



**Proposed Zoning Text Amendment Revising the Requirements for Permitting Accessory Apartments**

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- Gregory Russ, Planner Coordinator, [gregory.russ@montgomeryplanning.org](mailto:gregory.russ@montgomeryplanning.org), 301-495-2174
- Mary Dolan, Chief, [mary.dolan@montgomeryplanning.org](mailto:mary.dolan@montgomeryplanning.org), 301-495-4552

**Completed: 06/14/12**

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**Description**

Currently, an accessory apartment requires approval of a special exception by the County Board of Appeals. The proposed Zoning Text Amendment (*as modified since the May 3, 2012 Planning Board public hearing*):

- Modifies the current accessory apartment requirements by distinguishing between an attached and detached accessory apartment, defines these terms and establishes separate requirements and standards for each.
- Allows by right, *with certain standards and requirements*, an attached accessory apartment with a floor area up to 1,200 square feet in the larger lot one-family residential zones (RE-2C, RE-2, RE-1, RMH-200, R-200 and R-150 zones) **under standard development** and many of the agricultural zones (Rural, RC, LDRC, and RDT zones). **Under cluster development**, by right development permitted only in the RE-2C and RE-1 zones
- Allows by right, *with certain standards and requirements*, an attached accessory apartment with a floor area up to 800 square feet to be located in the R-60 and R-90 zones and in the RNC zone.
- Requires special exception approval in the R-60 and R-90 zones **under standard development** and RNC zones for an attached accessory apartment with a floor area greater than 800 square feet. **Under cluster development**, special exception approval is required in the RMH-200, R-200, R-150, R-90 and R-60 zones
- Allows a detached accessory apartment by right only in the RE-2C, RE-2, and RE-1 zones **under standard development**.
- **Does not allow a detached accessory apartment in the RMH-200, R-200, R-150, R-90, R-60 and RNC zones.**
- Sets the maximum floor area for an accessory apartment at 1,200 square feet.

**Note:** All by-right situations would require adherence to certain quantifiable standards and requirements and would require registration and year rental licensing with the Department of Housing and Community Affairs (DHCA).

**Summary**

**Staff recommends that the proposed ZTA be transmitted to the County Council for introduction.**

The Planning Board conducted the first of its public hearings/worksessions on the proposed accessory apartment provisions on May 3, 2012. Most of staff’s rationale and background information is included in the staff report provided for that meeting dated May 3, 2012 (completed on April 26, 2012). At that time, the Board determined that additional input from stakeholders could be beneficial. In response, the technical staff:

- Created a webpage on the topic that includes background information on the proposed accessory apartment provisions. The page also provided opportunities for citizen comments.

- Conducted two public forums in the afternoon and evening of May 21, 2012. Each meeting included a brief presentation by staff, a question-and-answer session, and additional time to interact directly with staff. The analysis section of this report will mainly depict the general categories of questions asked during the two community meetings.

Currently, an accessory apartment can only be granted through approval of a special exception by the Board of Appeals. The approval process is designed to address concerns about maintaining neighborhood quality through exterior appearance, providing adequate parking and protecting against the overconcentration of accessory units in any one area.

The Zoning Text Amendment proposes to provide opportunities to permit accessory apartments by right in certain zones based on the size of the unit and/or whether the unit is attached or detached from the principal one-family detached house. The ZTA establishes certain standards and requirements drafted from existing, objective standards by which a special exception use is granted for an accessory apartment. In addition, the maximum number of occupants is restricted for both the small and large accessory units. Last, a spacing requirement has been added to the use standards to limit the number of accessory units, regardless of size, that can be constructed within a neighborhood. *The proposed text amendment attempts to address community impact concerns while in some cases reducing the process time and expense required to provide one particular type of affordable dwelling unit in the County.*

## **ANALYSIS**

*The Standards and Requirements of Sections I and II below are identical to Sections I and II of the staff report dated May 3, 2012- restated for the convenience of the reader.*

### **I. Current Special Exception Use Standards for Accessory Apartments (Also See Attachment 2 Table for Quick Comparison)**

*For all Accessory Apartments:*

- Minimum lot size 6,000 square feet; only one per lot; must be subordinate to main dwelling
- Separate entrance must preserve appearance of single-family dwelling; must have same street address
- Must not be located on lot occupied by family of unrelated persons
- External modifications must be compatible with main house and surrounding properties
- Must provide adequate parking (min. 2 off-street spaces)
- Owner of lot must occupy one of the units

#### *Attached:*

- Must have one party wall in common
- Principal dwelling must be at least 5 yrs old
- Max floor area: 1,200 square feet

#### *Detached:*

- Lot of more than 1 acre, through conversion of a separate accessory structure existing on 12/2/1983
- Accessory structure built after 12/2/1983 if lot at least 2 acres and will house a care-giver
- Max floor area: 2,500 square feet or less than 50% floor area of main dwelling, whichever is less

## II. Proposed ZTA (Also See Attachment 2 Table for Quick Comparison)

The proposed text amendment is summarized as follows:

### **Two Types of Accessory Units, Two Sizes for Each Unit Type**

*Attached Accessory Apartment (up to 800 square feet; and from 801 square feet, up to 1,200 square feet)*

- A second dwelling unit that is part of the principal structure of a detached house
- Has a separate entrance
- Subordinate to principal dwelling

*Detached Accessory Apartment (up to 800 square feet; and from 801 square feet, up to 1,200 square feet)*

- A second dwelling that is located in a separate accessory structure on the same lot as the principal dwelling.
- Allowed only where the principal dwelling is a detached house
- Subordinate to principal dwelling

### **Use Standards for Attached Accessory and Detached Accessory Apartments**

#### All Attached and Detached Accessory Apartments

- Only one accessory apartment per lot. Cannot be located on a lot with a registered living unit or any other rental residential use
- Must be subordinate to the principal dwelling
- Separate entrance must not be located along the front building line. Must have the same street address
- Owner of the lot must occupy one of the units
- One off-street parking space is required
- In the RE-2, RE-2C, RE-1, R-200, RMH-200, and R-150 zones an accessory apartment must not be located:
  - Within 500 feet of another accessory apartment (attached or detached) measured in a straight line from side property line to side property line along the same block face; and
  - On a lot abutting the rear lot line of any property with an accessory apartment (attached or detached)
- In the R-90, R-60 and RNC zones an accessory apartment must not be located:
  - Within 300 feet of another accessory apartment (attached or detached) measured in a straight line from side property line to side property line along the same block face; and
  - On a lot abutting the rear lot line of any property with an accessory apartment (attached or detached)
- Through special exception approval, the proposed text allows deviation from any permitted use standard regarding: (1) location of the separate entrance, (2) number of on-site parking spaces, or

(3) minimum distance from any other attached or detached accessory apartment if the Board finds, as applicable, that: the separate entrance is located so that the appearance of a single-family dwelling is preserved; adequate on-street parking permits fewer off-street spaces; or when considered in combination with other existing or approved accessory apartments, the deviation in distance separation does not result in an excessive concentration of similar uses, including other special exception uses, in the general neighborhood of the proposed use.

Smaller Accessory Apartment (up to 800 square feet)

- Floor area must not exceed 50% of the principal dwelling or 800 square feet, whichever is less
- Maximum number of occupants is 3

Larger Accessory Apartment (from 801 square feet, up to 1,200 square feet)

- Floor area must not exceed 50% of the principal dwelling or 1,200 square feet, whichever is less
- Maximum number of occupants is 3

**Although the proposed requirements and standards for allowing an accessory apartment are similar to those as proposed in the May 3, 2012 memorandum, the key difference (as depicted in the Attachment 2 table) is we recommend removing the ability to create detached accessory apartments in the small lot R-90 and R-60 zones and the R-200, R-150 and RMH-200 zones.** Many of the citizen comments referenced the potential for altering the physical character of neighborhoods. Staff recognizes that although the Zoning Ordinance currently provides certain restrictions for lot coverage in small lot zones and that the proposed provisions for detached structures further minimized potential impacts, the better approach to addressing the physical appearance concerns would be to eliminate the detached accessory apartment option in these zones (*For the R-60 and R-90 zones, the original proposal required a detached accessory apartment to have the same minimum side yard setback requirement as the principal dwelling and a minimum rear yard setback requirement of 12 feet unless more restrictive accessory building or structure yard setback standards were required under Section 59-C-1.326. Under Section 59-C-1.326, the existing accessory building yard requirements in the R-90 and R-60 zones increases by 2 feet for every foot of height above 15 feet and by 2 feet for every 2 feet of length greater than 24 feet. The text amendment required that the more restrictive requirement prevail.*).

As stated in the previous staff report, the proposed use standards were drafted from many of the existing, objective standards by which a special exception use is granted for an accessory apartment. In addition, the maximum size of a detached accessory apartment was reduced to less than half the maximum size allowed in the current code, and the maximum number of occupants is restricted to three persons for both the small and large accessory units. Last, a spacing requirement has been added to the use standards to limit the number of accessory units, regardless of size, that can be constructed within a neighborhood.

Staff continues to believe that any potential increase in those seeking to have an accessory unit as a by-right use may be reduced by the additional restrictions regarding spacing, and potential impacts on surrounding neighbors may be further minimized by the reduction in size for a detached apartment (from 2,500 to 1,200 square feet) and by the limit on the number of occupants. The proposed accessory structure provisions of the text amendment (detached accessory apartment) and the existing accessory structure provisions of the Zoning Ordinance also provide new protections for adjacent properties, including the limitation of detached units to larger lot developments.

As generally depicted in Attachment 2 and summarized in the “Discussion” section of this report (page 1), detached accessory apartments with a floor area up to 1,200 square feet would only be allowed by right in the *standard development* of the RE-2, RE-2C and RE-1 zones where the minimum lot size ranges from 1 to 2 acres. **Staff recommends not permitting detached accessory apartments under the cluster development and Moderately-Priced Dwelling Unit (MPDU) options, since lot sizes may be less than one acre in the larger lot zones.**

The proposed use standards also provide an opportunity to deviate from certain permitted use standards regarding: (1) location of the separate entrance, (2) number of on-site parking spaces, or (3) the minimum distance from any other attached or detached accessory apartment if an applicant is granted special exception approval where the Board of Appeals must make certain compatibility and impact findings.

### III. General Categories of Questions Discussed at May 21 Community Meetings

Below are 13 general categories of questions (and staff responses **in red**) that were discussed at the May 21, 2012 community meetings. In addition to these questions, the clear overwhelming concern in both meetings was how enforcement of existing and new accessory apartments could and would be addressed by DHCA. As staff stated at the meeting, DHCA will become more involved should a ZTA be introduced by the County Council.

- Why is an Accessory Apartment ZTA being recommended separately from the zoning rewrite process?

**Addressing changes to the accessory apartment use outside of the Zoning Ordinance Rewrite provides a dedicated review of the issue that will include more time for Planning Board discussion and review and more opportunities for the public to testify on proposed changes. A review within the context of the Rewrite would minimize the time spent on one particular issue.**

- What are the main policy objectives behind this ZTA? If affordable housing is the main goal, will it really result in enough units to warrant the change?

**The primary objective of the accessory apartment ZTA is to provide a more flexible housing option than currently exists in the zoning ordinance. The ZTA recognizes the potential benefit of providing a revised review procedure for a small, attached accessory unit to address a wider variety of housing needs not captured by Registered Living Units (RLUs). The benefit of a small attached unit may be that the owner does not require physical care, nor have a family member able to move in, but may want the company, and/or rental income the unit could provide. The unit may provide a young professional the ability to afford their first home, or access to a neighborhood while they save for their first home.**

- How will the accessory apartment ZTA improve availability of affordable housing?

Typically, rental units within a single-family home rent below the average market rate for a unit of the same size in an apartment/condo building (“Accessory Units: An Increasing Source of Affordable Housing,” by Patrick Hare and John Danbury, Public Management, International City Management Association, (9/1991). Lower rents are possible primarily because accessory apartments do not require the development of new land and are cheaper to build than conventional rental units.

- How will the law that requires 300 foot separation of accessory apartments in a neighborhood on same side of the street affect homeowners’ rights? How will this hold up if challenged in a court of law?

Currently, special exceptions can be denied based on an overconcentration. In addition, the code also contains a spacing requirement for other uses such as an adult entertainment business.

- Will accessory apartments lower home values? Accessory apartments are currently permitted by special exception approval in the same locations as recommended by right in the proposed legislation. The proposed use standards were drafted from many of the existing, objective standards by which a special exception use is granted for an accessory apartment. The current subjective special exception standard prohibiting an overconcentration of accessory apartments in a neighborhood is being replaced with a quantifiable spacing provision.
- Is there a problem with the approval process for accessory apartments that the ZTA is attempting to fix?

No, the rationale for introducing a revised accessory apartment use is to provide a flexible option for housing that retains most of the special exception regulations in the current code. The proposed ZTA retains requirement of DHCA approval and licensing including an annual renewal of the rental license.

- Explain how the new ZTA will not lead to tandem housing?

Tandem housing is two separate houses on one lot, detached. The small attached unit being recommended by right cannot be separate from the principal dwelling. Both detached and attached units must be less than 50% the size of the principal dwelling and cannot be subdivided and sold as can a separate detached house.

- The proposed ZTA relaxes the approval process of accessory apartments; how will the ZTA affect the administration and enforcement of the standards for accessory apartments. How will the County meet the increased demand for inspection and enforcement?

No change is proposed in the approval and licensing by DHCA or enforcement of code violations. Staff research on accessory dwelling unit show annual installation rates that generally range between .2 to .5 accessory units per 1,000 single-family detached homes. In any case, DHCA will address issues about licensing and enforcement should a ZTA be introduced by County Council.

- How will the county be accountable for accessory apartments that are established “by right”?

An accessory apartment that is permitted by-right does not mean it can be created without approval or licensing. Accessory units must still meet all building code requirements for approval and all rental requirements for licensing, requiring annual renewal.

- Why not place an annual ceiling on the number of accessory apartment approvals in the County?

Staff believes that by establishing a spacing provision we can better address overconcentration and therefore minimizing impacts of allowing new units in the County (versus placing an annual ceiling on the number of units allowed). As indicated by DHCA, approximately 26% of the active accessory apartment special exceptions are within 300 feet of another accessory apartment. The proposed spacing provision would make it unlikely that another accessory apartment could locate within those areas.

- What happens to special exceptions already granted to homeowners?

The proposed ZTA would grandfather existing approved special exceptions to the conditions and requirements as they existed when approved.

- How will accessory apartments operating without a special exception approval or license be handled if the ZTA is adopted? What happens if a building cannot be brought into compliance such as accessory apartments currently in detached garages?

Currently, the ZTA does not include an amnesty provision. As such, any illegal accessory apartment will have to apply for legal status based on the proposed standards and requirements.

- Why does proposed ZTA reduce the required number of parking spaces on the homeowner’s property for occupants of the accessory unit? Could the provision of additional parking on-site lead to increased paving of yards?

Required parking space has been reduced to 1 because the size of apartment was decreased from 1,200 to 800 SF and occupancy is limited to 3 people in new ZTA. In the smaller lot residential zones (minimum size less than an acre), there is a maximum percentage of the area of the front yard that can be covered by surfaced area

#### **IV. Existing RLUs and Accessory Apartments (Attachment 3)**

Attachment 3 provides three maps prepared by DHCA depicting existing registered living units (RLUs) and accessory apartments located in the County. Map 1 indicates that there are a total of 540 licensed RLUs and 380 active special exception accessory apartments in the County. We are currently researching the number of active accessory apartments that are also licensed (accessory apartments located in Takoma Park are licensed there). Table 1 also indicates that 18% of the RLUs are located within 300 feet of another RLU while 26% of the active accessory apartments in the County are located within 300 feet of another accessory apartment. Maps 2 and 3 depict separate depictions of accessory apartment units and RLUs, respectively.

#### **V. Citizen Comments (Attachment 4)**

Since the May 3, 2012 Planning Board meeting, staff has received approximately 13 additional letters concerning the proposed text amendment; 12 either in opposition to the proposal or in opposition to removing the accessory apartment discussion from the Zoning Ordinance Rewrite Project. Specific comments in opposition to the ZTA continue to include: concerns about effects on neighborhood character caused by relaxing requirements for: the exterior appearance of the house; parking in small lot neighborhoods; and over concentration of unit requirements. Comments also included concerns about enforcement of existing legal and illegal accessory units, safety of streets because of traffic congestion, potential overcrowding of schools and the separation of the accessory apartment discussions outside of the context of other changes being made through the Zoning Ordinance Rewrite project.

Staff received one letter in favor of the ZTA. The letter in favor of the ZTA was from a young college graduate stating that allowing more accessory apartments could provide housing options for young professionals wanting to move back to the area. This option could provide solutions for locating in the County long term.

#### **ATTACHMENTS**

1. Proposed Zoning Text Amendment
2. Accessory Apartment Comparison Table-Existing Vs. Proposed Provisions
3. Maps of Existing Registered Living Units and Accessory Apartments in Montgomery County
4. Letters from Citizens regarding the Proposed ZTA

GR/MD/kr



# ATTACHMENT 1

Zoning Text Amendment No.: 12-XX  
Concerning: Accessory apartments  
Draft No. & Date:  
Introduced:  
Public Hearing:  
Adopted:  
Effective:  
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: XX

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- revise the definitions for one-family dwelling and one-family detached dwelling-unit;
- establish definitions for an attached accessory apartment and a detached accessory apartment to replace the definition for an accessory apartment;
- revise the standards and requirements for a registered living unit;
- establish standards for attached and detached accessory apartments as permitted uses;
- delete accessory apartment from the residential zones, one-family and agricultural zones
- add attached and detached accessory apartment to the one-family residential zones and agricultural zones; and
- establish special exception standards for attached and detached accessory apartment

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-2	DEFINITIONS AND INTERPRETATION
DIVISION 59-A-6	USES PERMITTED IN MORE THAN ONE CLASS OF ZONE
Adding Section 59-A-6.19	Attached accessory apartments
Adding Section 59-A-6.20	Detached accessory apartments
DIVISION 59-C-1	RESIDENTIAL ZONES, ONE-FAMILY
Section 59-C-1.3	Standard development
Section 59-C-1.5	Cluster development
Section 59-C-1.6	Development including moderately priced dwelling units

DIVISION 59-C-9	AGRICULTURAL ZONES
Sec. 59-C-9.3	Land uses
Sec. 59-C-9.4	Development standards
DIVISION 59-G-2.	SPECIAL EXCEPTIONS
	—STANDARDS AND REQUIREMENTS
Sec. 59-G-2.00.	Accessory apartment
Adding Sec. 59-G-2.00.6	Attached accessory apartment
Adding Sec. 59-G-2.00.7	Detached accessory apartment

**EXPLANATION:** ***Boldface** indicates a Heading or a defined term.*  
*Underlining indicates text that is added to existing law by the original text amendment.*  
*[Single boldface brackets] indicate that text is deleted from existing law by original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\* \* \* indicates existing law unaffected by the text amendment.*

*ORDINANCE*

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

1           **Sec. 1. DIVISION 59-A-2 is amended as follows:**

2           **DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

3           \* \* \*

4           **59-A-2.1. Definitions.**

5           \* \* \*

6           **[Accessory apartment:** A second dwelling unit that is part of an existing one-  
7 family detached dwelling, or is located in a separate existing accessory structure on  
8 the same lot as the main dwelling, with provision within the accessory apartment  
9 for cooking, eating, sanitation and sleeping. Such a dwelling unit is subordinate to  
10 the main dwelling.]

11           **Accessory apartment, attached:** A second dwelling unit that is part of a one-  
12 family detached dwelling and provides for cooking, eating, sanitation and sleeping.  
13 An attached accessory apartment has a separate entrance and is subordinate to the  
14 principal dwelling.

15           **Accessory apartment, detached:** A second dwelling unit that is located in a  
16 separate accessory structure on the same lot as a one-family detached dwelling and  
17 provides for cooking, eating, sanitation and sleeping. A detached accessory  
18 apartment is subordinate to the principal dwelling.

19           \* \* \*

20           **Dwelling and dwelling units:**

21           **Dwelling:** A building or portion thereof arranged or designed to contain one or  
22 more dwelling units.

23           **Dwelling, one-family:** A dwelling containing not more than one dwelling  
24 unit. An accessory apartment [, if approved by special exception,]or a  
25 registered living unit may also be part of a one-family dwelling. A one-  
26 family dwelling with either of these subordinate uses is not a two-family  
27 dwelling, as defined in this section.

28 \* \* \*

29 **Dwelling unit:** A building or portion thereof providing complete living facilities  
30 for not more than one family, including, at a minimum, facilities for cooking,  
31 sanitation and sleeping.

32 **Dwelling unit, one-family detached:** A dwelling unit that is separated and  
33 detached from any other dwelling unit on all sides, except where the  
34 dwelling is modified to include an accessory apartment [, approved by  
35 special exception,]or a registered living unit.

36 \* \* \*

37 **Sec. 1. DIVISION 59-A-6 is amended as follows:**

38 DIVISION 59-A-6 USES PERMITTED IN MORE THAN ONE CLASS OF  
39 ZONE

40 **59-A-6.10. Registered living unit--Standards and requirements.**

41 A registered living unit, permitted in[,] agricultural, one-family residential and  
42 planned unit development zones, must:

43 \* \* \*

44 (i) be removed whenever it is no longer occupied as a registered living unit  
45 unless the owner applies for and is granted either a special exception [for] or a  
46 license for an attached accessory apartment in accordance with Section [59-G-  
47 2.00] 59-G-2.00.6 or Section 59-A-6.19, or whenever the one-family detached  
48 dwelling unit in which it is located is no longer occupied by the owner.

49 \* \* \*

50 **Sec. 59-A-6.19 Attached accessory apartment**

51 Where an attached accessory apartment is permitted in a zone, only one accessory  
52 apartment is permitted for each lot and it is only permitted under the followings  
53 standards:

- 54 a) the apartment was approved as a special exception before (EFFECTIVE  
55 DATE OF THE ZTA) and satisfies the conditions of the special  
56 exception approval; or
- 57 b) the apartment is registered with the Department of Permitting Services in  
58 the same manner as a registered living unit under Subsection 59-A-  
59 6.10(a)(3); and
- 60 1) the owner of the lot occupies a dwelling unit on the lot;  
61 2) the apartment has the same street address as the principal dwelling;  
62 3) a separate entrance is located on the side yard or rear yard;  
63 4) one on-site parking space is provided in addition to any required on-  
64 site parking for the principal dwelling;  
65 5) in the RE-2, RE-2C, RE-1, R-200, RMH-200, and R-150 zones, the  
66 attached accessory apartment is located a minimum distance of 500  
67 feet from any other attached or detached accessory apartment  
68 measured in a straight line from side property line to side property  
69 along the same block face;  
70 6) in the R-90, R-60 and RNC zones, the attached accessory apartment is  
71 located a minimum distance of 300 feet from any other attached  
72 accessory apartment measured in a straight line from side property  
73 line to side property along the same block face;  
74 7) the rear lot line of the lot with the accessory apartment does not abut a  
75 lot with another accessory apartment;  
76 8) if the accessory apartment has a floor area of 800 square feet or less it  
77 satisfies the following requirements:
- 78 (A) The floor area must be no greater than 50% of the principal  
79 dwelling or 800 square feet, whichever is less.

80                   (B) The maximum number of occupants is limited to three  
81                   persons.

82                   9) if the accessory apartment has a floor area greater than 800 square  
83                   feet it satisfies the following requirements:

84                   (A) The floor area must be no greater than 50% of the principal  
85                   dwelling or 1,200 square feet, whichever is less.

86                   (B) The maximum number of occupants is limited to three  
87                   persons.

88

89           c)   The accessory apartment must not be located on a lot where any of the  
90                   following otherwise allowed residential uses exist: guest room for rent;  
91                   boardinghouse; a registered living unit; or any other rental residential use  
92                   other than an accessory dwelling in an agricultural zone.

93

94   An attached accessory apartment special exception may be filed with the Board of  
95   Appeals to deviate from any permitted use standard regarding: (1) location of the  
96   separate entrance, (2) number of on-site parking spaces, or (3) minimum distance  
97   from any other attached or detached accessory apartment if the Board finds, as  
98   applicable, that: the separate entrance is located so that the appearance of a single-  
99   family dwelling is preserved; adequate on-street parking permits fewer off-street  
100   spaces; or when considered in combination with other existing or approved  
101   accessory apartments, the deviation in distance separation does not result in an  
102   excessive concentration of similar uses, including other special exception uses, in  
103   the general neighborhood of the proposed use.

104

105   **Sec. 59-A-6.20 Detached accessory apartment**

106 Where a detached accessory apartment is permitted in a zone, only one accessory  
107 apartment is permitted for each lot and it is only permitted under the followings  
108 standards:

109 a) the accessory apartment was approved as a special exception before  
110 (EFFECTIVE DATE OF THE ZTA) and satisfies the conditions of the  
111 special exception approval; or

112 b) the accessory apartment is registered with the Department of Permitting  
113 Services in the same manner as a registered living unit under Subsection  
114 59-A-6.10(a)(3); and

- 115 1) the owner of the lot occupies a dwelling unit on the lot;
- 116 2) the apartment has the same street address as the principal dwelling;
- 117 3) a separate entrance is located on the side yard or rear yard;
- 118 4) one on-site parking space is provided in addition to any required on-  
119 site parking for the principal dwelling;
- 120 5) in the RE-2, RE-2C, and RE-1 zones, the detached accessory  
121 apartment is located a minimum distance of 500 feet from any other  
122 attached or detached accessory apartment measured in a straight line  
123 from side property line to side property along the same block face;
- 124 6) the rear lot line of the lot with the accessory apartment does not abut a  
125 lot with another accessory apartment;
- 126 7) if the accessory apartment has a floor area of 800 square feet or less it  
127 satisfies the following requirements:

128 (A) The floor area must be no greater than 50% of the principal  
129 dwelling or 800 square feet, whichever is less.

130 (B) The maximum number of occupants is limited to three  
131 persons.

132                    (C) Any structure built after (THE EFFECTIVE DATE OF  
133                    THE ZTA) to be occupied as an accessory apartment must  
134                    have the same minimum side yard setback requirement as  
135                    the principal dwelling and a minimum rear yard setback  
136                    requirement of 12 feet unless more restrictive accessory  
137                    building or structure yard setback standards are required  
138                    under Section 59-C-1.326.

139  
140                    8) if the accessory apartment has a floor area greater than 800 square feet  
141                    it satisfies the following requirements:

142                    (A) The floor area must be no greater than 50% of the principal  
143                    dwelling or 1,200 square feet, whichever is less.

144                    (B) The maximum number of occupants is limited to three  
145                    persons.

146                    (C) Any structure built after (THE EFFECTIVE DATE OF  
147                    THE ZTA) to be occupied as an accessory apartment must  
148                    have the same minimum side yard setback requirement as  
149                    the principal dwelling and a minimum rear yard setback  
150                    requirement of 12 feet unless more restrictive accessory  
151                    building or structure yard setback standards are required  
152                    under Section 59-C-1.326.

153  
154                    c) The accessory apartment must not be located on a lot where any of the  
155                    following otherwise allowed residential uses exist: guest room for rent;  
156                    boardinghouse; a registered living unit; or any other rental residential use  
157                    other than an accessory dwelling in an agricultural zone.



159 A detached accessory apartment special exception may be filed with the Board of  
 160 Appeals to deviate from any permitted use standard regarding: (1) location of the  
 161 separate entrance, (2) number of on-site parking spaces, or (3) minimum distance  
 162 from any other attached or detached accessory apartment if the Board finds, as  
 163 applicable, that: the separate entrance is located so that the appearance of a single-  
 164 family dwelling is preserved; adequate on-street parking permits fewer off-street  
 165 spaces; or when considered in combination with other existing or approved  
 166 accessory apartments, the deviation in distance separation does not result in an  
 167 excessive concentration of similar uses, including other special exception uses, in  
 168 the general neighborhood of the proposed use.

169

170 \* \* \*

171 **Sec. 2. DIVISION 59-C-1 is amended as follows:**

172 DIVISION 59-C-1 RESIDENTIAL ZONES, ONE-FAMILY

173 Sec. 59-C-1.3. Standard development.

174 The procedure for approval is specified in Chapter 50.

175 59-C-1.31. Land uses.

176 No use is allowed except as indicated in the following table:

177 -Permitted Uses. Uses designated by the letter "P" are permitted on any lot in the  
 178 zones indicated, subject to all applicable regulations.

179 -Special Exception Uses. Uses designated by the letters "SE" may be authorized as  
 180 special exceptions under Article 59-G.

	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60	R-40	R-4plex	RMH 200
(a) Residential										
[Accessory apartment. <sup>4</sup> ]	[SE]	[SE]	[SE]	[SE]	[SE]	[SE]	[SE]			[SE]

<u>Attached accessory apartment (Up to 800 square feet)</u> <sup>4</sup>	<u>P<sup>55</sup>/SE<sup>57</sup></u>	<u>P<sup>55</sup>/SE<sup>57</sup></u>	<u>P<sup>55</sup>/SE<sup>57</sup></u>	<u>P<sup>55</sup>/SE<sup>57</sup></u>	<u>P<sup>55</sup>/SE<sup>57</sup></u>	<u>P<sup>55</sup>/SE<sup>57</sup></u>	<u>P<sup>55</sup>/SE<sup>57</sup></u>			<u>P<sup>55</sup>/SE<sup>57</sup></u>
<u>Attached accessory apartment (Greater than 800 square feet, up to 1,200 square feet)</u> <sup>4</sup>	<u>P<sup>55</sup>/SE<sup>57</sup></u>	<u>P<sup>55</sup>/SE<sup>57</sup></u>	<u>P<sup>55</sup>/SE<sup>57</sup></u>	<u>P<sup>55</sup>/SE<sup>57</sup></u>	<u>P<sup>55</sup>/SE<sup>57</sup></u>	<u>SE<sup>57</sup></u>	<u>SE<sup>57</sup></u>			<u>P<sup>55</sup>/SE<sup>57</sup></u>
<u>Detached accessory apartment (Up to 800 square feet)</u> <sup>4</sup>	<u>P<sup>56</sup>/SE<sup>58</sup></u>	<u>P<sup>56</sup>/SE<sup>58</sup></u>	<u>P<sup>56</sup>/SE<sup>58</sup></u>							
<u>Detached accessory apartment (Greater than 800 square feet, up to 1,200 square feet)</u> <sup>4</sup>	<u>P<sup>56</sup>/SE<sup>58</sup></u>	<u>P<sup>56</sup>/SE<sup>58</sup></u>	<u>P<sup>56</sup>/SE<sup>58</sup></u>							

181 \* \* \*

182 <sup>4</sup> Not permitted in a mobile home.

183 <sup>55</sup> See Sec. 59-A-6.19. Attached accessory apartment

184 <sup>56</sup> See Sec. 59-A-6.20. Detached accessory apartment

185 <sup>57</sup> See Sec. 59-G-2.00.6. Attached accessory apartment

186 <sup>58</sup> See Sec. 59-G-2.00.7. Detached accessory apartment

187 \* \* \*

188 **Sec. 59-C-1.5. Cluster development.**

189 \* \* \*

190 **59-C-1.53. Development standards.**

191 All requirements of the standard method of development in the respective zones, as  
 192 specified in Section 59-C-1.3, apply, except as expressly modified in this section.

193

194

	RE-2C	RE-1	R-200	R-150	R-90	R-60	RMH-200
59-C-1.531. Uses Permitted. No uses shall be permitted except as indicated by the letter "P" in the following schedule. Special exceptions may be authorized as indicated in section 59-C-1.31.							
* * *							
[Accessory apartment. <sup>2</sup> ]	[SE]	[SE]	[SE]	[SE]	[SE]	[SE]	[SE]
<u>Attached accessory apartment (Up to 800 square feet)<sup>2</sup></u>	<u>P<sup>10</sup>/SE<sup>12</sup></u>	<u>P<sup>10</sup>/SE<sup>12</sup></u>	<u>P<sup>10</sup>/SE<sup>12</sup></u>	<u>P<sup>10</sup>/SE<sup>12</sup></u>	<u>P<sup>10</sup>/SE<sup>12</sup></u>	<u>P<sup>10</sup>/SE<sup>12</sup></u>	<u>P<sup>10</sup>/SE<sup>12</sup></u>
<u>Attached accessory apartment (Greater than 800 square feet, up to 1,200 square feet)<sup>2</sup></u>	<u>P<sup>10</sup>/SE<sup>12</sup></u>	<u>P<sup>10</sup>/SE<sup>12</sup></u>	<u>SE<sup>12</sup></u>	<u>SE<sup>12</sup></u>	<u>SE<sup>12</sup></u>	<u>SE<sup>12</sup></u>	<u>SE<sup>12</sup></u>
* * *							

195

\* \* \*

196

<sup>2</sup> Not permitted in a townhouse, one-family attached dwelling unit or mobile home.

197

198

<sup>10</sup> See Sec. 59-A-6.19. Attached accessory apartment

199

<sup>11</sup> See Sec. 59-A-6.20. Detached accessory apartment

200

<sup>12</sup> See Sec. 59-G-2.00.6. Attached accessory apartment

201

<sup>13</sup> See Sec. 59-G-2.00.7. Detached accessory apartment

202

\* \* \*

203

**Sec. 59-C-1.6. Development including moderately priced dwelling units.**

204

\* \* \*

205

**59-C-1.62. Development standards.**

	RE-2C <sup>8</sup>	RE-1 <sup>8</sup>	R-200	R-150	R-90	R-60	R-40
<b>59-C-1.621. Uses Permitted.</b> No uses are permitted except as indicated by the letter "P" in the following schedule. Special exceptions may be authorized as indicated in section <a href="#">59-C-1.31</a> , title "Land Uses," subject to the provisions of <a href="#">article 59-G</a> .							
* * *							
Registered living unit. <sup>3,5</sup>	P	P	P	P	P	P	
[Accessory apartment. <sup>3</sup> ]	[SE]	[SE]	[SE]	[SE]	[SE]	[SE]	
<u>Attached accessory apartment (Up to 800 square feet)</u> <sup>3</sup>	<u>P<sup>9</sup>/ SE<sup>11</sup></u>	<u>P<sup>9</sup>/ SE<sup>11</sup></u>	<u>P<sup>9</sup>/ SE<sup>11</sup></u>	<u>P<sup>9</sup>/ SE<sup>11</sup></u>	<u>P<sup>9</sup>/ SE<sup>11</sup></u>	<u>P<sup>9</sup>/ SE<sup>11</sup></u>	
<u>Attached accessory apartment (Greater than 800 square feet, up to 1,200 square feet)</u> <sup>3</sup>	<u>P<sup>9</sup>/ SE<sup>11</sup></u>	<u>SE<sup>11</sup></u>	<u>SE<sup>11</sup></u>	<u>SE<sup>11</sup></u>	<u>SE<sup>11</sup></u>	<u>SE<sup>11</sup></u>	

206 \* \* \*

207 <sup>3</sup> Not permitted in a townhouse, one-family attached dwelling unit or mobile home.

208 <sup>9</sup>See [Sec. 59-A-6.19](#). Attached accessory apartment

209 <sup>10</sup> See [Sec. 59-A-6.20](#). Detached accessory apartment

210 <sup>11</sup>See [Sec. 59-G-2.00.6](#). Attached accessory apartment

211 <sup>12</sup>See [Sec. 59-G-2.00.7](#). Detached accessory apartment

212 \* \* \*

213 **Sec. 3. DIVISION 59-C-9 is amended as follows:**

214 DIVISION 59-C-9 AGRICULTURAL ZONES

215 \* \* \*

216 **Sec. 59-C-9.3. Land uses.**

217 No use is allowed except as indicated in the following table:

218 — **Permitted uses.** Uses designated by the letter “P” are permitted on any lot in  
 219 the zones indicated, subject to all applicable regulations.

220 — **Special exception uses.** Uses designated by the letters “SE” may be authorized  
 221 as special exceptions under [Article 59-G](#).

	Rural	RC	LDRC	RDT	RS	RNC	RNC/ TDR
* * *							
<b>(e) Residential:<sup>2</sup></b>							
[Accessory apartment. <sup>6,7</sup> ]	[SE]	[SE]	[SE]	[SE <sup>48</sup> ]		[SE]	[SE]
Accessory dwelling. <sup>7</sup>	SE	SE	SE	SE <sup>48</sup>	SE	SE	SE
Accessory dwelling for agricultural workers. <sup>42</sup>				P			
<u>Attached accessory apartment (Up to 800 square feet)<sup>6,7</sup></u>	<u>P<sup>50</sup>/SE<sup>51</sup></u>	<u>P<sup>50</sup>/SE<sup>51</sup></u>	<u>P<sup>50</sup>/SE<sup>51</sup></u>	<u>P<sup>48,50</sup>/SE<sup>48,51</sup></u>		<u>P<sup>50</sup>/SE<sup>51</sup></u>	
<u>Attached accessory apartment (Greater than 800 square feet, up to 1,200 square feet)<sup>6,7</sup></u>	<u>P<sup>50</sup>/SE<sup>51</sup></u>	<u>P<sup>50</sup>/SE<sup>51</sup></u>	<u>P<sup>50</sup>/SE<sup>51</sup></u>	<u>P<sup>48,50</sup>/SE<sup>48,51</sup></u>		<u>SE<sup>51</sup></u>	
<u>Detached accessory apartment (Up to 800 square feet)<sup>6,7</sup></u>	<u>SE<sup>52</sup></u>	<u>SE<sup>52</sup></u>	<u>SE<sup>52</sup></u>	<u>SE<sup>48,52</sup></u>			
<u>Detached accessory apartment (Greater than 800 square feet, up to 1,200 square feet)<sup>6,7</sup></u>	<u>SE<sup>52</sup></u>	<u>SE<sup>52</sup></u>	<u>SE<sup>52</sup></u>	<u>SE<sup>48,52</sup></u>			

222 \* \* \*

223 6 Not permitted in a mobile home.

224 7 [As a special exception regulated by divisions 59-G-1 and 59-G-2, such a]

225 An accessory dwelling unit, including an attached or detached accessory

226 apartment, is excluded from the density calculations [set forth] in [sections]  
227 Sections 59-C-9.41, title "Density in RDT Zone," and 59-C-9.6, title  
228 "Transfer of Density-Option in RDT Zone." Once the property is  
229 subdivided, such a dwelling would no longer comply with [the special  
230 exception regulations or with] this exclusion. A special exception is not  
231 required for a dwelling that was a farm tenant dwelling in existence [prior  
232 to] before June 1, 1958, provided, that the dwelling meets all applicable  
233 health and safety regulations.

234 \* \* \*

235 48 If property is encumbered by a recorded transfer of developments rights  
236 easement, this use is prohibited. However, any building existing on October  
237 2, 2007 may be repaired or reconstructed if the floor area of the building is  
238 not increased and the use is not changed.

239 \* \* \*

240 <sup>50</sup>See Sec. 59-A-6.19. Attached accessory apartment

241 <sup>51</sup>See Sec. 59-G-2.00.6. Attached accessory apartment

242 <sup>52</sup>See Sec. 59-G-2.00.7. Detached accessory apartment

243 \* \* \*

244 **Sec. 59-C-9.4. Development standards.**

245 **59-C-9.41. Density in RDT zone.**

246 Only one one-family dwelling unit per 25 acres is permitted. (See section 59-C-9.6  
247 for permitted transferable density.) The following dwelling units on land in the  
248 RDT zone are excluded from this calculation, provided that the use remains  
249 accessory to a farm. Once the property is subdivided, the dwelling is not excluded:

- 250 (a) A farm tenant dwelling, farm tenant mobile home or guest house as  
251 defined in section 59-A-2.1, title "Definitions."

252 (b) An accessory apartment or accessory dwelling regulated by the  
253 special exception provisions of [division] Division 59-G-1 and 59-G-2  
254 and Sections 59-A-6.19 and 59-A-6.20.

255 \* \* \*

256 **Sec. 4. DIVISION 59-G-2 is amended as follows:**

257 **DIVISION 59-G-2. SPECIAL EXCEPTIONS—STANDARDS AND**  
258 **REQUIREMENTS.\***

259 The uses listed in this Division, as shown on the index table below, may be  
260 allowed as special exceptions in any zone where they are so indicated, as provided  
261 in this Article, subject to the standards and requirements in this Division and the  
262 general conditions specified in Section 59-G-1.21.

263 **USE SECTION**

264 \* \* \*

265 Accessory apartment G-2.00

266 Accessory apartment, attached G-2.00.6

267 Accessory apartment, detached G-2.00.7

268 \* \* \*

269 **Sec. 59-G-2.00. Accessory apartment. (The standards below reflect the**  
270 **conditions required only for an accessory apartment approved before**  
271 **(EFFECTIVE DATE of ZTA)**

272 A special exception may be granted for an accessory apartment on the same lot as  
273 an existing one-family detached dwelling, subject to the following standards and  
274 requirements:

275 \* \* \*

276 **Sec. 59-G-2.00.6 Attached accessory apartment.**

277 A special exception may be granted for an attached accessory apartment on the  
278 same lot as an existing one-family detached dwelling, subject to the special

279 exception provisions of Division 59-G-1 and the standards and requirements of  
280 Section 59-A-6.19.

281

282 **Sec. 59-G-2.00.7. Detached accessory apartment**

283 Where a detached accessory apartment is permitted in a zone, only one detached  
284 accessory unit is permitted for each lot and it is only permitted under the special  
285 exception provisions of Division 59-G-1 and the standards and requirements of  
286 Section 59-A-6.20.

287

288 **Sec. 5. Effective date.** This ordinance becomes effective 20 days after the  
289 date of Council adoption.

290

291 This is a correct copy of Council action.

292

293 \_\_\_\_\_

294 Linda M. Lauer, Clerk of the Council



<b>Accessory Apartments</b>	
<b>Existing Zoning</b>	<b>Proposed ZTA (denotes change from existing code)</b>
<p><b>Definition of Accessory Apartment:</b> A second dwelling unit that is part of an existing one-family detached dwelling, or is located in a separate existing accessory structure on the same lot as the main dwelling, with provision within the accessory apartment for cooking, eating, sanitation, and sleeping. Such a dwelling unit is subordinate to the main dwelling.</p>	<p><b>Definition of Accessory Apartment:</b> A second dwelling unit in a detached house building type (or in a detached accessory structure) and provides for cooking, eating, sanitation and sleeping, must be subordinate to the principal dwelling and requires a separate entrance.</p>
<p><b>Size restriction:</b> Attached <math>\leq</math> 1,200sf Detached <math>\leq</math> 2,500sf</p>	<p><b>Size restriction:</b> Attached: (<math>\leq</math> 800sf), (801 - 1,200sf) Detached: (<math>\leq</math> 800sf), (801 - 1,200sf)</p>
<p><b>Lot size requirements:</b> <b>Attached accessory apt</b> - on a lot of one acre or less apartment must have one party wall in common. <b>Detached accessory apt</b> - on a lot of more than 1 acre created through conversion of separate accessory structure existing on lot prior to 12/2/1983. Or, detached accessory apartment in an accessory structure built after 12/2/1983 requires 2 acres and will house either a care-giver or relative.</p>	<p><b>Lot size requirements:</b> Minimum lot size required in the zone</p>
<p><b>No by right uses</b></p>	<p><b>By right use in the following zones:</b> <b>Attached, (<math>\leq</math> 800sf):</b> RE-2C, RE-2, RE-1, RMH-200, R-200, R-150, R-90, R-60, Rural, RC, LDRC, RDT and RNC <b>Attached, (801 - 1,200sf):</b> RE-2C, RE-2, RE-1, RMH-200, R-200, R-150 Rural, RC, LDRC, and RDT <b>Detached (up to 1,200sf):</b> RE-2C, RE-2, and RE-1</p>
<p><b>Special Exception use in the following zones:</b> <b>Attached and Detached:</b> Rural, RC, LRDC, RDT, RNC, RNC/TDR, RE-2, RE-2C, RE-1, R-200, R-150, R-90, R-60, RMH200</p>	<p><b>Special Exception Use in the following zones:</b> <b>Attached, (801 - 1,200sf):</b> R-60, R-90 and RNC <b>Detached, (<math>\leq</math> 800sf):</b> Rural, RC, LDRC, and RDT <b>Detached, (801 - 1,200sf):</b> Rural, RC, LDRC, and RDT</p>

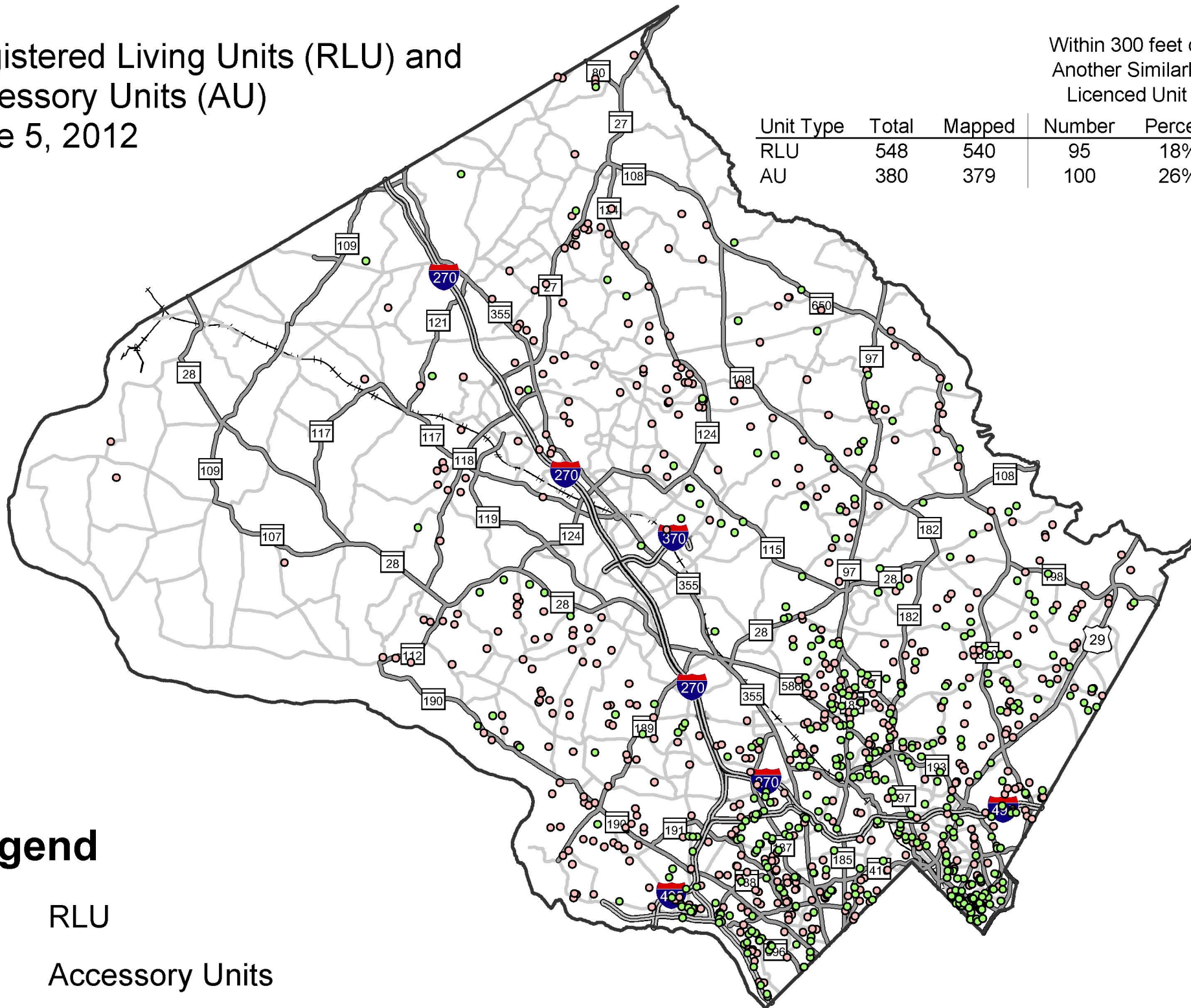
Standards for Special Exception approval:	Standards for by right use approval:
1. Principal dwelling unit must be detached house	1. Principal dwelling unit must be detached house
2. Only one accessory apartment per lot; must be subordinate to principal dwelling	2. Only one accessory apartment per lot; must be subordinate to principal dwelling
3. Owner of lot must occupy either principal dwelling or apartment	3. Owner of lot must occupy either principal dwelling or apartment
4. Must not be located on a lot occupied by a family of unrelated persons	4. <b>Occupancy limited to maximum of 3</b>
5. Must have separate entrance to preserve appearance of the building type	5. <b>Separate entrance must not be located along the front building line</b>
6. Apartment must have same address as principal dwelling	6. Apartment must have same address as principal dwelling
7. 2 parking spaces required unless Board finds that there is adequate on-street parking	7. <b>1 parking space required in addition to any required parking for the principal dwelling</b>
8. Principal dwelling must be at least 5 years old	8. <b>N/A</b>
9. No excessive concentration	9. <b>Spacing requirement:</b> <b>In the R-90, R-60 and RNC zones an accessory apartment must not be located:</b> 1) within 300 feet of another accessory apartment measured in a straight line from side property line to side property line along the same block face; and 2) on a lot abutting the rear lot line of any property with an accessory apartment  <b>In the RE-2, RE-2C, RE-1, R-200, RMH-200, and R-150 zones an accessory apartment must not be located:</b> 1) within 500 feet of another accessory apartment measured in a straight line from side property line to side property line along the same block face; and 2) on a lot abutting the rear lot line of any property with an accessory apartment
10. External modifications must be compatible with main house and surrounding property	10. <b>N/A, However for a detached accessory apartment any structure built after (THE EFFECTIVE DATE OF THE ZTA) to be occupied as an accessory apartment must have the same minimum side yard setback requirement as the principal dwelling and a minimum rear yard setback requirement of 12 feet unless more restrictive accessory building or structure yard setback standards are required under Section 59-C-1.326.</b>
11. General Special Exceptions standards	11. Same as current General Special Exception standards
	<b>Standards for Special Exception use approval:</b>
	1. All by right use standards
	2. General Special Exception standards

# Registered Living Units (RLU) and Accessory Units (AU)

June 5, 2012

Within 300 feet of Another Similarly Licenced Unit

Unit Type	Total	Mapped	Number	Percent
RLU	548	540	95	18%
AU	380	379	100	26%



## Legend

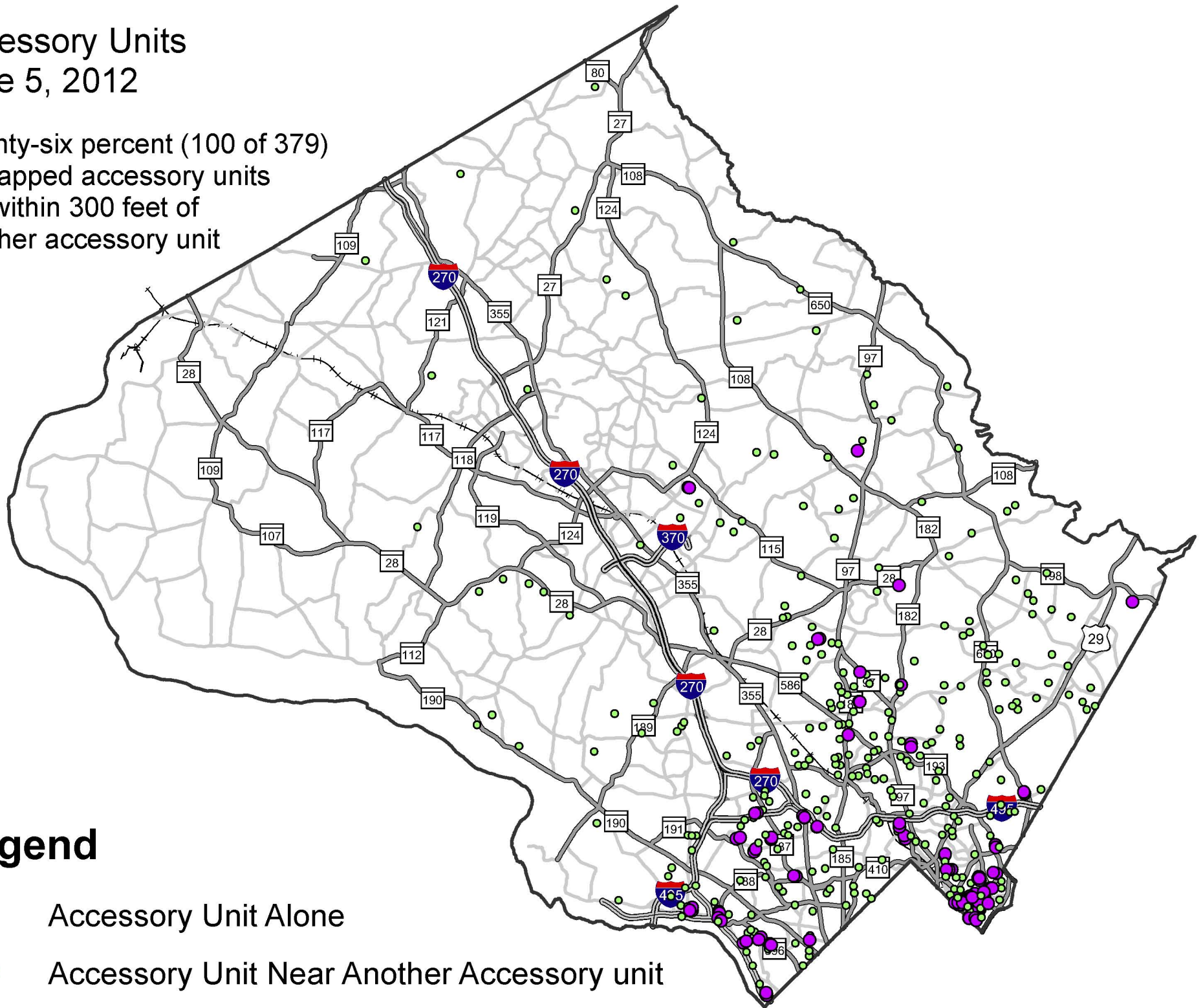
- RLU
- Accessory Units



# Accessory Units

June 5, 2012

Twenty-six percent (100 of 379) of mapped accessory units are within 300 feet of another accessory unit



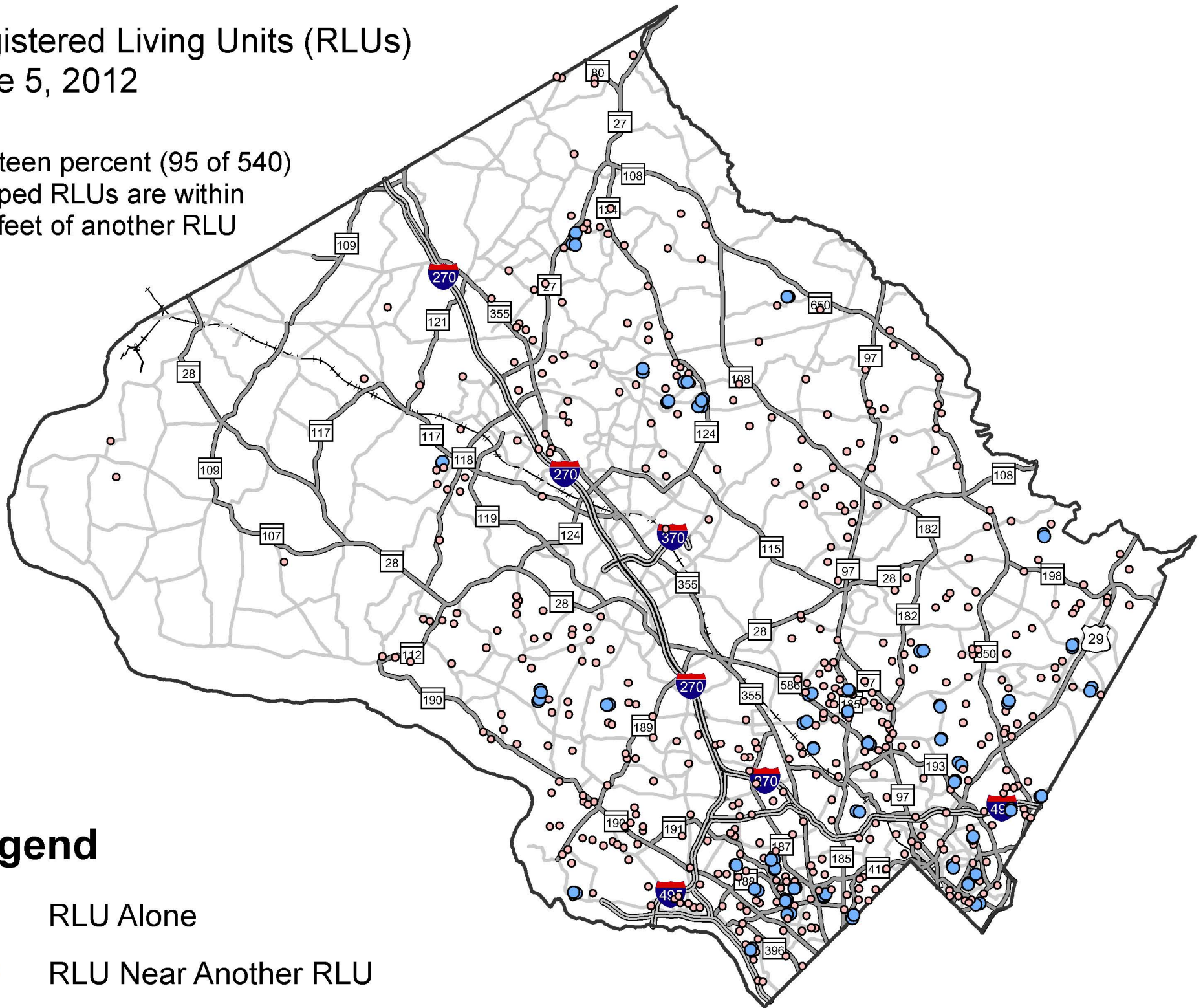
## Legend

- Accessory Unit Alone
- Accessory Unit Near Another Accessory unit

# Registered Living Units (RLUs)

June 5, 2012

Eighteen percent (95 of 540) mapped RLUs are within 300 feet of another RLU



## Legend

- RLU Alone
- RLU Near Another RLU



**Maplewood Citizens Association  
Post Office Box 2483  
Kensington, Maryland 20891-2483**

**RECEIVED**  
2012-0448  
JUN 05 2012  
OFFICE OF THE CHAIRMAN  
THE MARYLAND NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

June 4, 2012

Ms. Françoise Carrier, Chair  
Montgomery County Planning Board  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Dear Ms. Carrier:

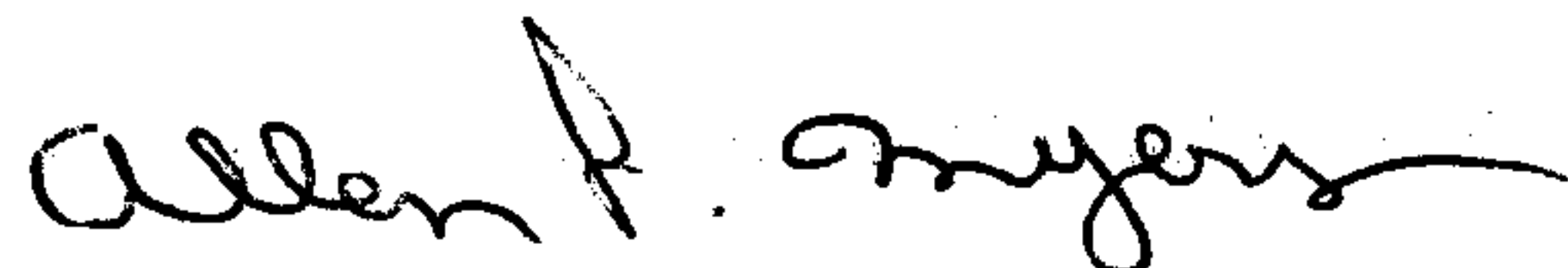
On May 16, 2012, the membership of the Maplewood Citizens Association (MCA) held its "annual meeting." Among the topics of discussion for the evening were presentations on the proposed Montgomery County Zoning Ordinance re-write and the proposed Zoning Text Amendment to permit accessory apartments as-of-right instead of through the current Special Exception Process.

At the conclusion of the presentations, an extensive discussion was held amongst the membership. As a result of that discussion, the following resolutions were passed:

- 1) MCA opposes any countywide sectional map amendment that increases the density of development in our community and that does not provide for a completely open process.
- 2) MCA is opposed to anything that would change the characteristics of our neighborhood, and we oppose any changes to the Special Exception rules for accessory apartments.

Please consider the views expressed by the residents of Maplewood in your discussions and deliberations on these two matters.

Sincerely,



Allen L. Myers, President  
Maplewood Citizens Association

## MCP-CTRACK

---

**From:** woody brosnan <woodybrosnan@verizon.net>  
**Sent:** Thursday, May 31, 2012 5:14 PM  
**To:** MCP-Chair  
**Subject:** Accessory apartments and five people living in a house.

**RECEIVED**  
0439  
JUN 01 2012

OFFICE OF THE CHAIRMAN  
THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

Woody Brosnan, 9101 Louis Avenue, PREZCO coordinator, wrote,

I was just listening to the May 3 discussion and you said it was unlikely to find a situation where a homeowner had five unrelated people living in a house without rent. Well, we had one in our neighborhood.

Several years ago, the county granted a special exception to allow a house at the corner of 16th and 2nd to be used by a nonprofit group, Trees for the Future. They were limited to six cars in their circular driveway at one time. The former founder of the charity circumvented this by buying a house for his son one block away. Then he allowed staff members to stay in that house. This house had a shared driveway and it caused great hardship for the homeowner next door. She eventually went and got parking permits for that house.

**RECEIVED**  
0435  
MAY 31 2012

OFFICE OF THE CHAIRMAN  
THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

**MCP-CTRACK**

**From:** Dan Wilhelm <djwilhelm@verizon.net>  
**Sent:** Wednesday, May 30, 2012 8:35 PM  
**To:** MCP-Chair  
**Subject:** Accessory Apartments

**Greater Colesville Citizens Association  
P. O. Box 4087  
Colesville, Maryland 20914**

Planning Board  
Attn: Françoise Carrier, Chair  
8787 Georgia Ave  
Silver Spring,  
MD  
2012

May 30,

Re: Proposed ZTA on Accessory Apartments

Dear Ms Carrier:

The Greater Colesville Citizens Association discussed the proposed ZTA at its May 8 Executive Board meeting and attended the staff forum on May 21. Overall, we support one of the proposed changes but oppose four others.

**Support:** GCCA supports the change to reduce the maximum size of an accessory apartment from the current 2500 square feet to 1200 square feet.

**Oppose:**

1. GCCA strongly opposes eliminating the requirement to obtain a special exception. The staff indicated that there are only applications 10 special exceptions each year and nearly all of them are approved. What they failed to consider is that even when the special exceptions are approved that the Board of Appeals can impose restrictions on the approval. The site specific situations can't be identified if the accessory apartment is allowed by right. There must be a way for citizens to bring such situations to the attention of the Board of Appeals so that they can consider them and, where necessary, impose additional conditions.

Historically GCCA has reviewed applications for a number of special exceptions for accessory apartments and often not objected to them, but there also have been ones we opposed. An alternative process is to make the special exception contingent upon an issue being identified. Under this scenario, the applicant would notify the Board of Appeals that they want an accessory apartment. The Board would notify the local citizens and ask whether a formal review is requested. If a review is requested, then the applicant would formally apply and the existing process would be followed. If there is no request for a formal review, then the applicant would proceed to Permitting Services.



2. GCCA opposes eliminating the requirement for two off-street parking spaces, especially in the R-60 and R-90 zones. Many streets have limited or in some cases no space to accommodate more on-street parking. We can support the proposal to reduce the number of such off-street parking spaces if public transit is available within  $\frac{1}{4}$  mile, as measured along public roads.
3. GCCA opposes the proposal to allow detached accessory apartments in R-60, R-90, R150 and R200 zones. This approach conflicts with the idea that there be no change in outward appearance of the structure.
4. GCCA likes the idea of specifying the distance between units so as not to have an over concentration but the method of calculating distance was inadequate. The staff's approach was to use the minimum front yard distance and then assumed that is always that length (ie also the maximum). This is clearly not always the situation and in our area rarely the situation. There is also a major difference in the distance in different zones. Rather than specify a number of feet, the ZTA should indicate that at least four other residential units must exist in that direction before another accessory apartment can be approved. The quantity of four would be on one side of the street or the other, not four on both sides.

Sincerely,

Daniel L. Wilhelm  
GCCA President

**RECEIVED**  
MAY 31 2012

**MCP-CTRACK**

OFFICE OF THE CHAIRMAN  
THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

**From:** Nmcaprexy@aol.com  
**Sent:** Thursday, May 31, 2012 11:56 AM  
**To:** MCP-Chair  
**Cc:** athomewithbarbara@verizon.net; jaro.home@verizon.net; Matt@mattzaborsky.com; 77petrocci6@integrity.com; JMEYER02@email.usps.gov; russerb@hotmail.com; acrawf1@verizon.net; JimanneCoyle@yahoo.com; dam12390@yahoo.com; Jack.L.Meyer@usps.gov; Arlene.Sha@FINRA.org; Suzanne\_Zaremba@yahoo.com; edncher@comcast.net; councilmember.andrews@montgomerycountymd.gov; councilmember.berliner@montgomerycountymd.gov; councilmember.elrich@montgomerycountymd.gov; councilmember.floreen@montgomerycountymd.gov; councilmember.leventhal@montgomerycountymd.gov; councilmember.navarro@montgomerycountymd.gov; councilmember.ervin@montgomerycountymd.gov; councilmember.riemer@montgomerycountymd.gov; councilmember.rice@montgomerycountymd.gov  
**Subject:** Accessory Apartments

Ladies and Gentlemen of the Commission:

Please be advised that the Norbeck Meadows Civic Association wishes to reassert our strong opposition to changing the approval process for accessory apartments. We strongly oppose making accessory apartments a right and encourage the planning board to maintain the requirement for a special exception hearing before such a use can be permitted. We believe that making accessory apartments a right is not a planning tool, but a lack of planning tool and are horrified that you are even considering it. How can you plan for a neighborhood of single family homes if you give every homeowner the right to double the density? We urge the planning board to oppose this change. This is grossly unfair to people who do their research and choose to buy in a single family home development. Further it makes a mockery of all planning and zoning to date as it applies to these communities.

These communities were designed and built, and the county had planned and provided public facilities, based on their proposed density. With enactment of this provision all of this planning and related zoning is de facto nullified. We join with the Greater Olney Civic Association and all of its constituent organizations (representing 40,000 people and 10,000 households) in opposing this ridiculous proposal.

Arnold Gordon, President,  
Norbeck Meadows Civic Association  
301-570-0481  
[nmcaprexy@aol.com](mailto:nmcaprexy@aol.com)

**MCP-CTRACK**

---

**From:** Barbara Falcigno <athomewithbarbara@verizon.net>  
**Sent:** Thursday, May 31, 2012 1:41 PM  
**To:** MCP-Chair  
**Subject:** Accessory Apartments

**RECEIVED**

**MAY 31 2012**

OFFICE OF THE CHAIRMAN  
THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

May 30, 2012

Chair Françoise Carrier

8787 Georgia Ave

Silver Spring, Maryland 20910

Sent via email to [MCP-Chair@mncppc-mc.org](mailto:MCP-Chair@mncppc-mc.org)

Dear Ms. Carrier and Planning Board Commissioners:

The Greater Olney Civic Association strongly believes it is best to maintain approval of accessory apartments through the special exception process. The current inspection and enforcement of accessory apartments is not adequate and increasing the number will not improve the situation. Each location has its own unique situation that requires review. In addition, residents of Montgomery County need to have confidence when they purchase a home as to what the community will be. School enrollment and transportation predictions are based on current zoning. Allowing accessory apartments can dramatically change these predictions in established communities where changes to the increased population cannot be made.

We wrote a letter dated March 10, 2011 (<http://www.goca.org/wp-content/uploads/2010/12/Letter-to-Councilmember-Floreen031020112.pdf>) which stated our opposition to allowing accessory apartments by right and it has not changed.

Sincerely,

Barbara Falcigno  
President, Greater Olney Civic Association



## MCP-CTRACK

---

**From:** Andrew White <andrew.white@vzw.blackberry.net>  
**Sent:** Wednesday, May 23, 2012 10:26 PM  
**To:** MCP-Chair  
**Cc:** Susan Johnson  
**Subject:** Against Relaxing Regulations on Accessory Apartments

**RECEIVED**  
0419  
MAY 24 2012

OFFICE OF THE CHAIRMAN  
THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

Members of the Planning Board...

This is to express my opposition to the measure that relaxes the regulations with regard to accessory apartments in homes located in single family home neighborhoods in Montgomery County. Although it is the Board's statement on the website that "special exceptions" are provided in "virtually all cases," the current regulation, when followed, requires a level of oversight that is important to preserving neighborhoods throughout Montgomery County.

It is my position that we presently have dramatic abuses with this regard, whereby, large additions are built, and then the houses are occupied by many more than a single family (not just a single adult relative or "caregiver" [as indicated on the Planning Board website]). This level of occupancy is then accompanied by additional vehicles (often parked all over the yard), larger than normal trash disposal, and higher use of schools and government services (none of which are appropriately covered by the taxes collected on the property, nor intended or envisioned by single family home zoning and taxation laws and regulations).

With this in mind, I urge you to vote against the measure to relax accessory apartments. I also ask that you send a message to the County Executive requesting that zoning and occupancy laws and regulations be enforced, rather than side-stepped as they appear to be now.

Thank you,

Andrew B. White

**Accessory Apartments ZTA For hearing May 21, 2012**

Gundersen [gmlgundersen@comcast.net]

Sent: Sunday, May 20, 2012 4:32 PM

To: MCP-Chair; Councilmember.Berliner@montgomerycountymd.gov



**Francoise Carrier, Chair, Montgomery County Planning Board**  
**Roger Berliner, President, Montgomery County Council**

May 20, 2012

Dear Sir:

**“Do not hastily change the rules for accessory apartments.” Keep the accessory apartment proposals in the Zoning Rewrite so that they are fully vetted and considered in the context of all of the other changes.**

When the County was approving accessory apartments to have more housing available and reasonable rents a number of years ago it created problem that just will not go away. Now you are proposing to compound the exiting problem. One such example: *You* approved several accessory apartments over the objection of the neighborhood, their covenants and constitution and the surrounding neighbors. The neighborhood and the county housing code inspectors has/have a constant battle with the owners. They have made the property into a slum area and the value of the houses in that part of the neighborhood have fallen, and the county will not help us since they approved the accessory apartment. The quality of tenets is somewhat questionable and their idea of what the property should look like. (junk in the yards, uncut grass). To think what you are proposing is just a nightmare waiting to happen.

Streets in establish older neighborhoods are classified rural and are not wide enough for off street parking. Residents do park on the side of the roads and on the easements. Parking on the easements destroy them and it is costly to the County to repair. Who will determine/police if there is parking on the street for the people who are renting these apartments? Who will police the number of people in the apartment or the number of vehicles they bring to the local?

To go into an established community and allow the accessory apartments is a disservice to the people who purchased single family homes. There is/was a reason for buying into a community with single family homes, we/they did not want the added congestion of people and vehicles.

The statement about reasonable cost of housing and need of housing in Montgomery County for people to move into is not an excuse to do what you are proposing to do to the average home owner in Montgomery County. Allowing a person to have an accessory apartment will not ease the housing problem or the reasonable cost of housing. Do you really think that if a person builds an accessory apartment they will charge a low rent? The better located neighborhoods, the apartment will have higher rents. We are dealing with landlords and even though the rule states the owner must reside on the property, a majority of the time this will not be the case. Montgomery County has enough to do right now with housing code infractions. Once an apartment is built in a neighborhood it will never be able to have it removed and there will not be any recourse. Instead of allowing more *McMansions* you should be building more apartment buildings with reasonable rents. The County controls the approval of all new housing projects, insist on more moderate housing to be included.



My right as a home owner should not be violated by a neighbor who want a to build an accessory apartment in their back yard. They will not ask my permission to build, they will just do it. Why must I look out and see it? Why must I have to fight a crowed street? Be subjected to noise from unwanted neighbors and traffic?

Passing the proposed *zoning Rewrite* is taking away my rights to where I have chosen to live in Montgomery County.

Sincerely,

Gordon and Mary Lou Gundersen  
15416 Peach Leaf Drive  
North Potomac, MD 20878  
301-869-5625

**Accessory apartments and enforcement issues: from bad to worse**

Naomi Spinrad [nspinrad68@verizon.net]

**Sent:** Sunday, May 20, 2012 10:51 PM

**To:** MCP-Chair

**Cc:** Russ, Gregory; Celesta Jurkovich [cjurkovich@verizon.net]; councilmember.Berliner@montgomerycountymd.gov

**Attachments:** Examples of Enforcement E~1.docx (166 KB)

**RECEIVED**  
MAY 21 2012

OFFICE OF THE CHAIRMAN  
THE MARYLAND NATIONAL CAPITAL  
PLANNING COMMISSION

Dear Chair Carrier:

Attached please find a document describing three instances in which Chevy Chase West has devoted untold manhours and thousands of dollars to insure that our community remains a single family residential area. This has particular importance as the Planning Department and Board consider a zoning text amendment that would vastly increase accessory units in such areas and make it far easier for such units to be created.

Our community knows from experience that County enforcement of zoning and building codes is already highly dependent on consistent, unrelenting efforts from neighbors and communities, at a huge cost in time and, in many cases, dollars for legal representation. We believe that the proposed ZTA will only exacerbate the demands on residents and community treasuries to maintain the character of their neighborhoods.

Please take the time to read the attached document, and please disseminate it to Planning Department staff and members of the Planning Board.

Sincerely,  
Naomi Spinrad  
Vice President/Development  
Chevy Chase West Neighborhood Association



## A Few Examples of Enforcement Experiences in Chevy Chase West:

### 4601 HUNT AVENUE

In the summer of 2005 the small rambler at 4601 Hunt Avenue had a major makeover. The house was painted dark gray. The driveway was expanded. The lawn on the Hunt Avenue and Wisconsin Avenue sides of the house was removed and replaced with gravel. The address was changed, at least as represented on the house itself, to 6200 Wisconsin Avenue. This work followed an application of articles of incorporation by the owner for Sogol Décor, whose purpose was to operate "any legal business" there.

No permits had been obtained for any of the work done to this point, and after the owners had discussed their plans with neighbors, individual residents complained to DPS and the Chevy Chase West neighborhood association. The first stop work order was placed by DPS in September 2005. Shortly thereafter DPS issued a building permit and an electrical permit for some alterations, not including changes to the front steps, which had already – without a permit – been demolished. The Association wrote to DPS with concerns that the owners' intent was to create a commercial enterprise in violation of R-60 zoning. DPS was also notified of the sod removal and preparations for what appeared to be a parking area, which did not jibe with the plans that DPS had been given. A DPS inspector was told this would be a home occupation, with the owner's daughter living in the house and running an interior design business. In fact, the daughter and her husband had a principal residence elsewhere in the county.

After a series of visits and inspections by DPS personnel, and several stop work orders, in February 2006 the CCW Neighborhood Association informed DPS that ads for Sogol Décor at 6200 Wisconsin Avenue had appeared in Capital File magazine, with a photo of a bed by Fendi Casa and related ad copy; that a website, sogoldecor.com, was up on the Internet describing the location as a "show house" offering furniture, cabinetry, bathroom fixtures, etc., and inviting customers to tour the show house; that lights had been installed appearing to demarcate a parking area; and that furniture deliveries had been made twice. A month later a covered gazebo was erected on the Wisconsin Avenue side of the property. A DPS inspector judged that the resident he found on-site was conducting a no-impact home occupation and he had no inventory or materials, but the accessory building was in violation. In June 2006, a potential client visited the "show house" where she was met by the non-resident designer, daughter of the owner, and was shown furniture with price tags attached. An employee was also present. No home occupation permit had been obtained, and at least two violations were immediately apparent.

In July 2006 DPS issued a notice of violation and ordered that business operations be discontinued in the absence of a home occupation permit. The owner filed for a permit within days, and nearby residents expressed their opposition to DPS and members of the County Council. The application was



rejected by a DPS inspector for an inadequate floor and site plan. The owner reapplied and was approved, despite the fact that the community had no opportunity to review or comment on the application. Between the cease order and the granting of a permit, business operations and advertising continued. Despite repeated requests from the community to DPS to consider whether this type of business would appropriately be considered a home occupation, DPS consistently maintained that that issue was not relevant, and they only considered whether it met the criteria for *operating* a home occupation.

In September 2006, then-councilmember Howard Denis introduced a ZTA confirming and clarifying that the Council intended that "the display of furniture not made in the home for sale in the home or at an offsite location must not be conducted as a home occupation." The ZTA was endorsed by the Western Montgomery County Citizens Advisory Board, the Town of Somerset, Drummond, the Montgomery County Civic Federation, and the Citizens Coordinating Council on Friendship Heights. The PHED Committee supported the ZTA, and it passed the Council unanimously in October 2006. The Council staff attorney noted, "Councilmember Perez correctly pointed out in (the PHED) Committee that the only mechanism you have to instruct DPS on bad interpretations is in fact to legislate. So, that is why you are here today."

The Board of Appeals held a hearing on all the issues – home occupation, accessory structure – related to 4601 Hunt. The owner, within days of the hearing, withdrew the home occupation application. The Board found him in violation regarding the accessory structure.

These efforts involved at least two dozen neighbors and members of the neighborhood association, and expenses for an attorney for the Board of Appeals hearing.

#### 4604 NOTTINGHAM DRIVE/GOLDEN SCHOOL OF MUSIC

From 2005-2007, Chevy Chase West residents repeatedly notified Montgomery County agencies about problems created by the Golden School of Music, 4604 Nottingham, which operated under a home occupation certificate initially issued in 1995. The scope of the business activity changed from its initial application but DPS, responsible for enforcement of zoning laws, failed to enforce home occupation requirements despite complaints.

On March 18, 2005, a CCW Neighborhood Association (CCWNA) officer complained to DPS about the operation of the Golden School of Music, because the school created an illegal intensity of use on a one-block long street that dead-ends at Norwood Park. The intensity of use was demonstrated by parking problems on both the short, narrow street and the adjacent parallel street (Norwood).



In April 2005, in response to a second complaint, DPS inspected the premises and found that more than 33% of the space in the structure was used for the home occupation, and there was no proper client log. A Notice of Violation was issued to the resident/operator in June 2005.

In May 2005, CCWNA notified DPS of construction activity occurring at the residence without a building permit. In June, a stop work order was issued with a DPS inspector ordering the removal of all work completed without a permit. The owner complied partially before abandoning the task, leaving a community eyesore, which remained for two years.

In August 2005, the owner applied for Special Exception S-2657 for a planned addition to allow an increased area for the business for what they now wanted to be a major home occupation. In September 2005, 17 residents of Nottingham and Norwood Drive in Chevy Chase West petitioned the Board of Appeals to deny the Special Exception for a major home occupation permit because the current volume of traffic coming to the Golden School of Music already exceeded home occupation rules. The owner withdrew the application in October prior to the hearing; however, DPS took no action to determine whether the scale of operations already underway and cited in the petition violated the restrictions of the existing home occupation certificate.

On March 23, 2006, the owners applied for a building permit to create an addition of 4,016 square feet (on a 6700 square foot lot), valued at \$200,000. On May 22, 2006, CCWNA notified DPS that it opposed the permit, which would further increase available space for the already over-extended home occupation. The complaint stated that neighbors on Norwood Drive observed adults with little children parking in front of their houses and walking to the Golden School of Music. When asked about their destination, they responded that the Golden School of Music had instructed them to park on the adjacent block and walk, because the residents on Nottingham were watching the School. Information was also provided that the School was advertising group music classes (8 such classes/week).

In May additional complaints were filed with DPS. A DPS inspector visited in June 2006, observing 10 people leaving the school in an hour and cars clustering at the entrance to pick up students. An inspection again found more than 33% of the space was used for business. In fact, neighbors reported that 2 rows of electric pianos - about 15 in all - were housed on the top floor of the house.

On September 8, 2006 a DPS investigator followed up on the complaint about the number of cars parking on Norwood so students could attend the School located on Nottingham, one very short block away. The inspector visited the house and reported that he doubted the owner lived there; the amount of auto traffic to the house was excessive; and more than the allowable floor space was



devoted to the music school. Presumably he informed the owner of his findings when he inspected on Sept 8.

In late Sept. the Golden School of Music moved from 4604 Nottingham Drive to 4008A Norfolk Ave in Bethesda, a commercial area. On Sept. 30, 2006 DPS reportedly terminated the home occupancy certificate for that address, although this information is not on the DPS website. The application for a building construction permit for the Nottingham location lapsed. Architectural plans also failed inspection in March and May of 2006.

While the issue of home occupation rules not being monitored and enforced by the County was resolved due to repeated complaints by residents, the eyesore of half-finished, non-permit work and construction debris on the property was not resolved until a DHCA inspector finally forced the owner to get rid of the debris in July 2007, more than two years after the initial complaints.

#### 4601 DERUSSEY PARKWAY/6308 WISCONSIN AVENUE

4601 DeRussey was sold to its current owners in 1996. At some later date they bought the vacant lot at 4603 DeRussey and in 1999 constructed a new home on that lot. The new structure is attached to the old one, which has been renumbered as 6308 Wisconsin Avenue. There are no SDAT, Montgomery County real property, or DPS records for 6308 Wisconsin Avenue. There are several building permits for 4601 DeRussey but no public records indicating a special exception for an attached structure or a license to rent.

In 2003, after complaints were filed about the property, DHCA ordered that a bolt lock between the old and new structures, which was operated from both sides, be removed. DHCA also ordered that all tenants be gone within 30 days, and that all cooking apparatuses (toaster ovens, microwaves, and the like) be removed.

In late 2011, an ad appeared online, originating on Craigslist and grabbed by at least one other site, offering a "master" bedroom for rent at 6308 Wisconsin Avenue for \$800 (<http://www.esciudad.com/casas/compartir.washington-navy-yard-district-of-columbia/1749697>). The ad indicated there were two other renters, and there was a kitchen on the first floor but it had no stove – only "mini portable one," microwave, toaster, mini-grill.

In addition, there are three businesses listed at 6308 Wisconsin Avenue, Junelabs (apparently a cosmetic creams and liquids importing company), DBI LLC, and Newfbs LLC.

A query was sent to DHAC via its website on May 11, 2012; no response has yet been received. DPS says DHAC has jurisdiction and on May 18 provided a name and phone number at DAHC for CCW to contact.

RECEIVED  
0400  
MAY 16 2012

**MCP-Chair**

OFFICE OF THE CHAIRMAN  
THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

**From:** Jennifer Lavorel <jlavorel@tothetrail.net>  
**Sent:** Tuesday, May 15, 2012 4:39 PM  
**To:** MCP-Chair  
**Subject:** Fwd: Opposition to Proposed Zoning Text Amendment Revising the Requirements for Permitting Accessory Apartments  
**Attachments:** ZTA opposition.docx

Ms. Carrier,

I am forwarding my letter to county staff regarding the proposed ZTA re: accessory apartments.

Thank you.

Jennifer Lavorel

----- Forwarded message -----

**From:** Jennifer Lavorel <jlavorel@tothetrail.net>  
**Date:** Tue, 15 May 2012 13:17:53 -0400  
**Subject:** Opposition to Proposed Zoning Text Amendment Revising the Requirements for Permitting Accessory Apartments  
**To:** mary.dolan@montgomeryplanning.org  
**Cc:** gregory.russ@montgomeryplanning.org, councilmember.berliner@montgomerycountymd.gov, Mike Lavorel <lavorels@email.com>

Ms. Mary Dolan  
Acting Chief  
Montgomery County Planning Department  
The Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, MD 20910

May 15, 2012

Dear Ms. Dolan:

I am writing to express my opposition to the proposed Zoning Text Amendment (ZTA) that would revise the requirements for permitting accessory apartments. My concerns have to do with parking, safety, and enforceability. I also oppose the county's strategy of delinking the ZTA from the rewrite of the zoning ordinance, as I think this strategy threatens to undermine the stated goal of the proposed ZTA without providing for thorough consideration of the unintended consequences of its adoption.

**Parking.** I reside in an area zoned R-60. In addition to our homes being on relatively small-sized lots, our streets are narrow and without sidewalks. Most homes in our area lack clearly delineated off-street parking; instead, many of the homes have private parking that runs parallel to the street, consuming a portion of the front lot. Others have on-street parking only. The delineation of the private parking areas is mostly absent, so that visitors frequently confuse private spots for on-street spots. On many an occasion, we have returned home from some event or other to find that we cannot park in the private parking area on our property, because someone else has chosen to do so.



If I understand the current zoning code, a special exception is required to permit an accessory apartment in the R-60 zone, and one of the conditions that must be met in order for the special exception to be granted is that a minimum of two off-street parking spaces must be provided. The proposed ZTA would permit accessory apartments of up to 800 square feet by right, with no requirement as to parking. Adoption of the ZTA has the potential to place a strain on the already limited parking in our neighborhood. Absent a reasonable mechanism to enforce owner access to their own private parking areas, it also has the potential to deprive owners of use of their own property. Our willingness to overlook instances of blocked access to our own private parking area is due to the fact that it happens infrequently; certainly we would be contacting the police for enforcement and our county councilmember for intervention in the event our access was blocked with increased frequency.

I also wish to note that the proposed ZTA is in direct conflict with the "Staging Policies" that were adopted as part of the Bethesda/Chevy Chase Master Plan on April 11, 1990. The staging policies reflect four objectives, including the following: to "protect residential areas which experience high levels of traffic congestion by staging development to match additions to transportation capacity." The concern about development has to do with the increase in density that accompanies it; clearly, the proposed ZTA will increase density without any "additions" to transportation capacity. The Master Plan is a legal document that should be honored in both word and intent by those charged with its implementation.

**Safety.** We have two young boys who play with other neighborhood kids in our yard, in neighbors' yards, and in the street in front of our homes. Increased traffic congestion and more cars parking on the street present an enormous safety concern and, as such, will have a negative effect upon our quality of life.

**Enforcement.** I have concerns about the enforceability of the proposed ZTA for "by right" apartments. Absent any review for a special exception use, who will enforce the requirement that an accessory apartment not be located within 300 feet of another or on a lot abutting the rear line of any property with an accessory apartment? If both neighbors have the right to have an accessory apartment but the apartments would violate these requirements if both neighbors exercised this right, who gets to decide which neighbor gets to exercise their right and which neighbor is deprived of their right?

Each neighbor may exercise their right without the other knowing it, adding further burden to existing resources, such as parking. To whom would a third neighbor turn for relief in such a situation? The courts?

**Delinking of the Proposed ZTA.** I recognize that the Montgomery County Planning Department views the deregulation of accessory apartments as a strategy for increasing the supply of affordable housing in Montgomery County. As a trained planner who works in the field of affordable housing policy, I recognize the importance of this goal. Certainly, increasing the supply of housing is one strategy for decreasing its cost. I wish to note, however, that there is no requirement in the proposed ZTA that an accessory apartment be truly affordable — meaning accessible by low-income families at rent levels that do not exceed 30 percent of adjusted family income — rather than "relatively" affordable. Rent levels may remain out of reach of those most in need of affordable housing.

I wonder if the true intent of the proposed ZTA isn't rather to provide housing for moderate-income families who either currently occupy units intended for and accessible to lower-income families or who would otherwise have to travel far from employment centers in order to access moderately price housing. Providing housing for low- and moderate-income families — close to employment and transit centers — is a worthy and important goal, but it must be pursued in a holistic manner, taking into consideration the potential unintended consequences for existing neighborhoods — particularly neighborhoods where existing density levels already place a strain on available resources (e.g., parking). For this reason, I believe that this proposal should be considered within the context of the zoning ordinance rewrite and the existing master plan, where the potential unintended consequences of such an amendment can be considered fully and attention can be focused on strategies for truly increasing the supply of housing affordable to low-income households.

I thank you for your consideration of these views.

Sincerely,

Jennifer Lavorel

4801 Crescent Street  
Bethesda, MD 20816

cc: Gregory Russ, Planner Coordinator  
Roger Berliner, Councilmember



Ms. Mary Dolan  
Acting Chief  
Montgomery County Planning Department  
The Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, MD 20910

May 15, 2012

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I thank you for your consideration of these views.

Sincerely,

Jennifer Lavorel

4801 Crescent Street  
Bethesda, MD 20816

cc: Gregory Russ, Planner Coordinator  
Roger Berliner, Councilmember



# Security Code

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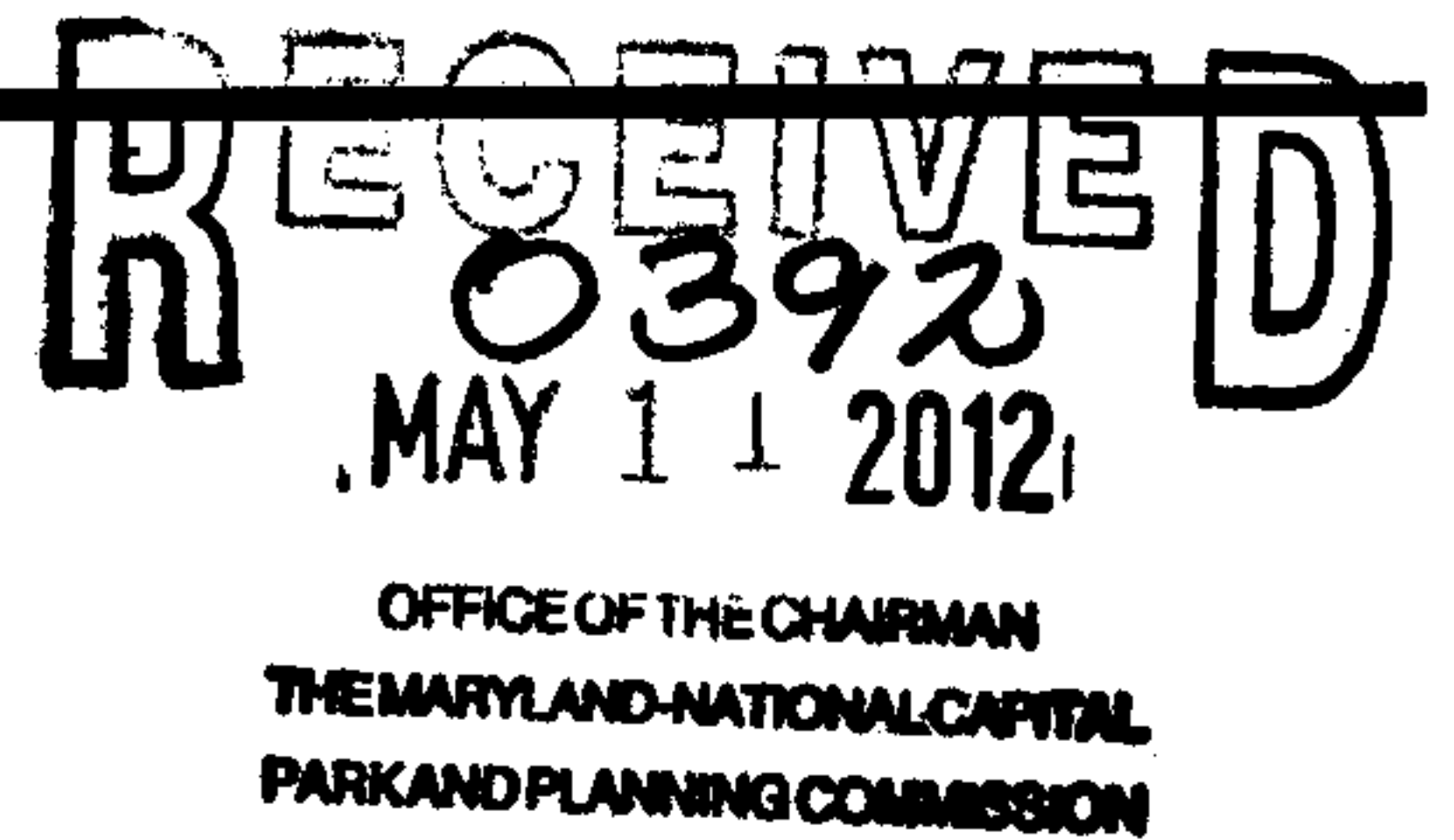
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If you need additional assistance, please call an M&T Online Customer Service Representative at 1-800-790-9130 (Mon.-Fri. 8am-9pm, Sat.-Sun. 9am-5pm EST).

**MCP-Chair**

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**From:** GGriesbauer@aol.com  
**Sent:** Friday, May 11, 2012 8:56 AM  
**To:** MCP-Chair; Berliner@montgomerycountymd.gov  
**Subject:** Accessory Apartments



**Leave the single-family residential neighborhoods alone!**

**In my neighborhood we already are inundated with group homes. This fact substantially changes the nature of the neighborhood concept. Now we are potentially being faced with accessory apartments!!??**

**Do not change the rules for accessory apartments before the issue is fully vetted.**

**Keep the accessory apartment proposals in the Zoning Rewrite so that they are fully vetted and considered in the context of all of the other changes.**

**Susan Griesbauer  
2920 Birchtree Lane  
Silver Spring, 20906**

## MCP-Chair

---

**From:** Donna Barron <nanadonnabarron@verizon.net>  
**Sent:** Wednesday, May 02, 2012 5:06 PM  
**To:** MCP-Chair; councilmember.berliner@montgomerycountymd.gov  
**Subject:** Please Reject ZTA Advancing Accessory Apartments --May 3, 2012

**RECEIVED**  
0367  
MAY 03 2012

OFFICE OF THE CHAIRMAN  
THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

Dear Chair Carrier and Councilman Berliner:

In my opinion, it would be a terrible mistake to advance the accessory apartments section of the zoning code rewrite. Why advance this?

There needs to be an in-depth, over-all consideration of all of the effects of such a decision. This action comes with the potential of serious consequences to our communities. We have always used as a standard the character and harmony of our neighborhoods. We should know all of the ramifications associated with any decisions made to the zoning code. Only with the kind of thoroughness Montgomery County has been know for can our first-rate reputation continue. I urge you to consider accessory apartments in the zoning rewrite as originally planned.

Thank you very much for your consideration.

Donna L. Barron  
4621 Chevy Chase Boulevard  
Chevy Chase, MD 20815



Fw: special exception process Attention: Planning Board

Monday, May 21, 2012 12:16 AM

From: "J G" <jaag1234@yahoo.com>

To: jaag1234@yahoo.com  
MCPAC

RECEIVED  
0414  
MAY 22 2012

OFFICE OF THE CHAIRMAN  
THE MARYLAND NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

PLEASE DISTRIBUTE THIS TESTIMONY TO ALL PLANNING BOARD MEMBERS

Re: Accessory Apartments-- proposed ZTA Hearings-- ~~May~~ <sup>June</sup> 21, 2012

Dear Planning Commissioners:

Please recommend that Montgomery County continue to use existing Special Exception process to approve accessory apartments in single family neighborhoods.

Beware of "text book, one size fits all" zoning policies to meet smart growth objectives. Stable single family zoning is a bedrock component for economic stability and balance near mixed use areas. Eroding accessory apartment controls will lead to many negative, unintended consequences including: Expensive and difficult enforcement to prevent overcrowding; plus absentee landlords and speculators with no stake in the area. Accessory apartment licenses that "run with the land"-- in particular-- will devastate our area. Subdivided houses, every few hundred feet is not a single family zone. At some point these so called affordable & possibly substandard apartments (at the expense of single family homeowners) will lead to middle class flight. Local schools will lose their socioeconomic diversity which enhances quality for all students. There will be additional tax burdens for all of us for enforcement and schools.

Downtown Silver Spring has seen a successful renewal while preserving adjacent and close by neighborhoods. This combination has drawn new residents that appreciate having the best of both environments. Affordable apartments buildings have been mixed in near single family areas, so elitism is not the issue here.

The following comments I made to County Council in 2008 are still valid and I hope you will consider them. Our local experience, unique location and demographics need thoughtful understanding to prevent undoing a success story. "Don't rewrite a hit" preserve the existing special exception law. Thank you for your consideration.

Alice Gilson, Silver Spring

To: county.council@montgomerycountymd.gov

Date: Monday, September 15, 2008, 8:56 AM

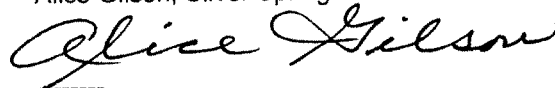
From: Alice Gilson  
September 15, 2008

These are follow-up comments on accessory apartments in single family zones that we discussed. Years ago, during white flight from Prince Georges Conty, I was a real estate agent and learned importance of stable neighborhoods for benefit of all residents. We live in a diverse Silver Spring neighborhood and some African American friends indicated they left PG County seeking stable neighborhoods and better schools. We are all equally concerned with preserving stable single family zoning. Weakening the zoning status quo is unfair to all; the unintended and negative consequences will gradually undermine the successful balance we enjoy today. We have had bad situations in the past, often with overcrowded rentals that did not observe regulations and illicit activity. These problem properties were difficult and time consuming to clear up ---ergo increasing accessory apartments will exacerbate enforcement problems. Please consider the following email I sent to Council in February '08 on this subject. Thanks for listening. Alice

--- On Tue, 2/5/08, J G <[jaag1234@yahoo.com](mailto:jaag1234@yahoo.com)> wrote:

- > From: J G <[jaag1234@yahoo.com](mailto:jaag1234@yahoo.com)>
- > Subject: special exception process
- > To: [county.council@montgomerycountymd.gov](mailto:county.council@montgomerycountymd.gov)
- > Date: Tuesday, February 5, 2008, 3:47 PM
- > It was reported recently that Council may consider
- > facilitating more accessory apartments in single family
- > neighborhoods to increase affordable housing. This would be
- > "robbing Peter to pay Paul." The existing
- > process seems to have worked and the agency that enforces
- > the law is able to keep up with its workload. The multiple
- > unintended consequences of easing the process would
- > destabilize single family areas with multifamily houses.
- > The most affluent locations would not be inundated with
- > requests for accessory apartments, but middle class areas
- > would suffer the most. Single family/multifamily zoning is
- > an oxymoron.
- >
- > It has been reported that a couple could rent an
- > accessory apartment, then have children and there would be
- > no way to prevent overcrowding. This has been a pervasive
- > problem in some areas of Virginia.
- >
- > Recent newspaper feature showed storefronts with
- > apartments above in Rockville. They were very attractive.
- > In Silver Spring some folks want older storefronts along
- > Georgia Avenue's lower portion preserved to keep the
- > historic look--housing units above, similar to
- > Rockville's could provide affordable units and charming
- > facades at street level. This is just one desirable option for
- > affordable units in business districts.

Alice Gilson, Silver Spring



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0416  
MAY 23 2012

**MCP-CTRACK**

OFFICE OF THE CHAIRMAN  
THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

**From:** Chris Wilhelm <crwilhelm@gmail.com>  
**Sent:** Tuesday, May 22, 2012 11:28 PM  
**To:** MCP-Chair  
**Subject:** Please consider easing access to "accessory apartment" permits

Dear Planning Board,

I'm writing to request that you please consider easing and expanding access to accessory apartment permits at single family homes in Montgomery County. As a young professional born and raised in Montgomery County, I was very disappointed when I was unable to find an affordable apartment here after returning from college. Expanding the number of accessory apartments could help create more affordable housing for young professionals who want to make Montgomery County their long-term home. I am also concerned that families who might be struggling to pay their mortgages or simply need to generate extra income to make ends meet would have to wait for up to 13 months and go through a public hearing process in order to rent out extra space in their home. I would hope that some consideration for families facing these kinds of circumstances could be included in any new process or policy that is eventually developed.

I also believe that many potential negative externalities associated with increasing the number of accessory apartments in single family homes could be handled by setting a cap on the number of accessory apartment permits within certain geographic areas, as I understand has been done in other jurisdictions. You could also set a limit on the total number of vehicles any given home/accessory apartment combination could have parked on public streets near the home.

I hope that in making this decision you balance the legitimate concerns of people showing up to public hearings with the very real, tangible benefits that could be generated for renters and homeowners who may be less likely to attend public hearings on this and other matters.

Thank you very much for your time and consideration.

Best,  
Chris Wilhelm  
10805 Lombardy Rd  
Silver Spring, MD 20901