

"Federation Corner" column  
The Montgomery Sentinel - November 1, 2007

## **Whining about the Growth Policy**

by Wayne Goldstein

After months of work on the particulars of the proposed new county Growth Policy by the County Council's Planning, Housing and Economic Development (PHED) Committee and its Management and Fiscal Policy (MFP) Committee, the Council spent most of this past Tuesday working on the first round of many decisions through much debate and the casting of some straw votes. They will continue this effort next Tuesday, with plans to have the final, binding votes on November 13th. While most participants and most observers were most confused for most of the months about what an effective Growth Policy would look like and how it would work, order began to become apparent as the day moved on. I liked some of what I saw and heard but I was also surprised and concerned with other observations and statements.

The problem was about affordable housing. I have been involved in affordable housing issues for the last seven years. No other issue has generated as much self-righteous rhetoric with so little resulting benefit. Elected and appointed officials have been the source of much of the hot air. Since 2000, I have also seen builders complain about the burden of having to provide affordable housing while claiming to need more and more incentives to do so. They have regularly complained about having to pay various fees in order to build in this county. Yet, they've kept on building. Time and time again, the goal of the most outspoken affordable housing proponents in government appears to have been to instead maximize the profits of builders while minimizing their obligation to produce affordable housing.

Despite this, there has been some meaningful progress over the years, and our laws now require smaller development to follow the requirement of large developments to provide a form of affordable housing known as Moderately Priced Dwelling Units (MPDUs), and for longer periods of time. However, the numbers of houses and apartments that became unaffordable during the same time period far exceeded the numbers of MPDUs built. Yet during a time that has been perpetually labeled as an affordable housing crisis, these officials have taken few actions to try to slow or stop such losses.

This past Tuesday, certain councilmembers were vociferous as self-styled champions of affordable housing. The proposed growth policy includes payments for transportation and school infrastructure for every new house known as impact taxes. In certain areas, where schools are particularly overcrowded, there is also a proposed school facilities payment that would then be used to help build new school additions to relieve this overcrowding. Only by making this payment could a project go forward in those areas. Builders of MPDUs are not required to make any of these payments as a policy to help keep these units affordable. However, the same builders who also construct the full-priced, market rate units that make up the majority of construction do have to pay the fees for those units.

These councilmembers wanted to exempt both the affordable and market-rate units from these fees if at least 30% were "affordable". However, the definition of affordable was different than what I would consider to be affordable. MPDUs must be priced to be affordable to those earning between 30% and 60% of the county median income, which was about \$88,000 for a family of four in 2006. This is a household income of \$26,000 to \$53,000. The other affordable housing is known as workforce housing units (WHU), which must be affordable to those earning between 80% and 120% of the county median income, which means that a household earning from \$70,000 to as much as \$106,000 would be able to live in subsidized "affordable housing".

By law, builders must already provide 12.5% MPDUs and 10% WHUs. Builders who voluntarily agree to provide 15% MPDUs are allowed to construct a building with 22% more units to reward them economically

for this action. Many builders now volunteer 15% MPDUs because it is a very profitable addition and it often allows them to ignore height and density limits imposed by master plans. Thus, builders by law and by choice already provide 25% for affordable housing, so by providing another 5% of WHUs to get to 30%, they would be able to avoid paying tens of thousands of dollars in fees for every market-rate unit.

Most apartments in Montgomery County are already affordable for people who qualify for WHUs, and most new construction is apartments. This means that WHUs are as profitable as most market-rate housing, so calling an apartment a WHU instead of market-rate is meaningless, unless it saves on fees. If these councilmembers who claim to be affordable housing champions had proposed a fee waiver for at least 30% MPDUs, they would have had some of the credibility that they now totally lack.

These councilmembers claim that few impact taxes were collected when they were first imposed in 2003. That statement, while true, ignores a well-known fact. When the impact taxes were approved in October 2003, it was decided that they would not go into effect until March 2004. In the four months that ended in February 2004, huge numbers of building permits were applied for to avoid paying these new fees. I learned that three times as many permits for houses and townhouses were applied for in that four-month period as in the same period the year before. As a result, builders avoided paying tens of millions in these fees, so naturally the revenue from these fees was "surprisingly" low.

These councilmembers ask that the impact taxes not be increased because it will make housing less affordable. The cost of many existing houses have tripled or quadrupled in the last 10 years, and hardly any fees have been required when they were bought and sold. The impact taxes amount to a small percentage of the cost to build new housing. Builders were complaining about the cost of government regulation in 2000, just as they do in 2007. Then, as now, they warn that they might not be able to afford to continue building in Montgomery County. But they kept building, and new projects keep being applied for.

The Boy Who Cried Wolf has nothing on the Builders Who Whined Poverty. Builders never will show us just how much it costs to build, claiming it is "proprietary" information, meaning that if another builder saw it, they would be able to take advantage. However, since builders know what everything in a building costs, and can tell what a competitor is spending just by looking at detailed sales brochures and walking through houses for sale, this is total nonsense. What makes the information proprietary is if the public saw the actual costs, they would be astounded at the profits and they would take advantage by refusing to believe any future complaints by builders.

Yet, certain councilmembers apparently naively believe these builders, even though they have no proof that the builders can't afford to build in Montgomery County and that prices are so high specifically because of government fees. They apparently are so passionate about affordable housing that they don't want builders to pay for most of the transportation and school infrastructure needs that their projects create, instead wanting the rest of us to pay for it. Those councilmembers who expect us to believe that the rest of us should significantly subsidize market rate housing, because a project would subsidize households earning as much as \$106,000 a year, need to understand that such claims won't convince us, don't look to be the least bit sincere, and don't help the cause for real affordable housing.