

**Critical Issues with zMOD's 2019 Signs Ordinance**

Paper Submitted to Fairfax County Planning Commission & Board of Supervisors<sup>1</sup>

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<sup>1</sup> This paper is available on line at <https://holmesrun.org/2020/07/02/zmod-signs/>

## 1. Introduction

This paper raises a number of critical issues related to the current signs ordinance, zMOD's 2019 ordinance. The issues all are related to sign regulations for residential districts (R districts).

The perspective is that of a resident of a home in a typical R-1 through R-8 neighborhood. Basically, two questions:

- To what degree would signs be compatible with the residential character of the neighborhood and not damage property values?
- To what degree would residents have an opportunity to influence the design and placement of signs?

The zMOD Program is in two parts. The more visible part is reorganization of the zoning ordinance, which is expected to finish within the next few months. The second part is a process for expediting zoning ordinance amendments, which is expected to continue indefinitely. The 2019 signs ordinance is the first product of the expedited amendment process. One objective of reading the new ordinance was to gain a sense of what to expect in future expedited zMOD amendments.

## 2. Conclusion

Signs are allowed in R districts in association with two land uses:

- Residential use, which includes household living and uses accessory to household living such as home-based business and short-term lodging; and
- Non-residential use, which includes a long list of possibilities, including child care, private schools, and places of worship.

In the previous signs ordinance, a non-residential use in a single-family detached dwelling was allowed a 6 sq ft sign no taller than 4 ft with white-light illumination. Colored-light illumination was not allowed. In the current ordinance, the same use is allowed 114 sf of signage, an increase of 1800%. Of the 114 sf, 20 sf may be an electronic display with the technicolor message changing every 8 seconds. Colored-light illumination is allowed.

Almost as terrifying as the increase in signage is the fact that zMOD's staff report for the 2019 ordinance made no mention whatsoever of the increase, not a word.<sup>2</sup> Apparently, with zMOD's expedited amendments, transparency in staff reports is off the table.

The county should rescind the current ordinance, reinstate the previous regulations, and produce a new signs ordinance as soon as reasonably possible.

zMOD's 2019 amendment of Article 12 (the signs ordinance) adopted a single, one-size-fits-all standard for signs for non-residential uses in R districts. The standard allows an unconstrained 114 sf of signage and it applies to all non-residential uses in all locations under all circumstances in all R districts.<sup>3</sup>

The 114-sf standard threatens R districts with a flood of incompatible signs. In what may be an unintended consequence of the ordinance, existing non-residential uses now have the right to

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<sup>2</sup> The staff report proposed signs of various areas and heights. It did not tell readers that these sizes were many times the sizes of signs then permitted.

<sup>3</sup> Abbreviations are defined in Section 10 at the end of the paper.

implement signs to the full extent of the 114-sf standard. No permit is required other than the standard sign permit to which the uses are entitled under the ordinance. One church in Falls Church has taken advantage of the ordinance to expand its sign display to the detriment of residents of low-income apartments across the street. (Section 7.1)

### **3. Reader's Guide**

Section 5 discusses regulations for residential uses. Section 5.3 summarizes the differences between the current and previous standards. Similarly, Section 6 discusses regulations for non-residential uses with Section 6.3 providing a summary of differences. The major issue with the enormity of signage allowed by the current ordinance is discussed in Sections 7.1 and 7.5

The best guide to the remainder of the paper is the table of contents.

### **4. Background**

On 19 Mar 2019, the Board of Supervisors (*Board*) adopted a zoning ordinance amendment that produced the current signs ordinance. The primary purpose of the amendment was to delete regulations that were based on the contents of messages displayed on signs and to replace those regulations with content-neutral standards. A 2014 U.S. Supreme Court decision, *Reed v Town of Gilbert* (*Reed*), ruled that sign regulations based on content are unconstitutional. For example, the county cannot restrict signs in front of office buildings to only listing the names of companies occupying the buildings. The county can limit the size and locations of signs but not the content.

While amending the ordinance in response to *Reed*, staff intended to streamline the document and establish "uniform" regulations. The crux of the issues raised in this paper is the determination to establish a one-size-fits-all, uniform sign standard for all non-residential uses in R districts.

A second purpose of the amendment was to establish standards for electronic displays. The previous signs ordinance made no explicit allowance for such signs. In the 2012 time frame, the county had allowed them under the condition that the display did not change more frequently than once a day. But then they allowed exceptions to the one-per-day rule for a number of sites at the same time trying to enforce the rule with a church in Vienna. The church took the county to court under the Religious Land Use and Institutionalized Persons Act, which prohibits zoning rules that place undue burdens on religious institutions. The church won. The county took the 2019 signs amendment as an opportunity to establish formal regulations for electronic displays.

### **5. Signs Allowed in R Districts for Residential Uses**

The sign regulations for residential uses govern both signs allowed for household living (residents living in their homes) and for accessory uses of lots zoned residential. The zMOD Use Regulations (Ref 4) lists 12 accessory uses proposed to be allowed by right or by administrative permit in residential districts including:

- Home-based business
- Short-term lodging
- Home day care
- Accessory dwelling units
- Keeping of animals

The 12 accessory uses are entitled to signs in accordance with regulations for residential uses.

### **5.1. Regulations for Residential Uses in Previous Ordinance**

Signs for residential uses in the previous ordinance were temporary signs per Sect. 12-103.3, which listed a number of specific circumstances warranting signs, including:

- Political campaigns
- Civic fund-raising campaigns and events
- Real estate sales and rentals
- Construction and alteration of residences
- Seasonal product sales (pumpkins, etc.)

No permit was required for a temporary sign and, in every case, a time duration was specified for display, for example, 14 days for a sign advertising a civic event. Sect. 12-201.3 required sign illumination, if any, to be white, not colored light.

### **5.2. Regulations for Residential Uses in Current Ordinance**

The current ordinance allows minor signs for residential uses in accordance with Sect. 12-105. Minor signs are defined as:

*MINOR SIGN: Any sign that is (1) designed to be easily moved, (2) typically not permanently attached to a structure or the ground, and (3) is not illuminated. Such signs include, but are not limited to, A-frame signs, banners, posters, window signs, yard signs or other moveable signs. For purposes of this Article, flags and vehicle signs are not minor signs.*

No permit is required for minor signs.

Minor signs for residential uses are allowed in only three categories, real estate sales/rentals, active construction/alteration of buildings, and yard signs. For the first two, specific time durations for display are specified.

Yard signs are allowed to a maximum of 12 sf per lot with no single sign exceeding 4 sf and 4 ft tall. No limit is placed on the time duration over which a yard sign may be displayed. It may be permanent.

*YARD SIGN: A minor sign associated with a residential use, which is attached to a structure or placed upon or supported by the ground independently of any other structure.*

### **5.3. Current vs Previous Regulations for Residential Uses**

The principal difference between current regulations and the previous is the provisions for yard signs. The current ordinance allows every residential property to establish permanent (minor) signs up to 12 sf per lot (4 sf per sign) for any purpose including signs for accessory uses, such as home-based business.

## **6. Signs Allowed in R Districts for Non-Residential Uses**

In addition to public uses, the draft zMOD Use Regulations (Ref 4) lists more than 35 non-residential uses proposed to be allowed in R districts. The 20 examples listed below are proposed in one or more R-1 through R-8 districts.

- Adult day care
- Animal care facility
- Cemetery
- Child care
- College/university
- Commercial recreation facility
- Community center
- Community swim/recreation club
- Funeral home
- Garden center
- Golf course
- Independent living facility
- Instruction center
- Medical care facility
- Office
- Private school
- Quasi-public park or athletic field
- Religious assembly (churches, etc.)
- Retreat center
- Transit facility

### 6.1. Regulations for Non-Residential Uses in Previous Signs Ordinance

Sect. 12-208 of the previous signs ordinance<sup>4</sup> provided a range of standards for sign areas, heights, and setbacks based on use and location as listed in Exhibit 1 on the next page.

The regulations in Exhibit 1 can be summarized in this way:

- Special Cases: Hospitals and WMATA facilities (Par G & L) were special cases. Hospitals appropriately were allowed plenty of large signs and the Board determined the signs WMATA facilities were allowed.
- Large-Scale Uses: Airports; places of worship; country clubs, etc.; and R&D centers (Par A, B, D, & E) often have large buildings on large lots. They were allowed 90 sf of signs: one or more building-mounted signs not to exceed a combined area of 50 sf plus one freestanding sign not to exceed 40 sf and 8 ft tall.
- Smaller-Scale Uses: Convenience centers, funeral chapels, produce stands, parking facilities, and farmer's markets (Par C, F, I, J, & K) typically are smaller-scale uses and were allowed substantially smaller signs. Putting the two temporary uses aside (produce stands and farmer's markets), the largest signs allowed were for funeral chapels: one building-mounted sign of 15 sf and one freestanding sign of 12 sf.
- Small-Scale Structures: Two catch-all regulations covered everything else. Uses in structures resembling single-family-detached homes (Par M) were allowed one sign, either building-mounted or freestanding, not exceeding 6 sf. If freestanding, it was limited to 4 ft tall. One would expect to find these signs at child care centers, private schools, and small-scale independent-living and medical-care facilities. Such a sign stands in front of the Montessori school on a local street around the corner from my home.
- Other Structures and Uses Outdoors: The second catch-all, uses in structures not resembling single-family-detached homes together with uses predominately outdoors (Par N), was allowed two signs, one building-mounted and one freestanding, both limited to 12 sf with a combined sign area limited to 20 sf.

Signs easily are an unwelcome source of visual clutter and disquiet in residential communities. The previous sign standards made an effort to appropriately limit signs and their annoyance to the scale of the use and to location.

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<sup>4</sup> Previous signs ordinance, Ref 2, pg 12-23.

**Exhibit 1. Summary of Sign Regulations for SP and SE Uses in Previous Signs Ordinance**  
(NL - no limit specified, sf - square feet, sfc - combined sf for a group of signs)

Sign Regulation Sect. 12-208.2 by Paragraph A-N	Number of Signs	Building Mounted		Freestanding	
		Area	Height Above Grd	Area	Height/ Setback
A. Airports and Heliports (1)	2 or more	50 sfc	NL	40 sf	8 ft/10 ft
B. Places of worship and affiliated uses (2)	2 or more	50 sfc	NL	40 sf	8 ft/10 ft
C. Convenience Centers (3)	1	12 sf	NL	None	-
D. Country clubs, colleges, universities, medical care facilities (except hospitals), cultural centers, museums, congregate care facilities, and independent living facilities. (4)	2 or more	50 sfc	NL	40 sf	8 ft/10 ft
E. Scientific R&D centers (5)	2 or more	(5)	NL	40 sf	8 ft/50 ft
F. Funeral chapels (6)	2	15 sf	NL	12 sf	5 ft/10 ft
G. Hospitals (7)	Multiple	50 sf	NL	80 sf	12 ft/5 ft
H. Offices in R-30 districts (8)	0	None	NL	None	-
I. Open-air produce stands (9)	1	32 sf	NL	32 sf	8 ft/NL
J. Parking in R District (10)	1	4 sf	NL	4 sf	NL/NL
K. Farmer's Market (11)	1	32 sf	NL	32 sf	8 ft/NL
L. WMATA Facilities (12)	Board	-	-	-	-
M. Uses in structure with appearance of a single-family-detached home (13)	1	6 sf	10 ft	6 sf	4 ft/10 ft
N. Uses in structure not resembling a single-family-detached home and uses mostly outdoors (golf courses, marinas, etc.) (14)	2	12 sf (20 sfc)	20 ft	12 sf (20 sfc)	10 ft/10 ft

(1) Building-mounted signs were permitted on more than one building with a combined area not to exceed 50 sf plus one freestanding sign.

(2) Combined area of building-mounted signs not to exceed 50 sf. In addition, one freestanding sign was allowed per congregation not to exceed two congregations. Each freestanding sign was limited to 40 sf, 8 ft tall.

(3) Convenience centers are small commercial shopping facilities designed as homogeneous components of neighborhoods.

(4) Combined area of building-mounted signs could not exceed 50 sf. In addition, one freestanding sign was allowed.

(5) Combined area of building-mounted signs could not exceed 1 (one) sf per linear foot of building frontage. In addition, one freestanding sign was allowed.

(6) Funeral chapels were allowed two signs, one building mounted and one freestanding.

(7) Hospitals were and are a special case. Appropriately, they are allowed multiple large signs.

(8) No signs were allowed.

(9) One sign was allowed, either building-mounted or freestanding. Temporary use and sign.

(10) One sign was allowed, either building-mounted or freestanding.

(11) One sign was allowed, either building-mounted or freestanding. Temporary use and sign.

(12) Signs for Washington Metropolitan Area Transit Authority were a second special case. They were allowed as specified by the Board.

(13) One sign was allowed, either building-mounted or freestanding.

(14) Two signs were allowed, one building-mounted and one freestanding each not to exceed 12 sf. Combined areas of the two signs not to exceed 20 sf.

12-208.2. Illumination, if used, shall be white and not colored. Illumination shall be in conformance with the performance standards for outdoor lighting as set forth in Part 9 of Article 14.

12-208. The BZA, in approving a special permit use, and the Board, in approving a special exception use, may specify the area, height, color or illumination of a sign accessory to such a use; but in no event shall the area or height of a sign exceed the limits prescribed below.

## **6.2. Regulations for Non-Residential Uses in Current Signs Ordinance**

Regulations for non-residential uses in the current ordinance are in two parts: minor signs in Sect. 12-105.5 and permit-required signs in 12-202.5 and 12-203.

### **6.2.1. Minor Signs for Non-Residential Uses**

Minor signs, building-mounted and freestanding, are allowed not to exceed 24 sf per lot. No more than 2 freestanding signs are allowed, both less than 4 feet high. If located on a major thoroughfare, the total area of signs may not exceed 32 sf. No permit is required for minor signs. They may be not be illuminated but may be permanent.

### **6.2.2. Permit-Required Signs**

The county extended the Reed prohibition of regulations based on content to a prohibition of regulations based on both content and use. Consequently, the regulations in Section 6.1 for Large-Scale and Smaller-Scale Uses are no longer acceptable. The regulations for Small-Scale Structures as well as Other Structures and Uses Outdoors likely are acceptable. They are based on location.

Notwithstanding staff's goal to keep the previous regulations intact, the response to Reed was to entirely rewrite the regulations for signs for non-residential uses in R districts. The rewrite added minor signs and established a single 90 sf standard (*One Sign*) for all signs requiring permits. Exhibit 2 (next page) summaries the One Sign standard as set forth in Sect 12-202 and Sect 12-203 of the current signs ordinance.<sup>5</sup>

Special cases aside, the current signs ordinance has adopted the regulations for the greatest signage allowed in the previous ordinance as the single standard for all locations in all R districts.

## **6.3. Current Vs Previous Regulations for Non-Residential Uses**

The current ordinance substituted a single 90 sf standard for the previous standard, which ranged from 6 sf for small-scale applications to 20 and 27 sf for the middle to 90 sf for large-scale sites.

It has allowed 20 sf of electronic display with messages changing every 8 seconds as well as colored-light illumination potentially changing continually in color and intensity.

For good measure, it has added 24 sf (or 32 sf) of permanent "minor" signage available without a permit.

Every non-residential use in every R district, whether an existing use or a use to be permitted in the future, now is entitled to a minimum of 114 sf of signage. A disaster for neighborhoods!

## **7. Principal Issues**

### **7.1. Current Ordinance Is Wholly Incompatible with R Districts**

Few afflictions can be as damaging to a neighborhood and as corrosive to property values as incompatible signs. Incompatible signs easily destabilize communities, and the current ordinance, with its lax regulations, invites incompatible signs.

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<sup>5</sup> Current signs ordinance, Ref 1, Sections 12-202 and 12-203, pages 12-12 & 12-13.

**Exhibit 2. Summary of Current Sign Regulations for Non-Residential Uses in R Districts  
(The Definition of *One Sign*)**

Two or more signs are allowed comprised of:

- One or more building-mounted signs with combined areas not exceeding 50 sf, and
- One freestanding sign not to exceed 40 sf and 8 ft tall

Setback of freestanding sign from the lot line must be at least 5 ft.

Up to 20 sf of the freestanding sign may be an electronic display:

- Copy/message on the electronic display is not allowed to change more frequently than once every 8 seconds. The message change must be instantaneous and without illusion of motion.
- Brightness of electronic display must dim automatically at sunset to a nighttime level.
- Background of the sign face cannot be white, off-white, or yellow.
- Only one electronic sign is allowed per lot.

Illumination of signs must conform to the performance standards for outdoor lighting as set forth in Part 9 of Article 14. (\*)

.....the BZA, in approving a special permit, or the Board, in approving a rezoning or special exception, may further limit any sign for any land use in furtherance of those provisions set forth in Sect. 8-007 and 9-007 of the Ordinance.

(\*) Part 9 of Article 14 places no limitation on the color or phasing of sign illumination except that the background of internally illuminated signs may not be white, off-white, or yellow. Otherwise, sign illumination is allowed to be any color and no limitation is placed on the manner in which color or light intensity changes.

Residential Uses: For residential uses, the ordinance allows every residence with or without accessory uses to establish 12 sf of permanent signage without a permit; the existing ordinance allows signs only for a few specific purposes and, in every case, only for a limited time.

From one resident's point of view, one sign not exceeding 3 sf,<sup>6</sup> 3 ft tall, for not more than 30 days at a time and not more than 120 days out of the year would suffice for both household living and accessory uses. Staff has testified that the time duration limit was dropped for minor signs because the county cannot readily enforce time limits. But neighbors can and would enforce time limits on their neighbors. Time limits should be retained.

Minor Signs for Non-Residential Uses: The ordinance allows 24 sf (or 32 sf) of permanent signage without a permit. It is pertinent to notice that 24 sf is 4 times the total sign area that the previous ordinance would have allowed the place of worship on Gallows Road that the BZA approved on 8 Jul. For R districts, 24 sf is a lot of signage. Non-residential users should not be allowed a bonus of 24 or 32 sf of permanent signs.

Permit-Required Signs: At 90 sf, One Sign is 15 times the 6 sf sign that Par M in the previous signs ordinance considered appropriate for many neighborhood settings. The freestanding-sign component of One Sign alone is nearly 7 times the area of the Par M standard. While perhaps appropriate for a few of the Large-Scale Uses of Section 6.1, One Sign would overwhelm the vast majority of neighborhoods hosting non-residential uses.

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<sup>6</sup> A standard yard sign is 18" x 24" - 3 sf.

Exhibit 3 shows an example of a freestanding sign allowed by the One Sign standard. The sign, new last year, is in a residential community a few blocks east of Seven Corners on Leesburg Pike. It is 8 ft tall, 6 ft wide, and has a sign area of 38 sf, including a 20-sf electronic display area that continually cycles through 5 or 6 images at 8 second intervals.<sup>7</sup> The sign area is 95% of the maximum allowed by One Sign for a freestanding sign.

Hopefully, the exhibit demonstrates that the size of the freestanding sign allowed by One Sign would be altogether out of place across the street from a home in a typical R-1 thru R-8 neighborhood. And One Sign allows the addition of 50 sf of building-mounted signs to the display!

**Exhibit 3. Example of One Sign's Freestanding Sign**



Exhibit 3 also demonstrates that electronic displays antagonizing neighbors with garish, unregulated, **GET YOUR FLU SHOT** messages (and worse), 24x365, also do not belong in residential communities. The same conclusion applies to colored-light illumination.

One Sign is not an acceptable standard for signs in R districts.

## 7.2. Staff and Boards Do Not Limit Signs to Assure Compatibility

As shown in Exhibit 4, the BZA, in approving SPs, and the Board, in approving SEs, have the authority to further limit signs in order to assure that signs are compatible with neighborhoods on a case-by-case basis. In support of that authority, staff coordinators may recommend limitations on signs in staff reports. However, it seems that neither staff nor board members participate in limiting signs.

For example, on 25 February, Mason District Council submitted comments on SP 2019-MA-054, an application for a place of worship on Gallows Rd in Annandale. One recommendation was to limit signs given the small building (a 2600 sf single-family detached dwelling) on a small lot in a residential neighborhood. In a 3 Jul written statement and in testimony at the 8 Jul BZA hearing, the recommendation was repeated. There was no recognition of the suggestion from either board members or staff. Not a word.

The only limitation on signs among the development conditions approved by BZA was compliance with Article 12. The Gallows Road applicant has the right to implement all 114 sf of One Sign and the minor signs including an electronic display.

Staff and boards cannot be depended upon to assure that signs are compatible with neighborhoods.

<sup>7</sup> For reference, 8 ft is the standard distance in a residence from the floor to the ceiling. It's a tall sign!

#### Exhibit 4. Current and Previous Provisions re Authority of Boards to Limit Signs

Current
<p><b>12-202.5</b> .....the BZA, in approving a special permit, or the Board, in approving a rezoning or special exception, may further limit any sign for any land use in furtherance of those provisions set forth in Sect. 8-007 and 9-007 of the Ordinance.</p> <p><b>8-007. Conditions and Restrictions (Special Permits).</b> In addition to those standards set forth in this Article, the BZA, in approving a special permit, may impose such conditions and restrictions upon the proposed use as it may deem necessary in the public interest to secure compliance with the provisions of this Ordinance and to protect the viability of the implementation of the adopted comprehensive plan.<sup>8</sup></p>
Previous
<p><b>12-208.</b> The BZA, in approving a special permit use, and the Board, in approving a special exception use, may specify the area, height, color or illumination of a sign accessory to such a use; but in no event shall the area or height of a sign exceed the limits prescribed below.</p>

### 7.3. Existing Uses Have the Right to Implement Current Ordinance

Existing non-residential uses in R districts now have the right to install all 114 sf of One Sign and minor signs. They need only apply for and obtain the sign permits to which they are entitled. That's how the church on Leesburg Pike was allowed its freestanding sign.

Said another way, R districts now are defenseless against any non-residential use in their midst from increasing the quantity, bulk and aggravation of its signs up to the full dimensions of One Sign plus minor signs, including electronic display panels and throbbing colored-light illumination, 24x365.

Something needs to be done *now* to protect neighborhoods from an invasion of incompatible signs. It's already too late for the residents of the low-income apartments across the street from the church.

### 7.4. The Zoning Ordinance Should Protect, Not Threaten, Neighborhoods

zMOD's signs ordinance threatens neighborhoods. But a principal purpose of the zoning ordinance is to protect residential communities from incompatible development. It follows that regulations in the signs ordinance should provide an effective defense against incompatible signs as was the case with the previous ordinance. The current signs ordinance fails this test and should be rescinded.

### 7.5. Concerns re County's Response to Reed v Gilbert

The Reed v Gilbert decision prohibited regulations based on content. The county's response in revising the signs ordinance was to prohibit regulations based on content and on land use. For an extra measure of compliance with Reed, the county then established a "uniform" standard, One Sign, for all non-residential uses in all locations in all R districts.<sup>9</sup> Did the county overreacted and at what expense?

Fallacy of separation of regulations and uses: The current ordinance has not separated regulations and uses. In R districts, regulations for non-residential uses are very different from those for residential uses. If a non-residential use in an R district may have 114 sf of signage, why can't the accessory use in the residence across the street have the same? And the same question for minor signs: 12 sf for residential and 24 or 32 sf for non-residential. Would a home-based business be justified in asking for equal signage? In addition, the following sections of the ordinance all provide special regulations for certain uses:

<sup>8</sup> Sect. 9-007 pertains to the Board and special exceptions. The wording is nearly identical.

<sup>9</sup> Staff report, Ref 3, pg 7, first paragraph under 12-202 Signs in Residential Districts.

- 12-105.2, real estate
- 12-105.3, construction contractor
- 12-202.1, entrances to subdivisions
- 12-202.2, rental offices

The point is to question whether a clean separation of regulations and uses is necessary, practical, or useful. If use-based regulations were accepted at some level it would simplify tailoring sign standards to neighborhoods as ably demonstrated by the previous ordinance. (Exhibit 1)

Questionable value of a uniform standard: Land use aside, a number of site characteristics could be used as a basis for tailoring signage standards to sites, including R district, location, street type, building size, lot size, distance of sign from lot line, and proximity to and visibility from nearby properties and buildings.

A uniform standard independent of use is both unnecessary and counterproductive. It is *not* what Reed told us we must do, and it hobbles efforts to assure sign compatibility with neighborhoods.

## **8. Recommendations**

### **8.1. Rescind the Current Signs Ordinance**

The county should revoke the current signs ordinance and reinstate the previous regulations as soon as reasonably possible. The current ordinance threatens neighborhoods and no apparent means exists for further limiting signs to protect communities. The risk is not limited to new uses flooding neighborhoods with signs. All existing non-residential uses have the right to expand their displays to the full extent of the current 114 sf standard.

### **8.2. Produce a New Signs Ordinance**

The current ordinance should be amended as soon as reasonably possible to allow signage in R districts to be tailored to sites thereby assuring compatibility with neighborhoods.

#### **8.2.1. Reduce Signage Allowed without Permits**

For residential uses, a single yard sign not exceeding 3 sf, 3 ft tall, displayed for not more than 30 days at a time and not more than 120 days out of the year should be considered for the standard. Neighbors will enforce the limits on time duration of display. (Section 7.1)

Non-residential uses should not be allowed minor signs. (Section 7.1)

#### **8.2.2. Establish a Range of Sign Standards for Non-Residential Uses**

The county should abandon its uniform standard. In its place, a range of sign standards should be established suitable for pairing with sites ranging from single-family dwellings embedded in neighborhoods to large-scale enterprises removed from neighbors. The sign specified in Par M, Sect 12-208.2, of the previous signs ordinance should be adopted as the minimum sign. (Exhibit 1) The standard for the maximum sign should be based on a review of number and sizes of signs implemented for non-residential uses in R districts in recent times. It seems possible that, in practice, less signage than One Sign has been and can be adequate. A maximum sign standard more modest than One Sign would be less damaging to neighborhoods.

Guidance for applying the range of standards to sites should be provided based on R district, location, building size, street type, lot size, distance of sign from lot line, proximity to and visibility from nearby properties and buildings, and other appropriate qualifiers consistent with Reed. The guidance should address

limits on numbers, sizes, and setbacks of signs. The previous signs ordinance is not the solution but it provides a starting point.

The county should reconsider the degree to which sign standards must be divorced from land use. Separating the two makes it more difficult to tailor signs to neighborhoods. (Section 7.5)

The range of standards and the guidance will aid residents, applicants, staff, and county officials in sizing signs to sites during the SP/SE application review process thereby better assuring compatibility with neighborhoods.

If the county concludes that a range of standards for non-residential uses is impractical, then the uniform standard adopted should be the *minimum* allowed in the previous standard - a 6 sf, 4 ft tall, sign for all non-residential uses in all R districts.

### **8.2.3. New Signs for Existing Non-Residential Uses Should Require SPs**

At some point an existing non-residential use in an R district will want to update signs, and new questions of compatibility at that site will arise. The ordinance should require the applicant to obtain a SP for the new signage. The SP process would assure that residents have an opportunity to participate in the decision process allowing new signs in their neighborhood.

This provision would resolve the problem of existing uses upgrading signs by right in response to a new ordinance. Section 7.3.

### **8.2.4. Delete Provisions for Electronic Display and Colored Light Illumination**

In 2012, the county learned from the court case with the Vienna church that it cannot regulate electronic displays to be compatible with residential districts. It is difficult to understand why then, in 2019, the county decided to allow every non-residential use in every R district to construct a 20 sf electronic display. An alternative response, the one that protects communities, is to prohibit electronic displays in R districts.

Certainly, a few people will "want" the displays. But, under the circumstances, the signs will inflict more damage than be helpful. Given the Internet and social media there is little practical need for 20 sf of electronic signs in neighborhoods.

Nothing standing in front of the house across the street can be more intrusive than electronic displays and throbbing colored light illuminating signs. Neither should be allowed.

### **8.3. Assure That SP/SE Application Reviews Appropriately Limit Signs**

As soon as reasonably possible, a formal process should be established to assure that no new SP/SE for a non-residential use in a R district is approved without consideration and inclusion of explicit development conditions limiting signs. The current SP/SE application review process may be overlooking this opportunity to assure that signs are compatible with neighborhoods. Section 7.2.

## 9. Recommendations for zMOD

### 9.1. Staff Reports Must Address Residents' Interests

The failure of the staff report to fully divulge the enormous increase in signage proposed for R districts was an unforgivable transgression on the part of zMOD. The new ordinance completely upended the standards in the previous ordinance, and subjected communities to a potential avalanche of incompatible signs. The staff report said not one word about the proposed increase in signage. How is that possible?

zMOD staff reports for ordinance amendments should address residents' rights, interests, and concerns. In particular, the report should:

- Describe the proposed regulations and the changes (the old regulations, the proposed new regulations, and the differences) together with anticipated consequences (Sections 5 thru 7 above);
- Describe why the changes are being proposed, what's to be fixed or improved;
- Describe the anticipated benefits of the changes for the county community; and
- Describe the risks to resident's rights and interests as well as how the risks will be mitigated.

One possibility is to task the zMOD Citizen Advisory Group to review staff reports against the list above prior to publication.

### 9.2. Quality Neighborhoods Are Essential for Economic Success

zMOD's motivation for rolling back zoning regulations seems rooted in a belief that lax regulations will foster the county's "economic success." The program should balance its enthusiasm with recognition that the quality of our residential communities is a principal cornerstone in the foundation supporting our economic development. If lax zoning regulations are allowed to debase our neighborhoods, the educated, skilled workforce we require simply will not want to live here.

## 10. References and Abbreviations

Ref 1. Article 12 of Current Zoning Ordinance. [Current Signs Ordinance](#).

Ref 2. Article 12 of 2017 Zoning Ordinance Reprint. [Previous Signs Ordinance](#).

Ref 3. ZO 19-479, Articles 12: Signs and Related Provisions. 19 Nov 2018. [Staff Report](#).

Ref 4. zMOD Proposed Use Regulations. [Draft](#). 1 July 2019.

Board: Board of Supervisors

BZA: Board of Zoning Appeals

SE: special exception

SP: special permit

sf: square feet

sfc: combined square footage of a group of signs

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