



## RECOMMENDATION #1

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**Dedicate one penny of the real estate tax rate to the preservation of affordable housing effective in Fiscal Year 2006.**

The Chairman and Board of Supervisors have set a bold goal to preserve 1000 units of affordable housing by 2007 and requested that the Affordable Housing Preservation Action Committee recommend ways to reach the goal. Given that the cost of land and value of existing property in Fairfax County is at an all time high, financing and funding is critical to achieving that goal. The current interest rate climate is conducive and capital is available in many forms and from many sources, including tax-exempt bond financing from the Fairfax County Redevelopment and Housing Authority and Virginia Housing Development Authority and conventional financing from private financial institutions. The critical missing piece in preserving affordable housing is subsidy or equity investments.

Typically, affordable housing requires at least one-third "soft" money, including deferred loans, grants or equity investments with limited or long term return horizons. This type of subsidy, while available through Fairfax County's Affordable Housing Partnership Program of the Housing Trust Fund and the Consolidated Community Funding Pool, is extremely limited. To meet the subsidy/equity needs that will be required to meet the 1000 unit goal, it is estimated that \$45 million will be needed over the next three years.

By dedicating one penny of the real estate tax rate, it is projected that this approach will fund approximately \$17.5 million for affordable housing preservation each year. This will raise approximately \$35 million to meet the 2007 deadline to preserve 1000 units. The balance of the subsidy will need to be raised from other sources.



## RECOMMENDATION #2

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**Revise the Fairfax County Comprehensive Plan to provide development flexibility and incentives for projects that include affordable/workforce housing, and to broaden the definition of affordable/workforce housing.**

The key guiding document of Fairfax County is the Comprehensive Plan. Developed in an era of growth and development, the Plan has never fully addressed affordable housing preservation and redevelopment. The Affordable Housing Preservation Action Committee believes an important next step is a thorough review of the Plan, including changes in the document, its interpretation, and implementation--all with an eye on affordable housing preservation.

Specifically, the Affordable Housing Preservation Action Committee recommends the following Comprehensive Plan issues be pursued:

1. Broaden the definition of affordable housing/workforce housing. Currently, the definition provides that affordable housing can be occupied by a family earning up to 70 percent of the Washington Area Median Family Income (AFI) and not paying more than 30 percent of their income on housing. This definition may need to be broadened to encompass workforce housing for workers who earn more than 70 percent of AFI, but who have difficulty finding affordable housing within Fairfax County.
2. Revising the criteria for neighborhood redevelopment to clarify expectations. It is currently a subjective finding as to what constitutes a neighborhood, what constitutes redevelopment, and whether the homes existing prior to redevelopment were affordable or not. These terms need to be defined for practical application.
3. When redevelopment at higher densities takes place, the County could request the replacement of affordable/workforce housing and establish policy to accept (a) replacement with housing that is affordable for a tiered range of income; (b) replacement on a one-to-one bedroom basis (vs. unit-for-unit); (c) provision of affordable housing off-site; or (d) cash in lieu of building replacement affordable housing.
4. Expediting the Plan amendment process for nominations that involve affordable/workforce housing preservation.
5. Incorporating principles similar to those used in revitalization districts to provide development incentives throughout the County for any affordable/workforce

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housing preservation proposal. Such principles may include development guidelines for density and land use, as well as special assistance in the development approval process.

**For more information, visit Tab 5 of the Recommendations of the Affordable Housing Preservation Action Committee Binder for:**

“Fairfax County Comprehensive Plan, 2003 Edition, Housing, Amended through 8-5-2002.”

“Fairfax County Comprehensive Plan, 2003 Edition, Land Use, Amended through 9-9-2002.”

“From the Comprehensive Plan Glossary (Website 2/20/04), References that Pertain to Housing or Revitalization.

“Bedroom Replacement Policy.”



### RECOMMENDATION #3

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**Provide a tool box of incentives for preservation, which include zoning and regulatory flexibility and financing techniques. Provide form-based zoning options and overlay districts to enable certain design standards to facilitate development approvals.**

Principles similar to those used in revitalization districts to provide development incentives should be established and applied Countywide for any affordable housing preservation proposal. Such principles should help provide specificity and reduce uncertainty rather than becoming another layer of development review for those trying to preserve housing. For example, guidelines might allow relief from setback requirements along the Beltway and Dulles Toll Road for affordable housing developments, or allow the waiver of County requirements such as sound walls, set backs and parking for projects with certain thresholds, all of which would be unique to preservation.

The Affordable Housing Preservation Action Committee recommends that a tool box of incentives for preservation be compiled. This tool box may include zoning and regulatory flexibility and financing techniques, including:

1. More easily allowing affordable housing in mixed use developments.
2. Incorporating form-based zoning options for affordable housing to enable certain design standards to help facilitate development approval. Form-based codes help developers understand urban design parameters that are allowed for a development, and enable them to submit development applications with fewer iterations in the review process. Thus, approval could occur more quickly with the establishment of these standards.
3. Permitting affordable housing in revitalization districts at higher density.
4. Using the concept of overlay districts in designated revitalization or other areas as appropriate to achieve the purpose of preserving affordable housing.

In addition to providing tools for the developer, the Committee recommends that when commercial, retail and/or industrial development occurs, the developer should provide a square foot payment to the County to be allocated to affordable housing as an infrastructure need of these developments.



## **RECOMMENDATION #4**

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**Create an Affordable Housing “SWAT” team, comprised of business and community stakeholders and County staff, and fund an ombudsman position at the Department of Housing and Community Development to act as the point person to prevent the loss of at-risk affordable housing.**

An Affordable Housing “SWAT” team, coordinated by an ombudsman--a new position created at the Fairfax County Department of Housing and Community Development (HCD)--will assist developers, owners and potential purchasers of affordable housing move through the planning, zoning, permitting and other processes within the County in an expedited fashion. The team will assist with accessing special financing programs, tax abatement and other incentives and monitor all at-risk affordable housing in the County’s rental stock and develop a “save-list” of properties to proactively approach and negotiate with owners to encourage them to maintain their properties as affordable. The team will be authorized to resolve issues on standards (e.g., parking, storm water, etc.) impeding affordable housing preservation and make recommendations to the Housing Committee of the Board of Supervisors.

The “SWAT” team will be comprised of:

1. A new position created at HCD, which will be responsible for leading and coordinating the effort and acting as an “ombudsman;”
2. Community and business stakeholders;
3. Specialists from HCD who will provide existing owners and potential buyers with access to financial incentives and affordable housing development expertise;
4. Specialists from the Departments of Planning and Zoning and Public Works and Environmental Services who will help to “green tape” processing, permitting and zoning changes to help prevent or replace affordable housing that is at risk of loss;
5. A liaison from the local supervisor’s offices; and
6. A representative from the Virginia Housing Development Authority, who will be assigned to the team for this effort.

**For more information, visit Tab 5 of the Recommendations of the Affordable Housing Preservation Action Committee Binder for:**

“Affordable/In-Fill Housing and Sustainable Building Expedite Program,” City of San Diego, California, Council Policy, May 20, 2003.

“Expedite Program for Affordable/In-Fill Housing and Sustainable Buildings,” The City of San Diego, Information Bulletin 538, March 2004.



## RECOMMENDATION #5

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**Develop incentives to encourage the owners of existing Affordable Dwelling Units to record a new covenant to extend the control period of the unit to 30 years and/or re-start the control period when they sell to a new owner.**

Currently, under the Fairfax County's Affordable Dwelling Unit (ADU) Ordinance, the price of ADU units sold to first-time homeowners is controlled for 15 years. The consequence of this provision is that the control period for over one-third of the for-sale ADUs existing in 2004 will expire in 2013, affecting over 400 units. Over the ensuing ten years, control periods will expire for 84 percent of for-sale ADUs. By 2023 only 187 of the ADUs existing in 2004 will have control periods.

To preserve the existing stock of ADUs, the Affordable Housing Preservation Action Committee recommends that incentives be developed and offered to current ADU owners. Utilizing a matrix of incentives, interested ADU owners will receive an incentive to voluntarily record a new covenant to extend the control period of the unit to 30 years or re-start the control period upon the sale of their unit. Existing ADU owners will continue to have the rights provided by fulfilling the current control period for their ADU.

For more information, visit Tab 5 of the Recommendations of the Affordable Housing Preservation Action Committee Binder for:

"Part 8, 2-800 Affordable Dwelling Unit Program," Fairfax County Zoning Ordinance.

"Projected Expiration of Control Periods of Affordable Dwelling Units: A quarterly report on the projected expiration dates of price controls on homeownership and rental units developed under the Fairfax County Affordable Dwelling Unit Ordinance, which was implemented in July 1990," March 31, 2004.

"Council Approves Changes to Boost Affordable Housing Program," Montgomery County Council, November 30, 2004.



## **RECOMMENDATION #6**

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### **Develop incentives to encourage the preservation of affordable units in condominium conversions within existing affordable garden apartment stock in the County.**

Over the past several years, there has been an increasing trend of converting existing apartment stock to condominium dwellings. This is evidenced by five rental properties containing over 1,200 units being converted to condominiums during 2004, reducing the availability of affordable rental units.

Condominium converters must go through a somewhat lengthy process at the state level to achieve the conversion. Conversions are also governed, to a limited extent, under the Fairfax County Code of Ordinances, Section 12-4, Condominiums and Cooperative Conversions, which stipulates that the converter shall pay tenants for relocation assistance and also provides protections for elderly residents.

The Affordable Housing Preservation Action Committee recommends that incentives be identified to assist the converter to keep units affordable, either as rental units or homeownership opportunities. For example, the County could help finance any rehabilitation needed for the affordable units or, when applicable, provide assistance to expedite the planning, zoning, permitting and other processes. In addition, the County or another designated entity, may want to consider purchasing individual condominiums to preserve them as affordable.

In addition to incentives, the Committee recommends looking at how other states and local governments are keeping units affordable that might otherwise be converted to market-rate condominiums. For example, Fairfax County may consider increasing the time/process required to convert affordable housing to condominiums to allow sufficient time for nonprofits to purchase these properties or creating additional rights for low-income tenants.

**For more information, visit Tab 5 of the Recommendations of the Affordable Housing Preservation Action Committee Binder for:**

**"Article 4. Condominium and Cooperative Conversion," Fairfax County Code of Ordinances, Section 12-4.**

**"Idea #24: Require a set-aside of affordable units in any conversion from rental to condominium apartments," FCHCD, 11/16/04.**



## RECOMMENDATION #7

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**Establish a working group to develop recommendations on how to restructure Virginia's Low Income Housing Tax Credit program and increase the usage of the Federal Low Income Housing Tax Credit program, with an emphasis on preservation.**

The preservation of multifamily affordable housing in high cost areas requires multiple layers of subsidy. One of the most substantial affordable housing production and preservation programs in existence today is the Federal Low Income Housing Tax Credit (Federal LIHTC) program. In addition, Virginia has also implemented the Virginia Low Income Housing Tax Credit program (Virginia LIHTC), which is contingent upon an award of Federal LIHTCs. Together these programs are designed to encourage the development of affordable rental housing by providing owners with Federal and state tax credits and an incentive for private investors to participate with developers in the construction and rehabilitation of low-income housing.

The Virginia LIHTC has an annual allocation of \$500,000 and is administered by the Virginia Department of Housing and Community Development. Unfortunately, this funding level is not believed to be enough of an incentive for developers. In addition, because it is tied to the Federal LIHTCs, the utilization of the Virginia LIHTC has been limited.

The Federal LIHTC program is sponsored by the U.S. Treasury Department and administered by the Virginia Housing Development Authority. Each year Virginia has a certain per capita dollar amount of low-income housing tax credits to be allocated to qualified low-income housing developments. In the past, access to Federal LIHTCs was highly competitive. In recent years, however, the demand has diminished. Lower interest rates, a heated real estate market, scarcity of land and high construction costs above the program limits have resulted in a diminished use of this program in Northern Virginia. Administratively, the timing of proposals has made the scheduling of projects problematic and the program's benefits less valuable to developers of affordable housing.

The Affordable Housing Preservation Action Committee recommends that a working group look at both of these tax credits programs and recommend ways in which these programs can more effectively address affordable housing preservation in Fairfax County.

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For more information, visit Tab 5 of the Recommendations of the Affordable Housing Preservation Action Committee Binder for:

"2001 Session, An Act to amend and reenact §§ 36-55.63 and 58.1-435 of the Code of Virginia and to repeal § 58.1-336 of the Code of Virginia, relating to low-income Housing."

"Rules and Regulations for the Virginia Low-Income Housing Tax Credit."

"Idea #16: Establish a tax credit for the Commonwealth to generate investment in affordable housing preservation," VHDA, 11/7/04.

"Idea #10: Encourage the Commonwealth to set aside a percentage of Low Income Housing Tax Credits for the preservation of affordable housing in high cost areas," VHDA, 11/7/04.



## **RECOMMENDATION #8**

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**Support House Joint Resolution Number 719 directing the Virginia Housing Commission to study the authority of localities to provide incentives to preserve affordable housing.**

Affordable Housing Preservation Action Committee Co-Chairman and Virginia State Delegate James M. Scott introduced Housing Joint Resolution Number 719 on January 12, 2005. The purpose of this Resolution is to direct the Virginia Housing Commission to study the authority of localities to provide incentives to developers to preserve the supply of affordable housing. The Resolution directs the Virginia Housing Commission to review existing incentives used by localities to preserve affordable housing; how transferable development rights can be used by localities for the preservation of housing; the feasibility of a state tax credit to preserve affordable housing; and the feasibility of setting aside low-income housing tax credits for areas with high housing costs to preserve affordable housing.

The Resolution was referred to the Committee on Rules.

**For more information, visit Tab 5 of the Recommendations of the Affordable Housing Preservation Action Committee Binder for:**

*"2005 Session: Housing Joint Resolution No. 719, Directing the Virginia Housing Commission to study the authority of localities to provide incentives to developers to preserve the supply of affordable single and multifamily housing. Report." January 12, 2005.*



## RECOMMENDATION #9

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**Support the establishment of the Governor's Virginia Community Development Bank and specific Virginia General Assembly bills that will expand the Bank to urban areas like Fairfax County.**

On November 16, 2004 Governor Warner announced plans to create a community development bank to serve as a source of financing for projects that are unable to tap into traditional sources of financing. The goals and priorities of the bank are to:

- Leverage significant new capital into the Virginia Community Development Bank and into Virginia's distressed communities.
- Promote local ownership of assets, including affordable housing, local business development, and nonprofit facilities.
- Provide appropriate credit products and technical assistance

The Virginia Department of Housing and Community Development recently requested proposals for assistance in structuring and launching the community development bank.

Currently the expected activities of the Virginia Community Development Bank will be directed to areas defined as "distressed." The Affordable Housing Preservation Action Committee recommends that as the Bank establishes its financing criteria, that it considers expanding the definition of "distressed areas" to include communities that do not have sufficient amounts of affordable housing.

**For more information, visit Tab 5 of the Recommendations of the Affordable Housing Preservation Action Committee Binder for:**

"Governor Warner Announces New Initiatives to Address Critical Housing and Community Needs - New Programs to Finance Critical Projects and Address Housing Needs," News Releases, November 16, 2004.

"Proposals for Creation of the Virginia Community Development Bank."



## **RECOMMENDATION #10**

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**Revise the Affordable Dwelling Unit Ordinance to extend the control period to 30 years for new ADUs.**

Currently, under the Fairfax County's Affordable Dwelling Unit (ADU) Ordinance, the price of ADU units sold to first-time homeowners is controlled for 15 years. This control period applies to the unit, not the homeowner, so that each subsequent homeowner inadvertently benefits from a shorter control period than the previous owner, until 15 years from the initial offering of the unit by the developer. The price is no longer controlled after the expiration of the 15 year control period. For ADUs offered for rent, the control period is 20 years regardless of whether the development is sold.

The consequence of this provision is that the control period for over one third of owner-occupied ADUs existing in 2004 will expire in 2013, affecting over 400 units. Over the ensuing ten years, control periods will expire for 84 percent of for-sale ADUs. By 2023, only 734 (about one third) of all ADUs existing in 2004 will have control periods, and about three quarters of these units will be rental ADUs. This signifies a significant loss of existing affordable housing in Fairfax County over the next 18 years.

The Affordable Housing Preservation Action Committee recommends revising the ADU Ordinance to increase the control period for new ADUs--both for-sale and rental units--to 30 years. Creating this longer control period for future ADUs and utilizing control period extension strategies discussed in Recommendation Number Five for existing ADUs will greatly help supplement the stock of affordable housing.

**For more information, visit Tab 5 of the Recommendations of the Affordable Housing Preservation Action Committee Binder for:**

"Part 8, 2-800 Affordable Dwelling Unit Program," Fairfax County Zoning Ordinance.

"Projected Expiration of Control Periods of Affordable Dwelling Units: A quarterly report on the projected expiration dates of price controls on homeownership and rental units developed under the Fairfax County Affordable Dwelling Unit Ordinance, which was implemented in July 1990," March 31, 2004.

"Council Approves Changes to Boost Affordable Housing Program," Montgomery County Council, November 30, 2004.



## RECOMMENDATION #11

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**Broaden the use of accessory dwelling units as a way to effectively expand the affordable housing stock at little or no cost to meet a range of housing needs.**

Accessory dwelling units are permitted for single family detached dwelling units in the County with approval of a special permit by the Board of Zoning Appeals. Among other conditions, accessory dwelling units are allowed only if one of the units is owner occupied and one of the units is occupied by a person or persons who qualify as elderly (55 years of age or over) and/or permanently and totally disabled upon certification of certain state or federal agencies or two medical doctors. If the family moves or the elderly or disabled family member moves, the accessory unit loses its legal standing under the Zoning Ordinance.

Further use of accessory dwelling units could make a significant impact on the availability of affordable housing. For example, Fairfax County could allow homeowners to create basement or garage apartments according to all building code provisions and rent these units to families waiting for housing. Such units could be created subject to a condition that the units would be rented at a rate affordable to a certain range of incomes. In 2003 Fairfax County had 184,043 single family homes. If only five percent of these homes created accessory dwelling units, up to 9,000 more affordable units could be created.

This approach would help make meaningful progress toward increasing the supply of affordable housing, compared to the narrow application currently allowed, which has not been well used and may be a disincentive for compliance. It is likely that making compliance easier would decrease the number of illegal units over which there is less control and reduce potential health and safety risks. Other jurisdictions like Montgomery County have successfully allowed broader use of accessory dwelling units as another source of affordable housing, even without its proposed changes to expand the use.

**For more information, visit Tab 5 of the Recommendations of the Affordable Housing Preservation Action Committee Binder for:**

“Part 9, 8-900, Group 9 Uses Requiring Special Regulation,” Fairfax County Zoning Ordinance.

“Adding on Apartments May Become Easier,” The Gazette, Wednesday, September 15, 2004.



## RECOMMENDATION #12

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**Establish an advocacy and public education campaign to promote the need for affordable housing/workforce and the public-private resources to fully fund these recommendations.**

Many residents of Fairfax County could not afford to buy the home they are living in. Homes are out of reach to our workforce, to young professionals, growing families and the elderly. Yet for those who have not had to personally face this situation, there is not a shared appreciation for the hardship and frustration it brings. It is important that the entire community see the face of those who cannot afford to live here.

A public education campaign to help the entire community understand the need for affordable housing for our workforce is needed. The Committee recommends that the County undertake such a campaign in conjunction with other such efforts underway in the Commonwealth, such as the Housing Virginia campaign.

Further, there is a need to encourage advocacy from the faith community, the non-profits, and other stakeholders.

Finally, it is critical that the Board of Supervisors diligently explore additional sources of revenue needed to fully fund the affordable/workforce housing needs of Fairfax County.