

# STATEMENT OF JUSTIFICATION

## **BACKGROUND**

On December 7<sup>th</sup> 2009, as a part of its rezoning presentation to Council, FRLP presented proposed changes to the existing lot requirements in the R1-A ordinance. At the time, and as suggested by our legal counsel, FRLP believed that it was possible to change these requirements concurrently with the rezoning process as other communities in Virginia have taken such an approach. The Town attorney opined, however, that we could not do so and we agreed to seek these changes after the rezoning was complete rather than proceed with something that the Town attorney at the time felt was illegal.

## **R1-A – HISTORY AND INTENT**

The R1-A Zoning designation was added to the Town Code in 1995. Its intent in the Zoning Ordinance is stated as follows:

The R-1A District is designed to accommodate single-family residential development of a medium density on smaller individual lots. The standards for this district are designed to stabilize and protect the character of the designated areas and to protect and encourage a suitable environment for family life.

Since being created in 1995, no properties have sought to change their zoning to this zoning classification to our knowledge except FRLP, and, further, to our knowledge the FRLP property is the only undeveloped R1-A property within the Town.

## **R1-A – CONTEXT IN CHAPTER 175**

Chapter 175 provides a number of zoning designations, and corresponding densities, to property inside the Town. Zoning designations and lot sizes for single family detached dwelling units include:

RE	1 acre
RS	.5 acre
R1	10,000 square feet
R1-A	7,000 square feet
R2	8,000 square feet
R3	7,500 square feet
PND	No Minimum

There exists a need for a zoning classification that accommodates development of single-family lots between five and eight thousand square feet. FRLP believes that it would be appropriate for the R1-A zoning classification to be amended somewhat to meet this need. Changing certain requirements of the R1-A ordinance would give future

landowners a rezoning option that they do not have today. Future landowners might deem this smaller lot option to be more in line with market demand, and buyers preferences, than what any existing zoning classifications provide for (and require) today. It would also provide the Town with greater flexibility in the provision of housing types and opportunities.

#### *POTENTIAL PROBLEMS WITH THE PND ORDINANCE*

FRLP suggests that the PND ordinance does not meet the need for smaller and more diverse, single-family detached lot options (from five to eight thousand square feet) for a number of reasons, including:

- Planned neighborhood developments shall contain not less than 20 contiguous acres. Most property owners do not meet this requirement.
- Required commercial development for parcels greater than 50 acres. Not all developments can sustain commercial component. By mandating this for all PND developments, the Town may well be requiring something that will never develop or sell.
- Not all communities require a ‘mix’ of land uses and types.
- Submission requirements require a developer to spend many times more money to process a PND application than to pursue other rezonings. This prevents many larger landowners from considering this classification, and constitutes a preclusive bar for almost all smaller landowners.
- The concepts underlying ‘traditional neighborhood design’ contained in the PND are wary, but until Chapter 148 permits compatible traditional neighborhood design standards, it does not make sense to build small lots that front on 36’ wide streets in very large rights-of-way, among other things. FRLP continues to suggest that significant revision to Chapter 148 should be pursued.

#### **PROPOSED CHANGES**

FRLP proposes the following changes to the R1-A ordinance:

1. **175-18.3 AREA** - Change the minimum lot size from 7,000 square feet to 5,500 square feet OR (alternatively) change to 5500 square feet but require the average lot size to remain 7,000 square feet.
  - *Smaller lots lessen developments ‘footprint’ on the environment without increasing density. For example, the FRLP project if built with 5,500 square foot lots instead of 7,000 square foot lots would commit the creation of an additional 11 acres of open space (undeveloped land). In fact, FRLP intends to develop a range of lot sizes between 5,500 and 8,000 square feet, but cannot do so under current ordinance requirements. Decreasing lot sizes as proposed will not increase allowable density elsewhere within the Town, since the FRLP property is the only currently*

*zoned, and undeveloped, R1-A property and it has proffered to construct no more than 320 units, regardless of lot size.*

- *Suggested new language:*
  - A. Minimum lot size:
    - 1. Single family dwellings: seven thousand (7,000) square feet OR fifty five hundred (5,500) square feet provided that the average lot size of all lots in the District is seven thousand (7,000) square feet. For purposes of calculating the “average lot size” of all lots in any proposed R1-A district any single proposed lot with an area greater than eleven thousand (11,000) square feet shall be counted as an eleven thousand square foot lot.

2. **175-18.3 AREA** – Change the minimum lot width from 50 to 46 feet, and from 70 to 60 feet for corner lots.

- *Provided side set-backs remain the same with 14 feet between buildings FRLP believes allowing smaller lot widths will enhance community design, lessen development impact on the environment, reducing road length, and reducing infrastructure costs.*

3. **175-18.5 MINIMUM YARD DIMENSIONS** Change the minimum set-backs - front set-back from 25 to 10 feet, side set-back from 7 to 5 feet with a minimum of 14’ total (i.e. the distance between buildings will be *the same* as it is today at 14 feet), corner side from 25 to 20, and accessory structures side set-back from 5 to 3 feet and accessory structures corner side set-back from 25 to 20 feet.

- *FRLP believes reducing these requirements will help create more of a ‘community’ feel within the neighborhood.*

- *Suggested new language:*

- 1.) Front Building Setbacks: Minimum 10 feet for primary building  
Garage Openings: Minimum of 20 feet from the sidewalks  
Allowable Private Frontages: Porches, porch stairs, porticos, balconies, bay windows, raised dooryards, planters, entrance stoops, and similar appurtenances such as chimneys may extend into any required Front, Side, or Rear Building Setback area but not nearer than six (6) feet to any Front lot line or nearer than three (3) feet to any Side lot line.
- 2.) Side: Minimum of three (3) feet, provided, however a minimum of fourteen (14) feet is provided between all homes on any adjoining lots
- 3. Corner Side: fifteen (15) feet

4. Change the maximum building coverage from 35% to 45%, a change which is due to decrease in lot sizes.
  - *This will allow greater flexibility in building design because of smaller lot sizes.*
  
5. 175-18.7 OFF-STREET PARKING (R-1A) – Change the required minimum off-street parking apces from 2 to 1. This is due to the street widths. There is an over abundance of parking if all streets have parking on both sides.
  
6. ADD NEW LANGUAGE – Allow same modifications as allowed in the PND ordinance (use PND language and add ch. 148 modicfications as it was stated 148 could be modified at that time as well). This simply expands the powers of Town Council – i.e. they can approve these things or decide not to at the time of rezoning (if the Town wanted to simply add this language it would obviate the need to make any other changes to R1-A as requested herein as we could re-write section 15 of FRLP proffers to make these changes as a part of our proffer amendment):
  - *Proposed new language (from PND):* **“Modifications to the following design standards may be authorized by the Town as part of the rezoning or conditional rezoning application process, provided they are specifically approved, with the modified design standards taking precedence over the design standards of Chapter 148 and Chapter 175 of the Town Code.**
    1. Lot Area
    2. Lot Width
    3. Setbacks and Yard Area
    4. Building Height
    5. Building Separation
    6. Chapter 148

## CONCLUSION

### *SMALL LOT DEVELOPMENT - PERCEPTION VS. REALITY*

FRLP acknowledges that there is a perception in some elements of the community that small lot development is undesirable. It respectfully suggests that the reality is that small lot development is both less expensive for local governments, better for the environment, and more economically feasible.

### *NEED*

There are many people who do not want to live on large lots and they should have that choice. FRLP suggests that there is a need in the Zoning Ordinance for a classification option between a ‘PND’ style development and the larger lot development options that

already exist in Chapter 175. A ‘PND’ type development would typically permit lots between 4,000 and 5,500 square feet and be served by alleys. The single-family zoning classifications in Chapter 175 provide for lots that are 7-8000 square feet and larger. There is not currently a zoning classification that allows for lot types of 5,500 square feet and greater, which constrains the development of communities with a town-like feel.

Moreover, FRLP believes there is a market for lots between 5,500 and 8,000 square feet that is currently not being served by the requirements of Chapter 175. In fact, survey preferences for buyers through 2025 indicate that over 60% would prefer small lots, defined as less than 7,000 square feet. The same survey projected a market preference for 40 million new small lots and an oversupply of 23 million large lots (lots over 7,000 square feet) Even today, 40% say they would trade large lots for small lots, in return for open space and a sense of place. (Nelson, “Planning for a New Era,” *Journal of the American Planning Association*, Virginia Tech Metropolitan Fall 2006).

Exclusionary zoning practices—such as prohibiting apartments and townhouses or requiring very large lot sizes— raise prices or exclude certain housing types altogether from certain areas, and may reflect NIMBYism (opposition from local residents for development considered to be undesirable) more than any physical constraint or concern for the public welfare. Exclusionary zoning in some cases may be simply NIMBYism disguised as a desire for smarter growth or an inability to provide services. A large and growing literature shows that more compact and contiguous development patterns, and moderate to high-density mixed- use developments are the least costly to serve and the most resilient to development cycles that can otherwise lead to blight.<sup>41</sup> Moreover, it appears that with good planning and design, traffic impacts can be reduced by up to 40 percent or more with low-density suburban development creating even more long-term savings.

The proposed changes would allow for a small lot development that incorporates many traditional neighborhood design elements without the added submission, regulatory, size, and commercial requirements of the PND ordinance. FRLP believes that the proposed changes to the R1-A ordinance will fill a hole in the current lot size requirements that exists today between the various zoning classifications for single-family homes and it would be consistent with the stated intent to “accommodate single-family residential development of a medium density on smaller individual lots”.