

**PETITION FOR RECONSIDERATION OF THE RESOLUTION CONCERNING
WOODFIELD COMMONS (No. 120150170, December 17, 2015,
Montgomery County Planning Board)**

MCPB No. 15-153 Preliminary Plan No. 120150170

MCPB No. 15-154 Site Plan No. 820150090

Submitted by Seth Gottesman

Signed



Date: 1/29/2016

Seth Gottesman

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THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PETITION FOR RECONSIDERATION OF THE RESOLUTION CONCERNING WOODFIELD COMMONS (No. 120150170, December 17, 2015, Montgomery County Planning Board)

MCPB No. 15-153 Preliminary Plan No. 120150170

MCPB No. 15-154 Site Plan No. 820150090

Submitted by Seth Gottesman

This petition presents evidence for reconsideration by division into the following categories:

- Conflicts with the Damascus Master Plan
- Errors or omissions from the Damascus Master Plan
- Procedural errors and inadequacy
- Due process
- Points of contention

Section 1 --- Conflicts with the Damascus Master Plan

1.1 Wetlands

The applicant proposes encroachment both into the wetland and wetland buffer on this property. The applicant's Wetland Impact Statement of Justification, which is included on pages 80-119 of the December 4th Montgomery County Planning Department staff report ("staff report"), is severely flawed.

The state guidelines direct that the minimum buffer width of 25 feet is to be expanded up to 100 feet around certain wetlands of special state concern, and around those with adjacent areas that contain steep slopes or highly erodible soils.

The applicant's response (page 85 of the staff report) to the State's requirement is that the wetland does not possess any characteristics that would identify it as a wetland of special State concern. Further, it states that the area adjacent to the isolated wetland does not contain steep slopes and the soils are not highly erodible.

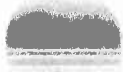
In fact, this property contains both a steep slope and highly erodible soils. The applicant admits to the presence of the steep slope on page 86 of the staff report in its contradictory statement, that "A steep (greater than 3:1), 20 foot high slope runs the entire length of the northern property line of the rectangular portion of the site." Incredibly, the existence of this greater than 33% slope is used as a constraint that the builder argues forces it to have to encroach on the wetland and its buffer area. Please note in Exhibit C - Constraints Plan (page 113 of the staff report) that the applicant has clearly identified the STEEP SLOPE, highlighting it in red, and that this area IS adjacent to the wetland.

Per the Environmental Guidelines document of the City of Rockville, the soil that is most prominent on this property, including the majority of the sloped area - 9c Linganore Hyattstown channery silt loams - is considered highly erodible (see Appendix E of that document). A soil map for this property is included below (and is in agreement with the soil types listed on page 120 of the staff report, and as shown on the Natural Resources Inventory & Forest Stand Delineation provided to the applicant by the Maryland Department of Natural Resources).

The Army Corps of Engineers states in Exhibit B of the Statement of Justification that it does not have jurisdiction over the proposed parcel, since no work is proposed in, over, or under navigable waters. Astonishingly, the

applicant uses the Corp's statement of *non jurisdiction* as the basis for its argument that the wetland is not of *extraordinary quality or environmental sensitivity*, and, therefore, that the planning staff need not recommend deferral of final approval of its development plans. One has nothing to do with the other, yet the applicant made the argument and the Planning Department staff fully accepted it.

The Corps advised the applicant that the Maryland Department of the Environment should be informed of this proposal, and the applicant claims to have done so, but has provided no evidence of having taken such action. By law, that department needs to either issue a permit or a letter of exemption. The staff report (page 19) states, "While the Army Corps of Engineers and the Maryland Department of the Environment have refused to take jurisdiction over the wetland, the Environmental Guidelines direct Staff to consider appropriate protection measures for this resource." The Planning Department staff suggests that the Maryland Department of the Environment was contacted *and* replied, yet does not include any such correspondence in the documentation accompanying the Site Plan for this project on the Planning Department website. We have since received written confirmation specifically from the Maryland Department of the Environment stating that no such contact was in fact made.



MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard Baltimore MD 21230

MDE

410-537-3000 0 1-800-633-6101 0 www.mde.maryland.gov

Larry Hogan
Governor

Ben Cumbles
Secretary

Boyd Rutherford
Lieutenant Governor

January 14, 2016

Mr. Jason R. Goldsmith
25123 Vista Ridge Road
Gaithersburg MD 20882

RE: Tracking Number: 2015-64326
Request Received December 24, 2015

MISCELLANEOUS PIA RECORDS

with old answers

Dear Mr. Goldsmith:

The Maryland Department of the Environment (MDE) received your recent request for information under the Public Information Act (PIA).

After conducting a thorough search of our files, the Water Management Administration has no records responsive to your request. There were no charges incurred as a result of this search.

When requesting information regarding this request, please cite the tracking number referenced above. If you have any questions, please call me at (410) 537-3507.

Sincerely,

b/lm/z9 *Donaldson*

Wendy Donaldson

Science Services Administration

Related to this issue, is the little regard that has been given to this lot's nearly 1 acre of forest. Despite staff's inspection of tree-save areas and protection devices prior to clearing, and the builder's best efforts to protect, it is often the case that more trees than desired are damaged during construction, and those that do survive are often compromised by the construction process, and later die. The forest worksheet calculations detail that the builder will clear a significant portion of the forested land, which, for this purpose is recorded as 100% clearing. The removal of trees, and the disruption of the roots and the soil of the forested property will only accelerate erosion of the sloped area, and lead to both contamination of the stormwater management device and further decimation of the wetland.

Further, the applicant is under no obligation to save any trees, since it was stated that all trees will be counted as cleared. This would remove any sightline protection from the houses on Beale Avenue.

Finally, it is important to note that whereas the Maryland Department of Natural Resources Wildlife and Heritage Service found no State or Federal records for rare, threatened or endangered species within the project site, and therefore gave no requirements for protection measures, it did point out that that should not be taken to mean that rare, threatened or endangered species are not in fact present and, further, that if appropriate habitat is available, certain species could be present without documentation because adequate surveys have not been conducted. With that in mind, every effort should be made to protect this lot's resources.

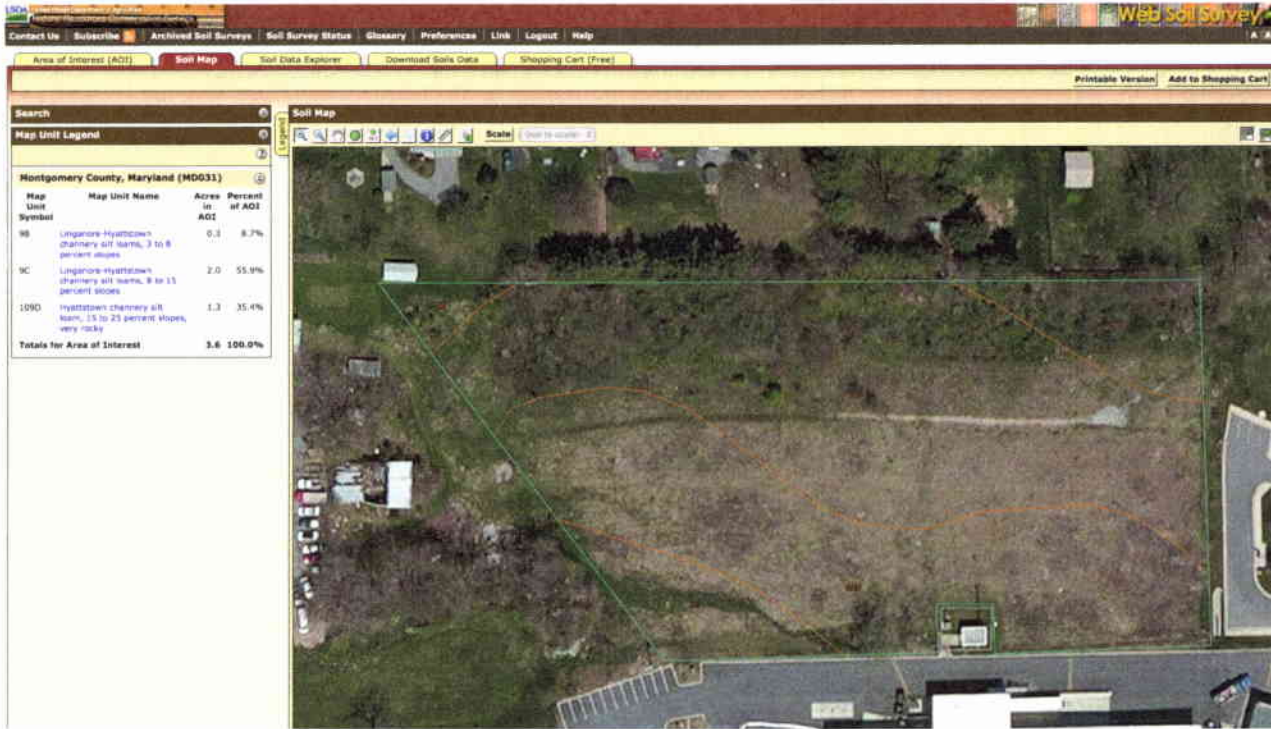
Despite the facts that the applicant has misinterpreted the requirements and its obligation to satisfy them, the Planning Department staff has only facilitated this maneuvering, and the Planning Board didn't care to pay attention to this issue when it was brought to its attention during public testimony on December 17. This is not something that can be overlooked. The wetland needs more protection than the apparent rubber stamping that has occurred thus far. At a minimum, that protection should include allowing the State of Maryland Department of Environment to weigh in on the matter. The presence of the steep slope and highly erodible soils direct that wetland buffer be increased from its current 25 feet to as much as 100 feet, and that has not been done. To date, the only adjustment in the size of the buffer has been to decrease it by encroachment.

The below soil survey was conducted on 12/29/15 using web soil survey app at:
<http://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

Input area:



Results:



9B—Linganore-Hyattstown channery silt loams, 3 to 8 percent slopes

Map Unit Setting

National map unit symbol: kxbh
Elevation: 330 to 2,000 feet
Mean annual precipitation: 35 to 50 inches
Mean annual air temperature: 45 to 57 degrees F
Frost-free period: 120 to 220 days
Farmland classification: Farmland of statewide importance

Map Unit Composition

Linganore and similar soils: 50 percent
Hyattstown and similar soils: 30 percent
Minor components: 20 percent

Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Linganore

Typical profile

H1 - 0 to 11 inches: channery silt loam

Properties and qualities

Slope: 3 to 8 percent
Depth to restrictive feature: 20 to 40 inches to paralithic bedrock
Natural drainage class: Well drained
Runoff class: Very high
Capacity of the most limiting layer to transmit water (Ksat): Very low (0.00 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: Very low (about 1.5 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 3e
Hydrologic Soil Group: C

Description of Hyattstown

Typical profile

H1 - 0 to 9 inches: channery silt loam

Properties and qualities

Slope: 3 to 8 percent
Depth to restrictive feature: 10 to 20 inches to paralithic bedrock
Natural drainage class: Well drained
Runoff class: Very high
Capacity of the most limiting layer to transmit water (Ksat): Very low (0.00 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: Very low (about 1.6 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 3s
Hydrologic Soil Group: D

Minor Components

Occoquan

Percent of map unit: 15 percent

Baile

Percent of map unit: 5 percent
Landform: Flats

9C—Linganore-Hyattstown channery silt loams, 8 to 15 percent slopes

Map Unit Setting

National map unit symbol: kxbj
Elevation: 330 to 2,000 feet
Mean annual precipitation: 35 to 50 inches
Mean annual air temperature: 45 to 57 degrees F
Frost-free period: 120 to 220 days
Farmland classification: Farmland of statewide importance

Map Unit Composition

Linganore and similar soils: 50 percent
Hyattstown and similar soils: 30 percent
Minor components: 20 percent

Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Linganore

Typical profile

H1 - 0 to 11 inches: channery silt loam

Properties and qualities

Slope: 8 to 15 percent
Depth to restrictive feature: 20 to 40 inches to paralithic bedrock
Natural drainage class: Well drained
Runoff class: Very high
Capacity of the most limiting layer to transmit water (Ksat): Very low (0.00 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: Very low (about 1.5 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 4e
Hydrologic Soil Group: C

Description of Hyattstown

Typical profile

H1 - 0 to 9 inches: channery silt loam

Properties and qualities

Slope: 8 to 15 percent
Depth to restrictive feature: 10 to 20 inches to paralithic bedrock
Natural drainage class: Well drained
Runoff class: Very high
Capacity of the most limiting layer to transmit water (Ksat): Very low (0.00 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: Very low (about 1.6 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 3e
Hydrologic Soil Group: D

Minor Components

Occoquan

Percent of map unit: 15 percent

Baile

Percent of map unit: 5 percent
Landform: Flats

109D—Hyattstown channery silt loam, 15 to 25 percent slopes, very rocky

Map Unit Setting

National map unit symbol: lx72
Elevation: 330 to 2,000 feet
Mean annual precipitation: 35 to 50 inches
Mean annual air temperature: 45 to 55 degrees F
Frost-free period: 120 to 220 days
Farmland classification: Not prime farmland

Map Unit Composition

Hyattstown and similar soils: 90 percent
Minor components: 10 percent

Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Hyattstown

Typical profile

H1 - 0 to 9 inches: channery silt loam

Properties and qualities

Slope: 15 to 25 percent
Depth to restrictive feature: 10 to 20 inches to paralthic bedrock
Natural drainage class: Well drained
Runoff class: Very high
Capacity of the most limiting layer to transmit water (Ksat): Very low
(0.00 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None
Frequency of ponding: None
Available water storage in profile: Very low (about 1.6 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 4e
Hydrologic Soil Group: D

Minor Components

Baile

Percent of map unit: 5 percent
Landform: Flats

Linganore

Percent of map unit: 5 percent

Maryland Code concerning Expanded Buffers:

<http://www.dsd.state.md.us/comar/comarhtml/26/26.23.01.04.htm>

26.23.01.04

.04 Expanded Buffer.

A. Nontidal wetlands for which the buffer shall be expanded to 100 feet by regulation are:

- (1) Nontidal wetlands of special State concern; and
- (2) Nontidal wetlands with adjacent areas containing:
 - (a) Steep slopes; or
 - (b) Highly erodible soils; and
- (3) Outstanding National Resource Waters (ONRW).

B. Nontidal Wetlands of Special State Concern.

(1) The following criteria shall be used by the Department to designate nontidal wetlands of special State concern that:

(a) Provide habitat or ecologically important buffers for the habitat of plant or animal species:

(i) Listed as endangered or threatened by the U.S. Fish and Wildlife Service;

(ii) Listed as endangered or threatened, or species listed as in need of conservation by the Department of Natural Resources; or

(iii) Considered to be a candidate for listing by the U.S. Fish and Wildlife Service, or considered to be locally unusual or rare by the Department of Natural Resources; or

(b) Are unique natural areas or contain ecologically unusual natural communities.

(2) Nontidal wetlands of special State concern are designated in COMAR 26.23.06.01.

C. Nontidal Wetlands with Steep Slopes and Highly Erodible Soils.

(1) The following criteria may be used by the Department in designating nontidal wetlands with steep slopes or highly erodible soils:

(a) Slopes immediately adjacent to the nontidal wetlands in excess of 15 percent; or

(b) Soils adjacent to a nontidal wetland with an erodibility factor greater than 0.35 as determined by the United States Soil Conservation Service.

(2) Specific nontidal wetland sites with steep slopes and highly erodible soils identified by the department shall be designated by regulation.

1.2 Sight Lines

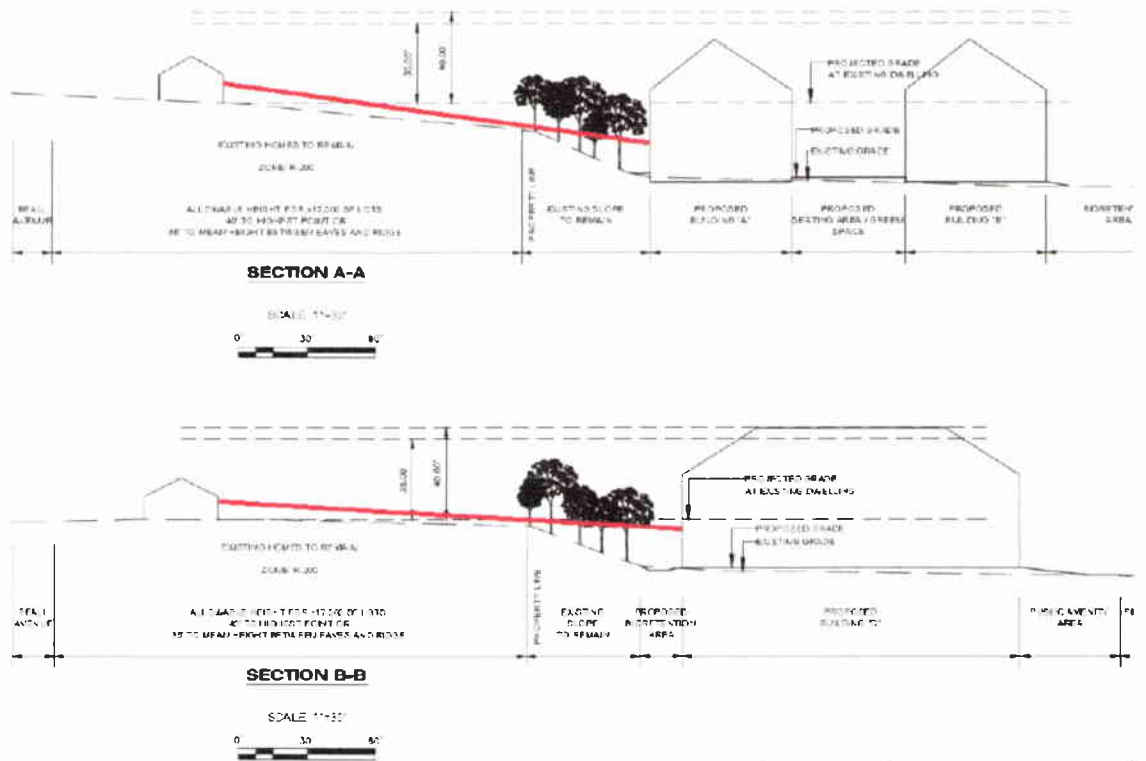
The Master Plan for Damascus specifies that:

Special Exception Guideline for Rural Vista Protection

To ensure careful consideration of the long rural vistas that are a unique aspect of this community, this Plan strongly encourages the protection of the rural vistas that are intrinsic to the character of the Damascus vicinity. This is a town set on a hill, and the long vistas outside the Town Center provide the most distinctive visual element for the community. Land uses that impede those vistas should be discouraged. Because of the uniqueness of the rural areas surrounding Damascus that are at the highest elevations in the County, this Plan recommends language in the Implementation Chapter to guide review of special exception uses proposed in the Transition and Rural Areas.

The plan specifies that all of the trees shielding the proposed development from the properties on Beale Avenue may be cleared. Even though the developer claims that they will try to keep as many trees as possible, this is not guaranteed. The town would have no recourse should this happen. Planting forests off site would not ameliorate this problem.

Notice in the below drawings how dominant the proposed buildings are for the residents of Beale Avenue. The impact of these buildings is not limited to the fourth floors and roofs as is suggested in the staff report.



1.3 Zoning

The master plan specifies MXTC zoning for the Town Center. The CRT zone was adopted after the MXTC zone was retired. However, the replacement CRT zoning allowed a higher density than that of the original master plan. MXTC had a maximum density of 8 dwelling units per acre using the standard method.

The CRT zone allows for 20 dwelling units per acre, the proposed Woodfield Commons project is to be located on a 3.88 acre plot which would equal a total of 78 units. There are, however, 84 units proposed in this project. The increase of 6 units is being accomplished by including density from an additional 4.94 acres that was originally part of this parcel that was deeded over to the county and subsequently paved over by the Woodfield Road extension. While this is technically allowed it certainly does not seem to be the intent of the master plan.

Master plan text:

The MXTC Zone or MXTC/TDR Zone will be used for all properties in the Town Center. This mixed use zone will establish town-scale development that emphasizes the scale, proportion, design, and architectural context of structures, rather than separation of uses. The zoning allows a broad range of uses, but with density and review standards appropriate for this small town setting. The MXTC Zone will allow appropriately scaled

development that emphasizes how structures fit into the town center context rather than focusing on the uses within the structures. It will allow a very broad range of residential, commercial, light industrial, service, and institutional uses, but it will require site plan review for most new structures and major structural modifications. The range of uses allowed will limit certain uses previously allowed that are not appropriate for a small town context, and will encourage mixed-use structures that can more easily evolve over time as market demand changes. The MXTC/TDR is recommended for properties where the existing zoning is a lower density residential zone and for split zoned properties or jointly-owned properties where a portion of the property is a lower-density residential zone.

The conversion of the zoning from MXTC to CRT 1.5 increased the effective density in contradiction to the desires of the Master Plan. For true compatibility the optional method must be used and therefore public amenities must be provided. There are none in the proposal.

Section 2 --- Errors or omissions from the Damascus Master Plan

2.1 Density

Damascus Bypass

In 2006, when the Master Plan was under development, there was a proposal to construct a bypass around Damascus to ease congestion in the town center. The Master Plan was approved and then later the bypass proposal was abandoned. The densities permitted in the town center were not updated when the bypass was abandoned.

During the hearing of 12/17/2015, the Chairman of the Planning Board asked Fred Boyd (the Master Plan Supervisor for Area 3) whether density limits were adjusted after the bypass was abandoned. He said they were not and no further questions were asked.

Increased Traffic on State Highway 27

In addition, according to County Councilman Craig Rice, there is no money available to widen State Highway 27 around Damascus. The construction in Clarksburg has generated increased traffic and Route 27 is used as a connector by commuters between Interstate 70 and Interstate 270. The density limits were not altered at all by these events and factors.

Developments adjoining existing single-family development

Master Plan text:

Residential Uses – This Plan recommends that careful attention be given at the time of subdivision or site plan to proposed new residential development that directly adjoins existing single-family residential development, ensuring compatibility of scale, height, and proportion. Such review may limit development potential below that allowed in the zone.

The proposed buildings will be the largest structures in the town center. The building height is 55 feet, equivalent to five stories packed into part of a 3.88 acre parcel.

Actual Density vs. Legal Density

The actual density of the housing units in the 3.88 acre parcel is almost 22 units per acre, above the density limit of 20 units per acre. This is possible since the land owner ceded land to construct the Woodfield Road extension and this land counts in the density figures. This seems to violate the spirit of this rule because the ceded land was not in the parcel to be developed.

CRT Zones --- Text from Zone definitions

In the CR and CRT zones, an upper limit for density is set by the zoning map and developers must provide public benefits to be allowed to develop to that limit.

What are the public benefits?

Building Orientation

Master plan Text:

Building Orientation – As also noted in the recommendations for increasing Main Street identity, buildings within the Town Center should be street-oriented. Storefronts should be oriented to make the uses inside visible from the sidewalk. Residential buildings should have entrances facing the street in order for visitors to instinctively know where to enter, to encourage social interaction, and to promote natural surveillance and safety.

2.2 Senior Housing

Master Plan Text:

Housing

To support a range of housing options, this Plan recommends providing moderate-density development within the Town Center, including senior housing opportunities. Beyond the Town Center, the small town character of Damascus will be maintained through limited additional density, and the use of small-lot clustered development that will create a distinct edge between urban and rural areas.

Senior Housing – Existing options for seniors (independent and assisted housing) are limited in the Damascus area. Specialized housing for elderly residents in Damascus currently consists of two group homes that can accommodate a total of 15 residents. There are only three additional group homes in the rural up-county area: one each in Poolesville, Clarksburg, and Barnesville. Together, these facilities can accommodate a total of 20 residents. There are no nursing homes or age restricted apartments in the area.

During the review of the Damascus Master Plan, residents requested commercial, senior housing or green space. Instead, the parcel was zoned CRT, with no restrictions on residents' age.

2.3 No Need for Additional Affordable Housing

The Introduction to the Master Plan states:

The community of Damascus offers one of the most balanced housing markets in the County, offering a diversity of housing types and prices. Affordably priced housing in a small town setting, convenient access to employment centers, and the surrounding agricultural and rural open space have attracted and retained an increasing number of young families in recent years.

The Housing Analysis Section of the Master Plan states:

Housing Prices

New single-family detached houses have been the most expensive category in Damascus in recent years, and the only one to exceed Countywide prices. Although resale housing accounts for almost all of housing sales, the number of new single-family detached dwellings have increased in the past couple of years. Most of these have been in low-density developments within the Rural Transition portion of the eastern side of the Plan area. Although these homes are significantly higher in price compared to Countywide averages, Damascus generally has more affordable housing options than most other areas of the County.

Research shows that Damascus has an abundance of low-income or subsidized housing, which include the following:

| | |
|----------------------|--|
| Damascus Gardens: | 104 units (H.U.D. funded) |
| Angela Court | 5 units (H.O.C. funded) |
| Valley Park Terrace | 2 units (H.O.C. funded) |
| Coltrane Drive | 2 units (H.O.C. funded) |
| Lasalle Court | 1 unit (H.O.C. funded) |
| Ambergate Way | 7 units (H.O.C. funded) |
| White Pillar Terrace | 8 units (H.O.C. funded) |
| Sir Barton Circle | 5 units (H.O.C. funded) |
| | |
| Total: | 134 residences (H.O.C. or H.U.D. funded subsidized low income housing) |

Almost all of the affordable housing in Montgomery County is concentrated in Damascus, Gaithersburg and Germantown. Bethesda and Potomac have almost no affordable housing. Affordable housing is a laudable objective, but the entire county must participate equally.

Given all of the above points, there does not appear to be any justification for the need for additional low-income housing in the Damascus town center?

Section 3 --- Procedural errors and inadequacy

3.1 Traffic

The traffic impact study predicts trip generations of 30 trips out during the AM peak and 26 trips in during the PM peak. In a development of 84 rent-subsidized units, the residents must surely have to commute to their work-places and probably more than one member of a household would work. There are virtually no local jobs available to mitigate this assumption.

3.2 Parking

There are 95 parking spaces provided for 84 units. This would leave only 11 parking spaces for those families that have two or more cars, for visitors, and others. If we look to the future, when the Low Income Housing Tax Credit (LIHTC) affordability expires, and examine the scenario where only 12.5% of the units are MPDU, we get a much larger number of vehicles that have to be accommodated - 122. It is unreasonable to assume that our already clogged roads can accommodate an additional 122 vehicles or that a shortage of 27 parking spaces is acceptable.

Nevertheless, this certainty has been entirely overlooked in the staff report, as has the fact that when the 12.5% MPDU requirement lapses, 126 vehicles will need to be accommodated! That is a deficit of 31 parking spaces.

Again, the county guidelines are inadequate for this type of housing unit, where the vast majority of residents will commute to work. Households with teenage children will further increase the need for parking spaces. The public transportation consists of one bus line that goes to the Shady Grove Metro Station. The service ends at 8:22 PM and does not run on weekends. Going from Damascus to Germantown would involve about 90 minutes of travel. Consequently, the number of parking spaces required is vastly underestimated.

This situation is exacerbated by the fact that there is no parking available on either Woodfield Road extended or on State Route 27 and very few on main street. The residents will be forced to park at the Safeway Shopping Center or the Post Office which would certainly not be appreciated by the businesses or agencies there.

3.3 H.O.C. Involvement

The Planning Board asked why this project had such a high percentage of low-income housing. The attorney for Conifer got very aggressive and told the Board that they are not allowed to even discuss the matter. In reality the reason is only self-interest and not a concern for the community. Conifer receives Low-Income Housing Tax Credits of \$1.4 million and \$2 million in Approved Rental Housing Funds and the future tenants will be subsidized. The Montgomery County HOC testified that they do not own the apartments and hinted that they were not responsible. However, text from the HOC Agenda says:

Woodfield Commons

On December 17, 2014, HOC received word that Woodfield Commons, an 84-unit multifamily community to be built in Damascus in partnership with Conifer, was awarded an allotment of competitive 9% Low Income Housing Tax Credits. Sale of these

credits will generate much-needed capital to construct the high-quality, high-density garden community within Damascus' Town Center. Approximately 90% of the units will be held as affordable at rents ranging from 30% of the Area Median Income ("AMI") to 60% of AMI. The proposed project has been warmly received by both Councilmember Craig Rice and the County's Department of Planning with its units available to a broad 22 2 mix of incomes and its delivering relatively high-density rental product near to the core shopping, services, and transportation for the Damascus area. With the award in hand, the Conifer-HOC team will begin the design and development process with a target construction start date in the first quarter of Calendar Year 2016.

Notice that Craig Rice and the Planning Department "warmly received" the project. Is it appropriate for a councilmember to be involved as an advocate for a private developer?

Further, the HOC writes:

C. Ratification of Approval to Participate in Application for 9% Low Income Housing Tax Credits as a Source of Funding for Woodfield Commons Project and to Commit Funding of \$350,000 from the OHRF

– The following resolution was approved. RESOLUTION: 14-95-R RE: Ratification of Approval to Participate in Application for 9% Low Income Housing Tax Credits as a Source of Funding for Woodfield Commons Project and to Commit Funding of \$350,000 from the OHRF WHEREAS, the Housing Opportunities Commission of Montgomery County ("Commission"), a public body corporate and politic duly organized under Division II of the Housing and Community Development Article of the Annotated Code of Maryland, as amended, known as the Housing Authorities Law, is authorized thereby to effectuate the purpose of providing affordable housing, including providing for the acquisition, construction, rehabilitation and/or permanent financing or refinancing (or a plan of financing) of rental housing properties which provide a public purpose; and WHEREAS, Conifer, LLC ("Developer") proposes to construct a new, 84-unit multifamily affordable rental apartment community located in Damascus Town Center, bounded by High Corner Street to the south, west of Woodfield Road, and east of Ridge Road, to be known as Woodfield Commons ("Woodfield Commons"); and WHEREAS, at an Executive Session duly called and held on September 3, 2014, with a quorum being present, HOC duly adopted Resolution 14-95, which authorized the Commission to participate in the submission of an application ("LIHTC Application") to the Maryland Department of Housing and Community Development ("DHCD") for an allocation of 9% Low Income Housing Tax Credits ("LIHTC") as a source of financing for the acquisition and construction of Woodfield Commons and to execute a commitment letter for \$350,00 from the Opportunity Housing Reserve Fund for Woodfield Commons; and WHEREAS, on September 9, 2014, the Developer and Commission submitted the LIHTC Application to DHCD; and WHEREAS, the Commission wishes to ratify and affirm, in an open meeting, the action undertaken by the Commission in adopting Resolution 14-95 and submitting the LIHTC Application. NOW, THEREFORE, BE IT RESOLVED that the Housing Opportunities Commission of Montgomery County hereby ratifies Resolution 14-95 and the submission of the LIHTC Application.

The H.O.C. is actually a partner in the development through the Opportunity Housing Reserve Fund (OHRF). All of this was accomplished without any community participation or notice. There was no due process available to the citizens of Damascus.

3.4 Level of Low-Income Housing

Damascus is a diverse community and welcomes residents of all income levels and we agree that the county 12.5 % level for low income housing is optimal since it doesn't isolate low-income residents in a separate enclave, but would make those residents more a part of the community. The Housing Opportunities Commission has abandoned the practice of building largely low-income developments. The residents in the proposed development would have no connection with the town, since the development faces the Safeway Loading Dock and the rear of the Post Office. They would be housed effectively at a density greater than the upper recommended limit. The density is so high that the developer requested a zero foot setback from the Post Office, and was granted the setback by the Planning Board. By a more sensible mix of low and market value housing, a more diverse neighborhood could be created.

The citizens of Damascus do not agree that some issues cannot be discussed. A discussion of crime statistics in Low Income Housing Developments does not imply racism on the part of the town since low-income tenants comprise all races and ethnicities. On the contrary, Damascus is currently comprised of an excellent mix of races and we continue to welcome all citizens into the community. We are only opposed to warehousing them in a high density conclave.

3.5 Conifer Realty Misleading Testimony

When asked by the Board whether Conifer would consider mixed use, Ms. Zuninga said that Conifer only executed residential projects, but their website has a section for Commercial Properties (Wincoram Commons, Coram, NY).

Section 4 --- Due Process

4.1 Notification of Development Application

The notifications of development applications were posted in the Post Office parking, facing the wrong direction for patrons to have noticed and behind the Safeway store, blocked by the cement base of a lamp pole, thereby not adequately providing due process for the citizens of Damascus. The first picture shows the sign facing backwards on a one-way parking lot exit from the Post Office. The second picture shows how the sign posted at the rear of the Safeway is obscured.





Section 5 – Points of Contention

5.1 Intimidation

Councilmember Craig Rice telephoned officer George Boyce and his superior, Captain David Gillespie of the Montgomery County Police Department after making comments about crime in Low Income Housing Developments at the Baker Middle School Meeting presided by Montgomery County Planning Department Staff. Officer Boyce stated that he was NOT representing the police department. Mr. Rice claimed that Officer Boyce's comments were not appropriate for a county employee. Officer Boyce bravely presented testimony at the December 17th Hearing. Again he was not in uniform and stated clearly that he was not representing the police department. Officer Boyce is a senior member of the force and has received many awards.

It is inappropriate for a Montgomery County Councilmember to be an advocate for a private developer, and it is reprehensible that a Councilmember would have the audacity to attempt to influence the outcome of the Planning Board's deliberations by intimidating a member of the public who just happens to be an employee of the County

5.2 Advocacy

It was also mentioned in the H.O.C. Agenda (section 3.3 above), that the Planning Department warmly received the project. Also, the Baker Middle School presentation was an attempt on the part of the planning staff to "sell" the community on this project. Again, is it appropriate for the staff to be an advocate for a private development concern? How is a fair hearing possible when the planning staff recommends approval of a project to the board and when they are advocates for a proposal?

It is a duty of the Planning Staff and the Planning Board to not only serve developers but to serve the citizenry. If the Department were unbiased, they would have invited the citizens at Baker Middle School to participate, with the staff, on a procedure that could result in a more balanced treatment of the proposed development.

5.3 Petition

As of 12/28/2015 440 signatures were collected to slow the development of Woodfield Commons, and 830 signatures were obtained to update the Master Plan for Damascus.

Warehouses the Tenants

Current thinking is to mix affordable and market rate housing so as not to create isolated enclaves. Damascus Gardens in Damascus is such a development and the police have testified that there is a considerable crime problem requiring extra police personnel.

Even from the point of view of its residents, this project will be a mistake.

These are huge buildings, five stories high, crowded against the property line of a relatively small lot. Not only are they bigger than any structure of any kind in Damascus, they are larger than any other residential structure in the entire upcounty. They are urban structures, hidden from the street, removed from the life of the town, and facing only the back of a supermarket.

For the people living there, they will effectively cut off communication and participation in Damascus' daily life. The residents will be forced to create a culture only among themselves. Any hope they might have had of enjoying small town life will be denied them, because they will be forced to live in an urban environment. It's not that we won't welcome them: we are a friendly town, and we will. It's that the design of their development will make it impossible. And impossible for them to reach out to us.

Smaller buildings, two or at most three stories, and set into a more open design would make communication and integration into the existing community much easier. Good design certainly makes for better lives, and openness and access create community. This is one of the lessons that was learned from Damascus Gardens, another development shut away from the rest of our town. Smaller, more open, more accessible buildings would be to everyone's advantage.