

**IN THE ST. MARY'S COUNTY BOARD OF APPEALS**

**CUAP NUMBER 19-131-00030**

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**DARCEY PROPERTY/BEETHOVEN GRAVEL MINE**

**FIFTH ELECTION DISTRICT**

**DATE HEARD: SEPTEMBER 24, 2020**

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**ORDERED BY:**

**Mr. Hayden, Mr. Brown, Mr. Ichniowski  
Mr. Miedzinski, and Mr. Richardson**

**ENVIRONMENTAL PLANNER: STACY CLEMENTS**

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**DATE SIGNED: October 08, 2020**

### **Pleadings**

Ronald E. & Mildred H. Darcey (the “Applicants”) seek conditional use approval, CUAP Number 19-131-030, to allow a gravel mine in excess of 5 acres as an Extractive Industry, Use Type # 82, within the Rural Preservation District (“RPD”).

### **Public Notification**

The hearing notice was advertised in *The Enterprise*, a newspaper of general circulation in St. Mary’s County (“County”), on September 4, 2020 and September 11, 2020. The hearing notice was also posted on the Property. The file contains the certification of mailing to all adjoining landowners, including those located across a street. Each person designated in the application as owning land that is located within two hundred feet of the subject property was notified by mail, sent to the address furnished by the St. Mary’s County Department of Land Use and Growth Management (“LUGM”). The agenda was also posted on the County’s website on September 16, 2020. Therefore, the St. Mary’s County Board of Appeals (“Board”) finds and concludes that the Applicants have complied with the notice requirements.

### **Public Hearing**

A public hearing was conducted at 6:30 p.m. on September 24, 2020 at the St. Mary’s County Governmental Center, 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn, the proceedings were recorded electronically, and the following was presented about the proposed conditional use requested by the Applicants.

### **The Property and the Site**

The Applicants own a property of approximately 89.9 acres (the “Subject Property”) at 37170 New Market Road, Charlotte Hall, Maryland. The Subject Property is located in the RPD

and is identified on Tax Map 4, Grid 8, Parcel 52. On the Subject Property, the Applicants propose constructing the Beethoven Gravel Mine (the “Site”), a 55.03-acre surface gravel mine, part of which currently is operating across the Charles County line.

### **The Conditional Use Requested**

The Applicants seek a conditional use pursuant to St. Mary’s Comprehensive Zoning Ordinance (“CZO”), Chapter 25, Schedule 50.4 Use # 82, Section 51.3.82 to allow a gravel mine in excess of 5 acres within the RPD.

### **The St. Mary’s County Comprehensive Zoning Ordinance**

Pursuant to Schedule 50.4 of the CZO, Use Type 82, “Extractive Industry” is defined as:

Removal of natural materials from the surface or subsurface of the earth for sale or further processing. This classification includes sand and gravel mining and mineral extraction.

### **The Evidence Submitted at the Hearing by LUGM**

Harry Knight, Deputy Director of the St. Mary’s County Department of Land Use and Growth Management (“LUGM”), presented the following evidence:

- The Subject Property is an agricultural property consisting of 89.9 acres according to the Maryland State Department of Assessments and Taxation. The Subject Property contains a single-family dwelling and several agricultural outbuildings according to the site plan submitted in support of this conditional use request.
- The Applicants are requesting Conditional Use approval for a 55.03-acre surface gravel mine, Use Type # 82, Extractive Industry. The mine has a proposed longevity of five years of operational status.
- The Applicants will be required by the Maryland Department of Environment (“MDE”), pursuant to Title 26, Subtitle 21, Chapter 01 of the Code of Maryland