


TO: Planning Commission
FROM: Anne McClung, Planning and Building Director 
RE: Zoning Ordinance Amendment #32/Ordinance #1816
Accessory Apartment Permit Program
DATE: February 3, 2017

Background

At the work session on January 17, 2017, the Planning Commission reviewed the proposed accessory apartment regulations text and came to consensus on several recommended changes. The changes are summarized below and should be referenced in any motion on the Zoning Ordinance Amendment.

- Include single family structures in the R-5 zoning district as eligible for an accessory apartment.

§ 1271(a)

- (a) *Accessory apartments are permitted only in the RR-1, RR-2 and R-4 zoning districts. Accessory apartments are also permitted in the R-5 zoning district but in single family structures only.*

- Do not require the homeowner to live in the main house.

§1271(c)

- (c) *The ~~primary dwelling unit~~ property must be owner occupied. ~~The only exception shall be if the property owner lives in the accessory apartment and a family member lives in the primary dwelling unit.~~ The owner may only receive rent for only one of the units.*

- Allow accessory apartments to be within five feet of the side or rear property line provided the entry door and any patio/deck space is not located on the property line side of the structure. Also limit the height of an accessory apartment to 10 feet, as measured to the eave of the roof, with one foot of additional setback for every additional foot in height over ten feet.

§4201(b) (6)

- (6) *The underlying zoning district development standards for lot coverage, height, setbacks and floor area ratio that apply to the primary dwelling shall also include the accessory apartment in the calculations of these standards.*

However, any new accessory apartment structure or building addition may be located within five (5) feet of the rear of rear or side property line provided the following standards are met:

- (i) the height of the structure shall be no greater than ten (10) feet in height to the eave of the structure with one (1) additional foot of setback provided for every foot of height above ten (10) feet; and
- (ii) no door or outdoor gathering space, such as a patio or deck, shall be located on the property line side of the structure.

- Do not require off-street parking for the accessory apartment. Staff would suggest the Planning Commission consider only waiving the parking requirement if there are two existing off-street spaces serving the existing structure.

§4201(b) (7)

- (7) ~~One off-street parking space on an approved surface shall be provided for the accessory apartment. This parking space shall be in addition to the two required off-street parking spaces for a single family home. Tandem parking is allowed for two of the three parking spaces required.~~

Off-street parking is not required for the accessory apartment provided there are two (2) existing off-street parking spaces on the property.

The Town Attorney has reviewed the accessory apartment permit program zoning ordinance amendment text and converted it into ordinance form. Ordinance #1816 is attached. The Planning Commission may want to note that the Town Attorney has expanded text on what will constitute "owner occupancy" in §1271(k). He has also reviewed the standard of requiring the recording of a covenant and recommends new §1271(l) requiring a notarized covenant be recorded in the Montgomery County Circuit Court land records.

A public input meeting on the proposed accessory apartment permit program was held on January 25, 2017. The public in attendance was supportive of the proposed amendment. The sign-in sheet and summary notes are attached for your review.

At the work session the Planning Commission asked if staff could contact some other comparable university communities to inquire about accessory apartment permit programs in those communities and any issues with enforcement or any other lessons learned that might be useful. Ms. Elisabeth Willis contacted several communities and a summary of the telephone conversations is contained in her memo.

Attachments: Ordinance #1816
Memo from Elisabeth Willis
Input Meeting Summary Notes/Sign-in sheet 1-25-17