

Resolution No. 13--13

Resolution:

To amend the Adequate Public Facilities Standards for the purpose of ensuring its consistency with Adequate Public Facilities Ordinance, and to make certain technical amendments.

WHEREAS, the Mayor and Council of Rockville reaffirms that ensuring the adequacy of public facilities associated with development and redevelopment in the City of Rockville remains a priority of the City; and

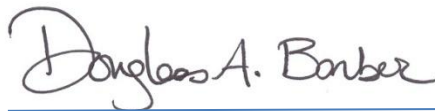
WHEREAS, the Mayor and Council of Rockville has determined that certain revisions to its Adequate Public Facilities Standards require amendment in order to ensure the consistency of those standards with the Adequate Public Facilities Ordinance; and

WHEREAS, the Mayor and Council of Rockville has received and considered testimony, recommendations, comments, and observations from the citizens of Rockville, from the City of Rockville Planning Commission, and from the Adequate Public Facilities Ordinance Committee appointed by the City of Rockville Planning Commission, and has determined to make revisions to its Adequate Public Facilities Standards to improve and strengthen those standards.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, that the attached document titled "Adequate Public Facilities Standards, Rockville, Maryland," dated October 28, 2013, is hereby adopted as the standards to evaluate the adequacy of public facilities to serve proposed new development and redevelopment.

* * *

I hereby certify that the above is a true and correct copy of a resolution adopted by the Mayor and Council of Rockville at its meeting of October 28, 2013.

A handwritten signature in dark ink, reading "Douglass A. Barber". The signature is written in a cursive style with a large, looped initial "D".

Douglass A. Barber, City Clerk

Adequate Public Facilities Standards
Rockville, Maryland

October 28, 2013

Adopted by Resolution No. 13- 13

Resolution No. 2-11

RESOLUTION:

To amend the Adequate
Public Facilities Standards
for the purpose of exempting
portable public school
classrooms from the
provisions of the Adequate
Public Facilities Ordinance

WHEREAS, the City of Rockville has determined that the use of portable classrooms in connection with existing public schools are necessary to the welfare and educational quality of students; and

WHEREAS, the Mayor and Council has determined that the existing public schools are deemed to be in compliance with the Adequate Public Facilities Ordinance, being Article 20 of Chapter 25 of the City Code; and .

WHEREAS, the Mayor and Council has determined that revising the Adequate Public Facilities Standards for the purpose of exempting portable classrooms is necessary and appropriate for the protection of the public health, safety, comfort, convenience, and welfare.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, that the Adequate Public Facilities Standards as contained in the attached document dated February 28, 2011, shall hereafter be used as the standards to evaluate the adequacy of public facilities to serve proposed new development and redevelopment.

* * * * *

I hereby certify that the foregoing is a true and correct copy
of a resolution adopted by the Mayor and Council at its
meeting of February 28, 2011


Glenda P. Evans, City Clerk

Resolution No. 15-11

RESOLUTION:

To amend the Adequate Public Facilities Standards for the purpose of allowing a development application filed during the pendency of a related annexation petition to meet the City's adequate public facilities school test by obtaining a determination from MCPS that the proposed development would not create a moratorium in the proposed development's school cluster under certain circumstances

WHEREAS, the Mayor and Council of Rockville has determined that the adequacy of public facilities associated with a development application filed during the pendency of a related annexation petition should be reviewed under different standards under certain circumstances; and

WHEREAS, the Mayor and Council of Rockville has decided to amend the Adequate Public Facilities Standards for the purpose of allowing a development application filed during the pendency of a related annexation petition to meet the City's adequate public facilities school test by obtaining a determination from MCPS that the proposed development would not create a moratorium in the proposed development's school cluster under certain circumstances.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF ROCKVILLE, that the Adequate Public Facilities Standards as contained in the attached document dated June 6, 2011, shall hereafter be used as the standards to evaluate the adequacy of public facilities to serve proposed new development and redevelopment.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Mayor and Council at its meeting of June 6, 2011


Glenda P. Evans, City Clerk

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I. 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. 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	Concept Plans for Project Plans (PJT), Some Special Exceptions (SPXs), Development applications filed during the pendency of a related annexation petition	Transportation Impact (may exclude some site-specific design review that requires more detailed design), Schools, Fire/Emergency, Water, and Sewer.
Detailed	Site Plan (STP), some SPXs, Preliminary Subdivision Plans	Requirements of Initial Approval (if not previously approved) plus transportation analyses that require detailed site-specific design.
Final	Building Permit	Water and Sewer evaluated by City to ensure that capacity is still available. Other detailed approval elements are not retested.

All new development applications filed after the effective date of 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.

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 will either be denied or approved with special conditions.

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

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

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

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 approval, subdivision approval or site plan 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 Plan approval, subdivision approval or Site Plan approval reserves the capacity; at the building permit stage capacity is moved from the reserved to the used category.
Sewer	Project Plan approval, subdivision approval or Site Plan 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 Authority 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 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 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. Exemptions and Waiver Provisions

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 exempt from certain APFO requirements and some 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 Fire and Emergency Services Protection and any necessary final adequacy check for water and sewer service, if needed for the project:
 - Accessory Apartments
 - Personal Living Quarters
 - Wireless Communications Facilities
 - MCPS schools and portable classrooms
 - Minor subdivisions (up to 3 residential lots)
- (ii) If not otherwise exempted above, the following uses or classes of uses may be granted a waiver from the APFO school capacity and Transportation 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 Fire and Emergency Services Protection standards, or any necessary final adequacy check for water and sewer service, if needed for the project:
 - Places of worship

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 Planning may not grant a waiver."

- Nursing homes
- Housing for senior adults and persons with disabilities and other age-restricted residential uses
- Publicly-owned or publicly operated uses

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, much of Rockville's roadway system is 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 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. 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.

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.

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.

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. Except for development applications filed during the pendency of a related annexation petition (see paragraph ii), a determination of the adequacy of public school capacity is based on the following principles:

(i) (i) Levels of Service

- 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; and
- 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) Development applications filed during the pendency of a related annexation petition

For a development application for property being annexed into the City filed during the pendency of the annexation petition, the only school program capacity standard to be considered by the Mayor and Council as part of its annexation review for purposes of satisfying the City’s APFS test for schools shall be the County’s school program capacity standard; provided: 1) the schools are located outside the City; 2) less than 10 percent of the schools’ population at the time of annexation is comprised of students residing within the City; and 3) the determination is made within one year prior to the effective date of

the annexation. Otherwise, the City's school program capacity standard in Paragraph (i) shall apply to the proposed annexation.

The Approving Authority of a development application filed for property subject to the annexation shall refer only to the County's school program capacity standard in its review of the development application; provided the following conditions are met: 1) the development application must be approved within 2 years of the effective date of the annexation approval, and 2) there must not have been any amendments to the development application that would result in an increase in the student generation at any school level between the time of annexation approval and development application approval. If either of these conditions shall not be met, then the City's school program capacity standard in Paragraph (i) shall apply, the development application shall be subjected to a new APFS determination for schools and the previous determination by the Approving Authority at the time of annexation that the test for schools has been satisfied shall be void.

(ii) (iii) Regulatory Implementation

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 the 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

For all proposed development, the time required for an emergency call to be received and processed, and for emergency apparatus from at least two (2) Fire and Rescue Service stations to arrive at the site of the proposed development, shall be no more than ten (10) minutes. Service areas and adequacy will be determined based upon the latest data provided by Montgomery County Fire and Rescue Service.

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 November 5, 2001.
<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>	Transportation Report, required by the CTR, is one report that consists of five components: Component A: Introduction and Existing Conditions: Project description. Component B: Site Access & Circulation: Analysis of internal circulation, entrance configurations, truck access and other relevant access and on-site features. Component C: 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.