

COMMUNITY ALERT

MAJOR PROPOSED ZONING CHANGES AFFECTING YOUR COMMUNITY

Without much warning and with little opportunity for public feedback, Fairfax County has launched a major initiative to "modernize" its Zoning Ordinance, first adopted in 1941, rewritten in 1959 and 1978. These are the most important zoning amendments in over 40 years, and will impact every Homeowner's Association throughout the county. The project, known as zMOD (Zoning Modernization), will rewrite the zoning regulations, impacting the character of local communities. In support, Barbara Byron, Director of the Department of Planning and Development, stated "We want to be sure that our ordinance is forward thinking in terms of being able to accommodate uses that we don't know about today that will be here in the future," Ms. Byron also stated that zMOD will work in tandem with the County's existing processes for or amending its zoning laws by prioritizing proposed changes of county-wide significance.

Fairfax County began this process with a report from Gartner Consultants (copy found here <https://www.fairfaxcounty.gov/landdevelopment/sites/landdevelopment/files/assets/documents/pdf/nvbia/fairfax-vision-and-recommendations.pdf>) which recommended "streamlining" and speeding up the housing approval process, among other important changes. Unfortunately, this "streamlining" effort may reduce or eliminate the critical opportunity for citizen input in development approval decisions affecting your community.

The Gartner report was followed by another outside study, by Clarion Consultants, to rewrite the zoning ordinance. Summarized in a 711 page report from Clarion, (copy found here: <https://www.fairfaxcounty.gov/planning-development/sites/planning-development/files/assets/documents/zmod/zmod-consolidated-draft.pdf>), Fairfax County will shortly conduct public hearings on major changes which local community associations may be unaware of, and have not had the opportunity to provide any meaningful input. These Associations are essential to quality of life in Fairfax County, and should have a chance to debate these changes.

So why are Sully District Council (SDC) and the Western Fairfax County Citizens Association (WFCCA) notifying the Homeowner Associations throughout Sully? Because these changes have not been adopted, and your community's engagement and participation in upcoming public hearings may affect the Planning Commission's (PC's) recommendation, and the Board of Supervisors' (BOS) decision.

We want to highlight some major zMOD changes that may significantly affect your Association. Other proposed changes are described in the zMOD materials, and more information on zMOD can be found at: <https://www.fairfaxcounty.gov/planning-development/zmod>. Your community may want to comment on these major changes.

Abolition of Public Hearings for Apartments in Single Family Homes (ALUs)

You may have read about a nationwide trend to increase the amount of housing in existing neighborhoods. In Fairfax County, zMOD proposes to abolish the current public hearing process, for "accessory" apartments in single family homes, and replace it with an administrative process, where simply a form is filled out and a fee paid. The current "Accessory Dwelling Units" would be renamed

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“Accessory Living Units” (ALUs). By abolishing the current public hearing requirement, so as to streamline the approval of “accessory” units, Fairfax County will be allowing a rental apartment to be administratively added in every single family home, eliminating any opportunity for neighbor objections. The current practice of a case by case review, with imposition of development conditions by the Board of Zoning Appeals (BZA) also would be abolished. Allowing these apartments in every single family home may affect your community’s appearance and character, parking availability, school crowding, and have other infrastructure impacts. This change would preclude neighbor comments on mitigation of impacts from a proposed accessory apartment in the neighborhood, even next door. This may be the single most important zMOD change affecting your quality of life.

Abolition of Age/Disability Restrictions on Accessory Unit Occupancy

The County also is considering abolition of the current occupant restrictions for houses with an approved accessory unit. Currently, either the house or the accessory apartment must be occupied by someone 55+ years in age, or persons with disabilities, which has limited their promulgation. Currently many of these units are occupied by elderly inlaws. Abolishing these criteria will allow younger tenants, probably with more cars, in all neighborhoods, irrespective of the current parking situation in your Association.

Size of Accessory Units

The county is also debating the size of these accessory units. The proposal would advertise a possible range of 500 – 1,200 square feet for units within a house. For detached accessory living units, with lots over 2 acres, the advertised range likely will be 700 to 1,500 square feet. Some citizens are concerned that depending on the size and appearance of the accessory unit, some houses may resemble duplexes, changing the character of the neighborhood. The ordinance change also may incentivize some teardowns and rebuilds, to replace older housing with new units, a house and “accessory” ALU unit, to maximize the income potential for a property, which also may affect neighborhood character and accelerate transition of stable neighborhoods.

Abolishing Other Public Hearings and/or Development Conditions

For “streamlining” purposes, many proposed amendments will abolish public hearings, and rely on “by right” or “administrative permits”

Home Based Businesses (HBB)

This proposed change also may impact single family dwellings, townhomes, and condominiums.

Home-based businesses that meet the proposed use standards may be approved by the Zoning Administrator and will not have a public hearing. The zMOD changes will authorize significantly more foot and vehicle traffic from outside your community. The proposed regulations will allow, in a single-family detached home, a maximum of four customers on-site at one time and up to eight in one day. For all other dwelling unit types, two customers would be allowed onsite at one time and up to eight in a day.

HBB changes also rewrite important prohibited usages, parking conditions, signage, and business size. Parking for many HOAs is already a problem. While zMOD will require the HBB to designate up to two

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parking spaces for customers, the enforcement remains largely unregulated by the county as a practical matter. Residents must complain to enforcement authorities before any action is taken; enforcement is “complaint driven” only. The “Personal and Business Services” use category continues to be prohibited, but an exemption has been added for the “repair of household items.” Also, the Retail Sales category has been added as a prohibited use category, but the “sale of items sold exclusively online or off-site” has been added as an exemption. The zMOD will also propose allowing outdoor signage for HBB, which may be unregulated currently by your Architectural Review Board standards. The proposed size, location, and style has not been decided. This proliferation of signs may cause your HOA to reevaluate with legal counsel its current signage allowances, and the impact of both zMOD and recent court decisions limiting regulation of signage.

Your Community’s Participation

So, what can your HOA do to protect its interests? We hope that you will get involved in the SDC and WFCCA, if you have not already done so. Second, please alert your residents to these pending changes, and let the BOS, PC, BZA and county staff hear your concerns, specifically that major changes such as zMOD need a more thorough vetting with the citizenry and the HOAs to protect our quality of life, compatible with the current and planned infrastructure. Third, demand that the citizenry be heard by providing fair and equitable opportunities to review and comment on each zMOD change and how it will impact the HOAs.

Although public hearing dates have not been announced, we need to be prepared. The push is on from the highest levels within the county to have public hearings with the Planning Commission this winter, and final Board of Supervisors review and enactment in March 2021 or shortly thereafter. Unfortunately, because of the Covid-19 virus, citizen awareness and input of these major changes has been exceedingly limited. There also may be an extensive public relations effort within the County to generate momentum for zMOD, notwithstanding the obvious impacts on neighborhoods. For HOAs and citizens to push back or modify these proposed zMOD amendments, we need to spread the word and educate the community, to engage the citizens in this important governmental decision.

How can your association get involved with other local associations? You have at least two options. Sully District Council (SDC) is an umbrella organization for community associations in all of Sully District. Its website is _____ . If you have questions, you can call _____ at _____ , or email _____ .

The Western Fairfax County Citizens Association (WFCCA) is another umbrella organization for communities in the western portion of Sully District, south of US Route 50 and east of the Loudoun County line. WFCCA’s website is _____ . If you have questions about WFCCA, you can call _____ at _____ , or email _____ .

SDC and WFCCA have a Joint Land Use Committee which meets monthly to review development applications and discuss issues of mutual concern. Your community’s participation is always welcome, especially at this critical time. Our communities’ combined voices may be essential to protecting our quality of life.

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- Deleted: **Accessory Dwelling Units and with a name change to “Accessory Living Units”** process will be streamlined to expand the supply of accessory units, expand the “missing middle” with duplexes and triplexes “compatible in scale” with single family houses, and tie it all together with zMOD, and more “innovative” development opportunities. However, for the BOS streamlining has come to mean that little citizen input is needed/ desired by abolishing public hearings during COVID and potentially making it a permanent solution. It may also mean eliminating development conditions handed down to developers thereby eliminating ‘roadblocks’ to progress. ¶ **Age and Disability.** May be removed at the discretion of the BOS for 55+ years in age or persons with disabilities giving [1]
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