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## APFs may be repealed

**By Jay Almond, News Editor**

Tuesday, January 29, 2008— Money for school construction currently being supplemented by residential growth may become a taxpayer burden if proposed state legislation goes through. The collection of residential development fees to ensure adequate public facilities in Stanly and other North Carolina counties could be on its way to the scrap heap.

N.C. Senators Walter Dalton and A.B. Swindell co-sponsored Senate Bill 1180 which, if passed as written, will stop counties in the state from collecting fees through existing Adequate Public Facilities ordinances (APF).

APF ordinances seek to exact funds from new residential development in counties to offset school and infrastructure expansion costs brought on by resulting growth.

“That money would come from Ad Valorem taxes — from taxpayers who’ve been in the area for years,” Stanly County Planning and Zoning Director Michael Sandy said.

As it stands, the fee associated with APF in Stanly, a version of an impact fee or tax, is based on the cost per “seat” in local schools, which is \$13,125.

That’s a \$1,500 fee per new residence, which translates into about \$4 per month on a 30-year mortgage, Sandy said.

The \$1,500 is derived from the cost of school construction projects such as Albemarle and South Stanly middle schools and Running Creek and Kendall Valley elementary schools.

Stanly County Schools is involved in two school construction projects set to begin for about \$15 million. One at Locust Elementary accounts for more than \$8 million, from demolition, remodeling and new construction costs.

The other, at Aquadale Elementary, is undergoing the same type of work for a more than \$6 million price tag.

In Stanly County, as well as Cabarrus, Union, Orange, Chatham, Franklin, Lincoln, Camden and Currituck counties, APF ordinances are in place specifically to help fund school construction.

In other counties the fees fund other infrastructure needs based on residential growth such as roads. Stanly’s ordinance, which mirrors Cabarrus County’s, is attached only to new subdivisions and has amassed \$13,500, so while the immediate local impact would likely be mild, according to school officials, the loss of future funds could be tremendous.

Cabarrus County, for instance, has collected millions of dollars to help pay for schools through APF ordinance fees.

That level of collection is something Sandy said would be a significant loss that would have to be recouped in other ways.

“It’s right there if they need to build a new school,” he said.

“Right now, when the commissioners get a request from the schools for funds they can take it from the general fund, borrow the money or look to the APF.”

The bill to halt such collections passed through the Senate in three readings and passed a first reading in the House before going to committee for further review.

Swindell suggested APF collections may run contrary to existing statutes regarding fees exacted from developers.

“It’s my understanding that we have a statute in place that says you cannot do it this way,” he said.

Titled, “An act to clarify that a local government may not impose a tax, fee or monetary contribution for

development that is not specifically authorized by law,” the bill refers to a specific law, (G.S. 153A-320).

It states, “A county may not impose a tax, fee, or monetary contribution for development or a development permit unless specifically authorized by law.”

The basic concept behind APF is to align community growth rates with availability of public facilities, according to a report by Richard Ducker with the UNC School of Government.

That means a development’s approval could hinge upon whether or not schools in the development area are equipped to handle a population increase or would be able to do so by the time the development’s occupied.

APF was “originally thought of as more of a growth management tool than a financing tool,” according to Ducker’s report, which was prepared for the Sept. 28 N.C. Planning Conference.

Swindell doesn’t believe counties are misusing the fee collection system, but questions the legality of the APF collection arrangement.

“I don’t believe counties are trying to get rich from this,” he said.

“They’re trying to answer the question of all this growth, but as I understand it, that’s not how it’s supposed to be done.”

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