

Summary Report - Proposals for Improving Stream Health in Development Areas Albemarle County Board of Supervisors Work Session – January 9, 2019

Background

On January 4th and May 3rd of 2017, Albemarle County's Natural Resources Manager participated in work sessions with the Board of Supervisors (Board) to discuss a Natural Resources Program for Albemarle County. During the May work session, the Board endorsed a Natural Resources Program consisting of seven objectives. The first objective of the program states: "Conduct a thorough public review of the stream buffer requirements of the Water Protection Ordinance."

In Spring 2017, County staff began conducting a public review of the County's stream buffer regulations. A team consisting of the Natural Resources Manager, County Engineer, and Development Process Manager/Ombudsman led the effort. The team proceeded with the understanding the Board held a strong interest in improving water quality and stream health in the County. The primary goal of the process was to solicit ideas and input from the public, to hear the various perspectives on stream buffers and the County's regulations, and assess if changes to the regulations or the process of implementing them should be considered.

County staff presented the results of the public review process to the Board at a work session on December 6, 2017. Discussion of stream buffer issues and rules was broadened to encompass stream health and water quality. Staff requested and received approval from the Board for the two recommendations below.

1. Approve staff recommendation to address the stream buffer review process in two phases, treating the Development Areas and the Rural Areas as separate phases.
2. Approve staff recommendation to address the Development Areas as the first phase.
 - a. Staff meets with individuals, businesses, and organizations to develop ideas for incentives to improve water quality.
 - b. Staff compiles, analyzes, and refines all ideas and information, creating a package of potential incentives.
 - c. Staff conducts work session with the Board in spring of 2018 to present recommendations for the Development Areas.
 - d. Upon implementation of phase one recommendations for Development Areas, staff will immediately begin working on Rural Area issues as phase two.

Proposals to Improve Stream Health

The staff team of the Natural Resources Manager, County Engineer, and Development Process Manager/Ombudsman has continued efforts on this issue. The team reviewed material from the 2017 stream buffer review process to identify comments and information relevant to improving stream health in the County's Development Areas. Other information was reviewed during internal meetings and discussions that were conducted.

A set of thirteen draft proposals were developed in October, 2018. The intent of the proposals is to improve stream health while remaining consistent with the County's Growth Management Policy. The proposals should not limit or hinder potential growth and development in the Development Areas.

Staff solicited comments and feedback from the public on the proposals. An online survey about the proposals was open from October 23 through November 25, with 37 individuals responding. Staff participated in five meetings with Community Advisory Committees (CAC) during October and November to discuss the proposals. A sixth CAC meeting is scheduled for December, 2018. A public meeting was held on November 1. The staff team met as requested with two small groups. The Natural Resources Manager was also in communication with other interested individuals.

Attachment A contains the draft proposals that were reviewed during public meetings, plus some notes and clarifications (highlighted in yellow) that were helpful during meetings. The proposals are grouped into four sections: 1) New or revised regulations, 2) Incentives for residential development, 3) Incentives for non-residential development, and 4) County actions. Attachment B lists the draft proposals with significant pros, cons, and comments (if any) about each. Most of the proposals, if acted upon, would require revisions to the County's Water Protection Ordinance, the Zoning Ordinance, or both.

Staff Recommendations

County staff believes each of the thirteen proposals have the potential to improve stream health and water quality in the County's Development Areas. Staff has engaged with and listened to the public, listed and analyzed the pros and cons of each proposal, and looked at existing County staff resources. The staff recommendations that follow should meet the goals of the Community Development Department, help improve stream health by identifying proposals that can be implemented without the need for significant additional staffing or resources, and will hopefully be acceptable to the public. Recommendations for the individual proposals are:

Proposal #1.

Staff seeks direction from the Board to work on this proposal. There is potential for significant positive impact on stream health with a small amount of effort and resources required.

Proposal #2.

Staff seeks direction from the Board to work on this proposal with one modification. Staff recommends lowering the threshold for the area of land disturbing activity (currently 10,000 square feet) to trigger VESCP regulations. Staff does not recommend eliminating the threshold. Additional staff time will be required to implement this proposal.

Proposal #3.

Staff seeks direction from the Board to work on this proposal. It will help minimize erosion and sediment control problems in certain situations with a limited amount of effort and resources required.

Proposal #4.

Staff seeks direction to forego working on this proposal at this time. The amount of positive impact on local streams is unclear. It is not known how many additional Virginia Stormwater Management Program (VSMP) applications and plans would be required. It is also possible that developers would choose to purchase off-site nutrient credits rather than developing stormwater plans and facilities. More information and research would be needed to justify a staff recommendation in favor of this proposal.

Proposal #5.

Staff seeks direction from the Board to work on this proposal. A Common Plan of Development applies only to subdivisions. The focus of this proposal would be to determine how to include individual parcels in this definition.

Proposal #6.

Staff seeks direction from the Board to work on this proposal. The focus of increased fees should be for reoccurring violations and repeated non-compliance with the Water Protection Ordinance.

Proposals #7, 7A through 7E.

Staff seeks direction to forego working on these proposals at this time. While some of the proposed activities to trigger density bonuses have significant potential for improving stream health, some come at the expense of significant increases in staff time and other County resources needed. Simply ensuring permanent protection and maintenance of buffer areas over time is a major commitment. Discussions about density bonuses revealed inconsistencies between density requirements in residential zoning districts and density recommendations in the Comprehensive Plan. If inconsistencies remain, a question of priorities arises. Should stream health considerations and natural resources (Chapter 4 of the Comprehensive Plan) take precedence over guidance for Development Areas (Chapter 8 of the Comprehensive Plan)? Staff recommends that a full Comprehensive Plan analysis be conducted before considering these proposals.

Proposals #8, 8A, and 8B.

Staff seeks direction to forego working on these proposals at this time. Like the #7 proposals, staff recommends that a full Comprehensive Plan analysis be conducted before considering these proposals. Some overlap occurs on Proposals #7B and #8A, and the issue of consistency between the Comprehensive Plan and County ordinances would need to be resolved. Also like the #7 proposals, some of the proposed incentives have potentially significant stream health benefits but require significant additional staff time and other resources.

Proposal #9.

Staff seeks direction from the Board to work on this proposal but not exactly as it is written. Purchasing off-site nutrient credits from a nutrient credit bank located in Albemarle County will help improve local stream health. Currently there are no nutrient credit banks in the County. In order to provide incentives in the future, staff recommends a simple amendment to Section 33 of the Zoning Ordinance. Voluntarily purchasing off-site nutrient credits from a bank located in the County would be added as one of the factors to consider when granting a special exception to zoning requirements.

Proposal #10.

Staff seeks direction to forego working on this proposal at this time. There is not an appropriate County fund currently in place for use with this proposal. Staff believes this proposal is worthy of future consideration.

Proposals #11, 11A through 11C.

Staff seeks direction to forego working on this proposal at this time. These proposals should not be acted upon until the direction and actions for proposals #7 and #8 are determined.

Proposals #12 and #13.

Staff seeks direction from the Board to work on these proposals. No ordinance or policy revisions are necessary. The proposals are consistent with objectives of the County's Natural Resources Program.

In addition to any actions taken on the thirteen draft proposals, staff has identified a number of revisions that will update and improve the Water Protection Ordinance. The revisions are largely simple and straightforward, being mostly administrative in nature, providing clearer language, or updating information (e.g., current names of County departments). Staff seeks direction from the Board to work with the County Attorney's Office on these revisions.

Summary of Recommendations

Below are the proposals grouped by the Board direction that staff has recommended for each:

Proceed with work on these proposals:

#1, #2 (with modification), #3, #5, #6, #9 (not exactly as written), #12, #13, simple revisions to Water Protection Ordinance

Do not work on these proposals at this time, a Comprehensive Plan analysis is needed:

#7 (and subitems), #8 (and subitems)

Do not work on these proposals at this time, they may be considered in the future:

#4, #10, #11 (and subitems)