

Area Officials Struggle To Fit Lid on Growth

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To hear some activists and local officials in Virginia tell it, the key to slowing rampant growth is to follow the lead of many Maryland counties: Ban development where roads and schools are crowded.

But here is what that method has accomplished in Anne Arundel County: More than one-third of its school districts are closed to new subdivisions, even in areas intended to absorb construction under the state's much-touted "slow-growth" laws. As a result, development is being pushed to more rural parts of the state less suited to handle it.

The shortcomings of Maryland's growth policies are just one sign of what frustrated officials are finding in both states -- that controlling development is not as easy as just saying no. Three months after voters in the D.C. suburbs elected candidates who vowed to slow growth, reform proposals are floundering amid political inertia and resistance from developers.

But also undermining speedy action is deep uncertainty about how best to harness development in one of the fastest-growing regions in the country. The hard truth, say skeptical officials and land-use experts, is that today's crowded roads and schools are the result of years of decisions and cannot be fixed quickly by clamping down on growth.

"It's sticking an oar in the water to turn a battleship," said Joseph Rutter, who recently retired as Anne Arundel's planning director. "But it's very easy to attack the new growth and say that's what's causing the problem."

The public clamor for slower growth is unmistakable. In Maryland, Isiah Leggett (D) was elected as Montgomery County executive last fall after saying that he would be tougher on developers than his opponents. In Virginia, Republican Corey A. Stewart ran on the same platform to become chairman of the Prince William County Board of Supervisors. The year before, Timothy M. Kaine (D) became Virginia's governor based partly on calls for development controls.

Picking up on voters' moods, lawmakers have been striving to be seen as taking action. Prince William and Loudoun counties, among the fastest-growing in the country, have instituted year-long moratoriums on most development. But the actions are mostly symbolic, as there are few major projects on the horizon.

In Richmond, Kaine again proposed legislation that would make it easier for Virginia counties to reject requests to rezone properties for more intense development if officials determine that it would overwhelm local roads. The legislation was blocked recently under opposition from developers but might resurface in another form.

But even if the proposal is revived, there are doubts among some officials about how much Kaine's plan

would accomplish, since the legislation essentially spelled out a power that many local officials say they already have.

The proposal's supporters say it would help anyway because, by clarifying local authority, it would give counties more confidence to reject requests without fear of being taken to court by developers.

"You can say no, but it's always a crapshoot," said Loudoun Supervisor James Burton (I-Blue Ridge). "The more arrows we have in the quiver, the better off we are."

Similarly, builders oppose the proposal because they fear that the broader language it contains will make it easier for local officials to oppose rezonings without clear evidence of traffic troubles. It lowers the bar for rejections "to an arbitrary or capricious standard," said Michael Toalson, lobbyist for the powerful Home Builders Association of Virginia. "You don't have to defend it -- you can just say, 'Nope, we don't want it.' "

But the legislation would have no effect on the expanse of potential residential development that can already occur under existing zoning, also known as by-right construction. In Loudoun, there are about 35,000 lots that can still be built; in Prince William, 26,500; and in Spotsylvania County, 23,000.

What Virginia really needs, some local officials say, are regulations like the "adequate public facilities" ordinances used in many Maryland counties. Under those ordinances, counties can impose moratoriums on by-right construction in certain areas if they determine that there aren't enough roads, schools or other services, and they can also assess per-house "impact fees" on by-right development to pay for infrastructure.

In Virginia, most counties can only seek money from developers in the form of "proffers" for rezoning requests, not for by-right development. Stafford and Spotsylvania counties have state permission to assess impact fees on already zoned land, but with constraints. In the past three years, Stafford has assessed fees on only a few hundred of 9,000 homes built, for \$1,600 to \$5,300 a home.

The transportation funding package being pushed by many Republicans includes an impact fee provision, but local officials say that it is too limited to be useful, because it applies only to a fraction of land. Prince William's legislative liaison said the fees would cover only about 200 homes built in the county each year.

The crux of the problem, said Stafford Supervisor Peter J. Fields (D-George Washington), is that if counties really tried to assess fees on new exurban homes for the full costs of their impact, they would run into the tens of thousands of dollars, beyond what most would consider reasonable. But somehow, he said, the state must find a way to regulate construction on land that is already zoned.

"No other change . . . is going to make a difference in our built environment or in the cost to taxpayers, and until we do that, I am loath to congratulate ourselves for having done something for the problem," he said.

Even as some people are urging a move toward an "adequate public facilities" law in Virginia, questions are being raised in Maryland about whether such an approach is counterproductive, if counties rely on it too heavily as a growth-control method.

The University of Maryland's National Center for Smart Growth Research and Education released a report last year -- funded by builders -- that said the ordinances are worsening sprawl in Maryland by pushing development away from areas where the state's long-range plans call for it to go.

When schools or roads fill up in an area meant to accommodate growth, officials too often let it remain closed to development instead of funding the needed infrastructure, the study said. As a result, developers move to rural areas where roads and schools still have capacity.

"If you have pressure on capacity, do you stop growth or enhance capacity? You enhance capacity, because otherwise, the growth goes out to the rural areas," said the center's director, Gerrit Knaap. Building roads and schools is the key to making smart growth work, Knaap said.

As an example, the researchers pointed to Anne Arundel, where much of the areas intended to absorb growth have been closed to development because of crowded schools -- even though total enrollment in the county has leveled off in recent years. As a result, developers have built in more rural southern Anne Arundel or Charles and Calvert counties.

Rutter, Anne Arundel's former planning director, said the problem is driven not only by a lack of funding for new schools but by an unwillingness to redraw school districts to alleviate crowding in a particular area.

For instance, the entire area feeding into Arundel High School, which includes Gambrills, Crofton and Odenton, is closed to development, but nearby Meade High School is well under capacity.

Partly because of such flaws in the approach, Montgomery shifted away from shutting down development in crowded areas after a 2003 policy change pushed by then-Executive Douglas M. Duncan (D). But amid calls for slower growth, Leggett argued in his campaign for returning to a moratorium-based path. County officials are studying that option, among others.

The county's planning board chairman, Royce Hanson, cautioned against expecting major relief from a clampdown on new construction, noting that annual housing growth has slowed to a little more than 1 percent in recent years.

Also driving congestion, he said, are people commuting into the county and population growth in existing homes. "People's perceptions that traffic is getting worse is correct, but it's not necessarily new homes doing it," he said.

County Council President Marilyn Praisner (D-Eastern County) rejected the de-emphasizing of local growth and defended efforts to add restrictions. It's not the growth percentages, she said; "it's the impact on certain areas and whether your road and schools can handle it."

In Virginia, officials concerned about by-right construction recognize the potential flaws in a moratorium-based approach such as Maryland's. But they said they would keep pushing for it as part of a package of far-reaching reforms, despite resistance from developers.

"I don't see how you tackle this problem in a piecemeal fashion," said Spotsylvania Supervisor Henry "Hap" Connors Jr. "It's time to tackle this problem once and for all."

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