

Mr. Chairman, members of the Board of Appeals (hereinafter, "Board"), I am here today as a member of the Two Rivers Community to respond to the 2019 Circuit Court order (affirmed by the 2020 Court of Special Appeals memorandum of law) to "take into account the impact, if any, of the requested extension beyond 2017 on the **character** of the neighborhood, the **appropriate use** or development of adjacent property, and the **public welfare**." This order simply identifies the requirements for all variances found in County Code § 18-16-305(c). I will be describing the impact and effect of an extension.

Specifically, the Board in 2018 should have addressed the instructions in the Maryland Court of Special Appeals decision of October 25, 2016, which I quote:

"On remand, as part of its analysis of the statutory criteria contained in § 3-1-207e the Board must consider whether there have been sufficient actual changes to the neighborhood surrounding the Project Site that occurred during or after 2001 to render National's special exception no longer compatible with the current established character of the neighborhood." End quote.

So, let's address the change in **character** of the neighborhood. During these hearings, the applicant has stated that impacts on the neighborhood were considered in the 1993 Special Exception (SE) and deemed to be compatible with the neighborhood. In 1993 the neighborhood was zoned RA and comprised about 125 residences. It is now zoned R2 and includes an additional 2000 planned residences in the Two Rivers Community. This is a factor of 16 increase in residences since the 1993 SE was approved.

The applicant has further contended the facility is well known in the community and all development that has occurred since 1993 has occurred with full knowledge of this approved facility. That quite simply is incorrect.

As a 40-year resident of Anne Arundel County, less than 15 miles from the proposed site, I was unaware of Chesapeake Terrace Rubble Landfill or the Sand and Gravel Quarry (hereinafter, "Chesapeake Terrace"). At no time during the purchase of our new home in the Two Rivers Community, were we made aware of Chesapeake Terrace. I am sure you will find a similar response by all of the current owners of over 1500 homes. How would anyone moving from another county or state be aware of Chesapeake Terrace, two signs posted on winding roads? The potential for this facility to ever become operational is not well known in the Two Rivers Community. And to clarify, this is not an approved facility until all permits are obtained that exhibit compliance with the conditions in the 1993 SE.

As for **appropriate use** of adjacent property, in addition to being zoned R2 for over 2000 residences, this is now the future location of a new elementary school, opening in 2024. Neither of these are compatible with a nearby operational rubble landfill and quarry. Although the applicant identified a need in the 1993 SE for a rubble landfill and quarry to support expected development in the area, in the 30 years that has followed, all commercial and residential development in Anne Arundel County has continued without Chesapeake Terrace. In fact, there is a rubble landfill and a quarry currently operating approximately one mile away. Chesapeake Terrace is not needed by this county.

Essential to identifying impact to public **welfare** is the location of the access to the landfill and quarry. The impact to Two Rivers residents and the elementary school cannot be dismissed as trivial. I'm sure the Board observed on their site visit, if an access to the

landfill and quarry beyond Two Rivers were approved, it would be a disaster waiting to happen. We moved to Two Rivers to transition our life in retirement to a 55+ community of like individuals with access to amenities and social activities. It has been very satisfying establishing new friendships and new experiences. However, that is threatened by the volume and type of traffic the landfill and quarry would attract. Just imagine seniors and school buses sharing the road with tractor-trailer sized dump trucks on Conway Rd.

During these hearings, the applicant has suggested the actual location of the access could be anywhere on Conway Rd. This is clearly unfounded. The Summary of Evidence provided in the 1993 SE included testimony by Mr. Chisholm (pgs 2 & 3) and Mr. Fleischman (pgs 12 & 13) that described "less impact on homes" for a shorter distance than a Patuxent Rd access. They also referenced efforts to acquire necessary properties and improvements for the Conway Rd access. The western terminus of Conway Rd does not reflect their testimony. Only the access east of Bragers Rd can support that evidence.

In fact, the applicant's January 14, 2022 Phase 3 submission to the Maryland Department of the Environment (MDE), contained the following descriptions of the access:

1. In paragraph 3.4 it is stated: "The main entrance is intended to be the East Entrance from Conway Rd, as stipulated in the special exception issued by the County."

I'm not sure why we even had the anywhere on Conway Rd discussion in earlier hearings.

2. Continuing in paragraph 3.4 it is stated: "The Optional North and South Entrances are presented for approval in the permit, but will only be constructed in the event that acquisition of the property, right-of-ways or easements required for the East Entrance is unsuccessful. NWM recognizes that the stipulation in the special exception must be changed or nullified before the optional entrances may be utilized."

I couldn't agree more. The 1993 SE does not offer the applicant approval to utilize optional locations for access. These extensions of time cannot be granted unless and until the applicant can provide evidence that it can meet all conditions of the 1993 SE. Clearly, if the applicant cannot provide evidence that it can implement the East Entrance, the Board must not only deny these extensions, but must also rescind the 1993 SE.

Throughout these hearings, the applicant has stated we are here to approve an extension so the applicant can obtain the MDE permit. That is incorrect. The Court order required the Board to take into account the impact of the extension, and determine if the landfill and quarry are compatible with the current established character of the neighborhood.

County Code § 18-16-301(c) Burden of Proof specifies, and I quote: "the applicant has the burden of proof, including the burden of going forward with the production of evidence and the burden of persuasion, on all questions of fact. The burden of persuasion is by a preponderance of the evidence." End quote. During these hearings, the applicant has not provided a preponderance of evidence in response to the Court order.

In closing, thousands of residents are directly impacted by the potential opening of another rubble landfill and quarry. Continued stress and concern with health and safety issues is unwarranted when there is uncertainty that the applicants can meet all conditions of the 1993 SE, as well as meet all current zoning criteria in County Code § 18-11-131 for Rubble Landfills.

Thank you for the opportunity to present my views.