



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Montgomery County Department of Park and Planning

September 16, 2004

MEMORANDUM

TO: Montgomery County Planning Board

VIA: John A. Carter, Chief
Community-Based Planning Division

FROM: Judy Daniel, Rural Team Leader (301/495-4559) *JD*
Community-Based Planning Division

Maria Martin, Planner Coordinator *mm*
Community-Based Planning Division

SUBJECT: Town of Laytonsville Annexation Petition No. X-01-05: 27.36-acre Jones Farm - Reclassification from the County's RDT (Rural Density Transfer) Zone to the Town's R3 (Residential, Two acre) Zone, L.C. property located on 7125 Brink Road in the Functional Master Plan for the Preservation of Agriculture and Rural Open Space;

STAFF RECOMMENDATION: Approve the transmittal of the following comments to the Town of Laytonsville for the public hearing record:

1. If the Town and the applicant proceed with the rezoning from the county's RDT Zone to the **Town's R3 (Residential, Two acre) Zone**, then the proposed R3 classification conflicts with the recommendations for Rural Density Transfer (RDT) Zoning in the 1980 Functional Master Plan for the Preservation of Agriculture and Rural Open Space and does not meet the requirements of Section 23-A of the Annotated Code of Maryland. In this case the County Council must review this petition prior to final action by the Town since the R3 Zone is substantially different from the land use recommended in the county's master plan. The County Council should concur with the proposed R3 zoning designation, only if the following conditions are part of the annexation agreement:
 - a. No new single-family homes should be constructed in the 25-acre area that the Montgomery County Council designated as the Rolling Ridge environmental setting.
 - b. A historic preservation easement on the exterior of Rolling Ridge should be donated to the Maryland Historical Trust immediately by the current owners.
 - c. The current owners should make sure that Rolling Ridge is secure, with all windows and doors boarded up, and weathertight, with no leaks in the roof.

- d. A significant buffer of mixed deciduous and evergreen trees should be planted along the proposed alignment of the bypass immediately so that the buffer has time to grow up and mature before the bypass is built.
 - e. The developer pays park taxes voluntarily or makes a payment in lieu of taxes to support countywide park operations.
 - f. The Town is encouraged to include a bypass alignment in their master plan, which would involve the least historic and environmental impacts.
2. If the Town and the applicant decide to seek the ***Town's Agricultural zoning*** classification, then the proposed Agricultural classification would be generally consistent with the recommendations of the 1980 Functional Master Plan for the Preservation of Agriculture and Rural Open Space and would meet the requirements of Section 23-A of the Annotated Code of Maryland.

BACKGROUND

The Town of Laytonsville plans to annex the subject 27.36-acre Jones Farm property, which is located on the north side of Brink Road. It is currently within the Functional Master Plan for the Preservation of Agriculture and Rural Open Space and is contiguous to the Town of Laytonsville (Attachment 1). The property contains one master planned historic single-family home, Rolling Ridge, built in 1790. This is the first annexation that has involved a site that is on the Montgomery County Master Plan for Historic Preservation.

The adjacent properties, to the west, are also zoned RDT and were recently subdivided as part of Preliminary Plan No. 1-02032. The 273.37 acres were originally part of the Jones Farm. The nine lots and the five outlots were recorded on record plats 620-91 and 92.

The subject property is currently split between the Town and the county. There are two reasons for the annexation request. First, new houses are proposed for the section of the property within the Town's current limits; however, the Town of Laytonsville requires that the septic fields serving houses within the Town must be in the same jurisdiction and the same zoning. Annexation and rezoning would bring the entire property within the Town's jurisdiction and permit the construction of the houses.

The second reason is to secure right-of-way for a northwest leg of a Town bypass (Attachment 2). The Town of Laytonsville's November 1989 Comprehensive Plan showed two bypass alignments. The land use map shows a route beyond the current town boundaries (Attachment 3) and the Environmental & Heritage Resources map shows an alignment within the current Town limits (Attachment 4). No bypass route was designated on any county master plan; it was shown for informational purposes only.

On July 6, 2004, the Town of Laytonsville held a public hearing on the subject annexation and the proposed rezoning to the Town's R3 Zone (Residential, Two acre).

A draft copy of the minutes is attached (Attachment 5). At the end of the public hearing, Town of Laytonsville Mayor Charles W. Oland held the record open until the Montgomery County Council and the Montgomery County Planning Board provided comments on the Annexation Petition.

After discussing county concerns with the proposed zone change, in a letter dated August 23, 2004, (Attachment 6), the attorney representing the Jones Farm, LC, Jody Kline, sent a letter to Council member Michael Knapp stating that:

“.... After much discussion, it was determined that a less controversial (and less confrontational) way of proceeding would be to annex the Jones farm into the Town’s ‘Agricultural’ zone (which is comparable to the County’s RDT zone) but amend the Town’s Zoning Ordinance to allow for a lot, improved with a residence that is designated historic by the Town of Laytonsville, to contain less than 25 acres of land area. This change will not allow the creation of any more lots than were originally contemplated by Elm Street development (Jones Farm LC), but will allow the existing historic farm house to be situated on a lot containing less than 25 acres. With this change, it is likely that the County Council will not be asked to consent to the Town granting R-3 (two acre) zoning upon annexation, since the zone that will be applied to the property at the time of annexation (‘Agricultural’) does not allow for a different land use than would be permitted in Montgomery County.”

Mr. Kline has sent a letter to the Town of Laytonsville Mayor and Council requesting that the subject property be rezoned to the Town’s Agricultural Zone along with a supporting zoning ordinance text amendment. In a letter dated September 14, 2004, (Attachment 7), Mr. Kline writes:

“...The applicant desires to amend its annexation application to the extent that it now requests that at the appropriate time the Mayor and Town Council place on the newly annexed property the Town’s “Agricultural” zone, rather than the previously requested R3 zone. This amended request, however, is predicated on the simultaneous adoption of a Zoning Ordinance Text Amendment amending Section 105 (Agricultural zone) of the Town Zoning Ordinance to allow for the creation of a lot containing less than 25 acres in the Agricultural zone under very limited circumstances.”

Although the letter indicates a way around the controversial zone change, as of the date of this staff report, no official correspondence has been received from the Town of Laytonsville amending the annexation petition to reflect this content of this letter.

MASTER PLAN AND ZONING

The subject property is currently zoned RDT (Rural Density Transfer) in accord with the recommendations in the 1980 Approved and Adopted Functional Master Plan for the Preservation of Agriculture and Rural Open Space in Montgomery County.

The Town of Laytonsville appears likely to pursue a request that the subject property be rezoned to the Town's Agricultural Zone. The Town's Agricultural Zone permits a 25-acre lot size. The Town's Agricultural Zone and the county's Rural Density Transfer Zone allow very similar uses and the proposed annexation would not adversely affect the spirit or the intent of the land use or zoning. The proposed Agricultural zoning is compatible with the Functional Master Plan.

If Town officials send a request to amend the annexation petition to change the requested rezoning classification from the Town's R3 to the Town's Agricultural Zone, action by the Montgomery County Council is not required since there are no major zoning or land use issues. Under Article 23-A, subsection 9 (c) of the Maryland Annotated Code, "no municipality annexing land may, for a period of five (5) years following annexation, place that land in a zoning classification which permits a land use substantially different from the use for the land specified in the current and duly adopted Master Plan or Plans ... without the express approval of the Board of County Commissioners or the County Council in which the municipality is located."

TRANSPORTATION

The proposed annexation of 27.36 acres in the northwest quadrant of the MD 108/Brink Road intersection does not have any transportation impact. There will not be an increase in the density of the property as a result of the annexation. Aside from the existing house, the proposed use of the land is for septic fields. The only important issue involved in the annexation is a proposed MD 108 bypass. There are no relevant master plans to govern a future alignment of such a bypass. The alignment proposed by the Town of Laytonsville would be located inside the Town and any alignment should be coordinated between the Maryland State Highway Administration and the Town.

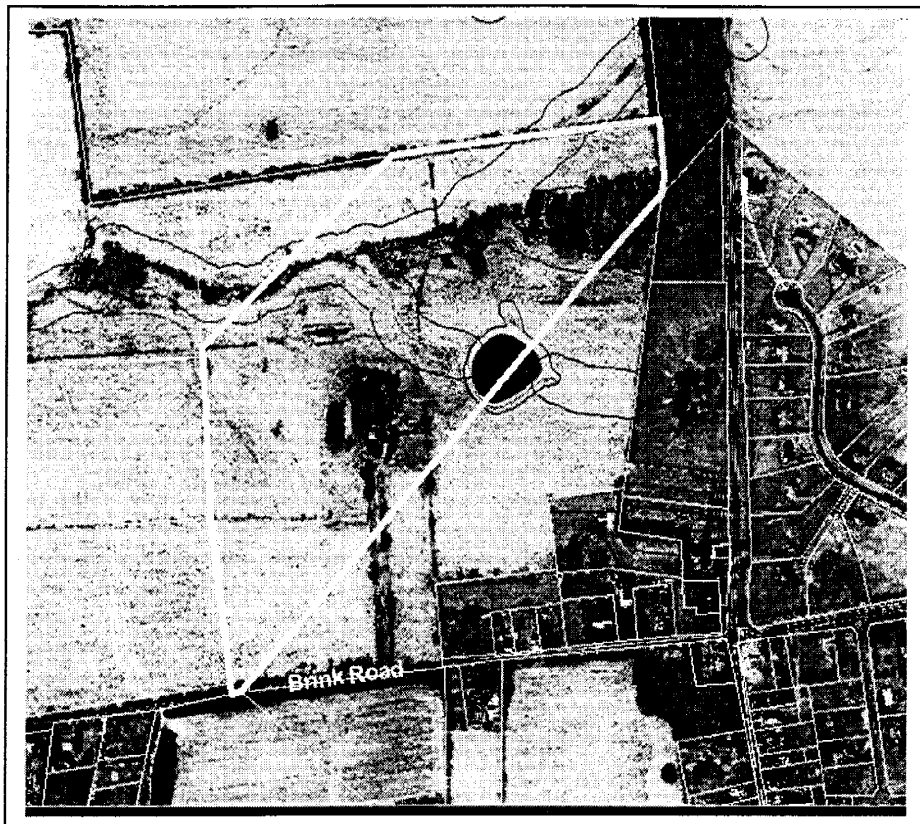
The construction of a MD 108 bypass is not in the current State's Consolidated Transportation Plan and any project to implement such a bypass is not anticipated in the foreseeable future. A MD 108 bypass route would have more impact on historic and environmental concerns than transportation.

The Town of Laytonsville is encouraged to include a bypass alignment in their master plan, which would involve the least historic and environmental impacts.

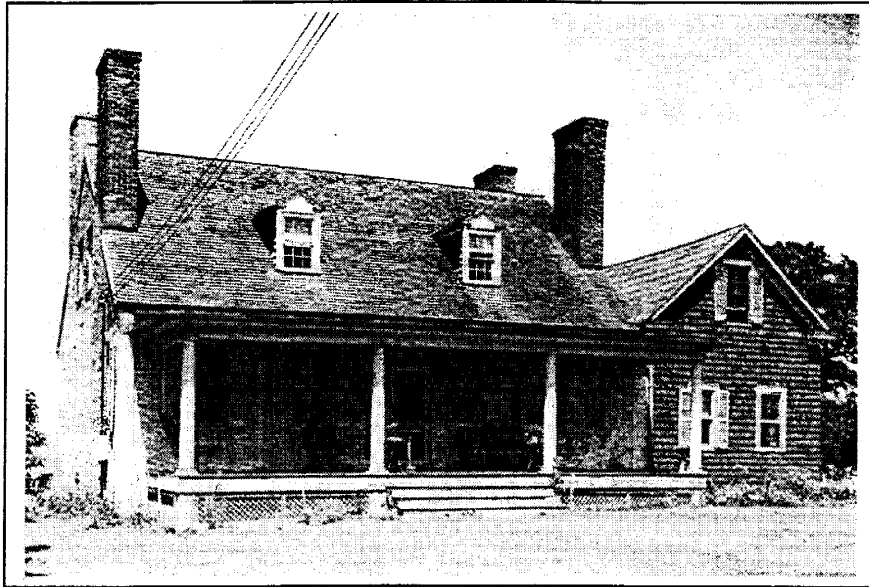
ENVIRONMENT

The site is currently home to the Rolling Ridge historical homestead with the remainder of the property in agricultural production. There are approximately 14.5 acres of sensitive riparian areas on the northern part of the site, and approximately three acres of forest. The site is within the Goshen Branch subwatershed of the Great Seneca Creek watershed. While the subwatershed has good overall water quality, this could be improved by allowing more of the riparian areas to naturalize into forest.

The southern part of the land is to be used to provide septic systems for lots in an adjacent two-acre density zone because Laytonsville requires septic fields to be on the lots they are serving. Staff supports this use, as well as the Town of Laytonsville's intention to maintain the remaining property as the environmental setting for Rolling Ridge.



HISTORIC PRESERVATION



Rolling Ridge (Master Plan Site #14/38) is a distinguished 1½-story Georgian style residence, which was built in 1790 by Robert Ober, a prosperous Georgetown merchant of English descent. The Georgian style residence reflects Chesapeake area building traditions with a broad sloping roof, paired end chimneys and double pile plan. Classical brick pilasters between the outer bays and at the corners accentuate the symmetry of the five bay façade. The symmetrical exterior is reflected on the interior by a central passage and four equal size rooms.

Architecturally, the house reflects a style, which is more common to the Tidewater regions of southern Maryland and Virginia. The house has been vacant for several years and is being allowed to deteriorate. Its architectural integrity is generally intact, having few alterations.

On January 12, 1993, the County Council placed Rolling Ridge on the county's Master Plan for Historic Preservation with an environmental setting of 25 acres as shown in Attachment 8.

The proposed annexation has a number of implications for Rolling Ridge. First, the property and its environmental setting would lose any protections currently afforded by Chapter 24A of the Montgomery County Code if the property is annexed into the Town of Laytonsville. The Town has said that it is interested in designating the structure as a historic site under its recently adopted preservation ordinance. They have not stated what they would do about the environmental setting. In addition, the Town could opt to remove the historic designation of the house at some point in the future.

Secondly, the purpose of the annexation is partially to allow for a bypass of the Town of Laytonsville that is different from the one depicted on the county's Master Plan of

Highways. This alignment would bring the bypass road approximately 250 feet behind Rolling Ridge. Ultimately, this bypass road could be a four-lane highway. Having a large highway so close to Rolling Ridge would do significant damage to its historic character and environmental setting.

For this reason, Historic Preservation staff does not support this annexation. If the annexation does move forward, staff recommends that the following conditions should be included in an annexation agreement:

1. No new single-family homes should be constructed in the 25-acre area that the Montgomery County Council designated as the Rolling Ridge environmental setting.
2. A historic preservation easement on the exterior of Rolling Ridge should be created and donated to the Maryland Historical Trust immediately by the current owners.
3. The current owners should make sure that Rolling Ridge is secure, with all windows and doors boarded up, and weathertight, with no leaks in the roof.
4. A significant buffer of mixed deciduous and evergreen trees should be planted along the proposed alignment of the bypass immediately so that the buffer has time to grow up and mature before the bypass is built.

COUNTY REVENUE IMPLICATIONS

The annexation of the subject property by the Town of Laytonsville, like other annexations, reduces the revenue the Maryland-National Capital Park and Planning Commission receives for the purchase of parkland and construction of park facilities. Attachment 9 shows the estimated yearly tax loss to the county when the subject property is annexed by the Town of Laytonsville.

The Planning Board has recommended in previous annexation cases that petitioners continue to pay park taxes voluntarily or make a payment in lieu of taxes. The Planning Board also has recommended that the payment of park taxes be included in annexation agreements.

CONCLUSION

Staff recommends that the Planning Board support Annexation Resolution No. X-01-05 and the rezoning of the Jones Farm, LC property if the Town and applicant seek the Town's Agricultural Zone since it would be compatible with the county's RDT zoning. If the Town does not amend its annexation to reflect this Agricultural Zone, staff recommends that the County Council not authorize a change to the R3 Zone for a period of five (5) years following annexation.

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Attachments