

"Federation Corner" column
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Clarksburg plan one of many violated by county developers

by Jim Humphrey
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At the end of last June, area newspapers reported on allegations by community residents that the legally enforceable plans for the Clarksburg Town Center project had been violated by the developer, Newland Communities. On July 7, the Board found there were 102 instances where homes were built in violation of the allowed height or required setback from the street. A planning staffer was found to have attempted to cover up the violations by altering legal documents, and she resigned from her job. In October, the Board began a series of hearings on other alleged violations of the Clarksburg Town Center plan, only to halt the process in December and allow the developer and community residents to enter into mediation on how best to complete the project.

Beginning in July, the MCCF began a study to see if there were similar cases in which other projects under development in the county were in violation of Planning Board approved plans. The MCCF Site Plan Enforcement Study was released on August 30, listing seven other building projects in which plan violations were alleged. The study is available on the Federation's [website--www.montgomerycivic.org](http://www.montgomerycivic.org).

On September 6, County Executive Doug Duncan proposed that the authority to enforce development plans approved by the Planning Board be shifted from the Board to the Department of Permitting Services, a government agency the Executive controls. Tom Perez, then Council President, stated he thought the proposal was premature, since we did not yet know the full nature and scope of all the alleged site plan violations and problems with enforcement. Perez' statement seems prophetic now because on September 22 Rose Krasnow, head of the Planning Board's Development Review Division, announced to the Board that her staff had discovered six additional instances of site plan violation. Despite that revelation, Council members Floreen, Denis and Knapp introduced legislation on November 1 to enact the Duncan proposal to shift plan enforcement to DPS.

List of plans with alleged violations

Plans for the following projects were alleged in the MCCF Site Plan Enforcement study to have been violated: Clarksburg Town Center, which is in mediation; Bethesda Crest, where the Planning Board issued a fine; Kings Crossing in Germantown; Layhill Village East; and, the Residences at Rosedale in Bethesda. In addition to these site plan violations, the MCCF alleges violation of the affordable housing requirements for the Kings Crossing project, the Regency subdivision in Leisure World, and the Edgemoor highrise condo building in Bethesda.

Park and Planning staff has alleged violations of the approved Site Plans for the following projects: the Cider Barrel project in Germantown; Seaton Square/Maple Ridge townhomes in White Oak; the U.S. Pharmacopoeia building in Twinbrook; the Highlands at Clarksburg; Clarksburg Village; and, Greenway Village in Clarksburg.

Clean up or cover up?

Since the Clarksburg scandal broke, the Planning Board has held a hearing on only one other project--the Bethesda Crest--in which violations of the approved site plan were alleged, with the Board imposing a nominal fine on the developer. The Board had scheduled a violations hearing for the Maple Ridge townhouse project in White Oak for December, but it has been postponed. And, the Board has not yet responded to a formal request by MCCF for a violations hearing on the Kings Crossing project.

The MCCF Planning and Land Use Committee now suspects that the Board may be attempting to validate violations of the Greenway Village Site Plan after the fact, by authorizing them as acceptable amendments to the plan that was approved years ago. We find this unacceptable, in light of claims by the County Executive and Council members that there must be a thorough investigation of all alleged plan violations. If public confidence is to be restored in the development approval and enforcement processes in this county, citizens must first be given a full accounting of what violations have occurred, how they were allowed to occur, and how an enforcement process that is sound in theory was misapplied.

We ask our County Council members, the officials we elect to represent our interests and insure that our government is run efficiently and honestly, to call for an immediate freeze on Planning Board approval of any amendments to Site Plans in which violations are alleged. The Council's committee that has oversight over planning matters, chaired by Council member Silverman, has been holding bi-weekly worksessions since September on the planning process. To date, this committee has managed only a cursory examination of the failure to enforce Site Plans approved by the Planning Board, focusing primarily on the Clarksburg Town Center debacle. We urge the PHED Committee to undertake a study to uncover the full nature and scope of Site Plan violations in the county, and do it quickly. MCCF also urges Planning staff to detail their allegations of violations in the six Site Plans they identified.

Exposing the failures of government is a painful process for the elected and appointed officials who have this responsibility, as well as for the citizens who feel their trust has been betrayed. However, making a full and public investigation of the problem is a necessary step in the healing process, like taking off a band-aid in order to clean a wound. It can be done slowly and painfully as our officials are now proceeding, with a plodding yet superficial investigation of the nature and scope of the enforcement failures. Or, it can be done quickly but with thoroughness.

It is no wonder elected officials wish to skirt the investigative stage and appear in the forefront of those offering solutions, since this is an election year. But, a full accounting must occur before we can move on to correct the problems, especially before the Council enacts any legislative reforms. Otherwise, we risk attempting to fix a problem we do not fully understand.