

Editorial by: Mary Summers Whittle

In just a few months, Charlottesville's city council may well approve the most extreme upzoning plan in the country.[1][2] Laid out in a recently released "final draft" **zoning ordinance**, the plan's key provisions include:

- **eliminating** all single-family-only zoning
- **allowing** the construction of 4, 6, or 8 housing units on all residential lots, with the option to double those numbers
- **permitting residential lots to be subdivided** into "sublots" of as little as 1/17th of an acre, which can then be maximally developed; and
- **scrapping requirements** that developers provide tenants with parking spaces (i.e., all parking could be on-street).

It's a doozy of a proposal, with huge implications for the city's future: At full implementation, the new zoning would triple Charlottesville's population and transform our 10-square-mile city into one of America's most densely populated urban areas.

Questionable Plan

The proposed zoning raises any number of questions. But there's one that—because it entails such transparent foolishness, profound irresponsibility, and seemingly clear disregard for state law—has long particularly bothered me. The question is this: **Why didn't City officials do any transportation planning to support their massive upzoning plans?** After all, it's beyond obvious that a far more densely populated city will require new and carefully planned transportation infrastructure: More people will require more and better sidewalks, bike paths, and systems of public transit, along with bigger and better roads, intersections, and bridges.

More significantly, though, **land-use supportive transportation planning isn't just a good idea, it's the law:** Virginia Code § 15.2-2223, which governs the comprehensive planning process that underlies zoning, clearly requires that localities create complementary land-development and transportation plans. Indeed, § 15.2-2223 (B) states that as part of the comprehensive planning process, a locality "...shall develop a transportation plan that designates a system of transportation infrastructure needs and recommendations that include the designation of new and expanded transportation facilities and that support the planned development of the territory covered by the plan."

In seemingly clear noncompliance with the law, however, Charlottesville officials made no such supportive plans: Although the *land use* portion of the City's comprehensive plan contains the blueprints for a radically denser, "upzoned" city, the *transportation* portion of the plan consists of little more than a collection of vague,

hopeful statements and a collection of transportation projects dating from 2015 and 2016, their status marked “TBD.”

Not surprisingly, the City’s records show that no transportation consulting or engineering firms were engaged at any point during the city’s pre-zoning comprehensive planning process, and in soliciting for firms to undertake the comprehensive planning and upzoning processes, Charlottesville officials categorized the city’s transportation plans as “already completed.”^[3] It couldn’t be clearer: *The city made no transportation plans to support their upzoning plans.*

Acting in Bad Faith

Here’s where things get even more disappointing. Virginia Code § 15.2-2223 also states that prior to the adoption of a comprehensive plan, (which, again, lays the groundwork for any pursuant zoning), localities are required to send the transportation portion of the plan to the Virginia Department of Transportation (VDOT). VDOT, in turn, is supposed to provide written comments to the locality on the “consistency” of the transportation and land use plans.

As we know, however, Charlottesville’s land use and transportation plans are wildly inconsistent. So how did they slip past VDOT’s review? Easy: FOIAed communications show that city staff requested a super-fast turnaround from VDOT officials, and, critically, did not tell VDOT officials about the planned upzoning. That’s right: *the transportation plan the city sent to VDOT makes not a single reference to any planned upzoning.*

In fact, the city’s communications to VDOT officials indicated not simply that Charlottesville had no current plans to change, but that it *couldn’t* change even if it wanted to.

“Development is pushed out to the surrounding communities,” City officials wrote in a brief narrative provided to VDOT officials. “Because of the built-out nature of the city, constructing new roadways or widening existing roadways are either not viable, palatable, or affordable.”

More Non-Compliance

It’s a great shame that Charlottesville officials failed to inform VDOT officials of their planned mega-upzoning. Had they done so, those officials would surely have informed the city’s leadership that **the new land use plans wildly surpass the legal threshold for a mandatory traffic impact analysis**, as spelled out in Virginia Code § 15.2-2222.1 and the corresponding administrative code, § 24VAC30-155-30 . Had city officials engaged in a traffic impact analysis, they’d have been forced to consider such critically important issues as how the transportation system is or is not currently functioning; what changes to the transportation system will likely be necessitated by

the pending upzoning; and how the city and surrounding counties might coordinate their transportation plans with one another. That is, **compliance with the law would have forced city officials to engage in sensible, responsible transportation planning.**

Defiant noncompliance

As a final note, it's worth pointing out that in Dec. 2022, just prior to a court-mandated new adoption of the city's comprehensive plan, VDOT officials, with approval from Virginia's Office of the Attorney General, reminded the city of the need to comply with the review requirements of § 15.2-2223, § 15.2-2222.1 and, § 24VAC30-155-30. City officials refused to do so, and moved forward with adopting a comprehensive plan and sweeping environmental action amendment in what appears to be open noncompliance with the relevant statutes.

More Questions

Why are Charlottesville's leaders unwilling to comply with the state's entirely sensible transportation planning laws? State law envisions coordinated land use and transportation planning because such planning is clearly the most beneficial to municipalities and their residents. Charlottesville's planners have utterly failed the city's citizens, in this regard.

Call me old-fashioned, but I believe that local governments have a responsibility to abide by state law as well as to strive to take actions that will both protect and benefit their citizenry. It's time for C'ville's citizens to start asking some serious questions about the city's behavior—and demanding some serious answers.

[1] Zoning laws regulate how property can be used or developed; *upzoning* means changing those laws to permit greater intensity of use.

[2] Arlington, VA recently passed the nation's most permissive zoning ordinance, eliminating single-family-only zoning and allowing the construction of four or six dwellings per lot in all County neighborhoods. Of the three states and eight municipalities that have made similar "upzoning" changes, only Portland allows six dwellings per lot, and only if some of the dwellings are affordable.

[3] Question for another day: Why was the firm that led the planning process, Rhodeside Harwell Inc., hired in the absence of a competitive bidding process, as required by state procurement law?

