



VIRGINIA DEPARTMENT OF HOUSING  
AND COMMUNITY DEVELOPMENT  
*Partners for Better Communities*

## Commission on Local Government

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Briefing on the Structure of Land Use  
Planning, Land Use Regulation, and  
Infrastructure Financing in Virginia

*for the*

Joint Subcommittee to Study Development and Land  
Use Tools in Virginia's Localities (HJR 178/SJR 70)

September 11, 2008



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## Purpose

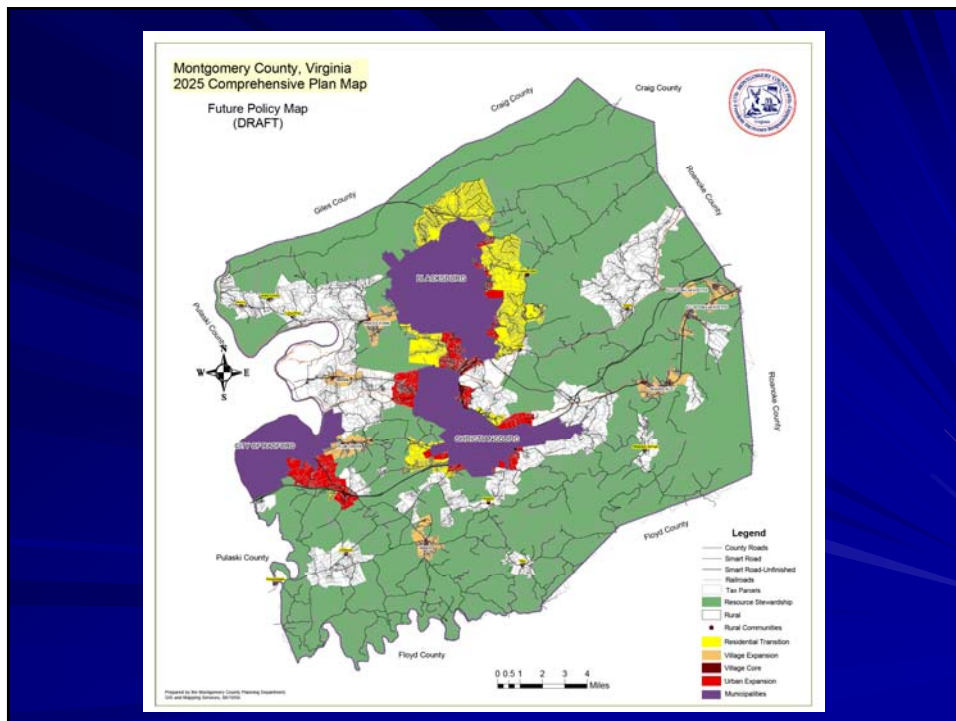
- Overview of land use planning in Virginia
- Overview of available implementation tools
- Relevance of the above to the Urban Development Area concept (concentrating growth in defined areas of the locality)



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## Local Comprehensive Planning (15.2-2223)

- Mandated for all localities
- Should consider all matters relevant to orderly future development
- Planning Commission is responsible for developing the plan
- Governing body adopts the plan, and follows it as policy
- Land use policy map is key product





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## Local Comprehensive Planning

- Ideally, disparate government acts are coordinated to achieve desired end result
- Plan must be reviewed at least once every five years (but there is no state oversight)
- Planning Commission may prepare capital improvements program (CIP) tied to comp plan
- “Area plans” may be adopted for specific subparts of the locality



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## Planning by Other Entities Separate from Local Comp Plan Process

- Transportation Planning
  - Metropolitan Planning Organization (MPO)
  - VDOT
  - Regional authorities (e.g. WMATA)
- Other Infrastructure Planning
  - School boards
  - Water and sewer authorities
  - Park authorities
  - State and federal agencies
  - Colleges and universities



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## Planning by Other Entities Separate from Local Comp Plan Process

- Planning District Commissions
  - Address regional issues and special projects
  - Regional plans tend to be advisory only
- Private Planning
  - Very large subdivisions
  - Corporate campuses
  - Regional malls
  - Can be very influential in small localities



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## Other Limitations of Local Comp Plans

- Governing bodies are not required to follow their adopted plan
- Implementing ordinances are not required to be updated to match adopted plan
- Many matters affecting land use are beyond governing body's control
- Cannot on its own deal with regional issues
- Can be expensive to create and update
- Value of planning may not be evident until problems emerge and opportunities have already been lost



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## What Makes an Effective Comp Plan?

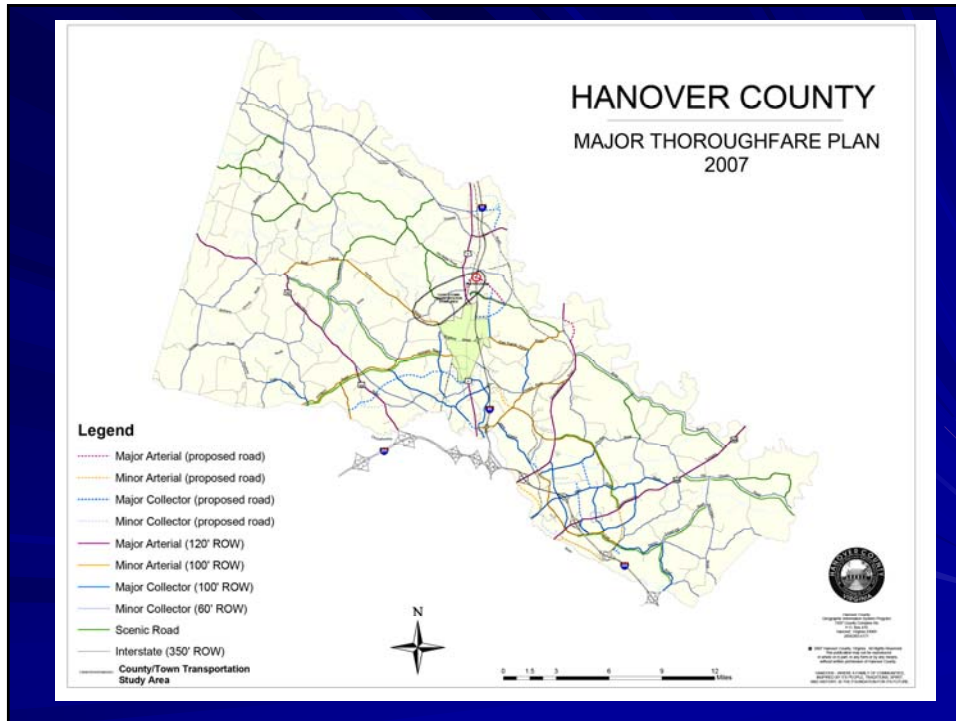
- Well-publicized, participatory process
- Analyzes all relevant patterns and trends
- Articulates a vision, goals, objectives, and policies
- Uses graphics to communicate concepts
- Ties land use policies to a map



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## What Makes an Effective Comp Plan?

- Contains a thoroughfare plan showing future road links and capacity improvements
- Contains guidelines for locating major public facilities, e.g. schools
- Contains an implementation strategy (capital investment, regulations, initiatives)
- Political will is essential



**Land Use Regulation and Infrastructure Financing**

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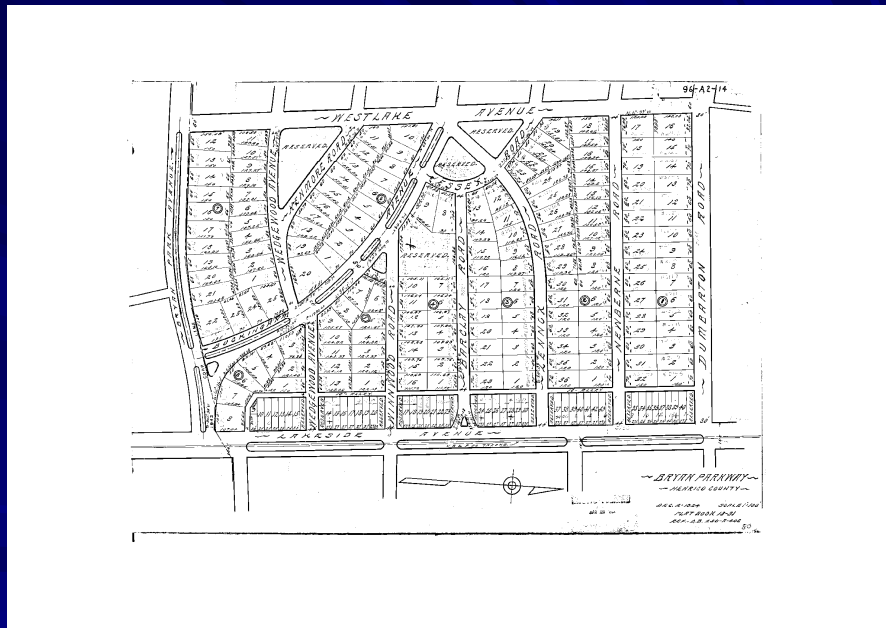
- Implementation of local comprehensive plan occurs through:
  - Regulation of private land use activities
  - Investment in public capital improvements
  - Supportive economic conditions



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# Subdivision Ordinance (15.2-2240)

- Mandated for all localities
- The primary shaper of development
- Regulates platting of lots, blocks, streets, alleys, easements
- Requires construction or performance bonding of on-site infrastructure
  - Streets, sidewalks, alleys
  - Water and sewer mains
  - Storm drainage system
  - Appurtenances, e.g. streetlights, survey monuments





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## Subdivision Ordinance

(15.2-2240)

- Plat recordation dedicates rights-of-way to approving locality and allows lots to be sold
- Interagency review is common (VDOT especially)
- No referral to governing body—approval is administrative, not a legislative act
- Some types of subdivision activity may be exempt, e.g. family and agricultural subdivisions



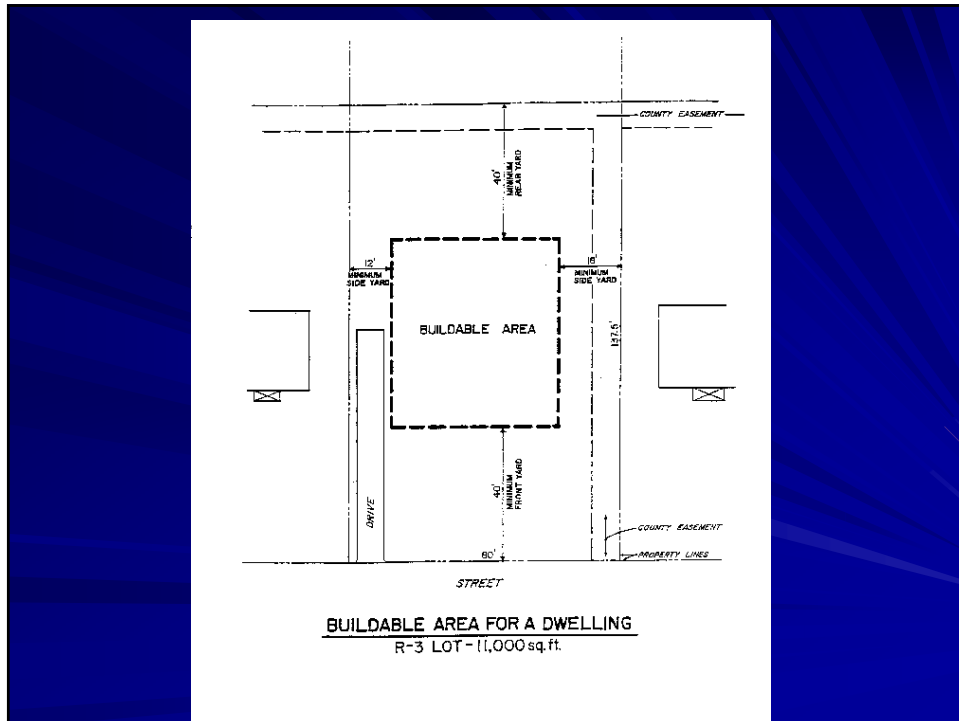
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## Zoning Ordinance

(15.2-2280)

- Optional (except in Tidewater), but most localities have one
- Regulates types of activities that can take place on parcels of land
- Regulates lots dimensions and area
- Regulates building setbacks, height, lot coverage, often landscaping and off-street parking
- Indirectly regulates density and urban design

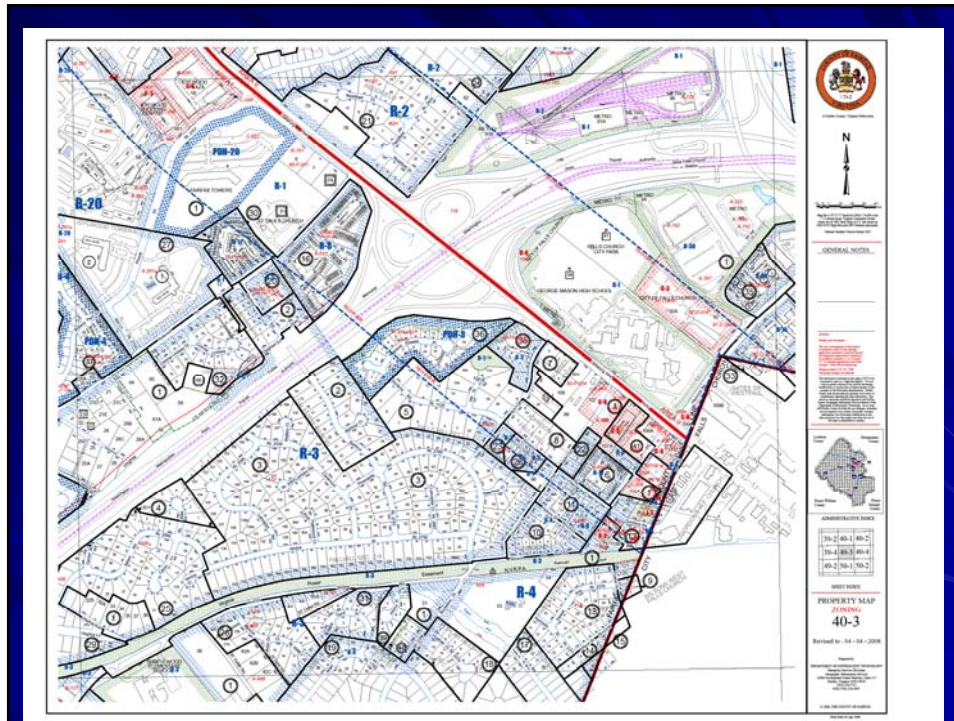




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## Zoning Ordinance: Basic Structure

- Divides locality into mapped zones with associated regulations
  - Zones have different requirements in terms of allowable uses, lot sizes, etc.
  - Some uses are by right, some conditional
  - Some zones are not mapped (floating zones) and may be largely negotiable (PUD zones)
- Nonconforming uses are an issue



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## Zoning Ordinance: Administration

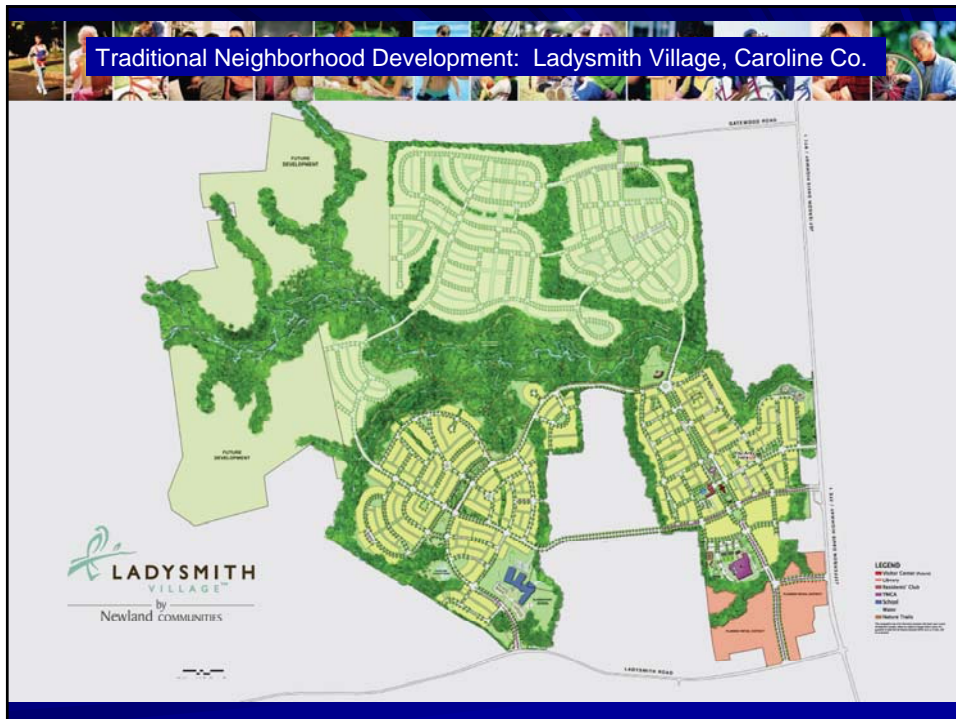
- Enforced through plans of development and various permits
- Zoning Administrator interprets ordinance
- Board of Zoning Appeals hears requests for variances and appeals of ZA decisions (BZA also issues conditional use permits in some localities)
- Rezoning process is a local legislative act that is critical to managing growth



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## Zoning Ordinance: Summary

- Zoning is a flexible tool—ordinances can be quite basic or very sophisticated
- Recent innovations:
  - Incentive zoning
  - Clustering
  - Traditional neighborhood development (a.k.a. New Urbanism, neotraditional planning)
  - Form-based coding





**ENVELOPE STANDARDS** as buildable area. No part of any building excepting overhanging eaves and BES permitted balconies, bay windows, stoops, and shopfronts shall encroach into the street beyond the RBL. No part of any building (excepting overhanging eaves, balconies, stoops, and small and unroofed garden structures) shall occupy the remaining lot area. The minimum open contiguous area shall comprise at least 15% of the total BUILDABLE AREA and can be located anywhere within the BUILDABLE AREA of the site.

**Side Lot Line**  
There are no required side lot line setbacks unless shared with an existing single family house where an 8-foot setback is required.

**ALLEYS**  
On sites with no ALLEY access, there shall be a 25-foot setback from the rear lot line.

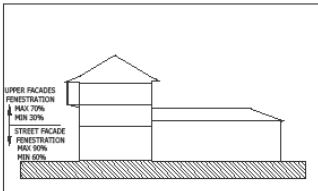
**Corner Lots**  
Corner lots shall be treated as having street frontage on both the front and side streets (or RBLs).

**Unbuilt RBL and Common Lot Line Treatment**  
Any unbuilt RBL shall have a STREET WALL along it, between 5 feet and 10 feet in height. STREET WALLS may also be constructed along any unbuilt common lot line.

**Elements Specifications**

**Ground Story-Fenestration**  
The ground story façade shall have between 60 percent and 90 percent fenestration (measured as a percentage of the façade that is between 2 and 10 feet above the fronting sidewalk). Awnings and overhangs are encouraged (except where otherwise designated on the REGULATING PLAN).

**Upper Stories-Fenestration**  
Upper story façades shall have between 30 percent and 70 percent fenestration (measured for each story as a percentage of the façade that is between 3 and 9 feet above the finished floor).

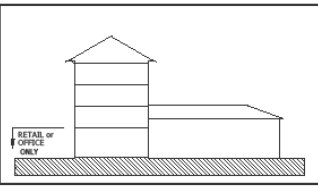


**Elements Specifications**

**Use Specifications**

**Ground Story**  
1. The ground story shall house retail uses as defined on page 17-18 as well as lobby and access for upper story uses.  
2. There shall be functioning entry door(s) along the street façade at intervals not greater than 60 feet within any site.

**Upper Stories**  
Retail uses are not permitted on the upper stories (except those of less than 900 square feet and/or second stories as an extension of the ground story use and with direct Columbia Pike frontage). Second story restaurants do not violate this rule. Business and professional offices including medical, legal, insurance, philanthropic, real estate, banking, and other offices which in the judgement of the Zoning Administrator with a recommendation from the Administrative Review Team are of the same general character as those listed above may be located on all floors of Main Street sites.



**Use Specifications**



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## Other Relevant Tools

- Transfer of development rights (15.2-2316.1)
  - Rural areas could be “sending areas”
  - UDAs could be “receiving areas”
- Official map (15.2-2233)
- Neither has been implemented anywhere due to legal and administrative concerns



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## Infrastructure Financing Options

- Financing by local government
- Financing by other levels of government
- Financing by private contributions or exactions
- Mixed financing sources



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## Financing by Local Government

- Improvements paid for by all taxpayers:
  - Pay as you go
  - General obligation bonds
- Improvements paid for by users:
  - Revenue bonds (e.g. water/sewer systems, toll roads)
- Improvements paid for by specific property owners:
  - Special assessment districts (15.2-2404)
  - Service districts (15.2-2400)
  - Tax increment financing districts (58.1-3245)
  - Sanitary districts (21-112.22)



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## Financing by Other Levels of Government

- Loans and bonded debt
  - Virginia Resources Authority (water/sewer, drainage, community facilities, etc. through pooled bond issuances and revolving loan funds)
  - Virginia Public School Authority (schools, through pooled and stand-alone bond issuances)
  - Literary Fund (schools, through loans)
  - Rural Development Administration (water/sewer, community facilities through federal loans)
- The primary advantage of these sources is lower interest rates



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## Financing by Other Levels of Government

- Other locally controlled structures
  - Industrial development authorities (15.2-4900)
  - Sanitary districts, sanitation districts and public service authorities (21-112.22, 21-141, 15.2-5100)
  - Park authorities (15.2-5700)
  - Community development authorities (15.2-5152)
- All these can issue revenue bonds for certain infrastructure projects



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## Financing by Other Levels of Government

- Grants
  - Appropriations (state or federal)
  - CDBG and ARC (water/sewer, community facilities in eligible areas; federal funds passed through DHCD)
  - Transportation enhancements (trails and parks; federal funds passed through VDOT)
  - Land and Water Conservation Fund (parks)
  - Other minor programs
- In-kind projects (e.g. VDOT road construction)



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## Financing by Private Contributions or Exactions

- Developer-built onsite public infrastructure
- Developer offsite pro-rata contributions
- Water/sewer connection fees (recovery of system capital costs)
- Developer-built road improvements to gain VDOT entrance permits
- Proffers and impact fees





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## Financing by Private Contributions: Proffers

(15.2-2296)

- Proffers in general:
  - Only available in a rezoning action
  - Voluntary contributions to mitigate impact of a rezoning
  - Should relate to needs generated by project and to local comp plan and capital improvements program
- In-kind proffers (e.g. school sites, parkland)
- Cash proffers (for offsite improvements constructed by locality)



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## Financing by Private Exactions: Impact Fees

(15.2-2317)

- Impact fees in general:
  - Apply to all development in designated service areas, not just rezonings
  - Involuntary; based on a set fee schedule
  - Fee schedule must relate to a study of capital improvement needs in the service area
- Road impact fees are enabled in high-growth counties
- General impact fee authority is very limited



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## Relevance to UDAs-- Ingredients of Success: Planning

- Comp plans for high-growth counties must designate areas meeting minimum Urban Development Area criteria:
  - Min. 4 du/ac residential, 0.4 FAR/ac commercial
  - Accommodate 10-20 years growth
  - Reevaluate every 5 years
  - Incorporate principles of traditional neighborhood development
  - Describe incentives for development in UDA



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## Relevance to UDAs-- Ingredients of Success: Planning

- What would constitute a successful UDA?
- Proposed: A functional, fiscally sustainable system of interconnected neighborhoods and associated commercial and employment uses that meets broad market demand and retains its value over time.



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## Relevance to UDAs-- Ingredients of Success: Planning

- Most, if not all, comp plans already use UDA concept
- Small area plans have great potential to aid UDA development
- Coordination with other planning entities is vital (water/sewer; transportation; school board; neighboring municipality, if any)
- Localities cannot be timid about planning if UDAs are going to work



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## Relevance to UDAs-- Ingredients of Success: Regulation

- Subdivision ordinances must be carefully thought out and administered
  - Lot and block standards
  - Street connectivity
  - Plans for ultimate development of sites (“shadow platting”)
  - Stub-outs and easement reservations
  - Clear onsite improvement standards



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## Relevance to UDAs-- Ingredients of Success: Regulation

- Reach upfront agreements with fire marshal, utility companies, VDOT on standards for onsite improvements, right-of-way widths, easements
- Pursue pro-rata development of key road links
- Pursue pro-rata sharing in water/sewer capacity improvements
- Continued progress in VDOT regulatory and administrative support



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## Relevance to UDAs-- Ingredients of Success: Regulation

- Zoning ordinance and policy must follow comp plan
  - Incremental rezoning is usually best (assuming GA grants no general impact fee authority)
  - Allowable densities coupled with required improvements must yield economically viable projects for developers
  - Consider impact on affordability
  - Lot size, dimension, coverage, building setback, parking, landscaping requirements must be coordinated with comp plan
  - Provide by-right options for desired development rather than relying on PUDs and conditional uses



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## Relevance to UDAs-- Ingredients of Success: Infrastructure Financing

- To minimize local tax burden:
  - Create balanced tax base—residential, commercial, employment mix
  - Reduce new infrastructure needs and future operating costs by getting best use out of what already exists
  - This implies greater density, mixed use, and careful planning, not default scatteration
  - Some savings can be derived from reforming local practices, e.g. selecting smaller, walkable school sites planned for multiple uses



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## Relevance to UDAs-- Ingredients of Success: Infrastructure Financing

- Traditionally, developers bear some new infrastructure cost—how much is fair to ask is the question
- Would the following scenario be fair?
  - Reasonable and consistent onsite improvement standards (be aware of density necessary to pay for these) implemented through ordinances and proffers

And...



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## Relevance to UDAs-- Ingredients of Success: Infrastructure Financing

- Reasonable and consistent cash proffer or impact fee system to fund offsite infrastructure:
  - Determine level of service standards
  - Define service areas
  - Define capital improvements needed for expected growth (include in local CIP)
  - Determine contribution amount per unit of new development
  - Collect funds and accumulate account balances
  - Be aware of potential impact of system on housing affordability

And...



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## Relevance to UDAs-- Ingredients of Success: Infrastructure Financing

- Strategic investments by locality:
  - Be prepared to front costs for major facilities and recover them as development occurs
  - Have local cash on hand to leverage greater capacity out of developer-constructed improvements like collector roads and sewer lines

And...



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## Relevance to UDAs-- Ingredients of Success: Infrastructure Financing

- Establish a “user pays” system, wherein UDA property owners are charged for a higher level of service
  - Consider making UDA a service district with an additional tax levy
  - Consider boundary adjustments if adjacent to a municipality
- Consider channeling state grants and federal pass-through funds to UDAs



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## Summary

- This is not an exhaustive list of tools—only those most relevant to UDAs
- Local governments like autonomy in land use matters, but also need state support in achieving objectives that are politically difficult at the local level



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## Summary

- State can help most by:
  - Clarifying selected statutes to reduce uncertainty and enhance efficiency
  - Granting additional authority to localities in certain areas
  - Instructing state agencies to make their regulations and practices supportive of UDAs and other objectives



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## Resources

### More about land use tools in Virginia:

<http://www.vapanning.org/pdfs/VAPAGrowthTools-November2007.pdf>

[http://www.vapanning.org/pdfs/Patterns\\_of\\_Suburban\\_Growth.pdf](http://www.vapanning.org/pdfs/Patterns_of_Suburban_Growth.pdf)

### More about special districts and authorities:

<http://www.dhcd.virginia.gov/CommissiononLocalGovernment/PDFs/authorities.pdf>

### Relative powers of counties, cities, towns:

<http://www.dhcd.virginia.gov/CommissiononLocalGovernment/PDFs/function.pdf>

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