

## MTEF ANALYSIS OF COUNTY COUNCIL BILL

Hoping to promote moderate income housing, the County Executive and County Council risk a huge giveaway to real estate developers and corporate land owners. A coordinated package of legislation and zoning amendments passed by the Council would, if approved by Doug Duncan, increase building heights, density limits and land values, without guaranteeing more moderate-income housing than would otherwise be the case.

Consider the following scenario: Under current regulations, a corporation owns a land parcel in downtown Bethesda, zoned for a 10 story building with up to 160 condominiums. Of the 160 units, 20 (or 12.5%) are reserved for moderate income residents. Under the new regulations, the building height might be increased to accommodate 20 extra units, thus providing the developer with 180 units and 14% more profit (i.e., 160 market rate units with the new regulations vs. 140 market rate units under the old laws). If the average condo costs \$250,000 to build and is sold for a price of \$320,000 (a \$70,000 profit), the total additional profit is \$1.4 million. By approving the legislation, our legislators create the potential for hundreds of millions of dollars in value for entities controlling those parcels of developable land where more density means more dollars.

Extending the control period on moderate-income units, as indicated in the proposals, will reduce the size of the windfall, but, the prospect of extra profits will inevitably boost land prices. This puts the Council in the same place where it started: *high land prices crowding out moderate-income residents.*

Besides the giveaway issue, the problems with the legislation extend into process. Neither the real estate community nor the Council offer scientific evidence proving developers suffer “economic hardship” because of our moderate-income housing requirements. The study completed by the Council staff in February found neither economic hardship nor a logical basis for assuming more moderate-income housing with this legislation. Indeed, land prices for residential, apartment, and condominium uses continue to rise, indicating that the requirements have a negligible economic impact. Before the proposals move forward, the County needs to connect the dots between higher landowner profits and more moderate-income units. Anecdotal assertions by interested parties may have legitimacy, but they are hardly a substitute for hard analysis, particularly when the suggestions affect thousands of acres of land across the County.

In selected cases, developers satisfy their moderate-income housing obligations by making cash payment to the County (a “buyout”) or by constructing such housing off-site. These arrangements are appropriate in certain circumstances, but the record shows that the County is out negotiated, extracting only 20% of the economic value accruing to the developer.

**Possible Alternative:** Suppose, for argument’s sake, that a rigorous analysis concludes that economic hardship affects selected types of new construction. If the County knows the amount of density its infrastructure can tolerate, it should implement a market-based

solution, rather than approving density expansions without a market test. **Let's auction off limited density expansion rights to eligible landowners either for (a) cash, which could then be applied to the housing program; or (b) additional moderate-income units, whereby the auction "winner" is the landowner promising to provide the most moderate-income housing in its development.** The Planning Board would enlarge its role to determining the areas to be considered for these competitive auctions. Under this system, the County reduces landowner windfall profits, retains a large portion of the added density value for its own benefit, and promotes moderate-income housing expansion, all at the same time.

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