

Urban Development Areas: Promise and Potential

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Overview of Presentation

- Discuss county responses to Urban Development Area (UDA) statute.
- Suggest major areas for further investigation.
- Discuss proffers and impact fees.
- Provide a synopsis of UDA statute for your reference at a later date.



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- Urban Development Areas are one tool that has the promise and potential...
 - To reduce sprawl.
 - To concentrate future development where needed public infrastructure can be provided with the greatest fiscal efficiency.
 - To preserve scarce natural and historic resources.

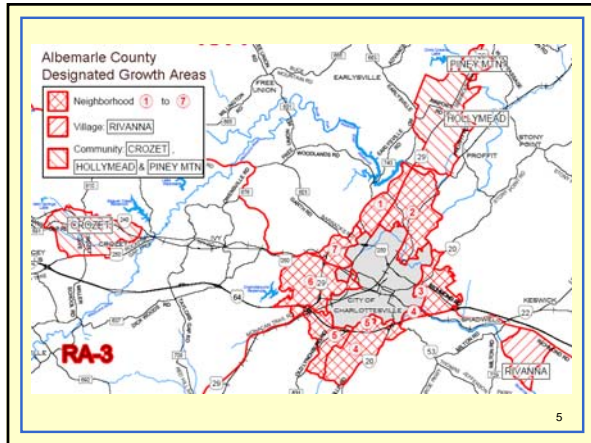


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- VACo and its 95 member counties support the general concept of designating areas for future growth in the comprehensive plan.
 - All existing county comprehensive plans contain designated growth areas and policies to foster future development in those areas.



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What does the law say?

By July 1, 2011, 57 counties, 12 cities and 47 towns must include one or more UDAs in their comprehensive plan.

- Applies to local governments with population of 20,000 persons or more and 5% decennial growth rate; or 15% decennial growth rate.

All other counties, cities and towns may...



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- County responses fall into four categories:
 - Will certify that current comprehensive plan meets the statutory requirement.
 - Currently revising comprehensive plan to meet the statutory requirement.
 - Waiting to see what the SJR 70/HJR 178 subcommittee does.
 - Waiting until the last minute because of higher priorities, lack of resources, or other reasons (e.g.; results of the 2010 Census).



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- Some counties, however, have indicated that there are issues with the current statute that the joint subcommittee may want to investigate further.



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The law requires that UDAs must provide for residential development at minimum densities of 4 dwelling units per gross acre.



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- The required residential density may not match existing community character.

- As of 2000 Census, only 7 areas in Northern Virginia met or exceeded that residential density requirement.

- Arlington County overall density = 5.5 DUs/acre.
- Newtown mixed use development (James City County) = 3.1 to 5.3 DUs/acre.
- Reston's overall density = 2.2 DUs/acre.
- Front Royal's overall density = 1.0 DUs/acre.



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- 4 DUs per gross acre = practical net density of at least 5.33 DUs per acre.

- Rule of thumb: Only 75% of land area is developable due to environmental constraints, requirement for roads, etc.



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- There may be conflicts between the UDA residential density requirement and new state regulations for...

- Nutrient caps for sewage treatment plants.
- Stormwater management.
- Secondary streets.
- Others.



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- Can the required residential density be attained without central water and sewer systems?
- Is that residential density an average over the entire UDA?



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- Not all counties subject to the UDA requirement have a concern with sprawl.
 - Decennial growth rate of Buchanan, Greensville, and Sussex Counties due solely to prison construction.
 - May be difficult to find anywhere in Craig, Brunswick, King George, and Northumberland Counties that are currently developed at 4 DUs per acre.



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**Will the development community embrace an entirely new and different housing model?
(At least for Virginia)**



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The Market Says This:



Courtesy: Center for Rural Massachusetts

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But the Law Requires This:



Photo of Newtown Courtesy of John Horne

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To realize the promise and potential of UDAs, there must be incentives to direct growth into those areas.



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- Incentive to developers:
 - An expedited development approval where the UDA has been rezoned in advance by the county for the prescribed residential and commercial densities.



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- Incentive to counties:
 - A means to fund new or expanded public infrastructure needed to support residential and commercial development directed into the UDA.



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- How do Virginia counties currently fund the public infrastructure needs of new residential and commercial growth?
 - Real estate taxes;
 - Bonded debt;
 - Conditional zoning;
 - Road impact fees; or
 - A combination of the above.



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Conditional Zoning (a.k.a., Proffers)

- Conditional zoning is in addition to the general zoning regulations to lessen the negative effects of a proposed development.
- Triggered when land is rezoned (thus “by right” development is exempt from conditional zoning).
- In some instances, conditional zoning may include cash contributions voluntarily proffered to the locality (i.e., voluntary cash proffers).



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Voluntary Cash Proffers

- Cannot be required.
- Supplemental revenue tool and cannot be relied upon as guaranteed funding since they are dependent on the rate of growth.
- Multiple developments may be paying the cash proffers over many years.



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Impact Fees - Generally

- May be imposed on rezonings and “by-right” development.
- May not exceed the cost of needed facilities.
- Must be proportional to the demand generated.
- Cannot pay for higher level of service than existing development enjoy.



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Impact Fees

- 28 states have general impact fee enabling acts.
 - Most states authorize impact fees for roads, followed by water & sewer, parks, and stormwater.
 - Only 8 states authorize school impact fees.
 - Because of separate school district taxing authority.
 - Most localities using impact fees found in states with significant residential growth rates.
- Virginia only authorizes impact fees for roads and other transportation improvements.



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How do cash proffers or impact fees relate to Urban Development Areas?



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- New state policy is to focus future growth into UDAs.
- However, a county has no incentive to rezone the UDA for the potential growth since the locality cannot accept proffers (non-cash and/or cash) unless the rezoning is initiated by the property owner or developer.



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- Thus, a broad impact fee allows a county to initiate a comprehensive rezoning of the UDA since all subsequent residential and commercial by-right development in the UDA would pay an impact fee.
- A broad impact fee is required to complement new cluster zoning and transfer of development rights tools that can foster development in the UDA.



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Unfortunately, SB 768 was not the impact fee law to realize the promise and potential of Urban Development Areas.



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- SB 768 was drafted by the Homebuilders Association of Virginia.
- Eliminated all cash proffers.
- Restricted off-site, non-cash proffers.



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- Allowed most counties and cities to adopt impact fees but only for transportation, school, and public safety capital facilities.
- Allowed most counties and cities to adopt limited impact fees for residential and commercial rezonings and by-right development.



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- Retained “excruciating” and lengthy process to calculate, adopt, and readopt impact fees.
- Regardless of the impact fee amount derived from statutorily mandated calculation process, SB 768 capped fees at **\$12,000** in NoVa; **\$7,500** RoVa for a single family unit.



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2008 General Assembly

- House Rules Committee voted to carry over a substitute for SB 768.
- Speaker Howell subsequently asked the interested parties to continue their negotiations on an impact fee process for Virginia.
- All parties committed to finding appropriate mechanisms to address the cost of new development.



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- Regardless of what one may think of Virginia's proffer system, until a fair and equitable replacement is found, cash proffers are the only tool local governments have, other than the real estate tax, to address the fiscal impacts of new development.



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END OF PART 1

Questions?

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Urban Development Areas (UDA)

§15.2-2223.1, Code of Va.
Mandatory Requirements



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- By July 1, 2011, 57 counties, 12 cities and 47 towns must include one or more UDA in their comprehensive plan.
 - Applies to those with population of 20,000 and 5% decennial growth rate; or
 - 15% decennial growth rate.
- Any other county, city or town may. . .



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- UDA is to be appropriate for higher density development due to:
 - Proximity to transportation facilities,
 - Availability of a public or community water and sewer system, or
 - Proximity to a city, town, or other developed area.



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- UDA must provide for reasonably compact development at minimum densities of:
 - 4 residential dwelling units per gross acre, and
 - 0.4 Floor Area Ratio per gross acre for commercial development.



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- UDA must be large enough to meet projected residential and commercial growth for at least 10 years but not more than 20 years.
 - Based on estimates of the Cooper Center for Public Service or “other official government sources.”
 - Growth in UDA may be phased in over the period.



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- Boundaries and size of UDA must be reexamined and revised, if necessary, every 5 years along with review of comprehensive plan and using most recent population growth estimates and projections.



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- Local governments cannot limit or prohibit by-right development or refuse a rezoning request based solely on the fact that the property is located outside of a UDA.



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- Comprehensive plan must describe financial & other incentives to encourage development in the UDA.
- “To the extent possible,” state and local funding for transportation, housing, and economic development must be directed toward the UDA.



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- Comprehensive plan must include “new urbanism” and “traditional neighborhood development” principles, such as:
 - Pedestrian-friendly road design; street interconnection; connectivity of road/pedestrian networks; natural area preservation; stormwater management; mixed-use neighborhoods & housing types, reduced building setbacks; and reduced subdivision street width/turning radii.



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Urban Development Areas (UDA)

Optional Provisions



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- UDA may be designated for redevelopment or infill development.
- Local governments may certify that their existing comprehensive plan "...accommodates growth in a manner consistent with (the UDA statute)."
- A county may designate UDA within a town if the town's UDA requirements are the same as the county's.



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THE END



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