

Hearing Date: February 11, 2014

**Report to the Board of Appeals
Request for a Special Exception Renewal
Surface Mining of less than 10 acres
Docket #1254**

SUMMARY OF REQUEST

Project Name: Edward & Julie Langley Surface Mine

Mine Site Area: Approximately 10 acres, located within a tract of 102.59 acres.

Location of Site: 102.59 +/- acres located on the south side of Poor House Road, approximately five miles west of La Plata, at 6975 Julie Place, Port Tobacco. The site is located within Parcel 313, Grid 11 on Tax Map 42. The subject property is zoned AC, Agricultural Conservation.

Owner: Edward & Julie Langley

Applicant: Edward & Julie Langley

Zoning: Agricultural Conservation (AC)

Proposed Activity: (Use #7.05.120) Surface mining of less than 10 acres

Background:

The project tract, 102.59 acres in area, is subject to previously approved Special Exception for surface mining. The original application, filed under Docket #965 to mine 30.7 acres, was approved on November 12, 1998 and expired. The applicant submitted a new application to continue mining the 30.7 acres, filed under Docket #1093 which was approved on August 12, 2004. The applicant applied for a Modification to expand the mine area by 14.98 acres, creating a total mine area of 45.48 acres. The Modification was approved on January 3, 2005. The approval of Docket #1093 expired on January 3, 2010. The applicant applied to request to mine the remaining 10 acres, located within the mine area previously approved, under Docket #1254 in 2010, and the request was approved on November 16, 2010 for a period of three (3) years. The previously mined areas had been reclaimed and the associated Maryland Department of the Environment bonds had been released.

The current application, filed under Docket #1254, is a request to continue mining the remaining 10 acres. The applicant has stated few loads have been sold during the last three (3) years since the previous application and they would like to renew the application so the mining can be

completed (Pit 3 only).

Criteria for Approval and Findings:

Compliance with the current Zoning Ordinance requires the proposed activity to satisfy all minimum requirements affecting the Agricultural Conservation (AC) Zoning District (Section 297-87), standards set forth in Article XXV, Section 297-415 regarding Special Exceptions, the minimum standards specific to the proposed use in Article XIII, Section 297-212, as well as any Conditions of Approval imposed by the Board.

Consistency with the Comprehensive Plan

Chapter 12 of the 2006 *Charles County Comprehensive Plan* describes the County's goal and objectives concerning mineral extraction, and discusses the management of mineral extraction in terms of predetermined implementation strategies. The County's goal for mineral extraction is to "Support the extraction of mineral resources and related operations including processing while safeguarding the public by providing reduction of the negative impacts resulting from extraction and transportation to the maximum extent practicable."

The Comprehensive Plan states five specific objectives regarding mineral extraction: 1- require that appropriate post-excavation uses for this land be consistent with the County's land planning process, 2- protect existing neighborhoods from the impacts of adjacent extraction operations and associated transportation of mined materials, 3- protect the natural environment from all sources of pollution resulting from mineral extraction, 4- provide adequate regulation and monitoring to all mining operations, and 5- recognize and consider the property owners' right to extract mineral resources.

The proposed surface mine operation will be consistent with the Comprehensive Plan, provided that compliance is achieved with the Zoning Ordinance and the recommended conditions of the report, and applicable final site plan approvals and permits are obtained or already approved. According to the previously approved application for which this application is requesting an extension, upon completion of the proposed mining and reclamation, the project site is proposed for uses consistent with the Comprehensive Plan. The reclamation plan is bonded, to be released upon State inspection and approval. The design and location of mining activities have incorporated methods for protection of adjacent properties, including the required protection of natural features such as streams and wetlands.

IMPACT ON SURROUNDING USES AND ENVIRONMENT

The submitted mining plan defines environmental features, including topography, steep slopes, wetlands, 100-year flood plain and forested areas, as required by the Zoning Ordinance. Streams and non-tidal wetlands, tributaries to the southerly adjacent Mill Run

PLANNING DIVISION FINDINGS

The Petition for an Extension of Special Exception#1254 was evaluated based on the standards set forth in Article XXV, Section 297-415, and Article XIII, Section 297-212, Use #7.05.120. The Planning Division offers the following findings for consideration by the Board of Appeals:

1. The owners of the subject property located at the 6975 Julie Place, Tax Map 42, Parcel 313, are Edward and Julie Langley.
2. The Board of Appeals will determine, based on the applicant's submitted information and public testimony, whether the proposed use will endanger the public's health, safety, and general welfare. Additionally, the Board has the discretion to determine whether the proposed conditions are adequate to meet this requirement, or if additional conditions are necessary.
3. The property is zoned Agricultural Conservation (AC), and the proposed use is permissible in the AC zone by Special Exception.
4. The Board of Appeals will evaluate the applicant's submitted information and public testimony to determine whether the proposed use would result in detriment to the use, peaceful enjoyment, economic value or development of the surrounding properties or the general neighborhood.
5. The following findings are in accordance with the standards with the standards and requirements set forth in Article XIII, Section 297-212 for use 7.05.120, on Surface Mining of less than 10 acres:
 - a. Only one area of less than 10 acres is proposed for continuation of mining. Pit 3 is the only area proposed for continued mining. All previously mined areas have been reclaimed.
 - b. The applicant certifies that the proposed mining operation complies with all local, state and federal regulations, and that all necessary permits and approvals have been obtained.
 - c. A minimum 100 foot wide natural buffer, or setback, is preserved along the perimeter of the mining area. The submitted site plan proposes preservation of natural buffers consisting of existing forest cover, where present.
 - d. The applicant certifies that no processing product will occur on site.
 - e. The applicant states that mining operations will be conducted in accordance with MDE's surface mining permit requirements, and that all operations will conform to the performance standards contained in Article II, Sections 32 and 33, of the Zoning Ordinance, regarding noise and air quality.
 - f. Existing trees and ground cover along the public road frontage and boundary lines shall be preserved and maintained. The submitted site plan defines the limits of disturbance and shows that existing vegetation in the 100' setback will be retained.
 - g. The buffers provided on the site plan meet and exceed the minimum

requirements.

- h. The Board shall limit the permit to operate the requested surface mine to a specific expiration date, according to the Zoning Ordinance.
 - i. The hours of operation are limited to those provided in the Zoning Ordinance. The Board shall determine allowable hours of operation, with a maximum nine hour schedule, between 6:00 a.m. and 4:00 p.m. on weekdays, 7:00 and 3:00 on Saturdays, and no operation on Sundays, except equipment repairs.
 - j. The maximum number of truckloads is limited, by the Zoning Ordinance, to no more than 50 loads per day.
 - k. The submitted mine site plan is complete as indicated below:
 - 1. The setback area is shown.
 - 2. The limit of disturbance is delineated on the site plan.
 - 3. Existing and proposed access roads are shown.
 - 4. The stockpile area is shown.
 - 5. The Point of access is shown.
 - 6. Environmental features, including wetlands, 100 year floodplain and forested areas are identified.
 - 7. No historic resources are known to exist on the site.
6. Based on the submitted information, it appears that the requested Special Exception conforms with the objectives of the Comprehensive plan and complies with the requirements of the Zoning Ordinance.

RECOMMENDATION:

Staff recommends that should the Board of Appeals choose to approve the Renewal/Extension of Special Exception to operate a surface mine of less than ten acres on a previously approved surface mine site, the following conditions be implemented:

- 1. The requested Special Exception Docket #1254, is granted from the date of this order, and shall be effective during and run concurrently with the Maryland Department of Environment's (MDE) permit. If the Applicant seeks and obtains a renewal of, or any change to, their permit from MDE, the Charles County Planning Division shall be notified immediately. Changes to a mining permit from MDE may require the applicant to renew their special exception with the Board of Appeals for Charles County. Should the relevant portions of *East Star, LLC, v. County Commissioners of Queen Anne's County*, 203 Md.App. 477, be overturned or otherwise overruled at some future date, the special exception is valid for five years from the date of approval as specified in the Charles County Zoning Ordinance, and the applicant may apply for a renewal as necessary.

2. The hours of operation shall be between 7:00 a.m. and 4:00 p.m. Monday through Friday, and between 7:00 a.m. and 3:00 p.m. on Saturdays.
3. The proposed operation's extension shall remain in compliance with all previous Conditions of Approval of Docket #965, Docket #1093 and Docket #1254.
4. The removal of sediment from sediment control devices, traps, basins or ponds, and other related maintenance activities, shall be adjusted to compensate for any conditions, induced by nature or the operator that may increase the rate of sedimentation within such devices. Elements of stormwater management and sediment control, including but not limited to sediment traps and basins, may be subject to inspection by the Planning Division randomly. Any non-compliance with the conditions of the Special Exception, or County, State and Federal laws and regulations affecting water quality, shall be reported by the Applicant, to the Board of Appeals. The provisions of this condition do not apply inside the mining pit itself, where the mining operation shall comply with all applicable state and federal laws and regulations. The aforementioned provisions of this condition shall not apply inside the pit so long as the relevant aspects of *East Star, LLC, v. County Commissioners of Queen Anne's County*, 203 Md.App. 477, remain good law.
5. The Applicant shall comply with all minimum standards established in Article XIII of the current Zoning Ordinance.
6. There shall be no blasting or use of explosives during mining operations.
7. The continued operation of this Special Exception is contingent upon compliance with all applicable county, state, and federal regulations, including, but not limited to, the following local regulations: Charles County Zoning Ordinance, Grading and Sediment Control Ordinance, Road Ordinance, Storm Water Management Ordinance, Forest Conservation Ordinance, and Floodplain Ordinance.
7. The Board of Appeals for Charles County, Maryland, may, after proper notice and hearing, suspend and/or revoke this Special Exception, provided that the Board of Appeals finds any noncompliance with the above-stated conditions, by the Applicant, its agents, assignees, or successors in interest.

Prepared by the Planning Division, Department of Planning and Growth Management

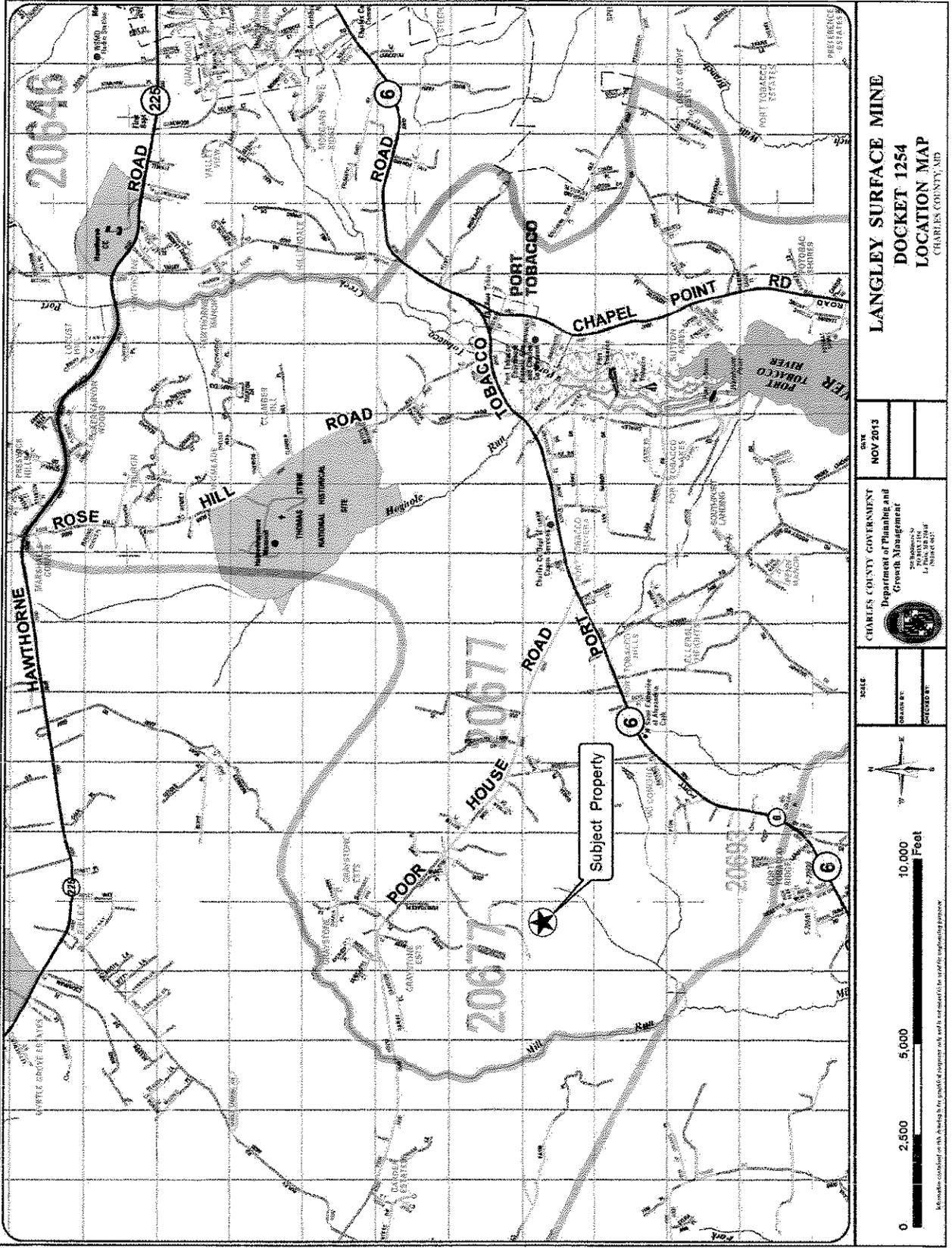
Erica Hahn: Erica J Hahn
 Reviewing Planner

Date: 1/24/14

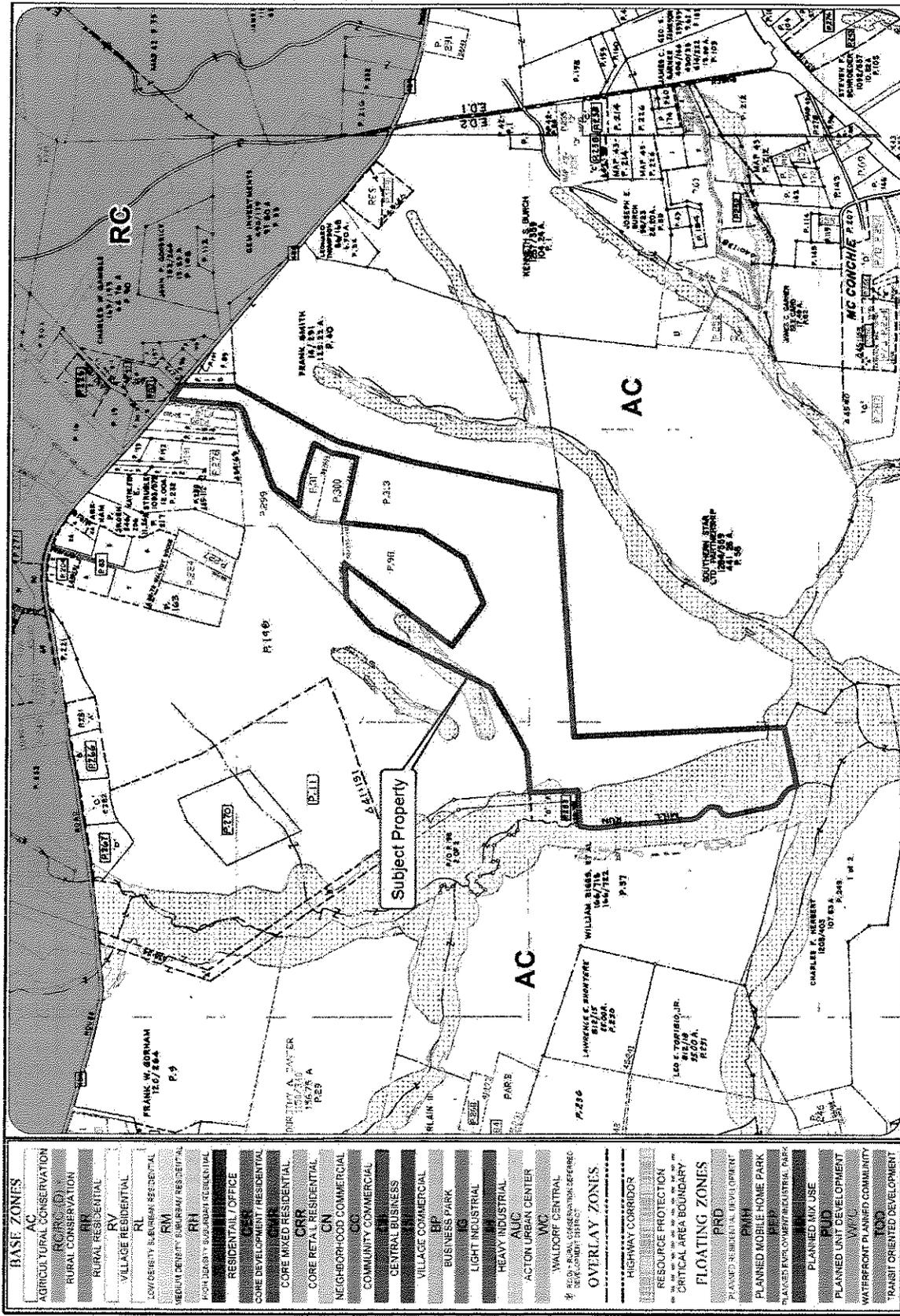
Charles Rice: Charles Rice
 Env. Program Manager

Date: 1-27-14

Appendix B: Location Map

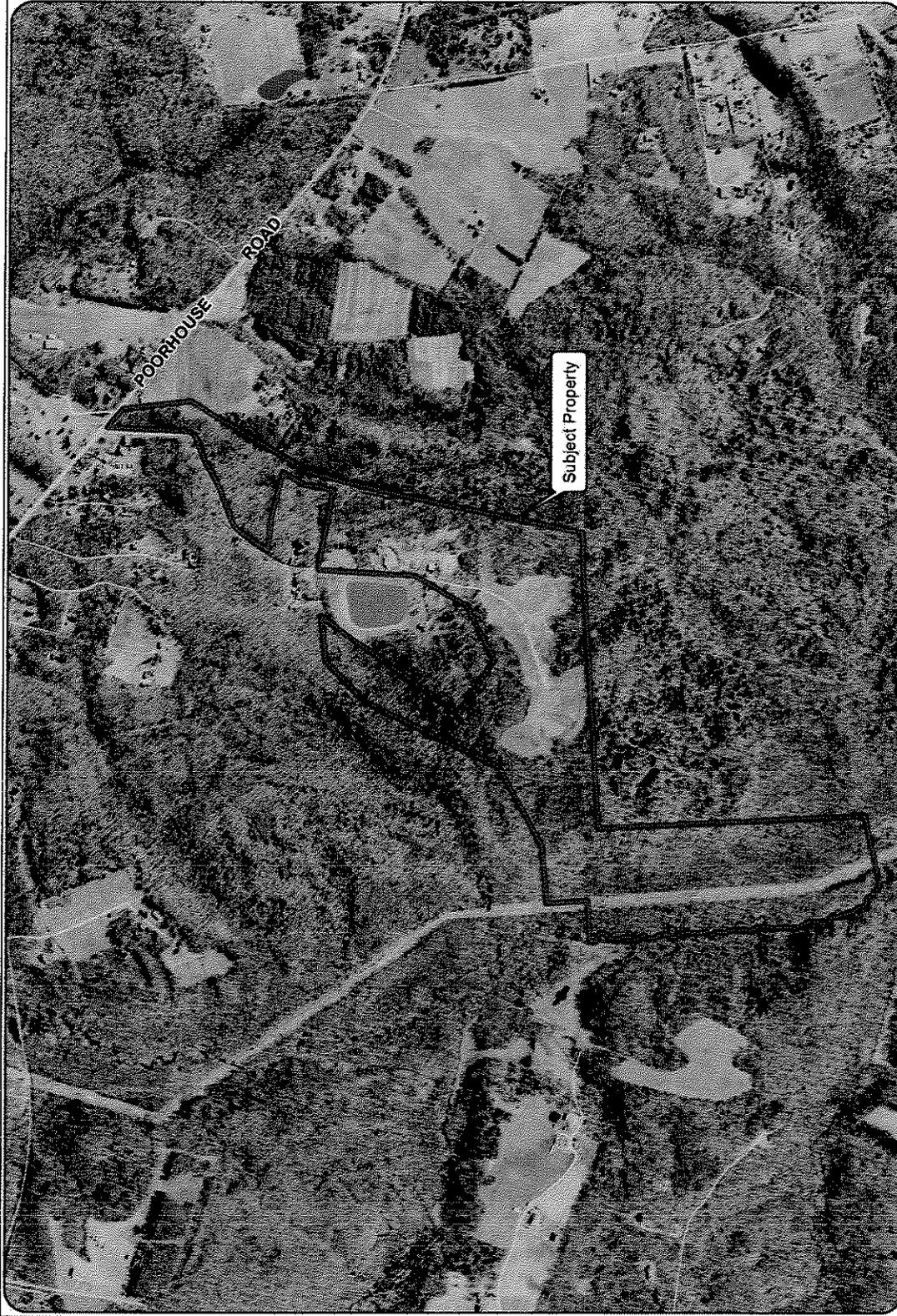


Appendix C: Zoning Map



BASE ZONES AC AGRICULTURAL CONSERVATION RC RURAL CONSERVATION RH RURAL RESIDENTIAL RV VILLAGE RESIDENTIAL RL LOW DENSITY SUBURBAN RESIDENTIAL RM MEDIUM DENSITY SUBURBAN RESIDENTIAL RH HIGH DENSITY SUBURBAN RESIDENTIAL RESIDENTIAL / OFFICE CORE DEVELOPMENT RESIDENTIAL CORE MIXED RESIDENTIAL CORR CORE RETAIL RESIDENTIAL CN NEIGHBORHOOD COMMERCIAL CO COMMUNITY COMMERCIAL CB CENTRAL BUSINESS VC VILLAGE COMMERCIAL BP BUSINESS PARK LI LIGHT INDUSTRIAL HI HEAVY INDUSTRIAL AU ACTION URBAN CENTER WC WALDORF CENTRAL * RD - RURAL CONSERVATION/RECREATION DEVELOPMENT DISTRICT OVERLAY ZONES HC HIGHWAY CORRIDOR RP RESOURCE PROTECTION CB CRITICAL AREA BOUNDARY FLOATING ZONES PRD PLANNED RECREATIONAL DEVELOPMENT PMH PLANNED MOBILE HOME PARK BEP PLANNED BUSINESS/COMMERCIAL PARK PNU PLANNED MIX USE PUD PLANNED UNIT DEVELOPMENT WPC WATERFRONT PLANNED COMMUNITY TOD TRANSIT ORIENTED DEVELOPMENT		DATE: NOV 2013 CHARLES COUNTY GOVERNMENT Department of Planning and Growth Management PREPARED BY: [Signature] CHECKED BY: [Signature]
SCALE 0 850 1,700 3,400 Feet		
LANGLEY SURFACE MINE DOCKET 1254 ZONING MAP CHARLES COUNTY, MD		

Appendix D: Aerial Map



						DATE NOV 2013		LANGLEY SURFACE MINE DOCKET 1254 AERIAL MAP (2011) CHARLES COUNTY, MD	
SCALE DRAWN BY CHECKED BY		CHARLES COUNTY GOVERNMENT Department of Planning and Green Management 100 WASHINGTON PARKWAY GREENBELT, MD							