

# AN OPEN LETTER TO THE HISTORIC DISTRICT COMMISSION

September 28, 2023

Mayor & Council

SEP 28 2023

Dear Historic District Commission Members:

Per UT

As you know, you are faced with the request of Washington College, a venerable Town institution, to tear down the historic Newman Armory and build a for-profit boutique hotel. This is the most significant decision this body has faced since its creation. Please consider the following as you reach your decision.

## 1. Clean the Vote of Conflicts of Interest

As commissioners, you are subject to the Town of Chestertown Public Ethics Law, which prohibits "improper influence and even the appearance of improper influence...."

Two of your current members have the prohibited Conflicts of Interest and should voluntarily recuse or be forced to recuse by the Commission itself.

David Holman was a member of the HDC in 2022 and remains a member today. He voted to approve the demolition of the Armory in 2022, and he later voted against rescinding HDC approval. He should not have been permitted to vote in 2022 since his wife is a fulltime faculty member of Washington College. This is a clear conflict of interest. In fact, in June 2022, Holman recused himself from voting on another Washington College project, so he is fully aware of his conflict. See HDC minutes of June 1, 2022.

Monica Sella was appointed to the HDC on or about July 2023. She has a multi-pronged and deep conflict of interest. Sella is a Washington College graduate (2009) and a former Washington College employee (2007-2011). Prior to her HDC appointment, she has spoken out publicly in support of Washington College when it was faced with local criticism. See, e.g., Sella's December 4, 2019, letter to the editor of The Chestertown Spy. Further, she is married to a Washington College graduate (2001), a current committee member of the Washington College Alumni Association (2015-present), and the grandson of the former athletic director for whom Washington College's baseball park is named. Her spouse is also general counsel and compliance officer for Dixon Valve & Coupling. Significantly, her spouse is one of three principals of Kent Forward, an alliance created several years ago by Dixon Valve & Coupling, Washington College, and Shore Medical Center at Chestertown. Today Kent Forward identifies itself as "essentially the community/government relations arm of The Dixon Group/KRM."

On December 1, 2022, Sella's spouse contacted Kees de Mooy, Town Zoning Administrator assigned to the HDC, about how to send a Kent Forward letter of support for the Armory's demolition to the HDC members. Kent Forward's letter of support was received by the Town on December 2, 2022, and sent by de Mooy to the Commission members on December 13. The letter characterized the Armory as "a permanently decaying building with major

issues," declaring "We are writing to strongly endorse the efforts to replace the current Armory with a hotel/conference center...." The letter requested that it "be read into the record when the College's application is on the agenda again." De Mooy has assured the Commission members that it would be. Today Kent Forward remains a staunch supporter of Washington College's plans to replace the Armory with a boutique hotel. See Kent Forward current website at [www.kentforward.org](http://www.kentforward.org).

These are serious conflicts which threaten to jeopardize the legitimacy of any decision made by your Commission about the Armory. Both members should recuse. Without recusal, your ultimate decision may face judicial review and reversal.

## 2. Hire Your Own Lawyer

At the direction of the Town, Christopher Drummond, the Town's attorney, is scheduled to attend your October 4 meeting. But Drummond is representing the Town, not the HDC, as this September 12, 2023, email exchange between Kees de Mooy and a local attorney<sup>1</sup> illustrates:

*De Mooy: .... The Town's attorney, Chris Drummond, will be at the meeting.*

*Local Attorney: Thanks.... will Chris be representing M&C or the HDC (separate entities)?*

*De Mooy: He is the Town Attorney, so I would assume he will represent the Mayor and Council. He has written an opinion regarding the Armory and related issues for the HDC, but still in his role as the Town Attorney.*

*Local Attorney: Thanks, the HDC would be well advised to have their own attorney, maybe they do. I think Chris would agree with me.*

(Underlining added)

### **An attorney cannot represent two parties with different interests.**

Your interests as members of the HDC are set by the HDC ordinance and the Guidelines. As Sec. 93 of the Town Ordinance states, your purpose is to "safeguard the heritage of the municipal corporation by preserving sites, structures, or districts which reflect elements of cultural, social, economic, political, archeological or architectural history...and to promote preservation and appreciation of Historic Districts, the sites, structures, and districts, for the education and welfare of the residents...." (Emphasis added.)

With the Armory, the Town has a different goal and made its goal clear when it unanimously voted in support of Washington College's request to tear down the Armory in mid-October 2022. (There are no minutes of this meeting on the Town website, by the way.)

The Town has not changed its position. Since that vote, the Mayor and others have been working behind the scenes, in cooperation with Washington College, to ensure that the Armory comes down and a boutique hotel goes up. In January 2023, without public announcement, the

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<sup>1</sup> The author of this letter is not the quoted attorney.

Mayor signed a Memorandum of Understanding with Washington College and others that included the Armory property. The Mayor also reported on September 21 of that he had discussed “the importance of the Armory to Chestertown” recently with Maryland Governor Moore, one of Moore’s staffers, a staffer of U.S. Senator Van Hollen, and a staffer of Maryland Comptroller Lierman.

Hire your own lawyer. There are lawyers who specialize in historic districts, even those who are experienced with demolition by neglect, which is a very apparent issue in Washington College’s application. Find one and make Washington College foot the bill.

### **3. Hire your own environmental experts.**

Washington College claims it has filed a new application. It has not. It has repackaged its failed 2022 application with a new introduction. There is nothing new in the 2023 application related to any environmental issue claimed by Washington College, and in particular related to mold—the substance singled out as the culprit to the Armory’s “viability of redevelopment.” Only 2022 studies, previously provided, are included in Washington College’s 2023 application. However, neither was conclusive in 2022, and neither is conclusive now.

The first dated August 9, 2002, contains the damning but unsubstantiated claim that “even if cleaned, will not guarantee issues will not return.” The report recommended that “remediation must be addressed by a qualified and insured remediation contractor certified in mold remediation activities.” But Washington College did not seek any further advice from a remediation contractor. Instead, it quickly contracted for a second study to identify the type of mold, not how to remediate it. That report dated November 10, 2022,<sup>2</sup> did not address the two-sided elephant in the room: Can remediation take care of the mold issue? How much would remediation cost?

The answers to these critical questions cannot be found within Washington College’s 2023 application.

The answer is for you to hire your own environmental expert(s) to address the questions ignored by Washington College. Not only can you hire them, you can require Washington College to pay for them. The essential point is that the experts work for you, not Washington College.

### **4. Know What the Guidelines Require**

Last year’s review of Washington College’s demolition application was beset with process errors from the outset. This year the HDC processes have been followed so far: Washington College filed its demolition application exactly 25 days before the next HDC

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<sup>2</sup> This report was filed as a supplement to the 2022 demolition application before Washington College formally withdrew the demolition application; thus, the report’s later date.

meeting. The next step is the process for considering a demolition. As set out in the HDC Guidelines, the process must have at least two meetings.

The first meeting considers the significance of the structure in accord with 10 criteria listed for determining significance. This determination is mandatory and requires a very specific finding made in a motion with clearly stated findings of fact with a citation to section of the Guidelines supporting the finding. By way of example only:

"I move that the Armory is found to be a contributing structure having been constructed in 1931, being listed on the National Register, and having been an important and vital part of the Chestertown community during its active use and prior to its current ownership, in accord with the definitions found at Sec. 11.6 of the Historic District Guidelines and criteria for significance set out at Sec. VI.2.2 of the Guidelines."

As Kees de Mooy pointed out to you in his email of November 29, 2022, "...motions to approve, deny or table an application must be arrived at through a defensible decision-making process, which includes making motions with clearly stated findings of fact so that the record can withstand a legal challenge."

That's the first hearing. There is no vote on demolition at this first meeting.

Assuming you will find the Armory to be contributing structure, the second meeting considers whether to approve or disapprove of the demolition. It is at this meeting that you can consider the information offered by Washington College as to the Armory's environmental problems, the feasibility and costs to address those alleged problems, and Washington College's evidence of financial inability to address those problems, as well as any issues related to demolition by neglect or information offered by the public. Washington College can also provide information on its plans for a replacement structure.

It is also at this hearing that the public and your own environmental experts can testify (yes, you have the right to require all experts to testify under penalties of perjury). You can also be assisted by your own counsel at this hearing. At the conclusion of this hearing, another motion can be offered to approve or deny Washington College's application to demolish, or you can require additional information from Washington College, from anyone else presenting information or any that you feel you need and continue the hearing to another date.

At the point you are ready for a motion, it needs to follow the specific form again. By way of example only,

"I move that Washington College's application to demolish the Newman Armory be denied/approved in accord with Sec. VI.2.3 for the following reasons: a) the loss of the Armory will /will not impact the integrity of the Historic District; b) the Armory can/cannot be put to a reasonable beneficial use; c) the loss of the Armory will/will not create a substantial detriment to the public welfare; and d) the applicant has proved/failed to prove maintaining or

rehabilitating the property would create a substantial hardship as proven by the following documents provided by the applicant (list those documents).”

This letter is not asking you to decide one way or other. It seeks to have you do the job right this time, with thought, with care to your duty as commissioners and representatives of all us who live and pay taxes in Chestertown, with a full and complete exploration of the issues and options.

Yours Truly,

Barbara Jorgenson

Barbara Jorgenson is a resident of Chestertown’s Historic District. She is a former HDC commissioner and former director and committee chair of Main Street Historic Chestertown. It was in this latter role that she, along with her fellow Main Street directors, encouraged redevelopment of the historic Armory as a boutique hotel and welcomed its potential developer to Kent County. She believes Chestertown can save the Armory and have a boutique hotel.



Lynda Thomas <lynda@chestertown.com>

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**From: Open Letter to the HDC Members**

1 message

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**Town Manager** <townmanager@chestertown.com>  
To: Lynda Thomas <lynda@chestertown.com>

Thu, Sep 28, 2023 at 12:54 PM

FYI.

Lawrence DiRe, MPA  
Town Manager  
Town of Chestertown  
118 N. Cross Street  
Chestertown, MD 21620  
(410) 778-0500

----- Forwarded message -----

From: **Barbara Jorgenson** <bjorgenson@jglaw.com>

Date: Thu, Sep 28, 2023 at 12:20 PM

Subject: Open Letter to the HDC Members

To: Victoria Smith <victoriawsmith@gmail.com>, Barbara Brown <barbarajune223@gmail.com>, Michael H. C. McDOWELL, Fellow, New America International Security Program (202)391-5240 <mhcmcdowell@aol.com>, Samantha Hollomon <shollomon@me.com>, Rebecca Murphy <rcmstrategicconsulting@gmail.com>, David Holman <david@holman-building.com>, Monica Sella <msella364@gmail.com>

Cc: Town Manager <townmanager@chestertown.com>, Kees de Mooy (kees@chestertown.com) <kees@chestertown.com>, Thomas Kocubinski <tom@archtk.com>, Steven Mitchell <steve@lasershark.com>

Dear HDC Members,


Attached is a letter from me with a few thoughts as you approach your October 4 meeting.

Best,

Barb

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