

BACON'S REBELLION

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Focused Growth

To tame scattered development and the ills it creates, Frederick County concentrates growth in an Urban Development Area. The idea works so well that House Republicans want to take it statewide.

By James A. Bacon

When Del. Clifford L. Athey Jr., R-Front Royal, points to Frederick County as an exemplar of how Virginia should accommodate growth, he knows what he's talking about. As a land use attorney, he has spent much of his career helping developers do business in Frederick County.

In fact, Athey is representing clients right now in a rezoning bid to develop some 124 acres of land in the county. The "Village at New Town" would include 123 townhouses and 233 single-family homes with a shopping center and light industry located nearby.

About 20 years ago, Frederick County was among the first Virginia jurisdictions to create an "urban development area," or UDA, Athey says. The idea was to concentrate development in a zone where it could be cost-effectively served by water, sewer and roads. Outside the zone, land would be largely preserved for agriculture, although limited development was still possible.

To Athey's way of thinking, the UDA has been indispensable to maintaining quality of life in Frederick County. Between 1990 and 2000, county population grew from 45,700 to 59,200 -- a 29-percent surge that made it one of Virginia's fastest growing

jurisdictions. The population is expected to reach 72,300 by 2010, according to population projections on the Virginia Employment Commission [website](#).

Channeling the growth into the UDA has restrained the scatteration of development projects and attendant ills that have bedeviled many other counties. The UDA has limited the need to extend utilities and upgrade country roads to serve patchy



development in agricultural districts. Says Athey: "Frederick County is a model for what we ought to be trying to do statewide."

Indeed, Frederick County was the inspiration for legislation crafted by Athey and submitted during the General Assembly's ill-fated special transportation session in September. Athey's proposal, which was held over for study, would require every county to amend its comprehensive plan to include one or more Urban Development Areas. The bill also would require:

- Sufficient acreage in UDAs to meet projected residential growth in the county for ten years.
- "Reasonably compact" development densities that would "make more efficient use of services and infra-

structure."

- Comprehensive plan amendments based on the principles of New Urbanism that encourage walkability and pedestrian-friendly road design; connectivity of road and pedestrian networks; and mixed uses, including mixed housing types.

Athey's bill was part of a larger legislative package crafted by the House Republican Caucus to overhaul a system for building and maintaining roads that has changed little since 1932. (See "[Seventy-five Years](#)," Oct. 9, 2006). Companion bills would devolve responsibility for maintaining secondary roads to fast-growth counties in the hope of better aligning transportation and land use planning. (See "[The Devolution Solution](#)," Oct. 23, 2006.)

The ideas represent such a radical departure from the current way of doing business that the House Committee on Counties, Cities and Towns did not have time in the short September session to give them careful study. The bills will be resubmitted in the regular 2007 session.

If you missed the fact that the House had proposed one of the most revolutionary overhauls of state/local government in 75 years, that's because the Mainstream Media parroted the spin of pro-tax forces that the reform package amounted to no more than a ploy to distract from the House's unwillingness to raise taxes. No one in the media -- and I mean *no one* -- bothered to describe the proposals in any detail, much less to examine

their merits.

When I interviewed House Speaker William J. Howell a month ago for this series about the House reform package, he was still seething about the "obstructionist" label pinned on him by the Governor's office and House Democrats. "I'd like to ask the Governor how many bills he introduced this session of the Assembly. Zero. How many transportation bills did [Alexandria Del. Brian] Moran introduce? Zero. We introduced 23. The Democrats have no ideas except to raise taxes."

House Republicans concede that reforming land use won't eliminate the need to pump new revenue into the transportation system. But they insist that raising taxes without fundamentally reforming the system -- through privatization, outsourcing, aligning transportation and land use planning, and encouraging more transportation-efficient patterns of development -- would amount to pouring money down the storm drain.

"Our countryside is getting eaten up by five-acre tracts," declares Athey. "We need to get back to a model that worked well for centuries -- people should be living in densely packed urban areas." (A brief aside, when Athey talks about "densely packed urban areas," he's thinking Winchester, not Manhattan.) "If we create an incentive for developers to do that, we can accomplish what should be good for everyone."

Frederick County's "Urban Development Area" is not an inflexible urban growth boundary like Portland's, or even Virginia Beach's green line. Over time, the boundaries have been adjusted to reflect changing circumstances, and the vision for

development within the boundaries has evolved, says Mike Ruddy, deputy planning director for the county.

Traditionally, most growth in Frederick County has followed the standard suburban format of segregated subdivisions, shopping centers and industrial areas. But there has been growing recognition in recent years, Ruddy says, that a county of 70,000 people needs nodes of density -- focal points -- and mixed use development of the type found in a city. "There's been a change in mindset," says Ruddy. "It's a mentality that there should be a little bit of something for everybody."

The Frederick County UDA encompasses the territory immediately surrounding Winchester and overlays the transportation arteries likely to attract the most development. In drawing the boundaries, planners also took into account soil quality and drainage flows to the sewage treatment plant, the existence of other development clusters such as Stephens City, and the gravitational pull exerted by Northern Virginia labor markets.

The boundaries encompass about one quarter of the county, providing enough space to accommodate ample population growth as well as some green-field development when the right opportunities arise, says Ruddy.

Knowing that the county will concentrate water, sewer, roads, schools and parks within the UDA allows landowners and developers to focus their entrepreneurial energies where their projects will tend to be regarded more favorably. However, the flexibility exists to redraw the boundaries if warranted by the right project. "It has been fluid.

We've been somewhat flexible to reflect the changing dynamics of the community," Ruddy says, who favorably contrasts the plasticity of Frederick's boundaries with the rigidity found in other counties.

As population growth outstrips the addition of new road capacity, increasing traffic congestion is a concern. The county has two tools to finance road improvements. The first is proffers: Developers make improvements to adjoining roads, sidewalks and bike paths as a condition of getting rezoning approvals. "We've been successful with proffers," Ruddy says. "As development occurs in the right places, developers will make improvements."

The second tool is the Community Development Authority, which allows developers to issue tax-free bonds to pay for up-front improvements. The bonds are repaid by a special tax on the property under development. Although one 150-acre development project does contemplate road improvements financed by a CDA, Frederick County has not made extensive use of this option.

Ruddy still sees a transportation crunch coming. VDOT is running out of money to spend on secondary roads. Proffers and CDAs will make up some of the shortfall but not all of it. Still, there's no question in his mind that Frederick County would be in worse shape if growth had been scattered all over the county.

Mike Smith, president of Greenway Engineering, agrees. As a civil engineer who does a lot of transportation work in the county, he says that Frederick County is better off having an Urban Development Area and comprehensive plan that work together. "The UDA does work well. It's not an end-all. It is a

growth-management tool. ... If [the county] did not have the UDA, development would be more spread out than it is today."

Winchester-Frederick County has one big transportation problem that's hard to surmount -- a four-lane ribbon of concrete, Interstate 81, that bisects the city and county. That barrier makes it difficult to move traffic east to west, Smith says. "That's our weak link. If we could solve that, most of our transportation problems would go away."

The House leadership has no illusions that its reform package is the final word on transportation and land use reform. Legislators are fully prepared to negotiate the details. Despite the smack-down of House legislation during the September special session, key special interest groups appear willing to explore the UDA idea.

Anthony Clatterbuck, president of the Home Builders Association of Virginia, is particularly receptive. "If it's appropriately implemented, [the UDA idea] could be a great benefit" -- an alternative to other, more restrictive growth-management strategies. Across most fast-growth counties, there are no areas designated for growth. As a consequence, growth sprawls all over.

Urban Development Areas, when combined with other tools such as Transferable Development Rights, would concentrate growth in areas prepared to handle it, Clatterbuck says. "You'd get efficiency that you couldn't get if you built in a hodge-podge fashion."

Clatterbuck also is enthusiastic about Athey's idea of incorporating New Urbanism design codes into comprehensive plans. He points to the downtown of his

home town of Culpeper, where row-house stores border the street, residents live over storefronts and cars park on the street. Developers would build more communities like that if only they were allowed. "In today's world," he says, "you can't build that."

Michael L. Edwards, deputy director of legislative affairs for the Virginia Association of Counties, is less overtly enthusiastic. But even he concedes, "I don't think there's general opposition to the [UDA] idea." There has been a trend among counties to designating growth corridors, he says. He just wants to make sure that the General Assembly does not mandate a one-size-fits-all solution. "My tone is not, 'Hell, no.' It's, 'Let's sit down and talk about these things.'"

There are many similarities, too, between Athey's proposal and the remedies advocated by Virginia's conservation/environmentalist community. These include a desire for greater density, mixed uses and pedestrian-friendly urban design. Conservation groups argue that "smart growth" generates fewer and shorter automobile trips, and causes less congestion, than the scattered, disconnected, low-density development that typically prevails in fast-growth counties.

When I talked to Stewart Schwartz, executive director of the Coalition for Smarter Growth, he said he was "a little bit confused" by the House bills as drafted, and he was looking forward to getting clarifications from Del. Athey and Speaker Howell. But he stressed that he regarded the interest of House Republicans in land use issues as an encouraging sign. Says Schwartz: "We have an opening to talk about planning reforms that are needed, and work on

them in the next session."

Gov. Timothy M. Kaine remains non-committal, even though he was the first candidate for statewide office in Virginia to bring land use into the transportation debate. Although he still professes an interest in land use reform, he has proclaimed his intention to shelve transportation issues until after the 2007 legislative elections when, he hopes, voters will eject several opponents of his \$1 billion taxes-for-transportation plan.

The key to breaking the legislative gridlock on transportation/land use reform is to knit together a consensus of the major constituencies -- low-tax conservatives, smart-growth conservationists, developers, home builders and local governments. If Howell, Athey and their allies can do that, Kaine may feel compelled to join the negotiations. If not, given the willful disinterest of the Mainstream Media, the House's reform package will die, like some Darfurian orphan, quietly and far from the public eye.

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