



APFO/APFS  
Susan Prince  
to:  
mayorandcouncil  
11/18/2014 05:49 PM  
Hide Details  
From: "Susan Prince" <sprince@cadencemarketing.com>

To: <mayorandcouncil@rockvillemd.gov>

1 Attachment



Berthiaume Email.docx

Good afternoon Mayor Newton and Councilmembers,

I am writing to you regarding the proceedings and discussion of the APFO/APFS last night.

I have been following this issue since it was first raised by Councilmember Moore on Nov. 3<sup>rd</sup>.

At that meeting, Councilmember Moore asked to put a discussion, public hearing and vote on the APFO/APFS on the agenda. He laid out a schedule of dates which were then debated. There was no discussion of what his ideas were - or why he wanted to add this item to the agenda. The motion passed 4-1, with the only comment made by Councilmember Onley questioning if this was to move the City standard to 120%.

So it was with great interest that I attended last night's meeting - I wanted to hear what Councilmember Moore's proposal entailed.

Staff presented our current APFS document with redlines showing how it would be modified to reflect the County's standards. Per the City Manager, Barb Matthews, this was at the direction of the M&C.

I am left wondering how and when staff was directed by the M&C to create this document - as it was never mentioned during the Nov. 3<sup>rd</sup> meeting. (From last night's agenda: "As requested by the Mayor and

## Attachment F APFS Public Hearing

Council, proposed redlined changes which would bring the City's APFS into agreement with and default to the County's Subdivision Staging Policy (SSP) are provided in Attachment A.")

Councilmember Moore then made an elaborate presentation which contained several questionable statements regarding how the APFO/APFS has helped or hindered our goal of managing overcrowding in our schools.

My first issue relates to his statement regarding the goal of the APFO/APFS. I re-read the original document and could not find any reference to the stated goals of keeping our schools from becoming overcrowded and to bring school construction funds to Rockville at lower levels of overcrowding than would the County's standards (his awkward wording, not mine). Please direct me to the section of the APFO where these specific goals are stated.

Next he referenced the mission statement, but only included a portion of that statement. Perhaps it would have been less dramatic, but more factual, to have included the whole mission statement, which I reference here:

*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 (emphasis mine). 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.*

Furthermore, at no point during Councilmember Moore's presentation did he indicate exactly how moving to the County standards would help City residents. It is clear this will help developers who wish to redevelop large swaths of the city; perhaps the eagerness of Councilmember Moore to weaken our standards is related to the campaign contributions he accepted during his recent run for County Council.

Lastly, the argument that funding for the new elementary school was somehow responsible for a delay in school funding is inaccurate at best and misleading at worst (see attached letter from Laura Berthiaume, former member of the school board which clearly refutes this claim).

I would argue that instead of pushing to move Rockville's standards to the county levels, we should in fact be pushing the county to adopt our standards. The county standards are the highest in the state and are worded in such a way as to water down their effectiveness. Do we really want to participate in a race to the bottom?

**True** leadership would acknowledge the issues our schools are facing and advocate for additional funding (for the county as a whole) - rather than capitulating to the influence of developers. With Councilmember Moore "leading" and Councilmembers Feinberg and Palokavich-Carr following, the only leadership I see is who can be first in line to throw our residents under the bus.

One final note before I close my comments - I was dismayed and disheartened that an attempt by Councilmember Onley to add an additional public hearing to a compressed schedule (during the holidays no less!) died for lack of a second. I will be attending the RM PTSA meeting tonight (!) where this will have to be raised, discussed and decided as there will be no opportunity to do so in December.

**Attachment F\_APFS Public Hearing**

After the meeting I questioned both Councilmembers Feinberg and Palokavich-Carr regarding their decision not to support a second hearing and their answer was that the agenda was already too full. I find it ironic that this statement came after a public hearing on the Animal Control Ordinance was approved for the exact same night a second hearing was proposed.

No wonder our City Council engenders such disdain when our elected officials think it's more important to discuss whether cats should have leashes or if we should allow chickens and goats than to discuss the future of our children's education.

Sincerely,

**Susan Prince**

206 Evans St.  
Rockville, MD 20850

## Attachment F\_APFS Public Hearing



RE: APFO/APFS

Susan Prince

to:

BBean

11/19/2014 04:14 PM

Cc:

mayorcouncil, CPDS\_Management.RKV

Hide Details

From: "Susan Prince" &lt;sprince@cadencemarketing.com&gt;

To: &lt;BBean@rockvillemd.gov&gt;

Cc: &lt;mayorcouncil@rockvillemd.gov&gt;, &lt;CPDS\_Management.RKV@rockvillemd.gov&gt;

## 1 Attachment



image001.gif

Hi Brenda,

Thank you for your email. I appreciate knowing my communication was received and will plan to attend the public hearing on January 5<sup>th</sup>.

In reviewing my original comments, I realized that the sentence that begins: "Lastly, the argument that funding for the new elementary school..." should have read: "Lastly, the argument that funding for the new elementary school was somehow delayed by the APFO is inaccurate at best and misleading at worst..." Can a note of this edit be made in the official record as well?

I look forward to a response from Councilmember Moore regarding the location of the stated goals for school standards in the APFO/APFS document as well as an outline of the benefits to city residents to changing the standards.

Sincerely,

Susan Prince

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**From:** BBean@rockvillemd.gov [<mailto:BBean@rockvillemd.gov>]

**Sent:** Wednesday, November 19, 2014 3:55 PM

F-4

Dear Friends and Neighbors,

Tomorrow is an important day in deciding the future of Rockville. While I like and respect everyone who is running, the candidates have presented two very, very different visions of what Rockville should become over the next ten years. As someone who put four years of dedicated effort into our school system, of course one of my primary concerns is the school experience in Rockville for the children who are here now, and who will be attending our schools in the next ten years. It seems to me that one set of candidates favors essentially unlimited residential construction along 355, no matter the impact on our schools, while three excellent candidates will protect our APFO standards.

Please know that, contrary to some assertions I have seen, the APFO is not standing in the way of either the Julius West addition or the construction of RM No. 5/Hungerford. The completion date for RM #5 (Hungerford) is set for 2017, and I believe that date will stick. The only reason that RM No. 5 was delayed for one year in the prior capital improvements budget was that the Children's Resource Center first needed to be moved over to Broome, and renovations there had to be finished before the County was willing to move the CRC out. Despite my personal best efforts to find temporary space for the CRC so that RM No. 5 could be completed in 2016, the county did not want to have to move the CRC twice. That one year delay had nothing to do with the APFO.

I am attaching a link to the Capital Improvements Plan for the Richard Montgomery Cluster so that you can verify the current construction schedule and school enrollment projections for yourselves:

[h <http://gis.mcpsmd.org/cipmasterpdfs/CIP15CH4\\_MontgomeryR.pdf>](http://gis.mcpsmd.org/cipmasterpdfs/CIP15CH4_MontgomeryR.pdf)  
[tp://gis.mcpsmd.org/cipmasterpdfs/CIP15CH4\\_MontgomeryR.pdf](http://gis.mcpsmd.org/cipmasterpdfs/CIP15CH4_MontgomeryR.pdf)

I have to say I am really dismayed that the Twinbrook renovation has been moved out to 2022. Twinbrook is a dilapidated, awful school facility badly in need of renovation. Sadly, it seems that modernizations of older schools like Twinbrook and Maryvale still get pushed to the end of the line in favor of spending money to add capacity to keep up with new development across Montgomery County.

When you click on that RM Cluster link, I want you to note of the number of additional families that MCPS already expects to come in as a result of the build-out of Rockville Pike in Twinbrook - --- 4,000 to 6,000 new units in the RM cluster. That does not take into account any new units that would be approved in Town Center II, all of which would also feed into the RM cluster.

## Attachment F APFS Public Hearing

I am also attaching a link for the Rockville Cluster:

<[http://gis.mcpsmd.org/cipmasterpdfs/CIP15CH4\\_Rockville.pdf](http://gis.mcpsmd.org/cipmasterpdfs/CIP15CH4_Rockville.pdf)>  
[http://gis.mcpsmd.org/cipmasterpdfs/CIP15CH4\\_Rockville.pdf](http://gis.mcpsmd.org/cipmasterpdfs/CIP15CH4_Rockville.pdf)

As you can see, the delays there are not attributed to the APFO either - they are attributed the fiscal constraints experienced by the County's funding mechanisms. If you want to understand what those are, click on <<http://gis.mcpsmd.org/cipmasterpdfs/CIP15Chapter1.pdf>>  
<http://gis.mcpsmd.org/cipmasterpdfs/CIP15Chapter1.pdf> School construction funds are dependent on state funding and County borrowing ability. With more than 15,000 new students in Montgomery County over the last few years, adding school capacity county-wide is sucking up capital funds faster than we can beg, borrow, or . . . well, you get it.

The bottom line here is that there is simply no reason to ditch Rockville's APFO. Far from it. The pace of development in Rockville's core should fit in with our current character, not further overwhelm our schools. By 2016, when the new addition is complete, Julius West Middle School is already going to have a student population larger than many small colleges. I can tell you honestly that MCPS is not going to build a second middle school in the RM Cluster in the next ten years, or probably ever. Do you want to see our sole middle school handling 1,800 or more students by 2020? Please ask yourselves that question as you go into vote.

If you don't have children in the public schools, you still have stake in this. When the streets are jammed, and the school hallways are so full that administrators can't possibly keep good order or ensure a safe and excellent school experience, exactly how attractive is your house or townhouse really going to be to a young family looking around for the best place to settle?

If you care about our children -- or if you are just the sort of person who doesn't want to live in Crystal City and never did --- I ask you to please go out tomorrow and vote for Bridget Newton for Mayor, and Don Hadley and Claire Whitaker for Council.

Please also forward this email on to anyone you know who is a Rockville voter.

All the best,

**Attachment F\_APFS Public Hearing**

Laura Berthiaume

## Attachment F APFS Public Hearing Public Hearing: 01/05/15



Request for Review of Proposed APFO revisions from the Planning Commission and Delay of Public Hearing

noreen bryan

to:

Mayor & Council

11/23/2014 10:11 AM

Hide Details

From: noreen bryan <noreen1945@yahoo.com>

To: Mayor & Council <mayorcouncil@rockvillemd.gov>

Please respond to noreen bryan <noreen1945@yahoo.com>

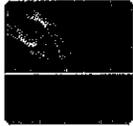
Dear Madame Mayor and Members of the Council:

The Executive Board of the West End Citizens Association (WECA) is very concerned about the rush to judgment on the Adequate Public Facilities Ordinance/Standards. This is an issue about which many in the community feel passionately, because they believe that it is essential for the protection of the education of our children and will have dire consequences for the quality of life in our neighborhoods. In the past there have been numerous attempts to water down or eliminate the APFO/APFS, but in all cases, the special task force, the Planning Commission and previous Mayor and Councils have voted in favor of preserving it.

WECA believes that the proposed changes deserve a meaningful public discussion. Rushing this issue through the holidays and providing only a single public hearing immediately after the New Year, is unfair and makes it appear that the Mayor and Council do not value the voices of the citizens of Rockville. This proposal deserves to be reviewed and considered by the Planning Commission before the Public Hearing. The Planning Commission has invested significant time in researching and considering the APFO/APFS. At the Executive Board meeting of November 20, 2014 a resolution was passed to request that you send the proposed revisions to the Planning Commission for review and assessment prior to holding a Public Hearing, and further, that you delay the public hearing or hold additional hearings.

Thank you for your consideration.

Sincerely,  
Noreen Bryan  
President,  
West End Citizens  
301-762-1256



Re: APFO Standards   
Sara Taylor-Ferrell to: Kevin Preysnar  
Cc: "mayorcouncil@rockvillemd.gov"

12/03/2014 11:37 AM

Mr. Preysnar,

I wanted to let you know that the Mayor and Council received your email. It will be placed into the official record and considered by the Mayor and Council as they deliberate the issues surrounding the APFS/APFO. For your information, the Mayor and Council plan to conduct a public hearing on the APFO on January 5, 2015.

The Mayor and Council appreciate the feedback they receive.

Sara Taylor-Ferrell  
Acting City Clerk  
City of Rockville  
111 Maryland Avenue  
Rockville, MD 20850  
240-314-8283  
(fax) 240-314-8289  
sferrell@rockvillemd.gov

From: Kevin Preysnar <kevin.preysnar@holladaycorp.com>  
To: "mayorcouncil@rockvillemd.gov" <mayorcouncil@rockvillemd.gov>  
Date: 12/03/2014 10:18 AM  
Subject: APFO Standards

Dearest Mayor Council.

Tighten APFO standards, not loosen them.

Please?

Development is fine, but not when you fail to complete simply basic tasks of thriving societies, such as providing the children of the people that you govern, a seat in your schools.

It's that simple. It really is. Make it happen.

## Attachment F\_APFS Public Hearing

Thank You.  
Kevin

Kevin Preysnar  
Network Administrator  
The Holladay Corporation  
3400 Idaho Ave., N.W. #400  
Washington, D.C. 20016  
202.362.2400 x623  
202.364.5974 (Fax)

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Re: JFH APFS TESTIMONY, NOVEMBER 8, 2014   
Sara Taylor-Ferrell to: Hall, John F. (HQ-TH000)  
Cc: Mayorandcouncil

12/09/2014 01:40 PM

Mr. Hall,

I wanted to let you know that the Mayor and Council received your email. It will be placed into the official record and considered by the Mayor and Council as they deliberate the issues surrounding the APFS/APFO. For your information, the Mayor and Council plan to conduct a public hearing on the APFO on January 5, 2015.

The Mayor and Council appreciate the feedback they receive.

Sara Taylor-Ferrell  
Acting City Clerk  
City of Rockville  
111 Maryland Avenue  
Rockville, MD 20850  
240-314-8283  
(fax) 240-314-8289  
sferrell@rockvillemd.gov

From: "Hall, John F. (HQ-TH000)" <john.f.hall@nasa.gov>  
To: Mayorandcouncil <mayorandcouncil@rockvillemd.gov>  
Date: 12/08/2014 09:02 PM  
Subject: JFH APFS TESTIMONY, NOVEMBER 8, 2014

---

Your Honor and Councilpersonmembers: In response to Councilpersonmember Onley's request, below please find a transcript of the testimony which I delivered at this evening's Community Forum. I apologize for running over the time-limit, and duly regret asking Sara to start the clock therefor. :-)

Best wishes to you all, as ever.

XOXO, JFH.

## Attachment F APFS Public Hearing

JFH TESTIMONY, NOVEMBER 8, 2014

Good evening, Your Honor and Esteemed Members of the City Council. My name is John Hall, and I reside at 404 Hull Place.

This evening, I wish to address proposed revisions to the City's Adequate Public Facilities Standards (APFS), and to again urge your forbearance of them, or, at a minimum, your referral of the matter for consideration by the City's citizen-staffed Planning Commission. I will focus tonight on cluster-averaging in APFS school standards.

There are essentially three critical components to any meaningful APFS school standards: the first is a prohibition against cluster-averaging; the second is a realistic, credible outlook for school capital improvements, along the lines of our current 2-year projection; and the third is the capacity trigger forestalling development whose impact would overburden our schools beyond 110 percent of their program capacity.

When it comes to cluster-averaging, we are talking about taking ALL of the schools of a certain level in a cluster, averaging their populations as a group, and concluding that, ONLY if the average of the entire cluster is above the capacity limit, then new residential development that would add to the burden of that cluster is limited. That is what this City Council is proposing; it's what the County with the most-lax and least-effective APFO in the entire region does; and it is a certain death-blow to any meaningful APFO. Instead, in Rockville, Gaithersburg, and other responsible communities across the State, each school is considered individually, and if ANY school exceeds the capacity trigger, then new residential development feeding into that school is put on-hold until the infrastructure is on-track to support it. This crucial protection serves as a vital dyke to prevent the deluge of development that would submerge our schools with even greater capacity challenges than they currently face. It is the crux of any APFO.

So, what does this really mean, and why should you care? Well, what it means is that, if you adopt a 120% standard and allow cluster-averaging, in a cluster with four elementary schools, with one school at a nearly-full 99% of capacity, a second at a full 100%, another at 130%, and the fourth at 150% -- with all schools in the cluster already at or well-beyond their full capacity, the average would still be under 120%. This would mean that new residential development would be allowed, even though it would overburden all of those schools, each of which have already reached or even far-exceeded their program capacity.

Why should you care? You should care because the Council's proposal misleads our parents and residents into believing that a rush to adopt Montgomery County's unparalleled, ineffective school standards will somehow result in no school overcrowding greater than 120% of program capacity if we will only cave-in to developers' pressures and adopt the County's standards. This is untrue. It's false character is solidly borne-out by the fact that there are already more than 40 schools in the County that exceed the County's own 120% capacity limit, more than a dozen that are over 140%, 8 that exceed 150%, and one that is over 180%. That's absurd. It's damned-near criminal, and these even sound like statistics for prisons. But, these aren't prisons; they are our children's schools. How in the world is that even possible in a County that's among the

## **Attachment F\_APFS Public Hearing**

wealthiest in the Nation and that professes to care about the quality of education and the promise of its children's future? It's possible precisely because of the very cluster-averaging that the proposed APFS changes would inflict upon our community.

If you truly do care about school overcrowding and our children's educational experience, then reconsider this misguided effort; take the time; demonstrate the care; and obtain the considered wisdom of your Planning Commission for its considered wisdom -- just as this body did previously in addressing these complex and crucial matters.

Thank you.



RE: JFH APFS TESTIMONY, NOVEMBER 8, 2014  
Hall, John F. (HQ-TH000)  
to:  
SFerrell@rockvillemd.gov  
12/09/2014 01:42 PM  
Hide Details  
From: "Hall, John F. (HQ-TH000)" <john.f.hall@nasa.gov>  
  
To: "SFerrell@rockvillemd.gov" <SFerrell@rockvillemd.gov>

Thanks, Sara. ☺

XOXO, JFH.

**From:** SFerrell@rockvillemd.gov [mailto:SFerrell@rockvillemd.gov]  
**Sent:** Tuesday, December 09, 2014 1:41 PM  
**To:** Hall, John F. (HQ-TH000)  
**Cc:** Mayorandcouncil  
**Subject:** Re: JFH APFS TESTIMONY, NOVEMBER 8, 2014

Mr. Hall,

I wanted to let you know that the Mayor and Council received your email. It will be placed into the official record and considered by the Mayor and Council as they deliberate the issues surrounding the APFS/APFO. For your information, the Mayor and Council plan to conduct a public hearing on the APFO on January 5, 2015.

The Mayor and Council appreciate the feedback they receive.

Sara Taylor-Ferrell  
Acting City Clerk  
City of Rockville  
111 Maryland Avenue  
Rockville, MD 20850  
240-314-8283  
(fax) 240-314-8289  
[sferrell@rockvillemd.gov](mailto:sferrell@rockvillemd.gov)

## Attachment F\_APFS Public Hearing

From: "Hall, John F. (HQ-TH000)" <[john.f.hall@nasa.gov](mailto:john.f.hall@nasa.gov)>  
To: Mayorandcouncil <[mayorandcouncil@rockvillemd.gov](mailto:mayorandcouncil@rockvillemd.gov)>  
Date: 12/08/2014 09:02 PM  
Subject: JFH APFS TESTIMONY, NOVEMBER 8, 2014

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Your Honor and Councilpersonmembers: In response to Councilpersonmember Onley's request, below please find a transcript of the testimony which I delivered at this evening's Community Forum. I apologize for running over the time-limit, and duly regret asking Sara to start the clock therefor. :-)

Best wishes to you all, as ever.

XOXO, JFH.

JFH TESTIMONY, NOVEMBER 8, 2014

Good evening, Your Honor and Esteemed Members of the City Council. My name is John Hall, and I reside at 404 Hull Place.

This evening, I wish to address proposed revisions to the City's Adequate Public Facilities Standards (APFS), and to again urge your forbearance of them, or, at a minimum, your referral of the matter for consideration by the City's citizen-staffed Planning Commission. I will focus tonight on cluster-averaging in APFS school standards.

There are essentially three critical components to any meaningful APFS school standards: the first is a prohibition against cluster-averaging; the second is a realistic, credible outlook for school capital improvements, along the lines of our current 2-year projection; and the third is the capacity trigger forestalling development whose impact would overburden our schools beyond 110 percent of their program capacity.

When it comes to cluster-averaging, we are talking about taking ALL of the schools of a certain level in a cluster, averaging their populations as a group, and concluding that, ONLY if the average of the entire cluster is above the capacity limit, then new residential development that would add to the burden of that cluster is limited. That is what this City Council is proposing; it's what the County with the most-lax and least-effective APFO in the entire region does; and it is a certain death-blow to any meaningful APFO. Instead, in Rockville, Gaithersburg, and other responsible communities across the State, each school is considered individually, and if ANY school exceeds the capacity trigger, then new residential development feeding into that school is put on-hold until the infrastructure is on-track to support it. This crucial protection serves as a vital dyke to prevent the deluge of development that would submerge our schools with even greater capacity challenges than they currently face. It is the crux of any APFO.

So, what does this really mean, and why should you care? Well, what it means is that, if you adopt a

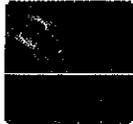
**Attachment F\_APFS Public Hearing**

120% standard and allow cluster-averaging, in a cluster with four elementary schools, with one school at a nearly-full 99% of capacity, a second at a full 100%, another at 130%, and the fourth at 150% -- with all schools in the cluster already at or well-beyond their full capacity, the average would still be under 120%. This would mean that new residential development would be allowed, even though it would overburden all of those schools, each of which have already reached or even far-exceeded their program capacity.

Why should you care? You should care because the Council's proposal misleads our parents and residents into believing that a rush to adopt Montgomery County's unparalleled, ineffective school standards will somehow result in no school overcrowding greater than 120% of program capacity if we will only cave-in to developers' pressures and adopt the County's standards. This is untrue. It's false character is solidly borne-out by the fact that there are already more than 40 schools in the County that exceed the County's own 120% capacity limit, more than a dozen that are over 140%, 8 that exceed 150%, and one that is over 180%. That's absurd. It's damned-near criminal, and these even sound like statistics for prisons. But, these aren't prisons; they are our children's schools. How in the world is that even possible in a County that's among the wealthiest in the Nation and that professes to care about the quality of education and the promise of its children's future? It's possible precisely because of the very cluster-averaging that the proposed APFS changes would inflict upon our community.

If you truly do care about school overcrowding and our children's educational experience, then reconsider this misguided effort; take the time; demonstrate the care; and obtain the considered wisdom of your Planning Commission for its considered wisdom -- just as this body did previously in addressing these complex and crucial matters.

Thank you.



Re: request to relax moratorium   
Sara Taylor-Ferrell to: Dan Connelly  
Cc: mayorandcouncil

12/12/2014 12:08 PM

Mr. Connelly,

I wanted to let you know that the Mayor and Council received your email. It will be placed into the official record and considered by the Mayor and Council as they deliberate the issues surrounding the APFS/APFO. For your information, the Mayor and Council plan to conduct a public hearing on the APFO on January 5, 2015.

The Mayor and Council appreciate the feedback they receive.

Sara Taylor-Ferrell  
Acting City Clerk  
City of Rockville  
111 Maryland Avenue  
Rockville, MD 20850  
240-314-8283  
(fax) 240-314-8289  
sferrell@rockvillemd.gov

From: "Dan Connelly" <dan@atlantictechgroup.com>  
To: <mayorandcouncil@rockvillemd.gov>  
Date: 12/12/2014 09:03 AM  
Subject: request to relax moratorium

Dear City Council:

As a business owner within Rockville I would like to ask your support in modifying Rockville's moratorium on new residential development occurs when schools are 110 percent over capacity. As you are aware the county's capacity standard is 120 percent over capacity. I believe that making this change will help to create a much more business friendly environment within the City of Rockville.

This stricter policy is not helping city schools or city businesses. I believe that by increasing the capacity standard to match that of the County's we would be able to;

- Enhance the tax base which could be used to accelerate the building of new schools
- Would positively impact the city's economy

## Attachment F\_APFS Public Hearing

- Brings more residents who shop and dine in the city

Let me know if I can assist your team in this process.

Dan Connelly  
President  
Atlantic Technology Group  
Mobile # 703-851-3463

[www.atlantictechnologygroup.com](http://www.atlantictechnologygroup.com)



111 Maryland Avenue | Rockville, Maryland 20850-2364 | 240-314-5000  
www.rockvillemd.gov

November 19, 2014

Mayor and Council  
City of Rockville  
1111 Maryland Avenue  
Rockville, MD 20850

Re: Proposed Revision of the Schools Standards Under the Adequate Public  
Facilities Standards (APFS)

Dear Mayor Newton and Council Members,

The members of the Planning Commission express their serious concerns about your initiation and announced process for amending the School Standards under the APFS. Our concern is that, despite prior practice in this City, matters relating to modification of adequate public facilities are the subject of the comprehensive plan ("Master Plan") and, as amplified by State legislation in 2012 (Acts 2012, ch. 426, "2012 Legislation"), the authority for preparing and implementing the Master Plan elements lies specifically with the Planning Commission.

Former Section 10.01 of Article 66.B of the Annotated Code of Maryland provided authority to local jurisdictions to enact ordinances requiring, among other things, "The planning, staging or provision of adequate public facilities . . . ." That section was repealed by the 2012 Legislation. No comparable provision for general origination of adequate public facilities ordinances by local legislative bodies is provided in the new Land Use Article.

Instead, the 2012 Legislation infused and amplified the functions of developing and recommending adequate public facilities ordinances and elements in the authority of planning commissions, to wit:

- ". . . [A] planning commission shall implement the following visions through the comprehensive plan . . . (5) infrastructure: growth areas have the water resources and infrastructure to accommodate population and business expansion in an orderly, efficient and environmental sustainable manner; . . ." (Land Use, § 1-201);
- "(1) The planning commission for a local jurisdiction shall include in the comprehensive plan the following elements: . . . (i) a community facilities element,

Mayor and Council  
City of Rockville  
November 19, 2014  
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... (vii) a transportation element; and (viii) a water resources element." (Land Use, § 3-102(a))

- "(b) ... A community facilities element may include ... (9) schools and other facilities; ..." (Land use § 3-109);
- "The municipal growth element shall include: ... (7) public services and infrastructure needed to accommodate growth within the municipal growth areas, including those necessary for: ... (vi) public schools sufficient to accommodate student population consistent with State rated capacity standards ...;" [a mandate to construct schools to meet capacity demand](Land Use §3-112(a); and
- "A Plan shall: ... (ii) provide for: 7. Adequate public utilities; and 8. an adequate supply of other public requirements." (Land Use § 3-201(b)).

In conjunction with centralizing in planning commissions the authority to develop comprehensive plan elements, including adequate public facilities policies, the 2012 Legislation also specifically limited the scope of local legislative bodies' authority to act upon recommendations of a planning commission regarding master plan elements, units or amendments. Specifically,

- The legislative body ... may overrule the decision of the planning commission by a recorded vote of at least two-thirds of its entire membership." (Land Use § 3-205)[this voting standard was not a previous requirement];
- "The legislative body may adopt: (i) the whole plan, (ii) a plan for one or more geographic sections or divisions of the local jurisdiction; or (iii) an amendment or extension of or addition to the plan [that is recommended by the planning commission]." (Land Use § 3-205 (d)(1)).
- "The recommendation of the planning commission shall be considered approved if the legislative body fails to act within 60 days after the date ... {of transmittal to the legislative body}." (Land Use § 3-205 (d)(2)).

Last June, you and we were advised of the preceding provisions and their effect alongside with the Planning Commission's announced readiness to transmit to the Mayor and Council the Rockville's Pike Plan element of the Master Plan. After consultation, we jointly deferred official transmission the Rockville's Pike Plan element to the Mayor and

Attachment F APFS Public Hearing

Mayor and Council  
City of Rockville  
November 19, 2014  
Page 3 of 3

Council in order to provide the Mayor and Council time to informally consider the published contents of that Pike's Plan element and to avoid binding the Mayor and Council to a 60 day response time. With deference to the provisions of the Land Use Article provisions, the Planning Commission requested that the Mayor and Council advise the Planning Commission of a date on or by which the Planning Commission shall transmit the Pike's Plan Element.

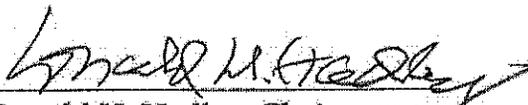
We have not received your response to this request. The balance of development progress and adequate public facilities affects every corner of the Master Plan, including the application of the "mixed use" concept throughout the developing areas of the City and in numerous provisions of the pending Rockville's Pike Plan. You should understand that the Planning Commission must reserve its right and duty to further consider the Pike's Plan element in light of your actions.

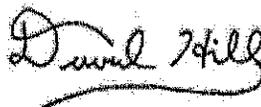
With all due respect, we cannot fathom the grounds, authority or purpose the Mayor and Council could have for undertaking unilateral change to the APFO/APFS element; particularly without even referring the matter to the Planning Commission or providing adequate public hearings (one on January 5, 2015, is clearly inadequate). It is alarming.

The Planning Commissioners advise against haste in pursuing this ill-advised amendment initiative and process. If you wish to refer the matter to the Planning Commission, we will provide it priority consideration and recommendation. In any event, the matter will be on the agenda for our December 10, 2014 meeting. We and the City will await your well-considered response.

For the Commission,

Most Sincerely

  
Donald H. Hadley, Chairperson



David Hill, Commissioner



Monday's APFO/APFS Agenda Item

joseph

to:

mayorcouncil

11/19/2014 04:52 PM

Cc:

"Debra Daniel", "Barbara Matthews", jwasilak, "Susan Swift"

Hide Details

From: "joseph" <josjordan@verizon.net>

To: <mayorcouncil@rockvillemd.gov>

Cc: "Debra Daniel" <ddaniel@rockvillemd.gov>, "Barbara Matthews" <BMatthews@rockvillemd.gov>, <jwasilak@rockvillemd.gov>, "Susan Swift" <sswift@rockvillemd.gov>

Dear Mayor Newton and Councilmembers,

The so-called "discussion" on Rockville's APFO/APFS at this week's Council meeting (November 17) left me wondering, who is running the show, and asking myself how much policy making is being done out of public view.

In my statement at Community Forum that same evening, I questioned why City staff thought they were given direction to create a redlined version of the school standard when no such direction was given. The only thing asked of staff, and agreed to by everyone but Mayor Newton, was to make room to discuss the APFO/APFS on the November 17th agenda, schedule a public hearing for January 5th and have a vote on January 26th. This was accomplished on the fly by the City Manager, and only after pushing out items already on the calendar. I

In his opening remarks, Mr. Jim Wasilak stated, "We packaged this item for your discussion based on direction provided at the November 3rd Mayor and Council meeting and provided a redlined version of the current APFS..."

When Mayor Newton asked staff about this, City Manager Matthews said it (the APFS) is a complicated subject and staff thought it would be helpful to prepare a redline just to see what those changes would be...trying to provide transparency and educate the public. Whether that is true or not, to make the statement the redline was done at the direction of the Mayor and Council is just plain false. Based on innumerable prior Mayor and Council meetings, it is rare that staff reports ever go beyond the scope of what was specifically asked of them.

Councilmember Moore was "delighted" to see the redline document, because it would help in the discussion they were about to have. What discussion? Councilmembers Palakovich Carr and Feinberg said nothing during the entire time the agenda item was open for discussion. Nothing! On a topic as important as this, they have nothing to say, and the people that have elected them have to wait for a vote in January to see what positions they have? Meanwhile, Councilmember Moore flies through a presentation that is presented as fact, and there is no discussion of it? It is once more left to the citizens of Rockville to do the work of the Council and staff - trying to obtain a readable copy of Mr. Moore's presentation and then perform copious fact checking.

## Attachment F APFS Public Hearing

The first red flag appears on the third slide of his presentation – A goal of Rockville's APFS is to keep Rockville's schools from becoming overcrowded. This is a false premise – the goal is to keep Rockville's *already* overcrowded schools from getting worse. Ask yourselves this – why would you want to remove controls that limit school overcrowding from getting worse when, by doing so, the only result is school overcrowding becoming worse.

As for the slides used in his presentation, each prominently displays the Rockville City Seal. The seal is copyrighted. By such copyright, the seal may be used by the City of Rockville in its official capacities, whereby the City speaks as one entity, under the governing laws, codes and statutes of the Incorporated City of Rockville, the State of Maryland and the U.S. federal government. This privilege includes use of the City Seal by the Mayor and Council, WHEN THEY SPEAK AS ONE BODY. Any use of the City Seal by one member of the Mayor and Council, without the express permission of the Mayor and Council as a whole, is NOT permitted, including misuse of the City Seal on that individual's handbills, presentations, campaign materials or any other use of the City Seal for their own political agendas. Such misuse of the City Seal may be construed as political in nature, a violation of Rockville City Code and an infringement of intellectual property law.

In a January 2012 Council meeting, at which Mr. Moore was part of a discussion on use of the City seal, it was agreed the seal would be used only on "anything official", to respect the dignity and integrity of the seal and use the City seal on materials for Mayor and Council business including letterhead, proclamations, business cards, intergovernmental affairs materials and anything that includes the official signature of the Mayor or the Mayor and Council. Mr. Moore's use of the seal on every page of his presentation is a gross misuse of the City seal, and any and all displays of his presentation, including the video recording posted on the City website, screen shots of slides already posted on MCPS listservs, community listservs, etc., must be removed immediately.

It was an unfortunate choice for Councilmembers Moore, Palakovich Carr and Feinberg to show total lack of respect and collegiality for Councilmember Onley when not one of you would second her motion to add a second public hearing. If you had, the least that could have happened would have been a discussion on why she thought it appropriate, especially given the date for the scheduled hearing, and any opposing views. Had a discussion ensued, you could have considered moving the date out a week. How bizarre that something so vitally important to our City as it relates to education, development and quality of life, would take a backseat to chickens, goats and feral cats. I think another attempt to move the public hearing out a week, or to schedule at least a second one, is in order.

I believe if those silent on Monday gave this issue any serious thought, there could have and should have been a lively discussion on alternatives to Mr. Moore's proposal and staff's total rewrite of the standard. As I pointed out in my statement, there are three distinct provisions in the Rockville school standard that differ from the County – 110% capacity versus 120%, 2 year window versus 5 year window, and arguably the most crucial, cluster averaging capacity versus school by school. Averaging is actually "cluster-borrowing", which is a developer's delight and a recipe for disaster for our children and neighborhoods. If you think it is okay to send more kids to a school already over capacity, because the cluster average is below 120%, then you are sending a message to Rockville's citizens your interests are not in line with theirs.

Any attempt to modify or rewrite any part of Rockville's APFO or APFS is a serious matter and could have far reaching consequences. The manner in which it is being handled is shameful. The schedule notwithstanding, continuing to have these agenda items come up for discussion after 11:00 PM is a gross disservice to citizens. Not making a presentation available as part of the agenda item attachments before the meeting blindsides everyone – councilmembers, staff and citizens alike.

In closing, the people of Rockville are tired of electing officials that campaign on values such as transparency, civility, collegiality and having the best interests of Rockville residents at heart, only to witness the opposite once elected. All we ask is you work together as a team, respect one another and listen to the voices of those that elected you.

Sincerely,

Joseph Jordan



Adequate public facilities ordinance

Kashi Way

to:

City Council!, [planning.commission@rockvillemd.gov](mailto:planning.commission@rockvillemd.gov)

12/13/2014 11:13 PM

Cc:

Andrew Gunning, "[mwaxman@rockvillemd.gov](mailto:mwaxman@rockvillemd.gov)", "[ddaniel@rockvillemd.gov](mailto:ddaniel@rockvillemd.gov)"

Hide Details

From: Kashi Way <[kashi\\_way@yahoo.com](mailto:kashi_way@yahoo.com)>

To: City Council! <[mayorandcouncil@rockvillemd.gov](mailto:mayorandcouncil@rockvillemd.gov)>, "[planning.commission@rockvillemd.gov](mailto:planning.commission@rockvillemd.gov)" <[planning.commission@rockvillemd.gov](mailto:planning.commission@rockvillemd.gov)>

Cc: Andrew Gunning <[agunning@rockvillemd.gov](mailto:agunning@rockvillemd.gov)>, "[mwaxman@rockvillemd.gov](mailto:mwaxman@rockvillemd.gov)" <[mwaxman@rockvillemd.gov](mailto:mwaxman@rockvillemd.gov)>, "[ddaniel@rockvillemd.gov](mailto:ddaniel@rockvillemd.gov)" <[ddaniel@rockvillemd.gov](mailto:ddaniel@rockvillemd.gov)>

Please respond to Kashi Way <[kashi\\_way@yahoo.com](mailto:kashi_way@yahoo.com)>

Subject: Adequate public facilities ordinance

Date: December 13, 2014

Dear Madam Mayor, Council Members, and Planning Commissioners,

On November 19, 2014, Planning Commission Chairman Don Hadley and Commissioner David Hill wrote a letter asserting that the Mayor and Council lack authority to change unilaterally the Adequate Public Facilities Ordinance (APFO). As support for this position, the Commissioners cite the fact that section 10.01 of Article 66.B of the Maryland Code was repealed in 2012 and that "no comparable provision for general origination of adequate public facilities ordinances by local legislative bodies is provided in the new Land Use Article."

The above quotation is simply not accurate. Maryland House Bill 1290 from the 2012 Regular Session was signed by the Governor on May 2, 2012, and thereby enacted as Chapter 426 of the Acts of the General Assembly of 2012 (the Act). (See <http://mgaleg.maryland.gov/webmgaf/mfrMain.aspx?ys=2012rs%2fbillfile%2fhh1290.htm>).

Section 1 of the Act repealed a long list of sections from the Maryland Code, including section 10.01 of Article 66.B. However, section 2 of the Act created a new Land Use Article, section 7-101 of which reads as follows:

"To encourage the preservation of natural resources or the provision of affordable housing and to facilitate orderly development and growth, a local jurisdiction that exercises authority granted by this division may enact, and is encouraged to enact, local laws providing for or requiring:

- (1) the planning, staging, or provision of adequate public facilities and affordable housing;
- (2) off-site improvements or the dedication of land for public facilities essential for a

## Attachment F APFS Public Hearing

- development;
- (3) moderately priced dwelling unit programs;
  - (4) mixed use developments;
  - (5) cluster developments;
  - (6) planned unit developments;
  - (7) alternative subdivision requirements that:
    - (i) meet minimum performance standards set by the local jurisdiction; and
    - (ii) reduce infrastructure costs;
  - (8) floating zones;
  - (9) incentive zoning; and
  - (10) performance zoning.”

(Highlight added; see <http://mgaleg.maryland.gov/Pubs/LegisLegal/2012rs-laws-maryland-Vol-004.pdf>).

The above language is **IDENTICAL** to section 10.01 of Article 66.B prior to its repeal. (See [http://www.mdp.state.md.us/PDF/OurProducts/Publications/OtherPublications/article\\_66B.pdf](http://www.mdp.state.md.us/PDF/OurProducts/Publications/OtherPublications/article_66B.pdf)).

At least with respect to this provision, all that occurred was a renumbering/recodification of existing law. The City Attorney states as much in the guidance she provided to the Mayor and Council on November 20, 2014, which was made public this past Monday. The legal opinion of the Maryland Attorney General from November 18, 2014, cited by Chairman Hadley at the December 8th Mayor and Council meeting concerned the rules for creating and modifying comprehensive master plans, not adequate public facilities ordinances. Thus, the Mayor and Council continue to have specific State-granted authority to enact or modify adequate public facilities ordinances. To suggest otherwise requires ignoring the plain meaning of Land Use Article section 7-101.

During his testimony before the Mayor and Council, Chairman Hadley noted that one of the Comprehensive Master Plan's policy goals was to "ensure new growth does not occur without adequate public facilities, especially schools." While this is a worthy goal, I am reminded of my recent experience before the Planning Commission when that body chose to deliberately ignore Master Plan policy goal number 3, which promotes continuing "to protect residential areas adjoining growth areas by providing buffer and transition areas," as well as a number of much more specific recommendations and goals in the East Rockville Neighborhood Plan. When made aware of those elements of the Master and Neighborhood Plans, the Planning Commission dismissed them as too vague to be actionable and proceeded to reach its own conclusions about a particular site application near Maryvale Elementary School. For this reason, I find it troubling that the Planning Commission is seeking selectively and arbitrarily to use Master Plan policy goals as leverage to take power away from the Mayor and Council.

In reaching this conclusion, I don't want to suggest that the Planning Commission has no role in the APFO/APFS process. The Planning Commission can always add specific recommendations concerning adequate public facilities as it rewrites the Comprehensive Master Plan. The Commission may go so far as to recommend a specific standard, be that 110 percent or some other number. However, the current Plan imposes no such requirement. Chapter Seven of the current Plan makes eight separate recommendations concerning schools; none of them would appear to preclude adopting the County standards regarding adequate public school facilities.

**Attachment F APFS Public Hearing**

Although there is no doubt that the Mayor and Council have authority to modify the APFO, I am concerned about the amendment process currently taking place. I have heard allegations that at least one Councilmember has publicly stated that he "has the votes" to change the APFO, even though the public hearing is not scheduled to take place until January 5, 2015. I am also confused as to why no one was willing to second Councilmember Onley's motion last month to add a second hearing date. Given the strong public interest in this issue, I think a second hearing date would be useful, particularly since the first hearing is scheduled for January 5, 2015, which is an inconvenient date for many families with school-age children (it is the first day back to school after winter break).

Thank you for considering my views on this matter. Please include them in the public record for the January 5, 2015, hearing on the APFO standard, as well as in any relevant upcoming Planning Commission records of public testimony on the APFO.

Sincerely,  
Kashi Way  
1020 Neal Dr., Rockville, MD



APFS Discussion

Joseph McClane

to:

mayorandcouncil@rockvillemd.gov

12/06/2014 07:58 PM

Hide Details

From: Joseph McClane <josephmcclane@yahoo.com>

To: "mayorandcouncil@rockvillemd.gov" <mayorandcouncil@rockvillemd.gov>

Please respond to Joseph McClane <josephmcclane@yahoo.com>

Dear Mayor and Council:

I support Council-member Moore's proposal to amend the City's current Adequate Public Facilities Standards (APFS). While the current APFS is well meaning, in the case of our neighborhood (south Twinbrook) it has failed miserably. Large tracks of vacant property near the Metro station that could be used to increase new housing stock/smart growth, cannot be developed because of the current APFS limits. Just one example is the former FDA office buildings site at Ardennes and Halpine. The site has become over the years a scarily abandon buildings site that is deteriorating in the midst of our neighborhood.

The current APFS will not allow new housing because the local elementary school is overcrowded. But for years, the Zillow real estate website ranks Twinbrook Elementary a shocking low score of 3 in school rankings. And real estate

**Attachment F APFS Public Hearing**

professionals working in our area have told me numerous potential home-buyers have given a pass to homes in our area for this very reason. The current APFS has not helped the school improve at all. Most of the overcrowding seems to be caused by people crowding into existing homes not new development which tends to be smaller apartments rather than homes that can be shared by various families. If the APFS is supposed to motivate the County into upgrading crowded schools, it is not working. In fact it could be argued that Rockville's passive approach to dealing with growth issues via APFS, is failing all of Rockville.

Please enact needed and sensible change to the APFS that can enhance our neighborhoods.

Thank you,

Joe McClane  
216 Halpine Walk Court  
Rockville, MD 20851



I'm the 8th signer: "Help Prevent More School Overcrowding!"

Sue Cohen to: City of Rockville Mayor and Council

12/19/2014 08:45 AM

Please respond to

moveon-petitions-anon+em-2294-20150102-vY7AtA

Dear City of Rockville Mayor and Council,

I just signed a petition addressed to you titled Help Prevent More School Overcrowding!. So far, 12 people have signed the petition.

You can reach me directly by replying to this email. Or, post a response for MoveOn.org to pass along to all petition signers by clicking here:

[http://petitions.moveon.org/target\\_talkback.html?tt=tt-86050-custom-52804-20241219-rtcPn5](http://petitions.moveon.org/target_talkback.html?tt=tt-86050-custom-52804-20241219-rtcPn5)

The petition states:

"We, the undersigned, oppose weakening our APFO/APFS standards, and urge the Mayor and Council to reject the proposal to change to the County standards."

My additional comments are:

Smaller classes=stronger learning!

To download a PDF file of all of your constituents who have signed the petition, including their addresses, click this link:

[http://petitions.moveon.org/deliver\\_pdf.html?job\\_id=1372615&target\\_type=custom&target\\_id=52804](http://petitions.moveon.org/deliver_pdf.html?job_id=1372615&target_type=custom&target_id=52804)

To download a CSV file of all of your constituents who have signed the petition, including their addresses, click this link:

[http://petitions.moveon.org/deliver\\_pdf.html?job\\_id=1372615&target\\_type=custom&target\\_id=52804&csv=1](http://petitions.moveon.org/deliver_pdf.html?job_id=1372615&target_type=custom&target_id=52804&csv=1)

Sue Cohen  
Rockville, MD

This email was sent through MoveOn's public petition website, a free service that allows anyone to set up their own online petition and share it with friends. MoveOn does not endorse the contents of petitions posted on our public petition website. If you have any questions, please email [petitions@moveon.org](mailto:petitions@moveon.org). If you don't want to receive further emails updating you on how many people have signed this petition, click here:

[http://petitions.moveon.org/delivery\\_unsub.html?e=hyWjCnOuoP2vO\\_6KgQp4Ym1heW9yYW5kY291bmNpbEBYb2NrdmlsbGVtZC5nb3Y-&petition\\_id=86050](http://petitions.moveon.org/delivery_unsub.html?e=hyWjCnOuoP2vO_6KgQp4Ym1heW9yYW5kY291bmNpbEBYb2NrdmlsbGVtZC5nb3Y-&petition_id=86050).



I'm the 9th signer: "Help Prevent More School Overcrowding!"

Deb Stahl to: City of Rockville Mayor and Council

12/19/2014 08:45 AM

Please respond to

[moveon-petitions-anon+em-1120962-20150102-UtY\\_m\\_](mailto:moveon-petitions-anon+em-1120962-20150102-UtY_m_)

Dear City of Rockville Mayor and Council,

I just signed a petition addressed to you titled Help Prevent More School Overcrowding!. So far, 12 people have signed the petition.

You can reach me directly by replying to this email. Or, post a response for MoveOn.org to pass along to all petition signers by clicking here:

[http://petitions.moveon.org/target\\_talkback.html?tt=tt-86050-custom-52804-20241219-rtcPn5](http://petitions.moveon.org/target_talkback.html?tt=tt-86050-custom-52804-20241219-rtcPn5)

The petition states:

"We, the undersigned, oppose weakening our APFO/APFS standards, and urge the Mayor and Council to reject the proposal to change to the County standards."

My additional comments are:

Many many MCPS schools are already very overcrowded. I've taught in too many portables: in Winter and windy weather, covered walkways aren't sufficient to keep students warm & dry, and portables don't come with bathrooms, nor with storage as secure as in the main building. Barnesley is already a veritable CITY of portables. Beall Elementary is also over capacity, and now there is a HUGE apartment building going up - and those kids will be going, of course, to schools already overfull. PLEASE, either limit the development, or have developers contribute to new school buildings or additions for the students they will be bringing into Rockville. The 110% guideline is already ineffective; raising it will create intolerable conditions for Rockville students.

To download a PDF file of all of your constituents who have signed the petition, including their addresses, click this link:

[http://petitions.moveon.org/deliver\\_pdf.html?job\\_id=1372616&target\\_type=custom&target\\_id=52804](http://petitions.moveon.org/deliver_pdf.html?job_id=1372616&target_type=custom&target_id=52804)

To download a CSV file of all of your constituents who have signed the petition, including their addresses, click this link:

[http://petitions.moveon.org/deliver\\_pdf.html?job\\_id=1372616&target\\_type=custom&target\\_id=52804&csv=1](http://petitions.moveon.org/deliver_pdf.html?job_id=1372616&target_type=custom&target_id=52804&csv=1)

Deb Stahl  
Rockville, MD

Attachment F\_APFS Public Hearing



I'm the 14th signer: "Help Prevent More School Overcrowding

Margaret Chao

to:

City of Rockville Mayor and Council

12/19/2014 10:59 AM

Hide Details

From: "Margaret Chao" <petitions-noreply@moveon.org>

To: "City of Rockville Mayor and Council" <mayorandcouncil@rockvillemd.gov>

Please respond to [moveon-petitions-anon+em-10216419-20150102-xvE0Ha@moveon.org](mailto:moveon-petitions-anon+em-10216419-20150102-xvE0Ha@moveon.org)

Security:

To ensure privacy, images from remote sites were prevented from downloading. Show Images

Dear City of Rockville Mayor and Council,

I just signed a petition addressed to you titled *Help Prevent More School Overcrowding!*. So far, 14 people have signed the petition.

You can reach me directly by replying to this email. **Or, post a response for MoveOn.org to pass along to all petition signers by clicking here:** [http://petitions.moveon.org/target\\_talkback.html?tt=tt-86050-custom-52804-20241219-rtePn5](http://petitions.moveon.org/target_talkback.html?tt=tt-86050-custom-52804-20241219-rtePn5)

The petition states:

"We, the undersigned, oppose weakening our APFO/APFS standards, and urge the Mayor and Council to reject the proposal to change to the County standards."

My additional comments are:

Please do NOT weaken our APFO/APFS standards and further overcrowd our schools. This issue keeps coming up and every time it is soundly defeated. Listen to the people and protect our schools and our quality of living. Thank you for protecting the citizen and residents of Rockville.

**Attachment F APFS Public Hearing**

To download a PDF file of all of your constituents who have signed the petition, including their addresses, click this link: [http://petitions.moveon.org/deliver\\_pdf.html?job\\_id=1372706&target\\_type=custom&target\\_id=52804](http://petitions.moveon.org/deliver_pdf.html?job_id=1372706&target_type=custom&target_id=52804)

To download a CSV file of all of your constituents who have signed the petition, including their addresses, click this link: [http://petitions.moveon.org/deliver\\_pdf.html?job\\_id=1372706&target\\_type=custom&target\\_id=52804&csv=1](http://petitions.moveon.org/deliver_pdf.html?job_id=1372706&target_type=custom&target_id=52804&csv=1)

Margaret Chao  
Rockville, MD

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*This email was sent through MoveOn's public petition website, a free service that allows anyone to set up their own online petition and share it with friends. MoveOn does not endorse the contents of petitions posted on our public petition website. If you have any questions, please email [petitions@moveon.org](mailto:petitions@moveon.org). If you don't want to receive further emails updating you on how many people have signed this petition, click here: [http://petitions.moveon.org/delivery\\_unsub.html?e=hyWjCnOuoP2vO\\_6KgOp4Ym1heW9yYW5kY291bmNpbEBYb2NrdmlsbGVtZC5nb3Y-&petition\\_id=86050](http://petitions.moveon.org/delivery_unsub.html?e=hyWjCnOuoP2vO_6KgOp4Ym1heW9yYW5kY291bmNpbEBYb2NrdmlsbGVtZC5nb3Y-&petition_id=86050).*



Request for Review of Proposed APFO revisions from the Planning Commission and Delay of Public Hearing

Chas Hausheer

to:

Mayor and Council

11/25/2014 07:20 PM

Cc:

Bryan Noreen

Hide Details

From: Chas Hausheer <hausheerchs@yahoo.com>

To: Mayor and Council <mayorcouncil@rockvillemd.gov>

Cc: Bryan Noreen <noreen1945@yahoo.com>

Please respond to Chas Hausheer <hausheerchs@yahoo.com>

Dear Madame Mayor and Members of the Council;

The East Rockville Civic Association agrees with WECA in this matter and would ask you to seriously consider their recommendation that the period for public discussion of this proposed change be extended.

Cordially,

Chas Hausheer  
President, East Rockville Civic Association

----- Forwarded Message -----

**From:** noreen bryan <noreen1945@yahoo.com>

**To:** Mayor & Council <mayorcouncil@rockvillemd.gov>

**Sent:** Sunday, November 23, 2014 10:10 AM

**Subject:** Request for Review of Proposed APFO revisions from the Planning Commission and Delay of Public Hearing

Dear Madame Mayor and Members of the Council:

The Executive Board of the West End Citizens Association (WECA) is very concerned about the rush to judgment on the Adequate Public Facilities Ordinance/Standards. This is an issue about which many in the community feel passionately, because they believe that it is essential for the protection of the education of our children and will have dire consequences for the quality of life in our neighborhoods. In the past there have been

**Attachment F APFS Public Hearing**

numerous attempts to water down or eliminate the APFO/APFS, but in all cases, the special task force, the Planning Commission and previous Mayor and Councils have voted in favor of preserving it.

WECA believes that the proposed changes deserve a meaningful public discussion. Rushing this issue through the holidays and providing only a single public hearing immediately after the New Year, is unfair and makes it appear that the Mayor and Council do not value the voices of the citizens of Rockville. This proposal deserves to be reviewed and considered by the Planning Commission before the Public Hearing. The Planning Commission has invested significant time in researching and considering the APFO/APFS. At the Executive Board meeting of November 20, 2014 a resolution was passed to request that you send the proposed revisions to the Planning Commission for review and assessment prior to holding a Public Hearing, and further, that you delay the public hearing or hold additional hearings.

Thank you for your consideration.

Sincerely,  
Noreen Bryan  
President,  
West End Citizens  
301-762-1256

**West End Citizens Association (WECA)  
Testimony of December 8, 2014 re: Pike Plan-  
Preservation of Rockville's Adequate Public Facilities Ordinance  
and Standards (APFO/APFS)  
Opposition to Adopting Montgomery County's Standards**

My name is Vicki McMullen, 100 North Street. I am the Vice President of the West End Citizens Association. I'm here to testify for WECA. My testimony is directed to the preservation of Rockville's Adequate Public Facilities Ordinance and Standards, and to WECA's opposition to adoption of the County's Standards.

At the meeting of the WECA Executive Board on November 20, 2014, the following resolution was adopted unanimously:

**“Whereas, school overcrowding is a serious concern to residents and families in Rockville, and**

**Whereas, the County's Adequate Public Facilities Standards are the most lax in the State of Maryland and do nothing to prevent new residential development from further overcrowding County schools, and**

**Whereas, our City's current stronger Adequate Public Facilities Ordinance has been successful in keeping Rockville's school overcrowding from getting worse than would be the case under the County's weaker standards,**

**Therefore, be it resolved that WECA opposes any proposal to weaken the City's current APFO school standards by adopting the County standards.”**

WECA has consistently taken the position that Rockville's Adequate Public Facilities Ordinance and Standards should be preserved. The City's standards, unlike the County's, actually do succeed in preventing new residential development from adding more children to already overcrowded schools.

The guarantee of adequate public facilities (including schools), should be a separate and explicit part of the Rockville Pike Plan, and not just a paragraph buried in the middle of the document. It is unconscionable to create a plan to allow development that could increase the city's population by so much, without insisting that school capacity be in place to serve new residents, guaranteeing that our schools won't be overwhelmed by new development. The Pike Plan should clearly show how new residential

development will be linked to the provision of additional school capacity, and firmly state that no development will take place until new schools are actually funded and under construction, not merely “projected” as aspirational goals by the County.

If Rockville defaults to the County’s failed APFO, the increase in density envisioned by the Rockville Pike Plan will have consequences for our schools that could best be described as catastrophic. Why engage in a race to the bottom to see which jurisdiction is more effective at overcrowding its schools? In Rockville, and in Montgomery County, our real economic future rises and falls with the quality of our schools. Is it smart to sacrifice the quality of our schools - the main attraction for new residents to move here in the first place? Let’s put safeguards in the Rockville Pike Plan that envision appropriate and rational growth while preserving our schools and quality of life. And let’s keep our City’s APFO standards strong!

City Manager's Office  
City of Rockville  
111 Maryland Avenue  
Rockville, MD 20850  
Phone: 240-314-8106  
E-mail: [latkins@rockvillemd.gov](mailto:latkins@rockvillemd.gov)  
[www.rockvillemd.gov](http://www.rockvillemd.gov)

----- Forwarded by Louise Atkins/RKV on 12/15/2014 11:26 AM -----

From: Kashi Way <[kashi\\_way@yahoo.com](mailto:kashi_way@yahoo.com)>  
To: City Council! <[mayorandcouncil@rockvillemd.gov](mailto:mayorandcouncil@rockvillemd.gov)>, "planning.commission@rockvillemd.gov" <[planning.commission@rockvillemd.gov](mailto:planning.commission@rockvillemd.gov)>  
Cc: Andrew Gunning <[agunning@rockvillemd.gov](mailto:agunning@rockvillemd.gov)>, "mwaxman@rockvillemd.gov" <[mwaxman@rockvillemd.gov](mailto:mwaxman@rockvillemd.gov)>, "ddaniel@rockvillemd.gov" <[ddaniel@rockvillemd.gov](mailto:ddaniel@rockvillemd.gov)>  
Date: 12/13/2014 11:13 PM  
Subject: Adequate public facilities ordinance

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Subject: Adequate public facilities ordinance

Date: December 13, 2014

Dear Madam Mayor, Council Members, and Planning Commissioners,  
On November 19, 2014, Planning Commission Chairman Don Hadley and Commissioner David Hill wrote a letter asserting that the Mayor and Council lack authority to change unilaterally the Adequate Public Facilities Ordinance (APFO). As support for this position, the Commissioners site the fact that section 10.01 of Article 66.B of the Maryland Code was repealed in 2012 and that "no comparable provision for general origination of adequate public facilities ordinances by local legislative bodies is provided in the new Land Use Article."

The above quotation is simply not accurate. Maryland House Bill 1290 from the 2012 Regular Session was signed by the Governor on May 2, 2012, and thereby enacted as Chapter 426 of the Acts of the General Assembly of 2012 (the Act). (See <http://mgaleg.maryland.gov/webmga/frmMain.aspx?ys=2012rs%2fbillfile%2f1290.htm>). Section 1 of the Act repealed a long list of sections from the Maryland Code, including section 10.01 of Article 66.B. However, section 2 of the Act created a new Land Use Article, section 7-101 of which reads as follows:

"To encourage the preservation of natural resources or the provision of affordable housing and to facilitate orderly development and growth, a local jurisdiction that exercises authority granted by this division may enact, and is encouraged to enact, local laws providing for or requiring:

(1) the planning, staging, or provision of adequate public facilities and

- affordable housing;
- (2) off-site improvements or the dedication of land for public facilities essential for a development;
- (3) moderately priced dwelling unit programs;
- (4) mixed use developments;
- (5) cluster developments;
- (6) planned unit developments;
- (7) alternative subdivision requirements that:
  - (i) meet minimum performance standards set by the local jurisdiction; and
  - (ii) reduce infrastructure costs;
- (8) floating zones;
- (9) incentive zoning; and
- (10) performance zoning.”

(Highlight added; see

<http://mgaleg.maryland.gov/Pubs/LegisLegal/2012rs-laws-maryland-Vol-004.pdf>).

The above language is **IDENTICAL** to section 10.01 of Article 66.B prior to its repeal. (See [http://www.mdp.state.md.us/PDF/OurProducts/Publications/OtherPublications/article\\_66B.pdf](http://www.mdp.state.md.us/PDF/OurProducts/Publications/OtherPublications/article_66B.pdf)).

At least with respect to this provision, all that occurred was a renumbering/recodification of existing law. The City Attorney states as much in the guidance she provided to the Mayor and Council on November 20, 2014, which was made public this past Monday. The legal opinion of the Maryland Attorney General from November 18, 2014, cited by Chairman Hadley at the December 8th Mayor and Council meeting concerned the rules for creating and modifying comprehensive master plans, not adequate public facilities ordinances. Thus, the Mayor and Council continue to have specific State-granted authority to enact or modify adequate public facilities ordinances. To suggest otherwise requires ignoring the plain meaning of Land Use Article section 7-101.

During his testimony before the Mayor and Council, Chairman Hadley noted that one of the Comprehensive Master Plan's policy goals was to "ensure new growth does not occur without adequate public facilities, especially schools." While this is a worthy goal, I am reminded of my recent experience before the Planning Commission when that body chose to deliberately ignore Master Plan policy goal number 3, which promotes

continuing "to protect residential areas adjoining growth areas by providing buffer and transition areas," as well as a number of much more specific recommendations and goals in the East Rockville Neighborhood Plan. When made aware of those elements of the Master and Neighborhood Plans, the Planning Commission dismissed them as too vague to be actionable and proceeded to reach its own conclusions about a particular site application near Maryvale Elementary School. For this reason, I find it troubling that the Planning Commission is seeking selectively and arbitrarily to use Master Plan policy goals as leverage to take power away from the Mayor and Council.

In reaching this conclusion, I don't want to suggest that the Planning Commission has no role in the APFO/APFS process. The Planning Commission can always add specific recommendations concerning adequate public facilities as it rewrites the Comprehensive Master Plan. The Commission may go so far as to recommend a specific standard, be that 110 percent or some other number. However, the current Plan imposes no such requirement. Chapter Seven of the current Plan makes eight separate recommendations concerning schools; none of them would appear to preclude adopting the County standards regarding adequate public school facilities.

Although there is no doubt that the Mayor and Council have authority to modify the APFO, I am concerned about the amendment process currently taking place. I have heard allegations that at least one Councilmember has publicly stated that he "has the votes" to change the APFO, even though the public hearing is not scheduled to take place until January 5, 2015. I am also confused as to why no one was willing to second Councilmember Onley's motion last month to add a second hearing date. Given the strong public interest in this issue, I think a second hearing date would be useful, particularly since the first hearing is scheduled for January 5, 2015, which is an inconvenient date for many families with school-age children (it is the first day back to school after winter break).

Thank you for considering my views on this matter. Please include them in the public record for the January 5, 2015, hearing on the APFO standard, as well as in any relevant upcoming Planning Commission records of public testimony on the APFO.

Sincerely,  
Kashi Way  
1020 Neal Dr., Rockville, MD



I'm the 25th signer: "Help Prevent More School Overcrowding!"

Robert Spitze

to:

City of Rockville Mayor and Council

12/23/2014 07:33 PM

Hide Details

From: "Robert Spitze" <petitions-noreply@moveon.org>

To: "City of Rockville Mayor and Council" <mayorandcouncil@rockvillemd.gov>

Please respond to [moveon-petitions-anon+em-12195102-20150106-vwi77A@moveon.org](mailto:moveon-petitions-anon+em-12195102-20150106-vwi77A@moveon.org)

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Dear City of Rockville Mayor and Council,

I just signed a petition addressed to you titled *Help Prevent More School Overcrowding!*. So far, 25 people have signed the petition.

You can reach me directly by replying to this email. **Or, post a response for MoveOn.org to pass along to all petition signers by clicking here:** [http://petitions.moveon.org/target\\_talkback.html?tt=tt-86050-custom-52804-20241223-9P3GzK](http://petitions.moveon.org/target_talkback.html?tt=tt-86050-custom-52804-20241223-9P3GzK)

The petition states:

"We, the undersigned, oppose weakening our APFO/APFS standards, and urge the Mayor and Council to reject the proposal to change to the County standards."

My additional comments are:

Do NOT let the O'Malley libtards ruin our schools please.

To download a PDF file of all of your constituents who have signed the petition, including their addresses, click this link: [http://petitions.moveon.org/deliver\\_pdf.html?](http://petitions.moveon.org/deliver_pdf.html?)



City of  
**Rockville**  
Get Into It

111 Maryland Avenue | Rockville, Maryland 20850-2364 | 240-314-5000  
www.rockvillemd.gov

December 24, 2014

Mayor Bridget Donnell Newton  
City of Rockville  
111 Maryland Avenue  
Rockville, Maryland 20850

Re: Proposed changes to the Adequate Public Facilities Standards (APFS)

Dear Mayor Newton:

The Planning Commission sends this letter in the context of a fast-tracked proposal before the Mayor and Council that, if adopted, would completely rewrite the City's APFS school standards in a manner that would compromise the ability of Rockville's schools to educate children adequately and thereby discourage families with school-age children from locating in Rockville. It should be noted that the Mayor and Council did not ask the Planning Commission for its expertise and recommendation on this quintessential land use issue. Notwithstanding that, the Planning Commission decided at its December 10 meeting to send this letter to you for your consideration.

Based on our discussion, the Commission reiterates our previous recommendations on the schools test, dated October 10, 2012 (See Attachment 1). Those recommendations were made as a result of an in-depth review of the school standard undertaken by the Commission upon receipt of the APFO Committee Report. The Commission voted unanimously to reiterate the original recommendations, annotated as follows, that the APFS should:

- Maintain its maximum capacity standard of 110% (rejecting Montgomery County's 120% test);
- Maintain the 2-year horizon for capacity determination (rejecting the County's 5 year element);

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CITY CLERK'S OFFICE

## Attachment F APFS Public Hearing

Mayor Bridget Donnell Newton

December 24, 2014

Page 2

- Maintain that the capacity test be applied to each school (rejecting the County's cluster average element); and
- Maintain project approval as the time for allocation of capacity (rejecting the County's allocation of capacity at the time of application)

The Commission also confirmed the following points in its discussion:

- We have serious concerns that the Mayor and Council are acting outside their very limited authority with regard to something that is the heart of the school capacity standard and, therefore the Master Plan.
- The APFS school standard was adopted to tie residential development with the provision of additional school capacity, which it has done well.
- The purpose of the APFS school standards, when adopted, was only to keep already overcrowded schools from becoming even more overcrowded as a result of new residential development. The adoption of the APFS standards never came with a promise that it would prevent all school overcrowding, and to so claim would be a misrepresentation.
- Discrete residential development continues in Rockville – there is no long-term stagnation.
- The Land Use Article and the Attorney General's Opinion of November 18, 2014 require land use expertise, transparency, analysis of clear evidence, a long-term view and non-political deliberations in deciding the school capacity standard.
- The present rush to amend the APFS by a non-transparent political regulation violates all of those requirements.
- If there is a desire to consider a change in the schools standard, it should proceed openly and with full consideration and community involvement through the Planning Commission process in accordance with applicable law.

Cordially,

  
Donald H. Hadley, Chair  
Rockville Planning Commission

Enclosure

1. Memo from the Planning Commission to Mayor and Council, dated October 10, 2012

Cc: Planning Commission members  
Barbara B. Matthews, City Manager  
Susan Swift, AICP, Director of Community Planning and Development Services



**M E M O R A N D U M**

October 10, 2012

TO: Mayor and Council  
FROM: Planning Commission  
SUBJECT: Planning Commission Recommendations to the Mayor and Council on the Adequate Public Facilities Provisions for Public Schools

The Planning Commission appointed a citizen's committee to review the City's Adequate Public Facilities Ordinance (APFO) and companion Adequate Public Facilities Standards (APFS) in January, 2011. The committee completed its work and submitted its report to the Planning Commission in November of that year. The Commission formally transmitted the report to the Mayor and Council with a series of recommendations in March, 2012, but the Commission noted that some items would be researched and discussed further.

The Planning Commission has undertaken consideration of the APFO and APFS in light of the committee's recommendations with a view to providing some guidance to the Mayor and Council at such time as they take up a formal review. The Commission decided to begin with the APFS test for school capacity, which was the topic that drew the most interest and comment from the committee.

Since the school capacity test addresses the unique circumstances of development within the City, the Planning Commission recommends one minor adjustment to the APFO or APFS in regard to this issue. The recommended minor adjustment is given below. The Commission hopes that the observations provided herein will help inform the Mayor and Council as they continue to monitor the impact and efficacy of the APFO and APFS.

Observations:

- The schools in the City are one of our most important assets. People move to the City for the good schools, and continued overcrowding can have a negative impact on the City's desirability as a place to live. The integrity of the APFS needs to be retained.

## Attachment F APFS Public Hearing

- The budgetary process for the County's school system is essentially a political one. As such, the City needs to continue and increase its advocacy for the schools serving the City and pursue a closer working relationship with Montgomery County Public Schools. The Commission does not recommend abandoning our APFS school test and deferring to the County. Rather, the City should advocate for the County to adopt the City's standards. The quality of education is most important, and quality should not be sacrificed to budgetary concerns.
- The Planning Commission is very concerned about the overcrowding of schools serving Rockville families. Overcrowded schools do not optimally serve their students and families. Overcrowding is one factor that can diminish the overall educational experience, perhaps especially in elementary schools where inadequate core facilities may have the most impact.
- There is concern that residential and mixed-use development in the Town Center may be adversely affected by school capacity issues. Development in the Town Center should be re-evaluated in light of recent information and activity.
- The City may wish to consider some exceptions for key development areas such as the Town Center and Rockville Pike. There was a diversity of opinions among the Commission members on this point.
- In accounting for the impact of approved developments on the future capacity of the schools, the Commission recognized the need for some verification or clarification on how these projects are accounted in the MCPS forecasts. The City staff needs to work with the MCPS staff to ensure an accurate forecast.
- The Commission notes that a new elementary school is proposed in the Richard Montgomery Cluster on West Edmonston Drive, with a proposed opening in 2017. The MCPS does not propose to establish the new district boundaries for this school until 2016. That means that the APFS could not take account of this new school until just before it opens. The Commission believes it would be better for the City residents and the development community to have MCPS commit to establishing the final boundaries in a timely manner so that the impact of this new school on the APFS requirements for the other schools can be analyzed. A quick calculation indicates that the presence of the new school could result in an overall drop in utilization to acceptable APFS levels, depending on how the new boundaries will affect the overall cluster.
- The Commission acknowledges that the use of the school facility payment program is currently not permitted under state law. On advice of the City Attorney, the Commission notes that there is no clear statutory authority for collection of such funds by the City for the use of a program controlled by another governmental unit (*i.e.*, schools). This would be true even if the City opted to make the APFS school test consistent with the County program. We also note that it appears the County has collected such funds from only two development projects thus far, even though the program has been in place for several years.

## Attachment F APFS Public Hearing

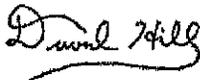
- The Commission suggests that the Mayor and Council pursue legislative changes to allow Rockville to collect and disperse a school facility payment but only if the funds collected are allocated to schools serving the City in a manner to address or alleviate the resulting concentration in the school(s) primarily affected. With such authority the Mayor and Council could consider revising the current capacity limit of 110% to the County's limit of 105%, beyond which the school facility payment process would be used up the 120%, the County's limit for a moratorium. This could allow some exceptions for key development areas up to the 120% limit.

### Recommendations:

- Maintain our distinct school capacity test as part of the APFO to address the unique circumstances of development within the City.
- Maintain the two-year horizon for school capacity tests. Do not use the county's five-year standard.
- Maintain the school capacity test on a per-school basis, rather than averaged over the cluster.
- Maintain our current practice whereby the final APFS test is determined at the time of project approval, rather than at the time of application.

### Recommended APFS Adjustment:

- Exempt the following uses from the school capacity test since either no or a de minimis number of school age children will be generated: accessory apartments, places of worship, wireless communication facilities, public uses, minor subdivisions.



David Hill, Chair  
City of Rockville Planning Commission

cc: Planning Commission members  
Barbara B. Matthews, City Manager  
Susan Swift, Director, CPDS  
Andy Gunning, Assistant Director, CPDS  
Jim Wasilak, Chief of Planning  
Deane Mellander, Zoning Administrator



I'm the 13th signer: "Help Prevent More School Overcrowding!"

Drew Powell

to:

City of Rockville Mayor and Council

12/19/2014 09:49 AM

Hide Details

From: "Drew Powell" <petitions-noreply@moveon.org>

To: "City of Rockville Mayor and Council" <mayorandcouncil@rockvillemd.gov>

Please respond to [moveon-petitions-anon+em-12126127-20150102-ojBOlf@moveon.org](mailto:moveon-petitions-anon+em-12126127-20150102-ojBOlf@moveon.org)

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Dear City of Rockville Mayor and Council,

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You can reach me directly by replying to this email. **Or, post a response for MoveOn.org to pass along to all petition signers by clicking here:** [http://petitions.moveon.org/target\\_talkback.html?tt=tt-86050-custom-52804-20241219-rtcPn5](http://petitions.moveon.org/target_talkback.html?tt=tt-86050-custom-52804-20241219-rtcPn5)

The petition states:

"We, the undersigned, oppose weakening our APFO/APFS standards, and urge the Mayor and Council to reject the proposal to change to the County standards."

My additional comments are:

We must preserve Rockville's existing APFO for the future of our children.

To download a PDF file of all of your constituents who have signed the petition, including their addresses, click this link: [http://petitions.moveon.org/deliver\\_pdf.html?](http://petitions.moveon.org/deliver_pdf.html?)