assistance for at-risk renters is the cost of providing those services to reach more renters. Additional obstacles exist related to a potential good cause eviction law. Property owners and landlords would oppose such a law. Enacting such a law at the local level could run into obstacles at the state level, as well.

LOCATION

Expanded eviction prevention services could benefit renters throughout Montgomery County, but particularly in neighborhoods where there is a significant number of low-income renters in unregulated buildings, including in Future Purple Line Neighborhoods and Established Rental Neighborhoods. Renters in Established Metro-accessible Neighborhoods may be at most risk of eviction due to redevelopment or rent increases, so expanded services could also help these renters. Finally, even in Established Suburban Neighborhoods, renters in single-family homes often face eviction pressures for a variety of reasons, including the potential of foreclosure on the property owner.

RECOMMENDATION

The RKG team does not recommend that the County enhance its existing eviction prevention/ protection services at this time. At a base level, the potential cost to implement the changes are too great compared to other implementation opportunities.

Rent Control/Stabilization

DESCRIPTION

Restriction on how much or how quickly landlords can raise rents on privately-owned units that are not subsidized or otherwise subject to affordability deed restrictions.

NEED AND BENEFIT

Montgomery County uses multiple tools to require or incentivize that rents remain at specified levels to help expand housing options and help prevent evictions and homelessness. These programs include the county's MPDU program, Right-of-First-Refusal (RoFR), Condominium Conversion program, as well as a variety of rental assistance programs, including the Housing Initiative Rental Subsidy Program and County Rental Assistance Program. Projects built under the LIHTC program also have rent requirements. However, Montgomery County does not have a rent control program that puts limits on rents of privately-owned, non-subsidized rental housing.

Rent control could mitigate the risk of displacement associated with significant rent increases. Various circumstances can trigger significant rent increases, such as the redevelopment of a downtown neighborhood, the introduction of new rail service in a community or major property renovations. Rent control is tool that attempts to target directly the potential for unaffordable rents by regulating rent levels.

BEST PRACTICES (PRECEDENTS)

Rent stabilization policies limit how fast rents can increase in privately owned residential properties. Typically, these policies cap the annual rate of increase at a specified percentage, such as 3%, while allowing greater increases under circumstances such as the need for property repairs. As of 2001, approximately 140 localities nationwide still had some form of rent stabilization policy on the books, including Washington, D.C., and Takoma Park, Maryland. Recent rent spikes have led to renewed interest in some communities, such as Santa Rosa and Richmond, California and Seattle, Washington.

CHALLENGES

There would be significant challenges to implementing rent control/stabilization in Montgomery County. There is widespread agreement among most economists and many housing professionals that rent control programs have adverse effects, including inhibiting new construction, creating disincentives for property maintenance and investment, reducing local property tax revenue, and inadvertently benefiting high-income households. Rent control also disproportionately impacts existing property owners.

Because alternatives to a rent control/stabilization policy exist, most communities opt to ameliorate the negative impacts of rent increases through other means.

LOCATION

Rent control potentially could have the biggest impact in the Future Purple Line Neighborhoods where there is a substantial stock of existing, naturally occurring, affordable rental housing.

RECOMMENDATION

The RKG team does not recommend the county implement a countywide rent stabilization program at this time. As noted, there are many challenges for rent control program. Most notably, the RKG team has concerns about the long- term sustainability of the program. For example, the Takoma Park program reportedly resulted in substantial disinvestment in certain complexes. Furthermore, the rent control is on the unit, and not the individual. If the household in place at the time relocates, there is no guarantee that the following tenant will require a subsidy to avoid cost burdening. As mentioned, other tools, such as a locally-run voucher program would be a more sustainable strategy to protect existing at-risk households.

4% LIHTC Tax Credits

DESCRIPTION

The 4% low income housing tax credit (LIHTC) is functionally like the 9% credit program. The main differences are the percentage of construction costs that can be credited (30% of qualifying costs instead of 70%) and that 4% credits are non-competitive.

NEED AND BENEFIT

As noted in the 9% LIHTC recommendation, LIHTC program has become the primary funding tool for rental housing affordable to low- and moderate-income households. The program provides federal tax credits that are sold to investors to raise equity to construct affordable housing and maintain affordable rents. LIHTC projects typically target households earning 50 to 60% of area median income (AMI).

BEST PRACTICES (PRECEDENTS)

The 4% tax credit is an underutilized resource in many communities. While the tax credit is not competitive, it does require the project developer to make use of tax-exempt bond financing to unlock the potential for using the 4% credit. The City of Charlotte, North Carolina is considering ways to make wider use of the 4% credit, particularly in neighborhoods that can support higher-end market rate development. In these locations, the more limited subsidy provided by the 4% LIHTC can be bridged by the higher rents achievable from the market-rate units in a mixed- income project, or for rehabilitation projects.

CHALLENGES

The greatest challenge to implementing this tool is financial feasibility. The financial benefit created by receiving 4% tax credits typically is substantially lower than committing to maintain a unit at 60% (or 50%) of AMI over a 30-year period. The 4% LIHTC program can be part of a financial strategy, but will not effect change in rental housing affordability as a standalone tool.

LOCATION

The 4% LIHTC program would benefit projects throughout the county.

RECOMMENDATION

The RKG team does not recommend the county pursue a 4% LIHTC program as a standalone strategy. At best, the 4% credits will be a small part of a project's capital stack to secure financing. Given that the MPDU requirements are less stringent than the program requirements, it is highly unlikely that any developer would increase the number of income-controlled units to provide a deeper subsidy and take advantage of this program.