

Remarks On Proposed Legislation Concerning Accessory Apartments

Presented by Mark Gabriele on behalf of the Seven Oaks – Evanswood Citizens’ Association

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I appear before you as the appointed representative of the membership of the Seven Oaks – Evanswood Citizens’ Association; our association represents more than 160 dues-paying families – the vast majority of them homeowners – and encompasses an area which is located immediately to the north of the downtown Silver Spring development area.

Our Association stands in opposition to the proposed change to the County codes allowing greater ease in the creation of accessory apartments. We ask for your votes against this measure. Permit me to explain why.

The proposed legislation imposes a limit on how many houses in an area may have accessory apartments attached; that number is 15 percent.

On the block on which I live, the existence of 24 single-family residences would, according to that 15% rule, enable a streamlined approval process for the creation of three accessory apartments – three extra families moving into one block. So, the first three homeowners on my block to apply will get a “free pass” to increase the density of the area and gain income from renting an apartment they have created, while the rest of the residents of the neighborhood are both forced to bear the costs of the new residents (in terms of increased density, noise, traffic, demand for services, etc), and are prohibited from easily creating any more apartments

themselves. Because of the provision in the proposed legislation that allows for the transfer of accessory apartments when property ownership is transferred, there will now be three new permanent residences on my block – a significant increase in density that neither I nor my neighbors could reasonably have expected when we bought our homes.

But let's look beyond that, and consider the economic impact of the proposed law. If a home can be sold with an accessory apartment, that will increase its value. The fact that other homes beyond the 15% limit cannot easily add an accessory apartment will cause them to be worth relatively less money than a home that has an accessory apartment. This will encourage the speculative creation of accessory apartments. Given the rate of price increases in the local real estate market, is it wise for this Council to create an additional mechanism that serves to encourage real estate speculation?

So, an effect of this legislation is to push people to create accessory apartments immediately, before their neighbors can do so. Because of this, other residents may not be able to create apartments of this type when they might want (or need) to do so, as when, for example, an elderly resident wishes to establish an accessory apartment as the dwelling space for a caregiver. Surely, this cannot be a desired outcome of this legislation. Unfortunately, that is exactly the behavior that the economic incentives will promote.

The existing statute, requiring public notice of the creation of accessory apartments, provides adequate notice to allow neighbors to consider the impact of the proposed accessory apartment on their neighborhood, and provides for a forum in which those concerns may be heard. Our

Association feels that the existing statute provides sufficient safeguards and flexibility to satisfy all stakeholders through its public notification and approval processes, and we would not wish to see those safeguards removed. Additionally, the existing statute inhibits the easy transfer of accessory apartment permits with the sale of the property, which thwarts this as an incentive for real estate speculation.

The proposed legislation on accessory apartments also fails to account for other significant issues, such as the increase in the population density, the increase in transient populations, and others, which are addressed in my written remarks.

And what kind of places will these apartments be? Will they be luxury accommodations, attracting well-heeled tenants to all the best neighborhoods? Unlikely. Although the zoning ordinance places a restriction on the maximum size of these apartments, there is no minimum. Indeed, the rules proposed in the legislation make it somewhat easier to provide smaller accessory apartments. These are likely to be bare-minimum facilities; the least that *can* be done to qualify as an accessory apartment is likely what *will* be done.

There is a strong economic temptation for a homeowner to provide bare-minimum accommodations as an accessory apartment, and use the resources of our community to “sell” that apartment to prospective tenants. The 15% rule guarantees that there will *not* be a large supply of accessory apartments to inspire competition (and drive quality increases) among accessory apartment providers. Again, this law provides strong monetary incentives for a few people (that magic 15% of the homeowner population) to enrich themselves at the expense of the

“other” 85%. That is to say – this proposed legislation offers to pit neighbor against neighbor, creating winners and losers, literally taking money out of the pockets of some and giving it to others – for reasons that appear vague at best, and with no evident justification in fact.

Yes, our County could use additional affordable housing. But the proposed accessory apartment legislation will not solve the problems. Instead, the proposed legislation to significantly ease the restrictions on the creation of accessory apartments actually contributes to the propagation of these problems. The membership of the Seven Oaks – Evanswood Citizens’ Association therefore respectfully requests that this Council reject this proposed legislation.