

FRLP Supplemental Comments on the proposed SLDO

March 4, 2015

The Honorable Timothy W. Darr and Town Council
Town of Front Royal, Virginia

Dear Mayor Darr and members of Town Council,

I would like to thank Council for the opportunity to submit additional comments on the proposed Subdivision and Land Development Ordinance (SLDO). FRLP has been encouraging the Town to adopt more Earth Friendly design standards for many years. Similar discussions have occurred in communities throughout the nation for decades.

FRLP has limited its comments here as much of what we have proposed in the past would require an almost complete re-write (and perspective) on the part of the Town and we recognize that would be impractical at this point. I am working on many of those now (and on ch. 175) and we hope to discuss these as well with Council moving forward.

Proposed SLDO: General Comments.

I would like to emphasize that in no way would any of these proposed changes prohibit the type of development standards contemplated by the proposed ordinance – our argument is that the proposed ordinance fails to incorporate many accepted design, engineering, and environmentally sound land use and development standards.

In affect, the Town is going against environmentally friendly development techniques accepted by the State and Federal government. Low impact development should be the standard – not the exception. Further, failing to incorporate or allow such things “by-right” in the SLDO will hurt economic investment in the Town. For example, the Federal Energy Independence and Security Act of 2007 states that:

“The sponsor of any development or redevelopment project involving a federal facility... shall use site planning, design, construction, and maintenance strategies for the property to maintain or restore, to the maximum extent technically feasible, the predevelopment hydrology of the property...”

Federal law requires this (Low Impact Development Strategies) for all Federal facilities. The State of Maryland requires LID standards as the first option. The state of Virginia agreed to implement LID by 2005 in the 2000 Chesapeake Bay agreement but it was an “unfunded mandate”. Locally, the 1997 and 2007 Comprehensive plan is filled with innumerable recommendations (many of them found on page 25, 26) that direct the Town to reduce developments impact on our natural environment and these ideas were completely left out of the proposed “complete rewrite/update”. The Town’s Comprehensive planning efforts are meaningless without an attempt by the Town to codify those recommendations – that’s how, and why, this “update” began in 2007.

Proposed SLDO Design Standards and the Environment: General Comments.

The Center for Watershed Protection (www.cwp.org) has an ordinance checklist that grades the impact of a locality's development regulations on the local watershed and provides a good overall assessment on the environmental friendliness of local codes and ordinances. Scores between 90-100 mean the Community has "above average provisions that promote the protection of streams, lakes and estuaries." The proposed ordinance scored below 20 points. Scores less than 60 (the lowest rating category) mean that the "Development rules definitely are not environmentally friendly. Serious reform of the development rules is needed." Resources:

- a. CWP, "Better Site Design" Handbook and "Local Codes and Ordinances Worksheet" (www.cwp.org).
- b. "Model development Principles for the Central Rappahannock", A working group from Stafford County, Spotsylvania County, and the City of Fredericksburg (www.riverfriends.org) - http://www.riverfriends.org/Portals/0/LID_principles.pdf.

Consider using VDOT Standards for Street Width/ R.O.W./ and Entrances.

Adding 7 feet of pavement width to VDOT design standards places an undue disadvantage on development in Town versus in the County or elsewhere in the Commonwealth. The proposed ordinance already references (and requires) VDOT standards 7 times in sections 820.C, 820.D, and 820.M – FRLP believes the design standards in these three sections should be removed and the VDOT standards should be used instead. Specifically, and per VDOT;

- a. 820.C – VDOT - Minimum R.O.W. of 40', or the minimum required to accommodate all necessary elements, as opposed to 50', 55' and 65' as proposed (increased R.O.W. requirements increases a developments "footprint"),
- b. 820.D – VDOT - Neighborhood streets of 29' (parking on both sides) and 24' (parking on one side) instead of only 36' or 40' as proposed, (The Virginia Fire Marshall requires a 15' travel way – i.e. a 29' street has a 7' parking strip on each side and a 15' travelway – and thus meets State Fire safety requirements)
- c. 820.M(2) – The last 2 sentences - this language appears to only apply to the FRLP development. VDOT and the Town will by law require that any proposed new streets, and in this case a development entrance road, will be of sufficient size to meet the proposed traffic volumes – this language requires additional road/traffic capacity beyond that – which is illegal – and unnecessary.

VDOT design standards have been thoroughly reviewed for safety by teams of engineers and design professionals - resources and time that the Town does not have. Further, if a particular road needs to be larger the Town Council can require a larger road during the

plan review and approval process – you have this ability per 148-820.C (3) - which should give Council peace of mind that these standards can be increased when warranted. Again, VDOT standards are minimums – nothing prevents someone from building a larger street if that is what the market wants. We are asking that Council consider VDOT standards to be reasonable. They should be the standard – not the exception. Resources:

- a. Safety should be our #1 priority when designing streets – not speed - See “Confessions of a Recovering Engineer” ([Strong Towns.org](http://www.strongtowns.org)), <http://www.strongtowns.org/journal/2010/11/22/confessions-of-a-recovering-engineer.html>
- b. “Narrow Streets are the Safest”, Better Cities and Towns, www.bettercities.net, (0.32 automotive injury accidents can be anticipated per year per mile on a 24-foot-wide street, compared to 1.21 on a 36-foot-wide street).
- c. “Bad call: Wide streets in the name of fire safety”, Better Cities and Towns, <http://bettercities.net/news-opinion/blogs/robert-steuteville/21128/bad-call-wide-streets-name-fire-safety>
- d. SmartCode Municipality (v. 9.2, table 3B) lists the proposed 36’ wide streets as being appropriate for 15,000 VPD.
- e. Change takes time – and that’s o.k.
 - a. Concern: not enough parking! – The newer subdivisions in Town have 10 times more parking than is needed. Why not let the market/ a homebuyer decide.
 - b. Concern: you have to slow down to pass another car or a school bus on a narrow street! That is the point – to slow traffic down. (i.e. The Traffic circle at Riverton – at first it was confusing to drivers – but now drivers know how to navigate it (and it is efficient))... It’s traffic calming... it is good neighborhood design – neighborhoods designed for people - not cars.

Stormwater Management (840.D):

SWM is heavily regulated at the State and Federal level. The proposed ordinance adds another layer of government where it is not needed. This only makes the process more confusing, more expensive, and less efficient and effective. FRLP believes this section should be removed or simply limited to requiring that a sub-divider meet all applicable State and Federal regulations governing SWM.

In addition, this new oversight from State and Federal government will mean that simply keeping the same design standards will add tremendous costs. The ordinance as proposed essentially maximizes the overall “footprint” of development and the impervious cover of that development. The sub-divider will have to mitigate these impacts – placing another undue cost on a project in the Town versus in the County or the Commonwealth.

Bonding Requirements and Costs:

I believe less Government is generally better government. Regulatory and permitting costs have been increasing significantly over the past 10-15 years. This update is no different. Adding costs at this time is certainly not helpful – Front Royal has seen single digit building permits for five years. Building a home that median household incomes can afford (or building any new home) becomes even less viable with every additional cost. Virginia has the second highest regulatory, permitting, and impact fees in the nation. In my opinion, these are taxes. There is a point at which taxes and fees are so high that it makes no sense to invest in a project in Town – and no one will.

The new bonding requirements should be required only at the time of construction (890.A). Bonding costs are significant and can make or break a project. A sub-divider should not be forced to pay bonding costs until construction begins or at final plat approval – whichever is later.

As per the schedule of “Fees”, I would respectfully request that the Town consider waiving any fees above the initial amount (\$250) for a variance to these standards – or perhaps state that if a sub-divider submits 20 design changes on one project they are only subject to one \$250 fee. In 2012, Council added these “processing fees” – which added \$40,000 in fees for the Town to process plans for the FRLP 150 acre project alone.

In addition to increased costs, development regulations continue to push the limits of the law when it comes to what can legally be required of a sub-divider. There are a handful of regulations (820.A(4)(5), 820.M) which are not unequivocally illegal as written but could easily be applied to force exactions that are illegal. At best, they are misleading.

Conclusion:

There are better ways to develop – and to minimize future Town maintenance costs - they have been contemplated and recommended in the Town Comprehensive Plans for the past 20 years they have just never been incorporated into law – so they are “illegal”.

I hope that Council will keep an open mind to these things as we move forward. There is a big difference between allowing a sub-divider to build 36-foot streets and requiring them to do so. If there are reasonable arguments for using a different standard or design methodology the Town should not be adding unnecessary hoops, expense, and oversight in order to use those standards – and, at a minimum, we believe these standards as approved by the State should pass this test and be allowed “by-right” in the SLDO.

Sincerely,
David Vazzana
202.215.0038

CC: Town staff
Town P.C.