



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB  
Item #  
10/02/08

**MEMORANDUM**

**Date:** September 19, 2008

**TO:** Montgomery County Planning Board

**VIA:** Jorge Valladares, Chief, Environmental Planning  
Mark Pfefferle, Supervisor, Environmental Planning *JV.*  
*MP*

**FROM:** Marco Fuster, Senior Planner, Environmental Planning *mf*

**REVIEW TYPE:** Forest Conservation Plan Review

**APPLYING FOR:** Amendment to a Final Forest Conservation Plan (FCP) – Proposal to re-grade quarry walls and modify footprint of conservation easement

**PLAN NAME:** The Quarry  
**PLAN NUMBER:** 820050290  
**REVIEW BASIS:** Forest Conservation Regulations, Section 113.A.(2), Regulation No. 1-01AM (COMCOR) 18-01AM

**ZONE:** RMX-1 Zone  
**LOCATION:** Located on River Road, approximately 2000 feet west of Seven Locks Road; Potomac

**APPLICANT:** W. M. Rickman Construction Co.  
**ENGINEER:** Macris, Hendricks and Glascock, P.A.

**HEARING DATE:** October 2, 2008

**RECOMMENDATION: Approval subject to the following conditions:**

1. Applicant to post a performance bond for the onsite reforestation areas prior to any forest removal approved by this amendment.
2. Applicant to submit a certificate of compliance to use an offsite forest conservation bank agreement prior to any forest removal approved by this amendment.
3. Applicant must re-record plats to reflect changes to the conservation easements resulting from this amendment by June 30, 2009.
4. All previously approved conditions related to The Quarry which have not been expressly amended by this Planning Board action shall remain in effect.
5. Compliance with the Final Forest Conservation Plan subject to final staff review and approval.

## SITE DESCRIPTION

The subject property, shown below, is a 13.30-acre property located on the north side of River Road west of Seven Locks Road. Immediately to the east of the subject property are Cabin John Fire Company No. 10 and Stoneyhurst town homes. The Charred Oak Estates subdivision adjoins the subject property to the north. Across River Road is Cabin John Creek Park. The entire property is within the Cabin John Creek watershed, Use I-P waters. There are no streams, wetlands, floodplains, or environmental buffers on the subject property.

The site first began quarrying operations as an active quarry in the 1830s and was run until the natural resources were exhausted. Excavation of the raw material was through the removal of a side embankment versus the creation of an open pit like some of the nearby quarries. The quarry bottom has been leveled and is approximately the same elevation of River Road. Steep walls ring three sides of the quarry. On top of the quarry walls are the native soils, overburden, spoil piles, vegetation, and trees. Parts of the walls appear stable and others are unconsolidated and have recently been deemed as a public safety concern, as well as a safety concern to the onsite mine reclamation workers.



## **BACKGROUND**

The property is subject to a previous approved preliminary plan of subdivision and a site plan. The Planning Board approved site plan 820050290 on March 23, 2006. The site plan covers 13.30 acres and includes four 5-story residential buildings, a club house, and necessary infrastructure. Environmental Planning staff approved the final forest conservation plan on June 19, 2006. The approved final forest conservation plan indicates the removal .5-acres of existing forest and the preservation of 2.26-acres of forest. There are 0.76 acres of planting requirements associated with the forest conservation plan approved in 2006. The developer of the site was granted approval to carry out mine reclamation work within the previously approved limits of disturbance.

The Maryland Department of the Environment has determined the original mine reclamation plan to be inadequate and requires the applicant remove and re-grade areas at the top of the mine to remove the overburden, waste rock, debris piles and trees in danger of falling as a result of the reclamation work or construction of the retaining walls around the quarry walls.

## **PROPOSED FOREST CONSERVATION PLAN CHANGES**

The applicant has submitted an amendment to the forest conservation plan that removes all existing forest at the top of the quarry. This results in an additional 2.26 acres of forest removal from the previously approved forest conservation plan. The additional clearing is a "worst case" scenario and the applicant hopes to minimize the amount of forest removal but is not able to determine how much forest will need removal until the reclamation activities at the quarry rim is underway. The additional forest clearing is required to perform revised mine reclamation requirements under the direction of Maryland Department of the Environment (MDE).

The additional forest removal generates a planting requirement of 5.35 acres. The applicant proposes to meet the forest conservation planting requirements through a combination of onsite reforestation in the conservation easements, landscape credit, and by purchasing credits in a forest mitigation bank. Much of the forest planting is proposed to occur within the existing conservation easement, which is the area where forest will be removed. Because of changes required to reclaim the quarry rim and walls some conservation easements areas will need to be modified. This happens because retaining walls are now located where there were none before, grading of the quarry rim will create slopes that are too steep to support tree growth, or the width of the potential easement area does not meet the 50 foot minimum forest width requirement. In this case the category I easement area will be protected by a category II easement which does not have the same width restrictions. The applicant will need to re-plat the conservation easements to ensure the new replanted forests are permanently protected.

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## **PLANNING BOARD REVIEW AUTHORITY**

The Forest Conservation Regulation requires Planning Board action of certain types of modifications to an approved forest conservation plan. Section 113.A.(2) of the Forest Conservation Regulation states:

*Major amendments which entail more than a total of 5000 square feet of additional forest clearing must be approved by the Planning Board or Planning Directory (depending on who approved the original plan). Notice of each major plan amendment must be given to adjacent property owners as part of the Planning Board or Planning Directory approval processes.*

This amendment proposes more than 5,000 square feet of additional forest removal when compared to the original plan and therefore qualifies as a major amendment. Since the forest conservation plan was approved as part of site plan, the Planning Board must review and approve the plan amendment.

## **REVIEW ISSUES**

### **Applicant's Position**

The applicant must amend the final forest conservation plan 820050290 to comply with the Maryland Department of the Environment (See Attachment A & B for a copy of the memorandum and correspondence that explains the revised scope of the mining reclamation work). The MDE is requiring the removal of soil & rubble material above the quarry walls and if possible re-grading the walls to a 2:1 slope (M-NCPPC requires a minimum of graded 3:1 slopes within proposed forest conservation easements). To accomplish the activity an additional loss of 2.26-acres of forest may be required.

### **Community Issues**

All adjoining property owners were notified of the proposed amendment in a memorandum dated September 19, 2008 and the applicant has spoken with many of them personally. Notices of the October 2, 2008 hearing were mailed to adjoining property owners on September 19, 2008. Therefore Environmental Planning staff received no comments on the proposed amendment prior to the preparation of this staff report.

### **Staff Analysis/Position**

Staff supports the request to amend final forest conservation plan 820050290. Environmental Planning staff concurs with the applicant's position that the forest removal is necessary to stabilize the quarry in manner that meets both MDE and M-NCPPC requirements. Environmental Planning concurs with the applicant's position to remove additional forest associated with the mining reclamation and configuring the walls to a stable condition. The applicant is showing all of the existing 2.76 acres of forest removal associated wall mine reclamation and re-grading of the site as a speculative estimate. Only after the mining reclamation is completed, will the applicant be able to determine how much grading and forest removal is necessary. It is possible that less forest will be removed; any forest retained will reduce the onsite reforestation plantings requirements.

The applicant submitted a forest conservation plan showing the additional cleared area replanted. In order to ensure the planting will occur, Environmental Planning requests the Planning Board include the following conditions:

1. Applicant to post a performance bond for the on site reforestation areas prior to any forest removal approved by this amendment.
2. Applicant to submit a certificate of compliance to use an offsite forest conservation bank agreement prior to any forest removal approved by this amendment.
3. Applicant must re-record plats to reflect changes to the conservation easements resulting from this amendment by June 30, 2009.
4. All previously approved conditions related to The Quarry which have not been expressly amended by this Planning Board action shall remain in effect.
5. Compliance with the Final Forest Conservation Plan subject to final staff review and approval.

#### **SUMMARY**

Staff recommends approval of the amendment to forest conservation plan 820050290, with the conditions noted above.

#### **ATTACHMENTS**

Attachment A – Letter from Edmond Larrimore of Maryland Department of the Environment to Thomas Brault, C/O Stonyhurst Quarries, Inc. dated April 14, 2008.

Attachment B – Email correspondence from Edmond Larrimore of Maryland Department of the Environment to Thomas Brault of Woodside Ventures, dated June 05, 2008.

Attachment C – Amended Final Forest Conservation Plan for The Quarry 820050290

 **MARYLAND DEPARTMENT OF THE ENVIRONMENT**  
**MDE** 1800 Washington Boulevard • Baltimore MD 21230  
410-537-3000 • 1-800-633-6101

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Martin O'Malley  
Governor

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Secretary

Anthony G. Brown  
Lieutenant Governor

Robert M. Summers, Ph.D.  
Deputy Secretary

April 14, 2008

Mr. Thomas Brault  
C/O Stoneyhurst Quarries, Inc  
8101 River Road  
Bethesda, Maryland 20817

Dear Mr. Brault:

Thank you for arranging the recent meeting on behalf of your client at Stoneyhurst Quarry to discuss the issue of reclamation of the quarry and in particular the stability of the remaining highwalls. Upon review of the site, the Department finds that the currently approved Rock Slope Evaluation and Geotechnical Engineering Analysis, referenced in condition 16 of surface mine permit 77 SP 088 is no longer adequate.

The removal of vegetation in some areas has revealed the instability of the material at the top of the highwalls and the material itself may be contributing to the instability. There are also trees that are no longer stable and will need to be removed.

Based upon current conditions at the quarry, the post mine land use plans and the proximity of residential land use in the area, the Department hereby advises you that a new reclamation plan will be required. The specific revisions to the reclamation plan must address slope stability and stabilization on a long-term basis, be sealed by a Professional Engineer and be reviewed by a Professional Geologist. The plan must also provide for inspection and certification of any slope stability measures.

There are also interim measures that must be addressed

- All soil above original grade, that will include overburden, waste rock and other debris must be removed from the top of highwall and properly placed.
- Any regrading or removal of material must remain within the current limit of disturbance and be directed to approved sediment control measures
- Remove any trees that are in danger of falling as a result of regrading or highwall stability measures or if they become a danger to persons in the area including mine workers.
- Maintain all currently approved sediment control measures.
- Provide no trespassing signs at 100-foot intervals around the perimeter of the site.

Attachment A - Continued

Mr. Thomas Brault  
April 14, 2008  
Page Two

I would encourage you to expedite the development of the revised highwall stability plan and would ask you to submit that plan by July 1, 2008. Please do not hesitate to contact me should you have need for further discussion

Sincerely,



C. Edmon Larrimore  
Mining Program Manager

cc: Compliance - Montgomery  
Woodside Ventures Realty Services

Attachment B

-----Original Message-----

From: Edmon Larrimore [mailto:elarrimore@mde.state.md.us]  
Sent: Thursday, June 05, 2008 2:16 PM  
To: tbrault@woodsideventures.net  
Subject: Re: Possible Solution

Tom

Thank you for providing the conceptual plan to reclaim the quarry highwalls and stabilize the site from a mining prospective. I understand that you have a meeting with MNCPPC tomorrow which I have confidence will lead to a resolution that satisfies all parties. Please keep in mind a couple of points that we have stressed from the beginning of the project and even I might add from the issuance of the mining permit in 1977.

\* I am confident that the State has fully authority provided in Env. Art. 15 Subtitle 8 to regulate surface mining and require reclamation plans that provide for the public safety. We have a bond and authority in statute to seek further penalty to see that the site is reclaimed. This is by no means a threat to initiate such action at this time, but please be assured that this is a viable option. If that is the case, reclamation will be based upon slope stability and public safety as I mentioned in the meeting of April 25 with MNCPPC and will not take into account landscaping and random tree retention. Slope stability would have to include the removal of the overburden, waste rock at the top of slope to create a 2:1 slope if possible.

\* My second point is in timing. I appreciate the timing required to address the specific issues of concern with the community and site plan constraints. I fully support your full engagement with MNCPPC in regards to these issues. My increasing concern however, is the amount of time it has taken to initiate action in the field. I would strongly encourage you to commence work in the field this month to allow for maximum conditions in moving dirt and creating slopes. The wetter fall months tend to decrease the stability of slopes and I would prefer to maximize the chances for success and to avoid another winter of freeze/thaw conditions on the highwall. I would encourage you to at least discuss phasing of the project if you can not reach total consensus in the next week or two.

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~~I would appreciate an update of progress next week. Thank you for your attention to this issue.~~

Ed Larrimore  
Mining Program Manager  
410 537 3557





