

Barney Rush, *Mayor*  
Cecily Baskir, *Vice Mayor*  
Wicca Davidson, *Secretary*  
Kirk Renaud, *Treasurer*  
Joel Rubin, *Intergovernmental  
and Public Liaison*

June 27, 2019

Montgomery County Council  
Council Office Building  
100 Maryland Avenue, 6<sup>th</sup> Floor  
Rockville, MD 20850

Honorable Council President Navarro and Councilmembers Albornoz, Friedson, Glass, Hucker, Jawando, Katz, Rice, and Riemer:

RE: ZTA 19-01, Accessory Dwelling Units (ADU)

The Town of Chevy Chase offers the following comments on the most recent version of ZTA 19-01.

We would like to thank the County Council for its hard work on the ADU initiative and for its commitment to creating zoning rules that increase housing opportunities for our residents. We also would like to express support for several of the recent changes to the ZTA. The decision to maintain, in most instances, the 1,200 square foot cap on ADU size permits adequately sized units that will help accomplish the goal of promoting more affordable housing. We agree as well with the requirement that, in most instances, a separate entrance for an attached ADU be on the side or rear of the dwelling. This should mitigate concerns about the appearance of duplexes in single family neighborhoods.

However, the Town of Chevy Chase continues to have a major concern regarding detached ADUs. Our concern stems from a simple principle: The County and our Town have established setback requirements for dwellings to ensure appropriate privacy for our residents, many of whom live on small lots. All dwellings on a lot should conform to those requirements, and no resident should be able to construct a non-conforming dwelling as a matter of right. Specifically:

- The proposed ZTA should require that detached ADUs developed in existing accessory buildings comply with setback requirements for the principal dwelling. In the Town, many older garages are located within a foot of the side property line. Some of our lots are only 50 feet wide; many are irregularly shaped with very narrow sections; and some

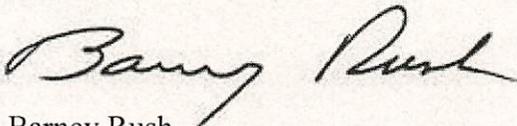
are smaller than the R-60 zone's 6,000 square foot minimum. If detached ADUs are to be allowed on these small lots, they should be subject to the same setback requirements that pertain to the main house. As we stated in our testimony in February, such a requirement should not prevent someone from having an ADU. A resident interested in developing a non-conforming detached ADU could seek a variance, and, in any event, if setbacks limit the construction of a detached ADU, the resident still will have the option of building an ADU in the principal dwelling.

- For detached ADUs built after May 30, 2012, the side setback requirement should be clarified. The proposed ZTA states that "A Detached Accessory Apartment built after May 30, 2012 must have the same minimum side setback as the principal dwelling" (lines 163-165). This provision seems only to require that a new detached ADU have the side setback of the existing house on the property, not that it meets current side setback requirements. If the house has non-conforming side setbacks (e.g., some houses in our Town are setback only 5 feet from the side property line), the ADU would be able to use those same non-conforming setbacks. We believe that new detached ADUs should be built using conforming side setbacks and request that the ZTA language be changed. The ADU setbacks should be the same as the current required side setbacks for the County or local jurisdiction.

Finally, we believe that it would be valuable for the County Council to hold another public hearing on the proposed ZTA. We note that there have been many significant changes to the proposal since its introduction in January. Given this, we believe that another public hearing would serve two purposes. Those who were unable to testify in February and may not have been fully aware of the ZTA's impact would have an opportunity to present their thoughts publicly on the subject. It also would allow those who testified in February to speak to the many changes that have been made to the proposed ZTA since that time. In sum, this would provide the County Council a valuable opportunity to hear residents' thoughts about the proposal in its current form.

Thank you for considering our concerns.

Sincerely,

A handwritten signature in cursive script that reads "Barney Rush". The signature is written in dark ink and is positioned above the printed name and title.

Barney Rush  
Mayor