

zMOD Disappointments, Issues, and Recommendations
Testimony before Fairfax County Board of Supervisors
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In Jan 2018, Board Chairman Sharon Bulova introduced zMOD at its first public meeting with clear assurance that, beyond revising the list of uses, the project would not make significant changes to ordinance regulations. Gratuitous changes, changes not necessary for restructuring and updating uses, would not be made. Three years later residents are battling to protect our neighborhoods from draconian gratuitous changes including one that would delete the current requirement that high-density developments should taper down in density and provide compatible screening where they interface with residential districts.

On 18 Jan, I submitted a 39-page paper to the Planning Commission and the Board arguing that gratuitous changes proposed in seven areas, without staff reports and without dedicated hearings, should not be adopted. Now we are engrossed in a single hearing, totally inadequate for addressing seven areas of changes, to see which will be discussed and which will simply slide by for lack of attention. So much for trust and due process.

In the case of ALUs and home businesses, zMOD would exclude residents from land use decisions affecting their neighborhoods. zMOD would even exclude residents from knowing about land use changes planned for the house next door. Today's transparent and inclusive special permit practices would be discarded and replaced with administrative permits approved exclusively by county staff who likely would know nothing whatsoever about the community.

In the case of home businesses, zMOD would expand the businesses allowed to the point that a homeowner would be permitted to sell handguns, ammunition, and extremist militia paraphernalia from her living room, with prospective customers, whatever their character, invited to stop by and sample the wares. Or, at any time of day, every day of the year, a homeowner would be allowed to recondition noisy, air-polluting, gasoline-powered lawn mowers in his 400 sq ft shed built on the property line or, perhaps, just 5 ft on the other side of the line. Unbelievably, zMOD identifies no business that would not be allowed in Fairfax County as a home business. At the same time, equally astonishing, zMOD jettisons our principal means for assuring that home businesses comply with zoning ordinance regulations, namely, zMOD abolishes the county's right to inspect home businesses during reasonable business hours

HRVCA is opposed to the following changes to regulations proposed by zMOD:

(1) ALUs by administrative permits: ALUs should not be allowed by administrative permit. HRVCA supports the Planning Commission's recommendation that special permits should be required for all ALUs.

(2) Home businesses with customers by administrative permits: Administrative permits are inadequate for home businesses allowed customers. Any home business that would bring

nonresidents into the neighborhood for any purpose should require a special permit. We support the Planning Commission's recommendation to require special permits for any business allowed customers.

(3) Unlimited range of home businesses allowed: The virtually unlimited range of home businesses allowed by zMOD encompasses any number that are clearly inappropriate for homes and neighborhoods. zMOD's proposals should be revised to provide one list of benign businesses that are allowed and second list of inappropriate businesses that are not allowed. The lists would provide guidance for county staff in issuing administrative permits to businesses not allowed customers and used by the BZA in approving permits for businesses allowed customers.

(4) County inspections: zMOD's proposes to jettison current requirements for both ALUs and home occupations to allow county inspections. County inspections together with special permits are principal means for adding flexibility to regulations for ALUs and home businesses. All ALUs and all home businesses should be required to allow county inspections.

(5) Equipment allowed for home businesses: The current limitation that mechanical and electrical equipment used by home occupations must be limited to that normally found in a home should not be dropped. All home businesses should be required to comply with this equipment limitation in order to protect neighbors from noise and air pollution.

(6) Enclosed freestanding accessory structures:

- The proposal to allow by right an indefinite number of enclosed structures with a combined floor area equal to 50% of the dwelling floor area should not be adopted. The structures allowed by right should be limited to one in number not to exceed 200 sq ft in floor area, the current standard. In order to provide flexibility not available in the current ordinance, a new regulation should be adopted whereby additional structures and floor area could be available by special permit.
- In addition, the proposal to allow, by right, structures up to 12-ft tall as close to the property line as 5 ft should not be adopted. Structures 12-ft tall likely would serve as workshops with the potential to expose neighbors to incessant activity and noise as well as peeping-Toms and light pollution from windows.

The zMOD ordinance-restructuring activity diminishes our record of collaboration between residents and the Board. We can do better. Hopefully, in the future we will.

Thank you.

Note: This testimony mentions superficially four issues, P district regulations re taper and screening at boundaries, ALUs, home businesses, and freestanding structures. The three issues in the Jan 18 paper not mentioned are food trucks, cluster subdivision open space, and CDR regulations.