

Pros & Cons of Draft Proposals to Improve Stream Health in Development Areas - 12/13/18

I. NEW or REVISED REGULATIONS

1. Implement the County's steep slope design standards when a VSMP or VESCP application is required. (VSMP = Virginia Stormwater Management Program, VESCP = Virginia Erosion and Sediment Control Program)

Pro:

- Reduces the potential for erosion of constructed slopes that are steeper than 4:1 during construction and after construction.
- Reduced erosion results in reduced maintenance costs.
- Isolates erosion, if it does occur, to shorter lengths of slope and erosion may not be as significant.
- Limited or no increase in administrative review costs.

Con:

- Increased costs for developers. Slopes with reverse benches are more difficult to construct than slopes without reverse benches and additional design work may be required.
- Potential reduction of developable land within the Development Areas.

Other:

- Would not change the current designation and protections for preserved slopes.
- Public Comment: Unclear how often this would come into play, how much positive difference it would make. What would be the practical effect of implementing it?

2. Eliminate the threshold for the area of land disturbing activity (LDA) to invoke VESCP regulations but allow an agreement in lieu of a plan for LDA under 10,000 square feet. This would apply to any LDA involving a building permit, site plan, subdivision, or other activity requiring county approval, but still allow any applicant or project involving less than 10,000 square feet of LDA to submit an agreement in lieu of a plan.

Pro:

- Increases the ability to address ESC issues on smaller projects.
- Reduced development costs when an agreement in lieu of a plan is allowed rather than requiring a VESCP (or VSMP) plan.

Con:

- The current fee for an agreement in lieu of a plan is \$150, which will be an additional cost to the applicant.
- Requiring ESC measures will increase the cost of construction (e.g., silt fences).
- More agreements require additional tracking and monitoring, which will increase staff work load and the potential for requiring additional staff.

Other:

- Public Comment: "Eliminate" seems extreme, but lowering the threshold is worth considering.

3. Do not allow temporary Erosion & Sedimentation Control measures to be located within a stream buffer without mitigation. The measures may be allowed within the landward 50 feet of the buffer with an approved mitigation plan for the area after construction is completed.

Pro:

- *Will help protect intact buffers, such as riparian forests.*
- *Mitigation could require the restored area to be enhanced or improved if it isn't vegetated.*

Con:

- *Increased development costs since mitigation is not currently required (e.g., bonding).*
- *Mitigation plans will need to be reviewed, inspected and bonded, which will require additional staff time.*

Other:

4. Lower the threshold for the area of land disturbing activity (LDA) to invoke VSMP regulations from the current threshold of 10,000 square feet to some other threshold (to be determined).

Pro:

- *Addresses stormwater runoff (quality and quantity) from smaller projects.*

Con:

- *Increases development costs.*
- *Unclear how much impact this will have on local stream health. Unclear how many more VSMP applications will result. Developers may choose to simply purchase off-site nutrient credits.*
- *Increased administrative costs to the county. If this cost is offset by fees, the result is increased cost of development.*
- *More VSMP plans require additional review and monitoring, which will increase staff work load and the potential for requiring additional staff.*

Other:

- *Greene County has unique approach. If any amount of impervious surface area is added to an approved site plan, stormwater management steps must be taken to address the additional impervious surface.*

5. Expand the definition of a Common Plan of Development in the Water Protection Ordinance to include activities occurring within any five year period.

Pro:

- *Will prevent the cumulative effects of small (< 10,000 s.f.) land disturbing activities that occur on the same project/parcel over the course of a few years, and eventually results in more than 10,000 s.f. of land disturbance.*
- *Will allow review of multiple small projects to ensure unified control measures during the various stages of construction and preventing long term impacts post construction.*
- *If combined with utilization of the design standards in proposal #1 above, this will allow for review of the overall impacts from compliance with the design standards.*

Con:

- *This could span multiple property owners due to the transfer of property, surprising or "catching" a new owner because they are impacted by what a prior owner has done.*

Other:

- *This would not remove or change the types of projects that currently fall under a Common Plan of Development.*
- *Public Comment: Need to have very specific parameters.*

6. Increase fees for Water Protection Ordinance violations.

Pro:

- *Increased fees may encourage better compliance with the ordinance.*
- *Helps recoup costs of staff time for re-inspections, coordination, tracking and reporting.*

Con:

- *Potentially increases development costs.*

Other:

- *Public Comment: Fees could escalate with repeated violations.*
- *Public Comment: Not all violations impact water quality equally. Fees should be commensurate with the violation.*
- *Public Comments: Strong support for this proposal.*

II. INCENTIVES for RESIDENTIAL DEVELOPMENT

7. Allow density bonuses if:

Pro:

- *Encourages development that improves the health of streams and improves water quality.*
- *Allows for increased use of the Development Areas for development.*
- *Allows development to be more easily achieved at the density levels recommended in the Comprehensive Plan.*

Con:

- *Allows increased density that may be opposed by existing neighborhoods.*
- *Increased density may be opposed by adjacent neighborhoods.*
- *Use of any bonuses may require additional monitoring post-development.*
- *May result in increased administrative review costs to evaluate the bonus development.*

Other:

- *Allowing density bonuses to exceed the Comprehensive Plan land use designation, for environmental purposes, may be consistent with the Comprehensive Plan.*
- *Public Comment: Density bonuses could allow build-out at densities closer to by-right than Comprehensive Plan recommendations for density. Conversely, allowing densities close to Comprehensive Plan recommendations is de-facto rezoning without considering factors other than stream health.*
- *Public Comment: Consider bonuses for providing an educational component to explain the purpose of buffers.*

7A. Stream buffers are expanded by increasing buffer width where buffers exist or establishing buffers where they do not exist. This applies to both perennial and intermittent streams.

Pro:

- *Will likely increase natural resource benefits such as additional wildlife habitat.*
- *Potentially results in more buffers on intermittent streams.*

Con:

- *Will require more county resources to monitor the buffers and, in some instances, administer permanent protection of the land containing the buffers.*

Other:

- *This is a voluntary option.*
- *Standards and rules for expanded and new buffers would need to be developed.*
- *Expanded or newly established buffers should be permanently protected.*

7B. The quality of existing stream buffers is improved or permanently preserved.

Pro:

- *Potentially increases and protects the quality of other natural resources such as wildlife habitat.*

Con:

- *Will require more county resources to establish robust standards for buffer quality, monitor the quality of the buffers and, in some instances, administer permanent protection of the land containing the buffers.*

Other:

- *This is a voluntary option.*
- *Standards for assessing buffer quality would need to be developed.*
- *Permanent protection of buffers should be required.*

7C. Newly created lots do not include stream buffers. Buffer areas are located in common areas or other forms of protected open space.

Pro:

- *Limited or no increase in administrative review costs.*

Con:

- *May require more county resources to administer protection of the land containing the buffers.*

Other:

- *This is a voluntary option.*
- *Common area or protected space should be permanently protected.*
- *Public Comment: HOAs should not be burdened with maintaining buffers over time.*

7D. Permanent signs are posted that identify stream buffer areas. The county will provide the signs to Homeowner Owner Associations (HOA).

Pro:

- *Has potential educational value.*
- *Would likely help with buffer compliance issues.*

Con:

- *Aesthetic values could be degraded.*

Other:

- *This is a voluntary option.*
- *Public Comment: Any bonuses for this activity should be very small.*
- *Public Comment: Signs are preferred over fencing off the buffers.*

7E. Trees are planted (using locally native species) in excess of zoning requirements.

Pro:

- *Provides additional native habitat for wildlife.*

Con:

- *Unclear how much this helps improve stream health, particularly if additional trees are outside the buffer area.*

Other:

- *This is a voluntary option.*

8. Other incentives could include:

Pro:

- *Incentives in addition to density bonuses provide more development options while improving stream health.*

Con:

Other:

- *Public Comment: Consider relaxed building height standards as potential incentive.*

8A. Allow buffer widths on perennial streams to be reduced (for example, to 75 feet) if the existing buffer is of poor quality and the quality of the remaining buffer will be improved.

Pro:

- *Potentially allows increased use of Development Areas for development.*

Con:

- *May have limited value as incentive due to existing code allowing use of the landward 50' of buffers ("for necessary infrastructure to allow reasonable use of the lot").*
- *Will require more county resources to establish robust standards for buffer quality, monitor the quality of the buffers and, in some instances, administer permanent protection of the land containing the buffers.*

Other:

- *This is a voluntary option.*
- *Standards for assessing buffer quality would need to be developed.*
- *Permanent protection of buffers should be required.*
- *Public Comment: Could have the unintended consequence of buffers being harvested or impaired prior to proposing development*

8B. Allow reduced buffer widths, density bonuses, or other incentives if enhanced Erosion & Sedimentation Control measures are implemented during construction. Some examples include:

- Reduce contributing drainage areas to silt fences, sediment basins, sediment traps, or diversions dikes.
- Use wire-backed silt fence and/or reduce the spacing of support stakes.

Pro:

- *Increases the efficiency of Erosion and Sediment Control measures.*
- *Potentially allows increased use of Development Areas for development.*

Con:

- *Enhanced ESC measures cost more than standard measures.*

Other:

- *This is a voluntary option.*
- *These and other measures have been required for some rezonings in the past.*
- *Bonuses are permanent while Erosion & Sediment Control measures are temporary.*

9. Require that all stormwater treatment be conducted on-site or that any nutrient credits purchased are from a nutrient credit bank located in Albemarle County in order to qualify for special exceptions to zoning requirements, density bonuses, or cluster provisions.

Pro:

- *Could help the county meet requirements for local TMDLs.*
- *Could create an incentive for nutrient banks to be created in Albemarle.*

Con:

- *Could affect the statewide market for nutrient credits.*

Other:

- *This is a voluntary option.*
- *Public Comment: This should be phased in since there is no nutrient bank in Albemarle.*
- *Public Comment: This should be incentive based, and the incentives should be “stepped” – the more local credits that are purchased, the greater the reward for the developer.*
- *Public Comment: If only one nutrient bank exists in Albemarle at any point in time, this effectively creates a monopoly.*

10. Allow the purchase of off-site nutrient credits for land development only if a payment is made to an Albemarle County fund dedicated to improving water quality.

Pro:

- *Could help the county meet requirements for local TMDLs.*

Con:

- *This payment could interfere with proposal #9, purchasing credits from a nutrient bank in Albemarle County.*

Other:

- *This is a voluntary option.*
- *The fund for improving water quality needs a clear definition.*

III. INCENTIVES for NON-RESIDENTIAL DEVELOPMENT

11. Implementing any incentives described for Residential Development triggers:

Pro:

- *See pros listed under INCENTIVES for RESIDENTIAL DEVELOPMENT section.*

Con:

- *See cons listed under INCENTIVES for RESIDENTIAL DEVELOPMENT section.*

Other:

- *These are voluntary options.*
- *Public Comment: Consider relaxed building height standards as an incentive.*
- *Public Comment: Does the county have the capacity to handle expedited review processes and reduced review fees?*

11A. An expedited review process.

Pro:

- *An expedited process may encourage developers to implement voluntary water quality measures.*

Con:

- *An expedited review process places strains on County resources and may impact review times for non-expedited applications.*

Other:

11B. Reduced review fees.

Pro:

- *Reduced fees may encourage developers to implement voluntary water quality measures.*

Con:

- *Reduced fees result in a negative financial impact to the County.*

Other:

11C. Reduced parking standards.

Pro:

- *Reduced parking standards may encourage developers to implement voluntary water quality measures.*
- *Reduced parking standards may result in reduced impervious area.*

Con:

- *Inadequate parking may negatively impact adjacent properties and roadways.*

Other:

- *Support among the development community.*

IV. COUNTY ACTIONS

12. Develop educational material and conduct public outreach.

Pro:

- *Will increase public awareness of stream health topics and issues.*
- *Will foster communication between the county and local communities and residents.*
- *Will create opportunities to collaborate with county partners and other organizations.*

Con:

Other:

- *Public Comments: Strong support for this proposal.*
- *Is consistent with objectives of the county's Natural Resources Program.*

12A. Explain the rules and regulations regarding stream health and stream buffers. Provide clarity.

Pro:

- *Will increase knowledge and awareness of the county regulations.*
- *Will provide a source of information about county regulations, helping to eliminate confusion.*

Con:

Other:

12B. Explain why stream buffers are important.

Pro:

- *Will increase awareness and understanding of the ecological functions and ecosystem services provided by stream buffers.*

Con:

Other:

- *May strengthen public support for regulations to protect stream buffers.*

13. Provide support and coordinate with other organizations and landowners to facilitate activities and projects that will improve stream health.

Pro:

- *Should increase the number of on-the-ground projects implemented by landowners.*
- *Will increase collaboration and strengthen relationships with county partners and other organizations.*
- *Will help increase public awareness and education about stream health topics and issues.*

Con:

Other:

- *Public Comments: Strong support for this proposal.*
- *Is consistent with objectives of the county's Natural Resources Program.*