

# Sully District Council of Citizens Associations



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## Joint Sully District Land Use and Transportation Committee Resolution on the ZMOD (Zoning Ordinance Modernization Project)

Approved on 18 January 2021

WHEREAS the Sully District Council of Citizens Associations (“SDCCA”) and West Fairfax County Citizens Association (“WFCCA”) Joint Sully District Land Use and Transportation Committee (the “Joint Committee”) strongly supports facilitation of citizen and neighborhood engagement in the land use and transportation approval process, the long-standing tradition of robust citizen participation in governmental public hearings before significant decisions, as well as the principles of governmental transparency and accountability; and

WHEREAS the Joint Committee recognizes that since 1982, Fairfax County has protected the Occoquan Downzoning, through its Comprehensive Plan and zoning ordinance, including the residential conservation [R-C] zoned areas, from impervious surface, site disturbance and other impacts of development, to protect water quality for the Occoquan Reservoir and the environment in the watershed, and historic and cultural resources; and

WHEREAS both SDCCA and WFCCA recognize the paramount importance of the protection of the Occoquan Watershed and upholding Fairfax County’s environmental policies, as expressed in the adopted Fairfax County Comprehensive Plan, including tree save; and

WHEREAS the Sully District includes both residential conservation [R-C] and residential estate [R-E] zoned areas; and the WFCCA includes many member communities and individual residents within the R-C zoning district, and nearby, in the western corner of Fairfax County; and

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WHEREAS both SDCCA and WFCCA have long supported 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 and tree cover; and

WHEREAS 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; and

WHEREAS the Joint Committee has carefully reviewed the ZMOD proposal on multiple occasions, including discussions with County staff, and now wishes to communicate its position on certain aspects of ZMOD to the decisionmakers;

WHEREAS the Joint Committee wishes to communicate its position on certain aspects of ZMOD to the decisionmakers;

NOW, THEREFORE

**I. PROCESS:**

A. BE IT RESOLVED that the Joint Committee **opposes the Fairfax County Board of Supervisors proceeding forward with adoption of ZMOD** during the Covid-19 emergency, when civic associations are less able to participate, and without public, fair and open discussions with citizens regarding the likely impacts to county residents, and without adherence to procedures incorporating full transparency and accountability for all county actions regarding ZMOD, **including real time face to face public hearings.**

B. BE IT FURTHER RESOLVED that the Joint Committee **opposes any action by the Fairfax County Board of Supervisors that fails to protect residential neighborhoods** from development impacts proposed by ZMOD, consistent with the objectives of the

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adopted Comprehensive Plan, including negative impacts on neighborhood traffic, congestion, excessive noise, environmental impacts, and other detrimental effects.

C BE IT FURTHER RESOLVED that the Joint Committee **opposes any action by the Fairfax County Board of Supervisors which fails to protect the Occoquan Watershed, including the aquifer and residential wells** used for drinking water, or fails to protect the natural communities, including flora and fauna, threatened species, and contiguous wildlife habitat.

**II RESPONSE TO PROPOSED ZMOD PROVISIONS:**

**A. ACCESSORY APARTMENTS/ACCESSORY LIVING UNITS (ALUs)**

1. BE IT FURTHER RESOLVED that the Joint Committee **opposes the ZMOD option to abolish the public hearing process for accessory apartments (ALUs) in single family dwelling** (See p. 355). The Joint Committee **supports the option to retain the current public hearing process**. Citizens 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 from those uses, through development conditions and suggested modifications to any application. The abolition of public hearings with a streamlined process short-circuits citizen engagement.

2. BE IT FURTHER RESOLVED that the Joint Committee **opposes the ZMOD option to abolish the over 55/disabled criteria for accessory apartments (ALUs) in single family dwellings** (See p. 356). Opening up the accessory apartments to all tenants on all single family lots creates a de facto increase in density and generates unmanageable impacts on parking and infrastructure. The resulting increase in effective density is inconsistent with long standing objectives of the Comprehensive Plan to respect and protect stable residential

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neighborhoods. The Joint Committee ***supports the option to retain the over 55/disabled criteria.***

3. BE IT FURTHER RESOLVED that the Joint Committee ***opposes the option that would allow the maximum size limitation of an accessory apartment to be exceeded if the accessory apartment (ALU) is proposed to fully utilize the floor area in a basement or cellar*** (See p. 356.) Basements or cellars with separate entrances effectively create stacked duplex dwelling units. Teardowns with new larger ALUs on the lower level might be designed to take advantage of this loophole, changing the character of stable single-family neighborhoods.

***B. EXPANSION OF HOME BUSINESSES***

1. BE IT FURTHER RESOLVED that the Joint Committee ***opposes the ZMOD proposal to abolish the public hearing process for home businesses such as beauty parlors and barbershops*** (See p. 363). The Joint Committee also ***opposes allowing those uses in homes served by well water and septic drain fields.*** The Joint Committee again requests the Board of Supervisors to direct staff to study the potential environmental impacts on private wells, water quality and the food chain from allowing contaminants of emerging concern (CECs) from nonresidential uses on septic, to be released into the groundwater, without mitigation. Staff has not identified 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.

2. BE IT FURTHER RESOLVED that the Joint Committee ***opposes the ZMOD proposal to allow up to two home businesses on every single-family lot, including beauty parlors, barbershops, tailoring, repair shops, online sales, home food production, and other uses.*** Combined with the abolition of the protections regarding accessory apartments, this additional commercialization and

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intensification changes the character of single-family residential neighborhoods, and the additional traffic and commotion creates unmitigated impacts and annoyance for adjacent neighbors.

3. BE IT FURTHER RESOLVED that the Joint Committee **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 single-family lot, including online sales and home food production.** The 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.

4. BE IT FURTHER RESOLVED that the Joint Committee **opposes the proposal to allow home-based businesses to obtain administrative permits for “special events” of up to 21 days** (See pp. 383-84). 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, should be essential, before “special events” are authorized in a home business.

**C. ENFORCEMENT**

1. BE IT FURTHER RESOLVED that the Joint Committee **opposes the unrealistic and unenforceable caps on both the occupancy of accessory apartments** (See p. 356), **and numbers of customers visiting the home businesses** (See p. 364-65). Absent additional recordkeeping and monitoring, and proactive inspections, the suggested caps must rely on the honor system, and are insufficient to protect the neighbors.

2. BE IT FURTHER RESOLVED that the Joint Committee **opposes an enforcement methodology with principal reliance on citizen monitoring and complaints for apartment occupancy or home**

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***business customer limitations proposed with ZMOD***, rather than relying on Fairfax County professional inspectors for enforcement of essential zoning ordinance criteria, as an alternative to adoption of readily enforceable objective standards.

***D. SIGNAGE***

BE IT FURTHER RESOLVED that the Joint Committee requests that ***the signage for home businesses on single family lots be minimized*** (See p. 536). The proposed 12-square-foot limitation, coupled with the multiple yard signs allowed on any single-family lot for the home businesses, will cause visual clutter and detract from the residential character of single-family neighborhoods.

***E. FOOD TRUCKS***

BE IT FURTHER RESOLVED that the Joint Committee ***opposes the proposal to allow food trucks in residential districts through administrative approval*** (See pp. 376-78). Additional standards for maximum number of days, number of trucks, location and distance relative to residential properties should be included, to minimize impacts on neighborhoods.

***F. ACCESSORY STRUCTURE LIMITATIONS***

BE IT FURTHER RESOLVED that the Joint Committee ***opposes the 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 Joint Committee also ***opposes the proposed increase in the height of freestanding accessory structures on a residential lot to 25 feet, as excessive*** (See p. 349). These changes are out of character with residential neighborhoods, and any such changes should require notice to the neighbors, and a case-by- case review with an opportunity for comment.

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**III. COMMUNICATION:**

A. BE IT FURTHER RESOLVED that this resolution 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).

This resolution was approved by the Joint Committee at its 18 January 2021 meeting:

Approved by:

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Distribution:

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WFCCA Members

Note that this document is posted at

[http://www.sullydistrict.org/resolutions/20210118\\_JSDFLU&TCResolutionZMOD.pdf](http://www.sullydistrict.org/resolutions/20210118_JSDFLU&TCResolutionZMOD.pdf)