

"Federation Corner" column  
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### **Ghost of Diggs Council haunts Gaithersburg annexation of Crown Farm**

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Those who followed county politics in the early '60s will recall the County Council that became known as the "Diggs Council," so named for Kathryn Diggs, the Council President who directed marathon "midnight rezonings" in late November 1966, just before leaving office, where thousands of acres of land were rezoned for higher density for the benefit of many developers, often in conflict with Master Plans. The Washington Post described that Council as "...buffeted by internal dissension and citizen protest since it took office four years ago". All associated with that Council were voted out of office in 1966. The word "Diggs Council" had the same meaning then that "Clarksburg" has for us today. Some who were involved then say that Clarksburg is worse than the Diggs Council; others say the opposite.

What we have today is a developer and a builder who are in a big hurry to have the 180-acre Crown Farm - which is near the Washingtonian and Rio complexes - annexed by the City of Gaithersburg, and who also seem to want to take many shortcuts to do so. Annexations have occurred for many decades. Before 1956, the county government usually decided if an annexation would be permitted, and it usually didn't. That year, municipalities gained new authority which allowed some, like Gaithersburg, to grow at an enormous rate through the '60s, causing one county Planning Board member to claim in 1968 that "If the Town of Gaithersburg had its way, it would annex Montgomery County." In 1966, a developer tried to annex his land into the City to get rezoning for apartments and subdivisions that the County Council refused to grant. He accused the neighboring developer, who owned the Washingtonian complex, and who was a supporter of the Diggs Council, of blocking this effort.

In 1971, state law changed to give back some controls to the county. Since then, if the County Council rejected the rezoning that was usually part of an annexation effort, then the property could not be rezoned by the City for five years. In 1983, a developer seeking annexation was denied his rezoning by both the County Council and the City, largely because of protests by civic associations concerned about congested roads. In 1985, two developers sought annexation, over the objections of the Planning Board, to avoid new county controls on growth. When the City approved the plan, it required the same growth controls as the county. In 1986, the County Council turned down another annexation zoning request. When a 1990 annexation request was made for the Washingtonian and Rio site, the City mayor said that this "would not change the existing county zoning on the property or increase the amount of building permitted on the site."

What makes it different this time is that the Crown Farm owner, while seeking annexation rezoning, is also seeking to be relieved of many county obligations, and appears to have the hands-on support of one County Council member to get out of one of these obligations. The County, unlike the City, would require this developer and builder to follow its Forest Conservation Law, its historic preservation law, its impact tax law, its agricultural transferable development rights (TDR) law, and its Moderately Priced Dwelling Unit (MPDU) law. The seller of the Crown Farm said this about the developer who bought it: "He's from around here," Crown said. "We know him. He seemed like a decent guy." This developer, a well-known Gaithersburg business owner, wants this project to be part of his City. It certainly doesn't hurt that annexation could save tens of millions of dollars in costs.

It is unclear if there will be a binding agreement between the developer and the City to meet these county requirements. The approval process is moving so fast because the developer claims that his financiers expect annexation to be complete by June 1. The City is saying "Trust us" instead of providing a copy of the agreement with the developer. The Planning Board has only focused on the TDR and MPDU requirement, apparently overlooking the efforts of its staff to bring attention to the other important requirements. This is due to the haste with which everything is being handled.

Satisfying the MPDU obligation also looks uncertain, due to a meeting arranged by Councilmember Steve Silverman between the builder and Action in Montgomery (AIM), a large county group that advocates for more affordable housing. According to an AIM leader who attended Mr. Silverman's meeting, the builder indicated that he cannot afford to build any affordable housing but would like to provide some amount of "workforce housing" in its place. Workforce housing is considered to be housing affordable for families earning up to \$100,000 per year. Neither the County nor the City has such a requirement at this time, although Mr. Silverman wants to pass a law to add a County workforce housing requirement IN ADDITION to the MPDU requirement.

Mr. Silverman has spoken and acted in support of affordable housing for years, so it is a mystery why he would have arranged such a meeting. As Mr. Silverman is Chair of the County Council's Planning, Housing, and Economic Development committee, which will review this request next Monday, his action does not appear to bode well for the 225 MPDUs that would be required if this project were built in the county. In fact, the meeting he arranged may have also "poisoned the well" in terms of participants in this process trusting one another. Should we also be concerned about Mr. Silverman's position on the other important county requirements for this project?

Let's hope that Mr. Silverman has a good explanation for his actions. Let's hope that he and the rest of the County Council will take all necessary time to scrutinize every aspect of this massive proposal for 2000 homes and a 300,000 square-foot shopping center, and that any rezoning will also require that all current county policies be meticulously followed by the City. Otherwise, the ghost of the Diggs Council may soon haunt officials who claim to be fixing what Clarksburg shows is wrong with county government.