

## Strand, Keisha

---

**From:** Deborah Burk <compostcorner333@hotmail.com>  
**Sent:** Thursday, January 28, 2021 9:35 AM  
**To:** Strand, Keisha  
**Subject:** ZMOD Proposal  
**Attachments:** ZMOD Proposal.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Keisha Strand, PACE  
Department of Clerk Services  
Senior Deputy Clerk  
Fairfax County Planning Commission

Dear Ms. Strand, Attached is a petition from the Broyhill Crest Community Association, which represents over 1100 homes in Mason District, against the ZMOD proposal that will be discussed tonight.  
Deborah Burk, President

## Broyhill Crest Community Association Resolution

Annandale VA – Mason District

Submission to:

Fairfax County Board of Supervisors

Fairfax County Planning Commission

Subject: Fairfax County Proposed ZMOD (Zoning Ordinance Modernization Project)

January 28, 2021

The Broyhill Crest Community Association (BCCA) represents a community containing 1,157 single-family homes in Mason District in Fairfax County, and actively participates in community activities, and strongly supports community and neighborhood engagement in amendments to Fairfax County zoning ordinances and the land use approval process, including governmental public hearings prior to significant decisions. We support protection of residential neighborhoods from development impacts, including traffic, stormwater, noise, and other detrimental effects, as well as protecting natural communities, including threatened species, and preserving contiguous wildlife habitat.

We recognize the importance of the rights and privileges of local homeowner's associations to defend the individual homeowners' investment and community resources, environmental features, and wildlife habitat conservation, as expressed in the adopted Fairfax County Comprehensive Plan.

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. The BCCA has reviewed the ZMOD proposal and now seeks to communicate its position on certain aspects of ZMOD to the decisionmakers.

### GENERAL RESOLUTION

BE IT RESOLVED that the BCCA requests that the Fairfax County Board of Supervisors, should the board persist in pursuing the current defective ZMOD proposal, set new public hearings that provide for fair, and open discussions with representatives from interested homeowners and civic associations regarding the impacts to the associations and their

residents -- while adhering to full transparency and accountability for all county actions regarding ZMOD.

The BCCA urges the Fairfax County Board of Supervisors to actively protect residential neighborhoods from the detrimental impacts that may result from the pending ZMOD proposal. As drafted, the ZMOD provisions will negatively affect neighborhood tranquility, increase traffic, generate unwanted nonresident congestion, raise noise levels, undermine safety, and produce other adverse effects in established residential communities.

The BCCA opposes any future actions contemplated by the Fairfax County Board of Supervisors that do not protect those communities, associations, and residential neighborhoods' aquifer, and protect the natural communities, including flora and fauna, and threatened species, while preserving contiguous wildlife habitat.

The BCCA, while supporting the capability of resident monitoring, opposes the principal reliance on it for offenses/infractions under the zoning ordinance to enforce codes. The county must re-examine its enforcement methods, including intensifying and expanding the use of Fairfax County professional inspectors, and enhancing county monitoring capabilities.

This resolution should be communicated to the Fairfax County Board of Supervisors, Fairfax County Planning Commission, Fairfax County Board of Zoning Appeals, Fairfax County Federation of Citizens Associations, as well as to fellow citizens' associations, homeowners' and civic associations and environmental advocacy groups, and the Environmental Quality Advisory Council (EQAC).

#### ACCESSORY DWELLING UNITS (ADU)

The BCCA opposes the ZMOD option to abolish the public hearing process for accessory apartments in single family dwellings. (See p. 355 of proposed amendment.) The BCCA supports the option to retain a public hearing process. Homeowners 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, including the environment, from those uses, through development conditions and suggested modifications to any application. The abolition of public hearings, replaced by the proposed administrative process, short-circuits citizen engagement. Rather than abolish the current system, Fairfax County could look into using modern technology to simplify the process for all involved.

The BCCA opposes the ZMOD option to abolish the over 55/disabled criteria for accessory apartments in single family dwellings. (See p. 356 of proposed amendment.) Opening the accessory apartments to all tenants on all detached single-family home lots causes a de facto increase in density and generates unmanageable impacts on parking and infrastructure. In a community already feeling negative impacts from speeding cars and crowded on-street

parking, the easing of restrictions will make things worse. Without sidewalks on many of our streets, pedestrian safety would be further eroded. The resulting increase in effective density is inconsistent with long standing objectives of the Comprehensive Plan to respect and protect stable residential neighborhoods and the environment.

The BCCA opposes the ZMOD option that would allow the maximum size limitation of an accessory apartment to be exceeded if the ALU is proposed to fully utilize the floor area in a basement or cellar. (See p. 356 of proposed amendment.) Basements or cellars with separate entrances effectively create stacked duplex dwelling units. Teardowns with new larger ALUs might be designed to take advantage of this loophole, changing the character of stable detached single-family home neighborhoods.

## HOME BUSINESSES

The BCCA also opposes the ZMOD proposal to abolish the public hearing process for home businesses such as beauty parlors and barbershops. (See p. 363 of proposed amendment.) The BCCA is concerned about the possibility of dangerous chemicals that could be released into the groundwater, without mitigation. Staff has failed to identify 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.

The BCCA opposes the ZMOD proposal to allow up to two home businesses on every detached single-family home lot, including beauty parlors, barbershops, tailoring, repair shops, online sales, home food production, and other uses. Combined with the abolition of the residential protections regarding accessory apartments, this additional commercialization and intensification changes the character of detached single-family home residential neighborhoods, and the additional traffic and commotion creates unmitigated impacts and annoyance for adjacent neighbors.

The BCCA 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 detached single-family home lot, including online sales and home food production. The unacceptable 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.

The BCCA opposes the proposal to allow home-based businesses to obtain administrative permits for “special events” of up to 21 days. (See pp. 383-84 of proposed amendment.) 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, is essential, before “special events” are authorized in a home business.

## ENFORCEMENT

3. The BCCA opposes the unrealistic and unenforceable caps on both the occupancy of accessory apartments (See p. 356 of proposed amendment), and numbers of customers visiting the home businesses. (See p. 364-65 of proposed amendment.) Absent additional recordkeeping and monitoring, and proactive inspections, these ineffective caps must rely on the honor system, and are insufficient to protect the neighbors.

## SIGNAGE

The BCCA requests that the proposal allowing signage for home businesses on single family lots be eliminated. (See p. 536 of proposed amendment.) The proposed 12 square foot limitation, coupled with the multiple yard signs allowed on any detached single-family home lot for the home businesses will cause visual clutter, and detract from the residential character of detached single-family home neighborhoods. [Current rules allowing contractors to temporarily post signs on residential properties while they are performing work on the premises and where they have the property owner’s written permission should be retained].

## FOOD TRUCKS

The BCCA opposes the ZMOD proposal to allow food trucks in residential districts through administrative approval. (See pp. 376-78 of proposed amendment.) Additional standards relating to health department licensing, inspection, and delineating the maximum number of days, number of trucks, location, and distance relative to residential properties should be included, to minimize impacts on neighborhoods.

## ACCESSORY STRUCTURE LIMITATIONS

The BCCA opposes the ZMOD 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 BCCA also opposes the proposed increase in the height of freestanding accessory structures on a residential lot to 25 feet, as excessive. (See p. 349 of proposed amendment.)

These changes are out of character with residential neighborhoods. Any such changes should require notice to the neighbors, and a case-by-case review with an opportunity for comment.

## RECOMMENDATIONS

The BCCA recommends that the Fairfax County Board of Supervisors and Fairfax County Planning Commission 1) halt further action on the current ZMOD proposal; and 2) require Fairfax County planning staff to start over, taking a clean-sheet approach devising revisions to existing county regulations – and to report back in two years. It is unreasonable to attempt to go forward with the existing proposal given: 1) its many defects; 2) failure to provide quantitative analysis of the impacts on residential and business areas; 3) the complexity of this 400-page document that relatively few residents comprehend; and 4) the COVID pandemic that has forced most residents to focus on day-to-day survival – and diverted their attention away from matters such as zoning issues.

Any revised plan put forth by Fairfax County must clearly identify the goals in making any change, and why it is necessary, and who benefits from the changes. Secondly, any proposed change should assess the impact on residential and business districts in terms of quality of life, traffic, potential for increasing crime, visual blight, deterioration of neighborhoods, potential for reducing property values, and environmental damage, including run-off, air pollution, rising temperatures in Fairfax County due to associated deforestation and increased paving of yards that creates larger heat sinks. All studies generated by consultants of behalf of the county should be subject to independent peer review panels that include homeowners, civic associations, local business owners, and planning experts.

The BCCA recommends that the Fairfax County Board of Supervisors establish and fund an independent commission to critically examine the collective impacts of past, present, and proposed changes on the character and viability of properties and neighborhoods zoned for detached single-family home residences. The commission is to provide a timeline of changes made to zoning over the past 20 years, and to assess whether these changes are undermining the attractiveness of Fairfax County’s single-family residential areas as a place to live, raise families, and educate children. This commission shall report its findings within 18 months of its first organizational meeting. The commission should identify steps that Fairfax County should take.

Sincerely,

Deborah Burk,

President, Broyhill Crest Community Association