

The background features abstract, overlapping geometric shapes in various shades of blue, ranging from light sky blue to deep navy blue. These shapes are primarily located on the right side of the frame, creating a modern, layered effect.

Fundamentals Of Virginia Land Use Law

The grant of power and limitations on the exercise of power

- ▶ Localities have no elements of sovereignty, and no inherent powers
- ▶ The power to provide for comprehensive planning and to regulate the use and development of land lies in the State, which it has delegated to Virginia's localities

The grant of power and limitations on the exercise of power

▶ The Dillon Rule

- ▶ Localities have only those powers *expressly granted*, those *necessarily or fairly implied*, and those that are *essential and indispensable*

▶ State and federal preemption of local laws

▶ Constitutional provisions

- ▶ First Amendment: Establishment clause, free exercise clause, free speech clause
- ▶ Fifth Amendment: Takings without just compensation
- ▶ Fifth and Fourteenth Amendments: Due process and equal protection

The County's decision-makers: the board of supervisors

- ▶ Exercises all legislative powers unless expressly enabled to delegate
 - ▶ Comprehensive plan amendments, zoning map amendments, zoning text amendments, subdivision text amendments, special use permits, special exceptions
- ▶ Considers appeals of certain decisions:
 - ▶ Disapprovals of subdivision plats or site plans
 - ▶ Disapprovals of certificates of appropriateness by the ARB
 - ▶ Interpretation of proffers by the zoning administrator
 - ▶ Certain decisions by the program administrator under the Water Protection Ordinance

The County's decision-makers: the planning commission

- ▶ Makes recommendations to the board of supervisors on all legislative matters
 - ▶ Comprehensive plan amendments, zoning map amendments, zoning text amendments, subdivision text amendments, special use permits, special exceptions
- ▶ Considers and acts on requests for specific variations or exceptions under the Subdivision Ordinance and site plan regulations
- ▶ Considers appeals of certain decisions pertaining to subdivision plats and site plans

The County's decision-makers: the architectural review board (ARB)

- ▶ Administers the entrance corridor overlay district
- ▶ Promulgates design guidelines, which are subject to ratification by the board of supervisors
- ▶ Considers and acts on requests for certificates of appropriateness

The County's decision-makers: the board of zoning appeals (BZA)

- ▶ Hears and decides appeals from any order, requirement, decision, or determination made by an administrative office in the administration or enforcement of the Zoning Ordinance
- ▶ Hears and decides applications for variances from certain requirements of the Zoning Ordinance
- ▶ Hears and decides applications for special use permits for electric message signs and off-site signs

The County's decision-makers: the zoning administrator

- ▶ Interprets the Zoning Ordinance, including proffers
- ▶ Administers the Zoning Ordinance by making determinations and decisions
- ▶ Enforces the Zoning Ordinance, including ordering the abatement of violations of the Zoning Ordinance
- ▶ Makes vested rights determinations with the concurrence of the county attorney

The County's decision-makers: the agents and the program administrator

- ▶ The subdivision agent administers the Subdivision Ordinance and reviews and acts on subdivision plats
- ▶ The site plan agent administers the site plan regulations in the Zoning Ordinance and reviews and acts on site plans
- ▶ The program administrator administers the Water Protection Ordinance

The County's planning documents and development regulations

- ▶ Comprehensive Plan: a plan for the physical development of the County
- ▶ Zoning Ordinance: regulates how land may be used within zoning districts and establishes minimum lot sizes and standards for uses and structures
- ▶ Subdivision Ordinance: establishes standards for dividing land and imposes requirements for providing public and private improvements such as roads and utilities
- ▶ Water Protection Ordinance: establishes requirements for controlling erosion and sediment deposition during development, and managing the quantity and quality of stormwater leaving a development during and after construction

Land use matters considered by the board, the commission, the ARB, and county staff

- ▶ Amendment to the comprehensive plan: an amendment to the land use designation of lands or an amendment to the text of the plan
- ▶ Review of proposed public features: if a *proposed public feature* is not shown in the comprehensive plan, and not part of subdivision plat or site plan, the commission conducts a review to determine whether the feature's location, character, and extent are *substantially in accord* with the comprehensive plan

Land use matters considered by the board, the commission, the ARB, and county staff

- ▶ Zoning map amendment: an amendment that changes the zoning district in which land is located or amends previously approved application plans or codes of development, or accepted proffers
- ▶ Zoning and subdivision text amendment: an amendment that change the regulations in the Zoning or Subdivision Ordinance

Land use matters considered by the board, the commission, the ARB, and county staff

- ▶ Special use permit: a permit that allows a *use* in a zoning district that is generally consistent with the uses allowed by right, but has impacts that warrant case-by-case review
- ▶ Special exception: a permit that allows regulations pertaining to size, height, area, bulk, and similar matters to be *modified, waived, or varied*
- ▶ Certificate of appropriateness: a certificate that a proposed development is consistent with the ARB's design guidelines

Land use matters considered by the board, the commission, the ARB, and county staff

- ▶ Subdivision plat: a schematic drawing that shows how land will be *divided* and the location and nature of required improvements
- ▶ Site plan: a schematic drawing that shows how land will be *developed* but not divided and the location and nature of required improvements
- ▶ Variations and exceptions: an approval that allows a variation or exception from a general regulation of the Subdivision Ordinance or site plan regulations

Hypothetical - from comprehensive plan designation to development

- ▶ The comprehensive plan designates the parcel as Neighborhood Residential, 3-6 dwellings per acre
- ▶ The parcel is currently zoned R-1 and the owner applies to rezone the parcel to the R-4 zoning district
- ▶ At the time of the rezoning, the owner also applies for a special use permit for a day care center for its proposed development
- ▶ At the development stage, the owner submits a subdivision plat to subdivide the parcel into lots
- ▶ The maximum setback in the R-4 district is 25 feet, but the owner is proposing a unique target market design and applies for a special exception to increase the maximum setback to 30 feet
- ▶ In conjunction with the subdivision plat, the owner applies for an exception to require only curb be included in the street design, instead of curb and gutter as provided in the Subdivision Ordinance
- ▶ While subdivision plat under review, the owner has also submitted for approval erosion and sediment control and stormwater management plans

Decision-making

- ▶ Understand the nature of the application and the decision
- ▶ Identify the relevant factors and standards
- ▶ Identify and organize the probative facts
 - ▶ Separate the facts from fears, desires, conjecture, opinion, and speculation
- ▶ Avoid prohibited or questionable grounds on which to base a decision, including those that:
 - ▶ Constrain competition or confer exclusive privileges
 - ▶ Protect an existing business
 - ▶ Are based on illegitimate or personal reasons
 - ▶ Serve socio-economic purpose without express enabling authority

Key policies in the comprehensive plan that guide development: the Growth Management Policy

- ▶ Directs development into the Development Areas and preserves the Rural Area for rural uses
- ▶ Has been consistently applied
- ▶ When it refers to the “Development Areas,” it is referring to their current boundaries
- ▶ Does not provide a trigger or criteria for expanding the Development Areas

Key policies in the comprehensive plan that guide development: the Economic Development Policy

- ▶ The County's goal is to have an economy that "will be diverse, strong, and sustainable, and retain and benefit County citizens, existing businesses, and new local ventures."
- ▶ Economic development is to be accomplished *along with and within the framework* of the other goals and objectives of the Comprehensive Plan
- ▶ Acknowledges need for a *strategic assessment* of properties and the *ongoing assessment* of existing business and industry areas
 - ▶ Concern with existing lands in small parcels and inadequate public infrastructure
 - ▶ Capacity analysis now underway

Key policies in the comprehensive plan that guide development: the Development Areas Policy

- ▶ The Development Areas are “the place for residential and business growth” and they serve as a complement to the Rural Area
- ▶ The Development Areas should be used efficiently to prevent their premature expansion
- ▶ Premature expansion will frustrate the goals of the Growth Management Policy, the Rural Area, and the Neighborhood Model in achieving compact urban places
- ▶ No expansion until “it is established that the Development Areas cannot accommodate expected future residential and nonresidential growth”

Key policies in the comprehensive plan that guide development: the benefits of good land use planning

- ▶ Businesses want a place, not just a site
- ▶ Successful communities capitalize on their distinctive assets
- ▶ Having a distinctive identity will help create a quality of life that is attractive for business retention
- ▶ “Quality urban development . . . wants no part of any unstable, unplanned, uncontrolled environment as they know this is not a place to make a long-term investment.”
- ▶ “Tourism simply doesn’t go to a [locality] that has lost its soul.”