

March 4, 2011

M E M O R A N D U M

TO: Planning, Housing and Economic Development Committee

FROM: Linda McMillan, Senior Legislative Analyst

SUBJECT: **Housing Element to the General Plan and County Housing Policy**

The PHED Committee met on January 20th to begin its review of the Planning Board's Draft of the Housing Element of the General Plan and to review the County's Housing Policy which was approved in 2001. The Committee also discussed several other housing plans and reports that have been produced since the Housing Policy was approved. At that session, the Committee discussed what the process should be for revising both the Housing Element and the Housing Policy and whether the two documents might be combined into one. The PHED Committee session was followed by an overview briefing to the Council on January 25th.

Because the Housing Element is an update to the General Plan, there are time requirements for Council action or extension of time for consideration. The time for consideration is currently set to expire on March 23, 2011. There is no limit to the number of times the Council can extend time for consideration. That said; the Chair of the PHED Committee believes it would be in the Council's best interest for the PHED Committee to complete work on its recommendations for any amendments to the Planning Board's Draft of the Housing Element and forward these recommendations to the full Council for consideration prior to March 23, 2011. The PHED Committee would also develop a list of issues that are not included in the Housing Element but should be a part of the County's Housing Policy and forward these issues to the Executive and request the Executive send a revised Housing Policy to the Council for consideration and approval. The Executive would not be expected to forward a revised Housing Policy to the Council until after budget sessions are completed.

This packet is set up to help the Committee work through any amendments it may want to recommend to the Planning Board Draft of the Housing Element. A second session is scheduled for March 14th. If the Committee completes its recommendations on March 14th, the Housing

Element could be taken to the Council at its March 22nd session and a further extension would not be required.

1. March 1 Planning Staff Briefing on Census Data/American Community Survey

At its March 1 session, the Council received a briefing from Planning staff on information available to date from the 2010 Census and from the 2009 American Community Survey. An excerpt of slides related to housing is attached at ©33-45. Census data for population by age and housing are not yet available.

2. Planning Board Draft to the Housing Element - context

Council staff suggests the Committee consider the Housing Element in the following context:

- The Housing Element is a long-term policy document. The Goals (©8) state that this Element of the General Plan is meant to cover a 20 year period.
- The Housing Element is a policy for all housing – it is not limited to providing the policy structure for certain types or price levels of housing.
- The Housing Element is not a funding document. This does not suggest that it could not contain policy statements regarding items that require funding but it cannot ensure any level of funding is approved.
- Policies included in the Housing Element may need to be implemented through legislation, regulations, master plans, and/or zoning text amendments for which the specifics are not yet proposed or approved.

3. Issues

A. Definitions

There are several terms used throughout the Draft Housing Element that have multiple definitions. Council staff suggests the Committee discuss these terms and decide whether they want to recommend a specific definition and whether there should be a definition section added to the Housing Element.

Affordable Housing – The Element says that housing is affordable when it costs no more than 30 percent of a household's gross annual income. This definition would not be limited any income level. However, Affordable Housing is more commonly used in the Plan to define moderate or low income housing at about 70% of area median income or below. The current (1993) Housing Element also uses the term affordable housing but also refers to the provision of low, moderate, and median-income housing. The slide at ©41 divides household income into

four categories: low (about 50% of AMI), Moderate (about 70%), middle (about 100%) and upper (about 150%).

- Does the Committee concur that the policy goal of the Housing Element should be based on housing costing 30% of gross income (regardless of income)?
- Does the Committee want to define Affordable Housing as affordable to a household earning 70% of AMI or below – or should the terms moderate and low priced housing be used in place of Affordable Housing?

Workforce Housing - the term Workforce Housing is also used in this document. At the time the Planning Board approved its draft, the County had a mandatory Workforce Housing program that defined Workforce Housing as housing affordable to incomes between 70% and 120% of Area Median Income. Workforce Housing in new construction is now voluntary. The Committee has also previously discussed that adults in most moderate and low income households are working and are part of the workforce.

- Does the Committee want to define Workforce Housing at a certain income range and use this term in the Housing Element?

Senior –At the public hearing, Mr. Freishtat, of Shulman Rogers, requested that the Council include a statement in the Housing Element that, for housing purposes, the definition of a senior adult is a person aged 55 or older. He notes that the County currently has several definitions but that using age 55 would align the County with Federal and State of Maryland policy.

- Does the Committee agree that, for purposes of housing, the definition of senior adult should be aged 55 or older? (If so, Council staff will work to see what the implications might be for other law or documents.)

B. Council Staff Comments on Specific Sections of the Planning Board Draft

1. Challenges and Goals (©6-9)

The overview that is provided on ©6-7 reflects data that has been previously discussed regarding the expected growth in population, the expected need for additional housing units, and the projection that new affordable housing units will not keep pace with need.

Council staff does not suggest any change to the overall tone and message contained in these pages but notes that the paragraph on MPDU and Workforce Housing needs to be updated to correct some information on MPDU requirements and the repeal of the requirement for Workforce Housing. Information on median income and the corresponding affordable mortgage payment should be updated to reflect 2010 data.

Goals (©8-9)

The Planning Board recommends three main goals for the revised Housing Element. The following table shows the new goals and the goal included in the 1993 Approved Housing Element.

GOALS

Planning Board Draft – 2009	1993 Approved General Plan Refinement (Current)
Conservation of the stable neighborhoods and the existing housing stock.	Encourage and maintain a wide choice of housing types and neighborhoods for people of all incomes, ages, lifestyles, and physical capabilities at appropriate densities and locations
Concentrate new housing in mixed-use transit-oriented areas.	
Close the Housing Affordability Gap.	

There was discussion during the Council briefing on whether the term “stable” is the appropriate term for what is envisioned and what the implications are if an existing neighborhood is somehow thought of as not “stable.” **Council staff recommends the goal be amended to “Conservation and care of existing neighborhoods and the existing housing stock.”** The description of this goal is to maintain the quality of existing neighborhoods and homes and to take care when there is infill development or incremental change.

Council staff also suggests that the footnotes be added to ©8 and 9 to show the source of the projections in the gap for affordable housing for households earning \$90,000 or less. Lastly, Park and Planning should be asked to consider whether the recent drop in housing prices changes these projections as the studies were completed in 2008.

2. Strategic Framework (©10)

This section discusses master planning and regulatory framework that is needed to achieve the goals of the Housing Element.

Council staff recommends that a statement on Wedges and Corridors should be inserted before the paragraph on master plans. “On Wedges and Corridors” is only mentioned in the Abstract. The 1993 Housing Element has a “Key Concept” that says in part, “Consistency with the Wedges and Corridors concept is fundamental to the Housing Goal. The Refinement expects all residential development to conform to this pattern...” If the Committee agrees, Council staff will work with Planning Staff to draft an appropriate statement.

Development regulations (©10; 2nd paragraph) – Council staff recommends the paragraph be amended to say, “Development regulation should reflect the goal of providing housing near transit, jobs, and services...” The current wording would have development regulations requiring housing, but the regulations should reflect the planning and zoning that has been approved in master and sector plans.

The County Executive recommends that the sentence that says the Zoning Ordinance should be revised to clarify that affordable housing is a permitted use in all residential zones be deleted because he is not aware that there is any residential zone where affordable housing is not allowed. Council staff agrees with this recommendation.

The third bullet in the strategic framework states, “New revenue sources are needed to maintain the Housing Initiative Fund, and to provide for rental assistance programs. Capital programming must be monitored by the Planning Board and the County Executive to ensure that funding is available for neighborhood stabilization and improvements, such as sidewalks, parks, and other facilities needed for high quality, non-auto mobility.

Council staff is concerned about the second sentence in the above paragraph because the Housing Element is not a funding document and having a statement about ensuring funding cannot guarantee that funds will in fact be there. **Council staff suggests the second sentence be amended to say, “New revenue sources are also needed to fund projects that support communities such as sidewalks, parks, and other facilities needed for high quality, non-auto mobility.”**

The County Executive recommends adding employers to the list of those that identified as entities public agencies should be collaborating with for production and preservation of affordable housing. Council staff agrees with this recommendation.

3. Objectives

The following table provides the four objectives recommended by the Planning Board and the six objectives that are contained in the 1993 Approved Plan.

OBJECTIVES

Planning Board Draft – 2009	1993 Approved General Plan Refinement (Current)
Housing and Neighborhood Connectivity – Concentrate most new housing near public transportation and provide easy, multi-modal connections to jobs schools, shopping, recreation, and other leisure activities.	Promote variety and choice in housing of quality design and durable construction in various types of neighborhoods.
Diverse Housing and Neighborhoods – Create diversity in the type and size of units, neighborhoods, facilities, and programs to accommodate current and future residents.	Promote a sufficient supply of housing to serve the County’s existing and planned employment and the changing needs of its residents at various stages of life.
Housing and the Environment – Provide economically and environmentally sustainable housing and neighborhoods.	Encourage housing near employment centers with adequate access to a wide variety of facilities and services. Support mixed-use communities to further this objective.

Planning Board Draft – 2009	1993 Approved General Plan Refinement (Current)
Housing and Neighborhood Design – Create more balanced, attractive, and walkable neighborhoods through regulatory reform of private developments and leadership in design of public projects.	Encourage an adequate supply of affordable housing throughout the County for those living or working in Montgomery County, especially for households at the median income or below.
	Maintain and enhance the quality and safety of housing and neighborhoods.
	Concentrate the highest density housing in the Urban Ring and the I-270 Corridor, especially in transit station locales.

At the last session, the Committee discussed whether there was enough difference between Objective #1 and Objective #4 as they both discuss balanced, walkable communities near transit. The Committee may want to continue this discussion and hear more from Planning staff about why the Board forwarded them as two separate objectives. The Planning Board’s Objective #4 does reference the need for regulatory reform to achieve these types of communities. However, the Executive has commented that there is not enough emphasis on regulatory reform and has suggested a 5th objective.

Executive’s recommended Objective #5 (©22) – Housing and Land Use, Zoning and Development Approvals – streamline the regulatory process and remove barriers to housing production, especially affordable housing production.

The Executive recommends the following policies for this objective:

- Expedite approval reviews for housing that meets the strategic objectives of affordability, environmental sustainability, and transit serviceability.
- Consolidate sequential review and approval processes into on coordinated, concurrent process.
- Provide incentives, including height and density, to promote appropriately designed and priced housing.
- Allow sectional map amendments that address changing community and market conditions to proceed independently of time consuming master plan and sector plan amendments.
- Ensure that all master plan and sector plan amendments address the need for additional affordable housing in the plan area, and promote specific strategies to meet that need.
- Allow flexibility in meeting site plan requirements commensurate with the provision of affordable housing in excess of minimum requirements.

Does the Committee want to combine the current Objectives #1 and Objective #4 in terms of discussing the characteristics of walkable transit oriented communities and then

replace the current Objective #4 with the Executive's recommendation which would focus on the regulatory process?

4. Policies/Strategies

a) Policies to Implement Objective #1 – Housing and Neighborhood Connectivity (©12)

The Executive recommends that Policy 1.4 be amended to replace the term “County employee” with “public employee.” This would include a broader range of employees as ones who should have access to housing near their job site and the revision may avoid problems with ethics and collective bargaining. (©23) Council staff agrees with this recommendation; however, Council staff also suggests that a policy be added that recommends that **housing should be provided for employees near private and non-profit job sites such as hospitals and research facilities.** This would address the example provided by Planning staff of long drives for nurses and other critical health workers and also addresses the goals of locating housing in the Shady Grove Life Sciences Center area.

The Executive recommends that Policy 1.5 be amended to specify that connectivity improvements should be made to non-motorized vehicular and pedestrian instead of just non-vehicular to emphasize the use of bicycles. Council staff agrees with this recommendation.

b) Policies to Implement Objective #2 – Diverse Housing and Neighborhoods (©13)

Policy 2.2 states, “Make affordable and workforce housing a priority in all parts of the County.” Council staff is concerned about this statement for two reasons: (1) all parts of the county could be interpreted to include agricultural and industrial areas; and, (2) given other policy statements, there has been a higher priority placed on affordable housing in areas near transit. **Council staff suggests that the intent of Policy 2.2 could be combined with Policy 2.3 to say, “Encourage neighborhood diversity with a range of unit sizes, types, occupancy (rental and ownership) and price ranges including those affordable to low and moderate income residents.”**

Policy 2.4 states, “Allow accessory apartments in residential zones by right under appropriate design standards and conditions.” Council staff has two suggestions regarding this policy: (1) the issue of whether something is by right rather than special exception is more appropriate for Objective #4 which references regulatory reform – this is also true for Policy 2.7 which says that licensed adult and child day care facilities should be allowed by right in appropriate high density areas, and (2) support of accessory apartments (by right or special exception) could also be included in Policy 2.2. It would read, “**Encourage neighborhood diversity with a range of unit sizes, types (including accessory apartments), occupancy (rental and ownership) and price ranges including those affordable to low and moderate income residents.”**

This memo will address accessory apartments again in Objective #4 policies.

Policy 2.6 says, “Encourage parking to be provided as a separately priced and purchased amenity in high density areas.” **The Executive has recommended that “encourage” be changed to “allow.”** Separately priced parking is allowed in a parking district but not all “high density” areas. Therefore, if the Housing Element is approved to say “allow” it would imply that zoning changes will be approved to do so. If the Committee agrees that this policy should be implemented then “allow” could be used. **Otherwise, Council staff suggests the sentence read, “Encourage parking to be provided as a separately priced and purchased amenity where allowed.”**

Policy 2.8 says, “Provide tax relief for income-eligible seniors beyond the homeowner’s property tax credit so they can stay in their neighborhood as long as they desire.” This is followed later by Policy 2.13 that says, “Develop programs to help small households and seniors find and occupy housing that is right-sized for their needs, so that oversized home do not become a burden and so the existing housing stock is available for appropriately sized households.” Council staff recommends that language about tax relief not be included in the Housing Element. This does not mean that there would not be a policy to help seniors age-in-place but it might not be with tax relief. Council staff suggests combining these two policies to read, **“Promote efforts to allow seniors to stay in their neighborhoods as long as they desire, including programs to help seniors age-in-place and assistance for seniors and other small households to find and occupy housing that is right-sized for their needs, so that oversized home do not become a burden and so the existing housing stock is available for appropriately sized households.”**

Policy 2.9 is to “create a partnership between Montgomery County and the Housing Opportunities Commission...” **Council staff recommends this policy be deleted as there is a long-standing partnership between HOC and DHCA to do the things that are described.**

Policy 2.10 says, “Encourage housing cooperatives, faith –based organizations, and neighborhood housing groups to use their existing property or to purchase land and buildings for the production of affordable and workforce housing.” **The Executive is recommending adding employers to this group. Council staff agrees with the addition of employers but recommends amending the policy to “encourage housing cooperatives, faith-based organizations, neighborhood housing groups, and employers to partner with the County to produce and preserve affordable and workforce housing.”** Council staff is concerned about a policy that is too specific about use of existing property or the purchase of land given the wide variety of project scenarios that could result.

Policy 2.11 says, “Amend housing policies to encourage projects that mix condominium and rental units, allowing income restricted units to avoid high condominium fees.” The Executive says that he is unaware of any policy that prohibits the mixing of rental and condominium and suggests the issue is high-condominium fees that make units unaffordable to moderate income households (©23). **He recommends the following language, “Encourage developers of mixed-income communities to adopt lower condominium/homeowner**

association fees for income-restricted units.” Council staff agrees with the Executive’s language.

Policy 2.12 says, “Promote full inclusion of all ages, stages of life, and physical abilities by using standard accessibility features in all new or renovated housing.” Council staff does not disagree with the intent of this policy but believes that a definition of “standard accessibility features,” needs to be provided.

c) Policies to Implement Objective #3 – Housing and the Environment (©14)

Policy 3.1 says, Require green and energy efficient design and materials...by increasing the number of buildings and units built or retrofitted for energy efficiency, on-site energy production, and water conservation use. **Council staff is unclear whether the Planning Board meant this to be a requirement or whether the better word would be “Promote.”**

Policy 3.2 says, “Reduce parking requirements for residential units near transit and with parking lot districts to decrease impervious surfaces and carbon emissions.” **The Executive recommends adding the words and increase affordability.** Council staff agrees with this addition.

Policy 3.3 says, “Provide stormwater management fee credits for pervious pavers and other materials and strategies that reduce stormwater runoff...” This is later followed by Policy 3.5 that says, “Provide tax credits for rehabilitating older units so that they are energy efficient and healthy.” **Council staff is again concerned with including language about fee or tax credits in the Housing Element and suggests that “provide incentives” be used instead.** The Executive says that he believes that other behaviors can be encouraged through fee credits and would broaden the policy. He then notes that any initiative that reduces County revenues must be carefully evaluated in these times of fiscal restraint. (©23) The relative benefit of each credit would have to weigh the benefit against the cost to the County.

Policy 3.7 says, “Require preservation of tree canopy and sustainable site design, including native plants and conservation landscaping techniques.” **The Executive suggests substituting the word conservation for preservation and adding, “as well as soil decompaction strategies” to the end of the sentence.** Council staff agrees with the Executive’s suggestion but is again unclear whether the Planning Board meant this as a requirements and, if so, to whom.

d) Policies to Implement Objective #4 – Housing and Neighborhood Design (©15)

As previously noted, this objective discusses regulatory reform and Council staff has suggested that it might be combined with the County Executive’s recommendation for a 5th objective.

Council staff also suggests that if the PHED Committee wants to include language in the Housing Element about whether accessory apartment or adult or child care should be allowed by right that it would be appropriate to include it in this section, but Council staff also suggest that it be a broader statement such as, **“Review whether uses that contribute to diversity in housing and walkable transit oriented communities that are currently provided by special exception could allowed by right if appropriate conditions and standards are in place.”** This would not limit what might be reviewed and speaks to the overall goal of streamlining approval processes when appropriate.

Accessory Apartments – the Council received public hearing testimony objecting to including a policy to allow accessory apartments by right from the Montgomery County Civic Federation, the Hillandale Citizens Association, the Norbeck Meadows Civic Association, Greater Olney Civic Association, and Cherrywood Homeowners Association. The League of Women Voters and Action in Montgomery (AIM) have voiced their support for accessory apartments. Under any circumstances the change from a special exception process would have to be made through a zoning text amendment not just language in the Housing Element. The Board of Appeals has record of 817 approved accessory apartments, along some may not be in use. In the last two years, there have been 27 applications of which one was denied.

5. Other issues:

Should something be included about housing in the rural areas?

The Housing Element is for all housing. The 1993 Housing Element says “Explore the feasibility of rural centers in appropriate locations, such as the Residential Wedge.”

Protection of Existing Neighborhoods

The Planning Board Draft clearly states a goal is conservation of stable neighborhoods and existing housing stock and Policy 2.1 discusses strengthening the stability of established neighborhoods – still there has been some concern expressed about whether the Planning Board Draft does enough to emphasize investment in maintaining neighborhoods. Council staff does not agree that it is the Planning Board’s intent to lessen the importance of protecting existing neighborhoods but notes the following policies from the 1993 Housing Element that were mentioned in some of the testimony received.

1993 Objective#5 – Maintain and enhance the quality and safety of housing and neighborhoods.

Strategies:

- A. Discourage deterioration of housing through well-funded code enforcement, neighborhood improvement programs, and other appropriate techniques.
- B. Ensure that infill development and redevelopment complements existing houses and neighborhoods.

- C. Mix housing with other uses with special care in ways that promote compatibility and concern for residents' need for safety, privacy, and attractive surroundings when introducing new uses into existing housing and neighborhoods.
- D. Provide for appropriate redevelopment of residential property when conditions warrant.
- E. Protect residential neighborhoods by channeling through traffic away from residential streets and discouraging spill-over parking from non-residential areas.
- F. Use special care to plan uses at the edges of high-density centers that are compatible with existing neighborhoods.

Should the Housing Element say anything more specific about rental housing (need for) or tenant needs

The Housing Element Draft does discuss diversity in housing including rental. However, in the recent presentations Planning staff has emphasized the need for the increasing demand for rental housing both because of economic conditions but also because of changing preferences? Does the housing element say enough about rental housing? Is this an issue better left analyzed in a revised Housing Policy?