



Committee: PHP
Committee Review: At a future date
Staff: Livhu Ndou, Senior Legislative Attorney
Purpose: To introduce agenda item – no vote expected

AGENDA ITEM #8A
April 21, 2026
Introduction

SUBJECT

Zoning Text Amendment (ZTA) 26-06, Accessory Residential Uses - Accessory Dwelling Unit

Lead Sponsor: Council President Fani-González at the Request of the Planning Board

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- To introduce agenda item – no vote expected

DESCRIPTION/ISSUE

ZTA 26-06 will amend the use standards for attached and detached accessory dwelling units consistent with State law.

SUMMARY OF KEY DISCUSSION POINTS

- In April 2025, the General Assembly passed [House Bill 1466/Senate Bill 891, Land Use and Real Property - Accessory Dwelling Units - Requirements and Prohibitions](#), which requires the County to adopt a local law authorizing accessory dwelling unit (ADU) development by October 1, 2026.
- While Montgomery County has an existing ADU law, several provisions of it are inconsistent with State law. The inconsistencies include the zones where ADUs are allowed, the minimum size requirement, density calculations, setback requirements, and off-street parking requirements.
- A public hearing is tentatively scheduled for June 9, 2026.

This report contains:

ZTA 26-06	© 1
Planning Board Recommendation	© 11
Planning Staff Report and Parking Study	© 13

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Ordinance No.: _____
Zoning Text Amendment No.: 26-06
Concerning: Accessory Residential
Uses – Accessory
Dwelling Unit
Revised: 4/14/2026 Draft No.: 1
Introduced: April 21, 2026
Public Hearing: _____
Adopted: _____
Effective: _____

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

Lead Sponsor: Council President Fani-González at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- (1) amend the use standards for attached and detached accessory dwelling units consistent with State law;
- (2) generally amend the provisions for accessory dwelling units.

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

Division 3.3. “Residential Uses”
Section 3.3.3. “Accessory Residential Uses”

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 text that 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:

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Sec. 2. DIVISION 59-3.3 is amended as follows:

Division 3.3. Residential Uses

* * *

Section 3.3.3. Accessory Residential Uses

A. Accessory Dwelling Unit, In General

1. Defined, In General

Accessory Dwelling Unit or Accessory Apartment means a second dwelling unit that is not greater than 75% of the size of and subordinate in use to the primary single-family detached dwelling unit [subordinate to the principal dwelling]. An Accessory Dwelling Unit includes an Attached Accessory Dwelling Unit and a Detached Accessory Dwelling Unit.

2. Use Standards for all Accessory Dwelling Units

Where an Accessory Dwelling Unit is allowed as a limited use, it must satisfy the following standards:

- a. Only one Accessory Dwelling Unit is permitted for each lot.
- b. The Accessory Apartment was approved as a special exception before May 20, 2013, and satisfies the conditions of the special exception approval or satisfies [Subsection] subsection c.
- c. If the Accessory Dwelling Unit does not satisfy [Subsection] subsection b, the Accessory Dwelling Unit must be licensed by the Department of Housing and Community Affairs under Chapter 29 (Section 29-19); and
 - i. the Accessory Dwelling Unit must have the same street address as the principal dwelling;
 - ii. except for lots located within [1] one mile of any Metrorail, Purple Line, or MARC Rail Station, either:

- 35 (a) one on-site parking space is provided in addition to
36 any required on-site parking space for the principal
37 dwelling; however, [if a new driveway must be
38 constructed for the Accessory Dwelling Unit, then a
39 total of at least two on-site parking spaces must be
40 provided] if the principal dwelling has no existing
41 on-site parking, the Accessory Dwelling Unit only
42 needs to provide the one parking space required for
43 the unit; or
44 (b) the Hearing Examiner finds under the waiver in
45 Section 29-26(b) that there is adequate on-street
46 parking or finds that the size or shape of the existing
47 lot for the principal dwelling effectively precludes
48 the ability to provide additional on-site parking;
49 iii. the maximum number of occupants is limited by Chapter
50 26 (Section 26-5); however, the total number of occupants
51 residing in the Accessory Dwelling Unit who are 18 years
52 or older is limited to 2;
53 iv. the maximum footprint of an Accessory Dwelling Unit, in
54 combination with other structures on the site, is limited by
55 the total lot coverage limit in the underlying zone and the
56 maximum gross floor area of the unit; and
57 v. unless modified by the use standards for an Accessory
58 Dwelling Unit, an Accessory Dwelling Unit must comply
59 with the setback, height, and building lot coverage
60 standards of an accessory structure in the underlying zone.

- 61 d. An Accessory Dwelling Unit must not be located on a lot where
- 62 any [short-term rental Residential] Short-Term Residential
- 63 Rental use exists or is licensed.
- 64 e. [In the Agricultural and Rural Residential zones, a] An
- 65 Accessory Dwelling Unit is excluded from any density
- 66 calculations. If the property associated with an Accessory
- 67 Dwelling Unit is subsequently subdivided so that the detached
- 68 Accessory Dwelling Unit is now located on its own lot, the
- 69 Accessory Dwelling Unit is included in the density calculations.
- 70 f. Screening under Division 6.5 is not required.
- 71 g. In the AR zone, any Accessory Dwelling Unit may be prohibited
- 72 under Section 3.1.5, Transferable Development Rights.

73 **B. Attached Accessory Dwelling Unit**

74 **1. Defined**

75 Attached Accessory Apartment or Accessory Dwelling Unit means a second
 76 dwelling unit that is part of a detached house building type and includes
 77 facilities for cooking, eating, sanitation, and sleeping. An Attached Accessory
 78 Dwelling Unit is subordinate to the principal dwelling.

79 **2. Use Standards**

80 a. Where an Attached Accessory Dwelling Unit is allowed as a
 81 limited use, it must satisfy the use standards for all Accessory
 82 Dwelling Units under Section 3.3.3.A.2. and the following
 83 standards:]

84 [a]b. A separate entrance [is] must be located:

- 85 i. on the side or rear of the dwelling;
- 86 ii. at the front of the principal dwelling, if the entrance
- 87 existed before May 20, 2013; or

- 88 iii. at the front of the principal dwelling, if it is a single
- 89 entrance door for use of the principal dwelling and the
- 90 Attached Accessory Dwelling Unit.
- 91 [b. The maximum gross floor area for an Attached Accessory
- 92 Dwelling Unit, including any floor area used for an Accessory
- 93 Dwelling Unit in a cellar, must be:
- 94 i. 1,200 square feet of gross floor area; or
- 95 ii. if the basement or cellar is used for the Attached Accessory
- 96 Dwelling Unit, the gross floor area for the Attached
- 97 Accessory Dwelling Unit may equal the square footage
- 98 area of the basement or cellar.]

99 **C. Detached Accessory Dwelling Unit**

100 **1. Defined**

101 Detached Accessory Apartment or Accessory Dwelling Unit means a second
 102 dwelling unit that is located in a separate accessory structure on the same lot
 103 as a detached house building type and includes facilities for cooking, eating,
 104 sanitation, and sleeping. A Detached Accessory Dwelling Unit is subordinate
 105 to the principal dwelling.

106 **2. Use Standards**

- 107 a. Where a Detached Accessory Dwelling Unit is allowed as a
- 108 limited use, it must satisfy the use standards for all Accessory
- 109 Dwelling Units under Section 3.3.3.A.2.
- 110 b. Any structure constructed legally before May 31, 2012, that is
- 111 not increased in size or building height and does not have new
- 112 windows on a wall nearest an abutting property may be used for
- 113 a Detached Accessory Dwelling Unit without regard to setbacks
- 114 or floor area.

- 115 c. A Detached Accessory Dwelling Unit built after May 30, 2012,
116 must have the same minimum side setback [as the principal
117 dwelling] and [a] minimum rear setback [of 12 feet] as the
118 accessory structure.
- 119 [d. For any Detached Accessory Dwelling Unit with a length along
120 a rear or side lot line that is longer than 24 feet, the minimum
121 side or rear setback must be increased at a ratio of 1 foot for every
122 1 foot that the dimension exceeds 24 linear feet. The additional
123 rear setback is from a 12-foot setback as its starting point.
- 124 e. The maximum gross floor area for a Detached Accessory
125 Dwelling Unit must be the least of:
- 126 i. 50% of the footprint of the principal dwelling;
 - 127 ii. 10% of the lot area; or
 - 128 iii. 1,200 square feet of gross floor area.]

129 * * *

130 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the
131 date of District Council adoption.

This is a correct copy of Council action.

Sara R. Tenenbaum
Clerk of the Council



April 1, 2026

The Honorable Natali Fani-González

President, Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

Subject: Proposed Zoning Text Amendment – Accessory Residential Uses – Accessory Dwelling Unit

BOARD RECOMMENDATION

The Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission met on March 27, 2026, and by a vote of 3:0 (Commissioners Bartley and Pedoeem absent) recommended transmitting a proposed Zoning Text Amendment (ZTA) to the County Council for introduction. This proposed ZTA amends Section 3.3.3.A. of Montgomery County’s code to be in compliance with House Bill 1466/Senate Bill 891, enacted by the Maryland General Assembly during the 2025 legislative session. The amendments address the zones in which Accessory Dwelling Units (ADUs) are permitted as a limited use, the definition of an ADU, density calculations, rear and side setbacks, and parking requirements.

State law requires that ADUs be permitted on land with a single-family detached dwelling as the primary unit. Accordingly, the proposed ZTA expands the zones in which ADUs are allowed as a limited use to include all zones permitting single-family detached dwellings, excluding only Industrial zones. HB 1466/SB 891 also defines an ADU as no greater than 75% of the size of the primary unit. The proposed ZTA, therefore, replaces the County’s existing size standards for attached and detached ADUs with this uniform size standard.

In addition, HB 1466/SB 891 requires that ADUs be excluded from density calculations and prohibits rear and side setback requirements that exceed those applicable to accessory structures. The proposed ZTA amends the County Code to align with these provisions. State law further mandates that local jurisdictions imposing off-street parking requirements for ADUs complete a parking study. To retain Montgomery County’s existing parking requirements for ADUs, Planning Staff conducted the required study and recommended two modifications to slightly alter the requirements and expand available waivers in certain circumstances.

During its review, the Planning Board raised concerns around retaining the existing parking requirements for ADUs and engaged in a robust discussion about the potential barriers they may pose to ADU production. To meet the State law deadline, the Planning Board agreed to proceed with the recommended changes to the parking requirements at this time. However, the Board requested additional research from staff to better understand the necessity of parking for ADUs and to assess how the current requirements may influence development outcomes. Members also noted their interest in revisiting the issue once more information becomes available.

The Planning Board appreciates the Council's consideration in introducing this proposed ZTA for Accessory Dwelling Units to ensure compliance with State law. Planning Staff are available to assist with any questions or concerns as this ZTA is considered for adoption.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission, at its regular meeting held in Wheaton, Maryland, on Friday, March 27, 2026.

Sincerely,



Artie L. Harris
Chair

Attachments:

- A – Planning Board Staff Report and Parking Study
- B – Proposed ADU ZTA

**PROPOSED ZONING TEXT AMENDMENT (ZTA),
ACCESSORY RESIDENTIAL USES – ACCESSORY DWELLING
UNIT (ADU)**

Description

This proposed ZTA would amend the provisions for Accessory Dwelling Units (ADUs) to be compliant with recently adopted State legislation in House Bill 1466/Senate Bill 891.

Completed: 03-19-2026

MCPB
Item No. 12
03-26-2026

Montgomery County
Planning Board
2425 Reedie Drive, Floor 14
Wheaton, MD 20902

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SUMMARY

- Montgomery County's current code currently allows Accessory Dwelling Units (ADUs) in certain residential detached zones and is mostly a by-right process facilitated by the Department of Housing and Community Affairs (DHCA).
- Maryland's General Assembly passed HB 1466 during its 2025 legislative session, which makes it the policy of Maryland to promote and encourage the creation of ADUs on land with a single-family detached dwelling unit as the primary dwelling unit to help solve the state's housing shortage and meet its housing needs.
- The Planning Staff proposed ZTA complies with State Bill 891 by recommending changes to the zones in which ADUs are allowed, the definition of an ADU, setbacks, and the parking requirement.

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SECTION 1: BACKGROUND

HISTORY OF ACCESSORY DWELLING UNITS IN MONTGOMERY COUNTY

Per Montgomery County code, Section 3.3.3.A., an Accessory Dwelling Unit (ADU) is defined as a second dwelling unit that is subordinate to the principal dwelling. An ADU can be “attached” as an addition or basement of an existing dwelling unit or “detached” as a separate structure on the same lot.

Today, building an ADU in Montgomery County is mostly a by-right process facilitated through Montgomery County’s Department of Housing and Community Affairs (DHCA) and Department of Permitting Services (DPS); however, this was not always the case.

Prior to 2013, ADUs required a Special Exception/Conditional Use from the County’s Board of Appeals, which involved a lengthy legal process. In May 2013, through ZTA 12-11, the County removed the Special Exception requirement, except for accessory apartments that did not meet the spacing and parking requirements and shifted to a licensing system administered by DHCA. While ADUs were technically legal throughout this period, very few were built given the restrictive rules around licenses, lot size, parking, and unit type.

In 2018, ZTA 18-07 removed the conditional use approval requirement for *all* accessory dwelling units. In July 2019, ZTA 19-01 made significant changes to the ADU policy, further loosening restrictions and making it much easier for homeowners to build these units. Broadly, it removed minimum lot sizes for the principal dwellings, revised limited use standards for attached and detached ADUs, and relaxed parking requirements. Specific changes made in ZTA 19-01 include:

- Removed the prohibition on detached ADUs in lots smaller than one acre.
- Established that the size of the detached ADUs must be the smaller of 10 percent of the lot size, 50 percent of the footprint of the principal dwelling, or 1200 sq. ft.
- Removed the requirement for an additional parking space within one mile of Metro, Purple Line or MARC stations. ADUs proposed outside such areas continued to require one off-street parking space in addition to the parking required for each detached house (typically two spaces).
- Allowed for the conversion of existing, legally built structures into ADUs.
- Clarified that other rental uses (such as Airbnb) on a property that includes an ADU are prohibited.
- Removed the prohibition on ADUs in new construction.
- Removed the distance requirement restricting ADUs from being built within 300 to 500 feet of an existing ADU.
- Retained existing rules limiting the construction of accessory structures, including height limits, maximum lot coverage requirements, and stormwater requirements. In addition, the greater side and rear setbacks required for detached ADUs remained in place.

OVERVIEW OF ACCESSORY DWELLING UNITS

ADUs are a helpful tool in increasing housing supply and affordability, particularly in neighborhoods where space is constrained. They offer flexibility that is beneficial to many homeowners, and they serve as a convenient financial option, particularly for those aging in place. They are a small-scale way to increase the number and variety of homes in existing single-family areas.

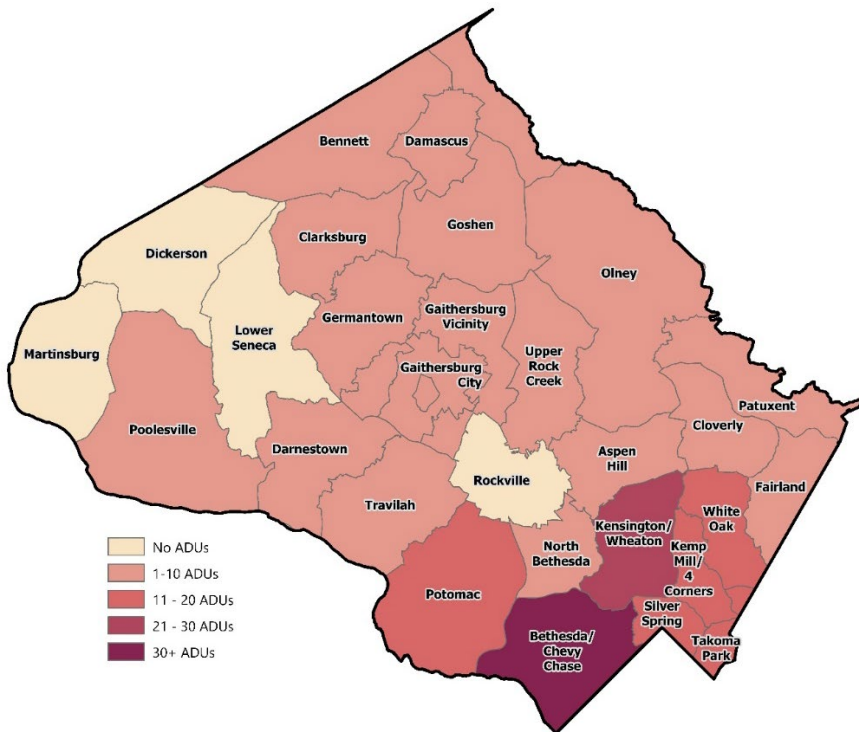
As seen in Table 1, the County has permitted 222 ADUs since 2019, when there was a significant change in the county’s ADU policy. Figure 1 shows where in the county these ADUs have been permitted, with most being in the Bethesda/Chevy Chase, Kensington/Wheaton, and Silver Spring.

Table 1: Annual ADU Permitting Since 2019

Years (Issued Date)	ADU Permits
2019	1
2020	25
2021	46
2022	47
2023	28
2024	44
2025	31
Total	222

Source: Department of Permitting Services.

Figure 1: ADU Permits in Montgomery County Since 2019



Source: Montgomery Planning analysis of the Department of Permitting Services Permit Data.

SECTION 2: HOUSE BILL 1466/SENATE BILL 891

Maryland's General Assembly passed House Bill (HB) 1466 during its 2025 legislative session, and the act became effective on October 1, 2025. The act requires that by October 1, 2026, local governments adopt a local law authorizing the development of ADUs on land with an existing single-family detached dwelling unit.

The purpose of HB 1466 is to promote and encourage the creation of ADUs to help solve the state's housing shortage and meet its housing needs. It recognizes that to accommodate all who want to live in the state, Maryland will need a mix of quality housing types and affordability options, and ADUs are an important part of that mix.

HB 1466 defines ADUs as a secondary unit (1) on the same lot, parcel, or tract as a primary single-family detached dwelling unit and (2) that is not greater than 75% of the size of the primary single-family detached dwelling unit. The bill further states that ADUs can be a separate structure from the primary unit or attached as an addition to the primary unit.

The act states that a local law governing ADUs **must**:

- Provide for the development of ADUs as defined in the bill
- Provide for construction of ADUs that meet public health, safety, and welfare standards (such as building codes and adequate public facilities ordinances)
- Exclude ADUs from density calculations
- Exclude the development of an ADU from any measures that limit residential growth on the property on which the unit is proposed

The act states that a local law governing ADUs **may not**:

- Impose additional parking requirements on ADUs without first completing a parking study to determine the jurisdiction's parking needs
- Establish side and rear setback requirements that exceed existing accessory structure setback requirements

The act states that a local law governing ADUs **may**:

- Establish standards for ADU safety
- Prohibit conversion of an accessory structure as an ADU if the only access to the structure by car is from an alley

SECTION 3: ZTA ANALYSIS AND RECOMMENDATIONS

This proposed ZTA would modify the current county code to be in compliance with HB 1466/SB 891. Generally, Planning Staff have taken the approach of only changing the code to the extent required to

comply with State Code. Proposed changes include the zones ADUs are allowed in, the definition of an ADU, setbacks, and the parking requirement.

USE TABLE CHANGES

State law requires the development of accessory dwelling units on land with a single-family detached dwelling unit as the primary dwelling unit. Montgomery County’s current code permits ADUs based on zone rather than land use, and it only allows ADUs as a limited use in the Agricultural, Rural Residential, and Residential Detached zones (AR, R, RC, RNC, RE-2, RE-2C, RE-1, R-200, R-90, and R-60). Given the State’s definition of ADUs based on land use, attached and detached ADUs must now be permitted as a limited use in all zones where a single-family detached unit is allowed. This is all zones except the Industrial zones (IL, IM, IH).

Accordingly, in the Use Table – Section 3.1.6. in line 26 of the ZTA – Planning Staff recommends adding ADUs as a Limited Use in the R-40, TLD, TMD, THD, R-30, R-20, R-10, CRN, CRT, CR, GR, NR, LSC, and EOF zones.

DEFINITION CHANGES

State Bill 891 defines an ADU as “not greater than 75% of the size of and subordinate in use to the primary single-family detached dwelling unit.” Montgomery County’s current code caps the maximum gross floor area for an Attached Accessory Dwelling Unit at 1,200 square feet or the square footage of a basement or cellar if the basement or cellar is used for the ADU. For detached ADUs, the maximum gross floor area must be the least of 50% of the footprint of the principal dwelling, 10% or the lot area, or 1,200 square feet. To comply with the State Bill’s definition, Planning Staff recommends amending the definition of an Accessory Dwelling Unit in Section 3.3.3.A.1. (lines 45-46) to include the exact language stated in the State Bill’s definition regarding size.

In Section 3.3.3.A.1. of the County Code published on American Legal, there was an omission from the definition of an ADU, but the complete definition exists in Ordinance 19-06. Planning Staff recommends correcting this error by adding back in the language, “includes an Attached Accessory Dwelling Unit and a Detached Accessory Dwelling Unit” on lines 47 and 48. The definition of an ADU remains unchanged, but clarifies that both attached and detached structures are included as allowed structures.

The changes to the definition of ADUs in the County Code appear in lines 43-48 as follows:

1. Defined, In General

Accessory Dwelling Unit or Accessory Apartment means a second dwelling unit that is not greater than 75% of the size of and subordinate in use to the primary single-family detached dwelling unit subordinate to the principal dwelling. An Accessory Dwelling Unit includes an Attached Accessory Dwelling Unit and a Detached Accessory Dwelling Unit.

USE STANDARD CHANGES

Section 3.3.3.B.2, lines 118 through 125, and Section 3.3.3.C.2, lines 147 through 156, are use standards detailing the size specifications of attached ADUs and detached ADUs, respectively. Given the definition changes in ADUs discussed above, these requirements are no longer relevant. The use standards are the same for both attached and detached ADUs and are based only on a percentage of the primary single-family dwelling unit. Accordingly, Planning Staff recommends removing these lines.

PARKING REQUIREMENT CHANGES

PARKING STUDY

HB 1466 requires that local jurisdictions complete a parking study if their local laws impose off-street parking requirements on ADUs. The act does not define the elements of a parking study, but it does require that any additional off-street parking requirements established for ADUs consider the following factors:

- The cost to construct off-street parking spaces
- Whether sufficient curb area exists along the front line of properties to accommodate on-street parking
- The increase in impervious surfaces due to the creation of new off-street parking and its relation to stormwater management
- Variability in parking due to the size of the ADU's lot.
- If parking is required, a waiver provision must also be established.

Montgomery County's existing code includes off-street parking requirements for certain ADUs, and therefore, the county is mandated to conduct a parking study in line with the above conditions if it is to retain the currently required off-street parking. Planning Staff completed a parking study pursuant to the requirements listed above, and it can be found in Attachment B. The study found that many existing single-family properties already provide more than two parking spaces per lot (the minimum required for a detached dwelling) between garage and driveway spaces. For those that require expansion, the typical new parking area and necessary tie-ins would add approximately 175 square feet of driveway space and would cost approximately \$3,000. Currently, the county does not require a permit or track stormwater management for small additions to driveways as long as the addition does not impact paving in the right-of-way.

The current parking requirements, established in 2019, contain the following:

- Require one off-street parking space for an ADU
- No off-street parking is required if within one mile of any Metrorail, Purple Line, or MARC Rail Station

- A waiver of parking may be requested of and granted by the Hearing Examiner in the event of adequate on-street parking.

The existing waiver of parking was established, acknowledging that many streets do have adequate street parking for ADU parking, but that availability varies based on how narrow the existing lot frontages are, how wide the street is, and other design considerations that cannot be accounted for in a one-size-fits-all provision.

In examining the existing code against the parking study requirements, Planning Staff did identify two areas worth amending: reducing the requirement for ADUs to develop extra parking if no on-site parking currently exists and allowing for a parking waiver based on site constraints.

CODE CHANGES

As mentioned above, the 2019 code update requires one parking space per ADU, except if the property is within one mile of transit. Additionally, a waiver can be requested from the Hearing Examiner if the applicant can prove that there is adequate on-street parking. While Planning Staff are not contemplating removing these parking requirements, and have conducted the requisite parking study, Staff have identified an existing provision on lines 66-69 to be modified to align with the State Bill's mission of discouraging unnecessary parking.

If a new driveway must be constructed for the ADU, Montgomery County code currently requires at least two on-site parking spaces. This additional parking requirement acts to the benefit of the existing single-family detached dwelling and could restrict the development of an ADU, which is contrary to the State Bill's intended purpose of promoting and encouraging ADU development. Planning Staff believe that the provision of one parking space for the ADU is sufficient, and the requirement of two spaces is excessive. Accordingly, Planning Staff recommends amending the existing language in the code to reflect this reduction in the parking requirement.

While Montgomery County code allows for a parking waiver if the Hearing Examiner finds adequate on-street parking, allowing for a parking waiver for small or irregular lots is also in line with the State Bill's intended purpose. This additional waiver may be necessary to allow for an ADU on smaller lots sometimes seen in the newly added Townhouse, Multi-Family, and mixed-use zones. Adding language that considers the property's capacity for additional on-site parking removes a potential barrier to building an ADU.

These two changes appear in the amended County Code in lines 64-77 as follows:

- a) one on-site parking space is provided in addition to any required on-site parking space for the principal dwelling; however, ~~if a new driveway must be constructed for the Accessory Dwelling Unit, then a total of at least two on-site parking spaces must be provided~~ if the principal dwelling has no existing on-site parking, the Accessory Dwelling Unit only needs to provide the one parking space required for the unit; or

(b) the Hearing Examiner finds under the waiver in Section [29-26\(b\)](#) that there is adequate on-street parking or finds that the size or shape of the existing lot for the principal dwelling effectively precludes the ability to provide additional on-site parking

DENSITY CALCULATION CHANGES

As cited on Page 6, lines 24-25 of State Bill 891, one of the requirements for local laws governing ADUs is to exclude them from any density calculations. Currently, Montgomery County’s code only excludes ADUs from density calculations in the Agricultural and Rural Residential zones. Therefore, Planning Staff recommends removing the specific zones listed so that ADUs are excluded from density calculations in *all* zones, and the code complies with the State law.

The current code also stipulates that if the property associated with an ADU is subsequently subdivided, the ADU is included in the density calculations. Based on the current language used, a property could undergo a subdivision that still retains the principal single-family dwelling and ADU on the same lot. Planning Staff recommends adding in descriptive text that clarifies that, in the event of subdivision of the property associated with the ADU, which places the ADU on a different lot, the detached ADU *is then* included in the density calculation.

In the amended County Code, lines 92-97 read:

e. ~~In the Agricultural and Rural Residential zones, a~~ An Accessory Dwelling Unit is excluded from any density calculations. If the property associated with an Accessory Dwelling Unit is subsequently subdivided so that the detached Accessory Dwelling Unit is now located on its own lot, the Accessory Dwelling Unit is included in the density calculations.

REAR AND SIDE SETBACK CHANGES

On Page 7 of State Bill 891, lines 17-19 specify that ADUs may not “establish setback requirements that exceed the existing accessory structure setback requirements from the side and rear lot lines.” Currently, in Montgomery County’s Code, a detached ADU must meet side setbacks equal to that of the principal structure and meet a rear setback of 12 feet. Additionally, if the structure is wider than 24 feet, there must be an additional one-foot setback for each one foot of additional width. Planning Staff recommends modifications to lines 144-151 of Montgomery County’s code to strike the existing setback provisions and instead require the detached ADU to have the same minimum side and rear setbacks as the accessory structure, complying with State law.

In the amended County Code, lines 144-151 read:

c. A Detached Accessory Dwelling Unit built after May 30, 2012 must have the same minimum side setback ~~as the principal dwelling~~ and a minimum rear setback ~~of 12 feet~~ as the accessory structure.

d. For any Detached Accessory Dwelling Unit with a length along a rear or side lot line that is longer than 24 feet, the minimum side or rear setback must be increased at a ratio of 1 foot for every 1 foot that the dimension exceeds 24 linear feet. The additional rear setback is from a 12-foot setback as its starting point.

SECTION 4: CONCLUSION

Planning Staff recommends that the Planning Board transmit a request to the District Council to introduce the proposed ZTA. In line with House Bill 1466/Senate Bill 891, this proposed ZTA promotes and encourages the creation of accessory dwelling units on land with single-family detached dwelling units to meet the State's housing needs.

SECTION 5: ATTACHMENTS

Attachment A: Draft Accessory Dwelling Unit Zoning Text Amendment

Attachment B: Montgomery County Accessory Dwelling Unit Parking Study

Attachment C: Senate Bill 891

Accessory Dwelling Unit Parking Study

SECTION 1 – BACKGROUND

House Bill 1466/Senate Bill 891 on Accessory Dwelling Units (ADUs) requires local jurisdictions in the State of Maryland to adopt laws allowing the construction of ADUs, there are specific provisions regarding on-site parking. Jurisdictions may not require off-street parking for ADUs unless a parking study has been completed. Montgomery County has existing provisions that allow for the construction of ADUs and the provision of off-street parking. These provisions are being updated to be compliant with the state law, and this document serves as the necessary parking study to remain in compliance.

Existing Local Requirements

Local ADU legislation, including an update to required off-street parking, was last done as part of ZTA 19-01, adopted by Ordinance 19-06 in July 2019. Parking requirements were a significant part of the discussion, ultimately leading to the parking provisions in place today, which include:

- One space is required for the ADU in addition to the existing two parking spaces required for the principal dwelling. If there is no existing driveway/parking for the principal dwelling, the new driveway must provide two spaces total (one for the ADU and one for the principal dwelling).
- No parking is required within 1 mile of any Metrorail, Purple Line, or MARC station.
- A waiver of parking may be requested of the Hearing Examiner if they find there is adequate on-street parking.

No formal parking study was performed in 2019. As part of the discussions around ADUs regarding ZTA 19-01, Motor Vehicle Administration (MVA) vehicle registration data was obtained to assist when discussing the final requirements (Attachment 1). The data were broken down by geography and include countywide data, as well as different distances from transit options. Each geography includes the average number of vehicles per address without a registered ADU, and the average number of vehicles with a registered ADU. In each geography, the average number of vehicles associated with a house with an ADU was slightly higher, approximately 0.5 more cars than addresses without an ADU. This data also shows a very slight reduction in the number of cars per address that are closer to transit than the countywide average. The MVA no longer makes registration data available;

Planning Staff must presume the trends seven years later are similar, even if specific numbers may be different.

Parking Study Requirements

Per the adopted State Legislation, the required parking study must, at a minimum, consider:

- The cost to construct off-street parking
- Whether sufficient curb area exists along the front line of the property to accommodate on-street parking
- The increase in impervious surface due to the creation of new off-street parking and the relation to any applicable stormwater management plans
- Variability due to the size of the lot on which the ADU is located.

Additionally, local jurisdictions that choose to enact off-street parking requirements must allow for a waiver process from the parking requirements.

SECTION 2 – PARKING STUDY ANALYSIS

Below is the required analysis that must be considered in any parking study. Planning Staff were unable to update the 2019 data on vehicle registration because the data is no longer being made available by the MVA. The 2019 vehicle registration data, in combination with the required elements by the State, form the basis of the parking recommendations for ADUs.

One element to consider is that the analysis assumes a property will need to construct or otherwise find an additional parking space for an ADU. The current code requires two on-site parking spaces for an existing single-family dwelling. Many properties, especially with newer construction or on larger lot sizes, already have garage and driveway space to accommodate three or more parked vehicles. While these properties may still choose to create a dedicated parking space for an ADU, they would not be required to. The following analysis on the parking study is assumed to only apply to the subset of existing properties where only two parking spaces exist currently.

Cost of Parking

Planning Staff, in estimating the cost of parking, considered what the size of a typical parking ‘pad’ is, including the minimum necessary tie-in to an existing driveway. Per the

Zoning Code, a minimum parking space for a vehicle is 8.5 feet by 18 feet, which is 153 square feet. Including a reasonable tie-in, adding space for one additional vehicle to an existing driveway would result in approximately 175 square feet of new paved area.

A cost estimate calculator that Montgomery Planning uses when considering the cost impacts of various infrastructure improvements on development applications was used. Based on 175 square feet of newly installed concrete driveway, the estimate, with a contingency factor of 30% included for inflation and labor, comes to just under \$3,000. While exact costs will vary based on specific sites and contractors, these numbers are a fair assumption on the cost of an additional on-site parking space for an ADU.

Sufficient Curb Area

The availability of sufficient curb area to accommodate on-street parking is already a factor considered in Montgomery County's parking requirements for ADUs. This was a subject of discussion the last time ADU parking requirements were debated, and resulted in the current Hearing Examiner waiver process, based solely on the availability of on-street parking. Creating a single policy reliant on curb area and on-street parking is difficult because each block and each lot frontage is unique and must consider factors such as fire hydrants and other utilities, lot widths, driveway spacing, street widths, and topography. The existing process of determining the adequacy of on-street parking on a case-by-case basis remains the most practical option for determining if on-site parking is required for an ADU.

Increase in Impervious Surface

As calculated above in the section on the cost of parking, it is assumed that the minimum additional impervious area is 175 square feet. In Montgomery County, expansions to driveways, whether they be to accommodate an ADU or out of personal preference of an existing homeowner, are not subject to a Department of Permitting Services permit or a stormwater management plan. Impervious surface additions of this size fall under the lot-to-lot surface drainage provisions, which originate from Maryland Law. Landowners are generally assumed to have reasonable use of their property, which includes a higher elevation property creating flow onto a lower elevation property. It is the responsibility of the higher elevation property to ensure land disturbances and imperviousness do not concentrate down elevation drainage through any artificial channels or in a way that would cause debris and pollutants to be discharged onto the lower property. Requiring an on-site parking space for an ADU does not create any special provision not already in place for a single-family homeowner, otherwise wishing to expand a driveway or create any other small addition of impervious surface.

The existing code provisions on parking did consider that some lots with single-family dwellings currently do not have any on-site parking. Currently, in those situations, the construction of an ADU requires creating a minimum of two spaces, one for the ADU and an additional space for the existing dwelling. Planning Staff finds this puts an unreasonable burden on developing an ADU on lots without existing on-site parking. It is recommended to revise this provision to only require the ADU to provide the one parking space necessary for the ADU, which would reduce the size and scope of a driveway project, saving both cost and impervious surface.

Variability of Lot Size

Within the County, there is a wide variability of lot sizes that include single-family detached dwellings. A breakdown of these lot sizes is found in figure 1 below. While lot size does play a role in the ease of providing on-site parking, there is no standard assumption that can be made regarding the minimum lot size necessary to accommodate parking. Other factors, including topography, building size, and lot shape, also play a factor. There is also a consideration that as lot sizes tend to get smaller, the competition for on-street parking is going to increase.

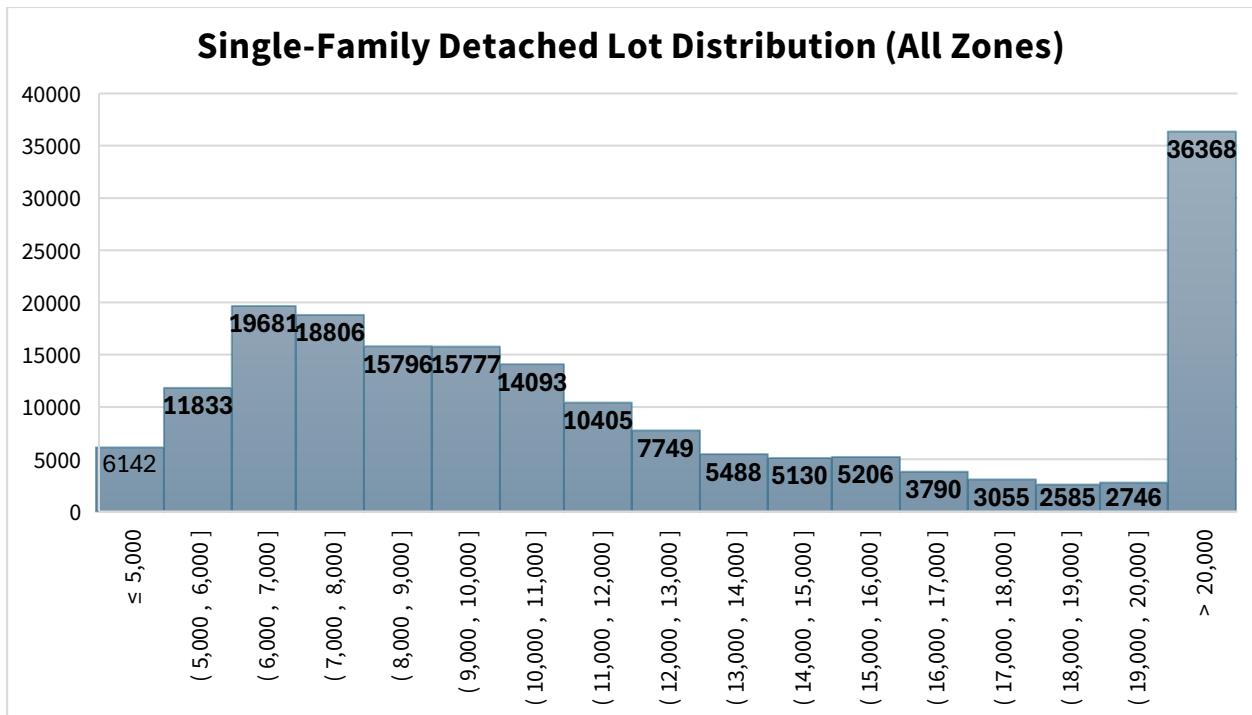


Figure 1 – Lot size distribution

To keep with the intent of making it easier to provide for ADUs, Planning Staff recommends that an additional parking waiver provision be considered. The Hearing Examiner should

also be allowed to waive on-site parking if it can be found that the size or shape of the existing lot for the principal dwelling unit effectively precludes the ability to provide additional on-site parking. This puts the burden on the applicant to reasonably prove that providing an additional on-site parking space would preclude creating an ADU.

SECTION 3 – RECOMMENDATION

Based on data from the 2019 vehicle registration study and the analysis of the required findings above, Planning Staff recommends keeping the existing parking requirements for ADUs with some modifications.

- Retain requiring 1 space per ADU as a baseline.
- Retain the exemption from parking if within 1 mile of a Metrorail, Purple Line, or MARC station.
- Remove the requirement that two spaces be provided if no driveway exists, and instead only require the one space.
 - Reduces the cost burden of a second space on the ADU and reduces impervious surface and stormwater impacts.
- Retain the Hearing Examiner waiver based on proof that there is adequate on-street parking.
- Add a new Hearing Examiner waiver based on proof that the lot size or shape could not reasonably accommodate the additional parking space, effectively precluding developing an ADU.

MONTGOMERY COUNTY MVA REGISTRATIONS (includes 1-mile transit buffer and outside buffer):

(Analysis conducted only includes single-unit detached within the R-60, R-90, R-200 zones)

Average MVA vehicle registrations: 2.1
Number of households with 0 cars registered: 9%
Number of households with 1 car registered: 20%
Average MVA registration for an address with an ADU: 2.5

INSIDE 1/2-MILE TRANSIT BUFFER (Red Line and Purple Line Only):

Average MVA vehicle registrations: 1.9
Number of households with 0 cars registered: 11%
Number of households with 1 car registered: 28%
Average MVA registration for an address with an ADU: 2.5*
*(small supply of only about 35 ADUs)

INSIDE 1/2-MILE TRANSIT BUFFER (includes Red Line, Purple Line, and MARC):

Average MVA vehicle registrations: 1.9
Number of households with 0 cars registered: 12%
Number of households with 1 car registered: 27%
Average MVA registration for an address with an ADU: 2.4*
*(small supply of only about 38 ADUs)

INSIDE 3/4-MILE TRANSIT BUFFER (Red Line and Purple Line Only):

Average MVA vehicle registrations: 1.9
Number of households with 0 cars registered: 11%
Number of households with 1 car registered: 27%
Average MVA registration for an address with an ADU: 2.2

INSIDE 3/4-MILE TRANSIT BUFFER (includes Red Line, Purple Line, and MARC):

Average MVA vehicle registrations: 1.9
Number of households with 0 cars registered: 11%
Number of households with 1 car registered: 27%
Average MVA registration for an address with an ADU: 2.1

INSIDE 1-MILE TRANSIT BUFFER (Red Line and Purple Line Only):

Average MVA vehicle registrations: 1.9
Number of households with 0 cars registered: 11%
Number of households with 1 car registered: 26%
Average MVA registration for an address with an ADU: 2.2

INSIDE 1-MILE TRANSIT BUFFER (includes Red Line, Purple Line, and MARC):

Average MVA vehicle registrations: 1.9
Number of households with 0 cars registered: 11%
Number of households with 1 car registered: 25%
Average MVA registration for an address with an ADU: 2.2

MONTGOMERY COUNTY MVA REGISTRATIONS (includes 1-mile transit buffer and outside buffer):

(Analysis conducted only includes single-unit detached within the R-60, R-90, R-200 zones)

Average MVA vehicle registrations: 2.1
Number of households with 0 cars registered: 9%
Number of households with 1 car registered: 20%
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Average MVA vehicle registrations: 1.9
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