

“Federation Corner” column

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Rockville under attack

By Christina Ginsberg

The City of Rockville is undergoing yet another developer-backed attack on its unique attempt to limit overdevelopment within city limits. In 2005, Rockville adopted an Adequate Public Facilities Ordinance that tied the approval of development to the school capacity of the schools actually affected by proposed development.

That is, if a developer wants to build within a certain school district, that district itself must have capacity within a reasonable time frame of two years.

This is a significant step forward compared to how Montgomery County regulates development impacts. Under current conditions of the County’s Adequate Public Facilities Ordinance, the County can approve a development, collect the school impact fees, and use none of that money within the development’s school district.

Indeed, Montgomery County has relied on its ability to do just that as a tool in pushing development farther out along I-270 and other areas it has targeted for increased density. This is in fact a double tax – the developer gets taxed by the school impact fee as they build, yet no school capacity is added near their projects, that is, they are taxed for a purpose that is never delivered, and the communities who have been promised new schools or renovations within set time frame either watch their schools deteriorate even further or see their property taxes increased in an effort to recoup the shortfall.

Rockville is on the cusp of adding tens of thousands of new residents, as per the municipal growth plans of the Council of Governments and the city’s own zoning and code changes in recent years. In fact, Rockville’s Red Line corridor is under planning pressure to add far more growth than any other suburban line of the Metro system. This is untenable if the Montgomery County government does not intend to provide adequate public facilities for the tens of thousands (up to 50,000 by some estimates) who will be making their homes along Rockville Pike. This is indeed “Smart growth by stupid people” as our County Executive Ike Leggett said in 2006. In 2014, that assessment seems to have been forgotten.

The strict Rockville Adequate Public Facilities Ordinance is an attempt to redress that imbalance. Prior to enacting the Ordinance in 2005, former Mayor Larry Giammo and former Councilman John Hall attempted to negotiate a Memorandum of Understanding with the County to ensure that school impact fees collected for projects within Rockville city limits would be spent on increasing school capacity within Rockville city limits. The County rebuffed that proposal. With no means of increasing school capacity, Rockville turned to decreasing development within its city limits as a means of keeping the schools from becoming hopelessly overcrowded.

Current Rockville Councilman Tom Moore, who is staking his political future on repealing Rockville’s Adequate Public Facilities Ordinance, has said that keeping the Ordinance as is would halt development on Rockville Pike for 15 years. The flip side of this statement is that the County has no plans in play that could alleviate school overcrowding in Rockville for at least 15 years. While MCPS plans to add a fifth

school to the Richard Montgomery Cluster, that school will impact only the current overcrowding in Rockville. Should Rockville's Adequate Public Facilities Ordinance be revoked by the current Rockville Council, even with Elementary School #5, Rockville schools will again be over capacity almost immediately as massive buildout proceeds on Rockville Pike.

Furthermore, unlike the King Farm and Crown Farm megadevelopments in Rockville and Gaithersburg, there are no school sites identified or set aside should they be needed in the future.

Rockville schools on the east side of Rockville Pike are at an even greater disadvantage. Redistricting for Elementary School #5 will include only three of the four elementary schools within the Richard Montgomery Cluster, leaving the school with the highest minority enrollment behind. The other school east of Rockville Pike, as part of the Rockville cluster, is also not included. This is problematic because former Mayor Giammo (yes, the same Giammo who championed Rockville's Adequate Public Facilities Ordinance) is proposing that some form of waiver be applied to transit oriented developments eligible for high density zoning around Rockville's Metro stations, Rockville and Twinbrook. This is especially disingenuous because the net effect would be to bring Rockville's Ordinance effectively in line with Councilman Moore's intent to allow such development to proceed. Whether the Rockville's ordinance is gutted by Mr. Giammo's waivers or by Mr. Moore's proposals, the net effect is the same – high density development would proceed without being subject to current restrictions.

Proponents of development have avowed that only increased economic activity will provide the tax base necessary to fund more school capacity. However, years of fat economic returns under the Duncan administration did not result in adequate public facilities. Years of lean economic returns under the Leggett administration also could not address the disparity. Yet in the same lean years, the Leggett administration continues to set its priorities for increasing economic development with projects that benefit developers indirectly. The Silver Spring transit center (badly over budget), the Purple Line, the ICC, the \$100,000,000 budgeted for studying bus rapid transit, the \$500 per household "supertax" proposed for homes along bus rapid transit routes, are all targeted to increasing traffic capacity, another public "facility" as defined by both the County's and Rockville's Adequate Public Facilities Ordinances. Little of these costs have been passed as fees to developers, and calls into question the assumption that the pace of economic development is sustainable.

Rockville's Adequate Public Facilities Ordinance is a reality check that every citizen of Montgomery County should watch carefully. Nearly half of Montgomery County's budget is turned over to Montgomery County Public Schools, yet many schools are over capacity (up to 180% over capacity) and throughout the school system there is a deficit of 22 schools. Although economic development is clearly necessary for the fiscal health of the County, there is a significant disconnect between the revenues and the costs of economic development that is not being addressed by current County policies. Residents of Montgomery County should carefully consider whether Montgomery County's lax Adequate Public Facilities Ordinance should be replaced by a version of Rockville's ordinance, bringing Montgomery County more in line with Rockville and the rest of the State of Maryland.

The writer is the former president of the Twinbrook Citizens Association and served as a community representative for Rockville's zoning ordinance revision.