

January 26, 2021
Fairfax County Planning Commission
12000 Government Center Parkway
Suite 552
Fairfax, VA 22035

RE: Adopted Resolution on Zoning Ordinance Modernization Project (zMOD)

Dear Planning Commissioners:

The Reston Association (RA) Board of Directors passed the attached resolution at its Jan. 21, 2021 special meeting. The RA board and staff have been following the zMOD process, with the most recent review based on the draft released Nov. 24, 2020. We believe there is significant impact to our covenanted land and use, the RA members, the Reston community, and the underlying Planned Residential Community zoning district.

The RA board is primarily concerned with changes regarding Accessory Living Units (ALUs) and home-based businesses, particularly abolishing the ability for neighbors to be notified and provide input on applications that will impact their quality of lives. Providing administrative-only review and approval will create conflicts not only between neighbors but also for the applicants, as ALUs and home-based businesses may require exterior changes subject to the RA design covenants. In addition, the potential nuisances created by home-based business customers and deliveries may also create unneeded conflicts that are covered within RA's use and maintenance covenants.

We also submit for your consideration a statement from RA's Design Review Board (DRB) which is independently responsible for the approval of external changes and improvements to structures under the purview of RA. Association members expect the DRB to minimize impacts to them or their neighborhoods by carefully evaluating exterior property changes, including parking and signage.

Reston Association has coordinated with other Reston-based community organizations to deliver our collective testimonies in a video-format for the upcoming Planning Commission's Jan. 28th public hearing. While supporting a "One Reston" community of partners and interests, RA has a further legal responsibility by our deed to represent the interests of our members. You will hear our very specific concerns voiced in the RA segment of the group video stream.

RA submits that the recent *Money* magazine article, in ranking Reston as the top community in which to work from home, recognizes the keen balance of uses, amenities and regulations that keeps Reston's neighborhoods thriving (reference: <https://money.com/best-place-to-work-from-home/>).

RA will continue to monitor and review zMOD revisions throughout the coming weeks and will be submitting testimony as well at the future Fairfax County Board of Supervisors' meeting.

Sincerely,

A handwritten signature in black ink that reads "Julie Bitzer". The signature is written in a cursive, flowing style.

Julie Bitzer, President
Reston Association

Attachments:

1. Reston Association's January 21, 2021 Board Approved Resolution on zMOD
2. Statement from Reston Association Design Review Board on zMOD
3. Reston Association's Testimony for January 28, 2021 Planning Commission Hearing

Cc: Board of Supervisors

RA Board of Directors

Hank Lynch, CEO, Reston Association

Larry Butler, COO, Reston Association

Bryan Hill, County Executive, Fairfax County

Rachel Flynn, Deputy County Executive, Fairfax County

Barbara Byron, Director, Department of Planning and Development, Fairfax County

Leslie Johnson, Zoning Administrator, Fairfax County

Reston Association Resolution on the Fairfax County

Zoning Ordinance Modernization Project

WHEREAS Section III.2(a) of the First Amendment to the Deed of Amendment to the Deeds of Dedication of Reston (“Amended Reston Deed”) delineates that it is the purpose of the Association to interpret, administer, and enforce the protective covenants and restrictions of the Deed in such a manner as to conserve, protect, and enhance the value of all real property subject to the Deed; and

WHEREAS Amended Reston Deed Section III.2(d) delineates that it is also the purpose of the Association to promote the peace, health, comfort, safety and general welfare of the members: and

WHEREAS the Fairfax County (“the County”) Board of Supervisors has authorized the advertisement of the initial phase of revising 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 Board of Supervisors; and

WHEREAS the latest draft of zMOD issued on November 24, 2020, is 741 pages long, without a redline version or charts to facilitate identification of the changes from the current Fairfax County Zoning Ordinance; and

WHEREAS the 2020 COVID crisis has made it very difficult for County residents and organizations to physically assemble before the BOS to express concerns about zMOD; and

WHEREAS Reston is the largest of the three Planned Residential Community (PRC) zoning districts in Fairfax County, representing the interests of over 58,000 residents, and sharing the PRC designation solely with Burke Centre and Cardinal Forest; and

WHEREAS PRC zoned areas are carefully planned and regulated with respect to uses, density/intensity, adequacy of infrastructure, and the cumulative impacts of these factors on the lives of member residents; and

WHEREAS the County has delayed any changes to PRC zoning districts until a later phase of zMOD amendments, thus impeding RA’s assessment of impact of the initial phase of zMOD on the PRC; and

WHEREAS the RA Board has heard from many of its members regarding concerns with zMOD and its potential impacts on the greater Reston community, established neighborhoods and the lives of individuals: and

WHEREAS the Reston Association (RA) completed its first review of the zMOD proposal and expressed its immediate concerns to its district County supervisor and to County staff on November 25, 2020;¹ and

WHEREAS RA now urgently conveys herewith its positions on certain aspects of zMOD to the Planning Commission, Board of Supervisors, and County staff;

NOW THEREFORE BE IT RESOLVED that Reston Association urges the Fairfax County Planning Commission and the Fairfax County Board of Supervisors to take the necessary time to fully consider the proposed zMOD text and address the concerns expressed in this resolution and other citizen considerations from throughout the County; and

BE IT FURTHER RESOLVED that RA opposes the proposed ordinance change to abolish the public hearing process for accessory living units (ALUs) that meet newly proposed standards to be located within single family detached dwellings, thereby curtailing the ability of RA and affected neighbors to receive notice and to offer comment on the suitability of a particular ALU location; and

BE IT FURTHER RESOLVED THAT RA supports zMOD's proposed change that existing and anticipated easements be shown on development plans, final development plans, PRC plans, special exceptions, special permits, and variance applications; namely, that all existing and proposed utility easements must be shown regardless of width, thus helping to ensure that entitlement plans are more accurate and to reduce conflicts in later site plans between landscaping, streetscapes and utilities; and

BE IT FURTHER RESOLVED that RA opposes the proposed ordinance change to remove the age (55-and-over) and disability requirements for accessory living units (ALUs), since permitting ALUs to all tenants can create excessive density with negative impacts on parking and infrastructure; and since, specifically in PRC-zoned districts, the resulting increase in effective density is inconsistent with long standing recommendations of the Comprehensive Plan and PRC regulations, which combine to incorporate a maximum population threshold of 13 persons per acre; and

BE IT FURTHER RESOLVED that RA opposes the option that would allow the maximum size-limitation of an ALU to be exceeded if the total gross floor area of the basement or cellar, excluding areas for HVAC, is to be fully utilized, since this could effectively double the occupancy within the footprint of the single family detached dwelling and since the addition of multiple ALUs in a single family detached

¹ Reston Association has since learned of Fairfax County Zoning Administrator Leslie Johnson's January 19, 2021, notice of further proposed amendments to the November 24, 2020, version of zMOD. Based on a cursory review of that notice, the Association has commented in this present Resolution on one new proposed amendment to Article 9 ("Definitions") of zMOD, specifically on the definition of "Home-Based Business." The Association reserves its rights to offer further comment after more careful analysis of the January 19, 2021, changes.

neighborhood could have negative traffic and infrastructure impacts; and

BE IT FURTHER RESOLVED that Reston Association opposes the proposed January 19, 2021, amendment to Article 9's definition of "Home-Based-Business" that would eliminate the requirement that such business be operated by a resident of the dwelling unit in which the business is conducted;

BE IT FURTHER RESOLVED that RA opposes the zMOD proposal to abolish the public hearing process for home-based businesses such as beauty salons and barbershops and to allow these uses to be served by well water and septic drain fields; and

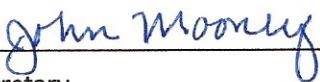
BE IT FURTHER RESOLVED that RA opposes the zMOD proposal that does not set limits, for any single-family dwelling, on the total number of permitted home-based businesses and other residentially-oriented uses like a home day care facility. Combined with the abolition of existing protections regarding ALUs, this additional commercialization and intensification changes the character of single-family residential neighborhoods and creates conflicts with PRC communities' administration of recorded covenants; and

BE IT FURTHER RESOLVED that RA opposes the zMOD proposal to allow unlimited delivery traffic, with no limitation on the frequency of trips or weight of delivery vehicles , for home-based businesses, including online sales and home food production; and

BE IT FURTHER RESOLVED that RA opposes, as inadequate and unenforceable, the proposed caps on both the occupancy of ALUs, and the number of customers or clients visiting the home-based businesses; and

BE IT FURTHER RESOLVED that, when the zMOD process eventually takes up the question of the Planned Residential Community (PRC) zoning district used in Burke Center, Cardinal Forest and Reston, the close coordination and legal connection between the PRC zoning district regulations and the Fairfax County Comprehensive Plan is continued, re-affirmed, and strengthened.

ATTEST: This Resolution was adopted at a Special Meeting of the Reston Association's Board of Directors held on January 21, 2021.



Secretary

January 26, 2021

Fairfax County Planning Commission
12000 Government Center Parkway
Suite 552
Fairfax, VA 22035

RE: Zoning Ordinance Modernization Project (zMOD)

Dear Members of the Planning Commission:

The Reston Association Design Review Board (DRB) is an independent body of the Reston Association (RA), responsible for administering the design covenants and guidelines for the majority of Reston. The DRB is composed of six professional members (Architects, Landscape Architects and/or Land Planners) and three lay members. All members of the DRB are residents of Reston. Because we are independent from the RA Board of Directors the DRB has reviewed the resolution passed by the RA Board regarding many aspects of the draft Zoning Ordinance.

While we understand the general need for a new and modernized zoning ordinance, several aspects will create problems in our administration of RA's design covenants and guidelines, and create unnecessary hardship for our members, and your citizens. Such aspects include, but are not limited to, exterior alterations, additional on-site parking requirements and signs. Additionally, we strongly believe that removing the public hearing process for some Accessory Living Units (ALUs) and Home-Based Businesses will create conflicts between neighbors as the current ordinance provides for notice and hearing on such matters.

From a design perspective, exterior modifications related to ALUs or home-based businesses may be required that necessitate DRB review and approval. Without a notification process between the County and RA (or other HOAs) there will likely be citizens who believe they have met all the requirements once approved by the County, only to find their exterior alterations may not be approved. This will unduly burden the homeowners and unnecessarily create conflict between them and RA. This can be prevented through a two-way notification process between Fairfax County and RA staff.

We implore the Planning Commission, and Board of Supervisors to keep the public hearing and notification process in place, even if only in the three Planned Residential Community districts in Fairfax County.

Sincerely,
Michael Wood
Chair, Reston Association Design Review Board


Michael Wood (Jan 25, 2021 17:01 EST)

Email: Michael@spandrelpm.com
Cc: Board of Supervisors

**Testimony of Reston Association's COO Larry Butler
for the Fairfax County Planning Commission's Public Hearing of January 28, 2021,
Concerning the Proposed zMOD Amendments to the Fairfax County Zoning Ordinance**

Mr. Chairman and Planning Commission members, I am Larry Butler, Chief Operating Officer of Reston Association, a community of 58,000 residents. I was authorized by the association's Board of Directors at its Jan. 21 special meeting to present the following comments on the proposed zMOD amendments to the Fairfax County Zoning Ordinance.

Reston Association has already submitted to you the board's Jan. 21 resolution on this matter, which I request be made part of the record of your public hearing today.

I will speak this evening about two sets of concerns. The first is a quick listing of the association's main concerns about the proposed zMOD ordinance amendment's impact on Fairfax County as a whole. The second, and main focus of my testimony, concerns zMOD's impact specifically on Reston Association, especially on its PRC zoning ordinance and on its identity as a covenanted community.

zMOD's County-Wide Impacts. The following are our main county-wide concerns about zMOD and the zMOD process thus far:

- We urge the Planning Commission and the Board of Supervisors to take **all the time necessary to carefully consider the Fairfax community's many concerns about zMOD**. zMOD's length and total reconfiguration of the zoning ordinance, as well as COVID-19's restriction of the community's ability to physically assemble with county officials, have made a full discussion of zMOD's changes very difficult.
- We support the proposed requirement that all **easements**, regardless of width, be shown on all official plans. This would reduce conflicts between those easements and landscaping, streetscapes and utilities.
- We are concerned about proposed new rules governing **Accessory Living Units**, or ALUs. The proposed abolition of the public hearing process for some ALUs would make it difficult for neighbors to register their concerns about ALUs. The removal of the current age (55-and-older) and disability requirements for such living units risks commercializing established residential neighborhoods and, in tandem with the proposed expanded allowance for basement ALUs, also risks densifying those neighborhoods beyond their carrying capacity. I will address later additional impacts specifically on Reston Association properties.
- We are concerned about the relaxation of a number of regulations concerning **home-based businesses**. For **home-based businesses generally**, the proposed lack of limits both on the number of HBBs in single-family dwellings and also on the frequency of delivery trips or the weight of delivery vehicles to such businesses could commercialize single-family neighborhoods. The proposed blanket exemption from public hearings for **home-based business such as barber shops and beauty salons**, together with the permitted reliance of such businesses on well water and septic tanks, can have negative impacts on established neighborhoods.
- Finally, it is far from clear how the county would be able to reliably track and enforce approval conditions on the increased number of newly permitted ALUs and home-based-businesses.

zMOD's Special Impacts on PRC Zoning Districts Generally and on Reston Association Specifically. There are only three PRC-zoned districts in Fairfax County — Burke Center, Cardinal Forest and Reston. Besides sharing the potentially negative **county-wide** impacts of zMOD just mentioned, the zMOD exposes these three PRC communities to specific dangers. I will frame our concerns solely from the Reston Association viewpoint, representing over 58,000 residents in the first and largest PRC district in Fairfax County. In 1962, the county courageously adopted what we now call the Planned Residential Community ordinance based on what was then a fairly recent zoning innovation in the United States. Reston Association could not have been built without that ordinance, nor can Reston Association's integrity survive without its preservation. Reston's unique harmony of

land uses — residential, commercial, open space, trails, amenities, etc.— has continued to attract residents and businesses and made Reston a major tax-income generator for Fairfax County.

Thus, an overarching concern of Reston Association about the proposed zMOD amendments is their impact on the PRC ordinance and on Reston’s identity as a common-interest community, the two foundations of Reston’s success. Reston is not just a place – some over-sized subdivision. It is a covenanted community, with covenants both legal and social that maintain its attractiveness. The association’s concerns about zMOD’s impacts are both longer-term and immediate.

- **Longer-Term Concern on PRC Zoning.** It is reported that issues concerning the PRC zoning districts will be taken up only in a later phase of zMOD. Reston Association urgently asserts that, when that discussion occurs, *the close coordination and legal connection between the PRC zoning district regulations and the Fairfax County Comprehensive Plan must be protected, re-affirmed and strengthened.*

The county’s current zoning ordinance established a special connection, unique in that ordinance, between “Planned Districts” (especially Planned Residential Districts) and the Fairfax County Comprehensive Plan. The normal “guidance” of the plan is invested with the authority of the ordinance itself. In the words of Article 16-101.1 of the current Zoning Ordinance: “The planned development shall substantially conform to the adopted comprehensive plan with respect to type, character, intensity of use, and public facilities.”

- **Immediate Concerns on PRC Zoning and Covenants.** Reston has two immediate concerns on the Reston-specific impacts of zMOD, one regarding the PRC ordinance and the other regarding Reston Association covenants. 1) Nothing in the current phase of zMOD should directly or indirectly weaken the connection between the Comprehensive Plan and the PRC ordinance as discussed above. 2) zMOD’s proposed changes regarding ALUs and home-based-business create a number of grave concerns for covenanted communities. Again, the county-wide concerns would also apply to PRC districts like Reston. However, the proposed “merely administrative approval” of applications would also inevitably create serious conflicts with Reston Association’s right and responsibility to enforce property-use and property-maintenance covenants. Without notification to the association of such applications and its right to comment on them, protection of covenants would depend entirely on applicants’ knowledge and honesty about covenant requirements or Reston Association’s early detection of violations of those requirements.

Thank you for the opportunity to address you tonight. I would be very happy to answer any questions the Planning Commission may have.