



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Nov 13, 03
Item #12

November 7, 2003

MEMORANDUM

TO: Montgomery County Planning Board

FROM: Jeff Zyontz, Chief
Countywide Planning Division

SUBJECT: Briefing on Rockville's Adequate Public Facility Ordinance

The Chief of Planning for the City of Rockville, Robert Spalding, will brief the Planning Board on the content and status of Rockville's Adequate Public Facility Ordinance. The attached material was provided for this briefing. The comparison of Rockville's requirements to the County's requirements was produced with Carl Moritz's assistance.

The attachment are as follows:

Attachments	Circle No.
Memo from Bob Spalding	1
Montgomery County Annual Growth Policy Compared to the Draft Rockville Adequate Public Facilities Ordinance	3
City of Rockville Text Amendment To the Zoning Ordinance	8
Adequate Public Facilities Standards Rockville, Maryland Public Hearing Draft, October 24, 2003	20

JZ:SS\DI\PlanningBoardMemos\APFO.doc



City of Rockville

MEMORANDUM

November 6, 2003

TO: Jeff Zyontz,
Chief of Countywide Planning
Montgomery County Department of Park and Planning

FROM: Robert J. Spalding, AICP
Chief of Planning

SUBJECT: Briefing on City's Draft Adequate Public Facilities Ordinance –
November 13

The City of Rockville is in the process of reviewing a draft Adequate Public Facilities Ordinance (APFO). The draft APFO establishes standards for transportation (auto, bike, pedestrian, and transit), schools, water, sewer, and fire protection.

There are three basic elements to the APFO and its administration: the ordinance, a standards document, and the Comprehensive Transportation Review (CTR). The ordinance requires that the approving body for an application ensure that adequate public facilities are available in order to approve a proposed development. The standards document identifies the acceptable levels of service for each public facility. These two documents are being considered concurrently. The third document, the Comprehensive Transportation Review (CTR), establishes the technical standards for the multi-modal transportation review that is required for new development applications. It will serve a similar function in our review process as the County's Local Area Transportation Review (LATR) Guidelines, but also requires analyses for the adequacy of accessibility to pedestrian, bicycle and transit facilities. The draft CTR will be available in December.

In general, Rockville's draft APFO permits less intersection congestion than Montgomery County's Local Area Transportation Review and less school crowding than the AGP's school test. In addition, developments in the City of Rockville are required to pay the same transportation and schools development impact taxes as in Montgomery County.

1

In preparation for the November 13 Planning Board meeting, I have attached a series of tables comparing the City's draft APFO and the County's AGP. The draft APFO ordinance and the standards document are also attached for your reference.

On November 19, the City of Rockville Planning Commission will review the APFO and APF Standards and make a recommendation to the Mayor and Council. The Mayor and Council will hold a public hearing on December 17. Adoption is anticipated in February of 2004.

Attachments

AGP and APFO Comparison Tables
Adequate Public Facilities Ordinance
Adequate Public Facilities Standards

cc: Art Chambers
Karl Moritz

**Montgomery County Annual Growth Policy (AGP) and Impact Taxes
Compared to the Draft Rockville Adequate Public Facilities Ordinance (APFO)**

Transportation

Issue	Montgomery County AGP	Draft Rockville APFO
Policy Area Review/Growth Cap	None – Removed Policy Area Review	None
Metro Station Policy Areas / Transit Oriented Areas	1800 Critical Lane Volume (CLV) without capacity adjusted for number of phases and signal cycle length plus queuing analysis (80-90% of distance to next intersection)	100 % of capacity (1400 to 1700 CLV) with capacity adjusted for number of phases and signal cycle length
Non-Metro Station Policy Areas	1525 to 1600 CLV in Policy Areas surrounding Rockville	90% of capacity (1260 to 1530 CLV)
Standards for Bicycles	None – Master plan recommendations implemented through development review	Bikepaths/lanes, bike racks, bike lockers, and intersection safety ratings of “adequate” or better required for APFO compliance
Standards for Pedestrian Accessibility & Safety	None – Master plan recommendations implemented through development review	Adequate width sidewalks and intersection safety ratings of “adequate” or better required for APFO compliance
Standards for Transit Accessibility	None	Bus shelters, benches, bus stop pads required for APFO compliance depending on size of development
Credits for Multi-modal Improvements Impact Tax	Yes Required – see following tax tables for details	Yes Required – see following tax tables for details

**Montgomery County Annual Growth Policy (AGP) and Impact Taxes
Compared to the Draft Rockville Adequate Public Facilities Ordinance (APFO)**

Schools

Issue	Montgomery County AGP	Draft Rockville APFO
Elementary School Capacity	105% of the aggregate capacity of all elementary schools in the cluster	100% of capacity for each elementary school
Middle School Capacity	105% of the aggregate capacity of all middle schools in the cluster	100% of capacity for each middle school
High School Capacity	100% of capacity for each high school	100% of capacity for each high school
Borrowing	Only at the high school level	None
Impact Tax	Required – see following tax table for details	Required – see following tax table for details
School Facility Payment Fee	\$12,500 per student when the above capacity is exceeded but greater than 110% of capacity is not permitted	None – Fee not applied in Rockville and no development can be approved that is eligible to pay the fee if it could be applied.
Relocatable Classrooms Limit	None in AGP	May not exceed 25% of total capacity or have exceeded 10% of total capacity for 8 of the last 10 years.

**Montgomery County Annual Growth Policy (AGP) and Impact Taxes
Compared to the Draft Rockville Adequate Public Facilities Ordinance (APFO)**

Fire, Water, Sewer

Issue	Montgomery County AGP	Draft Rockville APFO
Fire Protection	Adequate service required (no standard provided)	High risk uses (schools, hospitals, nursing homes, places of assembly seating more than 500) only permitted where a full response from 3 stations in 10 minutes is available Developments can not create a total water demand exceeding available supply and fire supply reserve or have inadequate fire flow (1,000 gpm) within 500 feet if sprinklers are not provided.
Water Supply	Adequate service required (no standard provided)	Developments can not exceed available treatment or transmission capacity.
Sewer Service	Adequate service required (no standard provided)	

**Montgomery County Annual Growth Policy (AGP) and Impact Taxes
Compared to the Draft Rockville Adequate Public Facilities Ordinance (APFO)**

Impact Taxes

Issue	Montgomery County AGP	Draft Rockville APFO
City-generated Funds (transportation only)	Placed in a separate fund for the City. Must be spent in the City or surrounding policy areas. Note: City-generated funds to be allocated to County participation (\$12 million) in the Town Square project.	Same
Effective Date	March 1, 2004	Same
Phase-In Schedule	Fully effective on March 1, 2004	Same
Rates	See following tax tables	Same
Moderately Priced Dwelling Units (MPDUs)	No charge for the MPDUs	Same
Credit for excess transportation tax payments	Must be redeemed in 6 years for new credits; existing credits remain	Same
Credits for improvements on state roads	Able to receive credit for improvements on state roads only in the cities as specified in MOU. Not allowed in the County	Same

**Adopted Transportation Impact Tax per Residence
(Excluding Areas outside of Rockville)**

Area	Detached	Townhouse	Garden Apartment	High-Rise Apartment + 1 bedroom garden apartments	MF Senior	MPDUs
Countywide	\$5,500	\$4,500	\$3,500	\$2,500	\$1,000	\$0
Metro Station Areas	\$2,750	\$2,250	\$1,750	\$1,250	\$500	\$0

School Impact Tax per Residence

Area	\$8,000 + \$1 for every s.f. over 4,500 (max of \$12,000)	\$6,000 + \$1 s.f. over 4,500 (max of \$10,000)				
All Areas			\$4,000	\$1,600	\$0	\$0

TOTAL Impact Tax on Residences

Countywide	\$13,500 to \$17,500	\$10,500 to \$14,500	\$7,500	\$4,100	\$1,000	\$0
Metro Station Areas	\$10,750 to \$14,750	\$8,250 to \$12,750	\$5,750	\$2,850	\$500	\$0

**Transportation Impact Tax per Square Foot
Nonresidential**

Area	Office	Retail	Industrial	Bioscience	Hospitals	Other
Countywide	\$5.00	\$4.50	\$2.50	\$0	\$0	\$2.50
Metro Station Areas	\$2.50	\$2.25	\$1.25	\$0	\$0	\$1.25

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 used 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

13

- 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.