




OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Marc Elrich  
County Executive

## MEMORANDUM

June 17, 2019

To: Nancy Navarro, Council President  
Sidney Katz, Council Vice President  
Councilmembers Gabe Albornoz, Andrew Friedson, Evan Glass,  
Tom Hucker, Will Jawando, Craig Rice, Hans Riemer

From: Marc Elrich, County Executive 

Subject: ZTA 19-01, Accessory Dwelling Units

Over the course of the Council's consideration of ZTA 19-01, it became clear to me that most county residents were unaware of the changes being proposed, even though it would affect virtually every residential neighborhood in the county. I thought they would want to be aware, so I recently sent an email summarizing the recommended changes and asking residents for their feedback (see [here](#)). To date, we have received 142 responses. Of these, 21 expressed support for the ZTA, 14 supported the idea of more ADUs while expressing concerns about some of the proposed changes, and 107 indicated their serious concerns.

### **Summary of COMMENTS FROM RESIDENTS who expressed concerns:**

- The ZTA proposes sweeping changes to single-family zones with the potential to change the character of neighborhoods and adversely affect quality of life (see specific issues below). There has been a rush to implement without adequate consideration of "best practices" from other jurisdictions that could be incorporated into this legislation.
- Detached units should not be allowed in the R-60 and R-90 zones.
- Loosening parking requirements and deleting distance-separation requirements will exacerbate on-street parking in many of the older neighborhoods; even if residents in ADUs walk or bike to transit, many will likely have cars. There were also concerns about shared driveways and neighborhoods with no driveways.
- There was very little outreach for public input from the communities likely to be most affected – for example, none of the regional service centers were made aware of the proposed changes and most residents still don't know about them.
- Instead of taking a measured approach, too many changes are being proposed all at once. Why?

- There are no regulations to protect against environmental problems associated with increased stormwater runoff, loss of trees, green space, and additional impervious surfaces resulting from ground disturbance.
- High construction costs and high rents won't address affordable housing needs. An additional concern is that these units can be converted from long-term living units to short-term rentals.
- Several comments referred to already overcrowded roads and schools and in general more stress on the county's inadequate infrastructure, with no fees to offset increased needs. There were some concerns about utilities that would serve an additional detached living unit (i.e. WSSC, gas, electric, and septic systems).
- Residents say that the county cannot enforce existing regulations when complaints are lodged (because the county has no right of inspection after the initial one at licensing, DHCA can't gain entry unless allowed by the homeowner); there are too few code inspectors; there is no amnesty program to register unlicensed ADUs; the permitting and approval process needs to be improved.

I am happy to provide copies of the correspondence we have received – it makes for very interesting reading and conveys a widely held view that this legislation needs a more deliberative conversation with the broader public to address these concerns and perhaps reach consensus on some of the most contentious issues.

**My suggested improvements:**

For the most part residents accept the idea that more ADUs in the county would be a good thing. And I agree, even though I have questioned some of the proposed changes. The responses from residents contain some interesting ideas, including a suggestion that this be adopted as a “pilot program” with a sunset date so that you can assess the impacts after an established time period and adjust it if necessary. I suggest consideration of the following changes, either in the ZTA or in a companion bill that I understand you may be discussing at tomorrow's worksession:

- Do not allow detached ADUs in the R-60 and R-90 zones except for “Granny Pods” that are temporary in nature (i.e., easily placed and removed) to accommodate aging parents or relatives with disabilities. Whereas larger lots can more easily accommodate larger built units, many of the county's small-lot zones have limited parking on narrow streets, aging infrastructure, mature trees and landscaping, and proximity to neighbors that can lead to privacy, stormwater runoff, light, and noise issues from not-so-tiny detached houses in neighbors' back yards. The small-lot zones already accommodate two-thirds of the county's registered attached ADUs/RLUs (and most likely unregistered ADUs as well).
- Allow detached ADUs on any 20,000sf lot in the R-200 zone.
- The PHED Committee recommended allowing an ADU up to 32' long (this was not in the ZTA as introduced). These should not be allowed in the R-60 and R-90 zones. For the larger-lot zones, there should be clarifying language that specifies

that a 32'-long ADU must be a modular unit whose design is compatible with the principal dwelling unit.

- Add language stating that a detached ADU is a long-term housing option and may not be converted to a short-term rental. The current zoning code defines residential zones as designated areas of the county for residential use **at specific densities** (June 18<sup>th</sup> packet, page 12, emphasis added). The packet also states that “the intent of ZTA 19-01 is to more permissively allow detached and attached ADUs” and “the goal is to allow intensification of housing in single-unit zones.” If it is the Council’s intent to allow greater densities in single-family zones in order to provide for more – and more affordable – housing, conversion of detached units to AirB&Bs would undermine that intent by catering to guests, not residents seeking longer-term housing. Conversion of attached ADUs should require de-registration of the ADU and re-registration as a short-term rental unit to make sure that all county regulations are met.
- Require an inspection every three years and an annual report on the number of registered ADUs, rents charged, and number of bedrooms (wouldn’t it be great to have data on the ADUs we have in the county?).
- To address the county’s need for affordable housing, the ZTA should include provisions to incentivize affordable rents for those in the 60%-100% AMI range, particularly in detached ADUs. This would be in keeping with remarks from supporters of the ZTA that affordable housing is an important goal and a reason for introducing greater density into established single-family neighborhoods.
- To offset the additional infrastructure costs, require a detached ADU with more than one bedroom to pay the same impact fees that would be paid by anyone building a new house on a lot.
- Retain the rule that an ADU must be in an already existing structure – currently the code requires that the structure must be five years old, but this time period could be reduced. Retaining the provision will help to encourage stability in single-family neighborhoods and discourage speculative “flipping” of properties.
- Because I anticipate ADU-related ground disturbance activities in established neighborhoods, I have directed county departments to review county regulations on stormwater runoff, tree preservation, and impervious surfaces so that we can proactively take steps to lessen the impact of new construction on adjacent properties. This review is long overdue and will be addressed in a forthcoming bill.

Several letters from supporters of the ZTA stated that those raising concerns (including me) are “short-sighted” and “narrow-minded NIMBYs,” indicating that either one supports this ZTA or one is completely opposed to ADUs. Actually, most of us think ADUs are a viable housing option – and ask only that the county adopts measures that assure a clear, well-regulated program. I hope you will accept their comments and mine as having been made in good faith. It would be great if we could work toward solutions

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that provide safe and affordable housing for Montgomery County residents while preserving the quality of life in some of the most affordable single-family neighborhoods in the county. My staff and I are ready to work with you toward that goal.

Thank you.

c: Jeff Zyontz  
Pamela Dunn