

Planning and Zoning 101

- I. What is a Comprehensive Plan?
 - A. Required by state Code
 - B. The plan for the physical development of an area – City, County, or Town
 - C. Legally adopted guide
 - D. For orderly development of an area to best promote the health, safety, morals, order, convenience, prosperity and general welfare of all of the inhabitants.
 - E. General in nature, with accompanying maps, charts, descriptive information
 - F. Usually contains information on existing conditions and recommendations on agricultural and forestal land, natural resources, infrastructure, and new development

- II. What is Zoning?
 - A. The regulation of land use through laws which apply to specifically designated geographic areas.
 - B. A police power of a local government enabled by the state – in Virginia, by the Code of Virginia.
 - C. The law establishing zoning is an “ordinance” – a governmental regulation. The zoning ordinance consists of text and a map.
 - D. Zoning ordinances typically regulate by district; the different districts are depicted on the map.

- III. What is a Subdivision?
 - A. The division of land into 2 or more lots for the purpose of future land development
 - B. Subdivision regulations contain the rules for creating lots, streets, utility service, and stormwater management.

IV. By-right Development VS. Rezoning and Special Uses

- A. By-right development – uses that can be approved administratively by the staff because the zoning ordinance allows it. It is regulated in 2 ways:
 - 1. By the Zoning Ordinance – for Site Development Plans – such as a new restaurant building with parking
 - 2. By the Subdivision Ordinance – such as a new lot for an apartment complex.
- B. Special Uses are uses that are allowed in zoning districts with special permission of the Board of Supervisors. They are legislative and discretionary.
- C. Rezoning is an action to change the district boundaries on the zoning map from one designated district to a different one. They are also legislative and discretionary.

V. What is Government's purpose in rezonings

- A. Primary purpose is to protect the health, safety, and welfare of the community
- B. A tool to implement the locality's land use plan.

VI. How do rezonings begin?

- A. Rezoning in Virginia can happen in one of three ways:
 - 1. Initiation by a property owner, a contract purchaser with the owner's consent, or the owner's agent.
 - 2. Initiation by the Planning Commission after adoption of a resolution of intent
 - 3. Initiation by the Board of Supervisors after adoption of a resolution of intent
- B. Usually, the rezoning is by an owner; however, the Board or Commission may initiate a zoning map change, especially in a map amendment that is area or locality-wide

VII. Proffers

- A. Establish the conditions of a rezoning.
- B. Are voluntary offers to perform an act or donate money, a product, or services to deal with impacts of a proposed rezoning.
- C. In order to be legitimate, they must be
 - 1. Voluntary, in writing, submitted before the Board of Supervisor's public hearing by the owner of property
 - 2. The rezoning must give rise to the need for the proffer
 - 3. Impose additional, not alternative zoning regulations
 - 4. Be reasonably related to the rezoning and in conformity with the comprehensive plan
- D. They may take the form of:
 - 1. cash for a public improvement whose need is substantially generated by the proposed use or development
 - 2. land (same disclaimer)
 - 3. an improvement
 - 4. A restriction on the property (proffering away certain uses)
 - 5. A commitment to develop in a certain way

VIII. How does the Comprehensive Plan relate to a Rezoning?

- A. A rezoning is assessed for conformity with the Comprehensive Plan
- B. Comprehensive Plan is a STRONG guide to decision making
- C. Conformity to the plan weighs heavily in challenges in the courts as to the legitimacy of a rezoning
- D. Conformity is not mandatory, but, the integrity of a plan can be compromised as rezonings are made which are not in conformity with the Comprehensive Plan