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Builders Target Freeze, Tax Boost More Relief Sought in Downturn

By Miranda S. Spivack
Washington Post Staff Writer
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Montgomery County officials and business leaders eager to lift a residential building moratorium caused by school crowding have discovered no quick fix to make the one-year pause disappear.

While they seek a way out of the freeze, building industry lobbyists are asking that the county defer or drop plans to increase by 7 percent the schools and transportation impact taxes required for construction. County Executive Isiah Leggett (D) and some on the council appear to be leaning toward providing the reprieve.

Leggett has said in private meetings that he is worried that the county's "national reputation" is suffering from the moratorium and the effects of the recession, according to people in attendance. Business leaders have lamented that the county appears "closed for business."

But balancing those concerns with county laws managing growth will not be simple. The rules aimed at ensuring that services and new construction move at the same pace are undergoing a major revision that will not be completed for several months. Even if a majority of the council could muster support for an amendment to lift the moratorium, that could not occur until fall at the earliest. The issue is made even trickier by the growing multimillion-dollar county budget gap caused by lower-than-anticipated revenues during the recession.

Council President Phil Andrews (D-Gaithersburg-Rockville) said he's inclined to take a long look at the issue this fall, rather than try to consider any "piecemeal" approach.

"It's important to have a moratorium that works and isn't easy to get around," he said, adding that he believes that the economic downturn, not the moratorium, is the major factor slowing growth.

The moratorium, which took effect July 1 after its required approval by the Planning Board, halted the board's ability to approve plans for residential development in Bethesda, Clarksburg and Germantown because schools there are projected to be too crowded by 2014. Commercial development is not affected.

The moratorium doesn't mean all residential construction will stop for a year. In Bethesda, there are at least 900 unbuilt but approved apartments in the downtown area.

The moratorium does not prevent builders from moving forward on those, though many in the construction industry say they have slowed down because of the faltering economy.

In fact, it has slowed so much that the building industry is seeking a reprieve from the scheduled 7 percent impact tax increase, which took effect July 1.

The actual effect on the county treasury is uncertain; revenue from the impact taxes, which help pay for schools, roads and transit, were expected to be \$37 million, but the county collected only \$10 million in the fiscal year that ended June 30. Still, that is a fraction of the county's \$4 billion annual budget.

Leggett was unavailable for comment on either the moratorium or the tax proposal, but his aide Jennifer Hughes said the county executive would support postponing the increase.

Raquel Montenegro, a lobbyist for the Maryland-National Capital Building Industry Association, is pushing the county to scuttle the increase. She said that the moratorium is ineffective in addressing many factors that contribute to crowded schools, such as families with school-age children replacing empty nesters in neighborhoods.

She said county officials should use the slowdown to take a broader look at the debate over the pace of growth and school funding, and consider separating the issues. The conversation is underway at the planning agency, which is expected to send a proposal for making changes in county growth law to the County Council this summer.

School system advocates say that taking a timeout from approving residential construction isn't necessarily a bad thing, and was exactly what the council envisioned when it tightened the law two years ago to more closely link growth to space in schools. They say it shows that the county not only cares about growth and bringing in new revenue but also recognizes the need to maintain its well-reputed school system by limiting class size and providing more services for its youngest students. Some crowding has come about in recent years because the county expanded half-day kindergarten to full-day.

"That's part of our national reputation, too," said Jim Humphrey, who heads the planning and land-use committee for the Montgomery County Civic Federation.

School board Vice President Patricia O'Neill (Bethesda-Chevy Chase) said it would be unfair to address crowding problems in the Bethesda area while less-affluent areas of the county also have significant needs.

"They have approved and planned additions and modernizations that we need to keep on track," she said.