

Additional Comments on Planning Commission zMOD Q&A Session on 3 Feb
(Distributed via Email to Board of Supervisors and Planning Commission)

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1. Introduction

On 7 Feb, I submitted a paper commenting on the information provided by staff in response to commissioners' questions during the 3 Feb Q&A session regarding the zMOD proposal. The principal issues addressed were HBBs and freestanding accessory structures.

The purpose of this paper is to address three additional issues discussed during the Q&A. Hopefully, commissioners can agree that the changes proposed by zMOD to P-district regulations and to regulations for cluster subdivision open space should not be adopted. The third topic addressed is prospects for limiting the density of HBBs and ALUs in neighborhoods.

The link to Reference Doc at the bottom of each page is a link to HRVCA's paper submitted for the 28 Jan hearing. The comments provided in this paper and in yesterday's paper are limited to issues discussed in the 3 Feb Q&A session. The papers do not repeat concerns raised in the 28 Jan HRVCA paper that were not discussed on 3 Feb. Hopefully, commissioners will take these additional concerns into consideration in making their recommendations on zMOD.

2. P Districts

Staff proposes to delete the existing requirement that P-districts must taper down in density and provide compatible landscaping and screening at their peripheries in order to protect adjacent communities from encroachment by incompatible high-density developments. In particular, zMOD proposes to delete Sect. 16-102.1 copied out in italics in the text box below.

Sect. 16-102. Design Standards. Current ZO, pg 16-3.

Whereas it is the intent to allow flexibility in the design of all planned developments, it is deemed necessary to establish design standards by which to review rezoning applications, development plans, conceptual development plans, final development plans, PRC plans, site plans and subdivision plats. Therefore, the following design standards apply:

1. *In order to complement development on adjacent properties, at all peripheral boundaries of the PDH, PRM, PDC, PRC, and PCC Districts the bulk regulations and landscaping and screening provisions must generally conform to the provisions of that conventional zoning district which most closely characterizes the particular type of development under consideration. In a rezoning application to the PDC, PRM or PCC District that is located in a Commercial Revitalization District or*

In proposing to delete the standard, the zMOD draft provides the following justification:

The general standards for planned developments require conformance with the Comprehensive Plan and consideration of surrounding development. Staff evaluates issues such as the location and height of buildings, and landscaping and screening on a case by case basis. Therefore, the additional standard is not always appropriate given individual circumstances and has been deleted.

The justification postulates that in some cases it may not be "appropriate" to taper down in density and provide compatible landscaping and screening at P-district peripheries and concludes that the standard therefore should be deleted. However, application of the standard is a matter of discussion and adaptation in public hearings before the Planning Commission and the Board on a case-by-case basis in consideration of specific P-district development plans.

At 4hrs:09min on the video record of the Q&A session (Question 8), staff proposed that the standard should be deleted because it might prevent an applicant from exceeding the minimum requirement, that is, tapering down more than required and providing more landscaping. If a party should object to the developer exceeding requirements, the issue could be raised in hearings.

In the meantime, residents have the right to expect P-districts to taper down etc., and they have the right to expect the requirement (Sect. 16-102.1) to be stated explicitly in the zoning ordinance. Sect. 16-102.1 should not be deleted.

3. Cluster Subdivision Open Space

Staff's proposal to change the regulation for cluster subdivision open space was discussed at 4:14 on the video record (Question 9). Sect. 2-309.4 of the current ZO requires that at least 75% of open space in a cluster subdivision or one acre, whichever is less, must be a contiguous area with no dimension less than 50 ft.

Sect. 2-309.4. Open Space/Cluster Subdivision. Current ZO, pg 2-15/2-16.

In cluster subdivisions, at least seventy-five (75) percent of the minimum required open space or one acre, whichever is less, shall be provided as a contiguous area of open space, which has no dimension less than fifty (50) feet. Deviations from this provision may be permitted with Board of Supervisors' approval of a Category 6 special exception for waiver of open space requirements or appropriate proffered conditions for cluster subdivisions in the R-C, R-E and R-1 Districts

Cluster subdivisions are allowed reduced setbacks and lot sizes for the purpose of conserving open space in accordance with Sect. 101-2-8 of the Code of Fairfax County. Homeowners accept smaller yards so that a significant open space can be provided as a common area for the community to enjoy.

zMOD proposes that the 50-ft requirement be deleted. Instead 75% of open space would be required to be "usable" open space. Per zMOD's definitions below from Article 9, usable open space is land designed for recreation, different from landscaped open space, which is designed for landscaping.

Open Space Definitions from zMOD Article 9

Open Space, Usable: Open space that is designed for recreation. Examples include athletic fields and courts, swimming pools, golf courses, playgrounds, and boating docks. This may also include natural areas with walking/hiking, bicycle, and bridle trails.

Open Space, Landscaped: Open space that is designed to enhance the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Landscaped open space may include lawns, decorative plantings, flower beds, sidewalks/walkways, ornamental features such as fountains, statues, and other similar natural or artificial features, wooded areas, and water courses. Landscaped open space may be either common open space or dedicated open space as defined in this Ordinance.

The effect of zMOD's proposal would dictate to the developer and the residents of the cluster subdivision that 75% of open space must be for recreation to the exclusion of landscaping. Landscaping would be allowed only on 25% of the available open space or on open space exceeding the one-acre minimum. Neither the logic nor the value of the proposal is apparent.

The Board has the authority to allow deviations from the 50-ft requirement in public hearings. **Consequently, zMOD should not change the current regulations for cluster subdivision open space. The 50-ft requirement should not be deleted, and the ordinance should not require that open space be either "usable" or "landscaped." The Board and residents should be allowed to decide the preferred open space arrangement on a case-by-case basis.**

4. Limiting HBBs and ALUs by Proximity

Question 11 asked whether the density of HBBs and/or ALUs in neighborhoods could be limited to mitigate the risk of concentrations overwhelming infrastructure. ALUs with any number of HBBs, possibly with short-term lodgers as well, are proposed to be allowed in any single-family detached dwelling in any R-district, which includes all R-districts up to and including R-8. Staff strongly discouraged the suggestion that HBBs and/or ALUs could be limited by proximity.

As a point of information, Montgomery County limits accessory dwellings by proximity. The following text is copied from their *Class 3 Accessory Apartment Fact Sheet*.

The Existing Single-Family Dwelling Must:

- Be a Single Family Detached Home – no townhouses, duplexes or mobile homes.
- Be owner occupied.
- Be at least 5 years old as of the date of the application.
- Be [attached] located in the RE-2, RE-2C, RE-1, R-200, RC, RMH-200, and R-150 zones is *located at least 500 feet from any other approved or pending accessory apartment, measured in a line from side lot line to side lot line along the same block face.*
- Be [attached] located in the R-90 (including Plan Development zones), R-60, RNC, PD2, PD3, and PD2-2 zones is *located at least 300 feet from any other approved or pending accessory apartment, measured in a line from side lot line to side lot line along the same block face.*
- Be [detached] located in the RE-2, RE-2C, and RE-1 zones is *located a minimum distance of 500 feet from any other approved or pending accessory apartment, measured in a line from side lot line to side lot line along the same block face.*

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