



SPECIAL EXCEPTION APPLICATION NO. 4462

Application		General Data		
Project Name: Bardon Location Northeast side of Aquasco Road, approximately 150 feet north of Orme Road Applicant/Address Bardon, Inc. 6401 Golden Triangle Drive, Ste. 400 Greenbelt, Maryland 20770 Correspondent Russell E. Warfel, Esq Meyers, Rodbell & Rosenbaum 6801 Kenilworth Ave., Suite 400 Riverdale, MD 20737-1385		Date Accepted	3/15/02, 2/10/04	
		Planning Board Action Limit		N/A
		Plan Acreage (AMENDED)	277.6	
		Zone	O-S	
		Dwelling Units	N/A	
		Square Footage	N/A	
		Planning Area	87a	
		Council District	09	
		Municipality	N/A	
		200-Scale Base Map	223SE12	
Purpose of Application		Notice Dates		
Surface Mining		Adjoining Property Owners Previous Parties of Record Register Associations: (CB-12-2003)		
		03/19/02		
		Sign(s) Posted on Site		
		N/A		
Staff Recommendation		Staff Reviewer: Elsabett Tesfaye		
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION	
	X			

June 16, 2004

TECHNICAL STAFF REPORT:

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

VIA: Jimi Jones, Acting Zoning Supervisor

FROM: Elsabett Tesfaye, Senior Planner

SUBJECT: **Special Exception Application No. 4462**

REQUEST: **Surface Mining**

RECOMMENDATION: **Approval with 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 301-952-3530.

FINDINGS:

- A. **Location and Field Inspection:** The property is 3,000 feet southeast of the intersection of Horsehead and Aquasco Roads and 150 feet north the intersection of Aquasco and Orme Roads. The subject property comprises 277.6 acres of land and is currently being used for a surface mining operation that was approved by Special Exceptions 3859 and 4163.

B. **Development Data**

	EXISTING	PROPOSED
Zone(s)	O-S	O-S
Use(s)	Surface parking	Surface parking
Acreage	277.6	277.6

- C. **History:** The subject property was incorporated into the Maryland-Washington Regional District on April 8, 1965. The 1993 Subregion VI sectional map amendment retained the property in the O-S Zone. In 1989, Special Exception SE-3859 was approved, comprehensively addressing the entire deed parcels of 691.42 acres. In 1996 Special Exception SE-4163 was approved for surface mining operation on 277.6 acres of land for a period of five years.
- D. **Master Plan Recommendation:** The 1993 master plan for Subregion VI designates the subject property for “rural” land use. Rural area is recommended for agricultural use, natural resources conservation, nonintensive recreational uses, and large-lot residential estates land use with up to 0.20 dwelling units per acre. The 2002 General Plan places the subject site within the Rural Tier. The vision for the Rural Tier is protection of large amounts of land for woodland, wildlife habitat, recreation and agriculture pursuits, and preservation of the rural character and vistas that now exist.
- E. **Request:** The applicant is requesting approval of a special exception for an existing surface mining operation for which a mandated five-year period granted under a previous special exception approval has expired. Special Exception SE-3859, which was approved in 1983, comprises 691.42 acres of land. In 1996, Special Exception SE-4163 was approved for surface mining operation on 277.6 acres of land for a period of five years. The current application is for a renewal for five years to permit the mining of the areas proposed under the prior application, but not yet completed. The applicant indicated that the use and operation of the existing facility remains unchanged from that which was approved in SE-4163 in 1996. As was the case in the 1996-approved special exception (SE-4163), this application has been modified to include only the 277.6 acres where mining will occur. Of those 277.6 acres, 216 are proposed to be disturbed for the mining and associated haul roads.

The instant special exception application (SE-4462) was filed with The Maryland-National Capital Park and Planning Commission on March 2002, and traffic and noise studies were submitted in May 2003. The facility is currently operating under a permit issued by the Maryland Department of the Environment Water Management Administration. In a supplemental submission, the applicant has provided documentation (see attachment) with approval and permit history for the subject surface mining.

- F. **Neighborhood and Surrounding Uses:** The neighborhood is defined by the following boundaries previously identified in Special Exception SE-4163:

North: Baden-Westwood Road
East: Croom Road
South: Aquasco Road and Croom Road
West: Aquasco Road

The neighborhood generally remains rural in character with agricultural and surface mining uses and scattered single-family detached dwellings on large lots.

G. Specific Special Exception Requirements (Section 27-410. Surface Mining):

(a) 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.

The applicant proposes to continue to use heavy machinery to extract sand and gravel materials in accordance with the approval of SE-4163; the applicant does not propose to wet-process sand and gravel on site.

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

The applicant indicated that nothing has changed in the operation of the site or the surrounding area that would change the findings in the approved SE-4163 and the applicant justification statement states the following:

“The proposed mining of the subject property will be conducted in accordance with applicable state laws such as noise control and surface mining restrictions. Experts in the area of noise, air quality, and related matters will testify before the Zoning Hearing Examiner, or their previous testimony in SE-4163 will be incorporated in order to demonstrate that the use will not be noxious, offensive, or otherwise objectionable by reason of dust, smoke or vibration. In addition, an updated Environment Impact Report will be prepared by the Maryland-National Capital Park and Planning Commission in accordance to State law which will analyze the proposed use and recommended conditions to ensure compliance with Section (a)(2).”

The Environmental Planning Section has offered the following comments:

“A report entitled ‘Evaluation of Air Quality Impacts for Aggregate Industries Financial International Project SE-4462,’ dated May 2003, was submitted with the current application. The report describes the site, outlines regulatory requirements, describes the existing ambient air quality, models the emissions generated at the site, provides an analysis of the data, and provides conclusions specific to the site and the neighborhood. The Environmental Planning Section has reviewed the report

and concurs with the conclusion that the proposed mining will not significantly impact the air quality or produce a health hazard to any residents.... This air quality study is considered supplemental information to EIR-4163 that reached the conclusion that, if the recommendations of the report are implemented, there will be no significant impact.”

- 3) The land areas exposed by the extraction and removal of natural materials (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.**

The applicant proposes to restore the property in such a manner that it will be left suitable for development. The applicant submitted a grading plan that indicates the exposed land would not have a slope greater than 3:1. The Environmental Planning Section has indicated that the TCPII shows the existing and proposed ground elevations of the site, adjacent land, all abutting streets and that the final grades do not exceed 3:1.

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

(A) 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.

The property is in the O-S Zone. Since the five-year period approved by SE-4163 has lapsed and the facility is currently operating without a valid special exception, the mining operation on the site does not meet the requirements of the Zoning Ordinance. The applicant is requesting a third five-year mining period for the property. This special exception should be valid for a period not to exceed five years from the date of the approval.

- (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.**

The plat for special exception notes that the haul road construction has been completed, that Phase I has been completed, that 60 acres are actively being mined as Phase II, that 33 acres remain to be mined in part of Phase III, that Phase IV will mine 46 acres, that Phase V will mine 16 acres, and that Phase VI will extract sand and gravel from an additional 48 acres and that the estimated time to complete all of the phases is five years.

- (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 24 feet for the predominant length of the street.**

A traffic analysis for the previous special exception was evaluated and approved in 1996. The applicant has submitted an updated traffic analysis with this application. The Transportation Planning Section has reviewed the applicant's traffic study and has offered the following comments:

“The major roadway in the vicinity of the site is MD 381: This is a two-lane state-maintained rural highway that currently carries between 3,600 and 8,500 vehicles on a daily basis. The reported daily traffic volume is based upon State Highway Administration (SHA) traffic count maps, and the section of MD 381 between Horsehead Road and MD 382 carries a daily traffic volume of 3,625. The MD 381 pavement has a width of at least 24 feet with 4- to 8-foot shoulders along most of its length. The posted speed limit ranges from 30 to 50 miles per hour, and in the vicinity of the subject site the traffic study reports an 85th percentile speed of approximately 62 miles per hour (i.e., 85 percent of traffic is going 62 miles per hour or less). All of the truck traffic associated with hauling of the proposed mining material from the site is expected to be using this roadway between the site entrance and MD 381.

“The applicant provided a traffic study detailing analyses at two nearby intersections:

- “• MD 381 and Horsehead Road, which is unsignalized
- “• MD 381 and the site access, which is unsignalized

“Using these traffic counts, intersection capacity analyses were conducted for the area intersections in accordance with the procedures contained in the Prince George's County Planning Board's *Guidelines for the Analysis of the Traffic Impact of Development Proposals*. Based on these analyses, staff made the following determinations regarding level-of-service (LOS):

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (AM & PM)	
MD 381 and Horsehead Road	23.6*	14.4*	--	--
MD 381 and site entrance	future		--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are outside of the normal range of the procedure, and should be interpreted as a severe inadequacy.				

“The *Highway Capacity Manual* procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. According to the guidelines, vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has

generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency. It should also be noted that staff generally does not report a LOS for unsignalized intersections because LOS is not the standard—the quantity of delay is the standard that triggers the need for a condition.

“Under existing conditions, of course, this use is currently operational, and it is generating traffic at its site access point and along the haul route. For the purpose of this analysis, however, the use is assumed **not** to be in place. Therefore, the impact of the use is measured by analyzing the present and future (i.e., background) conditions without the use, and then adding the use to the future condition (i.e., total).

“The applicant has provided an analysis of the link of MD 381 north of the subject under total traffic only. For the purpose of making a comparison, a similar computation has been done for the staff’s analysis, and it has been determined that this link operates with a volume-to-capacity (V/C) ratio of 0.22 in the AM peak hour and 0.20 in the PM peak hour. This translates to LOS A in both peak hours. The standard for development in the Rural Tier, as defined in the *Prince George’s County Approved General Plan*, is LOS C.

“The traffic analysis includes a review of future, or background, traffic. The study assumes a growth rate of two percent per year over a five-year period along MD 381. There are no projects in the vicinity of the subject property, which are currently programmed in either the county’s Capital Improvement Program (CIP) or the state’s Consolidated Transportation Program (CTP). The study also considers the impacts of seven developments comprising 136 residences and a private school, in the area of the subject site. For better or for worse, subdivision activity in the area of the subject site has been rampant, and six new subdivisions of significance have been approved or are pending in the area since the traffic study was done. These subdivisions, and their impacts upon the study area, are summarized below:

- “• Preliminary Plan 4-03011 for Bentley Woods, 11 lots, with 5 percent of site traffic southward along Horsehead Road and 5 percent of site traffic southeast onto MD 381.
- “• Preliminary Plan 4-03104 for Cedar Farm, 12 lots, with 70 percent of site traffic northwest along MD 381.
- “• Preliminary Plan 4-04017 is pending for Southridge, 25 lots, with 5 percent of site traffic southeastward along MD 381.
- “• Preliminary Plan 4-04018 is pending for Archers Glen II, 19 lots, with 5 percent of site traffic southward along Horsehead Road and 5 percent of site traffic southeast onto MD 381.
- “• Preliminary Plan 4-04082 is pending for Schultze Property, 19 lots, with 70 percent of site traffic northwest along MD 381.

- “• Preliminary Plan 4-04097 is pending for The Pinnacle, 11 lots, with 5 percent of site traffic southeastward along MD 381.

“Based upon staff’s current analyses of the background traffic conditions, staff made the following determinations regarding level-of-service (LOS):

BACKGROUND TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (AM & PM)	
MD 381 and Horsehead Road	37.5*	17.6*	--	--
MD 381 and site entrance	future		--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are outside of the normal range of the procedure, and should be interpreted as a severe inadequacy.				

“Once again, the use is assumed **not** to be in place. Therefore, the impact of the use will be measured at the next step by adding the use to the background traffic condition.

“As noted in the discussion of the existing case, the applicant has provided an analysis of the link of MD 381 north of the subject under total traffic only. For the purpose of making a comparison, a similar computation has been done for the staff’s analysis, and it has been determined that this link operates with a volume-to-capacity (V/C) ratio of 0.25 in the AM peak hour and 0.22 in the PM peak hour. This translates to LOS A in both peak hours.

“The proposed mining operation involves the extraction of sand and gravel resources from the site, utilizing an existing access driveway from the site to MD 381, and transporting northwest along MD 381 to US 301. The access driveway has been in use by the subject site under SE-4163. It is a paved roadway, 22 feet in width, extending 500 feet back from MD 381. Acceleration and deceleration lanes are in place along MD 381 pursuant to SHA standards and pursuant to a legal access permit granted by SHA.

“The site is proposed for use as a sand and gravel mining operation. The proposal for the current special exception would be to maintain the same number of truckloads per day (300 truckloads daily, resulting in 300 trucks in and 300 trucks out per day) as is approved under the current SE-4163. Based upon an eight-hour day for operations, the site would generate 38 trucks into the site and 38 trucks out of the site during the AM and the PM peak hours. Based upon the condition of approval for SE-4163 regarding operating hours, the applicant is requested to concentrate traffic between 8:00 AM and 4:15 PM—a total of 8.25 hours, and is allowed to operate between 7:00 AM and 4:15 PM—a total of 9.25 hours. Therefore, the impact of one-eighth of daily traffic entering and leaving the site

during the AM and PM peak hours would appear to represent a worst-case scenario that is appropriate for analysis. Therefore, with the trip generation and distribution as assumed, the following results are obtained under total traffic:

TOTAL TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (AM & PM)		Level of Service (AM & PM)	
MD 381 and Horsehead Road	49.1*	19.5*	--	--
MD 381 and site entrance	12.9*	9.7*	--	--
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are outside of the normal range of the procedure, and should be interpreted as a severe inadequacy.				

"The applicant has provided an analysis of the link of MD 381 north of the subject under total traffic only. With the mining activity on the subject site, it has been determined that this link operates with a volume-to-capacity (V/C) ratio of 0.26 in the AM peak hour and 0.23 in the PM peak hour. This translates to LOS A in both peak hours.

"Under total traffic conditions the MD 381/Horsehead Road intersection and the link of MD 381 north of the subject site both operate acceptably with regard to county guidelines. In consideration of this finding, it is the transportation staff's opinion that the proposed mining will not have any adverse impact to the area roadways. There would be no change in the service levels to the intersections or links within the study area as a result of this request.

"Neither the County Department of Public Works and Transportation nor SHA had comments on the traffic study's findings and recommendations.

"The subject property is located within the area covered by the Subregion VI Master Plan, which was approved in September 1993. In accordance with this master plan, MD 381 is proposed to be upgraded to a four-lane collector facility north of Baden-Westwood Road and maintained as a two-lane rural collector with upgrades for turning lanes and improved shoulders within the immediate study area. The driveway into the site exists, and no modifications are proposed to the site access point along MD 381. The applicant shall be aware, however, that any changes to the site access point require the review and approval of SHA.

"The Transportation Planning Section finds that the proposal, in consideration that it is proposed on a platted lot within an approved subdivision and consistent with an approved development cap, would not pose unanticipated capacity or safety issues on adjacent roadways. This analysis is based, however, upon maintaining the level of activity and the haul route that the applicant has been using to date, and this would include maintaining the same hours of operation. Assurances to this effect should be obtained by implementation of the conditions listed below:

- “1. Truck traffic associated with the proposed mining activity shall be concentrated between 8:00 a.m. and 4:15 p.m. Monday through Friday. There shall be no mining activity before 7:00 a.m. or after 4:15 p.m.
- “2. Trucks shall enter and leave the site by way of MD 381 north.
- “3. Mining activity shall be restricted to 300 truckloads of material daily.”

- (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.**

The site plan identifies the previously approved driveways and access point, which is located to the southwest of the mining area at Aquasco Road, approximately 3,000 feet from its intersection with Horsehead Road to the north and 150 feet from its intersection with Orme Road to the south. The existing access driveway is 22 feet wide, 500 feet long and is composed of bituminous concrete paving. No changes are proposed in this request.

- (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.**

The environmental impact report (EIR) prepared by the M-NCPPC Environmental Planning Section includes the countywide inventory of the information required above (see Appendix A). Figures 1-2 of the EIR, which maps the countywide locations, and a table identifying the locations of the mining sites, wash plants, landfills and rubble fills within five miles of the subject site are attached to this report (Appendix C-1 of the EIR).

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

The Environmental Planning Section has provided the following comments:

“EIR-4163 addresses noise on pages 16 and 17. Recommendations 12, 15, 16 and 17 address issues related to noise. Since the preparation of EIR-4163, new development has occurred on properties abutting the northern property line near the proposed Phase III mining area.

“A report entitled “Environmental Noise Assessment, Surface Mining Operations Financial International Site,” dated May 2, 2003, was submitted with the current

application. The report, which includes measurements of noise generated by individual bulldozers, loaders, tracked hoes and hauling trucks used on the site, models the noise that would be generated at locations in planned mining areas, analyzes potential impacts to nearby properties, and proposes mitigation measures to avoid impacts. The Environmental Planning Section has reviewed the report and concurs that the berm along the property line shared with the new residential structures and shown on the surface mining and sediment control plan will provide adequate noise attenuation so that the noise generated by the proposed mining will not significantly impact adjacent properties if appropriate measures are preformed.

“Recommended Condition: Truck speed on interior haul roads shall be controlled to 15 MPH or less.

“Recommended Condition: 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.

“Recommended Condition: All equipment used on the site, including trucks, shall be fitted with working mufflers at all times.”

- (f) **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).**

The inventory is attached to the EIR prepared by the M-NCPPC Environmental Planning Section and will be available for the District Council’s consideration.

H. Additional Requirements (Section 27-445.02):

- (a) **In order for any surface mining or sand and gravel wet-processing operation to continue, the requirements of this section shall be met.**
- (b) **The purposes of this section are to prevent or control the detrimental effects of surface mining and sand and gravel wet-processing operations upon neighboring properties, and existing and proposed land uses in the general area.**
- (c) **All surface mining and sand and gravel wet-processing operations shall meet the following requirements:**
- (1) **The uses shall be operated in full compliance with applicable extraction and surface mining or sand and gravel wet-processing regulations.**

The applicant has been operating under MDE permits and will be required to continue to do so.

- (2) **For the safety of residents and property, the operator of the facility shall take effective measures to control the speed of trucks utilizing his facility and neighboring streets.**

Condition 11 of the Council's order (Zoning Ordinance 10) for previously approved special exception (SE-4163) requires that truck speeds on interior haul roads to be controlled to 15 mph or less.

(3) The operator shall avoid depositing any debris upon any existing streets.

As specified on the Council's conditions of approval for the previously approved special exception, interior roads are to be watered or otherwise treated to minimize dust. Chemical treatment may be necessary. A water truck shall be available during all hours of mining operation.

(4) The owner of the subject property shall be required to post and maintain a permanent, durable sign identifying the use as a surface mining or sand and gravel wet-processing operation, in accordance with the requirements of Section 27-629:

(a) Area.

- (1) Maximum area of six square feet

(b) Height

- (1) Section 27-629 does not provide a specific height requirement for properties in the O-S Zone. However, staff recommends that the height of the regulatory sign shall be not less than four and not more than eight feet.

H. Required findings-Section 27-317

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

The purposes of the Zoning Ordinance are listed in Section 27-102 and can be summed up in the first purpose that reads "...to protect and promote the health, safety, morals, comfort, convenience and welfare of the present and future inhabitants of the county." Special Exception SE-4163 was approved for this site, based on conformance with this requirement. Moreover, the recommended conditions ensure that the subject use is in harmony with the purposes of the Zoning Ordinance as set forth in Section 27-102(a).

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

With the recommended conditions, the proposed use is in conformance with all the applicable requirements.

(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.

The proposed use will not result in the substantial impairment of the Subregion V master plan. The 1993 Subregion V master plan recommends the site for low-density rural residential land use. The 2002 General Plan places the subject site within the Rural Tier. The

vision for the Rural Tier is protection of large amount of land for woodland, wildlife habitat, recreation and agriculture pursuits, and preservation of the rural character and vistas that now exist. Upon reviewing the applicant's proposal, the Community Planning Division offers the following comments:

“The proposed surface mining operation is consistent with the master plan recommendations for this area of the county. There are no master plan issues associated with the extension of a previously approved special exception for surface mining. The plan acknowledges the existence of this particular operation (Table 6, #18, page 39).”

- (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.**

The previous special exception was approved based on the finding that it would not adversely affect the public health, safety or welfare; to date, there is nothing in the record to suggest otherwise. Moreover, given the nature of the sparse development and land holdings in the vicinity of the site as well as the buffering of the property from Brandywine Road, and the fact that a major portion of the property is wooded, with the recommended conditions, the continuation of this special exception will not be detrimental to the use or development of adjacent properties.

The environmental impact report prepared by the Environmental Planning Section for the subject proposal recommends a number of conditions related to noise, watershed and water quality, airshed and air quality, traffic and traffic safety, biological resources and other environmental factors relating to the health, safety, and welfare of the residents of the affected area.

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

The applicants submitted the approved Type II Tree Conservation Plan (TCPII/100/93) with this application, which was reviewed for consistency with the approved mining operation and the Woodland Conservation Ordinance. The EIR notes:

“This site is subject to the provisions of the Woodland Conservation Ordinance because the entire site is more than 40,000 square feet in area and contains more than 10,000 square feet of woodland. A forest stand delineation was prepared as part of the environmental impact report for SE-4163 and a discussion is included in Section 4.5 of EIR-4163. A tree conservation plan is required by Section 27-317(a)(6) of the Zoning Ordinance for the approval of any special exception. A Type II tree conservation plan, TCPII/109/94, was reviewed and approved for this property as part of SE-4163. The TCPII includes the entire 691±-acre property and not just the area of SE-4462. The proposed woodland conservation areas would include all of the sensitive environmental features on the property and create a contiguous woodland area, fulfilling the goals of the Woodland Conservation Ordinance. The current application proposes no changes to the previously approved TCP.”

“Recommended Conditions

- “• The tree preservation lines shall be staked on the ground and reviewed by the M-NCPPC Environmental Planning Section, prior to the installation of sediment/erosion control measures and tree protective devices.
- “• A reforestation bond shall be posted with the Prince George's County Department of Environmental Resources prior to the issuance of any permits for this mining operation. All reforestation shown on TCPII/109/94 shall be completed during the first spring planting season following completion of the mining operation or upon final stabilization of the mining site. Prior to the approval of SE-4462, the applicant shall provide evidence that the reforestation bond has been posted with the Prince George's County Department of Environmental Resources.”

CONCLUSION:

Based on the foregoing discussion, staff recommends Approval of SE-4462 subject to the following conditions:

1. This special exception shall be valid for a period not to exceed five years from the date of the approval.
2. Truck speed on interior haul roads shall be controlled to 15 MPH or less.
3. Only the equipment listed on the approved plan and/or in this report shall be used on the site and 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.
4. All equipment used on the site, including trucks, shall be fitted with working mufflers at all times.
5. Stockpiled overburden material shall be seeded with quick-growing grasses to minimize the wash-off of silt into streams within the site.
6. Reclamation and stabilization efforts shall be staged as diligently as possible and the direction of mining shall be closely followed. The disturbed area shall not exceed 25 acres at any one time.
7. Application of sludge during reclamation, when used under this special exception, 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. Use of sludge shall be limited and controlled to prevent any surface or subsurface contamination of water entering Black Swamp Creek and its tributaries.
8. All sediment/erosion control traps and basins shall be enclosed with a minimum 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.
9. Mining, general earth disturbance restriction lines, and vegetative buffers shown on the site, reclamation, and sediment erosion control plans shall be maintained.

10. Close monitoring of these measures shall be done by the Department of Natural Resources to assure that they continue to perform satisfactorily. The sediment control measures shall be approved by the Soil Conservation District.
11. The following note shall be added to the special exception site plan and the Type II tree conservation plan:

“The expanded stream buffer shown on this plan describes an area where the installation of structures and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”
12. Interior roads are to be watered or otherwise treated as necessary to minimize dust. Chemical treatment may be necessary. A water truck shall be available during all hours of mining operation.
13. Street sweepers or water trucks shall be available during all hours of mining operation. These should be used as needed to keep Aquasco Road in the vicinity of entrances clear of loose extracted materials from the proposed mining operation.
14. Truck traffic associated with the proposed mining activity shall be concentrated between 8:00 a.m. and 4:15 p.m., Monday through Friday. There shall be no mining activity before 7:00 a.m. or after 4:15 p.m.
15. Trucks shall enter and leave the site by way of MD 381 north.
16. Mining activity shall be restricted to 300 truckloads of material daily.
17. The tree preservation lines shall be staked on the ground and reviewed by the M-NCPPC Environmental Planning Section, prior to the installation of sediment/erosion control measures and tree protective devices.
18. A reforestation bond shall be posted with the Prince George's County Department of Environmental Resources prior to the issuance of any permits for this mining operation. All reforestation shown on TCPII/109/94 shall be completed during the first spring planting season following completion of the mining operation or upon final stabilization of the mining site. Prior to the approval of SE-4462, the applicant shall provide evidence that the reforestation bond has been posted with the Prince George's County Department of Environmental Resources.
19. Topsoil shall be stockpiled within the area for use during the reclamation period.
20. The gate at the Aquasco Road entrance shall be locked when the site is not in operation.
21. The mining at this site (SE-4462) will not commence until the mining approved by Special Exception SE-4163 is completed.
22. All of the above conditions shall be listed on the site plan prior to the approval of this Special Exception (SE-4462) by the District Council.