



Connecting Communities in Mason District

# zMOD Issues & Proposed Community Response

## MDC Spring Meeting

4 March 2021

# What is zMOD?

- Board of Supervisor's initiative to restructure the zoning ordinance:
  - Reorganize ordinance after 40 years of piecemeal amendments
  - Improve clarity with graphics, tables, charts, & plain language
  - Revise the list of 'land uses' to produce a new table of uses
- 24 Jan 2018: zMOD public kickoff meeting at Government Center
- 30 Jun 2020: First consolidated draft of new ordinance (743 pages)
- Problem: Restructuring led to gratuitous changes to regulations:
  - Home-based businesses                      Open space in cluster subdivisions
  - Accessory living units                      High-density regs at R-district boundaries
  - Accessory structures in R-districts      Building heights in high-density developments
  - Food trucks in R-districts
- More specifics in paper available at [holmesrun.org](https://holmesrun.org) attached to 1/18/2021 blog article "Comments zMOD Nov Draft."

# Concerns re the Gratuitous Regulation Changes

- The apparent end objective of the Board Of Supervisors (BoS) is to liberalize the zoning ordinance, in particular, to demonstrate that they will liberalize the ordinance, i.e.:
- The changes are a clear effort to exclude residents from participation in decision making regarding land use in their neighborhoods.
  - Example: Admin permits in lieu of special permits.
- The changes substantially relax limits on land uses allowed in R-districts.
  - Example: Nearly unlimited range of home businesses would be allowed.
- The changes reduce means for monitoring and controlling zoning ordinance violations.
  - Example: Deleted requirements for home businesses to allow county inspections.
- The changes rely upon unenforceable limitations as means for protecting communities.
  - Example: Limit business activities by limiting the number of customers.
- The changes have not been justified in terms of expected benefits for residents.
- **Is zMOD a prelude to future heavy-handed, exclusionary BoS initiatives?**

# Principal Issue: Admin. Permits Replace Special Permits

- Special permits engage neighborhoods in land use decision making:
  - Notification: Neighbors are notified of a proposed use by mail and sign boards.
  - Staff report: A staff report is published detailing the proposal and the risks.
  - Development Conditions: Staff report also proposes “development conditions” (DCs) to assure that the land use will be compatible with character of the neighborhood.
  - BZA hearing: A hearing before the Board of Zoning Appeals is scheduled and advertised.
  - Resident Participation: Residents are invited to submit comments and testify before the BZA.
  - BZA Decision: BZA decides whether to allow the use and the final development conditions.
  - Special permit process provides transparency and engages neighbors in decision making.
- Administrative permits exclude neighbors:
  - Application: Applicant fills out an application.
  - Staff Decision: If application meets zoning ordinance requirements, staff issues the permit.
  - Not a word to neighbors!
  - Admin. process excludes neighbors from knowledge of the proposal and from participating in decision making.

# Accessory Living Units (ALUs) (Interior and Standalone)

- Concerns:
  - Double density development of neighborhoods overwhelming infrastructure
  - Second kitchens would encourage conversion into a “boarding houses”
- Current regulations (Accessory Dwelling Units):
  - Maximum of 2 people, dwelling must be owner occupied
  - One unit occupied by person with disability or 55+
  - Special permit required
  - Owner must allow county inspection upon prior notice
- zMOD proposal:
  - Maximum of 2 people, dwelling must be owner occupied (same as above)
  - Drop the disability/age requirement (option)
  - Drop special permit requirement (require only administrative permits)
  - Drop the county inspection requirement

# Interior ALUs: Proposed Community Response

- Results of 3 March Planning Commission Meeting:
  - PC recommended that BoS retain the special permit requirement
  - Agreed with deletion of disability/age requirement
- Proposed community response to BoS:
  - BoS should retain the current special permit requirement (support PC)
  - BoS should retain the current county inspection requirement
    - Principal constraint on ability of Department of Code Compliance to enforce the zoning ordinance is they are not allowed to enter properties without owners' permission.



# HBBs: Home-Based Businesses (2 of 2)

- zMOD Proposal:
  - All home businesses would be allowed by administrative permit
  - Special permits required only for additional employees, etc.
  - Extremely broad range of businesses would be allowed:
    - Retail sales of anything legal to sell in Virginia (sales and delivery offsite or online only)
    - Manufacture anything legal to make (sales and delivery offsite or online delivery only)
    - Any business arguably related to health and exercise (e.g., massage)
    - No business is listed as not allowed
  - Optional range of customers:
    - 4 at a time/8 per day, 2 at a time/6 per day, and none.
  - No requirement for businesses to allow county inspections
  - No limitation on equipment used by the business

# HBBs: Proposed Community Response

- Results of 3 March Planning Commission Meeting:
  - Recommendation that BoS require any home business allowed customers to have a special permit (except small schools allowed 4 students, 8 per day)
- Proposed community response to BoS:
  - BoS should require any HBB allowed customers to have special permit (support PC)
  - BoS should limit the range of businesses allowed to preclude those obviously incompatible with homes and neighborhoods
    - E.G., sales and/or reconditioning of firearms, massage.
  - BoS should retain the current county inspection requirement
  - BoS should place a limit on the equipment and (hazardous) materials that can be used by home businesses
- Note: Limits on customers are not enforceable.

# Enclosed Freestanding Accessory Structures (e.g., detached garages, workshops, & storage sheds)

- Concerns:
  - Ugly structures crowding the property line
  - Privacy - neighbors watching you thru workshop windows
  - Noise, light, and air pollution & relentless activity
- Current regulations:
  - One structure limited in area to 200 sq ft
  - If less than 8.5 ft tall:
    - May be constructed on property line
    - May occupy 30% of rear setback and 100% of side setbacks
  - No permit is required
- zMOD proposal:
  - Any number of structures with floor area up to 50% of the dwelling floor area
  - If less than 8.5 ft tall – same as above
  - If less than 12 ft tall, may be as close as 5 ft to property line
  - No permit except building permit would be required if floor area exceeds 225 sq ft.

# Freestanding Structures: Proposed Community Response

- Planning Commission did not address freestanding structures in their 3 March meeting.
- Proposed community response to BoS:
  - BoS should limit enclosed freestanding accessory structures allowed without permits to one structure not exceeding 200 sq ft in area, the current limit.
  - BoS should allow additional structures and increased floor area by special permit.
  - BoS should not adopt the zMOD proposal to allow structures up to 12 ft tall to be constructed as close to the property line as 5 ft.

# Conclusion

- The BoS hearing on zMOD is scheduled for Tuesday, 9 March.
- Please email comments to BoS in your own words no later than Sunday re. any of the following concerns:
  - Interior ALUs:
    - Retain current requirement for special permits (per PC)
    - Retain current requirement to allow county inspections
  - Home-Based Businesses:
    - Special permits should be required for HBBs allowed customers (per PC)
    - Limit businesses allowed to preclude those incompatible with homes and neighborhoods
    - Retain the current requirement to allow county inspections
    - Limit equipment and hazardous materials allowed
  - Enclosed freestanding accessory structures:
    - Limit structures allowed without permits to one in number and 200 sq ft in area
    - Allow additional structures and floor area by special permit
    - Do not adopt zMOD proposal to allow 12 ft structure as close as 5 ft to property line.
- These slides are available on line at <https://holmesrun.org/2021/03/04/zmod-slides>.
- For comments or questions, please email Clyde Miller at [cmiller1017@verizon.net](mailto:cmiller1017@verizon.net).