

Daniel Meijer

April 9, 2023

Montgomery County Council
c/o Montgomery County Council President Evan Glass
100 Maryland Avenue, 6th Floor
Rockville, MD 20850

Dear Montgomery County Council Members,

I am writing to request that funding be restored to the Office of the People's Counsel (OPC), an agency that is authorized by the County Code to represent the public interest in the County's land use regulatory process. The County Executive has recommended renewed funding in his FY23~~4~~ Recommended Budget. Continuing to withhold funding for this agency is not in the public interest and defunding the OPC has led to an imbalance of representation on issues related to land use.

In contrast, I believe that legislation such as Bill 18-23 (that propose to remove OPC and its powers from the Montgomery County Code) may likely tilt the development process towards the influence of developers and well-heeled campaign contributors.

OPC had served to protect the public interest in land use hearings by promoting full and fair representation of relevant issues to achieve balanced administrative records. OPC had also provided technical assistance to residents so that they can effectively participate in the County's land use control process. For example:

Exhibit 1, a Washington Post article titled: "Clarksburg: A New Word for Rip-Off", which serves as a reminder for why OPC was enacted then and continues to be needed now in this County (considering the recent exposed problems of the M-NCPPC Planning Board).

Exhibit 2, a web posted article describing the unfortunate: "Farm Road Case" that subsequently resulted in expensive (including public funded) litigation – perhaps avoided had an OPC been enacted in this County at that time?

Thus, just funding the OPC (NOT enacting Bill 18-23) helps restore a balance of trust and integrity to the planning and public engagement process – particularly needed at this time (given the recent problems with some of the Montgomery County Planning Board Commissioners).



Clarksburg: A New Word for Rip-Off

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By **Michele Dyson**

September 18, 2005

"Sounds like Clarksburg to me," said Allan L. Myers, head of the Maplewood Citizens Association, in commenting about Montgomery County's planning and approval process involving some townhouses in Bethesda.

Myers did not have to explain what he meant by "Clarksburg." The county's planning and approval shenanigans have become that notorious.

Since a multitude of other violations of county planning in Clarksburg and elsewhere have come to light in recent months, county officials have been blowing as much smoke as an unmaintained bus. First, they said the unfortunate circumstance in Clarksburg -- where hundreds of townhouses were built too close to a street and exceeded height restrictions -- was an innocent mistake by an overworked but well-meaning zoning staff.

When that didn't fly, they blamed poor management and lax implementation. And when that dog refused to hunt, too, County Executive Douglas M. Duncan (D), perhaps fearing that the burgeoning scandal might harm his run for governor, declared that shifting all authority to the Department of Permitting Services would "fix" the problem [Metro, Sept. 7].

While the scandal is only about three months old, the practice of greasing the skids for developers who make generous campaign donations has been going on for years in Montgomery County.

The planning and zoning process in the county is governed by a tightly controlled trinity: the Department of Permitting Services, under the iron grip of Duncan; the Montgomery County Council's Committee on Planning, Housing and Economic Development, whose chairman, Steven A. Silverman (D-At Large), is a candidate for county executive; and the planning board, whose chairman, Derick Berlage (D), is a former council member. Until recently, this trinity routinely catered to developers and stiff-armed those citizens the developers considered to be pests.

Doubt that? Consider the trinity.

When the Clarksburg residents who uncovered hundreds of code violations involving new townhouses wrote to Duncan about their discoveries, they got a form letter back thanking them for their interest.

Duncan has been the development industry's perpetual dinner guest throughout his political career. His hosts have poured millions into his campaigns and now are helping to underwrite his bid for governor.

Silverman's response to the Clarksburg scandal was to claim he knew nothing about any zoning violations there. The developers have been nearly as generous to Silverman as they have been to Duncan, helping him raise nearly \$1 million for his race for county executive.

And when council member Michael Knapp (D-Upcounty), whose district includes Clarksburg, asked Berlage to look into the allegations, the planning board chairman told Knapp everything was fine.

When Berlage was named chairman of the planning board, Duncan gave him his personal approval, and Silverman called him an "outstanding choice." How true.

Berlage is a great piece of presentation software. At public meetings, nobody in Montgomery County is better at talking about smart growth, rural-area preservation and the need for affordable housing. But Berlage also is adept at making sure that when the public meetings end, his planners can undo any trouble that surfaces there. So it's little surprise that Berlage has taken Clarksburg behind closed doors [Metro, Sept. 9]. It's where he does his best work.

A few dozen zoning violations are a problem; a few thousand are a pattern. Duncan, Silverman and Berlage have been in authority for more than 1,000 days, and as it turns out, each one of those days averaged about three zoning violations. But these three county officials and their professional planners denied any violations. Citizens had to track down the violations, which have led to a new definition of "Clarksburg":

Clarksburg (klarks burg) n. 1 The place where uncovered falsified documents revealed the depths to which county building practices and zoning policy have sunk.

Clarksburg'ed (klarks burg d) vt. 1 To cheat. 2 To deceive on purpose. vi. 1 To be treated unfairly. 2 To be violated by deceitful means. Slang. A way of being ripped off.

michele.dyson@cisglobal.com

Farm Road: Rural gentrification and the erasure of history

13 JULY 2016 – DAVID ROTENSTEIN

Community History, Sense Of Place, Gentrification



Farm Road, May 2016. Photo credit: David Rotenstein.

In its infancy, gentrification was a word used to describe changes in urban neighborhoods. Now, gentrification has been documented in suburbs and rural areas around the world. It is even sweeping through Washington, DC's suburban counties, where farmlands are being converted into housing and mixed-use developments. The "Farm Road" case in Maryland's Montgomery County is a troubling example of rural gentrification and historical erasure.

Montgomery County is an affluent Washington suburb with about a million residents. Its southern portion reflects proximity to the District of Columbia: densely developed residential suburbs and commercial sprawl. The upcounty area includes a substantial agricultural reserve and many large former farms ripe for development as demands for housing increase. This demand has created a substantial gap in the low value of the property as agricultural versus a potential greater value if it were to be developed. This "rent gap" is the economic engine underlying gentrification.



Dellabrooke subdivision. Photo credit: David Rotenstein.

The Farm Road case involves a historically African American community created by freed slaves who bought land and cultivated farms near Sandy Spring, about 30 miles north of the U.S. Capitol. In the early 1990s a developer began subdividing properties between two county roads, Brooke Road on the south and Gold Mine Road on the north. Cutting through the eastern portion of these tracts was a roadway connecting the African American farms. The developer then constructed large new homes in the lots in a residential subdivision called “Dellabrooke.”

The developer’s plats failed to show the rough right-of-way that had been illustrated in real estate atlases and topographical maps published since the last quarter of the nineteenth century. Deeds recorded in county land records contain plats that show the road and the “Farm Road” name is memorialized in the metes and bounds describing the tracts where it forms a boundary.

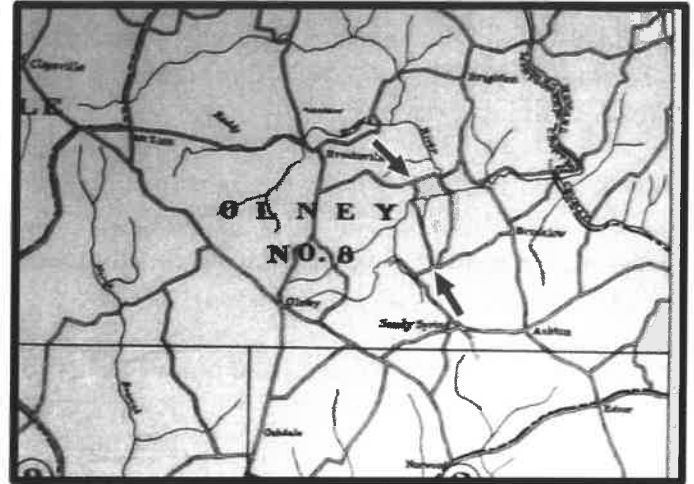
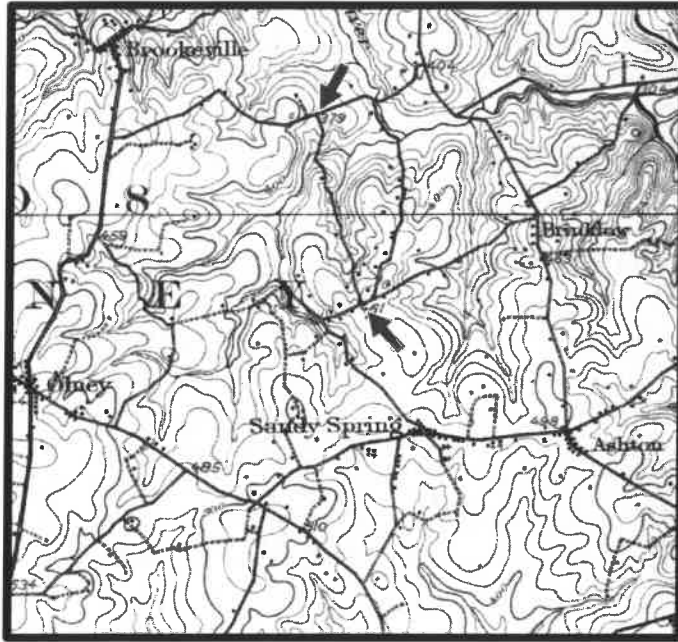
Rural Gentrification and Erasure

Since the word “gentrification” was coined in the early 1960s it has taken on meanings beyond what British geographer Ruth Glass originally intended: the replacement of working-class housing and people by more expensive housing and middle-class newcomers. Today, there’s “commercial gentrification,” “student gentrification,” “industrial gentrification,” and many others. Each denotes the conversion of space and the displacement of people in response to local economic conditions and facilitated by public policies like zoning.

Rural gentrification involves the transformation of former agricultural areas and other greenfields into new developments and the “subsequent displacement of working-class rural residents as a result of rising local land and housing process,” wrote geographer Eliza Darling in 2005. Local government’s changing zoning laws and land use classifications to encourage development and the production of new housing oftentimes facilitate it. Erasure is a metaphor historians and anthropologists use to describe the replacement of one historical narrative by another. Like gentrification, erasure involves displacement. It is a complicated process that combines “forgetting” with historical revisionism to privilege a particular group promoting the new narrative. There are few cases where the act of erasing is visible and is a key part of the erasure or displacement. Farm Road is one.

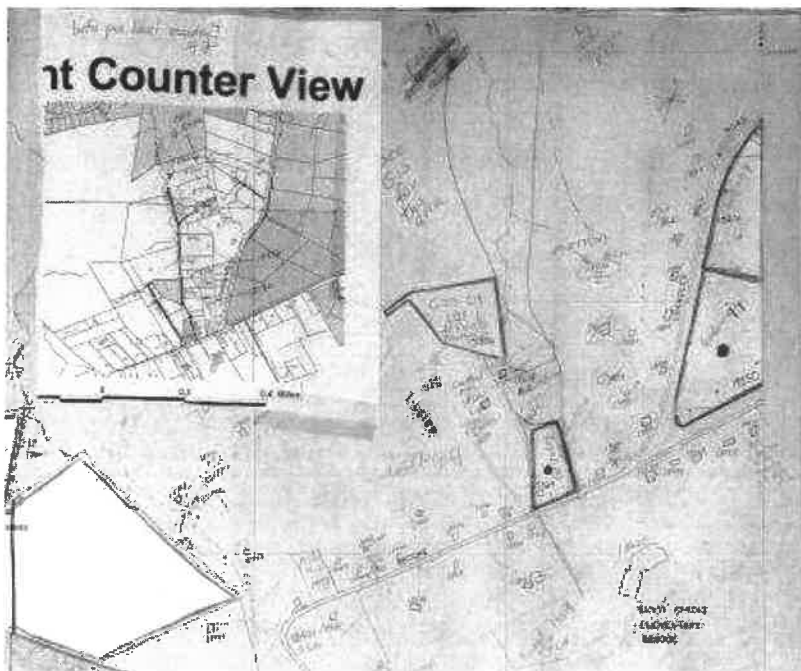
The Farm Road, Contesting Erasure

“Farm Road” isn’t an official name for the narrow rutted route; rather, it’s a vernacular place name that evolved from local usage and it was a way for surveyors to label a landscape feature in maps. The 10-foot-wide road was an artifact that developed over more than a century of agricultural land use. In legal terms, it was an easement: property belonging to a third party that others have a right to use.



Historic maps illustrating the Farm Road corridor (blue arrows mark termini). The map on the left is from the 1908 USGS Rockville, Maryland quadrangle and the map on the right is from the "1916 Real Estate Atlas of the Part of Montgomery County Adjacent to the District of Columbia." Image credit: Public domain.

Because "Farm Road" had never been a dedicated public right-of-way and no legal easement instruments had ever been filed, Farm Road didn't legally "exist." When residents of the new Dellabrooke subdivision blocked access to Farm Road by placing a chain across the road, longtime residents in the parcels lining Farm Road filed complaints with county agencies.



Maryland-National Capital Planning Commission "Address Book." Addresses crossed out in the right portion of the map are along the "Farm Road." Photo credit: David Rotenstein

When residents and local activists reviewed the Montgomery County Planning Department's master "address book"—large bound survey plats where street addresses are recorded—they found that the addresses denoting their properties had been crossed out with red Xs. According to county officials, not only didn't the Farm Road exist, but neither did the residents' addresses since they didn't front on a legal road. This meant that property sales, future subdivisions, and other transactions would be complicated because in the eyes of county regulators, the properties didn't exist.

Finding no relief from Montgomery County officials, residents then began what has become nearly two decades of litigation. They filed lawsuits in federal and Maryland state courts "seeking millions of dollars and alleging fraud, deceit, conspiracy, race-based discrimination and violation of their right to due process," a local newspaper reported in 2008.

The Farm Road case exposed systemic procedural problems in the county's planning department. New rules were created for reviewing and approving new subdivision plats. The case was one of several that emerged between 2001 and 2010 in which planners had approved development plans that did not appear to conform to state and county law. Investigations were undertaken and the fallout included the resignation of the planning board chairman and an agency restructuring.

As Montgomery County was addressing the fallout from deficiencies in its planning department, Farm Road residents were litigating their case in the courts. The federal case was dismissed because the court found that the complainants had failed to "exhaust state remedies."

After being rebuffed in federal court, the residents brought their case to the Circuit Court for Montgomery County. A county judge dismissed the case in 2011 and they appealed to the Maryland Court of Special Appeals, and finally to Maryland's highest court, the Maryland Court of Appeals [[PDF](#)]. According to the complaint reviewed by the courts, "Petitioners in this case allege that [county officials] were involved with [the developers] in a scheme to erase Farm Road." The state's highest court ruled in January 2015 that the Farm Road residents' complaint would not survive a motion to dismiss by the defendants and the case was closed. The Farm Road case offers historians a unique window into the intersection of gentrification and the production and erasure of history. Over the past century, much of rural Montgomery County has been transformed into middle-class and elite suburbs for the nation's capital. The process of producing space for progressively more affluent users has changed the county's physical landscape, displaced residents, and, as far as Farm Road is concerned, resulted in the violent erasure of a cultural landscape and its traditional use.

~ *David Rotenstein* is a consulting historian based in Silver Spring, Maryland. He researches and writes on historic preservation, industrial history, and gentrification.

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3 COMMENTS



1. **JOAN ZENZEN**

JULY 20, 2016 AT 4:30 PM

Yes, the Clarksburg debacle you reference demonstrated just how skewed Montgomery County planning had/has become with respect to developers. I had not heard of this case, so many thanks for sharing. I am sure there must be other pockets of African American communities—along River Road, up in the Poolesville area??—that may serve as comparisons? From Joan—a fellow MoCo residen

Meijer, who has lived in his house since 1975, said the option to move disappeared once the incinerator -- with its 40-foot smokestack -- started operating in 1988.

"I believe my home lost value," he said. "And I liked the neighborhood, and I thought that I was entitled to have the zoning and environmental laws enforced, which I believe were constructed for the greater public good."

Meijer, who runs an electronics repair shop from his house, said his attorneys' fees total more than \$160,000.

At one time, the crematory was the second largest in Maryland, Meijer said, with 3,685 cremations from December 1988 to December 1993.

Marianne B. Meijer
14159 Blairs Valley Road
Mercersburg, PA 17236

July 22, 1994

Mr. Norman B. Knopf and Ms. Susan Goldberg
1050 17th street NW, suite 1200
Washington, DC 20036

Dear Norman and Susan:

Daniel called me today to tell me the final result, from the financial point of view, of the long crematorium nightmare. I am very relieved that he no longer faces heavy expenses. And I am also very relieved that I no longer face them!! Although professors do not starve, their salaries are modest (in my last year, my 21st, I made \$ 34,000.00!) and I must confess that I was quite worried. So the news that you were willing to share the burden and acquit us of further payments was wonderful news. Thank you very, very much! I really appreciate the fact that you make this sacrifice.

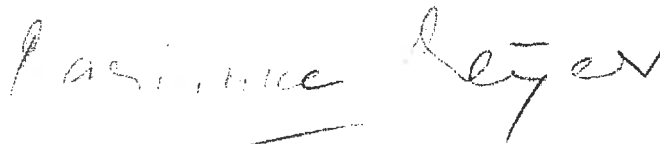
We were, of course, very naive, thinking that in this country, laws would be enforced. I guess the constant propaganda about "for the people, by the people, etc." got to us. We forgot the fact that the constitution, advocating freedom and happiness, was written by slaveholders. Such irony. But on the other hand, if one does not fight for improvements in society and for one's rights, one does not live, one vegetates.

You have been very supportive and real friends. Although Daniel sometimes thinks that he wasted 5 years of his life, I don't think so. I believe that he has grown tremendously, that he has learnt a lot, and that this experience was like college education for him. He is somebody who learns by doing, not through books. And you both have been wonderful teachers.

What I learned from this affair is the following. As you probably know, I am a Holocaust survivor. For many years I never talked about it, trying not to burden my children with my past sorrows. I did not realize that my children would nevertheless carry their own burden from this past. Besides the practical nuisance (smoke, odor, etc.), the crematorium was a reminder of that past that weighed heavily. Thank you for relieving him, and us, from that.

Again, many thanks for everything.

Very sincerely,



Marianne Meijer

August 16th Thrive Zoom meeting

Daniel Meijer <dmeijer@hotmail.com>

Tue 8/30/2022 8:09 AM

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📎 1 attachments (669 KB)

Farm Road case.docx;

Dear Mr. Jordan Exantus,

During the last part of the 8/16/2022 "Thrive 2050 Racial Equity and Social Justice Community Forum" [zoom meeting] our group was asked what steps could be taken to insure "Racial Equity and Social Justice" could be implemented in a Thrive 2050 plan.

My response to you and the group was to refund the Peoples Council. It was included in a recent budget proposed by County Executive Marc Elrich (but rejected by the current County Council???)

The "Farm Road Case" (see <https://ncph.org/history-at-work/farm-road-rural-gentrification-and-the-erasure-of-history>) exemplifies the need for a functioning Peoples Council (to ensure that any "Racial Equity and Social Justice" will actually occur in this County).

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ncph.org