

February 9, 2000

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board
The Prince George's County District Council

VIA: Arie Stouten, Zoning Supervisor

FROM: Tom Lockard, Senior Planner

SUBJECT: **Special Exception Application No. 4352**

REQUEST: **Surface Mining in the O-S and I-2 Zones**

RECOMMENDATION: **Approval, subject to conditions.**

NOTE:

This application is on the agenda for the Planning Board to decide whether or not to schedule a public hearing. If the Planning Board decides to hear the application, it will be placed on a future agenda.

Any person may request the Planning Board to schedule a public hearing. The request may be made in writing prior to the agenda date or in person on the agenda date. All requests must specify the reasons for the public hearing. All parties will be notified of the Planning Board's decision.

You are encouraged to become a person of record in this application. The request must be made in writing and sent to the Office of the Zoning Hearing Examiner at the address indicated above. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3280.

FINDINGS:

- A. Location and Field Inspection: The subject property is located on the east side of Gibbons Church Road, northeast of its intersection with Brandywine Road.
- B. History: The subject property was placed in the O-S and I-2 Zones by the 1993 Sectional Map Amendment (SMA) for Subregion VI.
- C. Master Plan Recommendation: The 1993 Subregion VI Master Plan recommends a Low Rural Residential use at a density of 0.2 units per acre for the property.
- D. Request: The applicant requests permission to mine sand and gravel from a 560.9±-acre site. However, only 231.7± acres will be actually mined. In addition, 9.53± acres of land are dedicated to the haul roads.
- E. Neighborhood and Surrounding Uses: The subject property is surrounded on all sides by scattered low-density rural areas, except for a privately owned recreational park (■Wilmer's Park●) to the south and an associated wash plant to the west.

The neighborhood is defined by the following boundaries:

<u>North</u> -	North Keys Road
<u>East</u> -	Croom Road
<u>South</u> -	Baden-Westwood Road
<u>West</u> -	Brandywine Road

The neighborhood is sparsely developed with residential and agricultural uses prevailing. Mining operations, both active and dormant, are scattered throughout, as are several wash plants and other processing facilities.

- F. Specific Special Exception Requirements (Sec. 27-410. Surface Mining.)
 - (1) The surface mining of natural materials or deposits (including sand, gravel, or clay pits; rock or stone quarries; and the removal of earth or topsoil) may be permitted, subject to the following:
 - (1) Heavy machinery may be used for the extraction of natural material or deposits from the site. Except in the I-2 Zone, heavy machinery may not be used for washing, refining, or other processing, unless a Special Exception is granted for sand and gravel wet-processing under the provisions of Section 27-405;

Finding: There will be no processing of materials on the subject mining site. Materials will be transported to the adjoining, existing wash plant to be processed.

- (2) The use shall not be noxious, offensive, or otherwise objectionable by reason of dust, smoke, or vibration;

Finding: The Environmental Impact Report (EIR) prepared for this request by the Natural Resources Division (M-NCPPC) contains conditions which address and ameliorate any potential negative impacts. These conditions have been incorporated into the recommendation in this report.

- (3) The land areas exposed by the extraction and removal of natural materials or deposits shall be left suitable for development. A grading plan shall be submitted (along with the site plan) showing the existing and proposed ground elevations of the site, adjacent land, and all abutting streets. The exposed land area shall have a slope not greater than three-to-one (3:1), except where any portion of the site is developed for port or harbor facilities;

Finding: The applicant's submitted reclamation plan meets these requirements.

- (4) The Special Exception shall be valid for not longer than five (5) years, except where the use is located:

(1) In an R-R Zone which is predominantly undeveloped for a radius of one (1) mile from the operation; or

(B) In an I-2 Zone;

Finding: If approved, this special exception will remain valid for five years.

- (5) In addition to the requirements of Section 27-296(c), the site plan shall show an estimate of the time required for the removal of the material;

Finding: The applicant proposes removing the sand and gravel in 16 phases over a 5-year time period.

- (6) At least sixty (60) calendar days prior to the hearing before the Zoning Hearing Examiner, the applicant shall file a traffic analysis with the Zoning Hearing Examiner for inclusion in the record, and shall send a copy to the Planning Board. The traffic analysis shall include the volume of traffic expected to be generated by the operation, and shall identify the streets to be used between the site and the nearest street (to be used) that has a minimum paved width of twenty-four (24) feet for the predominant length of the street;

Finding: The proposed mining operation will have no adverse impact on the area's transportation facilities because all of the mined material from the proposed site will be transported to an existing wash plant located adjacent to the proposed site using the existing internal roadways.

- (7) Driveways or access points shall be identified on the site plan, and shall be located so as not to endanger pedestrians or create traffic hazards. The surface material to be used on the driveways shall be identified on the site plan. Any access driveway shall be at least twenty-two (22) feet wide, and shall be paved for a distance of at least two hundred (200) feet from the boundary line of the Special Exception.

Finding: The proposed mining operation will gain access via the existing wash plant entrance off Gibbons Church Road. It meets these criteria.

- (8) The Technical Staff Report prepared in response to the application shall include a current, Countywide inventory of the locations, dates of approval, and conditions of approval concerning haul routes and estimated loads per day for all approved and pending Special Exceptions for sand and gravel wet-processing, sanitary landfills and rubble fills, and surface mining, as indicated by the record in the case. The inventory shall also include the locations of all nonconforming sand and gravel wet-processing, sanitary landfills and rubble fills, and surface mining operations throughout the County that were certified after September 6, 1974.

Finding: The required inventory is included in the EIR as Appendix B.

- (2) In the I-3 Zone, the use shall be staged in conformance with the required Conceptual Site Plan. The District Council may require (as a condition of approval) that this use be terminated prior to a Detailed Site Plan being approved for another use included on the Conceptual Site Plan.

Finding: The site is not in the I-3 Zone.

- (3) In the M-A-C, L-A-C, E-I-A, R-U, R-M, and R-S Zones, no surface mining operation may be permitted after a Specific Design Plan for the subject property has been approved. An application for this Special Exception may only be accepted, and the Special Exception granted, if no Specific Design Plan has yet been filed for the subject property.

Finding: The site is not in these zones.

- (4) In reviewing the application, the District Council shall consider the use of techniques which provide for noise attenuation.

Finding: The EIR proposes several conditions which will attenuate noise to acceptable levels. These conditions have been incorporated into our recommendation.

- (5) On land which is located within a Chesapeake Bay Critical Area Overlay Zone, no surface mining shall be located within:

- (1) Designated habitat protection areas as described in the Conservation Manual;
- (2) The Buffer area, as defined in the Conservation Manual;

- (2) Any area where the use would result in the substantial loss of long-range (twenty-five (25) years or more) productivity of forest and agriculture, or result in a degrading of water quality; or
- (3) An area containing highly erodible soils.

Finding: The site is not within the Chesapeake Bay Critical Area Overlay Zone.

- (6) In reviewing the application for compliance with the required findings set forth in Sections 27-317(a)(4) and 27-317(a)(5), the District Council shall consider the inventory required in Section 27-410(a)(8).

Finding: The inventory supplied in Appendix B of the EIR shows this area of the County to be heavily mined, as it has been for many decades. However, it should be remembered that this mine will be self-contained, since material will be hauled directly to the adjoining wash plant using interior roadways and not public streets.

- G. Parking Regulations: The applicant is proposing no buildings on the site. No parking spaces are required.
- H. Landscape Manual Requirements: Because there are no buildings proposed in conjunction with this request, it is exempt from the landscaping, screening and buffering requirements of the *Landscape Manual*. However, woodland buffers ranging from 50 to 300 feet wide are being retained along the periphery.
- I. Zone Standards: The proposal is in compliance with the requirements and standards for the O-S and I-2 Zones.
- 10. Other Issues:

Historic Preservation:

The Historic Preservation Section (M-NCPPC) notes the existence of a family cemetery on Parcel 1. It is the family cemetery of the Early family; located on part of the property owned and farmed by the Leonard H. Early and William H. Early families during the nineteenth century. This cemetery is not listed in the Inventory of Historic Resources in the *Prince George's County Historic Sites and Districts Plan, 1992*.

The cemetery is shown on the detailed sheets of the plat, and it is indicated that it will remain undisturbed. There is, however, no indication of the existence of the cemetery in the 21 *General Notes* which accompany the plans. The *General Notes* do indicate that This site is to revert back (sic) to a condition of usefulness and reasonable physical attractiveness after excavations have ceased. There are no indications of how the cemetery will be protected during mining operations, or how it will be preserved when the site reverts to a condition of usefulness and attractiveness. No

information is given about the size of the cemetery, the number of gravestones or the names inscribed on the stones.

All grave sites are protected by State Laws regarding cemeteries (Sections 265 and 267 of Article 27 of the *Annotated Code of Maryland*). In addition, guidelines for the identification and protection of cemeteries are included in the Subdivision Regulations of the Prince George's County Code (Subtitle 24-135-02).

The Historic Preservation Section recommends the following conditions to help safeguard this resource, which we have incorporated into our recommendation:

1. The applicants shall include information about the existence and location of the Early family cemetery in the *General Notes*.
2. Prior to final disposition of this Special Exception, the applicants shall conduct a detailed survey of the features of the Early family cemetery, indicating the size of the cemetery and the number of existing gravestones; they shall record all legible inscriptions on the gravestones, and shall make a written inventory of all cemetery features (i.e., plant material, fencing, markers, etc.). The applicants shall then transmit this information to M-NCPPC Planning and Preservation.
3. Also prior to final disposition of this Special Exception, based on information gathered from the detailed survey, in particular the size and boundaries of the cemetery, the applicants shall install a highly visible snow-fence at least 50 feet **outside** the boundaries of the cemetery in order to protect the cemetery from potential damage caused by the grading operations.
4. Also prior to final disposition of this Special Exception, the applicant shall submit, and the Planning Board or its designee shall approve, a cemetery preservation plan for the future use of this land, after sand and gravel operations have ceased. This plan shall include proposals for the selection and installation of an appropriate permanent fence around the graveyard.

Trails Issues:

The 1993 Master Plan for Subregion VI shows an equestrian trail running through the subject property along Rock Creek. Accordingly, the applicant should designate a 14-foot-wide equestrian easement within the buffer afforded for Rock Creek.

K. Required Findings:

Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

- (1) The proposed use and site plan are in harmony with the purposes of this Subtitle.**

Finding: The purposes of the Zoning Ordinance are contained in Section 27-102. They are many and varied, but all are predicated on protecting and promoting the health, safety,

morals, comfort, convenience and welfare of the present and future inhabitants of the County. According to the EIR, this application will have many of the inherent impacts associated with any mining operation:

Land

- Change in the area's landscape from the mining operation.
- Increased sedimentation from haul road and mining activity.
- Loss of some aquatic and terrestrial habitat.
- Loss of some topsoil.

Water

- Increase in surface runoff rates and volumes during mining.
- Possible increase in runoff rates and volumes.
- Potential decrease in groundwater recharge and volumes.
- Possible stream bank erosion.
- Increased vegetative growth in deposition areas causing choking and clogging of flow during mining
- Possible siltation of streams.
- Slight potential of adverse impacts upon water wells associated with structures 25, 29 and 28. (Table 4-9 and Figure 4-6)

Climatology and Air Quality

- Increase of dust and particulate matter in the vicinity.

Noise

- Marginal noise increase at Locations 19, 30 and 31 above State acceptable standards of 65 dBA for residential areas (Table 4-9 and Figure 4-6).

Biological Resources

- Destruction of natural vegetation and associated wildlife habitat.

- Permanent reduction in size of the larger contiguous forest areas and riparian forest areas.

Aesthetics and Human Resources

- Unsightly appearance of mining operation.
- Attractive nuisance and danger of the sediment basin and sediment traps.
- Minimal new impacts to nearby residents due to the use of internal haul roads rather than utilization of public roads.
- No significant impact to historic and archaeological resources.

Transportation

- The proposed mining operation will have no adverse impact on the area's transportation facilities because it is proposed in the submitted Statement of Justification that all of the mined material from the proposed site will be transported to an existing wash plant located adjacent to the proposed site using the existing internal roadways.

The EIR has recommended numerous conditions which will ameliorate the identified adverse impacts. With these conditions in place, and recognizing the County's objective of removing these valuable resources in areas prior to their further development, the applicant's proposal can be found to further the purposes of the Zoning Ordinance.

In particular, the request furthers:

- (2) To implement the *General Plan*, Area Master Plan and Functional Master Plans; and
- (4) To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry and business.

The subject property is located in a rural, permanent low-density area. The ability to mine the resources prior to development recognizes the needs of the mining industry, the economic impact of mining and the crucial need for these resources to be fully utilized.

- (2) **The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.**

Finding: With the recommended conditions, the proposed use meets the specific requirements and regulations for this type of use, as well as those pertaining to the O-S and I-2 Zones.

- (3) **The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or in the absence of a Master Plan or Functional Map Plan, the General Plan.**

Finding: The mining of sand and gravel on the subject property will not impair the integrity of the *Subregion VI Master Plan*. To the contrary, it is consistent with that document's goals and objectives regarding the extraction and utilization of such resources. The Master Plan emphasizes the vital importance of gravel deposits to the area's economy and the need to extract them before development makes their removal impossible.

- (4) **The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.**

- (5) **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

Finding: With the recommended conditions, the use will not adversely affect the health, safety or welfare of residents or workers in the area. Nor will it be detrimental to the use or development of adjoining properties. Large buffers, restrictions on the amount of acreage to be disturbed, internal circulation of trucks and materials, careful site planning and safety measures will ensure the proposed use will not be deleterious to those around it.

- (6) **The proposed site plan is in conformance with an approved Tree Conservation Plan.**

Finding: TCPII/82/99 and TCPII/119/99 are recommended for approval, subject to Condition 17 of this document.

CONCLUSION:

Staff is satisfied that the applicant has met their burden of proof in this case. Therefore, we recommend APPROVAL of Special Exception Application No. 4352, subject to the following conditions:

1. Topsoil shall be stockpiled within the area for use during the reclamation period.
2. Stockpiled overburden material shall be seeded with quick-growing grasses to minimize the wash-off of silt into streams within the site.
3. Reclamation and stabilization efforts shall be staged as diligently as possible and the direction of mining shall be closely followed. Reclamation shall be initiated in each mined phase before the mining of a new phase shall commence.
4. The disturbed area shall not exceed 25 acres at any one time.
5. Application of sludge during reclamation, when used under this Special Exception (SE-4352) shall be performed in accordance with criteria and standards of the Maryland Department of Environment (MDE) and other best management practices

and in compliance with the Prince George's County Code, Subtitle 21, Section 21-108.

6. All sediment/erosion control traps and basins shall be enclosed with a minimum forty-two (42)-inch-high safety fence. Safety signs, described in the Official Surface Mining Workbook (April, 1990) of the State Safety Committee, and safety benches and protective berming shall be used in order to increase the level of safety at the site.
7. Mining, general earth disturbance restriction lines and vegetative buffers shown on all the submitted and approved plans shall be maintained.
8. Close monitoring of the sediment control measures shall be done by the Department of Natural Resources to assure that they continue to perform satisfactorily and as designed.
9. The sediment control measures shall be approved by the Soil Conservation District.
10. If mining-related impacts upon water level in any of the shallow wells near the site are observed, corrective actions shall be immediately taken by the applicant. These can include drilling of deep water wells to replace the adversely affected shallow wells.
11. Truck speed on interior haul roads shall be controlled to 15 MPH or less.
12. Interior roads shall be watered or otherwise treated as necessary to minimize dust.
13. Only the equipment listed on the approved plan and/or in this report shall be used on the site and it shall be equipped with a Donaldson TCU05 muffler or one that provides at least 30 dBA in sound reduction. Similar heavy equipment may be substituted as replacements are required.
14. All equipment used on the site, including trucks, shall be fitted with working mufflers at all times.
15. Eighteen-wheel trucks are not permitted to haul mined material from site.
16. The tree preservation lines shall be staked on the ground and reviewed by M-NCPPC, Environmental Planning Section, prior to the installation of sediment/erosion control measures and tree protective devices.
17. The following revisions to TCPH/82/99 are required prior to the issuance of a use and occupancy permit.
 - a. Correct the worksheet to reflect areas to the nearest 1/100th of an acre.
 - b. Correct the replacement requirements calculations on the worksheet.

- c. In the General Notes replace all references to the Department of Environmental Resources with M-NCPPC Environmental Planning Section and remove all references to individuals' names.
 - d. Note 4, which references bonds, should be replaced with Condition 18.
 - e. Note 8 shall be expanded to reflect Condition 18.
18. The applicant shall provide to the Environmental Planning Section evidence that the appropriate reforestation bond has been posted for each phase (Phases 3A, 3B, 4 and 5) prior to any woodland clearing for that particular phase. A reforestation bond need not be posted for any phase until work is to be initiated for that phase. If reforestation associated with a phase noted above was completed at least two (2) years prior to the start of work for that phase and a survival check, prepared by the applicant and verified by the Environmental Planning Section, indicates a survival rate of no less than 75 percent, the reforestation bond may be waived by the Environmental Planning Section. All reforestation and/or afforestation shall be accomplished prior to or during the first planting season after work has begun in the phases initiating the reforestation requirement.
19. The applicant shall notify the M-NCPPC Environmental Planning Section prior to the initiation of work on each phase of this mining operation to schedule a meeting to address reforestation and Woodland Conservation issues including: timing for reforestation activities associated with that phase, changes in the species to be planted, decreases in the quantity of trees planted in the event that some natural regeneration has occurred, the need for additional or less site preparation and other pertinent woodland conservation or reforestation issues.
20. The applicant shall provide the Environmental Planning Section with copies of all reports submitted to the Maryland Department of the Environment.
21. Operations on the site are restricted to the hours of 7:00 a.m. to 5:00 p.m., Monday through Saturday. There shall be no operations on holidays (i.e., New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas) and Sundays. Trucks are not permitted to arrive at the site prior to 7:00 a.m.
22. The applicant, his heirs, successors or assigns shall limit the level of mining activity at the site to 250 truck trips per day.
23. All hauling equipment shall be kept on site or the adjoining wash plant.
24. Dump trucks may be used to haul material to the wash plant only when one or more of the four proposed special off-road vehicles are out of service, and all such dump trucks are stored on site overnight. These dump trucks shall not travel along any of the area's public roads to transport any of the mined raw material from the proposed site.
25. Upon receipt of the first substantiated valid complaint that any material is being hauled directly from the site using any of the nearby publicly maintained roadways,

the applicant, his heirs, successors or assigns shall stop the operation and shall not commence the mining operation at the site until a revised and acceptable transportation impact study has been submitted and reviewed by the M-NCPPC Countywide Planning Division, Transportation Section.

26. Prior to issuance of Use and Occupancy Permits, the applicant shall obtain all the permits and licenses that are required by the Federal, State and local governments. Such permits shall include but are not limited to permits for disturbance of wetlands and wetland buffers and stream crossings.
27. The area to be mined will be reclaimed to approximate contours shown on the MDE reclamation plan. Upon completion of this restoration process, the area will be suitable for agricultural purposes.
28. The applicants shall include information about the existence and location of the Early family cemetery in the *General Notes*.
29. Prior to the issuance of a Use and Occupancy permit, the applicants shall conduct a detailed survey of the features of the Early family cemetery, indicating the size of the cemetery and the number of existing gravestones; they shall record all legible inscriptions on the gravestones, and shall make a written inventory of all cemetery features (i.e., plant material, fencing, markers, etc.). The applicants shall then transmit this information to M-NCPPC Planning and Preservation.
30. Prior to the issuance of a Use and Occupancy permit, the applicants shall install a highly visible snow-fence at least 50 feet **outside** the boundaries of the cemetery in order to protect the cemetery from potential damage caused by the grading operations.
31. Prior to the issuance of a Use and Occupancy permit, the applicant shall submit, and the Planning Board or its designee shall approve, a cemetery preservation plan for the future use of this land, after sand and gravel operations have ceased. This plan shall include proposals for the selection and installation of an appropriate permanent fence around the graveyard.
32. The applicant shall designate a 14-foot-wide equestrian easement within the buffer afforded for Rock Creek.