Background

Bill 34–17
Introduced 10/31/17

Bill 38–17
Introduced 11/11/17

Public Hearing for Bills 34-17 and 38-17 12/15/17

PHED on 3/5, 3/19, 6/11, and 6/18/18

ZTA 18-06 introduced

Planning Board transmitted ZTA No. 18-06 on 7/19/18

Bills 34-17 and 38-17 passed on 7/24/18

Amendment to ZTA 18-06 on 8/24/18

ZTA 18-06 amendment goes to Planning Board 9/6/18

Public Hearing for ZTA 18-06 9/11/18

PHED Work sessions for ZTA 18-06 9/20 and 9/24/18

Full Council 10/9/18

Effective Date of bills/ZTA 10/31/18
Current MPDU Law

• Between 12.5 and 15% of the total number of units in every subdivision or high-rise building of 20 or more units must be moderately priced according to the MPDU regulation:

• Income requirements are usually 65% of area median income (AMI) for garden apartments, and 70% (AMI) for high-rise apartments/for-sale MPDUs.

• 99-year covenants for rental, 30-year for for-sale

<table>
<thead>
<tr>
<th>Household Size</th>
<th>Maximum Income</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Garden Apartment MPDUs</td>
</tr>
<tr>
<td>1</td>
<td>$50,000</td>
</tr>
<tr>
<td>2</td>
<td>$57,500</td>
</tr>
<tr>
<td>3</td>
<td>$64,500</td>
</tr>
<tr>
<td>4</td>
<td>$71,500</td>
</tr>
<tr>
<td>5</td>
<td>$77,500</td>
</tr>
</tbody>
</table>

Source: Department of Housing and Community Affairs
General

• Developments between 11 and 19 units are not required to provide MPDUs, but must make a payment to the Housing Initiative Fund
  • 1/2% of sales prices of each unit in development, collected at settlement
• No condo or homeowners associations consisting solely of MPDUs
• ER 11-18 states MPDUs in developments that receive a full impact tax waiver must be on-site and affordable
Site Design

• If multi-family buildings, the MPDU bedroom mix must match the market bedroom mix unless DHCA approves an agreement based on FAR (Floor-Area-Ratio)

• If all market-rate townhouses in a development are 2 BR, MPDU townhouses can be 2 BR if approved by DHCA

• MPDUs must be reasonably dispersed throughout a development
Alternative Payments

• Applicants may satisfy MPDU requirements via a payment to the HIF rather than construction of MPDUs.

• Not permitted for rentals

• Payment set at 3% of the sales price of each unit

• Allowed for projects with density bonuses

• **Required** for for-sale age-restricted MPDUs
Alternative Payments

• Require a finding of:
  • Lack of affordability;
  • Regulatory development constraints; or
  • Public benefit

• Must be in the same Planning Area unless:
  • In a higher-income Planning Area (where 15% is legal requirement)
  • Council is given 30 days notice to comment

• Developments seeking alternative compliance must make request to DHCA 90 days before applying for a building permit
Alternate Location Agreements

• Allows applicant to satisfy MPDU requirements by building MPDUs at a different location that development for which they are required.

• Must increase:
  • Number of MPDUs; or
  • Number of bedrooms in the same number of fewer MPDUs

• Must be in the same Planning Area unless:
  • In a higher-income Planning Area (where 15% is legal requirement)
  • Council is given 30 days notice to comment
Bill 38-17

• Planning areas where 45% of the United States Census tracts have a median income of 150% of Montgomery County's median income will have a legal requirement to provide 15% MPDUs.

• Montgomery County’s current median household income is $100,352

• The MPDU requirement will be calculated every year by the Planning Department and the maps will be updated each year by January 1.

• The planning areas currently included in the requirement are Goshen, Lower Seneca, Darnestown, Travilah, Potomac, North Bethesda and Bethesda-Chevy Chase.

• Effective when Planning Board accepts complete application or plan
Bill 38-17

- Effective on October 31, 2018, Planning Areas where 45% of the United States Census tracts have a median income of 150% of Montgomery County's median income will have a legal requirement to provide 15% MPDUs.

http://arcg.is/1aO15H
ZTA 18-06

• Density bonus provisions belong in Chapter 59
• Modifies bonus density system currently in Chapter 25A/Chapter 59

• Amendment to ZTA 18-06 allows a three-tiered bonus density system to maximize the number of MPDUs
• Removes cap on bonus density that is currently proposed in ZTA 18-06
• Permits development in C/R and Employment zones to earn public benefit points for providing more than 12.5%, even in areas where it is legally required
## Current Zoning

<table>
<thead>
<tr>
<th>Zone Family</th>
<th>Optional Method MPDU Development</th>
</tr>
</thead>
</table>
| Residential Detached                 | • Additional building types (townhouse and duplex)  
• Flexibility for certain development standards (such as smaller lot size)  
• Potential for increased density*                                                                                                                                 |
| (R-60, R-90, etc.)                    |                                                                                                                                                                                                                                |
| Townhouse                            | • Additional density  
• Flexibility for certain development standards (such as smaller lot size)                                                                                                                                                   |
| (TLD, TMD, THD)                      |                                                                                                                                                                                                                                |
| Residential Multi-Unit               | • Additional density  
• Flexibility for certain development standards (such as smaller lot size)                                                                                                                                                   |
| (R-10, R-20, R-30)                   |                                                                                                                                                                                                                                |
| C/R and Employment                   | • Public benefit points  
• Density bonus under Chapter 25A  
• Potential for additional height (very limited circumstances or recommended in a master plan)                                                                                                                     |
| (CR, CRT, CRN, EOF, LSC) with a “T”  |                                                                                                                                                                                                                                |
| designation                          |                                                                                                                                                                                                                                |
| C/R and Employment                   | • Public benefit points  
• For providing more than 12.5% and less than 15%, density of MPDUs above 12.5% not counted toward residential density  
• For providing 15% or more, density of all MPDUs not counted toward residential density  
• Potential for additional height (at least 12.5% MPDUs, height needed to accommodate MPDUs)                                                                 |
| (CR, CRT, CRN, EOF, LSC) without a “T” designation |                                                                                                                                                                                                                                |
## Proposed Zoning

<table>
<thead>
<tr>
<th>Zone Family</th>
<th>Optional Method MPDU Development</th>
</tr>
</thead>
</table>
| Residential Detached (R-60, R-90, etc.)          | • Public Benefit Points in C/R and Employment Zones  
• Projects >12.5% up to 15% MPDUs - .88% bonus density for every .1% increase in MPDUs for a maximum of a 22% bonus density  
• Projects that provide >15% up to 20% MPDUs - .16% for every .1% increase in MPDUs for a maximum of 30% bonus density  
• Projects that provide more than 20% MPDUs – increase in density equal to 30% plus 1% for each additional 1% of MPDUs provided in excess of 20%  
• In the Bethesda Overlay Zone, residential may be increased above the mapped residential FAR by 17.5% plus 0.1% for each 0.1% increase in MPDUs above 17.5% |
| Townhouse (TLD, TMD, THD)                        |                                                                                                                                                                  |
| Residential Multi-Unit (R-10, R-20, R-30)        |                                                                                                                                                                  |
| C/R and Employment (CR, CRT, CRN, EOF, LSC) with a “T” designation |                                                                                                                                                                  |
| C/R and Employment (CR, CRT, CRN, EOF, LSC) without a “T” designation |                                                                                                                                                                  |

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Nancy Floreen Amendments to ZTA 18-06
Examples

• **Project 1** provides 14.7% MPDUs receives a bonus density of 19.36%
  • .88% bonus density for every .1% increase in MPDUs for a maximum of a 22% bonus density
  • $(14.7-12.5) \times 10 \times 0.88$

• **Project 2** provides 16.2% MPDUs receives a bonus density of 23.92%
  • .16% for every .1% increase in MPDUs for a maximum of 30% bonus density
  • 22% for 15% + 1.92% for providing 1.2% more than 15%
  • $(16.2-15) \times 10 \times 0.16 + 22$

• **Project 3** provides 25% MPDUs receives bonus density of 35%
  • Increase in density equal to 30% plus 1% for each additional 1% of MPDUs provided in excess of 20%
  • No Cap
  • 30% for providing 20% + 5% for providing 5% more than 20%
  • $(25-20)+30$
Bethesda Overlay Zone

• In the Bethesda Overlay Zone, residential may be increased above the mapped residential FAR by 17.5% plus 0.1% for each 0.1% increase in MPDUs above 17.5%

• **Example**: Project provides 17.6% MPDUs, project receives a 17.6% bonus density
Next Steps

• Full Council 10/9/18