MAYOR AND COUNCIL AGENDA

NO. DEPT.: Legal/ Community Planning and Development Services DATE: Dec. 5, 2003

Contact: Deane Mellander, Planner III

ACTION: Public Hearings -Text Amendment Application TXT2003-00202, Adequate Public Facilities; Mayor and Council, Applicant: To require additional findings of adequate public facilities in connection with development approvals.

This is proposed as a joint public hearing to also consider an ordinance to establish standards and requirements for the determination of adequate public facilities and administer the provisions of the text amendment (Adequate Public Facilities Ordinance).

ACTION STATUS:

FOR THE MEETING OF: 12/15/03

INTRODUCED 10/27/03

PUB. HEARING 12/15/03

INSTRUCTIONS

APPROVED

EFFECTIVE

ROCKVILLE CITY CODE,

CHAPTER 25

SECTION 181, 193, 338, 510, 531, 562, 625, 655, 670, 681, 682, 683, 710, 727

☐ CONSENT AGENDA

RECOMMENDATION: Hold public hearing

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

The APFO would provide a comprehensive method for evaluating the impact of new development on surrounding neighborhoods and public infrastructure. It may have fiscal implications if the City needs to accelerate capital projects to accommodate desirable development.

BACKGROUND: The City contracted with Duncan Associates to study the City's current development review program and provide guidance and recommendations on how various components of the public facilities programs may be integrated into a comprehensive APFO ordinance. The consultant's report became the basis for the proposed APFO recommendations.

APFO recommendations for traffic impacts and school capacity have the greatest likelihood of affecting the timing of development approvals. The APFO also evaluates water, sewer, and fire/rescue service adequacy.

Currently, the Standard Traffic Methodology (STM) is used to evaluate the traffic impacts of each application. The City requires mitigation measures in our review and some processes require a finding that the development does not overburden public facilities. However, the STM does not directly account for non-auto transportation modes. Thus, the APFO assumes that the City will revise the traffic impact methodology into a Comprehensive Transportation Review (CTR).

Revisions to the current STM will better account for alternative transportation measures such as pedestrians, bicycles, buses, etc. This becomes a comprehensive transportation review process, rather than a traffic review.

Within the context of the CTR, the APFO will allow consideration of differing traffic levels of service within Transit-Oriented Areas (TOA's) and the application of adequate public facility standards for alternative modes including bicycles, mass transit, and pedestrians.

Outstanding Issues

The two primary issues that need to be resolved are the standards that will be established for school capacity and to what extent the APFO will apply to the approved comprehensive planned developments that have already been approved and are in the midst of development.

Schools

Currently, school capacity is not measured for every application. Data on the current school enrollment forecasts and background on forecasting methodology is attached to the staff report to the Planning Commission. A map of the high school clusters is shown at Appendix C of the APFO Standards document.

The City has no direct jurisdction over the provision of public school capacity. However, many of the schools that serve the City are at or beyond rated capacity. The rated capacity of the schools needs to be considered, including whether or not to count portable classrooms. The considerations need to be weighed against the current and pending developments in the City.

Comprehensive Planned Developments

The APFO proposes that any new multi-phase development project include a development schedule as a binding element of the approval. This is intended to prevent projects from tying up development capacity indefinitly. However, most of the approvals for the existing CPD's were conditioned on the provision of public improvements to accommodate the development. In general, these conditions have been, or are being met. At the same time, no deadlines were established. The attached APF Standards document and proposed text amendment contain a schedule that allows these projects 15 years from the date of approval of the APFO to complete installation of required public facilities. If the required facilities are not available, then the project will become subject to the APF standards. If the facilities have been provided, the project will have an additional 5 years to complete build-out, plus two 5-year discretionary extensions for good cause shown.

The Planning Commission will review the text amendment and the staff recommendations at its meeting on December 10, 2003. Their recommendation will be made available to the Mayor and Council prior to the public hearing.

PREPARED BY:

Deane Mellander, Planner III — 12/8/03 Date

APPROVE: Robert J. Spalding, AICP, Chief of Planning — Date

APPROVE: Arthur D. Chambers, AICP, CPDS Director — Date

APPROVE: W. Mark Pentz, City Manager — Date

LIST OF ATTACHMENTS:

A. Staff report to the Planning Commission
B. Proposed text amendment
C. Text Amendment application
D. Proposed APFO Standards
E. Planning Commission Recommendation with corrected school enrollment charts and moratoria area maps.

City of Rockville

MEMORANDUM

December 11, 2003

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Recommedation on Text Amendment Application TXT2003-00202, Adequate Public Facilities, Mayor and Council, applicants; Recommendation on proposed Adequate Public Facilities standards.

At its meeting of December 10, 2003 the Planning Commission reviewed the above referenced text amendment and proposed Adequate Public Facilities standards to implement the text amendment. The Planning Commission voted 7-0 to forward a negative recommendation to the Mayor and Council on both items.

The Commission is troubled by the Adequate Public Facilities standards as proposed in the staff recommendation. While a majority of the Commission supports the APFO concept, the details of how the ordinance would be administered raise serious concerns about the City tying its own hands when considering new development or redevelopment.

The Commission heard from several spokespeople who continued to raise concerns regarding the proposed regulations. Some raised the issue of regulating previously-approved projects. In general, they contend that the approvals are essentially contracts, and the any modifications could be construed as a breach of those contracts. Others noted that the rigid nature of the regulations as proposed would adversely affect sites in the City that might deserve to move forward in order to advance other City priorities.

Commissioner Hilton is concerned about how to address the previously-approved developments in view of the potential legal issues involved. He also would like to see further information on how the Comprehensive Transportation Review (CTR) will be tied into the APFO process. He is also concerned about having a test for public schools when the City has no control over them. He is concerned that the difference between the County's schools test and the City's test will hurt the City. Although he believed that the time limits on previously approved special development procedures are reasonable he is concerned that the City previously agreed to no further restrictions.

Commissioner Ostell strongly supports the APFO concept, but shares Commissioner Hilton's concerns regarding the schools test. She notes the legal concerns regarding the regulation of the approved projects, but feels that the time frame proposed is reasonable in the context of the future of the City. She does have a concern that there are not exception provisions to address unique circumstances such as the proposed annexation of the WINX property. She stated that there should be some give-and-take for exceptionally beneficial projects but that there needs to be strict criteria. There should also be some added flexibility in the transportation test since the proposed CTR is still a work in progress.

Commissioner Johnson also supports the concept of an APFO, but believes that as drafted there will be too many competing interests pressuring for waivers or exceptions. While generally against waivers, he found the requests compelling. He doesn't support a test for schools, as he believes it could hurt the City with no real mitigation possible. There definitely needs to be a queue list established to properly administer the process. He is generally supportive of the program if the schools test is deleted.

Commissioner Mullican recommends eliminating the schools test for the same reasons noted previously. She also expresses concern about the message this proposal sends about doing business with the City. The process should be slowed down and re-examined in more detail.

Commissioner Britton concurs on the need for greater public dialog before this goes forward. The CTR seems to be an excellent mechanism. The tests for water, sewer and fire protection are really "no-brainers" that we already do. He cannot support the proposal in its current format. The schools test should be excluded, and there needs to be flexibility to allow exceptions for historic preservation, neighborhood enhancement, and previously-approved projects. However, the time frames proposed for the PDP's and CPD's do seem reasonable.

Commissioner Holtz concurs with Commissioner Britton. He is concerned about using hard criteria for the APFO test, even though many of the input numbers themselves are "soft". With schools, the student numbers change from day to day. For the approved development projects, the time frames proposed may be reasonable, but it sends the wrong message. The City shouldn't be changing its mind. Finally, there needs to be added flexibility with regard to sites such as WINX and Chestnut Lodge. We don't need the APFO to be an on-off switch; we need it to be a "dimmer switch".

Commissioner Metzger supported the comments of Commissioners Britton, Holtz, and Johnson. As proposed, we may not have the flexibility we want and need to allow good projects to go forward. She can't understand why we need an APFO; the Mayor and Council already have the power and ability to get what the City needs when approving development. The APFO really ties the hands of the Mayor and Council and the Planning Commission and will limit our ability to achieve the City's goals.

Therefore, on a motion by Commissioner Britton, seconded by Commissioner Hilton, the Planning Commission unanimously recommends against the Adequate Public Facilities program as currently proposed. The Commission also suggests that the Mayor and Council review the video of the December 10, 2003 Planning Commission meeting to directly hear the concerns of the Commissioners.

City of Rockville

MEMORANDUM

November 12, 2003

TO: City of Rockville Planning Commission

FROM: Deane Mellander, Planner III

VIA: Bob Spalding, Chief of Planning

SUBJECT: Proposed Zoning Text Amendment TXT2003-00202: To Require the Provision of Adequate Public Facilities in Connection with Development or Redevelopment within the City, and Establish Recommended Adequate Public Facilities Standards.

BACKGROUND

As part of its efforts to improve mobility and livability within the City, the Mayor and Council directed the staff to develop an Adequate Public Facilities Ordinance (APFO) to guide development and redevelopment within the City. The City contracted with Duncan Associates to review the City's current development review program and provide guidance and recommendations on how various components of the public facilities programs may be integrated into a comprehensive APFO.

The consultant presented an initial report to the Mayor and Council in April, 2003. Several worksessions were held with the Mayor and Council to further refine the standards and requirements. A zoning text amendment has also been drafted to provide the necessary implementation language to administer the proposed APFO standards. The public hearing draft APF Standards document establishes standards for traffic and transportation, schools, fire protection, and water and sewer supply.

There are three elements to the APFO: 1) a text amendment to the zoning code that requires the provision of adequate public facilities prior to development approval; 2) a set of standards for determining the adequacy of public facilities; and 3) a revised transportation review process, the Comprehensive Transportation Review (CTR) that will replace the current Standard Traffic Methodology.

There are three stages involved in the APFO review of development. The initial stage requires APF review at the initial stage of development for Comprehensive Planned Developments (CPDs), Planned Residential Unit developments (PRUs), Preliminary Development Plans (PDPs), and some special exception applications. These project proposals will be tested for adequacy of transportation, schools, fire protection, and water and sewer supply. The second stage review is for detailed applications, including Use Permits, Detailed Applications, and preliminary subdivision applications. These applications will be tested for specific transportation levels of service, and the initial requirements if not previously approved. The final stage tests for adequate water and sewer supply prior to the issuance of a building permit.

The APFO will not apply to projects that have already received approval if they are completed before their permits expire. For projects such as CPDs, PDPs, RTHs, and PRUs that do not have an expiration date, the standards require APF testing 15 years from the effective date of the APFO. If all public facilities required as a condition of approval have been completed, the project will have an additional 5 years to complete the development. The Mayor and Council may approve two additional 5-year extensions for good cause shown.

Staff recommends that all applications that have not been acted upon at the effective date of the ordinance be subject to the APFO requirements. There should likely be a short period between adoption and effective date, perhaps on the order of 30 days, to allow projects that may be well along in the review process to be finalized. However, a final determination on the effective date should probably wait until the public hearing record closes, to assess the testimony that might be received.

ANALYSIS

Zoning Text Amendment

The proposed zoning text amendment will add enabling language to the code that requires the finding that public facilities will not be overburdened by approval of a development project. This will include Use Permits, the regulations on retail store size limitations in the C-2 and RPC Zones, special exceptions, Special Development Procedures (including Variable Lot Size development, Cluster development, PRUs, RTH development, CPDs, and the I-3 Optional Method), the Town Center Area, the Rockville Pike Corridor, and also preliminary plans of subdivision.

The text amendment also proposes to create a new Article XVI that implements the process and procedures for an APF analysis. The Mayor and Council will establish by resolution Adequate Public Facilities Standards, which can be periodically reviewed and modified as deemed necessary by the Mayor and Council. The APFO standards will apply to any new development or redevelopment, except those determined to be *de minimis* by the APFO standards. In addition, the following are also exempt from the APFO: 1) An application to implement an approval that

was approved after the effective date of the ordinance and retains a valid APF certification (except for a final water and sewer test at building permit); and 2) an application to implement a valid special exception, use permit or preliminary plan of subdivision that was approved prior to the effective date (except for a final water and sewer test at building permit).

APF approvals are effective for the length of time required to implement the currently-required actions for use permits, special exceptions, and preliminary subdivisions. Special Development Procedures (SDPs) will have one year from the date of approval of the exploratory application, or approval of a detailed application. Following the initial detailed application approval, the project has 10 years to implement all required detailed applications. The approving body may approve no more than two time extensions of one year each, but cannot approve extensions beyond the underlying validity period. In the case of special exceptions, the Board of Appeals may grant no more than two extensions not exceeding 6 months.

If the APFO approval expires, the original approving body may recertify the approval, but the only following and updated analysis based on the standards in effect at the time of recertification. If the reanalysis indicates that facilities will be overburdened, mitigation will be required or the project will be denied.

There are several SDPs that have obtained approval and not yet been fully implemented. Many of these projects were approved with no specific staging schedule and hence no termination date. The text amendment will establish a 15-year period from the effective date for such projects to be completed before and APFO evaluation is required. Any project that fully implements the public facilities and improvements required as a condition of approval within the 15-year period will receive an automatic five-year extension to complete the project. The Mayor and Council may approve two additional 5-year extensions for good cause shown. If a project fails to complete its build-out within the specified time, the APFO test will be applied to the unbuilt portion of the project, with credit given for facilities already provided.

Adequate Public Facilities Standards

The Adequate Public Facilities Standards is a policy document to be approved by the Mayor and Council to establish procedures and standards necessary to ensure that adequate public facilities and services are provided concurrent with new development and redevelopment. The Mayor and Council may periodically update this document as deemed necessary to implement the City's policies. The document establishes Levels of Service (LOS) for those facilities subject to the APF test. These are traffic and transportation, public schools, fire protection, and water and sewer supply.

The Standards document also establishes a *de minimis* standard, below which projects will not be subject to the APFO. The draft document proposes the following as *de minimis*: construction of

one single-family dwelling; a project that generates less than 50 peak-hour trips; a residential project that generates less than 12 school-age children.

As part of the APFO, the traffic and transportation test is based on proximity to a major fixed-guideway transit station, or Transit-Oriented Area (TOA). The document proposes that areas within 7/10 mile waling distance from a transit station, along with their major access routes, be designated as TOAs. Within a TOA, traffic congestion levels are allowed to be higher, since there are alternative modes of transportation readily available within the TOA. Areas outside of TOAs are required to maintain a lower level of congestion.

The APF Standards also require a test for non-auto transportation methods—bicycle, pedestrian, and transit service. These items have not been a part of the Standard Traffic Methodology (STM).

In order to better implement the APFO, the Traffic and Transportation Division is proposing a complete update of the STM. This update is the Comprehensive Transportation Review. It will be closely tied to the APF standards, and act as the implementation mechanism for transportation issues. The CTR will be reviewed/approved by the Planning Commission and Mayor and Council, with an expected completion date of March, 2004.

For public schools, the Standards document proposes that school capacity must be available at the time of project approval, or be programmed for completion in the Capital Improvements Program within 3 years. In addition, the schools will be measured at 100 percent of the rated capacity. The data will be based on the most recent school student census and forecasts provided by Montgomery County Public Schools.

For fire protection, the Level of Service proposed requires that higher-risk uses such as schools, hospitals, nursing homes, commercial buildings over 3 stories without sprinklers and places of assembly with seating for more than 500 persons be within the full response time of 10 minutes from 3 fire stations. The service areas will be based on data supplied by the Montgomery County Fire and Rescue Service.

Water and sewer supply is based on the available supply/capacity of the system. The LOS is based on available capacity less fire-flow requirements. A development must have a minimum of 1,000 gallons per minute of fire flow available on-site or within 500 feet to be approved. A final water and sewer service check-off is required at the time of building permit issuance for all development projects.

Recommended Modifications to the Draft Standards Document

Based on further review by staff since publication of the Public Hearing Draft Standards document, the staff recommends the following modifications to the language:

Page 1: The paragraph below Table 1 should better reflect the language in the proposed text amendment. Staff recommends that the second sentence be amended to read as follows:

Any development applications filed prior to the effective date will be reviewed based on the standards and requirements in effect at the time of approval.

Add the following language immediately after the above:

An application to implement an approval that was approved after the effective date of the APFO and retains a valid adequate public facilities certification is not subject to further adequate public facilities approvals except for water and sewer service, which are confirmed prior to the issuance of a building permit. An application to implement a valid special exception, use permit or preliminary plan of subdivision that was approved prior to the effective date of the APFO is not subject to the adequate public facilities standards except for water and sewer service, which is confirmed prior to the issuance of a building permit.

Page 3: Delete the second line of Table II and revise to read as follows:

Table II: De Minimis Provisions

	Transportation	Schools	Fire	Water	Sewer
1 Single-family detached residence	No	N/A	No	Yes	Yes
<50 Peak Hour Auto Trips	No[1]	N/A	Yes	Yes	Yes
50 or More Peak Hour Auto Trips	Yes	N/A	Yes	Yes	Yes
<12 School Students	N/A	No	N/A	N/A	N/A
> 12 School Students	N/A	Yes	N/A	N/A	N/A

[1] Auto-related impacts are still considered but traffic impact study is not required.

Page 5: Insert a new paragraph after the end of the paragraph that carries over from Page 4, to read as follows:

In general, LOS is calculated for the a.m. or p.m. peak hour for traffic generation from the proposed development. Certain types of uses, for example in the Rockville Pike Corridor or

Shady Grove Road corridor, may generate high volumes of trips during the weekday or weekend mid-day hours. If those alternate peak hours produce the greatest traffic impact, they will be used to evaluate compliance with the APFO standard.

Page 6: Table IV should be modified to move "Secondary Industrial" from the first line to the second line.

Page 9: The first paragraph should be revised to read as follows:

The Montgomery County Public Schools system has established a method of determining school capacity that it applies and reports as part of its annual Capital Budget Program (MCPS 2002, App.H). In general, the school system uses a planning capacity of 20 students per section in pre-kindergarten, 25 students per section for K – 5 students, and 22.5 students per section for secondary school students. Special education sections are rated at between 6 and 15 students depending on the make-up of the particular class. Half-day kindergarten is rated at 44 students and 22 for full-day kindergarten). (See MCPS 2002, App. H, p. h-1) which provides an objective basis for determining building capacity.

The third paragraph should be modified by changing phrase in the second line from "actual physical" to "program" capacity.

The fourth paragraph should be modified in the first line to read as follows:

School demand is based on actual student census in the most recent complete academic year, projected forward to the three year forecast, and adjusted for the following…

Under (i) Levels of Service, the first bullet should be modified to change the word "rated" in the third line to "MCPS program capacity".

The second bullet should be modified to read as follows: Within the City, capacity is based on a cluster of schools, including elementary, middle and high schools, using the clusters already established…

Page 10: The third bullet is redundant to the fourth paragraph on page 9 and should be deleted.

The fourth bullet should be modified by adding a new sentence at the end, to read as follows: It should be noted that the 3-year projections do not include portables in the capacity ratings.

RECOMMENDATION

The staff finds that the proposed text amendment to implement an adequate public facilities test is consistent with City policies, and recommends approval as presented. The staff also

recommends approval of the proposed Adequate Public Facilities Standards, dated October 24, 2003, with the modifications recommended above. In conjunction with the proposed Comprehensive Transportation Review, the APFO standards will help ensure that development and redevelopment in the City will not overburden available public facilities.

RJS/dem

Attachments: A. Adequate Public Facilities Standards – Public Hearing Draft October 24, 2003
B. Proposed text amendment to implement adequate public facilities findings

Adequate Public Facilities Standards
Rockville, Maryland

Public Hearing Draft

October 24, 2003

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I. Introduction

One of the goals of the Mayor and Council Strategic Plan for 2002-07 is the adoption of an adequate public facilities provision in the Zoning Ordinance. The following document, in conjunction with a proposed text amendment to the Zoning Ordinance, will establish procedures and standards necessary to ensure that adequate public facilities and services are provided concurrent with new development and redevelopment.

The Adequate Public Facilities Ordinance (APFO) tests the capacity of public facilities based on current and projected data available at the time of development application, as outlined in Table I. Net available system capacities[1] will change as 1) new projects come into the system, 2) other projects are completed, 3) some projects are abandoned, and 4) new facilities are programmed in the capital budget. APFO provisions are integrated into the development review process to establish a benchmark for the availability of capacity at the time of project review. Once a development project is approved, capacity of public facilities required by that project is reserved, provided the project remains on its service commitment, as determined at the time of project approval.

The APFO will be applied to all development projects that exceed *de minimis* provisions as established in Section II.A. Adequacy shall first be considered at the earliest stage in the application process so as to assure adequacy of public facilities for the project and to provide guidance to the applicant as to how the APFO requirements can be met if deficiencies are identified.

TABLE I: APFO Approval Types

Type	Application	Scope of Review
Initial	Concept Plans for Comprehensive Planned Developments (CPDs), and Planned Residential Unit developments (PRUs), Some Special Exceptions (SPXs)	Transportation Impact (may exclude some site-specific design review that requires more detailed design), Schools, Fire, Water, and Sewer.
Detailed	Use Permit (USE), some SPXs, Detailed Applications, Preliminary Subdivision Plans	Requirements of Initial Approval (if not previously approved) plus transportation analyses that require detailed site-specific design.
Final	Building Permit	Water and Sewer evaluated by City to ensure that capacity is still available. Other detailed approval elements are not retested.

All new development applications filed after the effective date of this Ordinance are subject to its provisions. Any development applications filed prior to the effective date will be reviewed based on the standards and requirements in effect at that time.

[1] Net available system capacity is the total amount of capacity minus all existing background development, development with building permits, and development approved but not yet permitted.

II. Process

Determining whether or not a development project provides "adequate" public facilities is dependent on the City's standard level of performance of a public facility, which is referred to as a Level of Service (LOS). The impacts of a development project must not be so great that they negatively impact citizens' quality of life beyond certain thresholds. The thresholds, or standards, have been established by the City for various public facilities (transportation, schools, fire protection, water supply, and sewer) and are outlined in detail in the following sections.

If the impact of a development project on any public facility LOS is so small that accounting for it is unreasonable or administratively impracticable, it is not subject to an APFO review. Projects that have minimal or no impact on the public facilities are referred to as "de minimis" and are outlined in *Section II.A. De Minimis Provisions* below.

The following are procedures used by the City to ensure that adequate public facility systems exist during and after a development project:

- During review of any development project, the City will check to ensure that capacities of public facility systems are adequate, as defined in this document, through all phases, including at the completion of the development.
- To ensure that approved but not yet built development does not use all of the available capacity required to maintain adequate LOS, the City will approve firm schedules for the implementation of multi-phase development projects. In other cases, the expiration dates established in the Zoning Ordinance for the particular type of development application will determine the service commitment.
- If a development project does not provide adequate public facilities, it is either denied or approved with special conditions.

This general framework is described in further detail in the body of this document.

II.A. De Minimis Provisions

Different development projects trigger different public facilities considerations. The following table outlines the *de minimis* provisions and indicates when a particular public facility review is required.

Table II: De Minimis Provisions

	Transportation	Schools	Fire	Water	Sewer
1 Single-family detached residence	No	N/A	No	Yes	Yes
Development Projects other than 1 Single-family detached residence	Yes	N/A	Yes	Yes	Yes
<12 School Students	N/A	No	N/A	N/A	N/A
> 12 School Students	N/A	Yes	N/A	N/A	N/A

II.B. Development Projects and Capacity Schedules

Table III outlines the stages at which different public facilities are evaluated against prior approvals and when capacity is reserved. If a developer fails to meet the predetermined service commitment for use of reserved capacity, APFO approval lapses.

TABLE III: Facility Capacity Schedules

Facility Type	Capacity Schedule
Transportation	Application approval reserves transportation capacity; capacity moves from the reserved to the used category once staff determines that the site is fully operational.
Schools	Subdivision approval or use permit approval reserves the capacity; at the building permit stage capacity is moved from the reserved to the used category.
Fire	Application approval reserves the capacity; at the building permit stage capacity is moved from the reserved to the used category.
Water	Subdivision approval or use permit approval reserves the capacity; at the building permit stage capacity is moved from the reserved to the used category.
Sewer	Subdivision approval or use permit approval reserves the capacity; at the building permit stage capacity is moved from the reserved to the used category.

A binding service commitment attached to the validity periods, as defined in the Zoning Ordinance or as approved for multi-phase projects, is a critical component of the system for reserving capacity for proposed projects. The consequence of failure to comply with the validity period or service commitment is that the developer is required to reapply for that capacity before proceeding with the project or with the uncompleted portions of the project.

For a multi-phase project, the service commitment allocates the capacity for a set period of time for specific phases. Capacity allocations expire automatically according to the service commitment unless the original approving body determines that an extension is warranted.

II.C. Approved, Not-Completed Development Projects

There are several multi-phase projects in the City that have received development approvals prior to this APFO. At the time these projects were approved, there was no requirement for a completion schedule.

Development projects approved under a special development procedure (CPD, PDP, RTH, PRU, Cluster Development, Variable Lot Size, I-3 Optional Method of Development) is subject to review and implementation of adequate public facilities as specified in the following provisions. The length of time for which facilities are deemed adequate under these approvals may vary for each public facility. The validity period for determining the adequacy of public facilities is as follows:

a. The number of years specified in the original approval, if explicitly stated; or

b. If the original approval does not specify the number of years that public facilities are deemed adequate, the validity period ends fifteen (15) years from (effective date of APFO) if all required public improvements have not been provided. If all required public improvements have been provided, an additional 5 years shall be granted.

The Mayor and Council may approve up to two (2) five-year extensions to implement the approved development project when the applicant demonstrates that development of the property has proceeded with due diligence but that factors beyond the control of the developer such as a economic conditions or change in governmental regulations have precluded development of the property within the approved time frame or that the project is substantially complete.

If the adequate public facility approval is no longer valid, then the development must retest the relevant public facilities, with credit for provided facilities, prior to approval of subsequent detailed applications, use permits, or final record plats.

III. Levels of Service

III.A. Transportation

Currently, mobility throughout the City of Rockville is limited due to traffic congestion generated by local and regional trips. Regional growth, combined with anticipated development activity within the City will stress the existing and proposed infrastructure. In addition, Rockville's roadway system is essentially built out. Locations that currently contain the worst congestion levels generally require multi-million dollar improvements to solve the problem. Alternatively, these areas will require an increased reliance on non-vehicular improvements to increase the capacity of a multi-modal transportation system. However, in less densely developed areas of the City where traffic operates at acceptable LOS, many small-scale intersection improvements can still occur.

The City's Master Plan provides a vision for a shift from an auto-centric transportation system to a multi-modal system that serves motorists, bicyclists and pedestrians. Through stated goals and objectives, it aims to create a transportation system that is safe and accessible, provides mobility for all users, and accommodates anticipated local and regional demands. To address all modes of transportation, the City implements a Comprehensive Transportation Review (CTR) for new development projects. The CTR focuses on auto, transit, pedestrian, and bicycle levels of service, as well as Transportation Demand Management (TDM) programs. The CTR requires a Transportation Report (TR) be submitted with all development applications. The TR consists of

five components: an examination of existing conditions, a site access and circulation analysis, a multi-modal analysis, an automobile traffic analysis, and proposed mitigation. The analysis included in the TR is based on the type of development project and projected site trip generation(s). Development projects in the City that generate more than 50 peak hour auto trips, as defined in the CTR, must submit all five (5) components of the TR. Development projects that generate less than 50 peak hour auto trips do not need to provide the automobile traffic analysis. The TR report is used to test if the development project meets APF standards.

Development exceeding *de minimis* provisions must be tested for adequate public transportation facilities. The following are principles used by the City to ensure that adequate transportation facilities exist during and after a development project:

- In order to address increased congestion and to encourage development activity where viable transportation options exist, the City has established Transit-Oriented Areas (TOAs) and non Transit-Oriented Areas (non-TOAs), as approved by the Mayor and Council. Areas defined as TOAs must include existing or programmed facilities that provide multi-modal access. TOAs include areas 7/10ths of a mile accessible walking distance from existing and programmed Metro and MARC stations and programmed fixed-guideway transit stations on dedicated transit rights-of-way. A map of the TOAs is attached in Appendix B and shows walking distances of 7/10ths of a mile from fixed-guideway transit stations.
- Transit-Oriented Areas (TOAs) and non-Transit-Oriented Areas (non-TOAs) have different thresholds. More congestion is allowed in TOAs, where viable multi-modal options exist. Stricter congestion standards are applied in non-TOAs where less congestion is mandated.
- Development projects in TOAs can claim larger amounts of credit for multi-modal transportation improvements and TDM programs and/or contributions than development projects in non-TOAs.

At the preliminary plan, detailed application, or use permit review stage there must be a detailed transportation capacity analysis following the CTR. If transportation facilities are found to be inadequate, as defined in the following sections, the proposed project will be denied. If transportation facilities are found to be adequate, or adequate subject to specified conditions, the project may be approved. Mitigation and other physical improvements may be required to meet APF standards through the normal development review process, as described further in Section III.A.iii, *Impact Mitigations*. Capacity for a development will be reserved after approval.

(i) Auto

Auto capacity shall be considered inadequate if a proposed development project's forecasted traffic plus background traffic in the defined study area exceeds any of the intersection volume/capacity (hereafter referred to as v/c) ratios outlined in Table IV. The traffic study area for developments that generate more than 50 site trips is defined in the CTR. The study area for developments that generate fewer than 50 site trips but that exceed *de minimis* provisions will be determined on a case-by-case basis in consultation with Transportation staff.

TABLE IV: Intersection LOS Thresholds by Road Classification in the Auto Study Area for Non-TOAs

Road Classification	Volume/Capacity (v/c) Ratio	LOS
Primary Residential – Class II (Minor Collector), Secondary Residential, Secondary Industrial	Less than 0.80	C
Major Arterials (Except where two Major Arterials connect), Minor Arterials, Primary Residential – Class I (Major Collector), Primary Industrial	Less than 0.90	D
Business District roads, freeway ramps, and for locations where two Major Arterials intersect	Less than 1.0	E

Exceptions:

- At intersections where two or more roads with different classifications meet, the LOS threshold will be established based on the roadway classification that allows more congestion.
- For development activity whose impact is a v/c ratio increase of 0.01 or more at intersections where the LOS for "background" traffic conditions exceed the intersection LOS thresholds for non-TOAs or TOAs, new development projects shall:
    - Mitigate at least half of the impact if their impact is 0.01-0.06.
    - Mitigate their impact to 0.03 or less if the impact is greater than 0.06.
- Within TOAs and their major access routes, LOS thresholds shall not exceed the following v/c ratios outlined in Table V:

TABLE V: Intersection LOS Thresholds by Road Classification in the Auto Study Area for TOAs

Road Classification	Volume/Capacity (v/c) Ratio	LOS
Primary Residential – Class II (Minor Collector), Secondary Residential	Less than 0.90	D
Major Arterials, Minor Arterials, Primary Residential – Class I (Major Collector), Primary Industrial, Business District and Secondary Industrial	Less than 1.0	E

The following circumstances also constitute an impact and may require mitigation:

- A deterioration in intersection LOS by one level (0.10 v/c) or greater;
- Impacts that cause the City's criteria for acceptable traffic volumes on residential streets to be exceeded;
- Development projects that contributes significantly toward the need for, or modification of, a traffic signal or other traffic control devices as established in the Manual on Uniform Traffic Control Devices or determined by the Director of Public Works or designee;

- The capacity of a turning lane is exceeded as established in the Policy on Geometric Design of Highways and Streets (AASHTO) or determined by the Director of Public Works or designee;
- Contradiction of principles of proper design and location for driveways, medians and median openings, service drives, and similar facilities; and
- Any condition creating or aggravating a safety hazard for motorists, pedestrians, or bicyclists.

(ii) Non-Auto

The following summarizes standards for determining the adequacy of bicycle, pedestrian, and transit facilities. These standards are based on system accessibility, facility design, and geographic location. The CTR establishes respective study areas for the three modes.

(a) Bicycle

Bicycle facilities shall be considered adequate if:

- There is availability of bicycle facilities on the site frontage, or in some cases, through the site, as identified in the Bicycle Master Plan.
- At signalized intersections within the bicycle study area where the City controls signal timing, safety ratings are rated at least adequate, as defined in the CTR.
- At intersections within the bicycle study where signals are not controlled by the City, the intersection safety rating is at least adequate as defined in the CTR, excluding the factor of signal timing that allows for intersection crossing.

Exceptions: If a CIP project exists that would require the subsequent removal of a pedestrian or bikeway facility required under the APFO, the developer may contribute an equivalent amount of that facility being built toward the future project to be incorporated into the CIP as approved by the City.

(b) Pedestrian

Pedestrian facilities shall be considered adequate if:

- Sidewalks along the frontage of the site are constructed according to the City Standards and Details for Construction. At signalized intersections within the pedestrian study area where the City controls signal timing, safety ratings are rated at least adequate, as defined in the CTR.
- At intersections within the pedestrian study area where signals are not controlled by the City, the intersection safety rating is at least adequate as defined in the CTR, excluding the factor of signal timing that allows for intersection crossing time.

(c) Transit

Transit facilities shall be considered adequate if:

- Bus shelters, benches, or concrete pads are provided at all existing and planned bus stops along the site frontage, as approved by Department of Public Works in coordination with Montgomery County Department of Public Works and Transportation (DPWT) or Washington Metropolitan Transit Authority (WMATA - Metrobus). The type of facility required for adequacy is based on projected daily ridership volumes as defined in Table VI below:

TABLE VI: Required Transit Facilities

Projected Daily Ridership*	Required Facility
0 –10 persons	Concrete Pad
11-25 persons	Bench plus Concrete Pad
More than 25 persons	Bus Shelter plus Bench plus Concrete Pad

**Based on existing ridership plus additional ridership projected for the future in the transit study area.*

If a transit stop(s) is not along the site frontage, bus shelters, benches, or concrete pads are provided at the nearest existing or planned bus stop to the site within the transit study area, as defined in the CTR. The type of facility required for adequacy is based on projected daily ridership volumes as defined in Table VI above.

(iii) Impact Mitigations

If transportation impacts or capacity deficiencies are identified through the APFO process, mitigation may be applied to offset the negative impacts of development activity on the transportation network. To ensure that an improvement for one mode does not have negative impacts on other modes, mitigation of conditions that do not meet APFO standards must address all modes of transportation.

Mitigations may include retrofitting City streets so that they 1) provide better mobility for automobiles, pedestrians and bicyclists, and 2) improve accessibility to major transit hubs. Sidewalks and bicycle facilities must be safe, connect to activity centers, and be accessible to residents. The transportation system as a whole will need to be improved so that all modes of transportation are accessible and competitive with the automobile in terms of travel time, convenience and cost.

(iv) Credit System

To mitigate vehicular trip generations from proposed development projects, credits may be applied for enhancements to pedestrian, bike, and transit systems as well as TDM programs. Mitigations shall be credited through a system that is detailed in the CTR and addresses off-site sidewalks and bike paths, bus shelters, bicycle parking spaces and facilities, and real-time transit information. As data is collected, the credit system will be updated and expanded in the CTR. The amount of credit is applied according to whether or not the development is within a TOA.

(v) Regulatory Implementation

Standards and processes for evaluating adequate LOS as outlined above are detailed in the City's CTR.

III.B. Schools

The Montgomery County Public Schools system has established a method of determining school capacity that it applies and reports as part of its annual Capital Budget Program (MCPS 2002, App. H). In general, the school system uses a planning capacity of 25 students per section for most K-12 students, with classrooms for special programs considered adequate at capacities ranging from 10 (Special Education Program) to 44 (1/2-day Kindergarten) (see MCPS 2002, App. H, p. H-1), which provides an objective basis for determining building capacity.

Montgomery County, like several other Maryland jurisdictions, determines capacity of a "cluster" of schools.

Montgomery County currently considers that there is available capacity if the cluster of schools is at 100 percent or less of actual physical capacity; Annual Growth Policies before 2003 had used a 110 percent figure.

School demand is based on actual student census in the most recent complete academic year, adjusted for the following: demographic changes, changes in district boundaries and other changes anticipated by planners with Montgomery County Public Schools; additional demand from approved development; additional demand from the specific development being considered for approval. Developers may be required to obtain current certification of school capacities for individual clusters, because the annual figures reported to the Board of Education can rapidly be outdated.

(i) Levels of Service

A determination of the adequacy of public school capacity is based on the following principles:

- The capacities determined annually by the Superintendent of Montgomery County Public Schools, as reported to the Board of Education, shall be used as the capacity basis for the APFO program, based on 100 percent of rated capacity;
- Within the City, capacity is based on a cluster of schools, using the clusters already established by the Montgomery County Public Schools, except that the "borrowing" of capacity from adjacent clusters will not be counted towards the adequacy of school capacity within the City;
- Capacity temporarily taken off-line for rehabilitation and remodeling in accordance with the Montgomery County Public Schools Capital Improvements Program shall be considered available;

- Facilities shown on an adopted Capital Improvements Program with identified sources of funding and planned for completion within 3 years or less shall be considered available;
- Schools shall not be considered over-capacity unless projected demand will cause enrollment in a cluster to exceed 100% of the MCPS calculated capacity of the buildings in the cluster;
- School demand is based on actual student census in the most recent complete academic year, adjusted for the following: demographic changes, changes in district boundaries and other changes anticipated by planners with Montgomery County Public Schools; additional demand from approved development; additional demand from the specific development being considered for approval. Developers may be required to obtain current certification of school capacities for individual clusters, because the annual figures reported to the Board of Education can rapidly be outdated.
- A school cluster is considered over capacity when either of the following occurs: 25% or more of classroom capacity is provided by temporary buildings in one year; 10% or more of classroom capacity has been provided by temporary buildings for 8 of the last 10 years.

(ii) Regulatory Implementation

Note that school clusters in Rockville draw some of their enrollment from outside the City. Thus, for schools, the tracking system for enrollment – both from dwelling units built since the last annual MCPS capacity report and from pipeline projects – must be coordinated with the MCPS administration and Maryland-National Capital Park and Planning Commission to ensure that the accounting includes new demand from outside the City, as well as the demand from within the City.

Capacities are available from the Montgomery County Public Schools annually and will be made available to prospective developers. It will be necessary to conduct a project-specific review for residential development projects simply to compute the projected demand from each development project.

III.C. Fire Protection

Based on Calendar Year 2001 data, the average structure fire response time was 7 minutes and 25 seconds; the average EMS response time was 5 minutes and 56 seconds. Both of these are within the County Fire and Rescue Service goals for response time.

First response to any location in Rockville is possible within established response time goals. A full response calls for the availability of engines from at least 3 separate stations to arrive at the location within 10 minutes. Almost all areas of Rockville are within an 8-minute response time, based on data from the Montgomery County Fire and Rescue Service (MCFRS). A proposed new fire station in the vicinity of Shady Grove Road and Darnestown Road will further reduce the marginally served areas. The City now requires all new residential units to have sprinklers. Therefore, being on the fringe of the full response areas shall not be a determining factor for adequacy of fire protection for new residential development activity. However, certain sensitive types of uses shall likely be subject to such a standard, as much for ambulance/rescue services as for fire protection.

Certain higher-risk uses shall be allowed only where a full response from 3 stations within 10 minutes is possible. Such uses would include schools, hospitals, nursing homes, and places of assembly seating more than 500. Clearly the public risk issues are much greater in dealing with such uses and there is thus a logical basis to require that an optimal fire or EMS response be available to any such use that is established in the future.

(i) Levels of Service

The following higher-risk uses shall be allowed only where a full response from 3 stations within 10 minutes is possible: schools; hospitals; nursing homes; commercial buildings over 3 stories high with no sprinklers; places of assembly seating more than 500.

(ii) Regulatory Implementation

Service areas will be determined based on the latest data provided by MCFRS.

III.D. Water Supply

The APFO requires denial of any development that would create total water demand in the City that would exceed available supply less a reasonable reserve for fire-flow.

(i) Levels of Service

Any proposed development that would create total water demand in the City that would exceed available supply less a reasonable reserve for fire-flow shall not be approved.

Any proposed development for which a minimum fire-flow of 1,000 gallons per minute, or where such fire-flow will not be available from hydrants located within 500 feet of any structure within the development not provided with sprinklers, shall not be approved.

(ii) Regulatory Implementation

Final check-off for adequacy of water service will be determined prior to the issuance of building permits.

III.E. Sewer Service

The APFO provisions require denial of any development project that would cause the City to exceed the transmission capacity in any part of the sewerage system or the treatment capacity available to it at the Blue Plains Treatment Plant or other facilities provided by WSSC.

(i) Levels of Service

Any proposed development that would cause the City to exceed the treatment capacity available to it at the Blue Plains Treatment Plant or other facilities provided by WSSC shall not be approved.

Any development for which transmission capacity in the City or WSSC system to Blue Plains or another treatment facility will not be available concurrently with the anticipated demand shall not be approved.

(ii) Regulatory Implementation

Final check-off for adequacy of water service will be determined prior to the issuance of building permits.

Sources

Annual Growth Policy (AGP), 2002 (Montgomery County, Maryland-National Capital Park and Planning Commission).

Comprehensive Plan. "Comprehensive Master Plan" Planning Commission Approved Draft, January 2002 (supplemented by October 2002 draft of Chapter 4, Transportation).

Hollida, John, P.E. 2003. Civil Engineer II, City of Rockville, Public Works Department; e-mail communication April 14, 2003.

Ierley, Sarah. 2002. (Montgomery County Fire Department). E-mail to District Chief James Resnick, responding to inquiry from Deane Mellander.

Montgomery County Public Schools (MCPS). 2003. "Superintendent's Recommended FY 2004 Capital Budget."

Resnick, James. 2002. District Chief, Montgomery County Fire Department. Meeting November 2002; also included Paul Quigley and others.

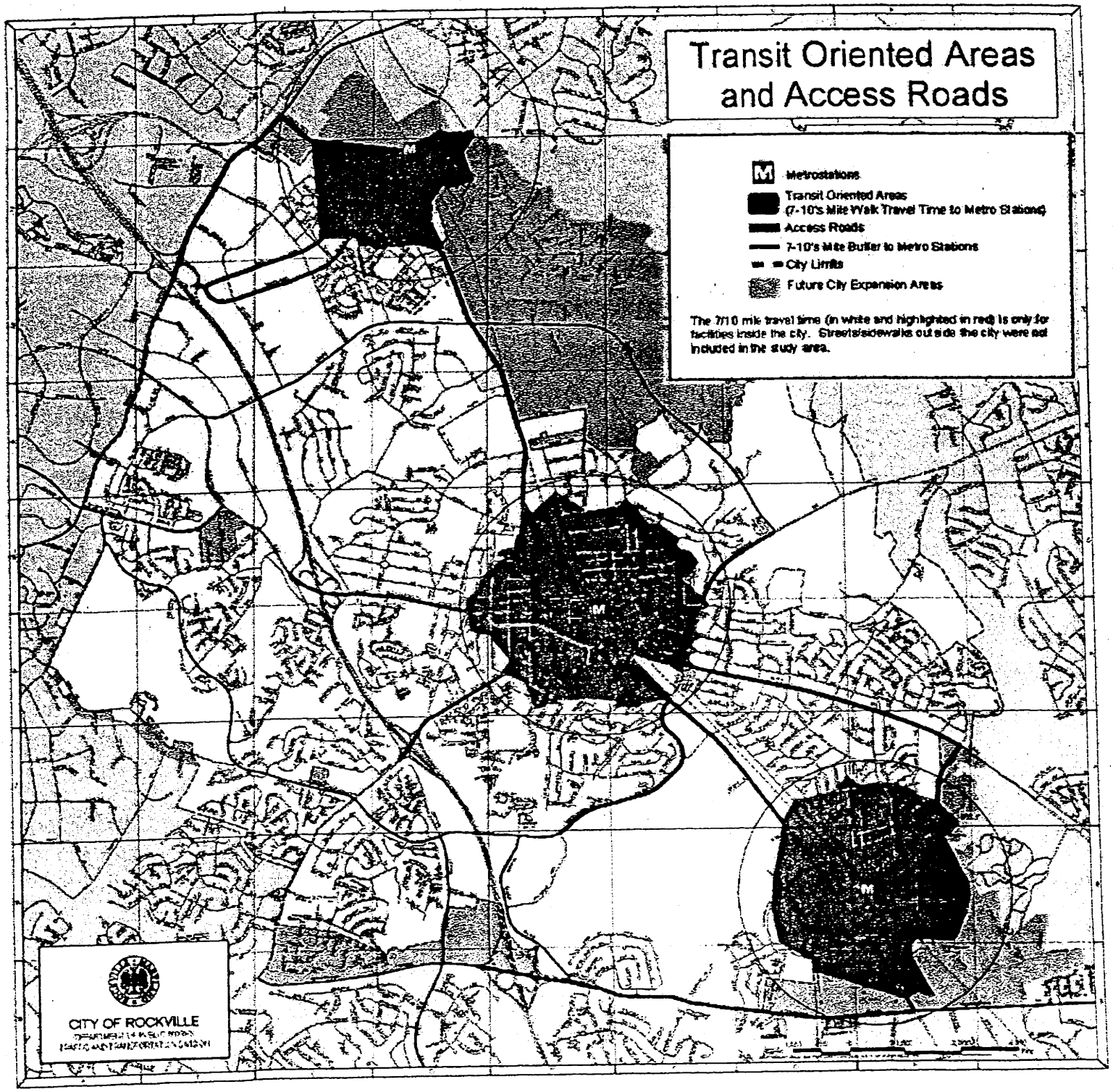
Rockville Town Center Master Plan. 2001. "Advisory Group Draft."

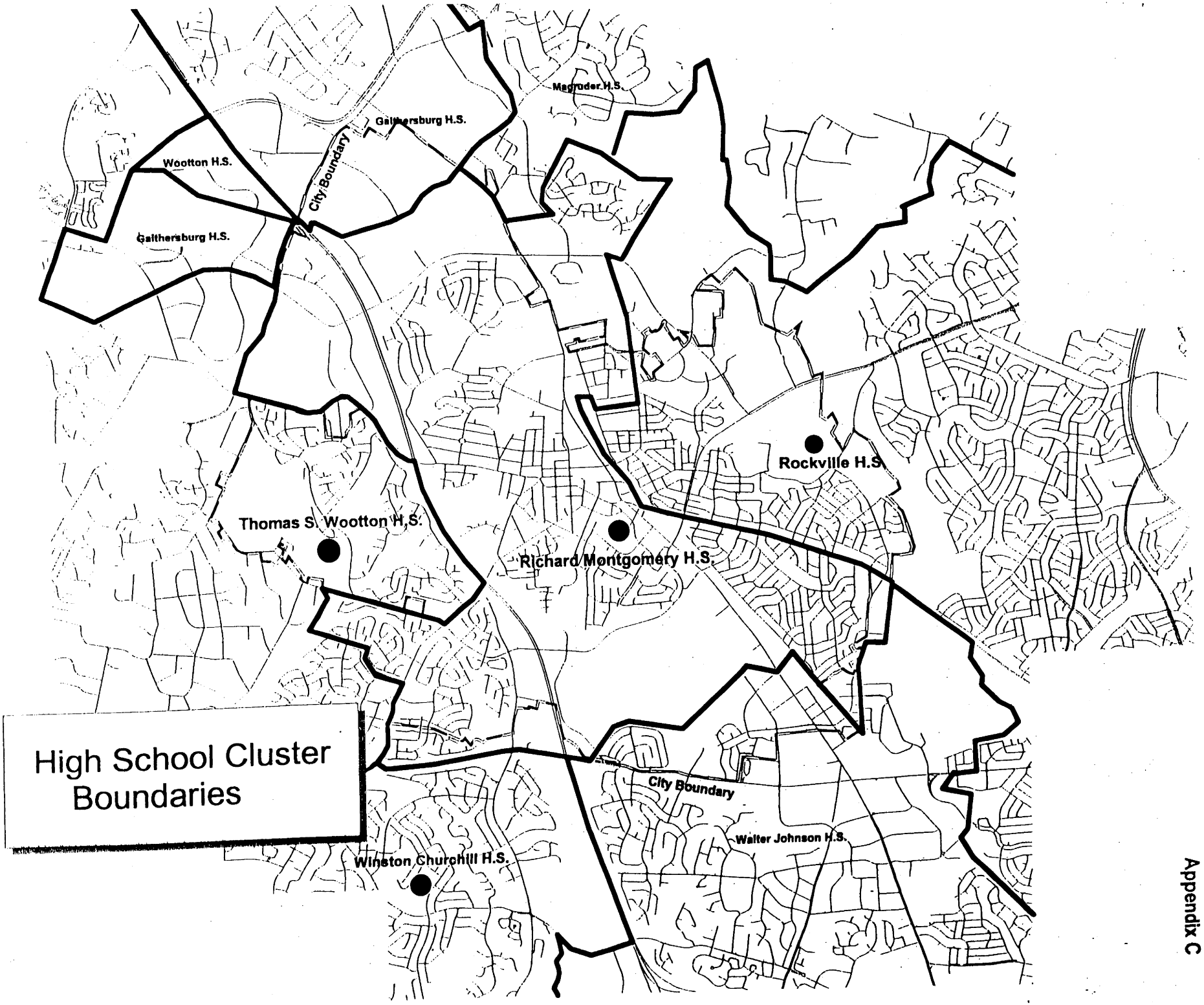
Standard Traffic Methodology (STM). Rockville Planning Department, November 1989. Woo, Edwin, P.E. 2003. Civil Engineer II, City of Rockville, Public Works Department; e-mail communication April 14, 2003.

Appendix A: Definitions

Development Project	Any new development or significant redevelopment project presented to the City after (date of APF adoption).
CTR	Comprehensive Transportation Review describes the process by which to proceed with development or redevelopment within the City. Principles and methodologies explained in the CTR are used by the City to evaluate the transportation impacts of development applications on site access and circulation, multi-modal facilities, and off-site automobile traffic. Mitigation measures to alleviate negative impacts are also addressed.
Transportation Report (TR)	Transportation Report, required by the CTR, is one report that consists of five components: • **Component A: Introduction and Existing Conditions:** Project description. • **Component B: Site Access & Circulation:** Analysis of internal circulation, entrance configurations, truck access and other relevant access and on-site features. • **Component C: Multi-Modal Analysis:** Analysis of access to alternative modes of transportation available in the respective study area for pedestrian, bicycle, and transit facilities in the multi-modal study area. • **Component D: Traffic Analysis:** Analysis of auto traffic using the technical guidelines for traffic analysis in the auto study area. • **Component E: Summary and Mitigation:** Summary of the report findings and recommendations.
Service Commitment	Public facility capacity reserved as part of project approval
TOA	Areas defined as TOAs must include existing or programmed facilities that provide multi-modal access. TOAs include areas 7/10ths of a mile accessible walking distance from existing and programmed Metro and MARC stations and programmed fixed-guideway transit stations on dedicated transit rights-of-way.
TDM	Transportation Demand Management is a general term for strategies that promote alternatives to travel by single occupancy vehicle.
USE	Use Permit
CPD	Comprehensive Plan Development
PDP	Preliminary Development Plan
SPX	Special Exception
PRU	Planned Residential Unit
Subdivision	The creation of lots, either by dividing existing lots or parcels or combining existing lots, for the purpose of new development or redevelopment

Appendix B


Transit Oriented Areas and Access Roads
Metrostations
Transit Oriented Areas (7-10's Mile Walk Travel Time to Metro Stations)
Access Roads
7-10's Mile Buffer to Metro Stations
City Limits
Future City Expansion Areas
The 7/10 mile travel time (in white and highlighted in red) is only for facilities inside the city. Streets/sidewalks outside the city were not included in the study area.
CITY OF ROCKVILLE


High School Cluster Boundaries
Magruder H.S.
Gaithersburg H.S.
Wootton H.S.
City Boundary
Gaithersburg H.S.
Rockville H.S.
Thomas S. Wootton H.S.
Richard Montgomery H.S.
City Boundary
Walter Johnson H.S.
Winston Churchill H.S.

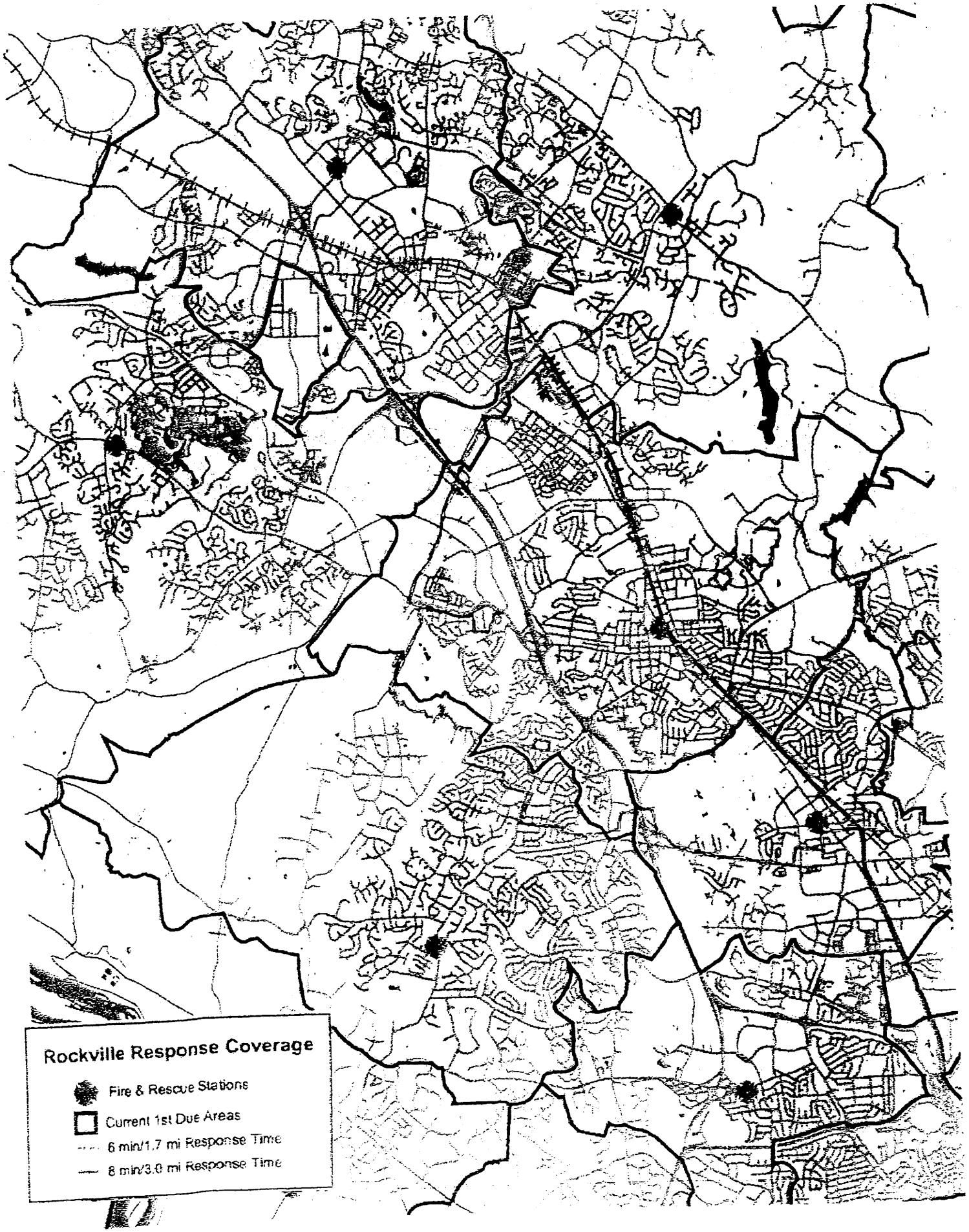
Appendix C

School Capacity Projections

				3-Year Test			6-Year Test
School/School Year	**02/03**	**03/04**	**04/05**	**05/06**	**06/07**	**07/08**	**08/09**
Gaithersburg HS	**114%**	**114%**	**118%**	100%	101%	103%	101%
Forest Oak MS	103%	103%	99%	98%	102%	101%	102%
Rosemont ES	**129%**	**129%**	**134%**	86%	90%	94%	97%
Rockville HS	90%	97%	82%	86%	89%	89%	90%
Earle B. Wood MS	103%	101%	103%	99%	97%	96%	96%
Maryvale ES	99%	100%	98%	98%	99%	97%	98%
Meadow Hall ES	89%	94%	93%	96%	101%	103%	103%
Richard Montgomery HS	**113%**	**119%**	**120%**	**122%**	**124%**	94%	95%
Julius West MS	108%	101%	100%	101%	102%	103%	101%
Twinbrook ES	94%	99%	100%	100%	101%	103%	103%
Beall ES	107%	106%	105%	105%	105%	103%	107%
College Gardens ES	86%	81%	85%	86%	86%	75%	80%
Ritchie Park ES	83%	82%	86%	91%	98%	**110%**	**117%**
Thomas S. Wootton HS	100%	108%	**112%**	**114%**	**115%**	**112%**	**111%**
Robert Frost MS	101%	101%	102%	97%	94%	98%	96%
Fallsmead ES	**112%**	**110%**	**111%**	109%	107%	**120%**	**121%**
Lakewood ES	**113%**	79%	81%	84%	88%	97%	103%
Walter Johnson HS	94%	97%	100%	99%	100%	102%	105%
Tilden MS	74%	81%	83%	88%	89%	89%	84%
Farmland ES	**134%**	**137%**	**135%**	**133%**	94%	101%	102%

Key:

Exceeds AGP Capacity	Exceeds Moratorium Level


Rockville Response Coverage
Fire & Rescue Stations
Current 1st Due Areas
6 min/1.7 mi Response Time
8 min/3.0 mi Response Time

APFO Text Amendment
Public Hearing Draft
October 24, 2003

ATTACHMENT TO APPLICATION TO THE CITY OF ROCKVILLE FOR A TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of the City of Rockville

The applicant proposes to insert the following new text into the zoning ordinance (underlining indicates text to be added; [brackets] indicate text to be deleted):

Amend Section 25-193 as follows:

ARTICLE V. PERMITS

DIVISION 2. USE PERMIT

* * *

Sec. 25-193. Issuance; term, etc.

(a) A use permit shall be issused if the Planning Commission, the Mayor and Council, or the [Director] Chief of Planning, as the case may be finds that the use proposed in the application will not:

(1) Affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;

(2) Be detrimental to the public welfare or injurious to property or improvements in the neighborhood; or

(3) Overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards; or

[3] (4) Constitute a violation of any provision of this Chapter or other applicable law.

* * *

Amend Section 25-332 as follows:

ARTICLE VII. ZONING DISTRICT REGULATIONS

DIVISION 3. DEVELOPMENT STANDARDS

* * *

Sec. 25-332. Retail store size limitations and design and site development guidelines for retail stores and shopping centers in the C-2 and RPC Zones.

* * *

(b) *Design and site development guidelines for certain developments in the RPC and C-2 Zones.*

* * *

(2) *Site design and relationship to surrounding community.*

* * *

i. *Traffic impacts.* The applicant shall have a [traffic] transportation impact study prepared according to the Standard Traffic Methodology or its successor. [In addition to the general standards of the methodology, t] The [traffic] transportation impact study shall also study intersections within an area designated by the Chief Transportation Engineer to take into account the regional traffic draw of a large-scale retail establishment.

* * *

Amend Section 25-338 as follows:

ARTICLE VIII. SPECIAL EXCEPTIONS

DIVISION 1. GENERALLY

* * *

Sec. 25-338. Standards for granting.

The Board of Appeals [shall] must not grant any petition for a special exception unless it finds from a preponderance of the evidence of record that:

(1) The proposed use does not violate or adversely affect the Plan, this chapter or any other applicable law; and

(2) The proposed use at the location selected will not:

a. Adversely affect the health and safety of residents or workers in the area; or

b. Overburden existing and programmed public [services] facilities as defined in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards; or [, including water, sanitary sewer, public roads]

c. Overburden existing and programmed storm drainage and other public improvements; or
d. Be detrimental to the use or development of adjacent properties or the neighborhood; or
e. Change the character of the neighborhood in which the use is proposed considering service currently required, population density, character, and number of similar uses; and

(3) The proposed use complies with any requirements of this chapter that are applicable thereto.

* * *

Amend Section 25-492 as follows:

ARTICLE XII. SPECIAL DEVELOPMENT PROCEDURES

DIVISION 1. GENERALLY

* * *

Sec. 25-492. Adequate public facilities.

All development proposed under the provisions of this article must demonstrate that there are adequate public facilities available in accordance with Article XVI to accommodate the proposed development.

* * *

Amend Section 25-510 as follows:

DIVISION 2. VARIABLE LOT SIZE DEVELOPMENT

* * *

Sec. 25-510. Criteria for approval.

The application shall be granted for a variable lot size development if the Planning Commission finds that the proposed development will not:

* * *

(3) Overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards; or

[3] (4) Be inconsistent with the intent or purpose of this article.

Amend Section 25-531 as follows:

DIVISION 3. CLUSTER DEVELOPMENT

* * *

Sec. 25-531. Criteria for granting.

The application for cluster development shall be granted if the Planning Commission finds that the proposed development will not:

* * *

(4) Overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards; or

[4] (5) Be inconsistent with the intent or purpose of this article.

Amend Section 25-562 as follows:

DIVISION 4. PLANNED RESIDENTIAL UNIT DEVELOPMENT

* * *

Sec. 25-562. Required findings of Council on exploratory application.

No exploratory application for planned residential unit development shall be approved by the Council unless the following findings are made:

* * *

(4) That the proposed development will not overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards; and

[(4)] (5) That the proposed development will not be inconsistent with the intent or purpose of this article; and

[(5)] (6) That the proposed development will not overburden existing and programmed storm drainage and other public improvements; and

[(6)] (7) That the C-1 Zone uses proposed in such development are not available within reasonable proximity of the development and are primarily for the service and convenience of the residents of such development.

* * *

Amend Section 25-625 as follows:

DIVISION 6. RESIDENTIAL TOWNHOUSE DEVELOPMENT

* * *

Sec. 25-625. Required findings of Council on exploratory application.

No exploratory application for residential townhouse development filed after November 1, 1997, shall be approved by the Council unless the following findings are made:

* * *

[(5)] (4) That the proposed development will not overburden existing and programmed storm drainage and other public improvements; and
[(6)] (5) That the proposed development complies with the developmental standards and requirements set forth in this division; and
[(7)] (6) That the proposed development enhances the transition between dissimilar uses. The use of appropriate buffering and screening techniques, compatible side design and existing conditions on the site, such as changes in topography and the preservation of existing vegetation, shall also be considered in making the development compatible with the surrounding neighborhood.

* * *

Amend Section 25-655 as follows:

DIVISION 7. COMPREHENSIVE PLANNED DEVELOPMENT

* * *

Sec. 25-655. Required findings of Council on concept plan application.

[No] A concept plan application for comprehensive planned development [shall be] must not be approved by the Council unless the following findings are made:

* * *

(5) That the proposed development complies with any applicable development staging and [adequate public facilities] any requirements as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards.

* * *

Amend Section 25-670 as follows:

DIVISION 8. I-3 OPTIONAL METHOD OF DEVELOPMENT

* * *

Sec. 25-670. Required findings of Council on Preliminary Development Plan Application.

[No] A Preliminary Development Plan Application for development in accordance with the I-3 Optional Method of Development [shall] must not be approved by the Council unless the following findings are made:

* * *

(4) That the proposed development will not overburden [public services including water, sanitary sewer, public roads,] existing and programmed storm drainage and other public improvements; and

(5) That the proposed development complies with the development standards and requirements set forth in this division; and

(6) That the development complies with any applicable development staging [and adequate public facilities] requirements and will not overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards; and

* * *

Amend Section 25-681 as follows:

ARTICLE XIII. TOWN CENTER PLANNING AREA

* * *

Sec. 25-681. Use permit approval.

(a) All developments in the Town Center Planning Area shall require approval of the use permit application in accordance with division 2 of article V of this chapter, except that the following additional requirements shall apply:

(1) The Planning Commission or the Mayor and Council for City-owned land or land purchased by the applicant from the City in the Town Center Performance District shall approve a use permit application only if it finds:

a. That the proposed development will be consistent with the Plan;

b. That the proposed development will be consistent with the intent and purpose of this article; and

c. That the proposed development will not overburden [public services including water, sanitary sewer, public roads,] existing and programmed storm drainage and other public improvements; and other existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards.

* * *

Amend Section 25-682 as follows:

Sec. 25-682. Optional method of development.

* * *

(2) All applicants shall prepare and submit a [traffic] transportation impact study in conformance with the "Standard Traffic Methodology" or its successor and shall provide mitigation of [traffic] transportation impacts which exceed the standards of the STM or its successor [as may be acceptable to the Planning Commission] in accordance with Article XVI of this Chapter and the adopted Adequate Public Facilities Standards;

* * *

Amend Section 25-710 as follows:

ARTICLE XIV. ROCKVILLE PIKE CORRIDOR AREA

* * *

DIVISION 2. SPECIAL REQUIREMENTS RELATING TO USE AND DEVELOPMENT

* * *

Sec. 25-710.27. Optional method of development.

* * *

(4) Any development that generates more than [one hundred (100)] fifty (50) vehicle trips during any peak hour shall prepare and submit a [traffic] transportation impact study in conformance with the "Standard Traffic Methodology" or its successor contained in the Plan or as may be updated

from time to time, and shall provide mitigation of [traffic] transportation impacts which exceed the standards of the "Standard Traffic Methodology" or its successor [as may be acceptable to the Planning Commission] in accordance with Article XVI of this Chapter and the adopted Adequate Public Facilities Standards

* * *

DIVISION 3. APPROVAL PROCEDURES

Sec. 25-710.31. Use permit approval.

* * *

(1) The Planning Commission shall approve a use permit application only if the Commission finds:

* * *

c. That the proposed development will not overburden [public services including water, sanitary sewer, public roads,] existing and programmed storm drainage, other public improvements, and other existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards.

* * *

Sec. 25-710.32. Optional method development.

(a) The Planning Commission may authorize optional method development only if it determines that the proposed development is in substantial accordance with the Plan and with the intent and purpose of this article, and is compatible with adjacent existing and permitted uses and developments. In making such determination the Commission shall consider:

(1) Provisions made for [traffic] transportation impact mitigation, open space and other environmental amenities;

* * *

Amend Section 25-727 as follows:

ARTICLE XV. SUBDIVISION REGULATIONS

* * *

DIVISION 2. SUBDIVISION APPROVAL PROCEDURE

* * *

Sec. 25-727. Preliminary plat approval procedure.

e. A preliminary plan shall be approved if the Planning Commission finds that the proposed subdivision will not:

* * *

(3) Overburden [public services including water, sanitary sewer, public roads,] existing and programmed storm drainage and other public improvements;

(4) The development will not overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as defined in the adopted Adequate Public Facilities Standards;

[4] (5) Affect adversely the health or safety of persons residing or working in the subdivision or neighborhood;

[5] (6) Be detrimental to the public welfare or injurious to property or improvements in the neighborhood;

[6] (7) Be unsuitable for the type of development, the use contemplated, and available public utilities and services; or

(8) Unreasonably disturb existing topography, in order to minimize stormwater runoff and to conserve the vegetation cover and soil.

* * *

Insert a new Article XVI, to read as follows:

ARTICLE XVI. ADEQUATE PUBLIC FACILITIES

DIVISION 1. GENERALLY

Sec. 25-800. Adequate public facilities standards.

(a) The Mayor and Council shall adopt by resolution, after public hearing, Adequate Public Facilities Standards. These standards will establish the method used by the City to ensure that the necessary public facilities will be available to serve proposed new development or redevelopment. The Mayor and Council will periodically review the Adequate Public Facilities Standards and modify them as deemed necessary. Any development or redevelopment proposed within the City after the effective date of this Article must comply with all requirements of the Adequate Public Facilities Standards.

Sec. 25-801. Applicability.

(a) A use permit, preliminary plan of subdivision, special exception, or any development under a special development procedure must not be approved unless the Mayor and Council, the Planning Commission, the Board of Appeals, or the Chief of Planning, as the case may be, determines that public facilities will be adequate to support and service the area of the proposed development. Public facilities and services to be examined for adequacy will include but not necessarily be limited to roads and public transportation facilities, sewerage and water service, schools, and fire protection.

(b) The applicant for a use permit, preliminary plan of subdivision, special exception, or any development under a special development procedure must, at the request of the Mayor and Council, the Planning Commission, the Board of Appeals, or the Chief of Planning, as the case may be, submit sufficient information and data on the proposed development to demonstrate the expected impact on and use of public facilities and services by possible uses of said development. Utilizing the most recent public facilities assessment, the applicant must demonstrate mitigation measures designed to alleviate any adverse impact on public facilities deemed inadequate in the public facilities assessment as set forth in the Adequate Public Facilities Standards.

(c) The Adequate Public Facilities Standards will establish *de minimis* standards for various factors such that any proposed development that does not exceed the *de minimis* standards may proceed without a further requirement to satisfy the adequate public facilities determination.

(d) The following are exempt from the provisions of the Adequate Public Facilities Standards:

1. An application to implement an approval that was approved after (effective date) and retains a valid adequate public facilities certification is not subject to further adequate public facilities approvals except for water and sewer service, which is confirmed prior to the issuance of a building permit.

2. An application to implement a valid special exception, use permit or preliminary plan of subdivision that was approved prior to (effective date) is not subject to the Adequate Public Facilities Standards except for water and sewer service, which is confirmed prior to the issuance of a building permit.

Sec. 25-802. Issuance: term, recertification, etc.

(a) A finding of adequate public facilities shall have the following validity period to correspond with the validity period of the underlying development approval:

1. Use Permit:
   a. Two (2) years from the date of issuance of the Use Permit for an individual building; or
   b. Eight (8) years from the date of issuance of the Use Permit for a multiple building development.
2. Special Exception: Eighteen (18) months from the date of issuance of the special exception.
3. Special Development Procedures (Variable Lot Size, Cluster Development, Residential Townhouse, Planned Residential Unit, I-3 Optional Method of Development):
   a. One (1) year from the date of approval of the exploratory application or until a detailed application is approved, whichever first occurs.
   b. Ten (10) years for the implementation of all detailed applications from the date of the approval of the exploratory application.
4. Subdivision – two (2) years from the date of approval until the date of recordation. Recordation of a plat constitutes an adequate public facilities commitment for a one-family detached residential lot.

Time Extensions.

(a) For good cause shown, the original approving body may approve no more than two (2) extensions not exceeding one (1) year each. The extensions may not exceed the validity period of the underlying application, including any time extensions that may be granted. In the case of a special exception, the Board of Appeals may approve no more than two (2) extensions not exceeding six (6) months each.

(b) For good cause shown, the Mayor and Council may approve no more than two extensions not exceeding one (1) year each. The extensions may not exceed the validity period of the underlying application.

Reevaluation and Recertification.

Upon expiration of an adequate public facilities approval, recertification may be granted by the original approval body. The recertification shall be based on the results of an updated analysis of the impact on the public facilities, consistent with the Adequate Public Facilities Standards. The analysis shall include an evaluation of the net remaining development with credits applied for infrastructure that has been provided in conjunction with the development. If the reevaluation indicates that existing and programmed public facilities will be overburdened, then mitigation of said impacts shall be required.

Sec. 25-803. Applicability to previously approved projects.

(a) Development approved under a special development procedure (CPD, PDP, RTH, PRU, Cluster Development, Variable Lot Size, I-3 Optional Method of Development) is subject to review and implementation of adequate public facilities as specified in the following provisions. The length of time for which facilities are deemed adequate under these approvals may vary for each public facility. The validity period for determining the adequacy of public facilities is as follows:

(1) The number of years specified in the original approval, if explicitly stated; or

(2) If the original approval does not specify the number of years that public facilities are deemed adequate, the validity period ends fifteen (15) years from (effective date of APFO) if all required public improvements have not been provided. If all required public improvements have been provided, an additional 5 years shall be granted.

(b) The Mayor and Council may approve up to two (2) five-year extensions to implement the approved development when the applicant demonstrates that development of the property has proceeded with due diligence but that factors beyond the control of the developer such as a economic conditions or change in governmental regulations have precluded development of the property within the approved time frame or the project is substantially complete.

(c) If the adequate public facility approval is no longer valid, then the development must retest the relevant public facilities, with credit for provided facilities, prior to approval of subsequent detailed applications, use permits, or final record plats.

WORKSESSION

MAYOR AND COUNCIL/AGENDA

NO. 2 DEPT.: Community Planning & Development Services/Legal DATE: May 14, 2003

Contact: Deane Mellander, Planner III

ACTION: Worksession continuation to review consultant's report and provide staff with direction on preparation of an Adequate Public Facilities Ordinance (APFO)

ACTION STATUS:

FOR THE MEETING OF: 5/20/03

INTRODUCED

PUB. HEARING

INSTRUCTIONS

APPROVED

EFFECTIVE

ROCKVILLE CITY CODE,

CHAPTER

SECTION

☐ CONSENT AGENDA

RECOMMENDATION: Continuation of worksession on proposed Adequate Public Facilities Ordinance.

IMPACT: ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

The APFO would provide a comprehensive method for evaluating the impact of new development on surrounding neighborhoods and public infrastructure. It may have fiscal implications if the City needs to accelerate capital projects to accommodate desirable development.

BACKGROUND: The City has contracted with Duncan Associates to study the City's current development review program and provide guidance and recommendations on how various components of the public facilities programs may be integrated into a comprehensive APFO ordinance. The attached report represents the results of the consultant's efforts.

The most important aspect of the APFO recommendations concern traffic impacts. Currently, the Standard Traffic Methodology (STM) is used to evaluate the impacts of each application. The City requires mitigation measures in our review and some processes require a finding that the development does not overburden public facilities. However, there is no comprehensive listing of standards for each facility.

Revisions to the current STM will also be required, in order to better account for alternative transportation measures such as pedestrians, bicycles, buses, etc. This becomes a comprehensive transportation review process, rather than a traffic review.

Some issues that will need to be resolved in the development of an APFO are:

1. Consideration of allowable levels of service on intersections of main roads that pass through residential areas but connect with priority growth areas.
2. How to account for systems, such as Metro, that are beyond the City's control for APFO.
3. Establishing build-out periods for previously-approved projects so they don't hold development capacity indefinitely.
4. Establishing time limits for capacity allocations for new development projects.

The report also recommends consideration of other public facility elements, such as school capacity, fire and police protection, and water and sewer service capacity. These were discussed during the May 5 worksession.

This worksession will focus on the transporation elements of the APFO. The consultant's report and a recommendation from the Traffic and Transportation Division are attached.

Staff has set up a public forum for the public and development community to solicit comments on the draft report and the proposed process. This forum will occur on June 4, 2003 in the Mayor and Council chambers. The results will help guide the City in drafting the ordinance. In addition, staff will meet with representatives of the Tower Oaks, King Farm, Fallsgrove and RCI developments.

It is now anticipated that the public hearing on this subject will be held in mid-July, with action being taken in September. The expected schedule will be presented to the Mayor and Council at the worksession.

PREPARED BY: Deane E. Mellander — 5/14/03

Deane Mellander, Planner III — Date

APPROVE: Robert J. Spalding, AICP Chief of Planning — 5-14-3 Date

APPROVE: Arthur D. Chambers, AICP, CPDS Director — 5/14/03 Date

APPROVE: W. Mark Pentz, City Manager — 5-14-03 Date

LIST OF ATTACHMENTS:

1. Recommendations from the Traffic and Transportation Division
2. Consultant's report from Duncan Associates