

"Federation Corner" column
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Legitimacy of Crown Farm annexation is more questionable than ever

by Wayne Goldstein, MCCF 1st VP

Two weeks ago in this column, I detailed a number of concerns with the proposed Crown Farm annexation. Since then, some issues have been resolved but far greater concerns have come to light. While the County Council's Planning, Housing, and Economic Development (PHED) Committee has made a recommendation that includes meeting the county's 12.5% MPDU requirement, it decided not to recommend the purchase of over \$8 million worth of Transferable Development Rights (TDRs) from farmers, but instead to only require a \$1 million contribution to an agricultural easement program. The reason given was that the owner would contribute at least 30 acres for a high school site. This reason makes little sense since there would be no loss of the total number of residential units that could be built as a result of the school land contribution.

While I learned that county impact taxes are actually required everywhere in the county, I was dismayed to see that the PHED Committee was indifferent to the idea that county historic preservation requirements also be followed by the City of Gaithersburg. The England-Crown Farm complex is on the Montgomery County Master Plan for Historic Preservation (MPHP) and the Montgomery County Historic Preservation Commission (HPC) has sole statutory authority for all historic properties on the MPHP in the county. Although the HPC staff has identified at least nine important historic structures in this complex while making other detailed recommendations for the entire complex, the City has stated that it will only require the owner to "preserve and improve" the c. 1894 farmhouse and c. 1850 log house.

There are a number of disturbing discoveries made just in the last few days that strongly evoke the ghost of the Diggs Council in remarkable new ways. I have learned that two of the local partners for the Crown Farm may have violated state campaign finance laws by giving more than the law permits and they have together already given substantial amounts to a majority of the County Council.

Of greater concern is the background of the lead partner of the Crown Farm, KB Homes. This builder, one of the largest in the nation, was identified as the contract purchaser on 7/13/05, applied for annexation on 7/26/05, and went to settlement on 9/20/05. However, on 7/6/05, the Federal Department of Housing and Urban Development (HUD) announced it had reached a \$3.2 million settlement with KB Home Mortgage Company in connection with a series of alleged violations of HUD requirements, the largest settlement in the history of the Mortgagee Review Board. On 8/3/05, the Federal Trade Commission (FTC), under the terms of a stipulation and modified consent decree, required KB Home, a California-based homebuilder formerly known as Kaufman and Broad, Inc., to pay a \$2 million civil penalty to settle charges that it violated the terms of a 1979 consent order with the Commission.

Although, one of the local Crown Farm partners publicly stated that the annexation must be completed by 6/1/06 to meet certain unspecified financial obligations of the partners, I discovered that KB Home announced on 12/15/05 that it had entered into a new five-year \$1.5 billion revolving credit arrangement on 11/22/05, that it could be increased to \$2 billion, that this new arrangement increased such borrowing capacity by 50% with lower interest rates, and that as of 11/30/05, it had only borrowed \$84 million under this arrangement.

Even though KB Home signed the consent decree with the FTC to meet repair warranty requirements last August, an Indiana newspaper in October 2005 reported the opposition of residents to the approval of a project to be built by KB Home because of fears about the quality of the new homes. A website lists four homeowner complaints about KB Home house defects in March 2006. If there were ever problems with KB

Home houses at the Crown Farm, I would have far less confidence in the quality of Gaithersburg building inspection and enforcement than I do with Montgomery County.

Since there are now greater concerns about Crown Farm than even a week ago, it is absolutely essential that the County Council allow itself adequate time to carefully examine all aspects of the annexation and require that all needed safeguards and public policies are put in place. The facts seem to strongly indicate that there should be no financial deadline that KB Home and its partners must meet this June. Since there is a question as to whether an enclave of county land created by the annexed land may violate state law, the County Council should request a new opinion by the Attorney General of Maryland as to the legality of this action. The Council may also want to assure itself that the violations identified by both HUD and the FTC can never happen at the Crown Farm. It may want to insist on its own consent decree with KB Home that it could enforce, rather than looking to federal enforcement, if there ever were violations at the Crown Farm.