

Adequate Public Facilities Standards

Rockville, Maryland

Dated October 27, 2005

Adopted

November 1, 2005

By Resolution 27-05



# Table of Contents

<b>I. Introduction</b>	<b>1</b>
<b>II. Process</b>	<b>2</b>
<i>II.A. Development Projects and Capacity Schedules</i>	<b>3</b>
<i>II.B. Approved, Not-Completed Development Projects</i>	<b>3</b>
<i>II.C. Waiver Provisions</i>	<b>4</b>
<b>III. Levels of Service</b>	<b>5</b>
<i>III.A. Transportation</i>	<b>5</b>
<i>III.B. Schools</i>	<b>7</b>
(i) Levels of Service	<b>7</b>
(ii) Regulatory Implementation	<b>8</b>
<i>III.C. Fire and Emergency Service Protection</i>	<b>9</b>
(i) Levels of Service	<b>9</b>
(ii) Regulatory Implementation	<b>9</b>
<i>III.D. Water Supply</i>	<b>10</b>
(i) Levels of Service	<b>10</b>
(ii) Regulatory Implementation	<b>10</b>
<i>III.E. Sewer Service</i>	<b>10</b>
(i) Levels of Service	<b>10</b>
(ii) Regulatory Implementation	<b>10</b>
<b>Sources</b>	<b>11</b>
<b>Appendix A: Definitions</b>	<b>12</b>
<b>Appendix B: Map of Transit-Oriented Areas</b>	<b>13</b>
<b>Appendix C: Public School Data</b>	<b>14</b>
<b>Appendix D: Map of Fire and Rescue Service Response Times</b>	<b>18</b>



## I. Introduction

One of the goals of the Mayor and Council Strategic Plan for 2005-10 is the adoption of an adequate public facilities provision in the Zoning Ordinance. The following document, in conjunction with attached adopted text amendment to the Zoning Ordinance [commonly referred to as the Adequate Public Facilities Ordinance (APFO)], 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<sup>1</sup> 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 capital budgets. 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 Mayor and Council has developed the following mission statement to guide administration of the APFO:

*The City of Rockville is experiencing substantial interest in redevelopment of older areas into mixed use, dynamic centers. This pressure has raised concerns regarding public infrastructure capacity because of the expected increase in commercial/office square footage and residential dwelling units. The Mayor and Council have expressly stated that they want to provide opportunities to revitalize certain areas of the city in insure that all attributes needed for modern urban living are provided. Additionally, they want to provide for long term economic vitality.*

*The Mayor and Council have adopted an ordinance to ensure that the necessary public facilities will be available to serve new development and redevelopment. Developers may be permitted to mitigate the impact of their development projects. The Mayor and Council will periodically review the adequate public facilities standards and modify them as deemed necessary.*

The APFO will be applied to all development projects 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.

---

<sup>1</sup> 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.

**TABLE I: APFO Approval Types**

<b>Type</b>	<b>Application</b>	<b>Scope of Review</b>
<b>Initial</b>	Concept Plans for Comprehensive Planned Developments (CPDs), and Planned Residential Unit developments (PRUs), Preliminary Development Plans (PDP), Some Special Exceptions (SPXs)	Transportation Impact (may exclude some site-specific design review that requires more detailed design), Schools, Fire/emergency, Water, and Sewer.
<b>Detailed</b>	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.
<b>Final</b>	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 the Ordinance<sup>2</sup> 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, except as provided in section II.B below.

**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.

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.

---

<sup>2</sup> The effective date of the Ordinance is November 1, 2005

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

***II.A. Development Projects and Capacity Schedules***

Table II 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 II: Facility Capacity Schedules**

<b>Facility Type</b>	<b>Capacity Schedule</b>
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	Project approval, 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/Emergency	Application approval reserves the capacity; at the building permit stage capacity is moved from the reserved to the used category.
Water	Project approval, 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	Project approval, 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.B. 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 twenty-five (25) years from November 1, 2005 if all required public infrastructure have not been provided. The Mayor and Council may approve one five-year extension to implement the approved development project when the applicant demonstrates that development 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.

### ***II.C. Waiver Provisions<sup>3</sup>***

Certain classes of uses are deemed to have little or no impact on public facilities. As such, the deciding body may waive full compliance with the APFO provisions if it finds that there will be minimal adverse impact resulting from such a waiver. Such a waiver does not exclude any project from the final adequacy check for water and sewer service, if needed for the project.

The following uses or classes of uses are eligible for a waiver from the APFO requirements:

- Accessory Apartments
- Houses of Worship
- Personal Living Quarters
- Wireless Communications Facility
- Nursing Homes (no waiver from the Fire and Emergency Service Protection provision)
- Housing for the Elderly and Physically Handicapped, or for other age-restricted residential uses (no waiver from the Fire and Emergency Service Protection provision)
- Publicly-owned or publicly operated uses
- Minor subdivisions (up to 3 residential lots)

---

<sup>3</sup> Section 25-800(a) of the City's Zoning and Planning Ordinance provides the following: "A waiver of the requirement to comply with one or more of the Adequate Public Facilities Standards may be granted only upon a super-majority vote of the approval body. For purposes of this Article, a super-majority vote shall be 3 votes for the Board of Appeals, 5 votes for the Planning Commission, and 4 votes for the Mayor and Council. The Chief of Planning may not grant a waiver."

### **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 has implemented 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, an automobile traffic analysis a non-auto off-site analysis, , and proposed mitigation and credits. 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 30 peak hour auto trips, as defined in the CTR, must submit all five (5) components of the TR. Development projects that generate less than 30 peak hour auto trips do not need to provide the automobile traffic analysis and the non-auto off-site analysis. The TR report is used to test if the development project meets APF standards.

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 (TOA's) and non-Transit-Oriented Areas (non-TOA's), as approved by the Mayor and Council. Areas defined as TOA's must include existing or programmed facilities that provide multi-modal access. TOA's 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 TOA's is attached in Appendix B and shows walking distances of 7/10ths of a mile from fixed-guideway transit stations.
- Transit-Oriented Areas (TOA's) and non-Transit-Oriented Areas (non-TOA's) have different thresholds. More congestion is allowed in TOA's, where viable multi-modal options exist. Stricter congestion standards are applied in non-TOA's where less congestion is mandated.
- Development projects in TOA's can claim larger amounts of credit for multi-modal transportation improvements and TDM programs and/or contributions than development projects in non-TOA's.

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. Capacity for a development will be reserved after approval.

The Comprehensive Transportation Review Methodology was approved by the Mayor and Council on September 29, 2004. It replaced the Standard Traffic Methodology that had previously been utilized. The CTR policy is included by reference in the Adequate Public Facilities review for purposes of determining the adequacy of transportation facilities.

### ***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 Educational Facilities Master Plan (FY2006, App. H, and subsequent amendments). In general, the school system uses a planning capacity of 23 students per section for most K-5 students, with classrooms for special programs considered adequate at capacities ranging from 6:1 to 15:1 (Special Education Program) to 44:1. (1/2-day Kindergarten/Head Start); secondary schools use a capacity ratio of 22.5:1 (see MCPS FY2006, App. H.), which provides an objective basis for determining building capacity.

The APFO test for schools in Rockville is based on the program capacity for each school as defined by MCPS. Program capacity for class size is based on regular and supplemental programs for each school. The supplemental programs may include English for Speakers of Other Languages (ESOL) as well as Class Size Reductions (CSR) to accommodate special populations at individual schools. Six of the elementary schools serving the City are subject to CSR provisions.

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 program 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 110 percent of program capacity at all school levels within 2 years;
- Within the City, capacity is based on a cluster of schools, using the clusters already established by the Montgomery County Public Schools; however “borrowing” of capacity from adjacent clusters will not be counted towards the adequacy of school capacity within the City. “Borrowing” of capacity within a cluster will not be counted towards adequacy of school capacity;
- 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 2 years or less shall be considered available;

(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 and Emergency Service 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. With the programming of a new fire station at the Fire Training Academy, all areas of Rockville are within an 8-minute response time, based on data from the Montgomery County Fire and Rescue Service (MCFRS). 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), 2004 (Montgomery County, Maryland-National Capital Park and Planning Commission).

Comprehensive Plan. “City of Rockville Comprehensive Master Plan”, November 12, 2002.

Comprehensive Transportation Review Methodology, September 29, 2004.

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.

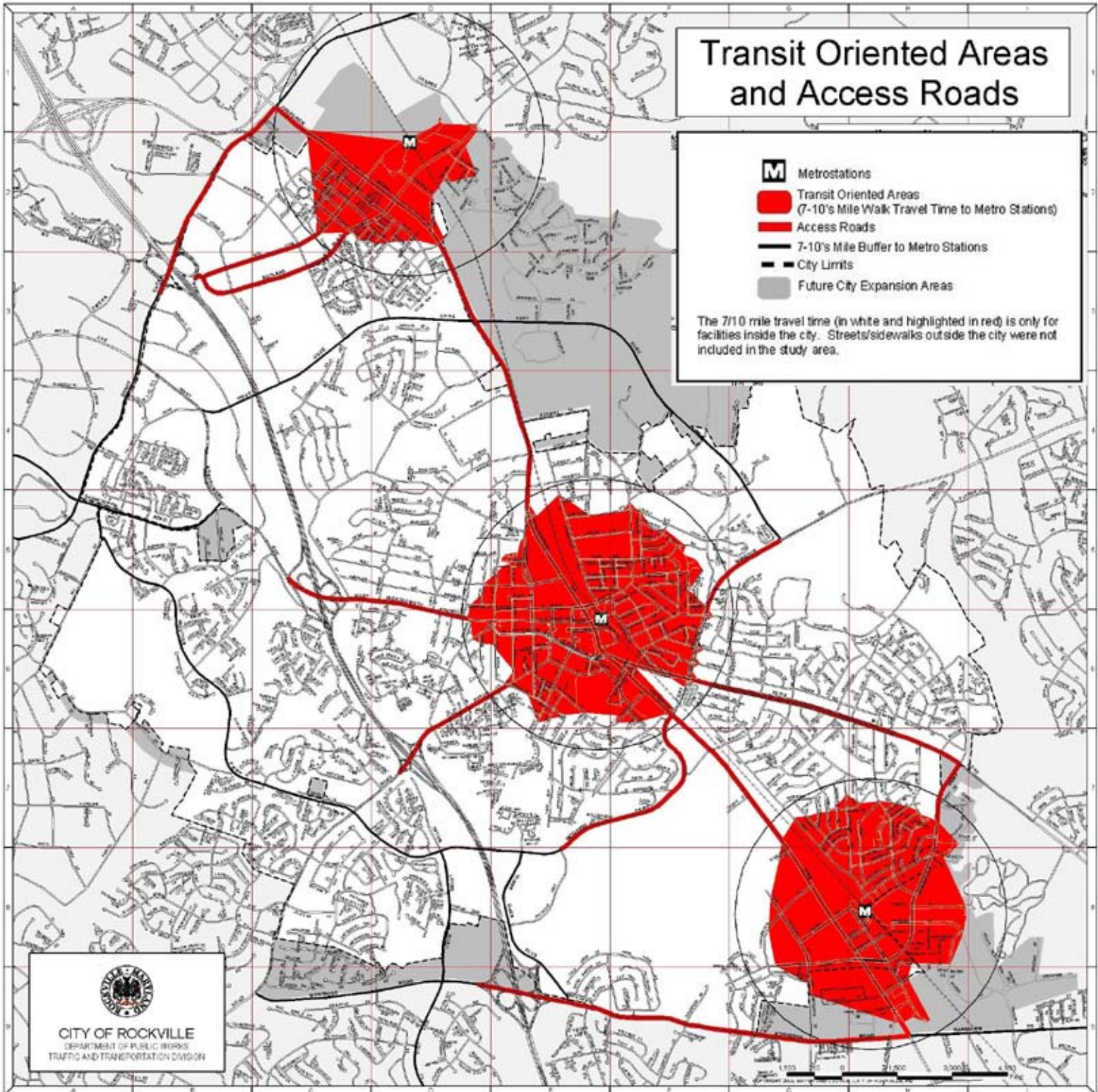
Montgomery County Public Schools (MCPS). FY 2006 Educational Facilities Master Plan and the Amended FY 2005-2010 CIP

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

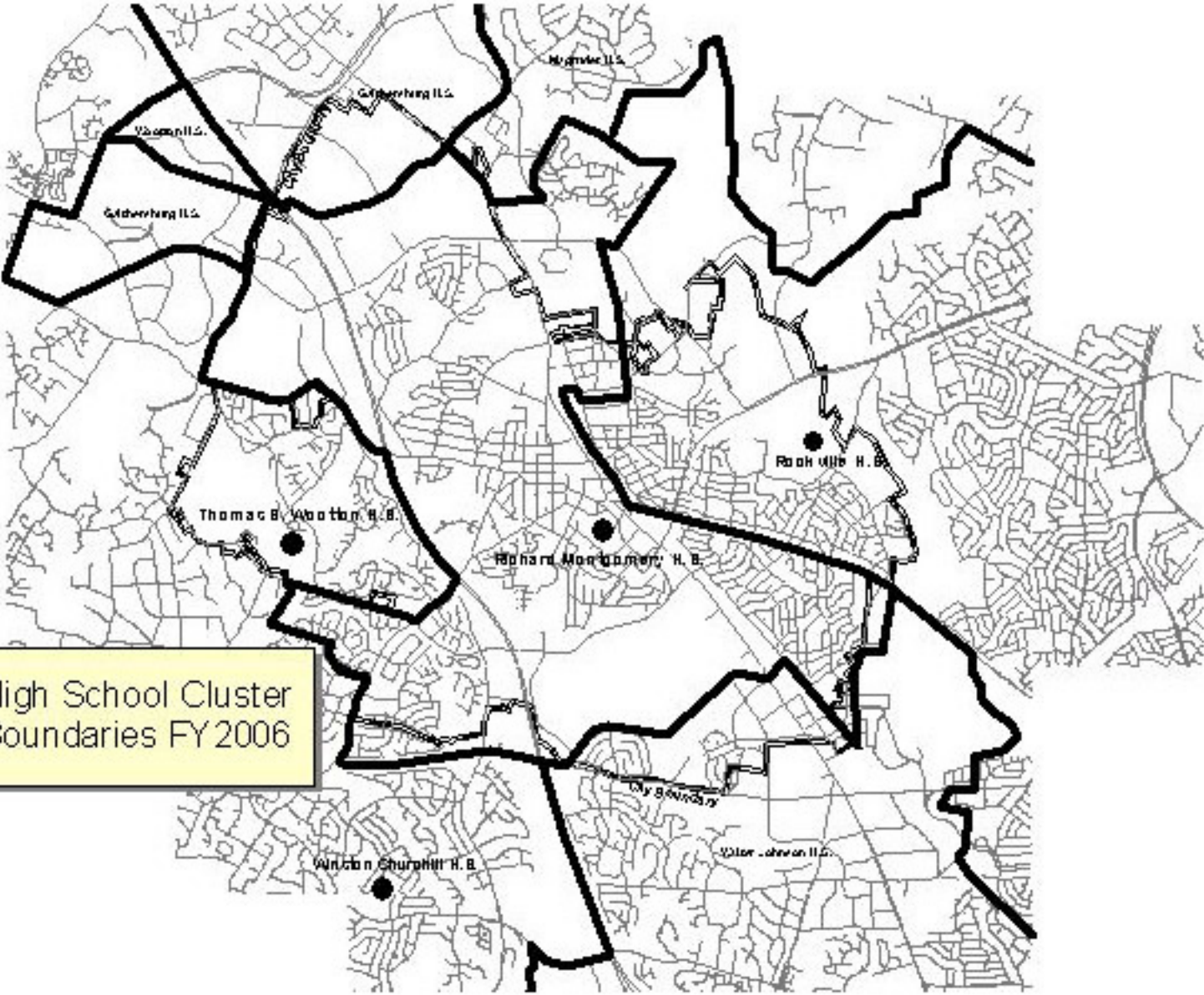
Rockville Town Center Master Plan. October 22, 2001.

## Appendix A: Definitions

<i>Development Project</i>	Any new development or significant redevelopment project presented to the City after (date of APF adoption).
<i>CTR</i>	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.
<i>Transportation Report (TR)</i>	<p>Transportation Report, required by the CTR, is one report that consists of five components:</p> <ul style="list-style-type: none"> <li>• <b>Component A: Introduction and Existing Conditions:</b> Project description.</li> <li>• <b>Component B: Site Access &amp; Circulation:</b> Analysis of internal circulation, entrance configurations, truck access and other relevant access and on-site features.</li> <li>• <b>Component C: Automobile Traffic Analysis:</b> Analysis of auto traffic using the technical guidelines for traffic analysis in the auto study area.</li> <li>• <b>Component D: Non-Auto Off-Site Analysis:</b> 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.</li> <li>• <b>Component E: Summary and Mitigation:</b> Summary of the report findings and recommendations.</li> </ul>
<i>Service Commitment</i>	Public facility capacity reserved as part of project approval
<i>TOA</i>	Areas defined as TOA's must include existing or programmed facilities that provide multi-modal access. TOA's 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.
<i>TDM</i>	Transportation Demand Management is a general term for strategies that promote alternatives to travel by single occupancy vehicle.
<i>USE</i>	Use Permit
<i>CPD</i>	Comprehensive Plan Development
<i>PDP</i>	Preliminary Development Plan
<i>SPX</i>	Special Exception
<i>PRU</i>	Planned Residential Unit
<i>Subdivision</i>	The creation of lots, either by dividing existing lots or parcels or combining existing lots, for the purpose of new development or redevelopment



Appendix C  
Public School Data



**Enrollment Trends at Schools With Service Areas Completely or Partly Within the City of Rockville\***

**MCPS Program Capacity Compared to Projected Enrollment**

September 12, 2005

CLUSTER	SCHOOLS	Approx. Percent of Enrollment from Rockville	MCPS PROGRAM CAPACITY	ACTUAL ENROLLMENT 2004-05	PROJECTED ENROLLMENT					
					2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Gaithersburg	Gaithersburg H.S. <i>space available</i> <i>% utilization</i>	3%	1800 / 2143	2174 -374 121%	2174 -374 121%	2202 -59 103%	2246 -103 105%	2190 -47 102%	2181 -38 102%	2190 -47 102%
	Forest Oak M.S. <i>space available</i> <i>% utilization</i>	5%	942	919 23 98%	913 29 97%	920 22 98%	905 37 96%	888 54 94%	881 61 94%	866 76 92%
	Rosemont E.S. (CSR) <i>space available</i> <i>% utilization</i>	20%	271 / 621	489 -218 180%	510 111 82%	504 117 81%	514 107 83%	544 77 88%	558 63 90%	572 49 92%
Walter Johnson	Walter Johnson H.S. <i>space available</i> <i>% utilization</i>	15%	1901 / 2143	1973 -72 104%	1990 -89 105%	2013 -112 106%	2087 -186 110%	2093 -192 110%	2107 47 98%	2137 17 100%
	Tilden M.S. <i>space available</i> <i>% utilization</i>	35%	943	772 171 82%	802 141 85%	791 152 84%	774 169 82%	762 181 81%	767 176 81%	774 169 82%
	Farmland E.S. <i>space available</i> <i>% utilization</i>	50%	433 / 571	564 -131 130%	553 -120 128%	572 -1 100%	564 7 99%	566 5 99%	570 1 100%	582 -11 102%
Richard Montgomery	Richard Montgomery <i>space available</i> <i>% utilization</i>	90%	1562 / 1966	1916 -354 123%	2002 -440 128%	2000 -438 128%	1951 15 99%	1959 7 100%	1941 25 99%	1909 57 97%
	Julius West M.S. <i>space available</i> <i>% utilization</i>	90%	1044	1061 -17 102%	1050 -6 101%	1024 20 98%	1001 43 96%	951 93 91%	976 68 93%	1018 26 98%
	Beall E.S. (CSR) <i>space available</i> <i>% utilization</i>	100%	504	601 -97 119%	614 -110 122%	608 -104 121%	640 -136 127%	653 -149 130%	659 -155 131%	682 -178 135%
	College Gardens E.S. (CSR) <i>space available</i> <i>% utilization</i>	70%	476 / 615	484 -8 102%	509 -33 107%	531 -55 112%	547 68 89%	589 26 96%	603 12 98%	601 14 98%
	Ritchie Park E.S. <i>space available</i> <i>% utilization</i>	80%	377	381 -4 101%	391 -14 104%	423 -46 112%	449 -72 119%	483 -106 128%	491 -114 130%	497 -120 132%
Twinbrook E.S. (CSR) <i>space available</i> <i>% utilization</i>	80%	497	577 -80 116%	559 -62 112%	576 -79 116%	594 -97 120%	609 -112 123%	617 -120 124%	633 -136 127%	
Rockville	Rockville H.S. <i>space available</i> <i>% utilization</i>	35%	1633	1224 409 75%	1296 337 79%	1370 263 84%	1329 304 81%	1273 360 78%	1215 418 74%	1233 400 76%
	Wood M.S. <i>space available</i> <i>% utilization</i>	35%	1030	985 45 96%	915 115 89%	902 128 88%	926 104 90%	923 107 90%	953 77 93%	916 114 89%
	Maryvale E.S. (CSR) <i>space available</i> <i>% utilization</i>	90%	571	622 -51 109%	622 -51 100%	633 -62 102%	629 -58 99%	635 -64 101%	634 -63 100%	639 -68 101%
	Meadow Hall E.S. (CSR) <i>space available</i> <i>% utilization</i>	100%	339	385 -46 114%	366 -27 108%	380 -41 112%	386 -47 114%	397 -58 117%	400 -61 118%	420 -81 124%
WOOTTON	Wootton H.S. <i>space available</i> <i>% utilization</i>	15%	2050	2349 -299 115%	2366 -316 115%	2371 -321 116%	2337 -287 114%	2322 -272 113%	2294 -244 112%	2289 -239 112%
	Frost M.S. <i>space available</i> <i>% utilization</i>	15%	1134	1205 -71 106%	1121 13 99%	1140 -6 101%	1148 -14 101%	1130 4 100%	1087 47 96%	1064 70 94%
	Fallsmead E.S. <i>space available</i> <i>% utilization</i>	70%	425 / 380	535 -110 126%	511 -86 120%	519 -139 137%	522 -142 137%	526 -146 138%	518 -138 136%	529 -149 139%
	Lakewood E.S. <i>space available</i> <i>% utilization</i>	30%	630 / 595	577 53 92%	572 58 91%	589 41 93%	590 5 99%	610 -15 103%	627 -32 105%	628 -33 106%

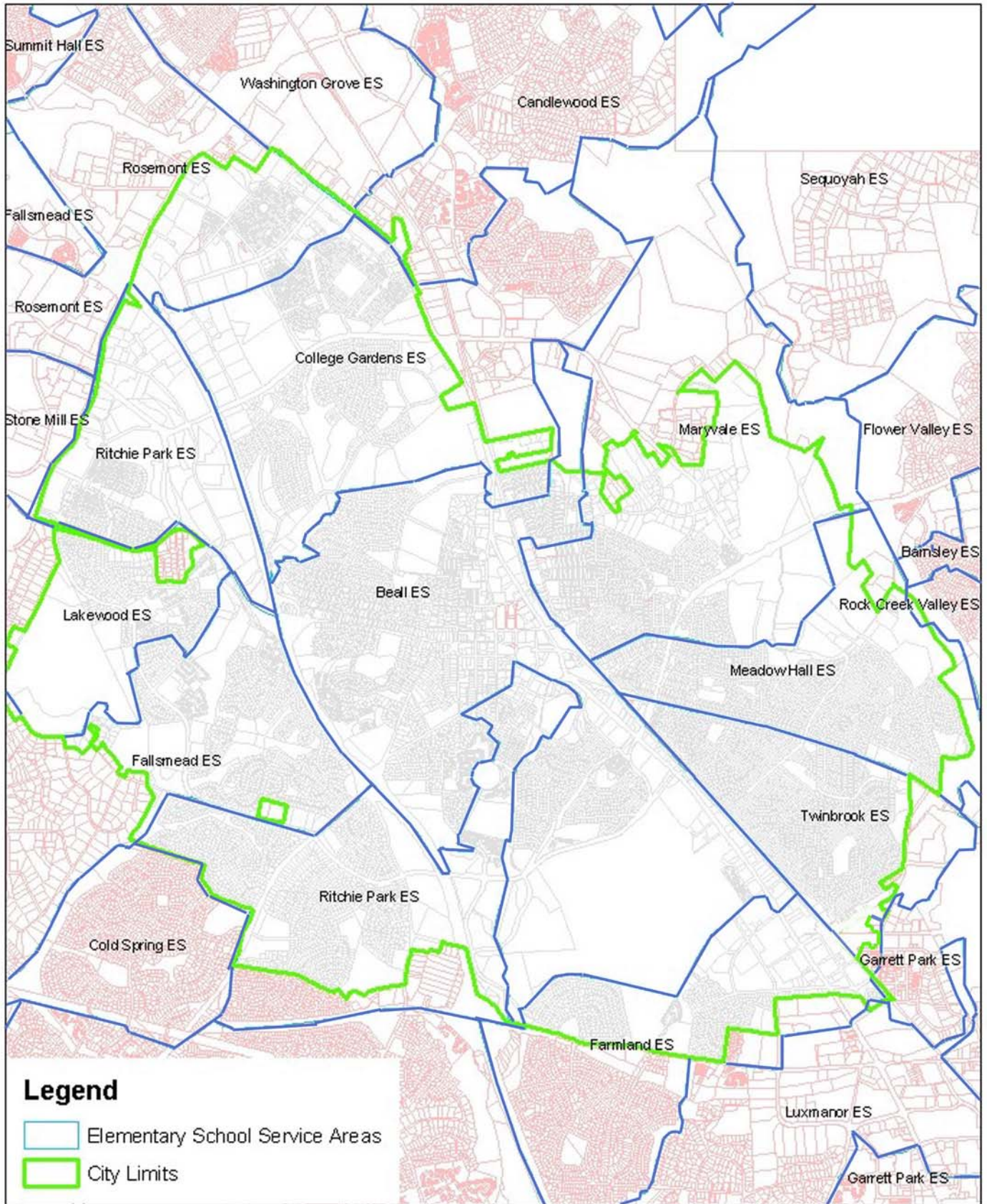
Second capacity figures at some schools reflect additions or full-day kindergarten programs beginning:

Gaithersburg HS 16 rooms opening in August 2006. Rosemont ES 16 rooms opened August 2004. Walter Johnson HS modernization complete August 2009.

Farmland ES 8 room addition opening August 2006. Richard Montgomery HS modernization complete August 2007. College Gardens ES modernization complete January 2008.

Fallsmead ES offering full-day kindergarten beginning August 2006. Lakewood ES offering full-day kindergarten beginning August 2007.

CSR indicates schools that have class-size reductions in Grades K-2, with Kindergarten at 15:1 and Grades 1 and 2 at 17:1.



**CITY OF ROCKVILLE**  
 DEPARTMENT OF COMMUNITY PLANNING  
 AND DEVELOPMENT SERVICES

**Elementary School Boundaries  
 FY2006**



**Montgomery County Student Generation Rates for New Housing by Type**  
2003 Census Update Survey

<b>NORTH</b>				
Housing Type	Factors (number of students generated per unit)			
	Elementary	Middle	High	Total K-12
Single Family	0.415	0.150	0.145	0.710
Townhouse	0.246	0.087	0.160	0.493
Multi-Family	0.153	0.072	0.069	0.294
<b>SOUTHWEST</b>				
Housing Type	Factors (number of students generated per unit)			
	Elementary	Middle	High	Total K-12
Single Family	0.384	0.149	0.131	0.664
Townhouse	0.252	0.112	0.160	0.524
Multi-Family	0.078	0.019	0.016	0.113
<b>EAST</b>				
Housing Type	Factors (number of students generated per unit)			
	Elementary	Middle	High	Total K-12
Single Family	0.303	0.114	0.152	0.569
Townhouse	0.179	0.160	0.205	0.544
Multi-Family	0.145	0.128	0.065	0.338
<b>COUNTYWIDE HOUSING STUDENT YIELD FACTORS</b>				
Housing Type	Factors (number of students generated per unit)			
	Elementary	Middle	High	Total K-12
Single Family	0.354	0.133	0.140	0.627
Townhouse	0.226	0.108	0.168	0.502
Multi-Family	0.133	0.084	0.056	0.273
High Rise*	0.081	0.039	0.042	0.162

Source: 2003 Census Update Survey, M-NCPPC Dept. of Park and Planning.

Single family, townhouse, and multi-family rates based on "mover households" (moved in within 5 years.)

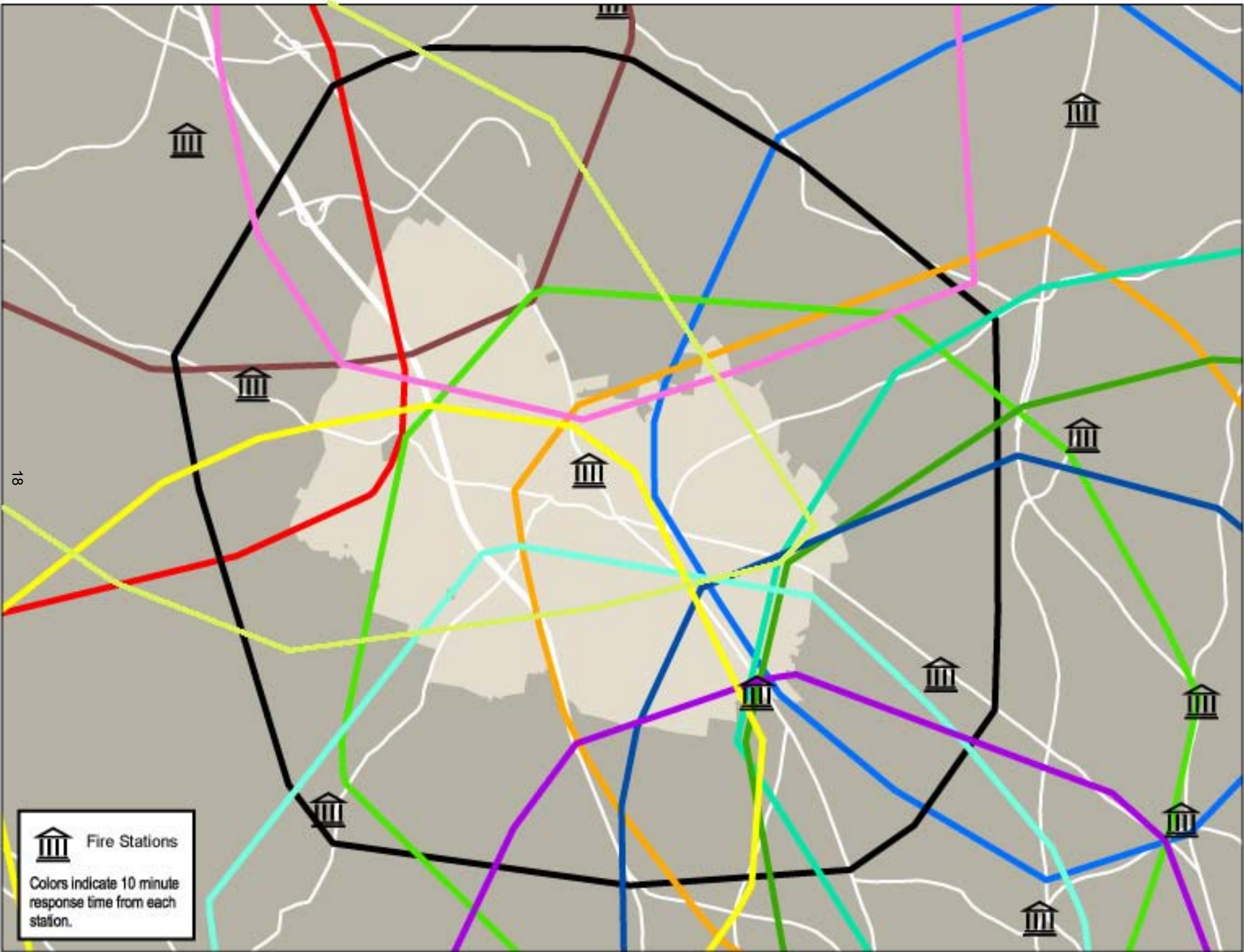
High rise rates based on "all households" due to small sample size.

High rise rates based for sub-areas of county not available due to small sample size.

NORTH includes general "upcounty" areas including following clusters: Damascus, Gaithersburg, Magruder, Northwest, Poolesville, Quince Orchard, Seneca Valley, Sherwood, and Watkins Mill.

SOUTHWEST includes following clusters: Bethesda-Chevy Chase, Churchill, Einstein, Walter Johnson, Richard Montgomery, Rockville, Wheaton, Whitman, and Wootton.

EAST includes following clusters: Northeast Consortium (Blake, Paint Branch and Springbrook), Blair, and Kennedy.



Ordinance No. 24-05      ORDINANCE: To Grant Text Amendment Application No. TXT2003-00202, as amended, Mayor and Council of Rockville, Applicant

WHEREAS, the Mayor and Council of Rockville, 111 Maryland Avenue, Rockville, Maryland 20850, filed Text Amendment Application TXT2003-00202, for the purpose of requiring adequate public facilities for new development and redevelopment; and

WHEREAS, the Planning Commission reviewed the proposed text amendment application at its December 10, 2003, meeting and provided recommendations to the Mayor and Council as set forth in a memorandum dated December, 11, 2003; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on December 15, 2003, at 7:30 p.m. or as soon thereafter as it may be heard; and

WHEREAS, on December 15, 2003, said public hearing was deferred to an unspecified later date; and

WHEREAS, a worksession was held on the proposed application on September 12, 2005, at which the Mayor and Council requested that the proposed text amendment be modified; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on the amended application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on October 10, 2005, at 7:00 p.m. or as soon thereafter as it may be heard; and

WHEREAS, on October 10, 2005, said amended application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the Mayor and Council having considered the text amendment application, and the entire file pertaining thereto, said Mayor and Council having decided that the granting of this application, as amended, in the form set forth below would promote the health, safety and welfare of the citizens of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Text Amendment Application No. TXT2003-00202 be, and the same is hereby, granted, as amended, as follows:

SECTION 1. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Section 25-193 entitled “Issuance, term, etc.” be amended to read as follows:

**ARTICLE V. PERMITS**

**DIVISION 2. USE PERMIT**

\* \* \*

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

- (a) A use permit shall be issued if the Planning Commission, the Mayor and Council, or the 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 provided in the adopted Adequate Public Facilities Standards; or
- [3] (4) Constitute a violation of any provision of this Code or other applicable law.

\* \* \*

SECTION 2. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Section 25-326, “Special development standards for multifamily dwelling in the O-1 Zone” and Section 25-327, “Retail store size limitations and design and site development guidelines for retail stores and shopping centers in the C-2 and RPC Zones” be amended to read as follows:

**ARTICLE VII. ZONING DISTRICT REGULATIONS**

**DIVISION 3. DEVELOPMENT STANDARDS**

**Sec. 25-326. Special development standards for multifamily dwelling in the O-1 Zone.**

(a) \* \* \*

(b) *Optional method of development.* \* \* \*

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4) \* \* \*

(5) \* \* \*

(6) \* \* \*

(7) \* \* \*

(8) The application shall prepare and submit a traffic impact study in conformance with the [Standard Traffic Methodology, as may be updated from time to time] Comprehensive Transportation Review, or its successor, and shall provide mitigation of those traffic impacts which result in unsatisfactory levels of service [as defined by the Standard Traffic Methodology. The mitigation measures shall be subject to review and approval by the Planning Commission].

(9) \* \* \*

(c) \* \* \*

(d) \* \* \*

(e) \* \* \*

(f) *Required findings of Mayor and Council on Preliminary Development Plan..* \* \* \*

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4) That the proposed development will not overburden existing and programmed public services, including water, sanitary sewer, public roads, schools, storm drainage and other public improvements and adequate public facilities as set forth in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards; and

\* \* \*

**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.* \* \* \*

(1) \* \* \*

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

- a. \* \* \*
- b. \* \* \*
- c. \* \* \*
- d. \* \* \*
- e. \* \* \*
- f. \* \* \*
- g. \* \* \*
- h. \* \* \*

i. *Traffic impacts.* The applicant shall have a [traffic] transportation impact study prepared according to the [Standard Traffic Methodology] Comprehensive Transportation Review or its successor. [In addition to the general standards of the methodology, t] The [traffic] transportation impact study shall include weekend traffic generation and impact analysis. 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.

\* \* \*

SECTION 3. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Section 25-338 entitled “Standards for Granting” be amended to read 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 provided in Article XVI of this Chapter and as provided 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
  - [c.] d. Be detrimental to the use or development of adjacent properties or the neighborhood; or
  - [d.] 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.

SECTION 4. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Article XII entitled “Special Development Procedures” be amended 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 of this Chapter and as provided in the Adequate Public Facilities Standards to accommodate the proposed development.

**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:

- (1) \* \* \*
- (2) \* \* \*

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

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

**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:

- (1) \* \* \*
- (2) \* \* \*
- (3) \* \* \*

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

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

#### **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:

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4) That the proposed development will not overburden existing and programmed public facilities as set forth in Article XVI of this Chapter and as provided 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 [public services, including water, sanitary sewer, public roads] 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.

\* \* \*

#### **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:

- (1) \* \* \*
- (2) \* \* \*
- (3) \* \* \*

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

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

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

[(6)] (7) That the proposed development complies with the developmental standards and requirements set forth in this division; and

[(7)] (8) 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.

\* \* \*

**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:

- (1) \* \* \*
- (2) \* \* \*
- (3) \* \* \*
- (4) \* \* \*
- (5) \* \* \*
- (6) \* \* \*

(7) 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 provided in the adopted Adequate Public Facilities Standards.

\* \* \*

**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:

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(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 provided in the adopted Adequate Public Facilities Standards; and

\* \* \*

SECTION 5. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Article XIII. entitled “Town Center Planning Area,” Division 2 entitled “Approval Procedures,” Section 25-681 entitled “Use Permit Approval” and Section 25-682 entitled “Optional method of development” be amended to read as follows:

**ARTICLE XIII. TOWN CENTER PLANNING AREA**

**DIVISION 2. APPROVAL PROCEDURES**

\* \* \*

**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 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 existing [public services including water, sanitary sewer, public roads,] and programmed storm drainage, [school capacity] and other public improvements; and other existing and programmed public facilities as set forth in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards.

\* \* \*

**Sec. 25-682. Optional method of development.**

(a) \* \* \*

(1) \* \* \*

(2) All applicants shall prepare and submit a [traffic] transportation impact study in conformance with the “Comprehensive Transportation Review” (CTR) or its successor and shall provide mitigation of [traffic] transportation impacts [which exceed the standards of the STM] as may be acceptable to the Mayor and Council in accordance with Article XVI of this Chapter and the adopted Adequate Public Facilities Standards;

\* \* \*

SECTION 6. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Article XIV entitled “Rockville Pike Corridor Area” be amended read 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.**

\* \* \*

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(4) Any development that generates more than thirty (30) vehicle trips during any peak hour shall prepare and submit a [traffic] transportation impact study in conformance with the [Standard Traffic Methodology] “Comprehensive Transportation Review” 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”] “Comprehensive Transportation Review”, or its successor as may be acceptable to the Mayor and Council 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) Subject to the findings made by the Mayor and Council in connection with the approval of any Preliminary Development Plan, the Planning Commission shall approve a use permit application only if the Commission finds:

a. \* \* \*

b. \* \* \*

c. \* \* \*

d. That the proposed development will not overburden [existing public services including water, sanitary sewer, public roads, schools] 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 provided in the adopted Adequate Public Facilities Standards.

\* \* \*

SECTION 7. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” Article XV. entitled “Subdivision Regulations” be amended as follows:

**ARTICLE XV. SUBDIVISION REGULATIONS**

\* \* \*

**DIVISION 2. SUBDIVISION APPROVAL PROCEDURE**

\* \* \*

**Sec. 25-727. Preliminary plat approval procedure.**

(a) \* \* \*

(b) \* \* \*

(c) \* \* \*

(d) \* \* \*

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

(1) \* \* \*

(2) \* \* \*

(3) Overburden [existing public services including, but not limited to 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 provided 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.

\* \* \*

SECTION 8. That Chapter 25 of the Rockville City Code entitled “Zoning and Planning,” be amended by adding a new Article XVI. Entitled “Adequate Public Facilities,” as follows:

**ARTICLE XVI. ADEQUATE PUBLIC FACILITIES**

**DIVISION 1. GENERALLY**

**Sec. 25-800. Adequate public facilities standards.**

(a) The Mayor and Council shall adopt Adequate Public Facilities Standards establishing the method used by the City to ensure that the necessary public facilities will be available to serve proposed new development or redevelopment. Such standards shall be adopted by resolution following a public hearing, notice of which shall be published at least once in a paper of general circulation. 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, unless a waiver is granted pursuant to said standards. A waiver of the requirement to comply with one or more of the Adequate Public Facilities Standards may be granted only upon a super-majority vote of the approval body. For purposes of this Article, a super-majority vote shall be 3 votes for the Board of Appeals, 5 votes for the Planning Commission, and 4 votes for the Mayor and Council. The Chief of Planning may not grant a waiver.

(b) A finding that public facilities are adequate may include mitigation of impacts that are necessary to comply with the required level of service as set forth in the Adequate Public Facilities Standards.

**Sec. 25-801. Applicability.**

(a) Except as otherwise provided in this Chapter, no development shall be approved without a determination that the public facilities are adequate, as provided herein.

(b) An application for a use permit, detailed application, preliminary plan of subdivision, special exception, any development under a special development procedure or preliminary development plan, or any amendment thereto, 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 and emergency services protection.

(c) The applicant for a use permit, detailed application, preliminary plan of subdivision, special exception, preliminary development plan, 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.

(d) Once a special exception, use permit, detailed application, preliminary plan of subdivision, or any development under a special development procedure or preliminary development plan has a valid adequate public facilities determination, an application to implement such development approval is not subject to further adequate public facilities determination, except for water and sewer service, which is confirmed prior to the issuance of a building permit, provided that the adequate public facilities determination and any extension thereof, has not expired.

(e) An application for any development filed, but not approved, prior to September 20, 2005, as that application may be amended prior to approval, but no later than September 20, 2006, and any subsequent application to implement such development approval, 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.

(f) An application to implement a valid special exception, use permit, detailed application, or preliminary plan of subdivision that was approved prior to September 20, 2005 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. Adequate public facilities determination: Validity period; extension; redetermination.**

(a) Validity period.

(1) A determination of adequate public facilities made in connection with the approval of a use permit or special exception for a project that is not subject to a special development procedure or to a preliminary development plan is timely and remains valid so long as the underlying approval remains valid. If at any time a use permit or special exception becomes void due to lack of implementation or otherwise the determination of adequate public facilities shall also become void with respect to that portion of the approved project that has not been timely implemented or has otherwise become void. An extension of time granted for the implementation of a special exception or use permit automatically extends the validity period for the determination of adequate public facilities.

(2) A determination of adequate public facilities made in connection with the approval of a preliminary plan of subdivision (or final plat of subdivision where a preliminary plan is not required) that is not subject to a special development procedure or a preliminary development plan is timely and remains valid for a period as determined by the Planning Commission at the time of subdivision approval. Where a subdivision plat is approved prior to the issuance of a use permit or other development approval by the Planning Commission, Board of Appeals, or Mayor and Council, the Planning Commission may defer the determination of adequate public facilities until consideration of such use permit or other development approval.

(3) A determination of adequate public facilities made in connection with the approval of a development pursuant to a special development procedure (Variable Lot Size Development, Cluster Development, Residential Townhouse Development, Planned Residential Unit Development, I-3 Optional Method of Development) or pursuant to an optional method of development requiring a preliminary development plan shall be timely and remain valid for a period as determined by the Mayor and Council or the Planning Commission, as applicable, at the time of approval of the exploratory application, concept plan, or preliminary development plan, as applicable.

(4) In setting the validity period for a determination of adequate public facilities, the Planning Commission or the Mayor and Council, as applicable, shall consider the size and complexity of the development, the mix of uses and current and future market projections for the proposed uses, and the required public improvements and/or impact mitigations and the schedule for completion of such improvements and mitigations.

(b) Extension.

(1) An extension of time granted for the implementation of a special exception or use permit for a development or project that is not subject to a special development procedure or preliminary development plan automatically extends the validity period for the determination of adequate public facilities.

(2) The Planning Commission may extend the validity period for a determination of adequate public facilities for a preliminary plan of subdivision (or a final plat of subdivision where a preliminary plan is not required) for an exclusively residential subdivision that is not subject to a special development procedure or a preliminary development plan where at least fifty (50) percent of the entire subdivision has received building permits prior to the date of application for extension. The Planning Commission may approve one or more extensions provided that the aggregate length of all extensions for the development does not exceed 30 months for subdivisions with an original period of 5 years or less and does not exceed 6 years for subdivisions with an original validity period of greater than 5 years.

(3) The Planning Commission or the Mayor and Council, as applicable, may extend the validity period for a determination of adequate public facilities for a preliminary plan of subdivision that allows nonresidential development and for any development that is subject to a special development procedure or a preliminary development plan provided that

a. forty percent (40%) of the approved development is either built and/or under construction and/or has received building permits, and

b. all of the infrastructure required by the conditions of the original preliminary plan approval have been constructed or bonded, or the payments for construction have been made or bonded; and

c. the approved development is an “active” project as demonstrated by at least ten percent (10%) of the project having been completed (as evidenced by occupancy permits having been issued or, for developments where occupancy permits are not typically issued, final inspection has been completed and approved) within the last four years before an extension request is made, or at least five percent (5%) of the project having been completed within the last 4 years before an extension request is

made, if 60 percent of the project has been built and/or under construction and/or has received building permits.

The Planning Commission or Mayor and Council, as applicable, may approve one or more extensions provided that the aggregate length of all extensions for the development does not exceed 30 months for projects up to 150,000 square feet, or 6 years for projects 150,000 square feet or greater.

(4) Extension request and review; expiration.

a. A request for extension must be filed with the original approving body before the expiration of the validity period for which the extension is requested.

b. A new development schedule or phasing plan for completion of the project must be submitted to the approving body for approval.

(i) The extension expires if the development is not proceeding in accordance with the phasing plan, unless a revision to the schedule or phasing plan is approved by the approving body.

(ii) A revision to the new development schedule or phasing plan may be approved if documentation is provided to show financing has been secured for either (A) completion of at least one new building in the next stage of the amended development schedule; or (B) completion of infrastructure required to serve the next stage of the amended development schedule.

c. No additional development beyond the amount approved in the determination of adequate public facilities may be proposed or approved.

d. No additional public improvements or other conditions beyond those required for the original project approval may be required.

(5) Extension not automatic. Except for extensions under subsection (b) 1 of this section, the validity period of a finding of adequate public facilities is not automatically extended where the conditions of this section are satisfied, including instances where the applicant has completed all conditions imposed at the time of development approval to meet adequate public facilities requirements.

(6) Reevaluation and redetermination. After the expiration of a determination of adequate public facilities, redetermination of the adequacy of the public facilities to serve the project may be granted by the original approval body based on an analysis of the impact of the net remaining development on the public facilities, consistent with the Adequate Public Facilities Standards. The analysis shall apply credits for infrastructure

that has been provided in conjunction with the development. If the analysis indicates that existing and programmed public facilities will be overburdened, mitigation of said impacts shall be required as a condition of redetermination.

**Sec. 25-803. Applicability to previously approved special development projects.**

(a) Development approved as of the effective date of this article under a special development procedure (CPD, PDP, RTH, PRU, Cluster Development, Variable Lot Size, I-3 Optional Method of Development) or a preliminary development plan (PDP) is deemed to satisfy the Adequate Public Facilities Standards for the following validity periods:

(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 twenty-five (25) years from November 1, 2005.

(b) The Mayor and Council may approve one five-year extension to implement the approved development when the applicant demonstrates that development of the project has proceeded with due diligence but that factors beyond the control of the developer, such as economic conditions or change in governmental regulations, have precluded development of the project within the approved time frame or the project is substantially complete, provided that all infrastructure required by the conditions of the approved exploratory application, concept plan, or preliminary development plan have been constructed, bonded, or payments for construction have been made. Internal infrastructure improvements required only to serve the unconstructed portions of the project do not need to be completed.

(c) If the adequate public facility determination expires, the unconstructed portion of the development must satisfy the relevant public facilities standards, with credit for provided facilities, prior to approval of subsequent detailed applications, use permits, or final record plats.

Note: [Brackets] indicate material deleted  
Underlining indicates material added  
Asterisks \* \* \* indicate material unchanged by this ordinance

\* \* \* \* \*

I hereby certify that the foregoing is a true and correct copy of an

ordinance adopted by the Mayor and Council at its meeting of November 1,  
2005.

---

Claire F. Funkhouser, CMC, City Clerk