

# CITY OF ROCKVILLE

## ADEQUATE PUBLIC FACILITIES ADVISORY COMMITTEE

### AGENDA

May 26, 2011

7:00 P.M.; Black-Eyed Susan Conference Room

City Hall

<u>Time</u>	<u>Topic</u>
7:00 pm	Meeting Convenes
7:02 pm	Agenda Review and Modification
7:05 pm	Discussion/Approval of the May 12, 2011 Meeting Minutes
7:15 pm	Presentation and discussion of the APFO as it relates to Rockville neighborhoods. Invited guests – Christina Ginsburg, Twinbrook Citizen’s Association; Susan Prince, West End Citizen’s Association; Jack Leiderman, appellant in the Beall’s Grant II court case; Nancy Paul, King Farm; Cheryl Peirce, Twinbrook E.S. Cluster; John Hall, former City councilmember
9:30 pm	Adjourn

Note: Times shown are approximate



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## News Release

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### Rockville Hosts Community Forum about Adequate Public Facilities Ordinance

Rockville, Md., May 19, 2011- A public forum that will allow Rockville residents, business owners and others to share their views on the City's current Adequate Public Facilities Ordinance (APFO) and standards will take place at 7 p.m. Thursday, June 2, at City Hall, 111 Maryland Avenue. The forum will be held by the APFO Advisory Committee, appointed by the City's Planning Commission in December 2010.

Anyone wishing to speak at the public forum should call 240-314-8200 before 4 p.m. June 2 to have their name included on a speakers' list. Speakers on the list will be called in the order listed, to be followed by speakers not on the list.

Written testimony will also be accepted until 5 p.m. Friday, June 17. Send comments to City of Rockville, Department of Community Planning and Development Services, 111 Maryland Ave., Rockville, MD 20850. Please address comments to the attention of Chief of Planning. Comments may also be sent via email to [apfo.committee@rockvillemd.gov](mailto:apfo.committee@rockvillemd.gov).

The Planning Commission appointed the advisory committee, consisting of residents and business representatives, to review the City's APFO, including the associated Adequate Public Facilities Standards (APFS). The goal for the committee is to determine whether the City's needs are being met by the current ordinance and standards, and to recommend changes.

An APFO is designed to assure that public schools, roads, sewer and water service, and fire and emergency response are adequate to support proposed new development.

APFOs can be timing devices that can help to manage growth in a particular area. An APFO allows a municipality to time development to coincide with when public facilities are or will be available.

Montgomery County's APFO addresses schools and transportation and has been in place since 1973. In Rockville, the APFO and the companion APFS were adopted by the Mayor and Council in 2005 as part of the City's Zoning Ordinance.

The committee is expected to give recommendations in July to the Planning Commission about the APFO and APFS.

To learn more about the advisory committee or the APFO and APFS, go to [www.rockvillemd.gov/government/commissions/pc/apfocommittee](http://www.rockvillemd.gov/government/commissions/pc/apfocommittee) or call Jim Wasilak or Deane Mellander at 240-314-8200.

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Rockville City Government  
Rockville City Hall • 111 Maryland Avenue • Rockville, MD 20850  
240-314-5000

Please e-mail questions or comments to the [Web Administrator](#).

## Excerpted from the *Water Resources Element* of the Rockville Comprehensive Master Plan

### Drinking Water Capacity

Rockville has a very reliable source of drinking water, and is part of a regional partnership that ensures adequate wastewater capacity. The City is moving forward to expand the capacity and efficiency of its water treatment plant as well as address concerns with aging in both the water distribution system and the wastewater collection system.

Since 1958, Rockville has obtained 100% of its drinking water directly from Potomac River withdrawals. Groundwater is not used to supplement the City's water supply. Virtually all Rockville residences and businesses are either on the City water system or the system owned and operated by the Washington Suburban Sanitary Commission (WSSC). There are a few individual parcels within the City limits that are *islands* still under the Montgomery County jurisdiction that may have an active well. However, these property owners are not subject to the Rockville City Code and have not been required to connect to a City water line or sewer.

The City owns and operates its own water treatment plant and supplies approximately **18,114** residential households (74 percent of the City's total residences) with drinking water. Similarly, Rockville provides water to **784** nonresidential customers. There is no irrigated agriculture or water-intensive manufacturing in the City. The City has an appropriation permit issued by the Maryland Department of the Environment to withdraw an average of 7.1 million gallons of Potomac River water per day and a daily maximum *not-to-exceed* amount of 12.1 million gallons. The actual daily average withdrawal for 2009 was 4.91 million gallons. The approximate summertime maximum withdrawal is currently 8 million gallons per day.

The remaining **26%** of Rockville households and businesses are served by the Washington Suburban Sanitary Commission (WSSC), which owns and maintains the water lines serving these customers. WSSC does not anticipate any concerns with continuing to service its Rockville customers for the next 20-30 years. The reason for the dual service approach derives from periodic annexations of land that have historically been in the WSSC service district and remain therein after annexation. In the future, should Rockville annex additional land into the City, those properties will continue to be served by WSSC. In the event that a parcel is currently on a well (there are only a handful known at this time), the property would be required to connect to the City water and sewer lines as a condition for coming into the City. Rockville does not anticipate any concerns with providing service to these few residents.

The projected drinking water needs of the resident and nonresident populations in 2030 will require an additional **0.82 million** gallons per day. By 2040 this amount will grow to **1.37 million** over current withdrawals for a total need of **6.55 million** gallons per day. This modest additional need can be satisfied from the City's existing Potomac River allocation.

### Wastewater Capacity

There are virtually no domestic septic tanks treating sewage within the City limits. Rather all sewage, which is collected in 148 miles of City-owned and maintained sewers, is transported out of the community to interceptor sewers owned and maintained by WSSC. The City provides wastewater service for approximately **18,114** residential households (74 percent of the City's total residences). Similarly, Rockville provides wastewater service to **784** nonresidential customers. The remaining **26%** of Rockville households and businesses are served by the Washington Suburban Sanitary Commission (WSSC), which owns and maintains the wastewater lines serving these customers. WSSC does not anticipate any concerns with continuing to service its Rockville customers for the next 20-30 years.

In turn, WSSC conveys the Rockville sewage, along with the sewage WSSC itself collects from other jurisdictions, to the Blue Plains regional wastewater treatment plant owned and operated by the District of Columbia Water and Sewer Authority (DC WASA). There the sewage receives primary, secondary and tertiary treatment, including denitrification before being discharged into the Potomac River. The current sewage demand for residential and nonresidential customers is 3.93 million gallons per day (approximately 80% of the drinking water demand). In addition, the City's sewer system is experiencing approximately 2.18 million gallons per day of groundwater infiltration and inflow (I&I) due to breaks and cracks in the system. While the City is taking steps to reduce this amount of I&I, we must still account for it in calculations of Rockville's sewer (and ultimately treatment) capacity at Blue Plains.

The projected wastewater needs of the resident and nonresident populations, including I&I in 2030 will require an additional **0.78 million** gallons per day (**12%**) above current demand. By 2040 this amount will grow another 0.31 million gallons (**17%**) over current demand, for a total demand of **7.42 million** gallons per day. This volume of wastewater is well within the City's existing allotment of Blue Plains regional treatment capacity.<sup>1</sup> Similarly, WSSC is expected to be able to accommodate the portion of the City's sewage that flows into its collection system. Consequently, there are no anticipated wastewater capacity issues for either the City or WSSC beyond the continued maintenance of the collection systems.

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<sup>1</sup> Although the City only pays for the sewage flow that it actually conveys to Blue Plains via the WCCS sewers, by a master agreement the City has a reserve capacity of 9.31 million gallons a day.

STATEMENT TO THE PLANNING COMMISSION ON THE  
PROPOSED ROCKVILLE PIKE PLAN  
ON BEHALF OF THE WEST END CITIZENS ASSOCIATION

A. Introduction and Background. – In 2007, the City retained a team of consultants to study and draft a Plan for the redevelopment of the 2.2-mile portion of the Rockville Pike that lies south of the Town Center. The consultants, at a cost of \$547,000, have now issued a document called “Rockville’s Pike: Envision a Great Place.” This Rockville Pike Plan, or Plan, scheduled for adoption this year is the subject of this Statement.

WECA, which consists of slightly more than 1,500 households, is Rockville’s largest and oldest neighborhood association. It abuts the town center and its residents would be adversely impacted if the City should adopt the proposed Pike Plan. A draft of this Statement, which embodies testimony by individual residents of WECA to this Commission at various hearings, was distributed to WECA’s board of directors along with everyone on WECA’s listserve. Following comments and suggestions, it was revised and adopted as WECA’s official position at its regular board meeting on April 28.

B. Statement of Facts. – The Rockville Pike is but a small portion of State Route 355 that is one of the principal thoroughfares between

Frederick and the District of Columbia (the other is I-270). The Pike is one of Montgomery County's most traveled roads. Since World War II, the Pike has evolved from a two-lane country road to a major commuter and commercial thoroughfare. Even the small part of Route 355 that goes through Rockville is not subject to the City's sole control; control over this thoroughfare is shared with the State and the County. At present, the Pike, carries 54,000 vehicles per day, which at critical times results in gridlock. Five of the principal intersections of the Pike within the City are rated "failing." Of the six public schools within the Richard Montgomery Cluster within the City the enrollment of five already exceeds more than 110 percent of capacity and within the next five years this figure will increase so that attendance of one school will exceed 155 percent. Graphs of the current and projected school populations of the Richard Montgomery Cluster compiled by the Board of Education are appended to this Statement.

#### SUMMARY OF WECA'S CRITICISM OF THE PIKE PLAN

In addition to our general criticisms discussed below, the Pike Plan is fatally flawed for three reasons: (1) it is based on the illusion that Rockville's partial control of a small section of State Route 355 can

convert the Pike into a “grand boulevard” that would benefit the residents of Rockville; (2) the Form Code created by the Plan would gut Rockville Adequate Public Facilities Ordinance. The APFO was designed to assure that all development within the City fits within its infrastructure; and (3) by ceding effective control over development projects to the City’s Chief of Planning, it creates, in effect, a planning czar, and by creating a power broker called the “Town Architect,” the Plan would destroy Rockville’s residents’ ability to become truly involved in the governance of the City, contrary to the recommendations of the City’s Communications Task Force.

## DISCUSSION

We note at the outset that the Plan, which obviously is the product of much thought, attempts to address the traffic problems now present along the Pike. For example, the Plan recognizes that traffic congestion along the Pike is close to saturation at certain times of the day; the area lacks a connected street network; safety for pedestrians, cyclists, and motorists is inadequate; and that the streetscape along the Pike needs improvement to enhance the attractiveness and accessibility of the Pike’s stores and restaurants. That said, the Plan’s recommendations threaten to destroy the civic development that residents demanded when, in 1996, hundreds of City

residents participated in a “visioning” process that resulted in the creation of Town Center Action Team. In response to residents’ suggestions, TCAT envisioned a new mixed-use area in the Town Center with moderate density that would be built around a new state-of-the-art public library fronting on a communal plaza. This area would feature small stores, restaurants and a grocery. The library, the residencies, stores, and public garages were built, along with the plaza, but many of the stores and restaurants have been struggling; the grocery has yet to appear.

Furthermore, the Plan contains other critical omissions. First, it fails to recognize that two large, strategically-located parcels adjacent the Town Center remain undeveloped. The first is the 3.14-acre Duball tract facing the Regal Cinemas. The Duball tract represents a developer’s vision of a combination of high-rise buildings that would house a hotel, offices, and condominiums. Although this Commission has granted extensions of time to the developer, this rosy Duball project remains a parking lot. The other tract is the Town Center Phase II tract, located on a 17-acre triangular parcel north of Beall Avenue. It includes the old Giant supermarket site (3.07 acres), and the Bank of America parcel (2.14 acres). Not only is this tract undeveloped, it is a major eyesore. Rather than satisfy the demands of developers to promote and enable massive development of the Pike south of

the City center, we believe that the City might consider examining the development of these two areas within the City's Town Center and to make them more accessible and welcoming to travelers on the Pike. Rockville has already made a major investment in creating the Town Center, and in particular its garages, all of which represent a continual burden on the City's taxpayers. The interests of residents of the West End, along with other Rockville residents would not be served by promoting the kind of large-scale development along the Pike envisioned by this Plan.

Furthermore, the Plan fails to contain an implementation plan, which would include the time line and stages of implementation and – most importantly – an explanation of how it would be financed. Any plan for the Rockville Pike must show how the contemplated improvements will be paid for. Both money and cooperation must come from the State and the County. We note that their testimony to this Commission submitted on April 13, 2011, at the request of the Mayor and Council, Rockville Economic Development, Incorporated, identified the total absence of an economic analysis of the proposed plan. We concur that the benefits and costs to all participants -- city residents, developers and owners of land along the Pike -- need to be identified and put forward for comment before further consideration is given to the plan. Without a sound analysis no one can

know whether the proposed plan is sound or just a fantasy that will have adverse consequences for the City. Rockville's citizens should not be asked to support an ambitious undertaking without understanding the financial burden they are being asked to assume.

We now explain the principal failings of the Pike Plan.

1. The Plan's vision of converting the 2.2-mile portion of Route 355 that lies south of the City center into "grand boulevard" is illusory and would be detrimental of the interests of the City's residents. – At the outset, none of the six thoroughfares to which the Plan refers is remotely comparable to the Rockville Pike because none of them serve as commuter roads as does the Pike. Only by recourse to an incredible stretch of one's imagination can the Rockville Pike be compared to the Champs-Elysees in Paris or the Paseo de Gracia in Barcelona. The Champs was built in the mid-nineteenth century when Napoleon III hired Baron Haussmann to raze about 60 percent of medieval Paris to create a network of broad boulevards. The Paseo, likewise built in the mid-nineteenth century, is the most expensive street in Spain. The Esplanade in Chico, California, which is located on the edge of the Sacramento Valley, one of the world's largest and most productive agriculture areas, is not comparable to Rockville. Finally, neither the two Brooklyn streets

to which the Plan refers, Ocean Parkway and Eastern Parkway, nor K Street in downtown Washington compares with the Pike, because, like the Champs, the Paseo, and the Esplanade they are neither major commuter routes, nor do they border their communities' major residential neighborhoods. For example, shopping in the Brooklyn neighborhoods is done at local stores almost completely by foot, not by automobile as in Rockville. For major purchases Brooklynites shop in "the City" – Manhattan -- almost exclusively by subway, just the way the Brooklyn's residents commute to the City's financial and commercial districts.

2. The Plan's idea of discarding Rockville's current zoning by allowing a higher level of density along this section of the Pike violates the policies that are embodied in the City's Adequate Public Facilities Ordinance, and would not produce revenue for Rockville. – The City adopted the APFO expressly to require that any development must not exceed the City's infrastructure, especially its road and school capacity. For that reason, the court in *Anselmo v. Mayor and City Council of Rockville* (Ct. Sp. App., Aug. 25, 2010), by invalidating the City's issuance of a use permit for the construction of a low and moderate-income project adjacent to the Town Center, explicitly recognized that the APFO represented an important planning tool that the City was bound to obey.

Developers have always considered the APFO as a thorn in their side. They refuse to recognize that the City enacted this ordinance in order to limit development within the City to the capacity of its infrastructure for the simple reason that the City's residents have determined that development must be responsible and not destroy their way of life and their property values and, most importantly, the quality of education for their children. The City does not control school construction, the County does. Accordingly, any major development in Rockville depends on decisions by the County. Rockville would be ill advised to authorize major projects upon the hope that the County might later satisfy Rockville's demand for schools. This is especially important now that the County is experiencing a severe financial crisis.

Developers and owners of properties located along the Pike who spoke at the hearing were united in their opposition to the APFO. In taking this position, they effectively said that they do not support adequate school facilities for new or current residents. We would hope to have more enlightened developers who would join Rockville's residents in preserving educational standards and creating an infrastructure that supports new residents, not high-density development that degrades the quality of life in Rockville. The APFO must be preserved.

The Plan fails for the additional reason that most of the contemplated revenues from the proposed development along the Pike would accrue to the State and the County, not Rockville. In 1989, the Mayor and Council adopted a Rockville Pike Plan that encouraged moderate development along the Pike under strict development guidelines. The proposed Pike Plan would discard the old plan and substitute, instead, a dense commercial development with a residential component that copies the kind of major development at Crystal City and Rosslyn that mars Northern Virginia.

The Plan fails for the additional reason that it would not produce additional revenue for the City. As former Mayor and Councilmember, Jim Coyle, pointed out in his testimony to this Commission on March 16, in 1989 the Mayor and Council passed a Rockville Pike Plan that was designed to allow reasonable development under a set of guidelines. The 1989 Plan reduced building height allowances and rejected proposals for uncontrolled density. This Plan reflected residents' concerns that increased density coupled with an expanded transportation network would threaten neighborhoods near the Pike and create even more congestion. WECA, along with Rockville's other residents, do not favor creating the kind of intense development that is now planned for White

Flint and North Bethesda. In his testimony, Mr. Coyle showed that the proposed Plan would consume an increasingly significant portion of the City's tax base and cause major unreimbursed costs to the City – all of which would threaten its residential character.

The plain fact is, as Mr. Coyle showed, that the contemplated sales tax revenues from the proposed development along the Pike would go to the State, not the City. In fact, the State and the County receive five times the revenues from development than does Rockville. See Pike Plan: Model Sites Program Summary Analysis: Table 8.13. To make matters worse most of the residual costs from the redeveloped Pike would fall on Rockville's residents. The Pike Plan's expansion would create monumental increased costs in associated infrastructure – for the environment, public safety, code enforcement, planning, lost retail revenue in the Town Center – and these costs would be borne by Rockville's residents.

3. The Plan's scheme to delegate project approval to the Chief City Planner and a newly-created official called the "Town Architect" would contravene the suggestions for additional civic involvement by the Communications Task Force. – The Pike Plan, in the Proposed Form Code, implementation section, recommends "streamlining the

development approval process,” by establishing the position of Town Architect. The Plan seeks to accomplish this “streamlining” process by allowing projects to be approved by the Chief of Planning, upon the recommendation of the Town Architect and a Development Review Committee. In effect, the Plan would vest in City staff members the power to approve all developments along the Pike, eliminating the roles of this Commission, the Board of Appeals, and the Mayor and Council. This would contravene the recommendations of Communications Task Force that sought to ensure citizen participation in the City’s governance, not to remove them from the decision-making process. The Form Code is objectionable on the additional ground that it converts the City’s zoning ordinance from a standard to a mere guidance document under which the Chief of Planning needs only to consider, subjectively, when a development application meets with his interpretation of the “intent” of the code.

## CONCLUSION

For the foregoing reasons, WECA urges that this Commission should reject the recommendations of the Pike Plan in their present form.

Respectfully submitted,

WEST END CITIZENS ASSOCIATION

By \_\_\_\_\_

Jacques B. Gelin, Corresponding Secretary

May 28, 2011