

"Federation Corner" column
The Montgomery Sentinel - July 2, 2009

Still waiting for action

by Jim Humphrey, Chair, MCCF Planning and Land Use Committee

The following is a list of issues on which the Federation has sought help from county officials. And, we're still waiting for action.

Record Plat waiver for homes on former agricultural land. The April 17, 2008 Federation Corner column concerned a problem facing home owners on land formerly in agricultural use. There is a county requirement that Building Permits only be issued to properties for which a record plat (a drawing showing its size, shape and location) is on file. For many farms these property specifications appear only in the text of the deed, yet Building Permits have been issued for farmers or their children to build homes on their farms under a waiver of the record plat requirement. But, if the land surrounding a farmhouse or 'child lot' home is no longer being farmed but has been sold for development, then the waiver no longer exists.

Most folks in this situation are unaware of it. Should some damage occur to one of these homes requiring a Building Permit for reconstruction, the owner would find they first need to go through a lengthy, expensive process to hire a surveyor and record a plat before getting a permit to rebuild. In August 2007, we emailed Council member Mike Knapp and other Council members, offering to help identify affected properties and suggesting that the waiver be granted in perpetuity to land that was once in agricultural use...a request of our elected officials for a simple legislative remedy which has yet to receive any action.

Unlawful townhouses at Seaton Square. In a February 2006 session, the Planning Board held a noncompliance hearing for the Seaton Square townhouse project in White Oak, where 45 of the 59 townhouses are taller than allowed by the zoning and approved Site Plan. But, the Board agreed to accept a \$276,750 proffer from the builder, Ryan Homes, in exchange for a finding of no violation. The Board did direct staffer Rose Krasnow to work with the Department of Permitting Services and County Attorney and draft language to be attached to the deeds of each of the unlawfully tall units explaining that, should the units need to be rebuilt for any reason, they can only be constructed to the height of the zone, not the current taller height. Earlier this year, Ms. Krasnow assured me that proposed language was being vetted by an attorney for the Seaton Square homeowners' association and would soon be approved. But, more than three years after the Board ordered it there has still been no language attached to the deeds of the affected townhouses. Meanwhile, new owners are buying resale units oblivious to the restraints that would be imposed should their homes be damaged and need to be rebuilt.

Farm Road. In a Sandy Spring African American enclave, some descendants of the Freedmen found their properties blockaded, landlocked and virtually worthless except to neighboring developers after the Planning Department refused to issue addresses for their properties. One consequence is that the county will not grant a Building Permit to a property with no address. Civic activist Steve Kanstoroom found that the Maryland-National Capital Park & Planning Commission (M-NCPPC) had accepted documents to erase the only road that served the properties for more than 100 years. After Kanstoroom founded SaveSandySpring.org and helped the families publicize their plight, County Executive Ike Leggett urged Planning Board Chairman Royce Hanson to see that addresses were issued and Farm Road re-recognized. This did not occur.

County Attorney Leon Rodriguez contacted a large DC law firm which agreed to represent the families for free. They filed a discrimination and fraud suit against M-NCPPC and those involved with physically blocking Farm Road and erasing it from public records. Krasnow testified in federal court about her refusal to issue addresses. And, the woman who blocked the road admitted she had no ownership or property rights in it. Undeterred, Krasnow testified she couldn't issue addresses because of the dispute.

In October of last year, the road was physically reopened. But M-NCPPC has still refused to issue addresses to the lots along the Farm Road while awaiting the outcome of the lawsuit, leaving the families unable to apply for building permits for additions or other improvements on their properties.

Ending MPDU buyouts. In June of 2007, Council member George Leventhal introduced a bill to end the provision in the Moderately Priced Dwelling Unit (MPDU) law that allows developers to buy their way out of providing required affordable units in their projects. MCCF has long sought elimination of MPDU buyouts, and we publicly expressed our thanks to Mr. Leventhal at the Council hearing on his bill which took place two years ago. Since then, a similar bill to end MPDU buyouts was introduced in Council at the request of County Executive Ike Leggett. But the Council committee with jurisdiction over the bills, which is chaired by Council member Mike Knapp, has yet to report either bill out to the full Council for a vote.

Clarksburg carousel. In May 2008, Kathie Hulley penned a Federation Corner column detailing the history of a carousel which was purchased as a condition of the deeding of land for the creation of Ovid Hazen Wells Park in Clarksburg. The terms of the 1981 deed stipulated that the carousel should be bought and placed in another county park until the Clarksburg park was serving sufficient numbers of users to justify relocating the carousel. In 1982, the carousel was purchased as decreed and placed in a temporary location in Wheaton Regional Park. Thousands of families are now living in Clarksburg, Gaithersburg, Germantown and Damascus, many with children who would delight in a carousel nearby. Last year, the Parks Department estimated that funding would likely not be available for the relocation until 2015. Nothing has been done to move the schedule forward, and the children are waiting.

The views expressed in this column do not necessarily reflect formal positions adopted by the Federation. To submit an 800-1000 word column for consideration, send as an email attachment to theelms518@earthlink.net