



Outlook

---

**RE: Follow up from January 12, 2026 public hearing**

---

**From** Bennet, Carri <Carri.Bennet@wbd-us.com>

**Date** Tue 1/20/2026 6:51 PM

**To** Robeson Hannan, Lynn <Lynn.RobesonHannan@montgomerycountymd.gov>; greg friedman <friedman.g@gmail.com>; Evan Goitein <evan@goiteinrosa.com>

**Cc** kenneth.mack@gmail.com <kenneth.mack@gmail.com>; flavia4222@comcast.net <flavia4222@comcast.net>; Guisao-Ospina, Jony <Jony.Guisao@montgomerycountymd.gov>; Johnson, Nana <Nana.Johnson@montgomerycountymd.gov>

 1 attachment (245 KB)

\_DHCA class3adu-information-sheet.pdf;

**[EXTERNAL EMAIL]**

Hearing Examiner Robeson Hannan,

I have no objections to what you have laid out regarding Ms. Favali's room rental tenant and the proposed redaction of his name from the transcript. His mental health and well-being should take priority over this case.

I also believe your questions are appropriate and go to the crux of the matter.

I do have some additional questions for your consideration based on the statute, the materials provided by DHCA to ADU applicants and a form affidavit that DHCA seems to require all ADU applicants to submit.

1. Can an ADU applicant obtain an ADU permit/license if the primary dwelling or a portion thereof is being rented at the time the application is filed?
2. If an ADU is approved as the secondary dwelling on the property, can the primary dwelling or a portion thereof be rented *after* the ADU is built/occupied?

For reference here is the relevant statute:

**Sec. 59-A-6.20. Attached or detached accessory apartment.**

(a) Where an attached or detached accessory apartment is permitted in a zone, only one accessory apartment is permitted for each lot and it is only permitted under the following standards:

(1) the apartment was approved as a special exception before May 20, 2013 and satisfies the conditions of the special exception approval; or

(2) the apartment is licensed by the Department of Housing and Community Affairs under Section 29-19; and

(A) the apartment has the same street address as the principal dwelling;

(B) a separate entrance is located:

(i) on the side yard or rear yard;

(ii) at the front of the principal dwelling, if the entrance existed before May 20, 2013; or

(iii) at the front of the principal dwelling, if it is a single entrance door for use of the principal dwelling and the accessory apartment;

(C) one on-site parking space is provided in addition to any required on-site parking for the principal dwelling; however, if a new driveway must be constructed for the accessory apartment, then two on-site parking spaces must be provided;

(D) an attached accessory apartment:

(i) in the RE-2, RE-2C, RE-1, R-200, RMH-200, and R-150 zones is located at least 500 feet from any other attached or detached accessory apartment, measured in a line from side lot line to side lot line along the same block face;

(ii) in the R-90, R-60, and RNC zones is located at least 300 feet from any other attached or detached accessory apartment, measured in a line from side lot line to side lot line along the same block face;

(E) a detached accessory apartment:

(i) in the RE-2, RE-2C, and RE-1 zones is located a minimum distance of 500 feet from any other attached or detached accessory apartment, measured in a line from side lot line to side lot line along the same block face;

(ii) built after May 20, 2013 must have the same minimum side yard setback requirement as the principal dwelling and a minimum rear yard setback requirement of 12 feet, unless more restrictive accessory building or structure yard setback standards are required under Section 59-C-1.326;

(iii) must be located on a lot with an area of one acre or larger;

(F) (i) the maximum gross floor area for an accessory apartment, including any floor area used for an accessory apartment in a cellar, must be less than 50 percent of the total floor area in the principal dwelling, including any floor area used for an accessory apartment in the cellar of the principal dwelling, or 1,200 square feet, whichever is less;

(ii) the maximum floor area used for an accessory apartment in a proposed addition to the principal dwelling must not be more than 800 square feet if the proposed addition increases the floor plate of the principal dwelling;

(G) the maximum number of occupants is limited by Section 26-5; however, the total number of occupants residing in the accessory apartment who are 18 years or older is limited to 2.

(3) an accessory apartment must not be located on a lot where any of the following otherwise allowed residential uses exist: guest room for rent; boardinghouse; registered living unit; or any other rental residential use; however, an accessory apartment may be located on a lot in an agricultural zone that includes a tenant dwelling, a farm tenant mobile home, or a guest house.

(4) the one-family detached dwelling in which the accessory apartment is to be created or to which it is to be added must be at least 5 years old on the date of application for a license or a special exception.

(b) (1) An attached or detached accessory apartment special exception petition may be filed with the Hearing Examiner to deviate from any permitted use standard regarding:

(A) number of on-site parking spaces; or

(B) minimum distance from any other attached or detached accessory apartment.

(2) To approve a special exception filed under Subsection (b)(1), the Hearing Examiner must find, as applicable, that:

(A) adequate on-street parking permits fewer off-street spaces; or

(B) when considered in combination with other existing or approved accessory apartments, the deviation in distance separation does not result in an excessive concentration of similar uses, including other special exception uses, in the general neighborhood of the proposed use.

(3) The Hearing Examiner may find that on-street parking is inadequate if:

(A) the available on-street parking for residents within 300 feet of the proposed accessory apartment would not permit a resident to park on-street near his or her residence on a regular basis; and

(B) the proposed accessory apartment is likely to reduce the available on-street parking within 300 feet of the proposed accessory apartment.

(Legislative History: [Ord. No. 17-28](#), § 2.)

**Editor's note**—[Ord. No. 17-28](#), § 8, states: Reporting. The Director of the Department of Housing and Community Affairs must issue a report concerning any administrative problems or resident complaints after the 2,000<sup>th</sup> accessory apartment license is issued by the Department of Housing and Community Affairs. The Director must recommend any changes in legislation that the Department deems

I am also attaching the ADU applicant material provided by DHCA noting similar language in the ADU Requirements (See p. 1 under ADU Requirements).

Also, here is a link to a DHCA form affidavit which ADU applicants seemingly must submit that I found on the DHCA website:

[Class3\\_Accessory\\_Apartment\\_affidavit.pdf](#) It bears the same language as the statute and ADU Requirements. I am not aware of Ms. Favali submitting this affidavit. **Did OZAH know Ms. Favali was renting out rooms primary dwelling when she submitted her ADU application and, if so, did OZAH consider the DHCA statute?**

I believe you are trying to make the same assessment by asking your questions of DHCA and wanted to supply the statute and supporting material which addresses these questions.

Thank you.

Carri Bennet

**Carri Bennet**

She/Her  
Partner

Womble Bond Dickinson (US) LLP

**d:** 202-857-4519

**m:** 240-604-7239

**e:** [Carri.Bennet@wbd-us.com](mailto:Carri.Bennet@wbd-us.com)

2001 K Street, NW

Suite 400 South

Washington, DC 20006



[womblebonddickinson.com](http://womblebonddickinson.com)



This email is sent for and on behalf of Womble Bond Dickinson (US) LLP. Womble Bond Dickinson (US) LLP is a member of Womble Bond Dickinson (International) Limited, which consists of independent and autonomous law firms providing services in the US, the UK, and elsewhere around the world. Each Womble Bond Dickinson entity is a separate legal entity and is not responsible for the acts or omissions of, nor can bind or obligate, another Womble Bond Dickinson entity. Womble Bond Dickinson (International) Limited does not practice law. Please see [www.womblebonddickinson.com/us/legal-notice](http://www.womblebonddickinson.com/us/legal-notice) for further details.

**From:** Robeson Hannan, Lynn <[Lynn.RobesonHannan@montgomerycountymd.gov](mailto:Lynn.RobesonHannan@montgomerycountymd.gov)>

**Sent:** Saturday, January 17, 2026 11:33 AM

**To:** greg friedman <[friedman.g@gmail.com](mailto:friedman.g@gmail.com)>; Evan Goitein <[evan@goiteinrosa.com](mailto:evan@goiteinrosa.com)>; Bennet, Carri <[Carri.Bennet@wbd-us.com](mailto:Carri.Bennet@wbd-us.com)>

**Cc:** kenneth.mack@gmail.com; flavia4222@comcast.net; Guisao-Ospina, Jony <[Jony.Guisao@montgomerycountymd.gov](mailto:Jony.Guisao@montgomerycountymd.gov)>; Johnson, Nana <[Nana.Johnson@montgomerycountymd.gov](mailto:Nana.Johnson@montgomerycountymd.gov)>

**Subject:** Follow up from January 12, 2026 public hearing

External ([lynn.robeshannan@montgomerycountymd.gov](mailto:lynn.robeshannan@montgomerycountymd.gov))

[Report This Email](#) [FAQ](#)

Good morning, all.

I have some follow-up from the last hearing:

First, I have reviewed the [transcript from the January 12, 2026](#) hearing and don't believe that the name of the individual subject to police report is necessary to resolving this case. For that reason, I propose to redact solely his name from the transcript and from Ms. Favali's communication to me after the hearing.

The transcript from the January 12<sup>th</sup> hearing has been combined with the transcript of the December hearing, so you need to scroll to the end of the transcript of the first hearing.

If you have any objection to redacting solely the individual's name, please let me know *no later than Wednesday, January 21, 2026 by 4:30 pm*.

In addition, I propose to ask the following questions of Staff of the Department of Housing and Community Affairs:

- Will Ms. Favali be required to obtain a rental license for the single-family home if she occupies the accessory dwelling unit?
- If a license is needed, will she be required to report the number of tenants in the home?
- If a license is not needed, is there any other way that DHCA can monitor the occupants of the home?

Of course, if any party has additional questions, please advise as of January 21, 2026, and I may include them if I deem them relevant to the case.

This does *not in any way* mean that I have decided the case.

Best,

Lynn Robeson Hannan  
Hearing Examiner

