



Overview

Case: N/A

Location: City-Wide

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Applicant: Mayor and Council of Rockville

Filing Date: April 8, 2019

Recommendation: Staff recommends approval of the proposed changes.

Background

The proposed amendments to the Adequate Public Facilities Standards (APFS) are intended to reflect updated procedures for the review of water supply and sewer service proposed in revisions to Chapter 24 of the City Code.

Project Description

The Department of Public Works (DPW) is initiating revisions to Chapter 24 of the City Code, "Water, Sewers, and Sewage Disposal". Most of these revisions are internal changes intended to improve or clarify the requirements for maintaining the safe delivery of water and safe disposal of sewage within the City. Among the new provisions being proposed are the clarification of a water and sewer authorization process and the establishment of water and sewer adequacy standards beyond one single family house. These standards will replace the current standards in the APFS. The APFS instead will refer to Chapter 24 for these adequacy

standards. Because the amendments to Chapter 24 and the APFS are tied together, the review and approval process should run in parallel such that the final actions will be taken together.

Although the water and sewer capacity standards and findings will now be established by Chapter 24, Article 20 of the Zoning Ordinance and the APFS will continue to define the process for reserving capacity for schools, traffic and water and sewer service. For projects served by the Washington Suburban Sanitary Commission (WSSC), service adequacy is determined by the WSSC.

The development process overview shown in Tables I and II are revised to reflect the new process. Since water and sewer services are now reviewed together, the section on Sewer in Table II is proposed to be deleted. In both tables, it is made clear that there will be a final adequacy check for water and sewer service at the building permit stage.

The proposed revisions for the water and sewer adequacy test also provided staff with an opportunity to review certain other aspects of the APFS, especially the section on exemptions and waivers (Sec. I.C). As such staff recommends that the Mayor and Council consider the proposed revisions to this section. Much of the current text regarding waivers and exemptions from the APFS standards came from when the City aligned its APFS with that of Montgomery County. Now that those provisions have been in place for several years, staff recommends that the following changes be made to ensure appropriate APFS review of certain applications:

- Subsection (i), uses fully exempt from the APFS requirements, is revised to remove Personal Living Quarters and MCPS schools and portable classrooms. These uses should not be exempt from the water and sewer adequacy test.
- Subsection (ii), uses exempt from the school capacity test, is revised to include Personal Living Quarters, since this use could be of sufficient size to have some impact on traffic and water and sewer capacity under the proposed revisions to Chapter 24.
- A new subsection (iii) is proposed which exempts certain uses from both the school capacity and traffic tests. These uses include the MCPS schools and portable classrooms, Montgomery College, and other publicly-owned or publicly-operated. These uses are technically permitted without formal City approval, but by custom the City provides comments on the potential impact of these projects via the Mandatory Referral process. Any water and sewer issues need to be flagged at the earliest point of City review.
- A new subsection (iv) replicates the current provision regarding uses that require approval of a waiver. With the revisions proposed above, the only use that would require a waiver is a place of worship. These would not be subject to the school test, but are not exempt from the traffic and water and sewer requirements. Any waiver will still require a supermajority vote by the Approving Authority to approve the waiver.

The current language in Sections II.C and II.D are proposed to be deleted. Instead, Section II.C is

revised to refer to Chapter 24 for both water and sewer service. The test is essentially in two parts – the initial determination is made at the earliest point of the project approval process by the appropriate Approving Authority. A final adequacy check is made at the time of building permit to assure that no intervening issues have arisen that may affect the final approval of the project. This revision to the APFS will be the subject of a public hearing that will also include consideration of text amendment TXT2019-00252. At the same meeting the Mayor and Council will also hold a hearing the proposed amendments to Chapters 21 and 24 of the Code. All these items are intended to run in tandem for final action together at a subsequent meeting.

Community Outreach

Notice has been sent to the civic associations and homeowner’s associations via the City’s Listserv.

Staff Recommendation

Staff recommends that the amendments to the APFS be approved. The Planning Commission is asked to make a recommendation, although not required by code, as the Commission is also making a recommendation on the companion item, which is changes to the APFO.

Attachments

Attachment 2.B.a: Draft APFS Water & Sewer Revisions (PDF)

Final Draft 3-6-19

Adequate Public Facilities Standards
Rockville, Maryland
February 4, 2019
Adopted by Resolution xxxx

Attachment 2.B.a: Draft APFS Water & Sewer Revisions (2622 : Water and Sewer Revisions - Adequate Public Facilities Manual)

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Introduction

The Adequate Public Facilities Ordinance (APFO) establishes procedures and standards necessary to ensure that adequate public facilities and services are provided concurrent with new development and redevelopment, and 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 capacities¹ 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. The net available system capacity for the water and sewer systems may also change as a result of other unforeseen environmental factors. 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, throughout its validity period, as determined at the time of project approval, including any extensions.

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 and ensure 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 unless specifically exempted herein. 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.

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

TABLE I: APFO Approval Types

Type	Application	Scope of Review
Initial	Project Plans (PJT), Special Exceptions (SPXs)	Transportation Impact (may exclude some site-specific design review that requires more detailed design), Schools, Water, and Sewer.
Detailed	Site Plan (STP), Preliminary Subdivision Plans, Major <u>and</u> <u>Minor</u> Site Plan Amendments	Requirements of Initial Approval (if not previously approved) plus transportation analyses that require detailed site-specific design.
Final	Building Permit	Water and Sewer capacity may be re-evaluated to confirm <u>determine if that reserved capacity is still remains</u> available. Other detailed approval elements are not retested.

All new development applications filed after the effective date of the Ordinance² 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.

I. 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 for various public facilities (transportation and schools are established by the City, and water supply and sewer are established by the City or Washington Suburban Sanitary Commission (WSSC) for developments in their respective districts) 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, including a major amendment, 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 will either be denied or approved with special conditions.

² The effective date of the Ordinance is November 1, 2005

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

I.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

Facility Type	Capacity Schedule
Transportation	Application approval reserves transportation capacity; capacity moves from the reserved to the used category once staff determines that the site is fully operational.
Schools	Project Plan, Preliminary Subdivision Plan or Site Plan approval reserves school capacity. The procedures specified in <i>Section II.B., Schools</i> sets forth how reserved school capacity will be utilized by the City when determining whether adequate school capacity is available for subsequent development applications.
Water/Sewer	<u>For development projects utilizing Rockville services, Project Plan approval, Preliminary Subdivision Plan approval, or Site Plan approval and Major or Minor Site Plan Amendment approval reserves the capacity; at the building permit stage capacity may be re-evaluated and if available, is moved from the reserved to the used category. For development projects utilizing WSSC services, service adequacy is determined by WSSC.</u>
Sewer	<u>Project Plan approval, Preliminary Subdivision Plan approval or Site Plan approval reserves the capacity; at the building permit stage capacity is moved from the reserved to the used category. For development projects utilizing WSSC services, service adequacy is determined by WSSC.</u>

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 Authority determines that an extension is warranted.

I.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 within a Planned Development Zone are 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.

I.C. Exemptions and Waiver Provisions

A. Certain classes of uses are deemed to have little or no impact on public facilities. As such, the following uses or classes of uses are either exempt from certain aspects of the APFO requirements or may be granted a waiver by the Approving Authority.

(i) ~~The following uses or classes of uses are exempt from the APFO school capacity and Transportation requirements. They are not exempt from any necessary final adequacy check for water and sewer service requirements, if needed for the project.~~

- Accessory Apartments
- ~~Personal living quarters~~
- Wireless Communications Facilities
- Up to 3 housing units
- ~~MCPS schools and portable classrooms~~

(ii) The following classes of uses are exempt from the APFO school capacity requirements. They are not exempt from the transportation and any necessary APFO water and sewer capacity requirements.

- Housing for senior adults and persons with disabilities and other age-restricted residential uses
- Nursing homes
- Personal Living Quarters

(iii) The following classes of uses are exempt from the APFO school capacity and transportation requirements. They are not exempt from the APFO water and sewer requirements:

- MCPS schools and portable classrooms
- Montgomery College
- Publicly owned or publicly operated uses

(iv) If not otherwise exempted above, the following ~~use uses or classes of uses~~ may be granted a waiver from the APFO school capacity requirements by the Approving Authority if the Approving Authority finds that there will be minimal adverse impact resulting from such a waiver³. They are not eligible for a waiver from ~~any necessary final adequacy check for water and sewer service requirements, if needed~~ the APFO transportation and water and sewer capacity requirements.

- Places of worship

B. (i) Subject to subsection (ii) below, Champion Projects are exempt from the school capacity requirements provided the development meets all of the following criteria:

- The residential portion of the Project Plan includes only multi-family high-rise residential units;
- The Project Plan includes residential units that will be constructed over multiple phases over the course of ten (10) or more years from the date of Project Plan approval; and
- The Project Plan includes at least one (1) non-residential use and at least one half (½) acre of contiguous public use space.

(ii) If a Project Plan amendment is filed for a Champion Project that has received an exemption under subsection (i), any increase in the number of residential units proposed in the Project Plan amendment over the number originally approved for the Champion Project will not be exempt under subsection (i) and must meet the requirements of the school test in Section II.B.

³Section 25.20.01.b of the City’s Zoning 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 Approving Authority. 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 Zoning may not grant a waiver.”

II. Levels of Service

II.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 policy is included by reference in the Adequate Public Facilities review for purposes of determining the adequacy of transportation facilities. 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 requirements to ensure that adequate transportation facilities exist during and after a development project:

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

- Development projects in TOAs can claim larger amounts of credit for multi-modal transportation improvements and TDM programs and/or contributions than development projects in non-TOAs.

At the Preliminary Subdivision Plan, Project Plan, or Site Plan review stage there must be a detailed transportation capacity analysis following the CTR. If transportation facilities are found to be inadequate 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 or approved with conditions. 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.

II.B. Schools

The Montgomery County Planning Board has established a method of determining school capacity that it applies and reports as part of its Subdivision Staging Policy.

The APFO test for schools in Rockville is based on the projected program capacity and projected enrollment set forth in the Montgomery County Planning Board’s Annual School Test.

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

1. 120 percent or less of the Montgomery County Planning Board’s projected program capacity at each school level using the projected school capacity in 5 years and a seat deficit of less than 110 seats at the elementary school level and less than 180 seats as the middle school level.
2. The Approving Authority must factor in applications that have been approved but have not yet been transmitted to Montgomery County Public Schools (MCPS). To do so, the Approving Authority must add the students generated from such applications to the projected enrollment for the school(s). The adjusted projected enrollment numbers will be used to determine adequacy until a new Annual School Test is adopted by the Montgomery County Planning Board.
3. Based on this calculation, the Approving Authority may:
 - a. Approve an application for which there is sufficient capacity.
 - b. If there is insufficient capacity, give conditional approval of an application if requested by the applicant in accordance with provisions of Section 25.20.02.d of the Zoning Ordinance⁴; or
 - c. Deny an application for which there is insufficient capacity.

Application Queue Date

1. The application queue date of a residential development application is the date that an application that includes new residential development is approved by the Approving Authority.
2. The City will maintain a list of all residential developments that have been assigned an application queue date for each fiscal year. In addition, a residential development summary will be transmitted to the MCPS Division of Capital Planning by August 1 of each year in order to assist MCPS in developing the revised student capacity figures that are included in the MCPS budget process. The final revised student capacity figures are promulgated by MCPS and are effective on July 1 of each year.

⁴If an application is granted conditional approval, the Chief of Zoning will assign the application a conditional approval queue date as set forth in Sec. 25.20.02.d of the Zoning Ordinance.

3. An application queue date for a development application containing residential development expires on the June 30 that follows transmission of the residential development summary to MCPS that lists that development application.

4. Any application for project plan, subdivision or site plan filed and accepted as complete before July 1, 2017 is subject to the Adequate Public Facilities Standards for school capacity and application queue date in effect at the time of acceptance of the complete application.

II.C. Water Supply and Sewer Services

The water and sewer level of service (LOS) is as established by the applicable water and sewer provider (City or WSSC). For properties served by the City the LOS is established in Chapter 24 of the Rockville City Code (Water, Sewers and Sewage Disposal). Applicants are required to obtain a written adequacy determination from the applicable water and sewer provider. Per Tables I and II of this document the adequate public facilities determination for water and sewer service may be reevaluated prior to the issuance of a building permit. If the LOS is not met, the approving authority will state the conditions that must be met as part of their APFO approval.

~~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.~~

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.~~

Regulatory Implementation

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

II.D. 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 November 5, 2001.
<i>CTR</i>	<ul style="list-style-type: none"> 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"> Component A: Introduction and Existing Conditions: Project description. Component B: Site Access & Circulation: Analysis of internal circulation, entrance configurations, truck access and other relevant access and on-site features. Component C: Automobile Traffic Analysis: Analysis of auto traffic using the technical guidelines for traffic analysis in the auto study area. Component D: Non-Auto Off-Site Analysis: Analysis of access to alternative modes of transportation available in the respective study area for pedestrian, bicycle, and transit facilities in the multi-modal study area. Component E: Summary and Mitigation: Summary of the report findings and recommendations.
<i>Service Commitment</i>	Public facility capacity reserved as part of project approval.
<i>TOA</i>	Areas defined as TOAs must include existing or programmed facilities that provide multi-modal access. TOAs include areas 7/10ths of a mile accessible walking distance from existing and programmed Metro and MARC stations and programmed fixed-guideway transit stations on dedicated transit rights-of-way.
<i>TDM</i>	Transportation Demand Management is a general term for strategies that promote alternatives to travel by single occupancy vehicle.
<i>PJT</i>	Project Plan.
<i>STP</i>	Site Plan.
<i>SPX</i>	Special Exception.
<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.

Attachment 2.B.a: Draft APFS Water & Sewer Revisions (2622 : Water and Sewer Revisions - Adequate Public Facilities Manual)