

**Fairfax National Estates Homeowners Association**

**Resolution 1-5-2021**

**ZMOD (Zoning Ordinance Modernization Project)**

WHEREAS the Fairfax National Estates (FNE) Homeowners Association (HOA) represents sixty Fairfax County homes in western Fairfax county.

WHEREAS the FNE HOA recognizes that since 1982, Fairfax County has protected the Occoquan Downzoning, through its Comprehensive Plan and zoning ordinance, including the residential conservation [R-C] zoned areas, from impervious surface, site disturbance and other impacts of development, to protect water quality for the Occoquan Reservoir and the environment in the watershed, and historic and cultural resources; and

WHEREAS the FNE HOA recognize the paramount importance of the protection of the Occoquan Watershed and upholding Fairfax County's environmental policies, as expressed in the adopted Fairfax County Comprehensive Plan, including tree save; and

WHEREAS all FNE homes rely on clean and safe well water, and septic systems designed for residential use; and

WHEREAS the Fairfax County Board of Supervisors, after public outreach, has authorized for advertising a draft rewrite of the Fairfax County Zoning Ordinance, known as ZMOD (Zoning Ordinance Modernization Project), with public hearings scheduled for January 28, 2021 with the Fairfax County Planning Commission, and March 9, 2021 with the BOS; and

WHEREAS the FNE HOA has carefully reviewed the ZMOD proposal on multiple occasions, including discussions with multiple civic associations and other affected HOAs, and now wishes to communicate its position on certain aspects of ZMOD to the decisionmakers; now therefore:

I. **PROCESS**

A. BE IT RESOLVED that the FNE HOA **opposes the Fairfax County Board of Supervisors proceeding forward with adoption of ZMOD** during the Covid-19 emergency, when homeowners and civic associations are less able to participate, and without public, fair and open discussions with citizens regarding the likely impacts to county residents, and without adherence to procedures incorporating full transparency and accountability for all county actions regarding ZMOD, **including real time face to face public hearings.**

B. BE IT RESOLVED that the FNE HOA **opposes any action by the Fairfax County Board of Supervisors that fails to protect residential neighborhoods** from development impacts proposed by ZMOD, consistent with the objectives of the adopted Comprehensive Plan, including negative impacts on neighborhood traffic, congestion, excessive noise, environmental impacts, and other detrimental effects.

C. BE IT RESOLVED that the FNE HOA **opposes any action by the Fairfax County Board of Supervisors which fails to protect the Occoquan Watershed, including the aquifer and residential wells** used for drinking water, or fails to protect the natural communities, including flora and fauna, threatened species, and contiguous wildlife habitat.

II. **RESPONSE TO PROPOSED ZMOD PROVISIONS**

A. **ACCESSORY APARTMENTS/ACCESSORY LIVING UNITS (ALUs)**

1. BE IT RESOLVED that the FNE HOA ***opposes the ZMOD option to abolish the public hearing process for accessory apartments (ALUs) in single family dwellings.*** See p. 355. The FNE HOA ***supports the option to retain the current public hearing process.*** Citizens are entitled to notice and an opportunity to be heard regarding proposed accessory apartments in their

neighborhood, and mitigation of impacts on the neighbors and the local infrastructure from those uses, through development conditions and suggested modifications to any application. The abolition of public hearings with a streamlined process short-circuits citizen engagement.

2. BE IT FURTHER RESOLVED that the FNE HOA ***opposes the ZMOD option to abolish the over 55/disabled criteria for accessory apartments (ALUs) in single family dwellings.*** See p. 356. Opening up the accessory apartments to all tenants on all single family lots creates a de facto increase in density and generates unmanageable impacts on parking and infrastructure. The resulting increase in effective density is inconsistent with long standing objectives of the Comprehensive Plan to respect and protect stable residential neighborhoods. The FNE HOA ***supports the option to retain the over 55/disabled criteria.***

3. BE IT FURTHER RESOLVED that the FNE HOA ***opposes the option that would allow the maximum size limitation of an accessory apartment to be exceeded if the accessory apartment (ALU) is proposed to fully utilize the floor area in a basement or cellar.*** See p. 356. Basements or cellars with separate entrances effectively create stacked duplex dwelling units. Teardowns with new larger ALUs on the lower level might be designed to take advantage of this loophole, changing the character of stable single-family neighborhoods.

**B. EXPANSION OF HOME BUSINESSES**

1. BE IT FURTHER RESOLVED that the FNE HOA ***opposes the ZMOD proposal to abolish the public hearing process for home businesses such as beauty parlors and barbershops.*** See p. 363. The FNE HOA also ***opposes allowing those uses in homes served by well water and septic drain fields.*** The FNE HOA requests the Board of Supervisors to direct staff to study the potential environmental

impacts on private wells, water quality and the food chain from allowing contaminants of emerging concern (CECs) from nonresidential uses on septic, to be released into the groundwater, without mitigation. Staff has not identified any safe threshold levels for chemicals such as dyes, bleaches, straighteners, or other toxic substances from these businesses, and how limits on the use of those chemicals would be monitored and enforced.

2. BE IT FURTHER RESOLVED that the FNE HOA ***opposes the ZMOD proposal to allow up to two home businesses on every single-family lot, including beauty parlors, barbershops, tailoring, repair shops, online sales, home food production, and other uses.***

Combined with the abolition of the protections regarding accessory apartments, this additional commercialization and intensification changes the character of single-family residential neighborhoods, and the additional traffic and commotion creates unmitigated impacts and annoyance for adjacent neighbors.

3. BE IT FURTHER RESOLVED that the FNE HOA ***opposes the ZMOD proposal to allow unlimited delivery traffic, with no limitation on the frequency of delivery vehicles or number of trips, for the home businesses on every single-family lot, including online sales and home food production.*** The ZMOD proposal to instead limit only the size of delivery vehicles, and ignoring the frequency or number of trips, is inadequate to mitigate the obvious impacts on neighbors, including traffic volume and annoyance.

4. BE IT FURTHER RESOLVED that the FNE HOA ***opposes the proposal to allow home-based businesses to obtain administrative permits for “special events” of up to 21 days.*** See pp. 383-84. The vague standards or limitations on these vague “special events,” such as size of crowds, numbers of vehicles, limitations on amplified music or loudspeakers, are inadequate to mitigate the disruptive impacts on residential neighborhoods. A public hearing, with notice to

neighbors and an opportunity to comment, should be essential, before “special events” are authorized in a home business.

**C. ENFORCEMENT**

1. BE IT FURTHER RESOLVED that the FNE HOA ***opposes the unrealistic and unenforceable caps on both the occupancy of accessory apartments*** (See p. 356), ***and numbers of customers visiting the home businesses***. See p. 364-65. Absent additional recordkeeping and monitoring, and proactive inspections, the suggested caps must rely on the honor system, and are insufficient to protect the neighbors.

2. BE IT FURTHER RESOLVED that the FNE HOA ***opposes an enforcement methodology with principal reliance on citizen monitoring and complaints for apartment occupancy or home business customer limitations proposed with ZMOD***, rather than relying on Fairfax County professional inspectors for enforcement of essential zoning ordinance criteria, as an alternative to adoption of readily enforceable objective standards.

**D. SIGNAGE**

BE IT FURTHER RESOLVED that the FNE HOA requests that ***the signage for home businesses on single family lots be minimized***. See p. 536. The proposed 12 square foot limitation, coupled with the multiple yard signs allowed on any single-family lot for the home businesses, will cause visual clutter and detract from the residential character of single-family neighborhoods.

**E. FOOD TRUCKS**

BE IT FURTHER RESOLVED that the FNE HOA ***opposes the proposal to allow food trucks in residential districts through administrative approval***. See pp. 376-78. Additional standards for maximum number of days, number of trucks, location and distance

relative to residential properties should be included, to minimize impacts on neighborhoods.

**F. ACCESSORY STRUCTURE LIMITATIONS**

BE IT FURTHER RESOLVED that the FNE HOA ***opposes the proposal to allow by-right an unlimited number of enclosed freestanding accessory structures on a residential lot, with a combined enclosed area of up to 50 percent of the gross floor area of the principal structure.*** The FNE HOA also ***opposes the proposed increase in the height of freestanding accessory structures on a residential lot to 25 feet, as excessive.*** See p. 349. These changes are out of character with residential neighborhoods, and any such changes should require notice to the neighbors, and a case-by-case review with an opportunity for comment.