



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION


MCPB  
Item # 3  
4/14/05

## MEMORANDUM

**DATE:** April 8, 2005

**TO:** Montgomery County Planning Board

**VIA:** John Carter, Chief, Community-Based Planning Division

**FROM:** Judy Daniel, AICP, for the Department of Park and Planning 

**SUBJECT:** Remedial Zoning Map Amendment No. G-835: Fall Creek LLC / Ruppert Nurseries applicant – reclassification of 2.5 acres of land from the Country Inn Zone to the RDT Zone, located at 23601 Laytonsville Road (MD 108), Etchison Community - Master Plan for the Preservation of Agricultural and Rural Open Space

**FILING DATE:** December 29, 2004  
**PUBLIC HEARING:** March 8, 2005

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**STAFF RECOMMENDATION:** APPROVAL of the remedial rezoning to the Rural Density Transfer Zone, for the following reasons:

### **PROPOSAL DESCRIPTION**

This remedial map amendment application will reclassify a 2.5-acre parcel from the Country Inn Zone to the RDT Zone. The remedial map amendment process allows a property owner to request reclassification of a property in the Country Inn Zone to the zone for the property established by the last comprehensive rezoning. This is the first application received under the remedial rezoning process for the Country Inn Zone since its approval on December 14, 2004.

The adoption of the remedial process resulted from the discovery that no process existed outside of a comprehensive rezoning for a zoning change for a property in the Country Inn Zone. That discovery arose from the proposal from Fall Creek LLC (Ruppert Nurseries) to use this and the surrounding 161 acre property for a tree farm (permitted and encouraged in the zone) and a landscape contractor use – allowed as a special exception in the RDT

Zone, but not in the Country Inn Zone. If the remedial map amendment is approved by the Council, the applicant will then proceed with the special exception application and later subdivision for the landscape contractor use.

Under the remedial map amendment process, the Planning Board must submit a report and recommendation to the District Council describing the nature of the proposed zoning reclassification, any known information in support of the reclassification, and a summary of the grounds for the reclassification. The Council's public hearing public record has been held open to await the Planning Board comments and recommendations.

- A. Description of Property** - This property is located about 2.5 miles north of Laytonsville along the east side of MD 108, about one-fourth mile south of the intersection with Hawkins Creamery Road. The property is irregular in shape, and has about 200 feet of frontage along the Laytonsville Road. The subject property contains an historic home situated on a knoll that slopes eastward away from the road. The home is a nine-room, two and one-half story Queen Anne Style farmhouse. There are also several accessory buildings. The 2.5-acre subject property is surrounded on all sides by over 160 acres of land in the RDT Zone owned by the applicant, and in use as a tree farm. This includes 125 acres on the east side of MD 108 and 45 acres on the west side of MD 108.
- B. Surrounding Area** - The surrounding area, primarily in the RDT Zone, is rural in character, extending along both sides of Laytonsville Road (MD 108) between Laytonsville on the south to the intersection with Damascus Road (at the Etchison Community) on the north. There are some dwellings approximately one-half mile to the north on the southern fringe of Etchison, and south of the subject site on the west side of MD 108. The Davis Airport, a general aviation airstrip, is located northwest of the property off Hawkins Creamery Road.
- C. Intended Use** - The applicant plans an agricultural business use on the property and part of the surrounding property that is in the RDT Zone. The historic structure will become an office for the adjoining tree farm (a permitted use in the RDT Zone) and the landscape contractor use that is to be proposed in a subsequent special exception. This will provide an acceptable adaptive reuse for the home, allowing it to be properly renovated and restored.
- D. Zoning and Regulatory History** - The current zoning of the property is Country Inn, as established in 1985. This property was rezoned from the RDT Zone to the Country Inn Zone, pursuant to zoning application #G-480 (adopted December 17, 1985). The existing dwelling on the property is designated as an historic resource, and the Country Inn designation was thought at the time to be ideal for reuse of the property, restoring the building and providing an economically viable use.

For unknown specific reasons, the former owners did not find the Country Inn option to be economically viable. It is known that the structure would have required extensive structural renovations, and a substantial septic disposal system. Both of

these would have presented substantial economic impediments. For these or other unknown reasons, no Country Inn was ever opened on the property, and the dwelling languished unused.

- E. Master Plan Recommendations** - The 1980 Master Plan for the Preservation of Agricultural and Rural Open Space recommends the Rural Density Transfer Zone for this property.
- F. Public Facilities** - The subject site has a recommendation for Water Category W-6 and Sewer Category S-6. No changes to this status are anticipated due to the property location in the Agricultural Reserve.

## **ANALYSIS**

- A. Requirements for Remedial Map Amendment** - Section 59-C-4.399.1, allowing a remedial map amendment for the Country Inn Zone, was added to the provisions for the Country Inn Zone (59-C-4.39) December of 2004 by the County Council. There are three provisions that must be met for approval of a reclassification:

- 1. Due to circumstances unique to the property, that are not self-created, the property owner cannot use the property to develop a Country Inn.**

The applicant states that various economic elements including (but not limited to) septic and reconstruction issues seem to have contributed to the inability of the prior owner to develop this property as a Country Inn. The staff believes that these economic elements are logical and reasonable. In many ways it is inherently illogical to have essentially single purpose zone that limits a property owner to one primary use, rather than establishing the use as an element of a broader zone. Over time economic issues will often undermine an intended use rendering the single purpose invalid. No Country Inn was ever opened on the property, and the dwelling has remained vacant an unused.

- 2. The zoning classification established by the last comprehensive rezoning is consistent with the general plan and physical development of the district, including land use and zoning recommendations contained in any master or functional plan.**

The property is governed under the 1980 Master Plan for the Preservation of Agricultural and Rural Open Space, which recommends the Rural Density Transfer Zone for the property. The proposed reclassification is to that zone, and is consistent with the purposes and intent of the Master Plan.

- 3. The property meets the development standards of the zoning classification established for the property in the last comprehensive rezoning.**

The property will conform to the development standards of the Rural Density Transfer Zone, and will be combined with the surrounding 160 acres that remained in the RDT Zone and comprised the original farm property.

- B. Compatibility with Surrounding Area** - The staff believes that returning this property to the Rural Density Transfer Zone will be compatible with the surrounding area.
- C. Historic Preservation** - The site is within the Locational Atlas (Master Plan Site #23/123) and the Historic Preservation Commission (HPC) supports the application. The applicant is working with the Historic Preservation staff on any necessary requirements for structures with historic designation. A memo containing the notice of the HPC approval of this proposed reuse is attached.
- D. Community Issues** - The staff has received no comments concerning this application.

## **CONCLUSIONS**

Because the Country Inn Zone is essentially a single use zone, and because there seems to be no viable interest in use of the property for a Country Inn due to economic concerns, and because the new owners wish to pursue a use that is allowed, if not encouraged, in the underlying RDT Zone and not allowed in the Country Inn Zone, it is logical to seek to removed the Country Inn Zone designation.

The staff recommends APPROVAL of the remedial zoning change, reverting this property to the Rural Density Transfer Zone.

# MEMORANDUM

**From:** Fothergill, Anne  
**Sent:** Thursday, February 24, 2005  
**To:** Daniel, Judy  
**Subject:** Master Plan Site #23/123 – Jacob Allnut House

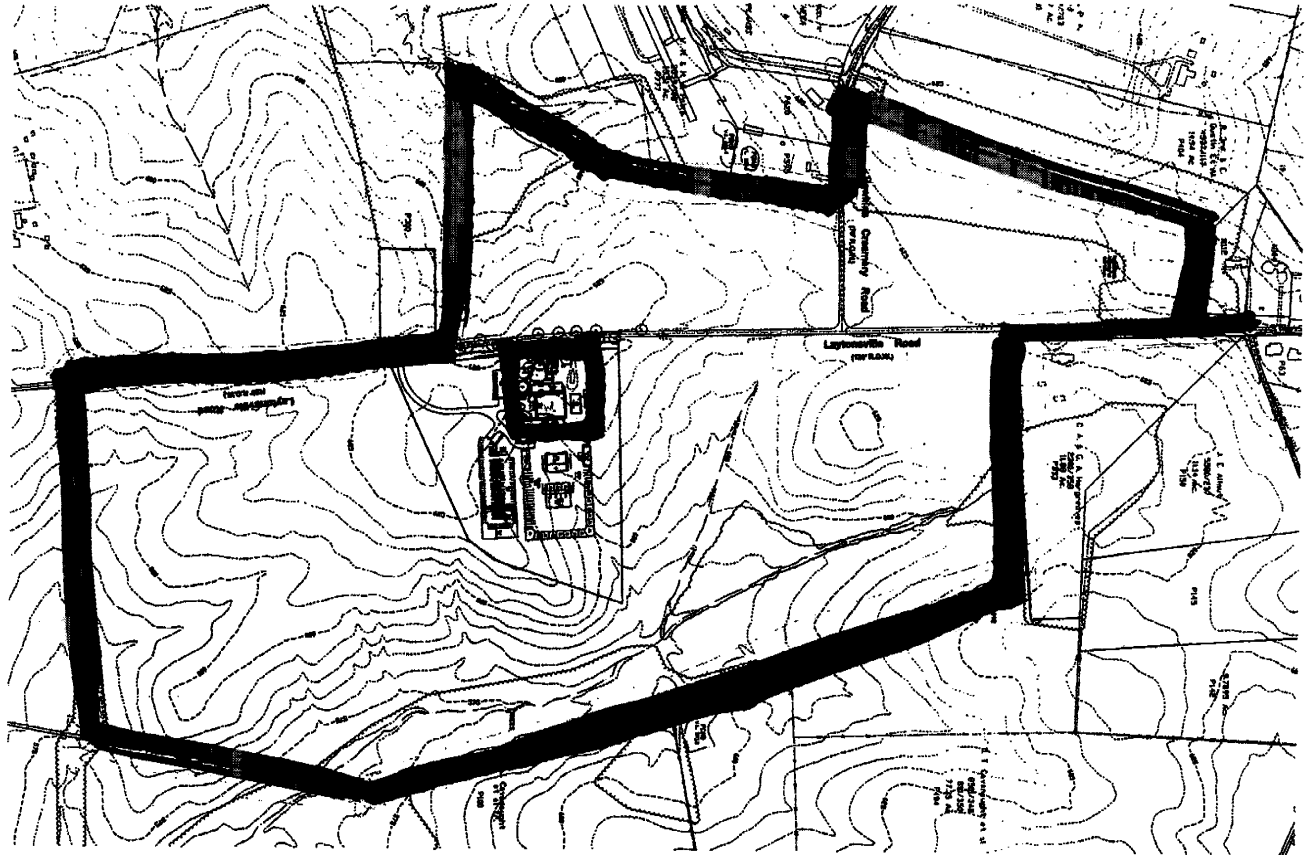
The Montgomery County Historic Preservation Commission (HPC) met with Craig Ruppert and Caryl Ersenkall of Ruppert Nurseries and their architect, Stephen Muse, on June 23, 2004 and July 28, 2004 regarding the Jacob Allnut House at 23601 Laytonsville Road in Laytonsville (Master Plan Site #23/123). Ruppert Nurseries has purchased this historic property and is proposing to use it as their corporate headquarters for their landscaping contracting business. They are applying for a landscape contractor use of the property.

They are proposing to put an addition on the back of the historic farmhouse and to construct two new, unconnected buildings for their corporate headquarters behind the farmhouse. They plan to use the rest of the 177 acres for their tree farm, a permitted use, and they have already planted more than 30,000 trees on the property.

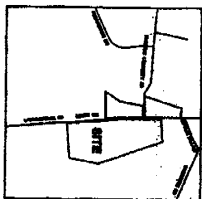
The Historic Preservation Commission reviewed this proposal over two meetings in June and July 2004. While there was much discussion at the HPC meetings about this proposal, the conclusion was that a majority of Commissioners support this proposed use. The Commission reviewed the proposed plans and made a number of suggestions regarding design and placement of the new buildings and parking, but overall the HPC was supportive of this use of the property, and felt that the proposed addition to the historic farmhouse and the new construction would be approvable through the Historic Area Work Permit process.

The HPC sent a letter to the Board of Appeals stating their support of the Special Exception. Please call me at 301-563-3400 with any questions.

Anne Fothergill  
Historic Preservation Planner  
Maryland-National Capital Park and Planning Commission  
Montgomery County Historic Preservation Section  
1109 Spring Street, Suite 801  
Silver Spring, MD 20910  
301-563-3400  
301-563-3412 fax



PREPARED FOR  
**FALL CREEK FARM EAST LLC**  
 10000 FALL CREEK FARM EAST ROAD  
 GAITHERSBURG, MARYLAND 20878  
 301-485-0300



Vicinity Map

SPECIAL EXCEPTION SITE PLAN - OVERALL MAP  
**RUPPERT NURSERIES, FALL CREEK FARM EAST**  
 Montgomery County, Maryland



Beading & Associates, Inc.  
 Lead Planning Consultant  
 10000 Fall Creek Farm East Road  
 Gaithersburg, Maryland 20878  
 301-485-0300

date: January 2005  
 scale: 1"=200'



Scale: 1"=200'