

January 28, 2021

The Honorable Peter J. Murphy, Jr. Chairman, Fairfax County Planning Commission

Re: ZMOD (Public Hearing, January 28, 2021)

Dear Chairman Murphy,

My name is Kathryn Cooper and I have been a resident of Fairfax County since 1975. I appreciate the opportunity to express my concerns to the Planning Commission with regard to certain aspects of the zMOD proposal. Please share my letter with all the members of the Commission.

- I oppose consideration and adoption of the proposed Fairfax County Zoning Ordinance (zMOD) which I and many others think exceeds the authority granted to the County by the emergency order issued during the pandemic.
- I also oppose the proposals to allow Accessory Living Units (ALUs) and Home Based Businesses (HBBs) by right, thus eliminating public notification and public engagement.

Restrictions during Pandemic that limit public engagement

We are in the middle of triple global disasters that are largely man-made--the covid pandemic, climate change disasters, and dramatic inequalities that have divided and polarized us and led to deadly civil unrest. Now more than ever before, we citizens need leaders whom we trust and with whom we can partner to move forward safely out of these crises. But unfortunately, many citizens lack confidence in government at all levels.

On March 12, 2020, Gov. Northam issued Executive Order 51 declaring a state of emergency due to the pandemic, and on March 20, 2020, Attorney General Herring issued an advisory opinion about how public meetings could be held under the emergency order as follows:

“Public bodies should carefully consider whether taking a given action during meeting held by electronic means is truly essential and should defer any and all decisions that can be deferred until it is possible to once again meet in person.”

However, to the consternation of many County residents, the Board of Supervisors (BoS) has decided to move forward with a massive overhaul of land use ordinances under zMOD at a time of incredible crisis when public engagement is severely restricted. Many residents, including HOAs, attorneys, and others with extensive

expertise and experience in land use issues have expressed their opinions that such action exceeds the Board's authority under the executive order.

What is really troubling to me is that even if the BoS has the **legal** authority to conduct such an overhaul during the pandemic, which many of us don't concede is the case, I don't understand why they would pursue such an extensive review at a time when public engagement is severely limited.

Why is there such an urgent push to approve so many changes when many residents are expressing concerns and there are so many critically pressing needs—literally life & death issues—that should be addressed. We all understand that vaccine availability is severely limited nationwide, but other States have a much better record for administering available doses; that Virginia is ranked at the bottom of all States for administration of the covid vaccine is astounding, especially in light of messages from the BoS claiming that effective vaccine administration is their top priority and that they are doing a great job. Their performance doesn't reflect their commitment.

It seems to many of us that the BoS is taking advantage of the crises to push forward their pro-development agenda at the expense of transparency and accountability to their constituents.

The Board claims to value public engagement as stated by Chairman McKay,

"Our County has a long record of vigorous citizen involvement, and although that process may look a bit different during the pandemic, the efficacy of outreach and public engagement continues to be evidenced in our public hearings to date."

But how can residents be fully engaged when overwhelmed by pandemic stresses and when in person meetings are not allowed? Moreover, when residents do attempt to speak up to ask questions & express concerns, the Board's disdain is palpable; you can almost see their eyes roll. We, the people who elected them to represent us, are viewed as irritants who are opposed to progress, labeled NIMBYs or worse. So much for the principles of democratic government whose powers arise from the people.

I want to be absolutely clear--I am not opposed to development nor am I blind to the need for increasing housing. But not all development results in positive outcomes, and when pushed through hurriedly leads to long-term, expensive problems for remediation. Significant land use proposals should be done thoughtfully, with real outreach and consideration for communities that will be significantly impacted by such developments.

It seems to many of us that the BoS is taking advantage of the pandemic to rush through important land use changes that will significantly change the approval process

for land applications. The word used is “streamlining” but what it really will do is greatly diminish public input.

I understand the critical need to provide more housing, which is a nationwide problem. But creating ALUs and HBBs by right, thus eliminating the right of the community to be notified much less express concerns will have many negative impacts on single family communities--increased density in areas that lack transportation and accessible retail, increased traffic and parking, additional stresses on schools and the environment. And since county code compliance is very lax and complaint-driven, it will be incumbent upon neighbors to report perceived violations, thus pitting neighbors against neighbors that is a kind of vigilantism.

Creative Solutions to solve problems

Currently, thanks in large part to the pandemic, there is a nation-wide glut of commercial real estate on the market that is not likely to come back even after the pandemic. Last year, the Planning Commission recommended and the Board approved conversion of 3 vacant commercial buildings at Skyline to multi-use including housing. Such housing will be located near transportation and shopping, unlike infill for single family communities.

This is exactly the kind of creative thinking we desperately want & need to encourage development that provides a brilliant solution that addresses both the lack of housing and the glut of commercial real estate.

Such repurposing of commercial buildings for residential housing provides a solution for both problems--too little housing and too much empty commercial real estate.

Summary:

In closing, I agree with others such as Mssrs. Hart and Blakeley, that if the BoS refuses to delay consideration of the zMOD proposal until meetings can be held in person, at a minimum, the proposals for ALUs and HBBs should be removed from ordinance updates that are less controversial, and considered separately when meetings can be held in person.

Respectfully submitted,

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