

**ACCESSORY DWELLING UNITS  
ZONING TEXT AMENDMENT 19-01  
February 2019**

Background Information Developed by KHCA President

*KHCA is asking for residents' comments by February 25, 2019*

The term "Accessory Dwelling Unit" or "ADU" describes a multitude of housing options – tiny houses, additions to the back of the house, creating a living space in a basement, and more. The defining characteristic is that they have space for a bedroom, living, cooking and bathroom facilities. Such spaces are seen by many as a boon, since they can provide an independent space for a college graduate saving up before he moves out, or for an elderly grandparent who needs some help to retain her independence. They can also be a source of added income for a homeowner while expanding the stock of affordable housing in the area, which is especially valued if developed near public transit.

Alternatively, they may be problematic if they become so prolific that an existing family neighborhood changes into a maze of rooming houses, or if they are not well maintained, or bring so many additional adults and cars to a street that there is no longer room to park, or if they are used not for permanent housing but to engage in short-term, day-to-day rentals that make a house more like a hotel.

There has long been interest in Montgomery County in allowing ADUs, but placing them under a regulatory framework that would allow their benefits to be realized while avoiding the drawbacks that many are concerned about. See Link 1 below for a report about ADUs. In 2012, the Council enacted a ZTA that set up a somewhat simpler process for approving ADUs and prescribed various standards that they had to meet to be approved. Among those limits were a maximum size for the units (50% of the existing dwelling to an absolute maximum of 1200 feet, or 800 feet for an ADU added to an existing home), requirement that there be a separate entranceway for the ADU, parking space requirements (subject to waiver depending on the amount of on-street parking), and minimum distances between each ADU (to keep down their concentration in a single area). The homeowner was also required to live on the premises and an ADU could not be constructed in a home less than 5 years old. Moreover, to have a "detached" ADU (i.e., one that was a wholly separate building), the minimum lot size must be one acre.

The original ZTA provided that ADUs would be a "conditional use" within the R-60, R-90, and R-200 zones (the traditional residential zones). A "conditional use" is the new term for what used to be referred to as a "special exception" (i.e., like the process used for considering the Costco gas station. With the new standards, about 40-60 units were approved each year, up from only about 10 before the ZTA was enacted. Some of the Council were still interested in making further changes to increase the number completing the process.

In October 2018, the Council adopted ZTA 18-53, which made several changes to the existing ZTA. It eliminated the "conditional use" requirement in all zones for "attached" ADUs (i.e., ones within or attached to an existing house), making such ADUs a "limited use," i.e., they are allowed but are subject to certain requirements. A hearing is not automatically required, unless a request is made to waive the requirement for off-street parking or the distance between separate ADUs.

Council Chair Reimer has now introduced an additional ZTA in January to further loosen the requirements for ADUs. See Link 2 below. It would allow both detached and attached accessory units as a limited use in *all* zones, including the smaller residential zones, such as R-60 where the typical lot size is only 6,000 square feet. This would both eliminate the requirement that such units only be allowed on lot sizes of one acre or more (i.e., 45,000 square feet) and allow the ADU without a conditional use hearing. It would require 2 off-street parking spaces (up from one space now) but would allow the requirement to be waived if there is adequate on-street parking. It would eliminate the 800/1200 square foot limit, leaving only the 50% of the primary home size limit. It would bar ADUs on a lot where short-term rentals take place (addressing one concern that these units would be turned into AirBnB unit). It would still require the homeowner to live there and would only allow two adults to live in the ADU, but would eliminate the 5-year requirement and the separation limits between ADUs. And, finally, the ZTA does “grandfather” all existing units.

Possible areas for comments from Kensington Heights residents:

1. Do you have any general thoughts/concerns about benefits or problems with ADUs?
2. Do you have any family member that might like to use one?
3. Do you have any interest in creating such a unit to use as a rental property?
4. What’s your view on the ZTA?
  - a. Do you agree with the changes? Or do you have concerns with some of them? If so, which ones?
  - b. Do you think it’s time to make the changes? Or should the council wait and see if the limited changes made last fall are sufficient to increase use of ADUs?
  - c. Have any been approved near you? Are you aware if any such units exist without having permits?
5. Do you think KHCA should comment on the ZTA? If so, what would you like KHCA to say?
6. Other?

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Link 1:

[https://www.montgomerycountymd.gov/COUNCIL/Resources/Files/Summer\\_Fellows/2018/Final\\_Report-Lyons.pdf](https://www.montgomerycountymd.gov/COUNCIL/Resources/Files/Summer_Fellows/2018/Final_Report-Lyons.pdf)

Link 2:

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115\\_4A.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190115/20190115_4A.pdf)