

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

Summary

Special Workgroup on Local Government Actions Related to Comprehensive Plans - HB 1236 (Marshall, D., 2024)

Monday October 7, 2024; 1:30 p.m. - 3:03 p.m.
Senate Room C, the General Assembly Building

Introduction:

Delegate Carrie Coyner called the meeting to order at 1:31 p.m.

Members present: Delegate Carrie E. Coyner, *Chair*; Delegate Daniel W. Marshall, III, Senator Ghazala Hashmi, Director Elizabeth Palen, Joshua Goldschmidt, *Governor Appointee*, Laura Bateman, *Virginia First Cities*, Andrew Clark, *Home Builders Association of Virginia*, Michelle Gowdy, *Virginia Municipal League*, Randy Grumbine, *Virginia Manufactured and Modular Housing Association*, Andrew Hopewell, *Virginia Chapter of the American Planning Association*, Bryan Horn, *Virginia Department of Housing and Community Development*, Erin Kormann, *Virginia Realtors*, Brian Koziol, *Virginia Housing Alliance*, Joe Lerch, *Virginia Association of Counties*

Staff and speakers present: Molly Bowers, Jeff Gore

The meeting began with introductions and opening remarks followed by a presentation and discussion.

Materials presented at the meeting are accessible through the [Commission's website](#).

Overview of Development Plan Processing within Comprehensive Plans

Jeff Gore, Local Government Attorney at Hefty Wiley & Gore

Jeff Gore presented an overview of how comprehensive plans guide local development and zoning decisions. He emphasized that while comprehensive plans provide a framework for future growth and land use, zoning ordinances are the legal instruments that govern development approvals. Comprehensive plans are updated every five years and involve extensive public input, covering topics like land use, infrastructure, and environmental concerns. They serve as guides for zoning decisions but do not carry the force of law except in certain cases, such as public infrastructure projects.

Gore also discussed the role of Planning Commissions which are tasked with developing these comprehensive plans, and the importance of aligning them with zoning ordinances. He highlighted challenges that arise when comprehensive plans are outdated, which can create confusion in zoning and development processes. He noted that while localities rely on comprehensive plans for guiding development, the legal authority rests with zoning ordinances, and better coordination between the two is essential for smoother development approvals.

DELEGATE CARRIE E. COYNER
DELEGATE DAVID L. BULOVA
DELEGATE DANIEL W. MARSHALL II
DELEGATE ADELE Y. MCCLURE
DELEGATE BRIANA D. SEWELL

SENATOR MAMIE E. LOCKE
SENATOR GHAZALA F. HASHMI
SENATOR WILLIAM M. STANLEY

JOSHUA GOLDSCHMIDT
MARTIN JOHNSON
ASHLEY WELBURN

Chair Facilitated Discussion

Delegate Coyner raised three main topic areas to be discussed during the meeting:

1. **Subdivision Site Plans:** There is a concern that the comprehensive plan is being referenced again after zoning approvals, which may complicate the process.
2. **Timing of Development Approvals:** There is a concern about the efficiency of the review and approval process, with a focus on streamlining and potentially shortening the timelines for approvals and resubmissions.
3. **Requirements for Subdivision Reviews:** There is a discussion around clarifying whether there are specific requirements and standards that should be reviewed during the subdivision process, focusing on what localities can and cannot include in their reviews.

The chair-facilitated discussion led by **Delegate Carrie Coyner** was centered on the intricate relationship between comprehensive plans and the zoning processes that govern development projects in Virginia localities. **Coyner** began by acknowledging that no specific guidance points had been sent before the meeting, but raised the question of how comprehensive plans are applied during the approval of site plans, especially in the context of by-right developments where rezoning may not be required.

Jeff Gore clarified that comprehensive plans typically influence the zoning process more during rezoning cases rather than site plan approvals for by-right developments. He said that once the rezoning is secured, the by-right zoning follows, and the comprehensive plan is often considered a background framework. He provided the example that things like site plans or land dedications are largely administrative tasks that occur after the comprehensive plan is in place with no direct legal control over those processes.

Andrew Clark expressed concerns about the bill's language (lines 90-95 or Section I) potentially invalidating local ordinances or expediting certain approvals which could lead to conflict with local ordinances governing public facilities. He offered the following substitute:

I. Notwithstanding any provision in this Section to the contrary, a locality's comprehensive plan shall not constitute the basis, in whole or in part, whether directly or through incorporation into any zoning ordinance, subdivision ordinance, or other ordinance or manual, for the disapproval of a site plan, subdivision plat, or other administrative approval that is otherwise in conformity with duly adopted standards, ordinances, and statutes.

Delegate Coyner responded by stating that the original bill already addressed the concerns regarding approval timelines and the role of comprehensive plans. She clarified that while comprehensive plans play a significant role in rezonings and provide a broader framework for infrastructure, the by-right process—where subdivisions and site plans don't require rezoning—is primarily focused on technical reviews. This process, she explained, does not usually invoke comprehensive plan compliance directly which had already been established in the original legislative framework.

Andrew Hopewell emphasized that the bill could negatively impact local infrastructure standards, particularly road classifications and improvements. He gave an example of a 450-home development where local road standards might be overridden thus affecting the locality's ability to manage infrastructure. He worried that by-right approvals might overlook these local standards, leading to issues in how roads are planned and built.

Erin Kormann responded to **Hopewell's** concern by asking if road issues could be addressed during the rezoning process rather than the site plan stage. **Jeff Gore** added that in complex localities larger developments and infrastructure like roads are often discussed during the rezoning phase where proffers and other commitments are made. Once the development reaches the by-right stage, localities have less leverage to require additional infrastructure improvements unless they are tied to specific public safety or technical issues.

Delegate Coyner asked if there was any consensus. **Joe Lerch** suggested providing more concrete examples of the unintended consequences of by-right decisions to improve the legislative language. **Andrew Clark** said that the bill does not limit what localities can enforce under the by-right process but instead clarifies the boundary between what is negotiated and what is required. He emphasized that site plan processes remain largely intact.

Timing of Development Approvals

Coyner introduced the discussion on the timing of development plan approvals, referencing lines 186-206 of the bill. These lines propose changes to the approval process for site plans and subdivision plats, particularly regarding the elimination of court appeals and automatic approvals if localities fail to act within the specified timeframes. She asked participants for their thoughts on whether the current process is too slow and what changes could help streamline approvals.

Joe Lerch and **Michelle Gowdy** highlighted delays caused by the back-and-forth between developers and various local departments, like fire and police. These departments often submit comments at different times, prolonging the approval process. **Coyner** suggested shortening the review period for minor resubmissions and finding ways to streamline the review process. The group discussed timelines for resubmittals to be shortened, particularly for minor changes. **Coyner** proposed that rather than resetting the timeline with each resubmission, the bill could specify shorter periods for technical revisions. **Andrew Clark** supported this idea but noted that smaller localities with fewer resources may struggle to meet proposed deadlines.

There was also a broader discussion on the proposed legislation's potential impact on approval timelines. **Coyner** noted that the original bill already addressed the role of comprehensive plans in rezonings, but she stated that by-right processes should focus on technical reviews, not comprehensive plan compliance.

Laura Bateman shared feedback from medium-sized localities, explaining that while the proposed reduction of review timelines from 12 months to 4 months was appreciated, many localities need more time to handle complex zoning cases. She mentioned that after a resubmission, some localities need about 3 months to process the changes, suggesting that 6 months may be a more reasonable time frame.

Next Steps

Andrew Clark requested that local governments gather data on how long it typically takes to respond to applicants, resubmit plans, and finalize approvals.

Delegate Coyner asked participants, both localities and developers, to gather more specific data on how the proposed legislative changes would affect the approval process for by-right developments. This includes identifying any concerns or benefits these changes may bring.

Coyner encouraged participants to consider whether a compromise could be reached between the proposed 4-month review timeline and the current 12-month process. She also asked them to revisit the language that was removed from the bill regarding an applicant's ability to take further action if the review period exceeds the deadline.

Coyner suggested participants evaluate whether a shorter review time is feasible for resubmitted plans, particularly when the original submission was denied. She acknowledged that the 45-day window may not provide sufficient time for public notices, planning commission reviews, and board of supervisors' approvals. One possible solution proposed was to explore the option of double advertising to expedite the resubmission process.

Requirements for Subdivision Review

Delegate Coyner began the discussion on the topic of clear objective minimum requirements for plat reviews submittals

Michelle Gowdy expressed that there are always lists of things that need to be checked during the plat review process, but some requirements are site-specific. She suggested that there should be a core set of 5-10 requirements that need to be reviewed universally, but there will always be additional items that are specific to the site in question.

Andrew Clark proposed that some minor issues don't require a full review by all departments. He pointed out that some localities simply don't have enough staff to handle multiple, in-depth reviews, citing examples of localities with only two staff members responsible for reviewing 45 plans. His recommendation was to identify minor issues that could bypass comprehensive reviews by multiple departments to streamline the process.

Andrew Hopewell stressed that departments need to provide clear citations when a plan is found to be insufficient. This means specifying why a particular part of the plat is problematic, including references to specific code sections. However, **Hopewell** also pointed out that it should not be the responsibility of local government staff to offer solutions for deficiencies; instead, it should be up to the private sector (developers) to address the issues.

Joe Lerch brought the conversation back to the distinction between housing and commercial/industrial development. He suggested that it might be easier to create a general list of requirements for residential developments. However, commercial and industrial projects are often more complex and may require input from specialized departments, such as the fire department, making it harder to have a uniform checklist for these projects.

The discussion centered on finding a balance between creating clear, universal minimum requirements for reviews and allowing flexibility for site-specific issues, especially in smaller localities with limited resources. The group also debated the role of local government versus the private sector in addressing deficiencies found during reviews.

Public Comment:

There was no public comment

Conclusion:

The meeting was adjourned at 3:03 p.m.

The discussion will be continued in the Local Land Use and Community Living Workgroup that will meet on November 26, 2024, at 10:00 a.m. in Senate Room C of the General Assembly Building.