



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** November 24, 2009

**TO:** Supervisor Gerry Hyland  
Mount Vernon District

**FROM:** Eileen M. McLane *EMM*  
Zoning Administrator  
Department of Planning and Zoning

**SUBJECT:** History of Affordable Dwelling Unit Program and Information Regarding  
Affordable Dwelling Units in the Laurel Hill Area

By way of an email, you have requested certain information concerning the timing of adoption of the Affordable Dwelling Unit (ADU) Program, whether there is a "buy-out" option and what standards relate to that, and how the Program was applied to two projects in the vicinity of the former Lorton Reformatory property, known as Laurel Hill and Spring Hill. The following information is provided in response to your inquiry:

**1. What year did the ADU Program become effective?**

The original ADU Program was adopted on December 11, 1989 with an effective date of July 31, 1990. The original regulations required a fixed percentage of the total number of units to be ADUs, based on the type of dwelling unit being constructed. On March 30, 1998, the Board adopted an amendment to the ADU Program that created a sliding scale method of determining the required percentage of ADUs. This sliding scale creates a mathematical relationship between the amount of density bonus actually achieved and the percentage of ADUs that would be required.

**2. Can a developer make contributions in lieu of setting aside units in the development? If so, under what criteria or conditions is this possible?**

Paragraph 3 of Section 2-815 of the Zoning Ordinance provides the following:

*In addition, in exceptional cases, instead of building the required number of affordable dwelling units, the ADU Advisory Board may permit an applicant to:*

- A. Convey the equivalent amount of land within the development for which a modification is sought to the Fairfax County Redevelopment and Housing Authority which would be necessary to provide the required number of affordable dwelling units. In such instances, the total number of dwelling units which the applicant may build on the remainder of the site shall be reduced by the number of affordable*

*dwelling units required pursuant to Sect. 804 above; or*

- B. Contribute to the Fairfax County Housing Trust Fund an amount equivalent to the fair market value for the lot on which the affordable dwelling unit would otherwise have been constructed; or*
- C. Provide any combination of affordable dwelling units, land, or contribution to the Fairfax County Housing Trust Fund.*

*Permitting an applicant to meet the requirements of the Affordable Dwelling Unit Program by providing either land or contributions to the Fairfax County Housing Trust Fund is not favored. However, such modifications may be allowed upon demonstration by the applicant and a finding by the ADU Advisory Board that (1) the provision of all the affordable dwelling units required is physically and/or economically infeasible; (2) the overall public benefit outweighs the benefit of the applicant actually constructing affordable dwelling units on the particular site; and (3) the alternative will achieve the objective of providing a broad range of housing opportunities throughout Fairfax County.*

Applications for modifications are evaluated by the ADU Advisory Board (ADUAB) on a case by case basis and there are no additional specific criteria or conditions that are applied to the proposal, other than the standards noted in the paragraphs above. There have been very few applications to the ADUAB for a cash-in-lieu modification. The "buy-out" is absolutely not a favored scenario, but the few modification requests that were approved to provide a cash-in-lieu contribution included unique circumstances such as financial hardship due to multiple foreclosure/transfers of incomplete multiple family condominium developments. In these projects, the approved buy-out amount was equivalent to the per unit land value associated with a dwelling unit for each ADU subject to the buy-out request.

### **3. What were the ADU requirements in the adjacent Laurel Hill and Spring Hill developments?**

Laurel Hill: RZ 2001-MV-025, PDH-4

The development was covered by two different Comprehensive Plan recommendations, one for 2-4 dwelling units per acre (du/ac) and one for 4-6 du/ac. In the 2-4 du/ac area, the developer proposed 2.86 du/ac, which is toward the low end of the Comprehensive Plan recommendation. As such, the sliding scale calculation, which relates the amount of density bonus offered (up to 20%) and the amount of density bonus actually achieved (7.2%) to the percentage of ADUs required, generated an ADU requirement of only 4.5% of the unit count in this area. In the 4-6 du/ac area, the developer sought 3.96 du/ac, which is below the Comprehensive Plan recommended density. Under the provisions of the Zoning

Ordinance, when the density falls below the Comprehensive Plan recommendation, no ADUs are required. The end result is that the Laurel Hill development had to provide 4.5% of the total number of dwellings that were located in the planning area covered by the 2-4 du/ac density recommendation in the Comprehensive Plan. Records show that they are constructing 422 units in this area, so 4.5% of that number resulted in 19 ADUs.

Spring Hill Senior Housing: RZ 2002-MV-040, PDH-12

The Spring Hill development is an age restricted community/independent living facility. Of the total unit count of 442 units, 306 are “active adult” housing units and 136 are “independent senior living” units. Approximately 274 of the active adult/independent senior living units are in mid-rise buildings with 4 stories or more with an elevator. At the time this rezoning was approved, there was no requirement to provide ADUs in multiple family dwelling units that were 4 or more stories with an elevator. After this rezoning approval was granted, the Board did adopt an amendment to the Zoning Ordinance to enact an ADU requirement for mid-rise multiple family dwelling units, so if this project was being considered today, the ADU requirement would apply to the mid-rise buildings. The net result of the ADU Program at the time this project was approved, however, was that the single family detached and attached units generated an ADU requirement of 20 ADUs (12% of the total non-exempt units).

I note that Donna Pesto, of my staff, provided information to Leanna O’Donnell of the Planning Division regarding how the Affordable Dwelling Unit Program may apply to the redevelopment of the Laurel Hill Adaptive Reuse Site. A copy of that memo is attached for your reference.

I trust this adequately responds to your inquiry. If you have any additional questions, please contact me or Donna Pesto at 703-324-1314.

Attachment: A/S

cc: James P. Zook, Director, Department of Planning and Zoning (DPZ)  
Fred Selden, Director, Planning Division, DPZ  
Donna Pesto, Senior Assistant to the Zoning Administrator, DPZ  
Leanna O’Donnell, Planning Division, DPZ  
Chris B. Caperton, Planning Division, DPZ



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** November 5, 2009

**TO:** Leanna O'Donnell  
Planning Division

**FROM:** Donna Pesto   
Zoning Administration Division

**SUBJECT:** Affordable Dwelling Unit Program and Laurel Hill

Pursuant to our previous discussions, you have asked about the applicability of the Affordable Dwelling Unit (ADU) Program to the future redevelopment of the Laurel Hill Adaptive Reuse site. The percentage of ADUs required in any particular development are specifically set forth in formulas described in the Zoning Ordinance, Part 8 of Article 2. Each dwelling unit type has a specific formula that creates a mathematical relationship between the amount of achievable density bonus and the amount of ADUs required. Different dwelling unit types have different maximum density bonus allowances. Generally, since the units to be constructed will be single family attached, single family detached and low-rise multiple family units, the ADU Program requires up to 12.5% of the total number of units constructed to be affordable, in exchange for a density bonus of up to 20%.

The desire to provide the opportunity for adequate housing for all income levels has been identified by the Board of Supervisors (BOS) as an important County goal. The general housing policies of the Comprehensive Plan anticipate that at least 12% of new housing should be affordable. Both the Zoning Ordinance and Comprehensive Plan policies support this goal through incentivized mandatory and/or voluntary provisions of affordable units. Affordable housing is achieved primarily through units delivered under the Zoning Ordinance provisions for the ADU Program and units delivered under the Board's policy for Workforce Dwelling Units. The percentage of density bonus offered varies by dwelling unit type and the percentage of affordable units actually achieved relates to the total number of units constructed and the Comprehensive Plan recommendations for density.

The ADUs are calculated based on the recommended density ranges included in the Comprehensive Plan. As I understand it, the Adaptive Reuse site will need a Comprehensive Plan amendment to reflect the Master Plan recommendations. If the goal of the Comprehensive Plan language is to provide for a maximum number of units that can be achieved on the property, inclusive of all market-rate, bonus and affordable units, then the Comprehensive Plan amendment can include language addressing the ADU calculation and

explaining that the bonus density is already reflected in the density recommendation. Alternatively, by not specifying that the proposed density limit is inclusive, the developer can utilize the provisions of the Zoning Ordinance to increase the number of units specified in the Comprehensive Plan by up to 20%, resulting in a unit count well above the Master Plan recommendations.

The Comprehensive Plan language can also reflect the BOS policies regarding the inclusion of affordable housing and its relevance to this site as a County-owned property. If the bonus density is inclusive with regard to the density recommendations of the Comprehensive Plan amendment, then it stands to reason that the expectation for affordable housing in accordance with the ADU Program should also be set forth. Given the type of dwelling units that may be constructed/redeveloped on the subject site, the maximum ADU requirement of 12.5% of the total number of units can be specifically set forth in the Comprehensive Plan. As a County-owned property, the redevelopment of this site is a prime opportunity to promote the stated goals of achieving adequate levels of affordable housing with all new development.

By including density bonus and affordable housing expectations in the language of the Master Plan document and the Comprehensive Plan amendment for this site, all parties (the public, a potential developer, County staff, etc.) will clearly know both the maximum development potential for a site and the level of affordable housing to be provided.

cc: Eileen M. McLane, Zoning Administrator, Department of Planning and Zoning  
Michelle M. O'Hare, Deputy Zoning Administrator for Ordinance Administration  
Branch