



FAIRFAX  
COUNTY

# STAFF REPORT

V I R G I N I A

## PROPOSED ZONING ORDINANCE AMENDMENT

Workforce Housing Program

### PUBLIC HEARING DATES

Planning Commission

September 19, 2007 at 8:15 p.m.

Board of Supervisors

October 15, 2007 at 5:00 p.m.

PREPARED BY  
ZONING ADMINISTRATION DIVISION  
DEPARTMENT OF PLANNING AND ZONING  
703-324-1314

August 6, 2007

DP



Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice.  
For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

## STAFF COMMENT

This amendment is prompted by a request from the Board of Supervisors (Board) to evaluate the opportunities to achieve affordable housing in those areas designated for high-rise, mixed-use and/or high density residential development and to consider other ways in which to promote the provision of a broad range of affordable housing opportunities in the County. Staff is recommending the adoption of a new Workforce Housing Program in the Zoning Ordinance to assist in the implementation, regulation and control of workforce units that will be proffered to be included in new developments. Such units will be in accordance with the objectives of the Fairfax County Comprehensive Plan that have been developed to address a significant need for housing that is affordable to certain households. The provision of workforce dwelling units is being proposed as a significant objective of the Comprehensive Plan to be addressed by proffers made by developers during the rezoning process and is anticipated to occur primarily in high-rise and high density residential developments in Transit Station Areas and Mixed-Use Centers, as defined by the Comprehensive Plan.

Under the current provisions of the Zoning Ordinance, residential developments are required to provide ADUs for any development of 50 units or more at a density of more than one unit per acre, when such units are constructed of Building Construction Type 5 (wood construction materials). Since the adoption of the ADU Program in 1990, developments of high-rise buildings (concrete and steel construction materials) have been exempt from providing ADUs. In 2004, the Board constituted the Affordable Housing Preservation Action Committee (PAC) with the directive to develop various ways to promote the development of new and preservation of existing affordable housing in Fairfax County. As part of the Board's initiative, the High-Rise Affordability Panel of Experts was established by the Board to specifically look at ways to achieve housing affordability in high-rise residential developments (See Attachment A for a list of Panel members). The Panel met over a period from October 2005 to early 2007 and enlisted the expertise of an economic consultant to assist in the evaluation.

On February 6, 2006, the Board accepted the Panel's preliminary General Policy and Guiding Principles recommendations for development of workforce housing in high-rise and high-density areas of the County. The general policy stated that "In instances where increases in residential density or non-residential intensity in Fairfax County's planned and/or existing high-density areas are granted, it is the policy and expectation of Fairfax County that a substantial amount of affordable/workforce housing shall be provided." The Guiding Principles included, among other things, a policy supporting affordable/workforce housing for a range of moderate incomes up to 120 percent of the Area Median Income (AMI, also called the Metropolitan Statistical Area (MSA) Median Income). A copy of the Board-approved General Policy and Guiding Principles are included as Attachment B.

On October 16, 2006, the Board was presented with the "Final Panel Report and Policy Recommendations", setting forth recommendations for changes to both the

Comprehensive Plan and the Zoning Ordinance to facilitate the development of workforce housing. The Board accepted the Panel's report and recommendations in principle and directed staff from the Departments of Housing and Community Development and Planning and Zoning to work with the Panel to address a number of issues related to the Panel's report, and return with revised recommendations to accomplish the Policy Plan objective of 12 percent affordable housing in residential high-rise and high-density areas. The October 16, 2006 report from the Panel to the Board is set forth as Attachment C.

The Panel reconvened and continued to meet between December 2006 and April 2007 and developed amended recommendations. The key amended policy recommendations included that:

- At least 12 percent of new production in high-rise or high-density developments should be affordable/workforce housing;
- Housing produced should be affordable to a range of incomes up to 120 percent of MSA median income (or \$113,400 at the time of the preparation of this report);
- The policy should be implemented through changes to both the Comprehensive Plan and the Zoning Ordinance;
- Up to one bonus market rate unit should be granted for every affordable/workforce unit provided, up to a maximum bonus of 20 percent; and
- That the County initiates a process to allow, under certain circumstances, housing as a permitted use in commercial, industrial and mixed-use districts.

The Board accepted the Panel's amended recommendations on April 30, 2007 and directed the Department of Planning and Zoning to recommend steps for the implementation of the Panel's proposals. A copy of the Panel's amended recommendations to the Board is set forth in Attachment D.

As set forth in the Panel's amended recommendations, the establishment of a Workforce Housing Program is encouraged. For clarity of terminology, the intent of "workforce" housing is to serve families and individuals who meet certain income limits, without regard to age or employment status. Workforce housing is intended to serve income populations of up to 120% of the MSA median income, where the units would be provided in several tiers to accommodate various income groups. When viewed with the ADU Program, the Workforce Housing Program will expand the income limits to accommodate an income limit that is higher than the ADU Program income limit of 70% of MSA median income, but still in the needed range of affordability assistance for those households with moderate incomes.

Procedurally, the Workforce Housing Program regulations as proposed in the Zoning Ordinance do not require the provision of workforce dwelling units. The Zoning Ordinance provisions simply set forth the administrative regulations that will apply to any workforce dwelling unit that is provided through a proffered rezoning by an owner/developer. There is a companion amendment to the Comprehensive Plan that will set forth guidelines and recommendations to be used to achieve workforce housing in

areas designated as development centers, specifically Transit Station Areas and Mixed Use Centers where the Area Plans envision mixed use or high-density residential development above the baseline recommendations for development. The expectation is that the combination of any required ADU and any proffered workforce dwelling units constitute a minimum of 12% of all residential units constructed on the site. The Comprehensive Plan will establish a maximum density bonus of 20% over the density range and that there is to be a ratio of bonus units to workforce dwelling units of up to one-for-one. It should be noted that in a development that also has an ADU requirement, the density bonus for workforce housing is inclusive of any bonus achieved through the ADU Program. The Comprehensive Plan amendment is scheduled for a Planning Commission Public Hearing on July 26, 2007 and a Board of Supervisors Public Hearing in September 2007.

With regard to the administrative regulations by which workforce dwelling units will be administered, the program has been designed to function in a manner similar to the ADU Program. Many of the regulations are replicated from, or are very similar to, those of the ADU Program, particularly with regard to the designation of the specific units on plats and plans; the use of the ADU bulk regulations, maximum density, minimum open space, minimum yard requirements, unit type, maximum building height, and minimum lot area; the conversion of units to condominium; the limits on the issuance of Residential Use Permits; the setting of rental and sales prices to serve the targeted income groups; provisions requiring the recordation of restrictive covenants with respect to each workforce housing unit, the period of sales price and rental price control; conditions on and reporting of occupancy of the units; the enforcement authority and procedures, and other controls.

With specific regard to the Workforce Housing Program regulations that help facilitate the additional units on-site, staff is proposing that developments with workforce dwelling units may utilize the regulations that are applicable to ADU developments for the respective zoning districts in which located. Under the current zoning provisions, each residential zoning district from R-2 to R-MHP includes a separate set of provisions for ADU developments. Such provisions generally allow for up to a 20% increase in density and offer a corresponding 20% reduction in lot area, setbacks and open space to accommodate the additional density. The proposed Workforce Housing Program will relate back to these provisions. In Planned Development Districts, the proposed amendment specifically excludes additional floor area/density from the specified maximum in the districts (as is the case with ADUs), which is designed to accommodate the additional density on-site.

The Workforce Housing Program will differ from the ADU Program in a number of areas. The paramount difference between the two programs is that participation in the ADU Program is mandatory for any development of 50 units or more, with a density of more than one unit per acre, and that develop at a level higher than the low end of the Comprehensive Plan recommendation, with an exemption for those units constructed of Building Construction Types 1, 2, 3 and 4. Participation in the Workforce Housing Program will be through the proffering of workforce dwelling units at the time of a

rezoning application. The following sets forth additional differences between the administration of the two programs with an explanation addressing the rationale for the recommendation:

#### Target Household Income Levels

The Workforce Housing Program is designed to serve a maximum household income of not more than 120% of the MSA median income, adjusted for household size. The ADU Program serves a maximum household income of not more than 70% AMI, adjusted for household size. For workforce housing, the dwelling units that are constructed of Building Construction Types 1, 2, 3, or 4 are to be distributed to be affordable to three income range tiers: 0% to 80%, 80.01% to 100%, and 100.01% to 120% of the MSA median income. For rental developments of Building Construction Type 5, workforce housing is to be distributed to be affordable for two income range tiers: 0%-80% and 80.01% to 100% of the MSA median income. However, development proposals may voluntarily designate more than one third of the units provided for households with incomes of not more than 80 percent of the MSA median income. Because the Workforce Housing Program is anticipated to be utilized in high density residential areas including Transit Station Areas and Mixed-Use Centers, it is envisioned that the majority of such units will occur in high-rise and high-density residential buildings. Such buildings are generally constructed of non-combustible (steel and concrete) materials, which are significantly more costly to build than buildings of wood construction. As such, a higher sales price would be necessary to encourage the voluntary provision of such units. In order to accommodate a higher sales price and to expand the income limits for which price controlled units are available, the target household income levels need to extend beyond the 70% limit currently set forth in the ADU Program.

#### Term of Price Control and Other Controls

The Workforce Housing Program will mirror the ADU Program with regard to for-sale dwelling units, in that there is an initial 30 year term of price control and other controls and a provision that the 30 year term restarts with every resale. Additionally, as with the ADU Program, if an owner keeps a unit for the entire 30 year term, the Workforce Housing Program provisions will expire and there will be a 50/50 sharing of net sales proceeds at the time of the first market rate sale of the unit.

For rental units, the ADU Program currently utilizes a 30 year term. The proposed Workforce Housing Program will implement a 50 year term of rent control. Staff and the High-Rise Affordability Panel believes that a 50 year term is appropriate to ensure the long-term availability of affordable rental housing and that such can be accomplished without disadvantaging the development with regard to securing financing for the project.

#### Administration of the Program and Purchase and Rental of Workforce Units by Fairfax County

Under the provisions of the ADU Program as currently adopted, the Fairfax County Redevelopment and Housing Authority (FCRHA) has regulatory and administrative

responsibilities for the ADU Program and has the right to purchase and/or rent certain ADUs that become available. With the Workforce Housing Program, however, the income limits of households proposed to be served by the workforce housing units in some cases exceed the FCRHA's existing adopted income limits for households to be served by the FCRHA. As such, staff is proposing that the Board of Supervisors will have regulatory and administrative responsibilities under the Workforce Housing Program and that the Director of the Department of Housing and Community Development (DHCD) be designated to administer the Workforce Housing Program on behalf of the Board of Supervisors. The Board of Supervisors will have the right to purchase and/or rent certain workforce housing units that become available. If, in the future, the FCRHA adopts such higher income limits as would be needed and is agreeable to acceptance of administrative responsibilities under the Workforce Housing Program, the Workforce Housing Program portion of the Zoning Ordinance could be amended to give the FCHRA rights and responsibilities similar to those that it has under the ADU Program.

#### Unit Sizes and Associated Market Rate Units

Under the ADU Program, the affordable units are required to be of the same bedroom count mix as the market rate units. For example, in a development with 30% 1-bedroom units, 50% 2-bedroom units and 20% 3-bedroom units, the ADUs have to adhere to the same 30%-50%-20% distribution. For workforce dwelling units, however, the proposal will allow the developer to determine which units to offer, but will establish a minimum gross floor area for efficiency, 1-bedroom and 2-bedroom units. While it is not envisioned that a large number of 3-bedroom workforce dwelling units will be produced in these high-rise residential buildings, nothing in the proposed Ordinance language would preclude the provision of such units. Staff believes that the developer can best gauge the market conditions and provide the workforce units accordingly.

If a developer/owner elects to provide workforce units, the Zoning Ordinance will require the associated market rate units to be of similar size to the workforce units. The companion Comprehensive Plan amendment will specify that there can be up to a 20% overall density bonus for projects with workforce dwelling units and that there is to be a "one for one" bonus of one market rate unit for each workforce unit offered. By requiring that the market rate unit be of similar size (not more than 10% larger), it is believed that this will keep the workforce units at a readily marketable size and will preclude large increases in floor area by allowing the associated market rate unit to be of any size. Additionally, staff believes that by requiring market rate units that are similar in size to workforce dwelling units, there will be a natural affordability built into the smaller units, which will cost less to deliver.

#### Modifications

The ADU Program is modifiable by the ADU Advisory Board (ADUAB), a body appointed by the Board to review modification requests. The ADUAB is not empowered to review other modification requests and staff proposes to keep the authority exclusive to the ADU Program provisions. For modification requests to the Workforce Housing Program, staff proposes that the Board should evaluate such proposals, given that the

provision of such units would be primarily through proffers in connection with a rezoning application and that a density bonus is involved. Therefore, a Proffered Condition Amendment and/or a Development Plan Amendment should be required for any modification of the Workforce Housing Program regulations.

#### Foreclosures and Financing

As with the ADU Program, as currently adopted, no loan for a workforce dwelling unit can be secured by an interest in the unit where the loan exceeds the controlled value of the unit. In the event of a foreclosure, a lender must give the County Executive and the Board 90 days notice of the pending foreclosure sale. The Board or a non-profit agency designated by the County Executive will have the right to purchase the workforce dwelling unit at or prior to the foreclosure sale at a price equal to the outstanding indebtedness, subject to certain limits. As with the ADU Program, in the event of a foreclosure sale by an Eligible Lender, which occurs in accordance with the provisions of the Workforce Housing Program of the Zoning Ordinance, the workforce dwelling unit covenants will expire, unless the Board or a designated non-profit agency purchases the unit. However, in the event of a foreclosure sale of a workforce dwelling unit, any net sale proceeds beyond what is needed to satisfy the indebtedness to an Eligible Lender is to be contributed to the Fairfax County Housing Trust Fund. Staff believes these provisions will ensure that workforce dwelling units are not over-financed beyond their controlled value and that any sale proceeds gained by a foreclosure sale resulting in the release of the covenants should be used to further the County's affordable housing goals.

#### CONCLUSION

Staff reiterates that the proposed Workforce Housing Program amendment is related to Comprehensive Plan implementation and program administration only. There is no Zoning Ordinance requirement for the provision of workforce housing, but rather, the Comprehensive Plan is being amended to encourage the provision of such units through proffers from the developer/owner during the rezoning process. When proffered workforce dwelling units are accepted by the Board, the units will be governed uniformly through these proposed provisions.

Staff believes that the recommended changes will accomplish the Board's desire to promote a fuller range of housing affordability in the County and will supplement the ADU Program's production of new affordable housing stock. Therefore, staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption.

## PROPOSED AMENDMENT

*This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of August 6, 2007 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.*

1 Amend Article, General Regulations, by adding a new Part 11, Workforce Housing  
2 Program, as follows:

3  
4 **PART 11 2-1100 WORKFORCE HOUSING PROGRAM**

5  
6 **2-1101 Purpose and Intent**

7  
8 The Workforce Housing Program is established to assist in the provision of affordable  
9 housing for persons of moderate income. The program is designed to promote a fuller  
10 range of housing choices and to encourage the construction and continued existence of  
11 dwelling units affordable to households whose income is one hundred twenty (120) percent  
12 or less of the Area Median Income (AMI) for Washington Standard Metropolitan Statistical  
13 Area, adjusted for family size. Within any for-sale development and in rental developments  
14 in structures utilizing Building Construction Types 1, 2, 3, or 4, the provision of workforce  
15 housing shall be evenly distributed among each of three (3) income range tiers, as follows:  
16 0% to 80%, 80.01% to 100%, and 100.01% to 120% of AMI. Within any rental  
17 development in structures utilizing Building Construction Type 5, the provision of  
18 workforce housing shall be evenly distributed among each of two (2) income range tiers, as  
19 follows: 0% to 80% and 80.01% to 100% of AMI. Nothing provided herein shall preclude  
20 an owner/developer from providing a higher percentage of workforce dwelling units for  
21 households with an AMI of 80 percent or less. A workforce dwelling unit shall mean the  
22 rental and/or for-sale dwelling unit for which the rental and/or sales price and other matters  
23 are controlled pursuant to the provisions of this Part. Workforce dwelling units shall be  
24 integrated into and dispersed throughout the development to the extent feasible.

25  
26  
27 **2-1102 Applicability**

28  
29 The provisions of this Part shall apply to any development in which workforce dwelling  
30 units are proffered as part of a rezoning that is approved on or after [effective date of this  
31 amendment] and to any workforce dwelling units previously proffered for which the owner  
32 elects to voluntarily comply with the administrative provisions of these regulations.  
33  
34



**2-1103****Workforce Dwelling Unit and Associated Market Rate Unit Floor Area**

1. The minimum gross floor area for any workforce dwelling unit shall be as follows:

<u>Efficiency Unit:</u>	<u>450 square feet</u>
<u>1-Bedroom Unit:</u>	<u>600 square feet</u>
<u>2-Bedroom Unit:</u>	<u>750 square feet</u>

The floor area for dwellings shall be determined in accordance with the gross floor area definition except the following features shall not be deemed gross floor area: balconies, porches, decks, breezeways, stoops and stairs which may be roofed but which have at least one open side; or breezeways which may be roofed but which have two (2) open ends. An open side or open end shall have no more than fifty (50) percent of the total area between the side(s), roof and floor enclosed with railings, walls, or architectural features.

2. For each workforce dwelling unit provided, there shall be at least one associated market rate unit of the same bedroom count that is of similar floor area. For the purposes of this provision, such associated market rate unit shall be not more than ten (10) percent larger than the workforce dwelling unit to which it is associated.
3. Nothing included herein precludes the developer from providing larger sized units, in terms of the square footage and/or number of bedrooms, as workforce dwelling units.

**2-1104****Density, Bulk Regulations, Unit Type, Open Space, Lot Size Requirements and Other Regulations**

Any development that provides workforce dwelling units on site, regardless of whether Affordable Dwelling Units are also provided, may comply with the respective zoning district regulations that apply to Affordable Dwelling Unit developments with regard to maximum density (which shall be part of the maximum specified, not in addition to), minimum lot area, minimum lot width, maximum building height, dwelling unit type, minimum yard requirements, and minimum open space.

**2-1105****Designation of Workforce Dwelling Units and Associated Market Rate Units on Approved Plans**

Approved site plans and record subdivision plats shall designate the specific lots or units that are the workforce dwelling units and associated market rate units. Such site plans and/or record subdivision plats shall also provide a tabulation of any bonus units and/or bonus floor area achieved on the site. If there is to be any change in the location of a workforce dwelling unit after the original approval of a site plan or subdivision, the owner shall be responsible for amending the approved plats and/or plans to reflect the designation of the alternate workforce dwelling unit prior to the issuance of a Residential Use Permit for the new workforce dwelling unit. However, in the case of a multiple family rental development that is under single ownership, the workforce dwelling units need not be specifically identified. In such rental developments, the site plan and/or record subdivision

1 plats shall identify the development as a rental project and shall note the total number of  
 2 workforce dwelling units and associated market rate units provided. For all for-sale  
 3 developments, the floor area of each workforce dwelling unit and each associated market  
 4 rate unit shall be noted on the approved site plan and/or subdivision plat and building plan.

5  
 6 Workforce dwelling units that are included on approved site plans and recorded  
 7 subdivision plats shall be deemed features shown for purposes of Section 15.2-2232 of Va.  
 8 Code Ann. and, as such, shall not require further approvals pursuant thereto in the event the  
 9 Board shall acquire or lease such units.

10 For multiple section developments where all the workforce dwelling units are not to  
 11 be provided in the first section of the development, the site plan and/or record subdivision  
 12 plat for the first section and all subsequent sections shall contain a notation identifying in  
 13 which section(s) the workforce dwelling units will be or have been provided and a total of  
 14 all workforce dwelling units for which such site plan(s) and/or record subdivision plat(s)  
 15 have been approved.

16 Under any instance whereby the location of the designated workforce dwelling unit is  
 17 to be changed or the unit is converted from a rental to a condominium after the approval of  
 18 the original site plan and/or subdivision, the owner/developer shall provide revised site  
 19 plans and/or record subdivision plats and the associated documentation to reflect the change  
 20 in location.

## 2-1106

### Condominium Developments

- 24
- 25 1. If a development is initially built as a condominium, then the workforce dwelling  
 26 units shall also be for-sale units and shall be specifically identified on the approved  
 27 site plan, building plans and designated as part of the recorded condominium  
 28 declaration and be disclosed in the required public offering statement.
- 29
- 30 2. If a development is initially built as a rental project under single ownership and such  
 31 development should subsequently convert to a condominium, then:
  - 32
  - 33 A. The development shall offer the same number of for-sale workforce dwelling  
 34 units as there were rental workforce dwelling units.
  - 35
  - 36 B. The workforce dwelling units shall be specifically identified by unit number  
 37 as part of the recorded condominium declaration.
  - 38
  - 39 C. The sales price for such workforce dwelling units being converted shall be  
 40 established by the County Executive pursuant to this Part. If the owner of  
 41 such condominium conversion elects to renovate the workforce dwelling  
 42 units, the County Executive shall consider the reasonable cost of labor and  
 43 materials associated with such renovation.
  - 44
  - 45 D. The rental tenant occupants of the workforce dwelling units subject to the  
 46 condominium conversion shall have the right to purchase the dwelling unit  
 47 they occupy at the sales price established by the County Executive pursuant  
 48 to this Part. Subsequently, the Board shall have the right to purchase any or  
 49 all of the workforce dwelling units that are not purchased by such rental  
 50 tenant occupants at the sales price established for such units by the County

Executive pursuant to this Part. Such units shall be offered to the Board and purchased by it in accordance with the provisions of Par. 2 of Sect. 2-1112, below.

## **2-1107**

### **Limitations on Building Permits and Residential Use Permits**

1. In any development, except for one that is comprised solely of rental multiple family units, building permits may be issued for all of the dwelling units in the development; however, Residential Use Permits (RUPs) shall not be issued for more than seventy-five (75) percent of the total number of units in the development until such time as RUPs have been issued for at least seventy-five (75) percent of the workforce dwelling units in the development. Additionally, the required Notice of Availability and Sales Offering Agreement shall be submitted prior to the issuance of the first RUP for any workforce dwelling unit in the development.
2. A development that is comprised solely of rental multiple family units shall not be subject to the limitations on the issuance of Residential Use Permits contained in this Section, except that the Notice of Availability and Rental Offering Agreement required by Sect. 1109 below, shall be executed prior to the issuance of the first RUP for any dwelling unit in the development.

## **2-1108**

### **Workforce Dwelling Unit Specifications**

1. The Director of the Department of Housing and Community Development shall develop specifications for the prototype workforce housing products both for-sale and rental. All building plans for workforce dwelling units shall comply with such specifications. Any applicant or owner may voluntarily construct workforce dwelling units to a standard in excess of such specifications, but only fifty (50) percent of any added cost for exterior architectural compatibility upgrades (such as brick facade, shutters, bay windows, etc.) and additional landscaping on the workforce dwelling unit lot shall be included within recoverable costs, up to a maximum of two (2) percent of the sales price of the workforce dwelling unit, with the allowance for additional landscaping not to exceed one-half (1/2) of the above-noted two (2) percent maximum.
2. In the administration of the Workforce Housing Program, the design and construction specifications established in both rental and sales prices shall be structured to make the units affordable to households whose incomes do not exceed one hundred twenty (120) percent of the median income of the Washington Standard Metropolitan Statistical Area, subject to the income tiers specified in Sect. 1101 and the unit size requirements of Sect. 1103 above.

## **2-1109**

### **Administration of For-Sale Workforce Dwelling Units**

1. The sale of workforce dwelling units shall be regulated by the Director of the Department of Housing and Community Development (DHCD) on behalf of the Board. The Board may adopt reasonable rules and regulations to assist in the

1 regulation and monitoring of the sale and resale of workforce dwelling units, which  
2 may include giving a priority to persons who live or work in Fairfax County.

3  
4 2. The Board shall have an exclusive right to purchase up to one-third (1/3) of the for-  
5 sale workforce dwelling units within a development for a ninety (90) day period  
6 beginning on the date that a complete Notice of Availability and Sales Offering  
7 Agreement, submitted by the owner, is executed by the DHCD. The notice shall  
8 advise the Board that a particular workforce dwelling unit or units are or will be  
9 completed and ready for purchase. The notice shall be in the form prescribed by the  
10 DHCD and include specific identification of the unit or units being offered; the  
11 number of bedrooms, floor area and amenities for each unit; the approved sales price  
12 for each unit and evidence of issuance of a building permit for the units. Such written  
13 notice may be sent by the owner at any time after the issuance of a building permit  
14 for the workforce dwelling unit and approval of the sales price for the unit by the  
15 County Executive, but shall occur prior to the issuance of the first Residential Use  
16 Permit for any workforce dwelling unit in the development. If the Board elects to  
17 purchase a particular workforce dwelling unit, the DHCD shall so notify the owner  
18 in writing and an all cash closing shall occur within thirty (30) days from the end of  
19 the respective ninety (90) day period, provided a Residential Use Permit has been  
20 issued for the unit prior to closing.

21  
22 3. The remaining two-thirds (2/3) of the for-sale workforce dwelling units within a  
23 development and any units that the Board does not elect to purchase shall be offered  
24 for sale exclusively for a ninety (90) day period to persons who meet the income  
25 criteria established by the DHCD, and who have been issued a Certificate of  
26 Qualification by the DHCD. This ninety (90) day period shall begin on the date that  
27 a complete Notice of Availability and Sales Offering Agreement, submitted by the  
28 owner, is executed by the DHCD. The notice shall advise the DHCD that a  
29 particular workforce dwelling unit or units are or will be completed and ready for  
30 purchase. The notice shall be in the form prescribed by the DHCD and include the  
31 information described in Par. 2 above. In addition, the owner shall provide  
32 marketing materials concerning the units and the development to be used in the sale  
33 of the units. Such written notice may be sent by the owner at any time after the  
34 issuance of a building permit for the workforce dwelling unit and approval of the  
35 sales price for the unit by the County Executive. Notwithstanding the foregoing,  
36 after the first thirty (30) days of the ninety (90) day period referenced in this  
37 paragraph, the Board may elect to purchase up to one-half (1/2) of the workforce  
38 dwelling units offered pursuant to this paragraph by giving written notice of its  
39 election to do so for those units then available within the ninety (90) day period,  
40 which notice shall provide for an all cash closing within thirty (30) days from the end  
41 of the ninety (90) day period, provided a Residential Use Permit has been issued  
42 prior to closing.

43  
44 4. After the expiration of the sixty (60) days of the ninety (90) day period(s) referenced  
45 in Paragraphs 2 and 3 above, the workforce dwelling units not sold shall be offered  
46 for sale to nonprofit housing groups, as designated by the County Executive, subject  
47 to the established workforce dwelling unit prices and the requirements of this Part.  
48 The nonprofit housing groups shall have a thirty (30) day period within which to  
49 commit to purchase the units. This thirty (30) day period shall begin on the date of  
50 receipt of written notification from the owner, sent by registered or certified mail,

advising them that a particular workforce dwelling unit is or will be ready for purchase. The notice shall state the number of bedrooms, floor area and amenities for each unit offered for sale. Such written notice may be sent by the owner any time after the commencement of the ninety (90) day period referenced in Paragraphs 2 and 3 above. If a nonprofit housing group elects to purchase a particular workforce dwelling unit, they shall so notify the owner in writing and an all cash closing shall occur within thirty (30) days from the end of the thirty (30) day period, provided a Residential Use Permit has been issued for the unit prior to closing.

5. After the expiration of the time period(s) referenced in Paragraphs 2, 3, and 4 above, the workforce dwelling units not sold may be offered to the general public as for-sale units subject to established workforce dwelling unit prices and the requirements of this Part or, in the event of a rental project, may be offered as rental units subject to the requirements of this Part to persons who meet income requirements hereunder.
6. A schedule of County-wide cost factors and the cost calculation formula used to determine sales prices shall be established initially and may be amended periodically by the County Executive, based upon a determination of all ordinary, necessary and reasonable costs required to construct the various workforce dwelling unit prototype dwellings by private industry in Fairfax County, after consideration by the County Executive of written comment from the public, the DHCD, and other information that may be available, such as the area's current general market and economic conditions.
7. Sales prices shall include, among other costs, a marketing and commission allowance of one and one-half (1 1/2) percent of the sales price for the workforce dwelling unit, provisions for builder-paid permanent mortgage placement costs and buy-down fees, and closing costs, except pre-paid expenses required at settlement, but shall not include the cost of land.
8. There shall be a semiannual review and possible adjustment in workforce dwelling unit sales prices that shall be applied to the workforce dwelling unit sales prices initially established by the County Executive adjusted according to the percentage change in the various cost elements as indicated by the U.S. Department of Commerce's Composite Construction Cost Index and/or such other comparable index or indices selected by the County Executive.

## **2-1110**

### **Administration of Rental Workforce Dwelling Units**

1. The Board may adopt reasonable rules and regulations to assist in the regulation and monitoring of the rental of workforce dwelling units, which may include giving a priority to persons who live or work in Fairfax County. The regulation and monitoring of rental workforce dwelling units shall be by the DHCD on behalf of the Board.

For the initial rentals of units, the owner shall send the Board a Notice of Availability and Rental Offering Agreement in a form prescribed by the DHCD, to advise that a particular workforce dwelling unit or units are or will be completed and ready for rental. The Board or its designee shall have an exclusive right to lease up to one-third (1/3) of the rental workforce dwelling units. Such Notice of Availability

and Rental Offering Agreement shall be submitted to and executed by the DHCD prior to the issuance of the first Residential Use Permit for any dwelling within the development. The notice shall state the number of bedrooms, floor area, amenities and rent for each unit offered for rental. Such written notice may be sent by the owner at any time after the issuance of a building permit for the workforce dwelling units that are being offered for rental. If the Board elects to assume control for a particular workforce dwelling unit, the Board shall so notify the owner in writing within thirty (30) days from the execution of the notice by the Board. At the owner's option, the Board may lease additional rental units at the workforce dwelling unit rent or market rent as appropriate.

The remaining two-thirds (2/3) of the rental workforce dwelling units within a development shall be offered to persons who meet the established income criteria.

2. Any workforce dwelling units required pursuant to this Part that are not leased by the Board shall be leased for a minimum six (6) month period with a maximum renewable term of lease for one (1) year to tenants who meet the eligibility criteria established by the DHCD. The lease agreements for such units shall include conditions that require the tenant to occupy the unit as his or her domicile, that prohibit the subleasing of the unit, that require continued compliance with the applicable eligibility criteria, and that require the tenant to annually verify under oath, on a form approved by the DHCD, his or her annual income and such other facts that the landlord may require in order to ensure that the tenant continues to meet the applicable eligibility criteria.
3. Eligible tenants must continue to meet the income criteria established by the DHCD in order to continue occupancy of the workforce dwelling unit. However, a tenant who no longer meets such criteria may continue to occupy a workforce dwelling unit until the end of the lease term. Workforce dwelling units not leased by the Board may not be subleased.
4. By the end of each month, the owner of a development containing rental workforce dwelling units leased to individuals other than the Board shall provide the DHCD with a statement verified under oath that certifies the following as of the first of such month:
  - A. The address and name of the development and the name of the owner.
  - B. The number of workforce dwelling units by bedroom count and floor area, other than those leased to the Board, which are vacant.
  - C. The number of workforce dwelling units by bedroom count and floor area that are leased to individuals other than the Board. For each such unit, the statement shall contain the following information:
    - (1) The unit address, bedroom count and floor area.
    - (2) The tenant's name and household size.
    - (3) The effective date of the lease.

(4) The tenant's (household) income as of the date of the lease.

(5) The current monthly rent.

D. That to the best of the owner's information and belief, the tenants who lease workforce dwelling units meet the eligibility criteria established by the DHCD.

E. The owner shall provide the DHCD with a copy of each new or revised annual tenant verification obtained from the renters of workforce dwelling units pursuant to Par. 2 above.

5. County-wide rental prices shall be established by the County Executive such that one-half (1/2) of the workforce units shall be priced to serve households with an income of up to eighty (80) percent of the median income for the Washington Standard Metropolitan Statistical Area and one-half (1/2) of the workforce units shall be priced to serve households with an income of between 80.01 percent and one hundred (100) percent. This base figure shall be adjusted by the following factors for different workforce dwelling unit sizes based on the number of bedrooms in the dwelling unit:

<u>Number of Bedrooms</u>	<u>Adjustment Factor</u>
<u>Efficiency (0 bedroom)</u>	<u>70%</u>
<u>1 Bedroom</u>	<u>85%</u>
<u>2 Bedroom</u>	<u>100%</u>

The result of this calculation for each size workforce dwelling unit shall then be divided by twelve (12), then multiplied by twenty-five (25) percent and rounded to the nearest whole number to establish the rent for the unit, excluding utilities.

6. There shall be a semiannual review and possible adjustment in workforce dwelling unit rental prices that shall be applied to the workforce dwelling unit rental prices initially established by the County Executive, adjusted according to the percentage change in the various cost elements as indicated by the U. S. Department of Commerce's Composite Construction Cost Index and/or such other comparable index or indices that are selected by the County Executive. In setting adjusted rental prices, the County Executive may establish different rental classifications and prices that reflect the age and condition of the various rental developments within Fairfax County.

## **2-1111**

### **Term of Price Control of Workforce Dwelling Units**

1. For for-sale workforce dwelling units, the price for subsequent resale shall be controlled for a period of thirty (30) years after the initial sale. However, upon any resale, conveyance, and/or transfer to a new owner of such workforce dwelling unit within the initial thirty (30) year period of control, the prices for each subsequent resale and/or transfer to a new owner shall be controlled for a new thirty (30) year period commencing on the date of such resale, conveyance, and/or transfer of the

workforce dwelling unit. Each initial thirty (30) year control period and each renewable subsequent thirty (30) year control period may be referred to as a sales price control period. For any workforce dwelling unit that is owned for an entire 30 year control period by the same individual(s), the price control term shall expire and the first sale of the unit after such expiration shall be in accordance with Par. 4 of Sect. 1112, below.

2. For rental workforce dwelling units, the price for subsequent rerentals shall be controlled for a period of fifty (50) years from the date of issuance of the first Residential Use Permit for any workforce dwelling unit in the development.
3. For condominium conversion workforce dwelling units, regardless of the length of time the unit was offered as a workforce rental unit, the initial term of price control for the first sale of the unit after the conversion from a rental unit shall be for a period of thirty (30) years from the date of the initial sale. Subsequent resale of such units shall be administered under the provisions of Par. 1 above.

## **2-1112**

### **Initial Sale and Re-Sale of Workforce Dwelling Units**

1. The initial sale of a workforce dwelling unit, including the initial sale of a condominium conversion unit, shall be for a sales price that is approved by the County Executive and shall be made only to a person or household that meets the applicable income qualifications for the Workforce Housing Program and have been issued a Certificate of Qualification by the Director of the Department of Housing and Community Development (DHCD). It shall be a violation of this Ordinance to purchase a unit or to sell it or otherwise transfer or pledge it as security for an amount higher than the approved sales price, whether upon initial sale or thereafter during the period of price control as set forth in Sect. 1111 above.
2. The owner of each unit to be resold, conveyed, or otherwise transferred to another owner and for the conversion of rental workforce dwelling units to condominium workforce dwelling units shall provide the DHCD with written notification sent by certified mail that the workforce dwelling unit is being offered. The Board shall have the exclusive right to purchase such unit at a purchase price that shall not exceed the control price of the unit at that time as established in accordance with this Part. The DHCD shall notify the owner in writing within thirty (30) days after receipt of the written notification from the owner advising whether or not the Board will enter into a contract to purchase the unit on the form approved by the DHCD and subject to certain conditions, such as acceptable condition of title and acceptable physical and environmental conditions. An all cash closing shall occur within ninety (90) days after receipt by the DHCD of the written notification of the owner offering the unit for sale, in the event that all such conditions of the contract are satisfied.

If the Board does not elect to purchase an available for-sale workforce dwelling unit, for the first sixty (60) days thereafter, each such individual workforce dwelling unit is offered, the for-sale unit shall first be offered exclusively through the DHCD to persons who meet the DHCD's criteria, and who have been issued a Certificate of Qualification by the DHCD. Upon the expiration of the sixty (60) day period, the unit may be offered for sale to the general public to persons who meet income requirements hereunder and at the current controlled price.



3. Units offered for sale shall not be offered for a price greater than the original selling price plus a percentage of the unit's original selling price equal to the increase in the U. S. Department of Labor's Consumer Price-Urban Area Index or such other index selected by the County Executive, plus the lesser of the current fair market value or the actual original cost of certain improvements as determined by the DHCD in accordance with applicable regulations to be (a) substantial and appropriate replacements or improvements of existing housing components and/or (b) structural improvements made to the unit between the date of original sale and the date of resale, plus an allowance for payment of closing costs on behalf of the subsequent purchaser that shall be paid by the seller. Those features deemed to be substantial and appropriate replacements or improvements of housing components and structural improvements are as set forth by the DHCD. No increase in sales price shall be allowed for the payment of brokerage fees associated with the sale of the unit, except that with respect to units purchased and resold by the Board, an increase of one and one half (1 1/2) percent of the resale price shall be allowed for marketing and transaction costs, and with respect to resales by other owners, an increase of one and one-half (1 1/2) percent of the sales price shall be allowed as a fee to be paid to a real estate broker or agent licensed to conduct residential real estate transactions in the Commonwealth of Virginia who meets the qualifications determined by the DHCD and who serves as a dual agent for both the qualified buyer and the seller in the resale of the workforce dwelling unit in accordance with sales procedures approved by the DHCD. The one and one-half (1 1/2) percent fee shall be paid to such real estate broker or agent by the seller at the time of settlement of the resale of the workforce dwelling unit as part of the disbursement of settlement proceeds.

4. For the initial sale of a workforce dwelling unit after the expiration of the term of price control set forth in Sect. 1111 above, the Board shall be offered the exclusive right to purchase the unit. The owner of each such unit shall provide the DHCD with written notification sent by registered or certified mail that the unit is for sale. If the Board elects to purchase such unit, the DHCD shall so notify the owner in writing within thirty (30) days of receipt of the written notification from the owner and the all cash closing shall occur within sixty (60) days thereafter.

In all instances, whether or not the Board elects to purchase such unit, one-half (1/2) of the amount of the difference between the net sales price paid by the purchaser at such sale and the owner's purchase price plus a percentage of the unit's selling price equal to the increase in the U.S. Department of Labor's Consumer Price-Urban Area Index, plus the lesser of the current fair market value or the actual original cost of certain improvements as determined by the DHCD in accordance with applicable regulations to be (a) substantial and appropriate replacements or improvements of existing housing components and/or (b) structural improvements made to the unit between the date of the owner's purchase and the date of resale shall be contributed to the Fairfax County Housing Trust Fund to promote housing affordability in Fairfax County as part of the disbursement of settlements proceeds. Notice of such equity interest of the Fairfax County Housing Trust Fund may be evidenced by a document recorded among the land records of Fairfax County, Virginia encumbering any workforce dwelling unit. Net sales price shall exclude closing costs such as title charges, transfer charges, recording charges, commission fees, points and similar charges related to the closing of the sale of the property paid by the seller. All amounts necessary to pay and satisfy any and all liens, judgments,

deeds of trust, or other encumbrances on the unit, other than the equity interest of the Fairfax County Housing Trust Fund, shall be paid by the seller out of proceeds of the seller from such sale, as determined in accordance with this paragraph, or shall be paid otherwise by the seller. In no event shall any such amounts required to be paid by the seller reduce the amount, as determined in accordance with this paragraph, which is to be contributed to the Fairfax County Housing Trust Fund pursuant to this paragraph.

## **2-1113**

### **Financing Control and Foreclosure of Workforce Dwelling Units**

1. The total aggregate amount of principal and accrued interest for all financing secured by an individual for-sale workforce dwelling unit shall not exceed the owner's purchase price (as adjusted in accordance with Par. 2 of Sect. 1111, above). Any financing in excess of the owner's purchase price (as adjusted in accordance with Par. 2 of Sect. 1111, above) shall not be secured by any interest in the applicable individual for-sale workforce dwelling unit.
2. The covenants required pursuant to Sect. 1114, below shall be senior to all instruments securing financing, and the covenants shall be binding upon all assignees, mortgagees, purchasers and other successors in interest, except that the covenants shall be released for an individual for-sale workforce dwelling unit in the event of foreclosure by an Eligible Lender, as such term is defined in Par. 3 below, as and only to the extent provided for in this Part. In the event of foreclosure of a rental development containing workforce dwelling units, the covenants shall not be released.
3. An Eligible Lender is defined as an institutional lender holding a first priority purchase money deed of trust on an individual for-sale workforce dwelling unit or a refinancing of such institutionally financed purchase money deed of trust by an institutional lender, provided that such refinancing does not exceed the outstanding principal balance of the existing purchase money first trust indebtedness on the unit at the time of refinancing. An Eligible Lender shall have the right to foreclose on a rental project or a workforce dwelling unit and the covenants on an individual workforce dwelling unit shall terminate upon such foreclosure by the Eligible Lender or the workforce dwelling unit is sold by a trustee on behalf of the Eligible Lender to a bona fide purchaser for value at a foreclosure sale and all the requirements of the Workforce Housing Program as set forth in this Part, the covenants, and applicable regulations with respect to such foreclosure sale are satisfied. Such requirements include, but are not limited to, the Eligible Lender with respect to an individual for sale affordable dwelling unit having provided the County Executive and the Board written notice of the foreclosure sale proposed and having provided the Right to Acquire, as such term is defined in Par. 4, above.
4. No sale, pledge of a security interest in, or other transfer of or foreclosure of a workforce dwelling unit shall affect the validity of the covenants, except as set forth in this Part.
5. Each Eligible Lender and any other lender secured by an interest in the workforce dwelling unit shall be required prior to foreclosure to provide the County Executive

and the DHCD at least ninety (90) days prior written notice thereof. At any time during such ninety (90) day period, the Board or a nonprofit agency designated by the County Executive shall have the Right to Acquire any individual for-sale workforce dwelling unit. The Right to Acquire shall entitle the Board or a nonprofit agency designated by the County Executive to acquire the workforce dwelling unit(s) at or before any foreclosure sale for which such notice has been given upon payment in full of the outstanding indebtedness on the workforce dwelling unit owed to the lender including principal, interest, and fees that together in the aggregate do not exceed the amount of the owner's purchase price (as adjusted in accordance with Par. 2 of Sect. 1111, above), and other reasonable and customary costs and expenses (the Outstanding First Trust Debt), with no owner, prior owner or other party, whether secured or not, having any rights to compensation under such circumstances.

6. In the event that neither the Board nor the nonprofit agency designated by the County Executive exercises the Right to Acquire and the individual for-sale workforce dwelling unit is sold for an amount greater than the Outstanding First Trust Debt, the remaining amount in excess of the Outstanding First Trust Debt shall be paid to the Fairfax County Housing Trust Fund to promote housing affordability in Fairfax County as part of the disbursement of settlement proceeds.

## **2-1114**

### **Covenants and Deed Notification**

1. In developments containing workforce dwelling units, Workforce Housing Program covenants that are applicable to the workforce dwelling units and that run in favor of the Board and are in the specific form prescribed by the Director of the Department of Housing and Community Development (DHCD) providing, among other things, that the workforce dwelling units are subject to the provisions of this Part, shall be recorded upon approval of the site plan and/or simultaneously with the recordation of the final subdivision plat or, in the case of a condominium, recorded simultaneously with the condominium declaration.
2. The covenants shall be senior to all instruments securing financing, and the covenants shall be binding upon all assignees, mortgagees, purchasers and other successors in interest.
3. In developments containing for-sale workforce dwelling units, at the time of the initial sale of an individual workforce dwelling unit, the owner/applicant shall provide in the sales contract for each workforce dwelling unit offered for sale a copy of the recorded covenant running with the land in favor of the Board. The owner/applicant shall include in the deed for each workforce dwelling unit sold an express statement that the workforce dwelling unit is subject to the terms and conditions of the Workforce Housing Program and the covenants recorded pursuant to this Part with a specific reference to the deed book and the page where such covenants are recorded and such deed may also attach a copy of the covenants. At the time of the initial sale and any resale of an individual workforce dwelling unit, the owner/applicant shall also include in the deed for each workforce dwelling unit sold an express statement that the total aggregate amount of indebtedness that may be secured by the workforce dwelling unit is limited and that other terms and conditions apply, including, but not limited to, a right for the Board or a nonprofit agency

designated by the County Executive to acquire the workforce dwelling unit on certain terms in the event of a pending foreclosure sale.

4. In the case of a rental project, prior to the issuance of the first Residential Use Permit for the development and the offering for rent of any workforce dwelling units, the owner shall record a covenant running with the land in favor of the Board and which is on the specific form prescribed by the DHCD that provides that the workforce dwelling units are subject to the provisions of this Part, which date shall be subsequently specified in the covenant, that no such unit may be rented for an amount that exceeds the limits set by the County Executive, that the project is subject to the provisions of the Workforce Housing Program as set forth in the Fairfax County Zoning Ordinance, that the covenant shall be senior to all instruments securing permanent financing, and that the covenant shall be binding upon all assignees, mortgagees, purchasers and other successors in interest.

## **2-1115**

### **Occupancy of Workforce Dwelling Units**

1. Before an individual may purchase a workforce dwelling unit, he or she must obtain a Certificate of Qualification from the Director of the Department of Housing and Community Development (DHCD). Before issuing a Certificate of Qualification, the DHCD shall determine that the applicant meets the criteria established by the DHCD for low and moderate income persons applicable to for-sale workforce dwelling units in the Workforce Housing Program.
2. Before an individual may rent a workforce dwelling unit, he or she must meet the eligibility criteria established by the DHCD for persons of low and moderate income. The landlord/owner shall be responsible for determining that the tenant meets the eligibility criteria applicable to tenants in rental units in the Workforce Housing Program.
3. Except for circumstances referenced in Par. 5 of Sect. 1109 and Par. 2 of Sect. 1113 above, it shall be a violation of this Ordinance for someone to sell a workforce dwelling unit to an individual who has not been issued a Certificate of Qualification by the DHCD.
4. Except as provided for in Par. 3 of Sect. 1110 above, it shall be a violation of this Ordinance for someone to rent or continue to rent a workforce dwelling unit to an individual who does not meet or fails to continue to meet the income eligibility criteria established by the DHCD.
5. Purchasers or renters of workforce dwelling units shall occupy the units as their domicile and shall provide an executed affidavit on an annual basis certifying their continuing occupancy of the units. Owners of for-sale workforce dwelling units shall forward such affidavit to the DHCD on or before June 1 of each year that they own the unit. Renters shall provide such affidavit to their landlords/owners by the date that may be specified in their lease or that may otherwise be specified by the landlord/owner.

6. In the event the renter of a workforce dwelling unit fails to provide his or her landlord/owner with an executed affidavit as provided for in the preceding paragraph within thirty (30) days of a written request for such affidavit, then the lease shall automatically terminate, become null and void and the occupant shall vacate the unit within thirty (30) days of written notice from the landlord/owner.
7. Except as provided for in Par. 3 of Sect. 1110 above, in the event a renter of a workforce dwelling unit shall no longer meet the eligibility criteria established by the DHCD, as a result of increased income or other factors, then at the end of the lease term, the occupant shall vacate the unit.
8. In the event a renter fails to occupy a workforce dwelling unit for a period in excess of sixty (60) days, unless such failure is approved in writing by the DHCD, a default shall occur. The lease shall automatically terminate, become null and void and the occupant shall vacate the unit within thirty (30) days of written notice from the landlord/owner.
9. Notwithstanding the provisions of Paragraphs 6, 7 and 8 above, if the landlord/owner of a rental project shall immediately designate an additional comparable unit as a workforce dwelling unit to be leased under the controlled rental price and requirements of this Part, the renter of such unit referenced in Paragraphs 6, 7 and 8 above may continue to lease such unit at the market value rent.

## **2-1116**

### **Modifications to the Requirements of the Workforce Housing Program**

1. Upon the acceptance of proffered workforce dwelling units through the approval of a rezoning, no modifications to the number of workforce dwelling units or the associated market rate units and no increase in bonus units and/or bonus floor area shall be permitted without subsequent approval of the Board of Supervisors.
2. Persons aggrieved by the workforce dwelling unit for sale and rental prices established by the County Executive pursuant to the provisions of this Part may appeal such prices to the Board of Supervisors. Such appeal shall be filed with the Clerk to the Board of Supervisors and shall specify the grounds upon which aggrieved and the basis upon which the applicant claims the established for sale or rental prices should be modified. The Board of Supervisors shall act within ninety (90) days of receipt of a complete application for appeal.

## **2-1117**

### **Violations and Penalties**

In addition to the provisions set forth in Part 9 of Article 18, the following shall apply whenever any person, whether owner, lessee, principal, agent, employee or otherwise, violates any provision of this Part, or permits any such violation, or fails to comply with any of the requirements hereof:

1. Owners of workforce dwelling units who fail to submit executed affidavits or certifications as required by this Part shall be fined fifty (50) dollars per day per unit until such affidavit or certificate is filed, but only after written notice and a

reasonable time to comply is provided. Fines levied pursuant to this paragraph shall become liens upon the real property and shall accumulate interest at the judgment rate of interest.

2. Renters of workforce dwelling units, who fail to submit executed affidavits or certifications as required by this Part, shall be subject to lease termination and eviction procedures.

3. Owners and renters of workforce dwelling units who falsely swear or who shall execute an affidavit or certification required by this Part knowing the statements contained therein to be false shall be guilty of a misdemeanor and shall be fined \$1,000.00.

A. Fines levied against owners pursuant to this paragraph shall become liens upon the real property and shall accumulate interest at the judgment rate of interest.

B. Renters of workforce dwelling units who falsely swear or who execute an affidavit or certification required by this Part knowing the statements contained therein to be false shall also be subject to lease termination and eviction procedures as provided in Sect. 1115, above.

C. Owners of individual workforce dwelling units who falsely swear that they continue to occupy their respective workforce dwelling unit as their domicile shall be subject to mandamus or other suit, action or proceeding to require such owner to either sell the unit to someone who meets the eligibility requirements established pursuant to this Part or to occupy such workforce dwelling unit as a domicile.

## **2-1118**

### **Enforcement and Court Appeals**

1. The Zoning Administrator shall have all the enforcement authority provided under the Zoning Ordinance to enforce the provisions of the Workforce Housing Program.

2. Notwithstanding the provisions of Section 15.2-2311 of Va. Code Ann., any person aggrieved by a decision of the Board of Supervisors regarding an appeal of workforce dwelling unit for sale and rental prices, or by any decision made by an administrative officer in the administration or enforcement of the Workforce Housing Program, may appeal such decision to the Circuit Court for Fairfax County by filing a petition of appeal that specifies the grounds upon which aggrieved within thirty (30) days from the date of the decision.

3. Any petition of appeal properly filed pursuant to Par. 2 above shall not constitute a de novo proceeding and shall be considered by the Circuit Court in a manner similar to petitions filed pursuant to Section 15.2-2314 of Va. Code Ann.

**Amend Article 6, Planned Development Districts, as follows:**

- 1 - **Amend Part 1, PDH Planned Development Housing District, Sect. 6-109, Maximum**  
 2 **Density, by revising Par. 1 to read as follows:**

3  
 4 **6-109 Maximum Density**

- 5  
 6 1. For purposes of computing density, the PDH District is divided into subdistricts in which  
 7 the residential density is limited as set forth below, except that the maximum density  
 8 limitations may be increased in accordance with the requirements for affordable dwelling  
 9 units set forth in Part 8 of Article 2 and shall be exclusive of the density and/or floor area  
 10 for proffered workforce dwelling units administered in accordance with Part 11 of Article 2  
 11 and bonus market rate units and/or bonus floor area, as applicable.  
 12

13	Subdistrict	Density
14		
15	PDH-1	1 dwelling unit per acre
16	PDH-2	2 dwelling units per acre
17	PDH-3	3 dwelling units per acre
18	PDH-4	4 dwelling units per acre
19	PDH-5	5 dwelling units per acre
20	PDH-8	8 dwelling units per acre
21	PDH-12	12 dwelling units per acre
22	PDH-16	16 dwelling units per acre
23	PDH-20	20 dwelling units per acre
24	PDH-30	30 dwelling units per acre
25	PDH-40	40 dwelling units per acre
26		
27		
28		

- 29 - **Amend Part 2, PDC Planned Development Commercial District, Sect. 6-208, Bulk**  
 30 **Regulations, by revising Par. 3 to read as follows:**

31  
 32 **6-208 Bulk Regulations**

- 33  
 34 3. Maximum floor area ratio: 1.5, which may be increased by the Board, in its sole  
 35 discretion, up to a maximum of 2.5 in accordance with and when the conceptual and  
 36 final development plans include one or more of the following:  
 37  
 38 A. More open space than the minimum required by Sect. 209 below - Not more  
 39 than 2% for each additional 1% of the gross area provided in open space.  
 40  
 41 B. Unique design features and amenities within the planned development which  
 42 require unusually high development costs and which achieve an especially  
 43 attractive and desirable development, such as, but not limited to, terraces,  
 44 sculpture, reflecting pools and fountains - As determined by the Board in each  
 45 instance, but not to exceed 35%.  
 46  
 47 C. Below-surface off-street parking facilities - Not more than 5% for each 20%  
 48 of the required number of parking spaces to be provided.  
 49

- 1 D. Above-surface off-street parking facilities within an enclosed building or  
 2 structure - Not more than 3% for each 20% of the required number of parking  
 3 spaces to be provided.  
 4

5 The maximum floor area ratio permitted by this Part shall exclude the floor area for  
 6 affordable and bonus market rate dwelling units provided in accordance with Part 8  
 7 of Article 2 and the floor area for proffered workforce dwelling units administered in  
 8 accordance with Part 11 of Article 2 and bonus market rate units and/or bonus floor  
 9 area, as applicable.  
 10

- 11  
 12 - **Amend Part 3, PRC Planned Residential Community District, Sect. 6-308, Maximum**  
 13 **Density, by revising Par. 5 to read as follows:**  
 14

15 **6-308 Maximum Density**  
 16

- 17 5. The provisions of Paragraphs 1 and 4 above shall not apply to affordable and market  
 18 rate dwelling units which comprise the increased density pursuant to Part 8 of Article  
 19 2 or to proffered workforce dwelling units administered in accordance with Part 11  
 20 of Article 2 and bonus market rate units and/or bonus floor area, as applicable.  
 21

- 22  
 23 - **Amend Part 4, PRM Planned Residential Mixed Use District, Sect. 6-408, Bulk**  
 24 **Regulations, by revising Par. 2 to read as follows:**  
 25

26 **6-408 Bulk Regulations**  
 27

- 28 2. Maximum floor area ratio: 3.0, provided the maximum floor area ratio permitted by  
 29 this Part shall exclude the floor area for affordable and bonus market rate units  
 30 provided in accordance with Part 8 of Article 2 and the floor area for proffered  
 31 workforce dwelling units administered in accordance with Part 11 of Article 2 and  
 32 bonus market rate units and/or bonus floor area, as applicable.



**Attachment A****High-Rise Affordability Panel Membership**

**Lee Rau**, Chair

Commissioner, Hunter Mill District, Fairfax County Redevelopment and Housing Authority (FCRHA)

**Walter Alcorn**, Commissioner, At-Large, Fairfax County Planning Commission

**William Berry**, The Berry Companies

**Jim Edmondson**, Unidev, LLC

**Conrad Egan**, Chair and Commissioner, Providence District, FCRHA

**C. Lee Fifer, Jr.**, McGuire Woods

**Rick Hausler**, President, KSI, Inc.

**Chris Lessard**, The Lessard Architectural Group

**Jan Maxwell**, Chevy Chase Bank

**Michael Scheurer**, Virginia Housing Development Authority

**Barry Schwartz**, WCI/Renaissance Communities

## Attachment B

### **Preliminary Recommendations of the Panel of Experts in High Rise Development Appointed by the Fairfax County Board of Supervisors**

**BOS ADOPTION DATE: 2/6/2006**

On October 17, 2005, the Fairfax County Board of Supervisors appointed a panel of experts in high-rise development (the “Panel”) to work with County staff to develop for Board consideration, a policy statement and guidelines for the inclusion of affordable/workforce housing in high-rise development. The Panel has met and explored the issues and challenges presented to it relating to future high-rise and high-density development. The Panel believes that it is possible to provide affordable/workforce housing in future high-rise and other high-density developments and that additional work is needed to refine certain key concepts that would need to be implemented to achieve that goal. The Panel hereby presents to the Board its preliminary recommendations for Board endorsement as guidance:

1. General Policy: As the Board is aware, many developments in Fairfax County’s high-density areas are currently exempt from the Affordable Dwelling Unit Program in the Fairfax County Zoning Ordinance, and do not produce affordable/workforce housing. Therefore, the Panel formally requests that the Board of Supervisors adopt now the following resolution of general policy: “In instances where increases in residential density or non-residential intensity in Fairfax County’s planned and/or existing high-density areas are granted, it is the policy and expectation of Fairfax County that a substantial amount of affordable/workforce housing shall be provided.”
2. Guiding Principles: The Panel recommends that the Board endorse the following:
  - a. That Fairfax County establish a policy that supports affordable/workforce housing for a range of moderate income families with incomes of up to 120% of the Area Median Income;
  - b. That Fairfax County may consider a variety of options to encourage the development and preservation of affordable/workforce housing, including amending the Fairfax County Comprehensive Plan and Zoning Ordinance, and including the use of density bonuses;
  - c. That Fairfax County will actively participate, as appropriate, in the development of affordable/workforce housing, potentially by providing and facilitating public/private financing and granting or leasing of County-owned and other available land;
  - d. That Fairfax County may consider a variety of regulatory changes to foster affordable/workforce housing, such as potentially the reduction of development and operating costs, and increased flexibility in development requirements;
  - e. Fairfax County will actively work to implement long-term affordable/workforce housing for rental and homeownership.
3. Next Steps: Finally, it is recommended that the Board direct the Panel to continue to meet to develop a series of specific recommended actions to be presented to the Board for consideration no later than June 30, 2006.

## **Attachment C**

**October 16, 2006**

### **High-rise Affordability Panel of Experts**

#### **Final Panel Report and Policy Recommendation to the Fairfax County Board of Supervisors**

##### **I. Executive Summary**

The High-rise Affordability Panel, appointed by the Board of Supervisors on October 17, 2005, reaffirms its recommendation of January 2006 that a substantial amount of rental and for-sale affordable/workforce housing should be provided in high density areas of the County. The panel believes that the existing County goal in the Policy Plan of the Comprehensive Plan that at least 12 percent of new housing be affordable should continue to guide land use policy in these areas, and that such housing should be affordable at levels that range from low and moderate income up to and including housing for those who earn up to 120 percent of Area Medium Income. The panel finds, though, depending upon market conditions at the time, that it will not always be economically realistic to provide affordable units within specific projects, especially high rise developments constructed with steel and concrete construction, and that the achievement of the 12 percent goal will therefore require a flexible approach, permitting, for example, affordable units to be provided in some instances using less expensive construction on separate sites or even the donation of land or money in lieu of the inclusion of units in specific projects.

The Panel therefore recommends a two phase approach to the achievement of the 12 percent affordable housing goal within high density areas. The first is to strengthen existing Comprehensive Plan policy by creating a proffer-based incentive system to encourage the development of affordable/workforce housing. Such a system would include Zoning Ordinance and policy changes designed to reduce the cost and time involved in the production of affordable/workforce housing. This incentive-based voluntary proffer component of the proposed policy is based on the assumption of a good faith commitment by the County and the development community. That commitment is that projects will deliver the cumulative amount of affordable/workforce housing necessary to meet the Countywide goal of a minimum of 12 percent of new supply, while providing a genuine density bonus.

The second step is to establish affordable/workforce housing as a permitted use in commercial and industrial zones, subject to certain restrictions and conditions, and possibly as a zoning overlay within high density areas, such as transit station areas, revitalization areas, industrial areas, and commercial areas as a more effective long term solution. The Panel believes that the first phase can be implemented in a relatively short period of time.

Finally, the Panel believes that significantly increasing the supply of affordable housing at

the low and moderate income level cannot be achieved simply through the kind of marketplace incentives contemplated by these recommendations, and will require substantial public resources as well.

## II. Panel Report

**Background:** On October 17, 2005, the Fairfax County Board of Supervisors appointed a panel of experts in high-rise development (the “Panel”) to work with County staff to develop, for Board consideration, a policy statement and guidelines for the inclusion of affordable/workforce housing in high-rise development. The Panel met and explored the issues and challenges presented to it relating to future high-rise and high-density development. The Panel agreed that the provision of affordable/workforce housing in future high-rise and other high-density developments is an important goal and policy, but that the cost structure is challenging and that additional work was needed to refine certain key implementation concepts needed to achieve that goal.

On February 6, 2006, Board accepted the Panel’s preliminary general policy and guiding principle recommendations for the development of affordable/workforce housing in high-rise projects or high-density areas of the County. The general policy statement and guiding principles are included here as Attachment A; an excerpt of the Policy Plan detailing the 12 percent expectation of affordable housing is included as Attachment B.

The Panel continued to meet on a regular basis between February and September 2006 to discuss and consider issues related to the creation of a specific policy and to determine the most appropriate steps for the implementation of the policy. As a part of this effort, the Panel considered a number of approaches to the provision of affordable/workforce housing, and reached a consensus that the following, combined with regulatory incentives, would be conducive to the production of affordable/workforce housing in Fairfax County:

- **Bonus Density:** Develop a policy and adopt guidelines in the Comprehensive Plan and create the necessary regulatory underpinning in the Zoning Ordinance to permit developers to proffer affordable/workforce units and receive additional market units to compensate for the provision of such units. The affordable/workforce and the bonus market rate units would not count against the allowable density/FAR. In the County’s designated transit station areas, possible future designated transit bus corridors (direct line to transit station), and other special areas such as revitalization areas and mixed-use and other employment areas, the Panel recommends that the County grant a bonus of 1.8 market rate units for every affordable/workforce unit provided in concrete and steel construction, with the goal of 12 percent or more of the units should be affordable/workforce. As an example, in a 100 unit development, an additional 12 units would be affordable/workforce units, and an additional 22 would be market, for a total of 134 units. For wood construction, the Panel recommends that the County grant a bonus of 1.2 market rate units for every affordable/workforce unit provided; in a 100 unit building; assuming the 12 percent minimum expectation of affordable/workforce housing, this would result in 12 affordable/workforce units and an additional 14 market rate units, for a total of 126 units. In addition, wood construction projects subject to the current Affordable Dwelling Unit (ADU) program

section of the Zoning Ordinance may also use the bonus system of the affordable/workforce housing program in addition to the bonuses provided for by the ADU program, if the project both satisfies the requirements of the ADU program and meets or exceeds the minimum goal of 12 percent affordable/workforce housing. The 12 percent minimum expectation may be satisfied through a combination of any ADUs required under the Zoning Ordinance and affordable/workforce housing.

- Affordable/Workforce Housing as a Permitted Use: Adopt Comprehensive Plan and Zoning Ordinance amendments to create affordable/workforce housing as a permitted, “by right” use in commercial and industrial zones subject to certain conditions and restrictions. Such permitted-use affordable/workforce units would not count against the planned/zoned density/intensity (up to a maximum FAR and dwelling units per acre to be established in the Zoning Ordinance) and may be provided in wood or any type construction chosen by the property owner. This approach is an essential component of the Panel’s recommendation; indeed, it is the component that the Panel anticipates may produce the most affordable/workforce housing over the long term.

**Consultant Economic Analysis:** The Fairfax County Department of Housing and Community Development hired a consulting firm to perform an economic analysis on these and a variety of other ideas raised by the Panel. The analysis consisted of the development of a pro-forma model, using real-world input from the development community. The three sets of baseline assumptions used to test the policies were based on data from Tyson’s Corner, Merrifield, and Annandale. As the Panel’s discussion evolved, the consultant’s scope of work was expanded to evaluate new concepts that emerged. The consultants presented their preliminary findings to the Panel on May 11, 2006, and supplemental reports on June 1, 2006, July 20, 2006, September 7, 2006, and September 14, 2006.

The consultant’s preliminary findings, based on a snapshot of current market conditions, included the following assessments:

- Many factors impact the cost and economic feasibility of providing affordable/workforce housing in Fairfax County, the most critical of which often are beyond the direct control of the development community and/or County officials (land costs, construction costs, interest rates, etc.);
- Because of the high cost of land and development in the County, there are few incentives the County has authority to offer – with the exception of bonus density and zoning relief – that will help offset the cost to a developer of providing affordable/workforce units in a high-density development;
- Substantial bonus densities in Fairfax County may be required in order for high-rise projects to offset the cost of providing workforce housing units where the County has a goal of a fixed percentage of affordable/workforce housing units;
- Fairfax County will have the most success attracting the private development community to participate in the production of affordable housing through a combined incentives package, including a substantial density bonus, reduced processing time, development fee reductions or deferrals, affordable unit design flexibility (including

unit size (examples include efficiency units at 450 sq. ft.; 1 bedroom at 600 sq. ft., and 2 bedrooms at 800 sq. ft.), interior finishes, etc.) the reduction of parking requirements, and a variable condominium fee payment structure.

As new concepts emerged from the Panel, and the assumptions used to drive the economic modeling were refined, the consultant's findings expanded considerably to show that the provision of affordable/workforce housing may be economically workable when coupled with bonus market units and regulatory flexibility. A copy of the full consultant study is included here as Attachment C for reference.

Based on the consultant reports and in-depth discussions, the Panel adopted for consideration by the Board of Supervisors the policy recommendations included in this document on September 21, 2006. Those recommendations include:

1. Changes to the Comprehensive Plan to encourage the production of affordable/workforce housing at the policy level;
2. Amendments to the Zoning Ordinance to implement those policy changes to the Comprehensive Plan creating a proffer-based incentive system, including a set of regulatory incentives such as unit size, processing time, and parking requirement reductions; and
3. As the final step, changes to the Zoning Ordinance to allow, in certain commercial and industrial zones under certain conditions and restrictions, affordable/workforce housing as a permitted, "by right" use, and that such housing not count against the planned density/intensity. The Panel recommends that only projects in which 100 percent of the residential units are affordable/workforce be considered a permitted use. However, the Panel also recommends that projects in such zones which include a market-rate residential component be considered via the special exception process.

The Panel recognizes that the changes to the Comprehensive Plan may take place relatively quickly, but that changes to the Zoning Ordinance to implement those policy changes may take additional time. Both steps are required to fully implement the recommended policy.

### **III. Statement of Findings**

The Panel considered each component of the General Policy and Guiding Principles adopted by the Board as it worked to develop its final policy recommendation. The panel finds as follows:

General Policy: The General Policy endorsed by the Board of Supervisors on February 6, 2006 states that "In instances where increases in residential density or non-residential intensity are granted a substantial amount of affordable/workforce housing shall be provided." The Panel finds that the best way to implement this general policy is to amend the Fairfax County Comprehensive Plan, the Fairfax County Zoning Ordinance, and other County regulations to facilitate implementation of the existing goal of 12 percent or more of units in all new high-rise/high-density residential developments. This objective of 12

percent or more has been included in the Housing component of the Policy Plan for over a decade (excerpt in Attachment B). As the significant need in the County has become even more critical since the adoption of this language in the Policy Plan, the Panel finds that “a substantial amount of affordable/workforce housing” should be defined as at least 12 percent of the total number of units produced depending upon range bonus density provided or FAR increases.

Guiding Principles: The following are the Panel’s findings on each Guiding Principle endorsed by the Board on February 6, 2006:

A. *“... a policy that supports affordable/workforce housing for a range of moderate incomes of up to 120 percent of the Area Median Income”.* The Panel affirms 120 percent of the Area Median Income as an appropriate upper range of incomes to be served by affordable/workforce housing in Fairfax County, and notes that other jurisdictions nationwide have adopted a moderate income definition of up to 120 percent of the area median income. The Panel recommends that the affordable/workforce housing provided be made available to individuals and families having incomes as follows: one-quarter to those with incomes up to 60 percent of the Area Median Income; one-quarter to those with incomes up to 80 percent of the Area Median Income; one-quarter to those with incomes up to 100 percent of the Area Median Income and one-quarter to those with incomes up to 120 percent of the Area Median Income. The Panel recommends that these tiers apply only to the affordable/workforce units; any ADUs required by the Zoning Ordinance should not be subject to or be considered to satisfy these tiers.

B. *“That Fairfax County may consider a variety of options to encourage ... affordable/workforce housing, including amending the ... Comprehensive Plan and Zoning Ordinance, and including the use of density bonuses.”* The Panel has determined that amendments to both the Comprehensive Plan Policy Plan and the Zoning Ordinance will be required to implement this policy. The Panel also recommends that the Board amend the Policy Plan and the Zoning Ordinance to encourage affordable/workforce housing by omitting affordable/workforce units and any associated bonus market rate units (or their square footage) when determining conformance with the maximum density (dwelling units per acre) and intensity (Floor Area Ratio) specified in the Comprehensive Plan and Zoning Ordinance. Similarly, if it can be demonstrated that providing affordable/workforce units has resulted in increased building height or FAR above that permitted under the Plan or the Zoning Ordinance, then this additional height should not be counted when determining conformance with height limitations in the Plan or the Zoning Ordinance. Alternatively, the Board should consider amendments to the Zoning Ordinance permitting the Board of Supervisors or the Zoning Administrator to modify the maximum allowable building height as part of a rezoning to accommodate affordable/workforce housing units contained in the proposed development project.

The Panel also felt very strongly that the County needs to be creative in increasing land supply for the future provision of affordable/workforce housing. For example, this may entail amending the Comprehensive Plan to encourage collective action by property owners to assemble land that can be donated to the County (or a private entity) for the development of affordable/workforce housing. This type of flexibility could support

production of affordable/workforce units because “free” land can significantly lower total development costs.

- As a second priority for consideration by staff and the Board, the Panel also recommends that the Board consider a policy that would encourage the aggregation of parcels of sufficient size in targeted areas to permit affordable/workforce housing to be done at some scale and in less expensive construction types in lieu of high rise construction. An example of how such a policy could be applied in Fairfax County appears in Attachment D.

In addition, the Panel finds that the Fairfax County Zoning Ordinance should be amended to provide a mechanism for assuring the continuing affordability of the voluntarily provided affordable/workforce units as part of the rezoning/plan review process for administrative purposes. A new “Affordable/Workforce Housing Program” section of the Zoning Ordinance should include provisions similar to those found in the ADU program section of the Zoning Ordinance related to covenants, control periods, and the opportunity for the FCRHA to purchase up to one-third of for-sale units at initial offering, among other things. For-sale units could be marketed through Fairfax County’s First-time Homebuyer’s Program or other suitable County program, at the discretion of the Board of Supervisors and should be controlled for a minimum of 30 years or longer in projects that are exclusively workforce units. In any case, such control periods should be renewable in a manner similar to that provided for in the ADU Program section of the Zoning Ordinance. Rental units should be controlled in a manner similar to that provided for in the ADU Program section of the Zoning Ordinance.

The Panel also finds that condominium fees represent a significant barrier to successful homeownership for purchasers of affordable/workforce units in high-rise developments. The Panel recommends that the County identify and implement effective means to mitigate the impact of condominium fees on the purchasing power of such buyers. Examples of such means could include: 1) for those at the lower end of the income range, the County could provide financial assistance to the Fairfax County Redevelopment and Housing Authority (FCRHA) to help the FCRHA reduce the impact of condominium fees or tax relief; 2) a developer fund, endowed by funds generated by the additional bonus units, could be established to provide a subsidy for condominium fees in lieu of affordable/workforce units (for example, the developer could provide 8 percent of a project as affordable/workforce housing and a cash contribution for condominium fees equivalent to 4 percent affordable/workforce units); and 3) the condominium fees in a development could be structured to provide an internal subsidy for the affordable/workforce units.

The Panel is also aware of and supports the work of the Affordable Housing Task Force (formerly the Affordable Dwelling Unit Task Force), chaired by Supervisor Hudgins, to study the linkage of commercial development to the production of affordable/workforce housing. The Panel believes that the work of this group and its focus on the nexus between commercial development and the need for workforce housing is critically important to identifying creative, entrepreneurial ways to increase the production of affordable/workforce housing in employment centers.



C. *“That Fairfax County will ...participate ...in the development of affordable/workforce housing ... by providing and facilitating public/private financing and granting or leasing ...County-owned land.”* The Panel affirms that the County should participate, as appropriate and desired by the developer, in financing developments with substantial affordable/workforce housing. The Panel understands that the County is actively considering the disposition of a significant amount of surplus County-owned land, and strongly encourages the use of a substantial amount of that land for the provision of affordable/workforce housing. This recommendation is consistent with adopted Board policy as reflected in Policy E of the Housing component of the Policy Plan (excerpted in Attachment B). The Panel also recommends that the County promote increased density, flexibility, and compatible uses for affordable/workforce housing on its surplus land. The Panel further emphasizes that the County and/or the FCRHA should play a central role in affordable/workforce housing, including fostering Community Development Authority (CDA) and tax increment financing and public/private partnerships at the development level, and by providing low-interest mortgage financing and other appropriate assistance to the consumers of such housing.

D. *“That Fairfax County may consider ... regulatory changes to foster affordable/workforce housing.”* The Panel has concluded that density bonuses, coupled with significant regulatory incentives, are needed to make the provision of affordable/workforce housing in high-rise/high-density concrete and steel construction economically viable. The Panel also recognizes that the County’s ability to facilitate such development is very limited. In any case, the Panel strongly affirms this principle and has evaluated a number of potential actions the County could take to enhance the economic feasibility of providing affordable/workforce housing. The actions recommended by the Panel include, among others: 1) a reduction and/or flexibility of the parking requirements applicable to high-rise/high-density affordable/workforce housing; 2) decreasing the processing time of rezoning applications, site plans, and building permits for projects providing substantial affordable/workforce housing; 3) reducing or waiving, as appropriate and where possible, processing and other fees; and 4) reducing, within reasonable limits, unit sizes(for example efficiency at 450 sq. ft., 1 bedroom at 600 sq. ft. and 2 bedrooms at 800 sq. ft.), and finishes; 5) providing for workforce housing as a permitted by-right use in certain areas and/or zoning districts, using form-based code; 6) under appropriate circumstances, relief on bulk and height requirement; and 7) creative, multiple housing solutions within the same area. The Panel recommends that such regulatory actions be included into a new “Affordable/Workforce Housing Program” section of the Zoning Ordinance and amendments to other ordinances and regulations as needed.

The Panel also recognizes that a commitment by the Board to such regulatory actions and the overall implementation of this policy will have tangible and significant budget implications; however, the Panel views such costs as a direct investment by the County in affordable/workforce housing production. The Panel therefore recommends that the Board fund all positions necessary to carry out this critically important policy successfully. Such personnel needs may include new positions within the Department of Housing and Community Development for program management and compliance; and within the

Departments of Planning and Zoning and Public Works and Environmental Services for expedited processing and compliance.

E. *“Fairfax County will ... work to implement long-term affordable/workforce housing for rental and homeownership.”* The Panel affirms this principle and urges that the County provide both for-sale and rental affordable/workforce housing. However, the Panel also notes that the economics of the rental market are far different than those in the sales market. Recognizing this difference, the Panel recommends against mandating into which market the affordable/workforce units should be provided. This decision should remain with the developer and be based on the market forces prevailing at the time of development. In light of the current economic challenges in providing rental affordable/workforce units in concrete and steel construction, and recognizing the importance of providing such housing, the Panel recommends allowing bonus density from high-rise construction to be proffered to wood construction or other less expensive construction types on or near the site for both ownership and rental projects.

#### **IV. Action Recommendations**

Based on these findings, the Panel hereby makes the following recommendations for consideration by the Board of Supervisors to support the provision of more affordable/workforce housing in Fairfax County:

- 1) That the Board adopt the following policy:
  - a) The County expects that affordable/workforce housing will be a component of residential and mixed-use development that is encouraged Countywide, and most particularly in designated transit station, revitalization areas, and mixed-use employment centers where existing infrastructure supports high-density development and where the Comprehensive Plan provides the opportunity for significant increases in density and intensity. Furthermore, affordable/workforce housing is a County-wide issue needing a County-wide solution;
  - b) The County’s goal is that affordable/workforce housing should constitute 12 percent or more of the units produced, with a particular emphasis on residential and mixed-use developments;
  - c) Affordable/workforce units, and any bonus market-rate units granted due to the provision of the affordable/workforce units, should not count against the planned or zoned density/intensity for a development. The Panel recommends that 1.8 bonus market-rate units be granted for every affordable/workforce unit provided in concrete and steel construction, and that 1.2 bonus market-rate units be granted for every affordable/workforce unit provided in wood construction. In addition, wood construction projects subject to the current Affordable Dwelling Unit (ADU) ordinance may also use the bonus system of the affordable/workforce housing program in addition to the bonuses provided for by the ADU ordinance, if the project both satisfies the requirements of the

ADU program and meets or exceeds the minimum goal of 12 percent affordable/workforce housing;

- d) Independent of any affordable/workforce housing provided as part of a rezoning application, the County should classify affordable/workforce housing as a permitted use in commercial, industrial and planned development districts within certain areas and density/intensity limits to be specified in the Zoning Ordinance;
  - e) In rezoning and/or site development cases where it is not economically realistic to achieve the goal amount of affordable/workforce housing in high-rise concrete and steel construction, the production of such units may be:
    - i) Proffered to wood or similar construction on the same site or, as a second option, within a special area such as a transit center, possible future designated transit bus corridors (direct line to transit station), revitalization areas, or other employment centers;
    - ii) Provided via the purchasing of existing units in a transit center area, possible future designated transit bus corridors (direct line to transit station), revitalization areas, or other employment centers and donation of such units to the Board of Supervisors or, at the Board's discretion, to the Fairfax County Redevelopment and Housing Authority (FCRHA) for re-sale or rental to households with incomes that qualify for affordable and workforce housing;
    - iii) The donation of land in appropriate amounts and locations to the Board of Supervisors or, at the discretion of the Board, the FCRHA for the development of affordable housing; or
    - iv) Cash contributions for condominium fee assistance or affordable/workforce housing production as appropriate.
  - f) The staff is directed to study and recommend a policy and any necessary ordinance changes to accommodate affordable/workforce housing as a permitted "by right" use in certain commercial and industrial zones, subject to certain conditions and restrictions, and through the establishment of new zoning overlay districts possibly including the use of form-based zoning requirements and other conditions to assure the compatible development of such affordable/workforce housing;
- 2) That the Board direct staff to designate affordable/workforce housing as the highest priority and develop a package of implementation recommendations for Panel consideration, by April 15, 2007, to include:

- a) Recommended amendments to the Fairfax County Comprehensive Plan, the Fairfax County Zoning Ordinance, and other County ordinances and regulations as appropriate and to provide that other policy actions established in this report should occur concurrently, to include the following:
  - i) An amendment to the Policy Plan of the Comprehensive Plan to 1) define affordable/workforce housing as suitable for a range of moderate income families with incomes of up to 120 percent of the Area Median Income; and 2) add a policy that would set forth the goal that County-wide, and particularly in the County's transit stations, transit possible future designated transit bus corridors (direct line to transit station), and other employment zones, revitalization areas, and mixed-use and other employment centers, 12 percent or more of all new residential units in high-rise and other high-density developments will be affordable/workforce housing. This commitment may be satisfied through a combination of Affordable Dwelling Units required under the Zoning Ordinance and affordable/workforce units. The affordable/workforce housing to be produced shall serve a range of individuals and families having moderate incomes up to 120 percent of the prevailing Area Median Income. The Plan language shall state that the incomes and units provided to each tier will be as follows: one-quarter to those with incomes up to 60 percent of the Area Median Income; one-quarter to those with incomes up to 80 percent of the Area Median Income; one-quarter to those with incomes up to 100 percent of the Area Median Income and one-quarter to those with incomes up to 120 percent of the Area Median Income;
  - ii) Creation of a "Affordable/Workforce Housing Program" within the Fairfax County Zoning Ordinance. The new Affordable/Workforce Housing Program portion of the Zoning Ordinance shall govern, for administrative purposes, affordable/workforce units and shall include the following components:
    - (1) Covenants, control periods, and other administrative requirements similar and in general conformance with those of the Affordable Dwelling Unit Program (Chapter Two, Part Eight of the Fairfax County Zoning Ordinance). Units produced in association with the bonus density shall be affordable "long term", which shall mean at least 30 years for both rental and for-sale units, with renewable affordability periods for for-sale units.
    - (2) Bonus market rate units for each affordable/workforce unit provided, with up to a 1.8 to 1 bonus market to affordable/workforce unit ratio for developments using concrete and steel construction, and 1.2 to 1 bonus market rate unit to workforce unit for developments utilizing wood or similar construction. In all cases, there should be a maximum percentage of bonus market rate units that may be achieved and neither

the bonus market rate units, affordable/workforce units nor ADUs shall count toward the maximum planned or zoned density/intensity. This recommended bonus ratio should be revisited periodically to ensure its continued efficiency as an incentive for the development of affordable/workforce housing.

- (3) A toolbox of regulatory actions to be applied as needed to enhance the economic situation for providing affordable/workforce housing in concrete and steel construction, including but not limited to:
  - (a) Designating affordable/workforce units in designated transit station, possible future designated transit bus corridors (direct line to transit station), revitalization areas, and mixed-use and other employment centers as eligible for a reduction and/or flexibility in parking requirements;
  - (b) Decreasing the processing time of rezoning applications, site plans, and building permits for projects providing substantial affordable/workforce housing;
  - (c) Moderating, as appropriate and where possible, development fees such as processing fees and sewer/water tap fees and granting the reduction or waivers of other development-related fees to the extent possible;
  - (d) Reducing within reasonable limits affordable/workforce unit sizes and finishes (for example: Efficiency: 450 sq ft; 1-bedroom: 600 sq ft; 2-bedroom: 800 sq ft); and
  - (e) Increasing allowable building heights where necessary to accommodate affordable/workforce units and any associated bonus market units;
  - (f) Reduction of bulk height regulation; and
  - (g) Tax rebates and tax district TIF to offset infrastructure cost tax/fees/school fees.
- (4) The conditions and process by which donated land, units proffered to alternative sites in lieu of building on the main site, or the donation of existing alternative units, are acceptable.
- b) Policy providing that the County assist the FCRHA in providing or facilitating public/private financing, including potentially bond and other tax-exempt financing, for developments producing affordable/workforce housing, as appropriate.
- c) A process and structure to accept and manage suitable land donated by developers and private individuals. The sole purpose of such donations shall be for the development of affordable housing. Staff shall identify and recommend the most advantageous structure for accepting such donations and recommend any necessary amendments to the Fairfax County Zoning Ordinance and

- Comprehensive Plan to encourage such donations. These donations should be in lieu of donations to the Housing Trust Fund, where the development of affordable/workforce housing is not workable on the site. Staff should evaluate the relative benefits and drawbacks of a) the Board of Supervisors or the FCRHA directly accepting donations and making grants, leases, or sales to qualified non-profit affordable housing-producing organizations; and b) the creation of a non-profit community land trust or similar organization to accept and manage land donations and incorporate their findings into the recommended structure.
- d) Direct staff to study and recommend a policy encouraging employers with large campus facilities and institutional sites to develop, under certain conditions and where appropriate, affordable/workforce housing that would not count against the planned density/intensity.
  - e) A Comprehensive Plan amendment that would allow affordable/workforce housing not to count against the Plan's recommended density/intensity and building heights.
  - f) A policy to mitigate the impact of condominium fees for purchasers of for-sale affordable/workforce units. The Panel also finds that condominium fees represent a significant barrier to successful homeownership for purchasers of affordable/workforce units in high-rise developments. The Panel recommends that the County identify and implement effective means to mitigate the impact of condominium fees on the purchasing power of such buyers. Examples of such means could include: 1) for those at the lower end of the income range, the County could provide financial assistance to the Fairfax County Redevelopment and Housing Authority (FCRHA) to help the FCRHA reduce the impact of condominium fees or tax relief, or tax increment financing (TIF); 2) a developer fund, endowed by funds contributed in lieu of units, could be established to provide a subsidy for condominium fees (for example, the developer could provide 8 percent of a project as affordable/workforce housing and a cash contribution for condominium fees equivalent to 4 percent affordable/workforce units);
- 3) That the Board direct staff to come forward with Comprehensive Plan and Zoning Ordinance amendments to create affordable/workforce housing at a maximum FAR and dwelling units per acre to be specified in the Zoning Ordinance as a permitted "by-right" use in commercial and industrial zones, subject to certain limitations and conditions, and with an emphasis on designated transit station, possible future designated transit bus corridors (direct line to transit station), and revitalization areas, and mixed-use employment centers. To qualify as a permitted use, affordable/workforce housing should constitute 100 percent of the residential development in a project. As an alternative, developers may include a market-rate element in the residential component of the development, subject to the special exception process. Affordable/workforce units should not count against the

planned/zoned density/intensity and may be provided in wood or similar construction.

- 4) Direct the Panel to continue its work by advising and monitoring staff on the implementation of the intent of this Policy. The Panel should meet on a quarterly basis and report to the Board on the progress of the implementation of this policy each year for the next two years, with the first report delivered one year from the adoption of this policy.
- 5) As a second priority, the Board should also direct staff to study and recommend a policy that would encourage the aggregation of parcels of sufficient size in targeted areas to permit affordable/workforce housing to be done at some scale and in less expensive construction types.

## **DRAFT RESOLUTION**

The panel has endorsed the attached draft resolution for the Board of Supervisors to consider for approval.

## **RESOLUTION**

**WHEREAS**, the Fairfax County Board of Supervisors on October 17, 2005 appointed a panel of experts in high-rise development to assist the County in developing, for Board consideration, a policy statement and guidelines for the inclusion of affordable/workforce housing in high-rise/high-density developments; and

**WHEREAS**, the Board-appointed panel, known as the “High-rise Affordability Panel” met regularly and explored the issues and challenges presented to it relating to future high-rise and high-density development; and

**WHEREAS**, the County has an objective in its Comprehensive Plan that “the County should increase the supply of affordable housing units each year by an amount that is equal to at least 12 percent of the total housing production in the County in the previous year;” and

**WHEREAS**, the High-rise Affordability Panel agreed that to help meet this objective it is possible and advisable to encourage affordable/workforce housing (to serve a range of individuals and families having moderate incomes up to 120 percent of the prevailing Area Median Income) in future high-density developments through development flexibility and incentives that already exist in the County’s Comprehensive Plan, coupled with appropriate Comprehensive Plan and Zoning Ordinance amendments; and

**WHEREAS**, on February 6, 2006, the Board of Supervisors endorsed the High-rise Affordability Panel’s recommended General Policy and Guiding Principles for the provision of affordable/workforce housing in high-rise/high-density developments in Fairfax County (incorporated herein by reference) and directed the High-rise Affordability Panel to recommend to the Board of Supervisors specific policy recommendations by June 30, 2006; and

**WHEREAS**, on October 16, 2006, the High-rise Affordability Panel submitted for consideration a Final Report and Policy recommendation (attached hereto for reference) to the Board of Supervisors;

### **NOW THEREFORE BE IT RESOLVED:**

- That the Board of Supervisors adopts the following policy: “In Fairfax County, particularly in designated transit station, possible future designated transit bus corridors (direct line to transit station), revitalization areas, employment centers, and mixed-use employment centers, it is the policy goal of the County that 12 percent or more of all new residential units shall be affordable/workforce housing. This commitment may be satisfied through a combination of Affordable Dwelling Units



required under the Zoning Ordinance and voluntarily provided affordable/workforce housing affordable to families and individuals having a range of moderate incomes up to 120 percent of the Area Median Income. The affordable/workforce units, and any bonus market-rate units granted due to the provision of the affordable/workforce units shall not count against the planned/zoned density/intensity for the development.”

- That the Board of Supervisors directs staff to develop a package of implementation recommendations for Panel consideration, by April 15, 2007, to include:
  - Amendments to the Fairfax County Comprehensive Plan, the Fairfax County Zoning Ordinance, and other County ordinances and regulations as appropriate, to include the following:
    - First, an amendment to the Policy Plan of the Comprehensive Plan to:
      - ◆ Define affordable/workforce housing as suitable for a range of moderate income families with incomes of up to 120 percent of the Area Median Income;
      - ◆ Add a policy that would set forth the policy goal that in Fairfax County, and particularly in the County’s designated transit stations, possible future designated transit bus corridors (direct line to transit station), revitalization areas, and employment and mixed-use employment centers, 12 percent or more of all new residential units in high-rise and other high-density developments should be affordable/workforce housing. This commitment may be satisfied through a combination of Affordable Dwelling Units required under the Zoning Ordinance and workforce housing for families with a range of moderate incomes up to 120 percent of the Area Median Income. The affordable/workforce housing to be produced shall serve a range of individuals and families having moderate incomes up to 120 percent of the prevailing Area Median Income. The Plan language shall state that the incomes and units provided to each tier will be as follows: one-quarter to those with incomes up to 60 percent of the Area Median Income; one-quarter to those with incomes up to 80 percent of the Area Median Income; one-quarter to those with incomes up to 100 percent of the Area Median Income and one-quarter to those with incomes up to 120 percent of the Area Median Income. The Plan language will further state that in cases where it is not workable to produce affordable/workforce housing in high-rise (concrete and steel) construction, the production of such units may be: 1) Proffered to wood construction on the same site or, as a second option, within a special area (transit centers, possible future designated transit bus corridors (direct line to transit station), revitalization areas, or mixed-use and other employment centers); 2) Provided via the purchase of existing units in a special area, and donation of such units to the Board of Supervisors or, at the Board’s

discretion, to the Fairfax County Redevelopment and Housing Authority (FCRHA) for re-sale or disposition for rental to households with incomes up to 120 percent of the Area Median Income; or 3) The donation of land in appropriate amounts and locations to the Board of Supervisors or, at the Board's discretion, the FCRHA for the development of affordable housing.

- Concurrently, creation of a “Workforce Housing Program” within the Fairfax County Zoning Ordinance. The new Workforce Housing Program shall govern, for administrative purposes, the affordable/workforce units provided under this policy and shall include the following components:
  - ◆ Covenants, control periods, and other administrative requirements similar and in general conformance with those of the Affordable Dwelling Unit Program (Chapter Two, Part Eight of the Fairfax County Zoning Ordinance). Units produced shall be affordable “long term”, which shall mean at least 30 years for both rental and sale developments, with renewable affordability periods for for-sale units.
  - ◆ Bonus market rate units for each affordable/workforce unit provided, with up to a 1.8 to 1 bonus market to workforce unit ratio for developments using concrete and steel construction, and 1.2 to 1 bonus market rate unit to workforce unit for developments utilizing wood or similar construction. In all cases, there should be a maximum percentage of bonus market rate units that may be achieved and neither the bonus market rate units, workforce units nor ADUs shall count toward the planned or zoned density/intensity.
  - ◆ A toolbox of regulatory actions to be applied as needed to enhance the economic conditions for providing affordable/workforce housing in concrete construction, including but not limited to:
    - Designating affordable/workforce units in designated transit station, revitalization areas, possible future designated transit bus corridors (direct line to transit station) and employment centers as eligible for a reduction in parking requirements;
    - Decreasing the processing time of rezoning applications, site plans, and building permits for projects providing substantial affordable/workforce housing;
    - Moderating, as appropriate and where possible, development fees such as processing fees and sewer/water tap fees;
    - Reducing within reasonable limits affordable/workforce units sizes and finishes (for example: Efficiency: 450 sq ft, 1-bedroom: 600 sq ft, 2-bedroom: 800 sq ft);

- Increasing allowable building heights where necessary to accommodate affordable/workforce units and any associated bonus market units;
  - Relief on bulk and height requirement;
  - Tax rebates and tax district TIF to offset infrastructure cost tax/fees/school fees;
  - Allowing affordable/workforce housing as a permitted use with form-based code restrictions; and
  - The conditions and process by which donated land or alternative units are acceptable when the provision of such units within a high-rise (concrete and steel construction) development is economically unrealistic for the development project. In addition, staff shall recommend a structure by which affordable/workforce units can be proffered to an alternative site.
- A process and structure to accept and manage suitable land donated by developers and private individuals. The sole purpose of such donations shall be for the development of permanent affordable housing. Staff shall identify and recommend the most advantageous structure for accepting such donations and recommend any necessary amendments to the Fairfax County Zoning Ordinance and Comprehensive Plan to encourage such donations. These donations should be in lieu of donations to the Housing Trust Fund, where the development of affordable/workforce housing is not economically realistic and workable on the site. Staff shall evaluate the relative benefits and drawbacks of a) the Board of Supervisors or the FCRHA directly accepting donations and making grants, leases, and sales to qualified non-profit affordable housing-producing organizations; and b) the creation of a non-profit community land trust or similar organization to accept and manage land donations and incorporate their findings into the recommended structure.
  - Policy providing that the County may assist the FCRHA in providing or facilitating public/private financing, including potentially bond and other tax-exempt financing, for developments producing affordable/workforce housing, as appropriate.
  - Comprehensive Plan amendment that would allow affordable/workforce housing not to count against the Plan's recommended density/intensity and building heights, and staff recommendations for any appropriate associated changes to the Zoning Ordinance.
  - A policy to mitigate the impact of condominium fees for purchasers of for-sale affordable/workforce units. Staff may consider a variety of options, including the provision of direct financial assistance to buyers at the lower end of the income range; and

- That the Board of Supervisors directs staff to study and recommend a policy and any necessary Zoning Ordinance changes to create affordable/workforce housing as a permitted use in commercial and industrial zones, and possibly as a zoning overlay within high density areas, subject to certain conditions and restrictions, such as maximum FAR and dwelling units per acre recommendations. To qualify as a permitted use, affordable/workforce housing shall constitute 100 percent of the residential development in a project. As an alternative, developers may include a market-rate element in the residential component of the development, subject to the special exception process. In any such case, affordable/workforce housing shall not count against the planned density/intensity, and may be provided in wood construction or other less expensive construction types; and
- That the Board of Supervisors directs the County Executive to work with the heads of the Departments of Housing and Community Development, Planning and Zoning, and Public Works and Environmental Services to determine what additional staff are need to implement this policy effectively, and to recommend to the Board appropriate funding sources for such positions; and
- As a second priority, that the Board direct staff to study and recommend a policy that would encourage the aggregation of parcels of sufficient size in targeted areas to permit affordable/workforce housing to be done at some scale and in less expensive construction types.
- That the Board of Supervisors directs the High-Rise Affordability Panel to bring forth final implementation recommendations June 30, 2007, and to continue its work by advising staff on the implementation of this Policy. The Panel shall also advise and monitor staff on the implementation of the intent of this Policy. The Panel shall meet on a quarterly basis and report to the Board on the progress of the implementation of this policy each year for the next two years, with the first report delivered one year from the adoption of this policy.

## ATTACHMENT A

### General Policy and Guiding Principles for the Provision of Affordable/Workforce Housing In High-rise/High-density Areas

**Accepted by the Board of Supervisors February 6, 2006**

1. General Policy: In instances where increases in residential density or non-residential intensity in Fairfax County's planned and/or existing high-density areas are granted, it is the policy and expectation of Fairfax County that a substantial amount of affordable/workforce housing shall be provided.
2. Guiding Principles:
  - a. That Fairfax County establish a policy that supports affordable/workforce housing for a range of moderate income families with incomes of up to 120 percent of the Area Median Income;
  - b. That Fairfax County may consider a variety of options to encourage the development and preservation of affordable/workforce housing, including amending the Fairfax County Comprehensive Plan and Zoning Ordinance, and including the use of density bonuses;
  - c. That Fairfax County will actively participate, as appropriate, in the development of affordable/workforce housing, potentially by providing and facilitating public/private financing and granting or leasing of County-owned and other available land;
  - d. That Fairfax County may consider a variety of regulatory changes to foster affordable/workforce housing, such as potentially the reduction of development and operating costs, and increased flexibility in development requirements;
  - e. Fairfax County will actively work to implement long-term affordable/workforce housing for rental and homeownership.
3. Next Steps: Board directed the Panel to continue to meet to develop a series of specific recommended actions to be presented to the Board for consideration by June 30, 2006.

## ATTACHMENT B

### Policy Plan Excerpt

#### **FAIRFAX COUNTY COMPREHENSIVE PLAN, 2003 Edition POLICY PLAN**

**Housing**, Amended through 8-5-2002

**Page 3**

**Objective 1: The County should increase the supply of affordable housing units each year by an amount that is equal to at least 12 percent of the total housing production in the County for the previous year. These units should serve the full range of incomes of households needing affordable housing and should include units for the disabled and handicapped.**

Policy a. In cases where additional intensities can be supported by existing or planned infrastructure and public facility systems, provide bonus densities in exchange for affordable housing. Affordable housing can be in the form of housing units, free land dedicated to the Fairfax County Redevelopment and Housing Authority, or in limited circumstances, cash contributions to the Housing Trust Fund.

Policy b. When considering development proposals, residential rezonings should not be approved above the low end of the Plan range unless an appropriate commitment of land, dwelling units, and/or a cash contribution to the Housing Trust Fund is provided. For further guidance, see the Criteria for Assignment of Appropriate Development Intensity included as a part of the Appendix to Countywide Land Use.

Policy c. Capitalize the Housing Trust Fund through private contributions and general revenue, so that it can be used as a mechanism to fund the development of affordable housing.

Policy d. Encourage affordable housing as a development option for infill sites, particularly in commercial areas and near employment concentrations.

Policy e. Give priority for the use of County and other government-owned buildings and land as sites for the provision of affordable housing.

Policy f. Promote and facilitate innovative site design and construction techniques, as well as encourage the use of manufactured housing and manufactured housing components, when aimed at providing affordable housing.

Policy g. Support the efforts of the Fairfax County Redevelopment and Housing Authority in producing a portion of these affordable housing units through the provision of County resources and the approval of suitable housing sites.

Policy h. Encourage and facilitate home sharing as one mechanism for lowering housing costs.

**ATTACHMENT C**

**Economic Analysis prepared by Economic Research Associates**

**See the following separately numbered pages**

## ATTACHMENT D

### Example of “Parcel Aggregation” Concept

- A developer whose small parcel is proposed for a plan revision or rezoning to allow for high-rise/high-density development, or whose proposed high-rise project is below a threshold size, could contribute cash in lieu of including affordable/workforce units on the site. The developer could make a pair of voluntary cash contributions at the time (earlier of) that his rezoning or proposed project is approved. The first contribution would be deposited in a fund created to support affordable/workforce housing by the Board of Supervisors. The Board would annually set the per-unit contribution. The second would be a payment to another developer who would be aggregating such contributions to accumulate funding to justify setting aside enough land for a 100% affordable/workforce project that could be built using wood frame construction and perhaps without deck parking. In return for the contributions the “sending” landowner/developer could be allowed to build the additional market-rate units that the workforce housing ordinance would permit with these units not counting in his FAR or density.
- The receiving developer could be an owner of a parcel or parcels with a different planned or zoned density than the sending developer. The developer might have an obligation from his other parcels to provide ADUs, and may also choose to voluntarily provide affordable/workforce units. The developer could assign himself the affordable/workforce housing unit commitment from another parcel (taking advantage of a possible right to add market-rate units to those parcels), but without having to make the cash contributions of a sending developer. When he aggregated the obligation to build 50 units or more, then he would use a parcel of sufficient size to accommodate the affordable/workforce housing. The required size of the parcel would take into account the bonus units available under the affordable/workforce housing ordinance. The developer would apply the cash payments that he had received from sending developers toward the “purchase” of the land or to reduce his development cost.
- The price of the units delivered would be set to make the units affordable for a cross-section of homebuyers or renters.



- There would have to be constraints on where the “receiving” land would be.

An owner of a parcel or parcels that would accommodate more than 1 million s.f. of development, whether housing or other uses, would be required to act as a receiving developer, if he chose not to put workforce units among his market-rate units. In mixed-use projects, given that the workforce units would not count against his FAR, building them could prove quite profitable.