

OFFICIAL MINUTES
Carroll County Planning and Zoning Commission

May 20, 2014

Location: Carroll County Office Building

Members Present: Alec Yeo, Chairman
Richard J. Soisson, Vice Chair
Eugene A. Canale
Matthew S. Helminiak
Jeffrey A. Wothers
Daniel E. Hoff, Alternate

Members Absent: Cynthia L. Cheatwood
Richard S. Rothschild, Ex-Officio

Present with the Commission were the following persons: Philip R. Hager and Kelly Martin, Department of Land Use, Planning, and Development; Lynda Eisenberg and Scott Graf, Bureau of Comprehensive Planning; Clay Black, Patrick Varga, Laura Matyas, and John Breeding, Bureau of Development Review; Jay Voight, Zoning Administrator; Scott Campbell and Bryan Van Fossen, Office of Public Safety; Ted Zaleski, Department of Management and Budget; Neal C. Roop, Town of New Windsor; Kent Martin; Joe Risley; John Lemmerman; Francis Bollinger; Dan Staley; Clark Shaffer; Julia Feeser; Franklin Feeser; Gerald Ahnell; Kurt Deery; Dennis Wanner; Charles Gachot; Vince Campanella; Warren Jones; Daniel Strickler; Brooks Leahy; William B. Dulany; John Bixler; and Julie Feeser.

CALL TO ORDER/WELCOME

Chairman Yeo called the meeting to order at approximately 9:15 a.m.

ESTABLISHMENT OF QUORUM

Kelly Martin took the attendance of the Commission, noting that six members were present, and there was a quorum.

PLEDGE OF ALLEGIANCE

OPENING REMARKS/ADMINISTRATIVE MATTERS

Philip R. Hager, Secretary, requested that Item 16 be removed from the agenda. Staff had initially thought there was going to be a change to the language approved at the previous meeting, but it was later determined that no changes were necessary, so no further review is necessary.

REVIEW AND APPROVAL OF AGENDA

The Commission, on motion of Mr. Helminiak, seconded by Mr. Soisson, and unanimously carried, approved the agenda with the elimination of Item 16.

REVIEW AND APPROVAL OF MINUTES

- A. April 15, 2014
- B. May 7, 2014

The minutes of April 15, 2014 and May 7, 2014 were approved as written on motion of Mr. Wothers, seconded by Mr. Helminiak, and carried.

REPORT OF AGENCY REPRESENTATIVES

- A. Public Safety
- B. Economic Development
- C. Management and Budget

A. PUBLIC SAFETY

Scott Campbell, Office of Public Safety, reported that the countywide radio transition project from analog to digital is on schedule to be completed before the end of the calendar year. Upgrades to the eight existing tower sites and three new sites are all in different levels of equipment removal and installation. Mr. Campbell reported that the space in the County Office Building where the old 911 center was located is being rebuilt into an eight-position back up 911 center that is fully capable.

Richard Soisson, Commission member, questioned whether the new radio system would have any dead zones.

Mr. Campbell indicated the new system will provide significantly improved coverage. One of the three new towers is in the Arcadia area to improve radio communications in the Roberts Field area of Hampstead.

B. ECONOMIC DEVELOPMENT

No report given; no representative present.

C. MANAGEMENT AND BUDGET

Ted Zaleski, Department of Management and Budget, reported that the Commissioners' proposed budget was reviewed at community budget sessions. The Commissioners made a few changes to the Capital Budget which was reviewed by the Commission. A building replacement project was added for Charles Carroll Elementary, funding was added for partial repairs to Challedon Road in Mount Airy and Young Road in the northeast, and some money for countywide gravel road repairs was included. Mr. Zaleski indicated he will be meeting with the Board of County Commissioners tomorrow to see if there are additional changes. Adoption is scheduled for May 27.

COMMISSION MEMBER REPORTS

- A. Commission Chairman

A. COMMISSION CHAIRMAN

Chairman Yeo reported that he had approved the following plans over the last month: Cherrytown Chicken, Major Property, Piney Creek Management, and Heather's Ridge.

DEPARTMENT OF LAND USE, PLANNING & DEVELOPMENT STAFF REPORTS

A. Director

A. DIRECTOR

Philip R. Hager, Director, reported that four development extensions had been granted since the last meeting: a fourth one-year extension for the subdivision plan of Klees Mill Overlook, 9 lots in an R-40,000 district in the Finksburg area; a third one-year extension for the subdivision plan of Deer Trail Estates, 9 lots located on the terminus of Eastern Road in the Finksburg area; a third one-year extension for the subdivision plan of Fern Hill, 17 lots (16 new houses) located on the south side of Bollinger Mill Road, east of Mineral Hill Road in the Sykesville area; and a fifth one-year extension for the site plan of Doroly Gardens, a 55 and older community comprised of 28 condominium units, located on the south side of MacBeth Way, north of Pommel Drive in the Sykesville area.

Mr. Hager reported that staff provided comments to the Board of Zoning Appeals (BZA) on three BZA cases: BZA Case No. 5751, Jennifer Fry, request for a conditional use for the installation of a pet crematoria on a 5.394 acre property located at 4827 Buffalo Road, Mount Airy, within the County's Agricultural zone; BZA Case No. 5752, Matthew Zimmerman and Susan B. Boyce, an appeal of the Zoning Administrator's Decision in Case ZA-1492 for the creation of a nonconforming lot within the Conservation zone on property located at 841 Chanter Drive, Westminster; and BZA Case No. 5747, Verizon Wireless by Harold Bernadzikowski, request for a conditional use to develop a 199-foot tall monopole cellular communications tower with associated panel antennas on property located at 2427 Coon Club Road, Westminster, within the County's Agricultural zone.

CONCEPT SITE PLAN REVIEW

A. S-13-025, Tobacco Technology, 3rd Amended Site Plan

A. S-13-025, TOBACCO TECHNOLOGY, 3RD AMENDED SITE PLAN

LOCATION: North side of Liberty Rd. (MD Rt. 26), opposite Emerald Lane, E.D. 14.

OWNER: Tobacco Technology, Inc., c/o Energy Plus Group, Inc., Attn: Charles Gachot III, 3003 Alpine Drive, Finksburg, MD 21048

DEVELOPER: Same as Owner

ENGINEER: RTF Associates, 142 East Main Street, Westminster, MD 21157

ZONING: Industrial Restricted

ACREAGE: 44.23 acres (0.44 acres for this plan)

FIRE DISTRICT: Sykesville

WATERSHED: Patapsco - South Branch

MASTER PLAN: Restricted Industrial – 2001 Freedom Plan

PRIORITY

FUNDING AREA: Freedom

DESIGNATED

GROWTH AREA: Freedom

Patrick Varga presented the background.

Action Required:

The plan is before the Planning and Zoning Commission per Section 155.059 of the Code of Public Local Laws and Ordinances of Carroll County for consideration of a concept site plan. No action is required.

Existing Conditions:

Properties to the east are zoned R-20,000 and are improved with single-family homes. An open space parcel is located immediately to the southeast and is also zoned R-20,000. The properties to the north are zoned Conservation and are improved with single-family homes. There is also an open space parcel located to the north that is zoned Conservation. To the northwest is a mixed-use development on a property that is split-zoned Industrial Restricted and Conservation. Liberty Road is immediately to the south of the subject property. To the southwest, an RV and mini storage business is located on the opposite side of Liberty Road and is zoned Industrial Restricted. Several businesses occupy parcels on the opposite side of Liberty Road.

The original structure was built in 1943. Additions were added in 1956, 1984, and 1998. The original site plan and the first amended site plan were approved in 1997 and 1998 respectively. The second amended site plan for this development included a 1,500 square-foot metal storage building immediately to the west of the existing structure. This plan was approved by the Planning Commission Chairman in 2013.

Site Plan Review:

The developer proposes to construct a 22,050 square-foot metal building to the north of the existing warehouse and lab on the property. The building will be used for manufacturing components of electronic cigarettes. The total disturbance on the site plan will be 87,750 square feet. Based on the number of employees on the entire site, 30 parking spaces are required and 56 are provided. There are also five existing and three proposed spaces for delivery vehicles. Geothermal wells will be drilled to the west of the proposed building. Several geothermal wells are already in use on the site. The subject property is served by a private septic system and both public and private water. The buildings are served by public, domestic water line and a well on-

site serves as an industrial production water supply. The proposed use is consistent with the 2001 Freedom Community Comprehensive Plan land use designation of Industrial Restricted.

The State Highway Administration has not yet submitted review comments for this plan, however, a traffic impact study was not required by the County based on the size of the proposal and existing operation.

The building is shown as 35'11 1/2" in height. The building is shown as a brown metal structure with a galvanized metal roof. Solar panels will be installed on the roof. Several cutoff light fixtures are shown around building access points, but no pole-mounted lights are proposed. An eight-foot security fence will surround the building.

Proposed Forested and Non-Forested Water Resource Protection easements encompassing the streams on the property are shown on the plan. Forest Conservation will be addressed with retention on the property.

The proposed site plan was subject to Citizen's Involvement during the April 28, 2014 Technical Review Committee meeting. One citizen was in attendance who asked what the building would be used for and to confirm the building location. Several emails and phone calls were received by this office, but they were limited to questions regarding the use and location of the structure.

The property is not subject to the provisions of Concurrency Management, Chapter 156 of the Code of Public Local Laws and Ordinances of Carroll County; however, the project will be tested for Adequate Public Facilities before the site plan is presented to the Planning Commission for approval.

As this is an amended site plan, the Commission may delegate approval authority to the Chairman upon receipt of all agency approvals.

Discussion:

Mr. Varga explained the priority review process developed in coordination with the Department of Economic Development and indicated this project had been selected for an expedited review.

Eugene Canale, Commission member, questioned what percentage of their electrical power will be provided by solar panels.

Charles Gachot, Energy Plus Group, indicated their intention is to generate as much power as possible with a goal of 15-20 percent. He noted that the building is geothermal, so there will be very low energy usage.

Daniel Hoff, Commission member, questioned whether the openings on either side of the easement area for future access can be amended or whether they were tied to the crossing locations on the plan.

Mr. Varga explained that the breaks will probably be eliminated from the plan but at such time as a crossing is necessary, staff can work through the process.

John Lemmerman, RTF Associates, indicated there has been considerable discussion with the County regarding closing those gaps with the assurance from the County that when/if access is needed, it can be granted as necessary.

Mr. Gachot provided basic information to the Commission regarding the manufacturing process for e-cigarettes. He noted that most of the positions added by the company will be college educated and above.

Chairman Yeo questioned the additional traffic generated by the site.

Mr. Lemmerman explained that the maximum anticipated employees for the new building is 12 with anticipated peak hour trips at 17.

Chairman Yeo questioned whether the Commission members were comfortable with him approving the final site plan.

The Commission, on motion of Mr. Soisson, seconded by Mr. Helminiak, and carried, delegated approval authority for the site plan to the Chairman upon receipt of all agency approvals.

FINAL SITE PLAN REVIEW

A. S-07-018, Lehigh New Windsor Quarry Expansion

A. S-07-018, LEHIGH NEW WINDSOR QUARRY EXPANSION

Daniel E. Hoff, Commission member, recused himself from this discussion.

LOCATION: Maryland Route 31, south of New Windsor, Election District 11

OWNER: Lehigh Cement, LLC, 675 Quaker Hill Road, Union Bridge, MD 21791

DEVELOPER: Lehigh Cement, LLC, 675 Quaker Hill Road, Union Bridge, MD 21791

ENGINEER: C.L.S.I., 439 East Main Street, Westminster, MD 21157

ZONING: Agricultural

FIRE DISTRICT: New Windsor

WATERSHED: Double Pipe Creek

MASTER PLAN: Agricultural

PRIORITY

FUNDING AREA: N/A

DESIGNATED

GROWTH AREA: N/A

Clayton R. Black presented the background.

Purpose:

The plan is before the Planning and Zoning Commission for final review and approval of an amended site development plan in accordance with Chapter 155 of the Carroll County Code of Public Local Laws and Ordinances.

Existing Conditions:

The property is comprised of approximately 814 acres, directly south of the Town of New Windsor. The property is bordered by Old New Windsor Road and Maryland Route 31. The existing entrance to the quarry is located along MD Route 31 approximately 2100 feet northeast of Sams Creek Road. The property is zoned Agricultural and is designated a Mineral Resource Overlay (MRO). The majority of properties located on the east side of MD 31 and west side of Old New Windsor Road are zoned Agricultural. At the north side of the quarry, property located in the Coe Drive area is zoned Conservation, properties at the intersection of Hawks Hill Road and Old New Windsor Road are zoned R-20,000 and R-10,000 and properties on the east side of MD 31 are zoned R-40,000. The property is within one mile of the incorporated limits of the Town of New Windsor.

Project History:

The Lehigh quarry was originally approved by the Planning and Zoning Commission on October 16, 1990 (minutes attached). That plan identified an initial mining phase of 186 acres, of which 66 acres was the actual pit, and a future phase that proposed a 132 acre pit. A condition of that approval stated "Extraction of limestone in locations indicated hereon as "Future Area of Mining" or other extractive operations not shown in detail on this Site Development Plan, shall require the approval of an Amended Site Development Plan and issuance of an Amended Zoning Certificate prior to undertaking any expansion of quarry operations."

A site plan for the expansion of the existing Lehigh quarry (S-07-018) was submitted to the County on May 17, 2012. As required by the Carroll County Code of Public Local Laws and Ordinances, a community involvement meeting was held on August 8, 2012 at the New Windsor Community Center to discuss this amended concept site plan (meeting summary attached). Lehigh has held other public involvement meetings regarding this project

Lehigh's existing mining permit #87-SP-0265 is currently in the review process for expansion of the quarry. MDE has not yet issued an expansion of the permit.

Site Plan Review:

The property is entirely zoned Agricultural and designated as Mineral Resource Overlay (MRO). Specifically, the area identified on this site plan is designated as a Mineral Resource (MR). Chapter 158, Zoning Regulations, allows for Mineral Resource Recovery Operation in the Mineral Resource designated area. The Zoning Regulations define Mineral Resource Recovery Operations as "An operation composed of extractive operations, processing operations, and/or storage and removal of excavated material." Processing Operations are defined as "The crushing, polishing, washing, screening, stockpiling, and customer truck loading of extracted minerals."

Extractive Operations are defined as: “(1) The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals; (2) Any activity or process constituting all or part of a process for the extraction or removal of minerals from their original location; (3) The extraction of sand, gravel, rock, stone, or earth, for highway construction purposes or other public facilities; or (4) Storage of excavated material shall not be considered an extractive operation for purposes of this chapter.”

Per § 158.096(B)(4) permitted uses in the Mineral Resource Notification Area (MRN) are as follows:

(a) In the MRN, processing operations as defined in § 158.002 shall be a permitted use, provided that the distances outlined in § 158.096(B)(2) are met and provided that the processing operation is contiguous to an extractive operation in an adjacent MR. In the MRN, extractive operations are not permitted.

(b) In the MRN, the uses allowed in the underlying district are permitted, with special recommendations for clustering away from the resource and for notification.

(c) Excavated material stockpile areas are permitted within the approved final site development plan area, and shall always be constructed behind landscaping, berms, and visual buffers.

(d) Landscaping, berms, and visual buffers shall comply with the provisions of the Carroll County Landscape Manual as adopted by § 157.02 of this code.

Per § 158.096(C) extractive operations are allowed only in an area designated MR; the storage and removal of excavated material is allowed within the approved final site development plan area; processing operations are allowed in the MR, and may be allowed in the MRN, subject to the provisions of § 158.096(B)(4) of this chapter. All mineral resource recovery operations are subject to the following.

(1) Mineral resource recovery operations, except for the storage and removal of excavated material, shall be no closer than 200 feet to all adjoining property lines or any existing or proposed public road right-of-way and 400 feet from any existing principal building on an adjoining property. The Planning and Zoning Commission may increase the distance requirements if it determines that adjacent land uses, geological, hydrogeological, topographical, natural vegetative, or any other environmental feature causes a greater adverse effect at the proposed site than desired.

(2) The minimum setback distances shall not apply to the common boundary where the adjoining lot is used or planned for mineral resource recovery operations. Setbacks on the remaining property lines shall meet the setback requirements in division (C)(1) of this section.

(3) A person engaging in mineral resource recovery operations shall locate and conduct those operations on the site in a way that minimizes visual, auditory, and other sensory effects on surrounding property owners.

(4) Processing operations outside the pit perimeter shall be housed in a covered structure unless the Planning Commission determines, because of specific site conditions, this is unnecessary based on the effects of the use on nearby properties.

(5) The site shall be developed and maintained in compliance with Chapter 157 and the Carroll County Landscaping Manual.

(6) The line of sight shall be interrupted to the extent possible between mineral resource recovery operations and adjacent properties zoned for residential use, or improved by a residential dwelling, so as to reduce the visual intrusion of the operation on adjacent and nearby properties.

(7) All permanent access roads shall be paved for a distance of at least 200 feet from the adjoining public road. The paved cartway width shall be a minimum of 22 feet, and the

pavement type must be approved by the Carroll County Department of Public Works, or its success agency. Roads marked on a site plan and approved by the Planning Commission as temporary may be of a stone construction type (i.e., crusher run).

(8) All excavated material stockpile operations and storage shall be conducted in accordance with an approved site plan as set forth in Chapter 155.

(9) When the height of the excavated material stockpiles exceed the height of adjacent landscaping berms for a period of time greater than 12 months, then such stockpiles must be constructed using concurrent reclamation methods.

(10) Hours of operation are as follows.

(a) Extractive operations, and the storage and removal of excavated material, shall be restricted to the hours of 6:00 a.m. to 7:00 p.m. Monday through Friday, and 8:00 a.m. to 7:00 p.m. Saturday.

(b) Processing operations, and nonextractive related activities (i.e., administrative, maintenance, repair), may be carried out on the premises beyond the allowed hours of operation, provided that the sound level does not exceed the maximum acceptable limit allowed by the state or Chapter 93, Noise.

(c) On Sundays and during atypical business hours, extractive operations will be allowed if expressly permitted by the Zoning Administrator because of an operating emergency or because of local or state need.

(11) The mineral resource recovery operations shall comply with all applicable federal and state air pollution control laws and regulations. In the event of conflict between these laws and regulations, the most restrictive legally applicable law or regulation shall apply. The operator shall control and contain dust to prevent visible emissions from crossing the boundary of the property.

(12) The mineral resource recovery operations shall comply with all federal, state, and local laws regulating water resources management and protection. In the event of conflict between these laws and regulations, the most restrictive legally applicable law or regulation shall apply.

(13) The operator shall provide, prior to beginning a mineral resource recovery operation, a contingency plan for well replacement whenever a public water supply surface intake, public water supply well, or private water supply well is within the zone of influence as designated by the state.

(14) Indenture provisions are as follows.

(a) Prior to the issuance of any Zoning Certificate under this chapter for mineral resource recovery operation, the owner and operator shall enter into an indenture with and provide a satisfactory bond or guaranty to the County Commissioners to ensure compliance with this chapter and the provision of related public improvements, adequate landscaping, fencing, screening, health and safety safeguards, reclamation and restoration plans including regrading, site access, draining, or other treatment as required by this chapter at the completion of the extraction or processing operation. The indenture shall be prepared by the County Attorney, and the bond or guaranty shall be satisfactory to the County Commissioners.

(b) The indenture shall include language discussing the availability of the water pumped in dewatering a site for a public water supply and the use of any resulting reservoir when the site is abandoned for a public water supply.

(c) The indenture shall require the applicant to provide the County Commissioners a copy of all necessary state permits or letters of certification from each state agency that it has completed its review of the proposed mining operations and is prepared to issue its permit before the Zoning Certificate may be issued.

(d) Prior to the completion of an indenture, the County Commissioners may impose any other condition, limitation, or requirement which they deem necessary, to protect the public health, safety, or welfare of the people of the county.

(15) The reclamation plan shall consider providing for use of any water-filled pits as a public water supply. Other proposed land uses for the reclaimed site shall be detailed. Reclamation plans shall be developed with consideration to the condition of adjoining mineral resource recovery operations.

(16) When the property on which the mineral resource recovery is planned to take place contains a historic structure, or a known archaeological site, any documentation sent to the state concerning the structure shall also be forwarded to the Carroll County Department of Land Use, Planning, and Development, or its successor agency, to ensure that the structure and site are surveyed.

(17) All plans for mineral resource recovery operations shall be submitted to the Planning Commission pursuant to the provisions of § 155.059.

(18) Prior to site plan approval, the Planning Commission shall determine the adequacy of transportation facilities on the local land route as detailed in the traffic impact study. If inadequacy is determined by the Planning Commission, the Planning Commission will consult with the County Commissioners and the Director of Public Works, or its success agency, to make a determination as to the extent the public works agreement may be adjusted to include road improvements that would alleviate the inadequacy.

The Zoning Administrator has indicated that the plan meets the requirements of the Zoning regulations, including all setback distances. The Health Department has conditionally approved the plan, subject to proper abandonment of wells and septic systems on site. Several existing buildings located on site will be razed. There are no buildings to be constructed as part of the quarry expansion. There are no proposed improvements or changes to the main entrance to the site that is located onto MD 31 (New Windsor Road) at the southern portion of the property. An existing entrance to MD 31, located directly across from Wakefield Valley Road will be removed as part of this plan approval. Maryland State Highway Administration has approved the plan subject to the issuance of an access permit for the closure of that entrance. The use is consistent with the 2000 Carroll County Master Plan Land Use Designation Map.

The plan meets the requirements of the Floodplain Management Code. The developer requested a variance to the requirement for deed of all the water resource protection easements that the Water Resource Protection Code mandated. On April 15, 2014, Thomas S. Devilbiss granted the variance request with a condition that all of the stream system located on the site outside the limits of disturbance as shown on the submitted exhibit comply with the Code requirements.

The plan is exempt from the Forest Conservation Ordinance for those areas within the limits of the mining permit. The Forest Conservation Ordinance is applicable to those disturbed areas outside the limits of the mining permit (berms are being constructed at the area between the edge of Old New Windsor Road and MD 31 and the mining permit limit). To address that disturbance the developer is doing offsite planting at an existing forest conservation easement located off of Lehigh Road on property owned by Lehigh. A vegetated buffer is being provided that includes earth berms (approximately 21,000 feet of berm) with a mix of hardwood and evergreen trees (over 5,600) along the entire perimeter of the property that will tie in with the existing berms. The height of the berms are approximately 10 feet above road elevation.

A Stormwater Management facility is being constructed at the northern edge of the site to address runoff from Route 31 that is being conveyed onto the site and to address runoff from a portion of the overburden that will be constructed at the northern edge of the site. The remaining stormwater runoff will drain into the mine pit.

In accordance with §155.090 of the Code, a transportation description that addresses the effects of the proposed mineral resource recovery activity on present and projected levels of service... related to traffic flow and safety is to be an element of that site plan. The proposed method to transport the material between the quarry and the Union Bridge plant is an underground and above ground conveyor system. A conveyor site plan (S-12-021) is currently in the plan review process and is tentatively scheduled to be presented for site plan approval at the June 2014 Planning Commission meeting.

Coe Drive, a non-publicly maintained drive, will be abandoned (closed) from the existing bridge to the intersection with Meadow Drive. The two properties immediately off of MD 31 will still be able to utilize Coe Drive as access to their property (see sheet 3 for details). A paved service road, shown on sheet 3, will be gated at the entrance and is used for access to the containment facility.

No processing operations (crusher) are currently being show on this plan. An amended site plan will be required to show the processing facilities, any office building facilities, or any changes or additions to the plan.

An agreement (March 17, 2014) between The Town of New Windsor and Lehigh establishes a long term arrangement for the use of some of the water from the quarry. A revised contingency plan was submitted, reviewed, and approved by the County for the private wells within the zone of influence.

A proactive monitoring groundwater monitoring plan has been approved by Carroll County. That plan is specifically geared to relate any effect from quarrying to groundwater levels related to water wells and sinkhole developments. The specific well monitoring locations are identified on the site plan (general note #29) and will be referenced in the Indenture. The County and Lehigh are currently working on the terms of the Indenture.

A key component of the quarry operation is utilizing concurrent reclamation techniques. Concurrent Reclamation is defined as “Mine reclamation system or procedures, including but not limited to, backfilling, grading, topsoil replacement, stabilization and revegetation of excavated material that proceeds concurrently with the progress of the mineral resource recovery operation.” The general construction sequence for the quarry operation is as follows:

1. The existing 66 acre mine, located in the southern portion of the property, will be discontinued.
2. A new mining area to be opened in the northern portion of the property.
3. Berm construction will then begin around the entire property.
4. Permanent overburden/waste rock storage area will be constructed with concurrent reclamation practices.

5. As the mine grows, a second overburden/waste rock storage area will be constructed using concurrent reclamation practices. Construction of a temporary overburden/waste storage area will occur in the southern portion of the property. Material will be moved from the storage area in the south and placed in the mine starting in the north and moving south, continuing through the remaining life of the mine.

Recommendation:

Staff recommends approval of the site plan subject to the following conditions:

1. That removal of raw material or product by any other mode of transportation other than the conveyor will require an amended site plan for review and approval by the Planning and Zoning Commission.
2. That an Indenture between the owner and the Commissioners of Carroll County be executed prior to the issuance of the zoning certificate.
3. That the developer enter into a Public Works Agreement with Carroll County to insure completion of the improvements, i.e. stormwater management, landscaping, forestry, water resources.
4. That the Water Resource Protection Easement area approved in Variance No. V-WR-14-001, be conveyed to the County Commissioners of Carroll County and recorded simultaneously with recordation of the Public Works Agreement.
5. That a Stormwater Management Easement and Maintenance Agreement be conveyed to the County Commissioners of Carroll County and recorded simultaneously with recordation of the Public Works Agreement.
6. That a State Highway Administration access permit be issued for the closure of the existing entrance located directly across from Wakefield Valley Road.
7. An amended site plan will be required for review and approval by the Planning and Zoning Commission to show the processing facilities, any office building facilities, or any changes or additions to the plan.

Discussion:

Mr. Black noted that he appreciated the attendance of Mayor Roop on behalf of the Town of New Windsor who will offer comment following the presentations.

Matthew Helminiak, Commission member, questioned whether trucks would be used as a backup method of transportation.

Kent Martin, Lehigh Plant Manager, indicated that the backup for the New Windsor quarry would be a stockpile at the Union Bridge plant. He noted that Lehigh does not envision transport of product by truck. Mr. Martin introduced the Lehigh team most of whom have worked with this project since its inception.

Dennis Wanner, Lehigh Senior Project Manager, provided an overview of the project, including the status of pending permits and studies, etc. He noted that 113 properties will be included in the Zone of Responsibility and the MDE required Water Supply Contingency Plan has also been updated.

Chairman Yeo questioned what would constitute a well being “impacted” by the project.

Kurt Deery, Lehigh Environmental Engineer, explained that any reduction of water would be considered “impacted”. Lehigh checks the Zone of Responsibility wells monthly and reports to the County. Any impacts in the change of water level would be seen fairly quickly. Mr. Deery explained that Lehigh is responsible for supplying potable water to the home and working with the homeowner to dig a new well, extend the depth of the existing well, etc., as necessary.

Jeff Wothers, Commission member, questioned whether Lehigh has experienced any issues at the Union Bridge quarry with regard to water.

Mr. Deery responded that there have been no issues.

Tom Devilbiss, Deputy Director, Department of Land Use, Planning & Development, explained that the County has worked with Lehigh to develop a proactive monitoring plan. He noted that the Water Supply Contingency Plan is an updated plan that was initiated years ago. The Contingency Plan specifies what will happen if an issue occurs. There were not details attached to the state law. Mr. Devilbiss explained that the County developed a process if there is a report of decline or loss of water supply or sinkhole in the Zone of Responsibility.

Mayor Roop, Town of New Windsor, explained that the Town has had considerable involvement in the plan development with the County and Lehigh. He stated that the Town of New Windsor supports the Plan and mentioned the multiple community outreach meetings held by Lehigh.

Mr. Black noted that over 200 postcards were mailed advising interested citizens of today’s meeting.

There were no public comments.

Decision:

The Commission, on motion of Mr. Soisson, seconded by Mr. Helminiak, and unanimously carried, approved the amended site development plan for the Lehigh New Windsor Quarry Expansion in accordance with Chapter 155 of the Carroll County Code of Public Local Laws and Ordinances with the seven conditions included in the staff report.

Mr. Hoff re-entered the meeting.

SPECIAL REPORT

A. 030-C-02, Chenopodium Acres

A. 030-C-02, CHENOPODIUM ACRES

LOCATION: Bollinger Road at the intersection with Hook Road, 4th Election District

OWNER: Francis L. & Mary Jean Bollinger, 1343 Bollinger Road, Westminster, Maryland 21157

DEVELOPER: Same as Owner

ENGINEER: D.R.S. & Associates, 52 Winters Street, Westminster, MD 21157

ZONING: R-40,000, Agricultural

ACREAGE: 160 acres - 1973 preliminary plan

WATERSHED: Liberty Reservoir

NO. OF LOTS: 119 approved in 1973

MASTER PLAN: Residential

PRIORITY

FUNDING AREA: Outside

DESIGNATED

GROWTH AREA: Outside

PUBLIC FACILITIES IMPACTED

SCHOOLS: Sandymount & Mechanicsville Elementary
Shiloh Middle
Westminster High

ROADS: Bollinger Road

FIRE & EMS: Reese

POLICE: Carroll County Sheriff's Office/Maryland State Police

Clayton R. Black presented the background.

Action Requested:

The property owner's attorney has requested an additional extension for the recordation of Phases 4 through 8 of Chenopodium Acres.

Project History:

Chenopodium Acres, a residential subdivision consisting of 119 lots, was approved by the Carroll County Planning and Zoning Commission on October 29, 1973. At the time of plan approval, the property was zoned agricultural. The subdivision consists of 8 phases. Phase 1 (13 lots) was recorded on May 21, 1998. The Planning Commission approved a phasing plan for Phases 2 through 8 on June 21, 2005.

On April 16, 2006, the Planning Commission approved a revised phasing plan that reduced the number of lots to be included in Phase 2 and increased the number of lots to be included in Phase 8. Phase 2 (8 lots) was recorded on June 29, 2006.

On November 27, 2006, the developer requested and was granted a one year extension of the deadlines for the remaining phases. Under that revised phasing plan, Phases 3 through 8 were subject to a series of deadlines that required Phase 3 to be recorded by July 1, 2008, Phase 4 to be recorded by July 1, 2009, and so forth.

On May 20, 2008, the developer requested another one year extension of the deadlines for the remaining phases. The staff recommended denial of the extension request. The Planning Commission granted a two year extension, which required that Phase 3 be recorded by July 1, 2010.

At the July 21, 2009 meeting, the Planning Commission approved an amendment to the phasing plan reducing the number of lots to be recorded in Phase 3 from 19 lots to one lot. The one lot would be created around the property owner's house. The final plan of Chenopodium Acres, Phase 3 showing one lot was approved at the June 15, 2010 Planning Commission meeting and recorded on June 30, 2010.

At the July 20, 2010 Planning Commission meeting (copy attached), the Commission authorized an extension of the recordation deadline to July 1, 2014 subject to the following conditions:

1. That an Environmental Site Delineation for the land area that comprises Sections 4 through 8 of Chenopodium Acres be completed and submitted to the County for review and approval.
2. That Sections 4 through 8 of Chenopodium Acres comply with the County Water Resources, Landscaping, and Forest Conservation ordinances in effect at the time of each submittal.

Chapter 155-056F(2) of the Carroll County Code states that "A preliminary plan of subdivision which was approved by the Planning Commission prior to July 22, 2003, shall become void 24 months after July 22, 2003 or as otherwise specified by the Planning Commission, unless such plan has received final approval by the Planning Commission and been recorded as a plat in the Land Records of Carroll County." The phasing plan that was approved on June 21, 2005 was, in effect, an extension of the June 22, 2005 deadline specified by the code. The November 27, 2006 action by the Commission was a second extension. The May 20, 2008 action by the Commission was the third extension. The July 21, 2010 action was the fourth extension granted by the Commission.

Current Request:

The surveyor, on behalf of the property owner, has requested an additional extension, citing the state of the economy and the real estate market. The request is attached to this report.

Over 30 years has elapsed since the preliminary plan was approved. Of the original 119 lots, 22 lots have been recorded leaving 97 remaining lots on an approved preliminary plan. There have been multiple changes in state and county laws, ordinances, and regulations since 1973 that would affect the project. No final plans have been submitted to the Bureau of Development Review since the July 20, 2010 Planning Commission decision.

Although the final plans for Sections 4 through 8 will be subject to the current requirements of stormwater management, a revised concept plan addressing the Stormwater Management Code on the entire development plan will need to be submitted that meets the requirements of the County Code. Specific requirements would include wide shoulders for roads and use-in-common construction and dry wells for the individual houses.

Regarding Concurrency Management, Reese fire district is currently rated as approaching inadequate. Determining the rating of the roads network necessitates the need for a traffic impact study to determine if the surrounding roads have adequate capacity to handle the increase in traffic impacts from the proposed development.

The Carroll County Health Department has stated that all lots will require new percolation tests. At the July 20, 2010 meeting, the Commission previously required that Sections 4 through 8 of Chenopodium Acres comply with the County Water Resources, Landscaping, and Forest Conservation ordinances in effect at the time of each submittal.

Based on the multiple changes in state and county laws, ordinances, and regulations since 1973, a revised preliminary plan that meets all the Code requirements would show a layout of all the remaining lots of how the entire development would be able to meet current standards and regulations. Staff continues to recommend that the extension not be granted.

Options for Planning Commission Consideration:

- A. Denial of the Request - If the Planning Commission selects this option, Phase 4 must be recorded by July 1, 2014. Phase 4 is comprised of 18 lots and adjoins Section 2 to the east, as shown on the attached phasing plan. Each subsequent phase must be recorded by July 1 of each subsequent year.
- B. Approval of the Request without Conditions - If the Planning Commission selects this option, extension dates will need to be determined by the Commission.

Discussion:

Dan Staley, DRS & Associates, reported that only 6 of the 23 lots have been sold. He suggested it is not economically a good decision to move forward to record additional lots at this time. Mr. Staley discussed new MDE regulations and the County's choice not to map tiers. He indicated that the property if reviewed now would only be allowed 7 lots instead of 119. Mr. Staley explained that the plan was recorded in 1973 when many of the current codes did not exist. With

the granting of the last extension, the Commission made the plan comply with Water Resource, Landscaping, Forest Conservation, and Stormwater Management regulations. Mr. Staley asked that the Commission grant another extension.

Richard Soisson, Commission member, questioned whether the Commission's denial of Section 4 would force the owner to lose those 24 lots, but allow them to move forward with the remaining sections.

Mr. Black clarified that in order to construct the remaining phases, Section 4 must be constructed.

Matthew Helminiak, Commission member, questioned the length of the extension being requested by the owner.

Francis Bollinger, owner, indicated that would depend on how long it takes him to sell the lots. He noted that there are 17 lots that he is paying taxes on that have not been sold.

Chairman Yeo questioned how long it has been since the last lot sold.

Mr. Bollinger indicated that one lot sold last year, and one is being sold now.

Chairman Yeo suggested that the Commission has been very generous with this project. He indicated that he was the one that made the motion to allow the extension the last time, but nothing has been done since then to move the project forward.

Mr. Black stated that staff continues to recommend that the extension not be granted. If it is granted, staff is requesting a revised preliminary plan showing the layout of the remaining lots for the entire development and meeting all the code requirements.

Mr. Helminiak questioned the costs associated with preparing a revised preliminary plan and whether that was feasible when the owner is declaring a hardship in paying taxes on these lots which is the reason for the requested extension.

Mr. Staley indicated that it would take a couple months to perform the perc tests necessary for a revised preliminary plan. He suggested there would be no issues if each section was brought up to code as it was ready for recordation.

Chairman Yeo questioned whether anything had changed over the last three years to make the owner feel that he will be able to do something to move forward with the project now.

Mr. Bollinger indicated that if he cannot sell the existing lots, he will not be recording additional lots. He noted that he hated to lose the value of his land.

Mr. Helminiak suggested that Mr. Bollinger bring in a developer to handle the project, selling it as a whole.

William B. Dulany, attorney for the owner, noted that there has been no opposition from the public with regard to the project. He requested a 90-180 day extension to try to sell the project before coming back to the Commission.

Chairman Yeo questioned what was done since the last extension was granted and in preparation of requesting another extension.

Mr. Staley answered that nothing was done.

Mr. Wothers made a motion to deny the request for an extension. The motion died for lack of a second.

Mr. Hoff made a motion that the Commission grant a nine-month extension from today for the landowner, their attorney and engineer to work with the County and come back with a preliminary plan that meets all the codes and regulations. The motion was seconded by Mr. Helminiak, but did not carry (Mr. Helminiak and Mr. Hoff voted "Yes"; Mr. Canale; Mr. Soisson; and Mr. Wothers voted "No").

The Commission, on motion of Mr. Soisson, seconded by Mr. Canale, and carried (Mr. Hoff, Mr. Helminiak, Mr. Canale, and Mr. Soisson voted "Yes"; Mr. Wothers voted "No"); granted a 90-day extension from today to come back to the Commission with a new preliminary plan meeting all codes and regulations. If additional time is necessary because of perc tests, etc., the applicant can meet with the Commission to request additional time.

Mr. Black asked for clarification as to whether the extension could go to the August Planning Commission Meeting if that was more than the 90 days.

The Commission concurred.

INTRODUCTION OF 2013 ANNUAL REPORT

Scott Graf, Bureau of Comprehensive Planning, explained that the Maryland Department of Planning requires each jurisdiction to file an annual report for the previous calendar year by July 1. Staff works with the eight municipalities to prepare a report addressing the entire County. The report includes information regarding plan and permit activity, use and occupancy activity, development capacity analysis, land preservation, zoning amendments, annexations, schools and park facilities, and water and sewer amendments. Mr. Graf indicated that the Annual Report will be placed on the June Commission agenda for approval.

MASTER PLAN: DISCUSSION

Lynda Eisenberg, Bureau of Comprehensive Planning, noted that the future land use maps were forwarded to the Commission members for comment. The Commission approved Concepts 1-4. She reviewed the proposed timeline for Plan adoption, including public Acceptance of the Plan at the July 15 meeting.

Philip R. Hager, Secretary, indicated that staff had recommended in Map Cluster 8 that an agriculturally zoned property be changed to Industrial. The property borders the railroad and the property owners had requested the rezoning with a specific plan in mind. After discussion with staff, the property owners withdrew their property from consideration. The property owners are in attendance today to request the original proposal.

Frank and Julia Feeser spoke to the Commission noting it was a mistake on their part to withdraw the original request. They reviewed the proposed use for the site – a waste-to-energy facility that will utilize the railroad.

Daniel Hoff, Commission member, expressed his hesitation to change the land use when everything around the property is agricultural.

Chairman Yeo noted that the change in land use would allow for a potential industrial use that is not compatible in the area.

Matthew Helminiak, Commission member, suggested additional properties in the immediate area be added to enhance consistency.

The Commission, on motion of Mr. Helminiak, seconded by Mr. Wothers, and carried (Mr. Hoff voted “No”), approved a change from Agricultural to Industrial for all the properties in the Crouse Mill cluster.

Chairman Yeo asked for some clarification from staff regarding the information provided on Rural Villages.

Ms. Eisenberg indicated that she had provided the Commission with copies of the document entitled: “Managing Maryland’s Growth”. She explained that Rural Villages are unincorporated areas of a local jurisdiction that were given this designation after review. There are 36 Rural Villages in Carroll County. Ms. Eisenberg explained that you cannot change the boundaries of the Rural Villages, but within those approved boundaries there is room for additional development according to state statute. She provided an example of acceptable growth.

The Commission discussed the Land Use Definitions and directed staff to make the changes that were previously discussed.

PROPOSED TEXT AMENDMENT – SOLAR GENERATING FACILITIES

Philip R. Hager, Secretary, provided the Commission with a copy of the legislative version of the proposed text amendment incorporating the changes discussed by the Commission. The Commission discussed roof-mounted versus ground-mounted facilities in the residential districts. Staff was directed to amend the language to provide for either roof-mounted or ground-mounted facilities in the residential district. It was the consensus of the Commission to allow for both roof- and ground-mounted facilities in the commercial zones.

It was the consensus of the Commission to forward the proposed zoning text amendment to the Board of County Commissioners with a recommendation for approval.

PUBLIC COMMENTS

There were no public comments.

There being no further business, the Commission adjourned at approximately 3:50 p.m.

Secretary

Approved