ATTACHMENT 5

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Meeting minutes of Town Council Meeting on July 6, 2004
As reviewed, approved, and accepted by the Town Council on August 3, 2004

The regular meeting of the Laytonsville Town Council was called to order by Mayor Oland at 7:30 p.m. Mayor Oland administered the Oaths of Office to re-elected Council Member Charles Bradsher and to newly-elected Council Member David Halperin. The Mayor, Council Members Frank Bennett, Charles Bradsher, and David Halperin were present. Council Member David Preusch was absent. The Clerk and Treasurer were present, the Town Attorney, Stanley D. Abrams was present; the Town Planner, Stanley O. Benning was present. There were 15 citizens present. State Delegate Herman L. Taylor was present. Montgomery County Council Member Mike Knapp was present. The regular meeting was adjourned at 7:32 p.m.

Mayor Oland called the Public Hearing to consider the Petition for Annexation and Zoning filed by Jones Farm, LC to order at 7:33 p.m. The subject of this hearing is a Petition for Annexation received from Jones Farm LC. The date of this Petition is May 26, 2004. Supporting the Petition are: a description including metes and bounds; and a sketch of the property. Also subject of this hearing is an Ordinance Establishing Zoning into the Town's R-3 Residential Zone (2 acres). The property is currently zoned Rural Density Transfer in Montgomery County. The property adjoins the Town's western border to the north of Brink Road and consists of 27.36 acres. The property is known as Rolling Ridge, also known as the "Jones Property". The notice of this hearing was published for four consecutive weeks in the Gaithersburg Gazette in compliance with Paragraph (d) of Section 19 of Article 23A of the Maryland Code.

Mayor Oland introduced Jody S. Kline, Esq., attorney for Elm Street Development (owner/developer of the Rolling Ridge Property) and also introduced John Clarke, Vice President of Elm Street Development. Mr. Clarke reported that the Annexation Petition is the culmination of many conversations and meetings over the past few years. Mr. Clarke reported that Elm Street Developments has worked with the elected leaders of the Town of Laytonsville as well as community groups like the Citizens Advisory Board and the Historic District Commission.

Mr. Jody Kline further reported that there were several benefits of this Annexation Petition: gives control of development on the Town's borders and allows the Town's development to remain consistent with its vision; gives the Town control over the historic Rolling Ridge site; and provides a dedicated Right-of-Way for the proposed Route 108 By Pass. Mr. Kline stated that this annexation process allows refinement of the

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Annexation Agreement and that a Public Hearing would allow for any comments to be reviewed and included as appropriate.

Citizen Comment:

Sheree Wenger 6715 Maple Knoll Drive Laytonsville, MD

Ms. Wenger was testifying as Chair of the Laytonsville Historic District Commission. Testimony is attached and made a part of the minutes.

On a personal note, Mrs. Wenger questioned Page 5, Section "4" Historic Preservation, Section B of the latest draft of the Annexation Agreement: regarding scenic easement or easements. Language to include maintaining vistas "to and from" and adjoining the existing residence on the Subject Property as an appropriate means of ensuring preservation and visibility of the historic resource may be included in Annexation Agreement.

Mrs. Wenger also questioned the availability of Public Utilities. Mayor Oland reported that this area would be reviewed at the submission of the Sub-Division level.

Rev. M. Pollock 21517 Laytonsville Road Laytonsville, MD

Rev. Pollock wished to offer a few remarks in support of the proposed annexation. This annexation would be a benefit to the Town of Laytonsville in the fact that it would include the ability to receive a dedicated Right-of-Way for the proposed Route 108 By-Pass. Rev. Pollock mentioned that the character and quality of life in the Town is affected by the current volume of traffic on Route 108. The Mayor and Council should recognize that the Town of Laytonsville has a stewardship of a current small, unified and coherent Town.

Phyllis Sterling 21401 S. Montgomery Street Laytonsville, MD

Mrs. Sterling, a member of the Historic District Commission, was testifying as a resident. Mrs.

-2-

Sterling's comments are attached and made a part of the minutes.

Eric Wenger 6715 Maple Knoll Road Laytonsville, MD DRAFT

Mr. Wenger wished to testify in favor of the annexation of the Rolling Ridge property so that the dedication of the Right-of-Way for the proposed Route 108 By-Pass was included as well as whatever amenities would further benefit the Town of Laytonsville.

Christine Wilkinson 7000 Brink Road Laytonsville, MD

Mrs. Wilkinson inquired as to the number of proposed homes to be built on the proposed annexation property and would the prospective home buyer be advised of the proposed Route 108 By-Pass.

Mr. Clarke responded that house configuration and number of houses is a determination made by septic field locations. Prospective home owners would be advised of the proposed Route 108 By-Pass.

Mayor Oland further stated that these questions would be addressed during the Subdivision approval process.

Mr. Kline displayed the three proposed alignments of the Route 108 By-Pass.

Mr. Benning reminded the meeting that all of the questions posed are not finalized until the submission of the subdivision plan.

With no further public testimony, Mayor Oland closed the Public Hearing on the Petition for Annexation and Zoning filed by Jones Farm, LC at 8:00 p.m. The record will remain open until the Montgomery County Council and Maryland National Capital Park & Planning have responded to the information sent to them regarding the Annexation Petition.

July 2, 2004

Historic District Commission P.O. Box 5158 Laytonsville, MD 20882

Dear Mayor and Council,

As Chairman of the HDC of the Town of Laytonsville I would like to enter the following testimony.

The proposed annexation (and upon approval) would provide the town, the historic district and this commission a significant property. Known as Rolling Ridge, the home was built around 1790 by Robert Ober. The house boasts four-chimney's, a style which is more common to the tidewater area. Many articles speak to the beauty of the landscape surrounding the home. Particularly the approach lined with trees and the surrounding landscaping which included Box mazes and a bowling green. Therefore, the opportunity to include Rolling Ridge in the Historic District would not be opposed.

The HDC would like to bring to the attention of the Mayor, Council and Elm Street Development that the "lane" or approach currently on the development plan would compromise the integrity of the historical significance of this property. During our consultations with representatives from Elm Street Development our commission was assured that the lane would be restored. During these consultations it has been brought to our attention that in order to achieve this goal the Mayor and Council would need to amend the current town road standard. The current representation of the lane on the development plan complies with the only road standard the town of Laytonsville has. It is the recommendation of the HDC that this standard be amended in order to achieve the preservation of the lane.

If annexation is approved the HDC recommends that 'Rolling Ridge', it's surrounding property and the entire lane (not just portions as is currently on the development plan) be re-zoned Historic as soon as the law will allow. A clear definition of the property lines for Rolling Ridge, the historic easements and vistas must be resolved.

The focus of the Historic District Commission will be to preserve and protect the views from the Rolling Ridge home. Encroachment has already occurred with the construction of the new homes to the West on the knotl. A landscape plan to buffer the view of the new homes should be prepared, as would be expected with the subdivision plan for the construction of the new homes in the proposed annexation area.

The commission would also like to remind the Mayor, Council and Elm Street that the HDC expects an opportunity to review and comment on all aspects of the proposed subdivision, both preliminary and final. The subdivision would greatly impact the existing homes in the historic district, Rolling Ridge and the surrounding historic easements. In order to safeguard the integrity of this vulnerable cultural landscape, environment and important resources many aspects must be considered.

This is a tremendous preservation opportunity for the HDC of Laytonsville. We would welcome the arrival of Rolling Ridge to our historic community. Any questions or comments can be directed to HDC through the Town Hall or by attending the monthly meetings held the third Monday of each month.

Sincerely,

Sherce Wenger

Chairman

Laytonsville Historic District Commission

21401 S. Montgomery St. Laytonsville, Md. 20882 July 6, 2004

Mayor and Council Members Town of Laytonsville 21607 Laytonsville Rd. Laytonsville, Md. 20882

Dear Mayor and Council Members,

I respectfully request that my testimony be entered into the public record.

I am a member of the Historic District Commission (HDC). Chair Sheree Wenger will testify on behalf of the HDC. My testimony is unrelated to the issues confronting the HDC.

The application of Jones Farm LC requesting annexation of 27 acres into the boundaries of the Town has been moving quickly through the processes required. I am concerned that the Town has scheduled this hearing prior to receiving recommendations from any agency referral body. I understand that the record will remain open until such recommendations are received. It seems reasonable that the residents could benefit from such information prior to testifying.

Should annexation be successful the Town will enter into an agreement with Jones Farm LC, part of which will be the conveyance of a 120 ft. right of way. The purpose of the right of way will be to allow for a proposed Md. Rt. 108 by-pass. I am not opposed to the proposed by-pass. As proposed, this is a state highway. I have not seen any input from the MD. State Highway Administration in regard to this particular alignment. Also under the jurisdiction of the state are the boundaries of the growth area. I am not aware of their position on changing the existing boundaries. If left unpaved over time the dedicated right of way may take on an aspect of parkland. Future homeowners, in proximity to this green space, may oppose what is being championed by the Mayor and Council today. Perhaps attorneys can craft some restrictions to such opposition by property owners.

The house known as Rolling Ridge is a significant historic resource. When asked, representatives of Jones Farm LC have characterized this property of interest to buyers concerned with historic preservation. Right now the house is in a state of neglect. Significant financial resources would be required to return it to its former glory. Hopefully there is a buyer willing to assume such a responsibility. Perhaps the Mayor and Council should consider adding a condition to the annexation agreement which states that a final number of the new homes cannot be built until Rolling Ridge has an owner.

Finally, the outline of public facilities for this annexation proposal asserts that the number of pupils to be generated by the proposed development will not require any new public schools. However when added to the proposed future development of other properties within the town there most certainly will be an impact on the school. I am anxiously awaiting the completion of the town's comprehensive plan where this issue should be addressed. I have already stated, for the record, my concern regarding a "piece meal" approach to planning.

Thank you,

Phyllis Sterling

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JONES FARM ANNEXATION REQUEST

Mayor Oland and Members of the Town Council thank you for the opportunity to speak this evening on the annexation request of Jones Farm, L.C. I am, John Clarke, Vice President of Elm Street Development. We are the owners of the property referred to in the annexation request.

The annexation petition before you is the culmination of many conversations and meetings over the past few years. We have worked with the elected leaders of Laytonsville and community groups like the Citizens Advisory Board and the Historic District Commission.

Several years ago when we first presented a plan for 20 lots on our acreage in the Town, there were many issues in the way of the Town getting the much-desired right-of-way for its bypass and our getting approval to build houses. Collectively, we have worked together to find a solution that helps each of us meet our needs. This annexation signifies how cooperation from both sides of a situation can achieve mutually beneficial results. This annexation produces a win for the Town of Laytonsville in that you obtain at no cost the right-of-way for a road that has been desired for so long.

We are please that our relationship with the Town has progressed through our collective problem solving approach. We request that you approve the annexation request, and we look forward to continuing our work with the Town of Laytonsville as we move forward.

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The regular meeting of the Laytonsville Town Council was called to order at 8:05 p.m. Mayor Oland introduced Delegate Herman L. Taylor, H. Delegate Taylor reviewed several items currently under discussion in Annapolis: the high cost of medical malpractice insurance and the authorization of slot machines in the State of Maryland. Delegate Taylor wanted the Town to meet their representative and also to indicate that the representatives (Senator Kramer, Delegate Anne Kaiser, Delegate Karen Montgomery and Delegate Taylor) are willing to help preserve what the Town of Laytonsville has in the quality of life and the level of resident involvement.

Mayor Oland reminded Delegate Taylor that the Town will request assistance if the Annexation Petition is approved. Mayor Oland also requested assistance to get the By-Pass into the inventory for the State Highway Administration.

The minutes of the regular Town Council Meeting on June 1, 2004 were approved as submitted. The minutes of the Work Session on June 1, 2004 were approved as submitted.

Treasurer's Report:

Treasurer's Report: The total income for the month was \$26,932.44. Major income was \$19,337.85 for income tax and \$7,149.00 for zoning fees. Major expenses for the month of June were \$2,452.00 for ground maintenance and \$1,596.00 for Legal Expenses. The total expenses for the month were \$14,495.02. The balance in the General Fund for the month of June is \$118,234.37; the balance in the CIP fund is \$80,350.22; the balance in the Fixed Asset account is \$392,208.63; with a total asset balance of \$590,793.22. Council Member Frank Bennett made the motion to accept the Financial Statement as submitted subject to audit. Council Member Charles Bradsher seconded. Unanimously approved.

Discussion Items:

<u>Proposed Filing Fees:</u> It was recommended that the filing fees for fences, special exceptions, and variances be brought more into line with other filing fees and the proposed fee for a building permit for fences would be \$50.00; the proposed fee for an application for either a special exception or a variance would be \$50.00 each.

Montgomery County Department of Transportation – Sundown Road: Mayor Oland reported that he had spoken with Al Rustie of the Montgomery County Department of Transportation regarding Sundown Road and that Mr. Rustie indicated that a base had been put down. The road will be re-surfaced within the next several months.



Welcome Sign: Sterico Signs has now agreed to repair the damaged Welcome Sign on the north entrance to the Town and re-install the north and south entrance signs at 4' above ground level on 6' x 6' posts for a total of \$1,995.00

Town Hall Flower Bed: The flower bed on the north side of the Town Hall has been created by Landscape Enterprises with the old bricks from the original Town Hall walkway. The Laytonsville Garden Club will plant flowers.

State Highway Administration: A letter has been received from Charlie K. Watkins, District Engineer, dated June 29, 2004 reporting that the traffic engineering staff will evaluate the traffic and safety concerns that the Town has along Route 108. Montgomery County Council Member Mike Knapp mentioned that his office would invite a representative of the SHA to address the Mayor, Council and citizens of the Town. Mr. Knapp also mentioned that a new commander for the Fifth Police District had been installed and she was charged with the job to come up with a more regular plan for speed and traffic enforcement in rural communities. It would also be appropriate for Mr. Knapp's office to invite Cdr. E.D. Galhalen to visit the Town.

Verizon Pedestal: Mayor Oland has been working with Verizon over the past nine months regarding the erosion of the base of the Verizon pedestal on Sundown Road. The base will now be filled in with landscaping stone.

Cancellation of Work Session, July 20, 2004: Mayor Oland announced that there would not be a Work Session on July 20, 2004.

Action Items:

Re-Appointments: Council Member Bennett made the motion to re-appoint Stanley D. Abrams as the Town's Legal Counsel; to re-appoint Macris, Hendricks & Glascock as the Town's Engineer; to re-appoint Stanley O. Benning as the Town's Planner; and to re-appoint Lindsey & Associates LLC as the Town's Auditor. Council Member Charles Bradsher seconded. Unanimously approved.

Council Member Frank Bennett made the motion to re-appoint Cathryn Buit as the Town's Clerk. Council Member Dave Halperin seconded. Unanimously approved.

Council Member Frank Bennett made the motion to re-appoint Christine Wilkinson as the Town's Treasurer. Council Member Charles Bradsher seconded. **Unanimously approved.**

Council Member Frank Bennett made the motion to appoint James A. Ruspi as full member of the Town's Board of Appeals for a term of three years. Council Member Charles Bradsher seconded. Unanimously approved.

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Council Member Frank Bennett made the motion to re-appoint Phyllis Sterling to the Town's Historic District Commission for a term of three years. Council Member Dave Halperin seconded. Unanimously approved.

Council Member Frank Bennett made the motion to re-appoint the Town's Tree Committee's members: Paul Foster, Eric Wenger and Richard Potener. Council Member Charles Bradsher seconded. Unanimously approved.

2004-2005 Filing Fee Schedule: Council Member Frank Bennett made the motion to approve the revised 2004-2005 Filing Fee Schedule to reflect the filing fee for fence building permit as \$50.00 and the application fee for special exceptions and variances as \$50.00 each. Council Member Dave Halperin seconded. Unanimously approved.

Local Government Insurance Trust (LGIT) Trust Agreement: Council Member Frank Bennett made the motion to approve Resolution #R-2-05, Local Government Insurance Trust (LGIT) Trust Agreement for the purposes of approving and consenting to the eighth amended and restated trust agreement. Council Member Charles Bradsher seconded. Unanimously approved.

Council:

Citizens:

Mayor Oland administered the Oath of Office to James A. Ruspi as a member of the Board of Appeals. Mayor Oland administered the Oath of Office to Phyllis Sterling as a member of the Historic District Commission.

Resident James Ruspi questioned whether residents of the Town could participate in the aggregation for the purpose of purchasing electricity. Mayor Oland reported that the Town of Laytonsville will be notified when this function is available; currently, only counties and large municipalities are being notified.

Resident Eric Wenger inquired about the video tape and CD as prepared by Dan Burden, Walkable Communities. The Clerk responded that copies were being made and one would be available to the Citizens Advisory Board.

Resident Phyllis Sterling reported that she has agreed to serve on the Citizens Advisory Board for the Fifth Police District previously mentioned. The mission of this Citizens Advisory Board is to facilitate the flow of information and to promote cooperation of efforts.

Resident Merritt Techter requested that the posting on the Town's web site of the proposed Agenda for regular Town Council meetings become a regular practice.

Mayor Oland presented retiring Council Member Tom Wilkins with a proclamation from Governor Robert L.Ehrlich, Jr. in recognition of his service to the Town of Laytonsville.

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Town Of Laytonsville

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Council Member Frank Bennett made the motion to adjourn the meeting. Council Member Charles Bradsher seconded. Meeting adjourned at 8:54 p.m.

Town Council Meeting Minutes

Cathryn D. Buit Clerk July 6, 2004 LAW OFFICES

MILLER, MILLER & CANBY

CHARTERED

200-B MONROE STREET ROCKVILLE, MARYLAND 20850

(301) 762-5212 FAX (301) 762-6044

August 23, 2004

J

JAMES R. MILLER, JR * PATRICK C. MCKEEVER JAMES L. THOMPSON LEWIS R. SCHUMANN JODY S. KLINE ELLEN S. WALKER MAURY S. EPNER JOSEPH P. SUNTUM SUSAN W. CARTER SUZANNE L. ROTBERT* ROBERT E. GOUGH DONNA E. McBRIDE MICHAEL G. CAMPBELL SOO LEE-CHO W. CHRISTOPHER ANDREWS *Of Counsel

Councilmember Michael Knapp Montgomery County Council Stella B. Werner Council Office Building 100 Maryland Avenue Rockville, Maryland 20850

RE: Town of Laytonsville Annexation Application No. X-01-05

Application of Jones Farm, LC (Jones Farm/"Rolling Ridge" Property)

Dear Mike:

It is a bit late, but my client just wanted to thank you for attending the July 6th meeting of the Mayor and Town Council of Laytonsville when the above-referenced Annexation Application was the subject of a public hearing. We recall that you arrived after much of the testimony had been presented, particularly the complimentary remarks made by several of the neighbors and townspeople. We eventually prepared a transcript of the public hearing and thought that you might like to review some of the specific comments made about Elm Street's annexation proposal for the Jones Farm.

Brian Long has probably advised you about the following, but on July 21st representatives of the Town and of the applicant met with Derrick Berlage and several of his staff members to discuss the Annexation Application. M-NCPPC was not comfortable with the applicant's request to change the zoning upon annexation from the County's RDT classification to the Town's R-3 (two acre) zone. 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.

I have separately reported to Brian that the public hearing on the Text Amendment is scheduled for September 7th and should be adopted in early October. The Montgomery County Planning Board is scheduled to consider the Annexation Application on Thursday, September 16th or Thursday, September 23rd, and we will keep your office advised about the processing of both the Annexation Application and the Zoning Ordinance Text Amendment.

Please call me if you have any questions about this matter.

Sincerely yours,

MILLER, MILLER & CANBY



Jody S. Kline

JSK/dlt

Enclosure

cc: Brian Long
Judy Daniel (w/ enclosure)
Maria Martin (w/ enclosure)
Mayor Willard Oland
Stan Benning
Stan Abrams, Esquire
John Clarke
Mike Bingley

LAW OFFICES

ATTACHMENT 7

MILLER, MILLER & CANBY

CHARTERED

200-B MONROE STREET ROCKVILLE, MARYLAND 20850

(301) 762-5212 FAX (301) 762-6044

September 14, 2004

JAMES R. MILLER, JR *
PATRICK C. MCKEEVER
JAMES L. THOMPSON
LEWIS R. SCHUMANN
JODY B. KLINE
ELLEN'S. WALKER
MAURY S. EPNER
JOSEPH P. SUNTUM
SUSAN W. CARTER
SUZAMNE L. ROTBERT*
ROBERT E. GOUGH
DONNA E. McBRIDE
MICHAEL G. CAMPBELL
SOO LEE-CHO
W. CHRISTOPHER ANDREWS
**OfCharsel

Mayor and Town Council Town of Laytonsville PO Box 5158 Laytonsville, Maryland 20882

RE:

Annexation Application No. X-01-05

Application of Jones Farm LC

Dear Mayor Oland and Members of the Town Council:

As you are aware, as part of Annexation Application No. X-01-05, the petitioner requested that the Town place R3 zoning on the subject property as original zoning at the time that annexation is accomplished. The Town has forwarded information regarding the annexation application, and the petitioner's zoning request, to Maryland-National Capital Park & Planning Commission for review and comment. As you may recall from our recent presentation to the Town, M-NCPPC has indicated a reluctance to recommend approval to the Montgomery County Council to consent to the granting of R3 zoning on the subject property in conjunction with Annexation Application No. X-01-05. M-NCPPC has indicated, however, that it has no objection if the subject property is annexed and placed in the Town's Agricultural zone, an action which would mean that the Montgomery County Council would not have to consent to the zoning classification to be placed on the subject property (since the Town's Agricultural zone is comparable to the County's RDT zone).

In light of the apparent recommendation to be made by the Staff of Maryland-National Capital Park & Planning Commission to the Montgomery County Planning Board, and the Planning Board's likely adoption of that recommendation, 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.

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The applicant will be pleased to coordinate with the Town to ensure that this request to amend its annexation application meets all of the procedural due process requirements to be accorded a typical annexation application.

Sincerely,

MILLER, MILLER & CANBY

JOHY KLINE

Jody S. Kline

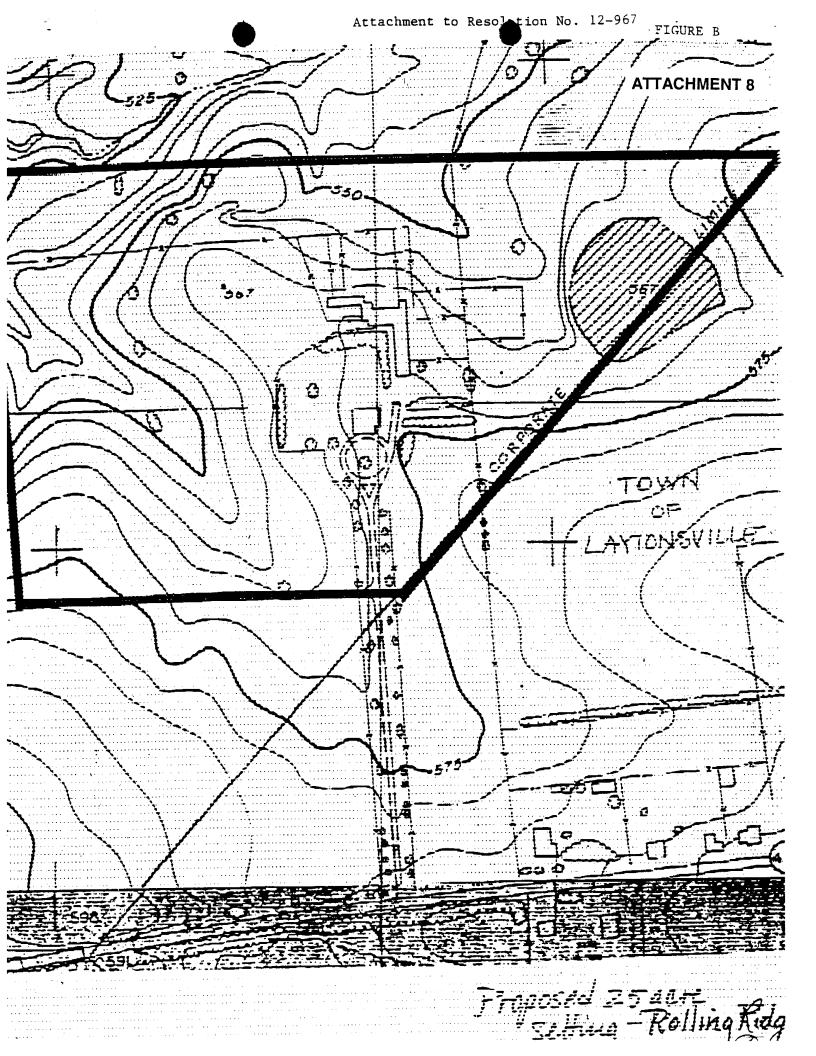
JSK/dlt

cc: Judy Daniel

Maria Martin Stan Benning

Stanley D. Abrams, Esquire

John Clarke Mike Bingley



Town of Laytonsville Annexation Petition (Jones Farm Property)

ESTIMATED ANNUAL TAX PAID TO THE COUNTY BEFORE ANNEXATION (2004 Levy Year)

Total Appraised Value of the Properties	\$474,570
Appraised Value Divided by 100	\$4,746
Multiplied by the Total Tax Rate of:	1.141
= Total Annual Tax Paid to the County	\$5,415

ESTIMATED SPECIAL SERVICE AREA TAXES PAID TO THE COUNTY THAT WOULD NOT BE PAID AFTER ANNEXATION BASED ON 2004 LEVY YEAR RATE SCHEDULE

	TAX	ASSESSED			YEARLY
	RATE	VALUE/100			TAX LOSS
Recreation Tax	0.025	*	\$4,746	=	\$119
Storm Drainage Tax	0.003	*	\$4,746	=	\$14
Total Yearly Loss to County					\$133

ESTIMATED PARK TAX THAT SHOULD CONTINUE TO BE PAID AFTER ANNEXATION

	TAX	ASSESSED	PARK
	RATE	VALUE/100	TAX
Metropolitan Tax	0.059	* \$4,746 =	\$280

Sources: Montgomery County Department of Finance
State Department of Assessments and Taxation

Montgomery County Park and Planning Department, Research and Technology Center, July 19, 2004.