PRESENTATION OUTLINE
Joint Subcommittee to Study Development and Land Use Tools in Virginia's Localities
September 11, 2008

Purpose of Subcommittee: (1) to examine and monitor the transition to channeling development into Urban Development Areas; (2) to determine if additional legislation is needed to help localities as they transition to UDAs; (3) to make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate.

Purpose of Presentation: to provide a briefing on the structure of land use planning, land use regulation, and infrastructure financing in Virginia, so that all members of the subcommittee are working from the same knowledge base.

Time Goal: 20-25 minutes

I. Introduction and Purpose of Presentation
   A. Overview of land use planning in Virginia
   B. Overview of available implementation tools
   C. Relevance of the above to the UDA concept

II. Planning in Virginia
   A. Local comprehensive planning
      1. Mandated for all localities
      2. Should consider all matters relevant to orderly future development
      3. Examples of matters that must be considered
      4. Land use policy map is the key product
      5. Planning commission is responsible for developing the plan
      6. Governing body adopts the plan, and ideally follows it as policy
      7. Ideally, disparate govt. acts are coordinated to achieve desired end result
      8. Plan must be reviewed at least every 5 years—but there is no state oversight of this
      9. Planning commission may prepare annual capital improvements program that should be tied to comp plan
      10. "Area plans" may be adopted for specific parts of the locality, as part of the comp plan

   B. Planning by other entities separate from the local process
      1. Transportation planning—MPOs, VDOT, regional authorities
      2. Other infrastructure planning—school boards, water & sewer authorities, park authorities, state agencies, colleges and universities (all often think they are only doing "facilities planning", but impacts can be far-reaching)
      3. PDCs (regional plans tend to be advisory only)
      4. Private planning—subdivisions, corporate campuses, etc.—public "planning" is sometimes reactive to private interests, who really did the planning

C. Other limitations

1. Governing bodies are not required to follow the comp plan
2. Implementing ordinances are not required to be updated to match the comp plan, and often aren't
3. Many matters that affect land use are beyond the governing body's control, e.g. the policies of neighboring localities
4. Cannot, on its own, effectively deal with issues that are regional in nature
5. Creating a good plan and keeping it updated can be expensive, particularly in populous high-growth localities
6. Localities often don't see the value in planning until serious growth-related problems have already emerged and many opportunities have been lost

D. What makes an effective comprehensive plan?

1. Well-publicized, participatory process to develop it
2. Analyzes all relevant patterns and trends
3. Articulates a vision, goals, objectives, and policies
4. Uses graphics to communicate concepts (in plan development and in final product)
5. Ties land use policies to specific geographic areas on a map
6. Contains a thoroughfare plan showing general locations of future road links and capacity improvements
7. Contains guidelines for locating major public facilities (schools, etc.)
8. Contains an implementation strategy (capital investment, regulations, initiatives)
9. Political will is essential

III. Land Use Regulation and Infrastructure Financing in Virginia

A. Implementation of local comprehensive plan occurs through:

1. Regulation of private land use activities
2. Investment in public capital improvements

B. Subdivision ordinance

1. Mandated for all localities
2. Regulates platting of lots, blocks, streets, easements
3. Requires construction or performance bonding of on-site infrastructure, e.g.:
    a. Streets and sidewalks, alleys
    b. Water and sewer mains
    c. Storm drainage system
    d. Appurtenances like streetlights and street signs
4. Plat recordation dedicates rights-of-way to approving locality and allows lots to be sold
5. Interagency review is common—VDOT especially
6. Planning Commission and/or designated "subdivision agent" approves—no referral to governing body

7. Approval is an administrative act, not a discretionary legislative one
8. Some types of subdivision activity may be exempt, e.g. family and agricultural
9. The primary shaper of development

C. Zoning ordinance

1. Optional (except in Tidewater), but almost all localities have one
2. Regulates types of activities that can take place on land
3. Regulates lot dimensions and area
4. Regulates building setbacks, height, bulk, lot coverage, often parking and landscaping
5. Indirectly regulates density and urban design through 2, 3 and 4 above
6. Divides locality into mapped zones with associated regulations
    a. Zones have different requirements re 2, 3 and 4 above
    b. Some uses are by right
    c. Some uses are by conditional use permit
    d. Floating zones/PUD districts may be options
7. Nonconforming uses are an issue
8. Enforced through plans of development and various permits
9. Zoning administrator interprets ordinance
10. Quasi-judicial Board of Zoning Appeals hears requests for variances and appeals from zoning administrator's decisions (in some localities also handles conditional use permits)
11. Flexible tool—ordinances can be quite basic or very sophisticated
12. Evolving to encourage important advances such as density bonuses, clustering, traditional neighborhood development, form-based coding

D. Infrastructure financing options

1. Financing by local government
2. Financing by other levels of government
3. Financing by private contributions or exactions
4. Mixed financing

E. Financing by local government

1. Pay as you go
2. General obligation bonds (some differences between municipalities and counties)
3. Revenue bonds
4. Special assessment districts
5. Service districts
6. TIF districts

F. Financing by other levels of government

1. Loans and bonded debt
    a. Virginia Resources Authority (water/sewer, drainage, community facilities, other through pooled financings and revolving loan funds)
    b. Rural Development (federal; water/sewer, community facilities)

c. Literary Fund (schools)
d. Virginia Public School Authority (schools; pooled and stand-alone financings)
e. Primary advantage of above tools is lower interest rates
f. IDAs, EDAs, CDAs allow indirect financing through revenue bonds

2. Grants
    a. Appropriations (federal or state; e.g. CSO)
    b. CDBG and ARC (federal; water/sewer, community facilities in eligible areas)
    c. Transportation enhancements (federal)
    d. Land and Water Conservation Fund (parks)
    e. Other minor programs
3. In-kind (VDOT-managed road construction projects)

G. Financing by private contributions or exactions
1. On-site public infrastructure (per subdivision ordinance)
2. Off-site pro-rata contributions (per subdivision ordinance)
3. Water/sewer connection fees (for capital cost recovery)
4. Road improvements to gain VDOT entrance permits
5. Proffers in general
    a. Only possible if there is a rezoning
    b. Voluntary contribution to mitigate impact of rezoning
    c. Should relate to needs generated on-site and to comp plan/CIP
6. In-kind proffers (e.g. school sites, parkland)
7. Cash proffers (for off-site improvements)
8. Impact fees
    a. Apply to all development, not just rezonings
    b. Involuntary
    c. Road impact fees can be charged by high-growth counties after adopting IFSAs
    d. General impact fees can be applied only in counties adopting UTSDs by 12/31/08, and only on parcels zoned agricultural outside the UTSDs

H. Mixed financing
1. Many local capital projects involve multiple sources of funds
2. Local funds leverage loans, grants, in-kind contributions (e.g. VDOT revenue-sharing projects)

IV. Relevance to UDAs: Likely Ingredients of Success

A. Planning
1. Comp plans for high-growth counties must designate areas meeting mandated UDA criteria:
    a. Minimum 4 du/ac residential, 0.4 FAR/ac commercial
    b. Accommodate 10-20 years growth

c. Reexamine every 5 years
d. Incorporate principles of traditional neighborhood development
e. Describe incentives for development in UDA

2. Many, if not most, comp plans already use UDA concept
3. Small area plans have great potential to aid UDA development
4. Coordination with other planning entities is vital
   a. Water/sewer
   b. Transportation
   c. School board
   d. Neighboring municipality, if any
5. Localities cannot be timid about planning if UDAs are going to work

B. Regulation

1. Subdivision ordinances must be carefully thought out and administered
   a. Lot and block standards
   b. Street connectivity
   c. Ultimate development of sites, i.e. "shadow platting"
   d. Stub-outs and easement reservations
   e. On-site improvement standards (e.g. when curb & gutter, sidewalks, alleys)
   f. Reach understandings with fire marshal, utility providers, and VDOT on standards for on-site improvements, right-of-way widths, easements
   g. Pro-rata development of key road links
   h. Pro-rata sharing in water/sewer capacity improvements
   i. VDOT regulatory and administrative support

2. Zoning ordinance and policy must follow comp plan
   a. Incremental rezoning is usually best
   b. Allowable densities coupled with required improvements must yield economically viable projects for developers
   c. Consider impact on affordability
   d. District lot size, lot dimension, building setback, bulk, lot coverage, parking, landscaping requirements must be coordinated with comp plan
   e. Provide by-right options for desired development rather than relying on PUDs and conditional use permits

C. Infrastructure financing

1. To minimize local tax burden:
   a. Create balanced tax base—residential, commercial, employment mix
   b. Reduce new infrastructure needs and future operating costs by getting best use out of what you have already
   c. This implies greater density, mixed use, careful land use planning
   d. Some savings (capital and operating) can be derived from reforming practices, e.g. selecting smaller, walkable school sites with multiple uses
   e. Traditionally, developers bear some new infrastructure cost—how much is fair to ask is the question

2. Reasonable and consistent on-site improvement standards (be aware of density necessary to make project viable) implemented through ordinances and proffers

3. Fair cash proffer or impact fee system to fund off-site infrastructure

    a. Determine level of service standards

    b. Define service areas

    c. Define capital improvements needed (include in CIP)

    d. Determine contribution amount per unit of new development

    e. Collect funds and accumulate capital account balances

    f. Be aware of potential impact of system on housing affordability

4. Consider having local cash on hand to leverage greater capacity out of developer-constructed improvements like collector roads and sewer lines

5. Charge UDA property owners for higher level of service

    a. Consider making UDA a service district

    b. Consider boundary adjustments if adjacent to a municipality

6. Consider channeling state grants and federal pass-through funds to UDAs

V. Summary

A. This is not an exhaustive list of existing tools—only the most relevant to UDAs

B. Local governments like autonomy in land-use matters, but also need state support in achieving objectives that are politically difficult at local level (i.e. some mandates are helpful)

C. State can help most by:

1. Clarifying selected statutes to reduce uncertainty and enhance efficiency

2. Granting additional authority to localities in certain areas

3. Instructing state agencies to make their regulations and practices supportive of UDAs (VDOT is making helpful changes)

D. Questions