

## E-mail from John Horne about Land Use Action 12 referred to in Michael Brown's Question 12

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-----Original Message-----

**From:** John Horne  
**Sent:** Monday, July 14, 2003 11:42 AM  
**To:** Bruce Goodson; Michael Brown  
**Cc:** Board Only; Marvin Sowers; Don Davis; Frank Morton  
**Subject:** RE: Interpretation of Action 12, Land Use, Comp Plan Final Draft

The code reads "Thereafter, unless a feature is already shown on the adopted master plan or part thereof....." Master Plan in this case means Comprehensive Plan. If it is shown in the Plan, it is not required to have any further review or approvals. If it is not shown in the Plan, then the Planning Commission must determine whether it is "substantially in accord with the adopted Comprehensive Plan or part thereof." The Commission is not required by code to have a public hearing, but shall have a public hearing if directed to by the governing body. The decision of the PC is appealable to the BOS, who is not required by code to have a public hearing.

So, in summary, if Treyburn Drive was clearly "shown" in the Comprehensive Plan, I don't believe any further PC or BOS approval would be necessary. If there is no reference at all in the Plan, I think it would be very hard to state that is "substantially in accord" with the Plan.

The language in Action 12 just references the Code and does not require anything more than the above.

-----Original Message-----

**From:** Bruce Goodson  
**Sent:** Monday, July 14, 2003 10:58 AM  
**To:** John Horne; Michael Brown  
**Cc:** Board Only; Marvin Sowers; Don Davis; Frank Morton  
**Subject:** RE: Interpretation of Action 12, Land Use, Comp Plan Final Draft

John, as I read it, the language in Action item 12 will require a public hearing process and Board approval before Treyburn Drive could be extended. Is this correct?

Bruce

-----Original Message-----

**From:** John Horne [mailto:jtphorne@james-city.va.us]  
**Sent:** Friday, July 11, 2003 2:54 PM  
**To:** Michael Brown  
**Cc:** Board Only; Marvin Sowers; Don Davis; Frank Morton  
**Subject:** RE: Interpretation of Action 12, Land Use, Comp Plan Final Draft

I will explain this at the worksession also, but here is a summary.

State law has several sections that authorize local government review and approval of *private* land use activities as to their conformance to the Comprehensive Plan. These provisions are contained in the general authorization for zoning and subdivision approval. 15.2-2232 is the code section that authorizes, actually requires, local government approval of *public* facilities as to their conformance to the Plan. New public roads, buildings, parks etc. must be found to be in conformance with the Plan. Public Service Corporations, such as Dominion Virginia Power, must also have their new major facilities reviewed for conformance.

There is one very pertinent example being discussed in this Plan. Treyburn Drive, if not found to be in conformance with the Comprehensive Plan, can not be built. We may address it as part of the new Comprehensive Plan because the timing of the request matches our schedule. If, however, the road was proposed between Comp Plan cycles, this is the Code section that gives the County the authority to determine if the road does or does not conform to our Comprehensive Plan. If it is deemed not to be in conformance, it can not be built.

We have made this type of finding on new County owned facilities, such as parks and schools in the past.

As to why it is proposed in the Plan. Very similar language is in the existing Plan on page 94, referencing the previous code section number. The purpose is to be clear in our communication with the Comprehensive Plan so our citizens know that public facilities are also supposed to conform to the Plan.

I hope this helps.

-----Original Message-----

**From:** Michael Brown

**Sent:** Friday, July 11, 2003 11:00 AM

**To:** John Horne

**Cc:** Board Only

**Subject:** Interpretation of Action 12, Land Use, Comp Plan Final Draft

John,

I don't think we ever did get an interpretation of why Action 12 in the Land Use chapter found its way into the Comp Plan. At the time I brought it up in Steering Committee, no one seemed to really know what the cited Virginia Code said or meant. So, when we meet in the next Work Session to talk more about the final Comp Plan draft, I would appreciate it if you could illuminate us on the provisions of Section 15.2-2232, Legal Status of Plan, of the Code of Virginia, why it is necessary to cite it directly in the Comp Plan, what it really means, and exactly what the ramifications of the cite are for the Comp Plan.

*Michael J. Brown*

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