

"Federation Corner" column
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Federation position on Affordable Housing legislation

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This is the third of three columns on housing related legislation introduced in County Council.

On the evening of September 23rd, the County Council will hold a hearing on nine pieces of affordable housing and development legislation. The legislation can basically be divided into two sets.

The first set is comprised of three bills that would make specific changes to the County's Moderately Priced Dwelling Unit (MPDU) law. The bills propose specific changes that were recommended in the comprehensive Council staff report "The MPDU Program - A Thirty Year Review." The Montgomery County Civic Federation (MCCF) has endorsed Bill 27-03 and Bill 25-04. Bill 27-03 proposes to end alternative agreements in which developers can pay a fee to the County's Housing Initiative Fund instead of building the MPDUs required by law. MCCF believes that equity in housing and transparency in the process are sacrificed when these buyouts occur. Further, where buyouts have been allowed, there has been a significant lag (2 years+) between when the market rate units are available and when the MPDUs are available. It is wise to end the buyout option.

MCCF supports the provisions of Bill 25-04 which would increase the control period for MPDUs from 20 to 99 years, decrease the size of housing projects requiring MPDUs from 35 units or larger to 20 units or larger, insure that all MPDUs in single family home developments have at least three bedrooms so that they are large enough to house families, allow developers to meet their MPDU requirement by buying and rehabilitating existing housing units to be added to the program, require developers of projects that impose an amenity package fee to charge MPDU households only required maintenance fees, and establish an MPDU Preservation Fund and an MPDU Rehabilitation Fund to insure that this housing is well maintained.

The second set of legislation is comprised of five ZTAs (Zoning Text Amendments) 03-09 and 04-11 thru 14. There is also a Subdivision Regulation Amendment, SRA 04-01. These ZTAs and SRA would make general changes to the County zoning codes with the aim of increasing the density on residential building projects throughout the County. This would enable developers to build more housing units on sites than are currently allowed. The ZTAs and SRA propose to decrease or eliminate the amount of land that building projects must dedicate to open space and public amenity greenspace, remove current limits on building heights, remove master plan compliance provisions, and allow for building of clustered and attached units in rural areas of the County where they are currently prohibited.

MCCF opposes the ZTAs and SRA because none would require developers to provide more MPDUs than they are already required to under current law. In addition, MCCF is skeptical that trading off open space, public amenity greenspace, and protection of the character of rural areas, while allowing significantly greater building densities, will actually yield a substantial number of additional new MPDUs.

To our knowledge, there has been no Council staff projection or analysis of how many new housing units are likely to result from these changes. A more likely scenario is that, in high rise buildings for example, the extra floor space made available to developers may not produce more units, instead the same number but larger and more expensive units--both market rate and MPDUs. If these proposed changes to the county zoning code were to be manipulated in this manner, the cause of affordable housing would not be advanced. Instead, facilitating the creation of more luxury units in an area may drive up the price of other housing, resulting in the opposite of the desired effect.

While there is a possibility that more MPDUs will be created under the ZTAs, they contain too much language that is vague and subject to wide interpretation. Determining a target number for how many new MPDUs will be built as a result of the trade-offs allowed in these ZTAs and the SRA is sketchy at best. MCCF believes that the violation of our master plans and a land use system that has served the county well is not an acceptable cost to pay for a possible small number of additional MPDUs, if that.

The County Council will also hold a hearing about the newly introduced accessory apartment legislation. This hearing will be held on the evening of September 30th. This legislation, also a ZTA, proposes changes to the regulations regarding the approval process, concentration, ownership requirements, unit age and zoning standards for accessory apartments. The membership of the Federation believes that while there may be some few aspects of this ZTA that are laudable, the changes it proposes to current accessory apartment regulations are unnecessarily broad in scope with few objective standards on which to base the new process.

The Montgomery County Civic Federation, by vote of its membership, has adopted positions in support of or opposed to each of the pieces of legislation. To read more on the details of the legislation, visit the MCCF website at www.montgomerycivic.org. For more information about the location and time of the public hearings, call the Council at 240-777-7900. And, register your comments on the legislation with the Council by sending an email to Councilmember.Silverman@montgomerycountymd.gov or mail comments to Montgomery County Council, 100 Maryland Avenue - 6th Floor, Rockville, MD 20850.