



Note: Staff reports can be accessed at www.mnccppc.org/pgco/planning/plan.htm.

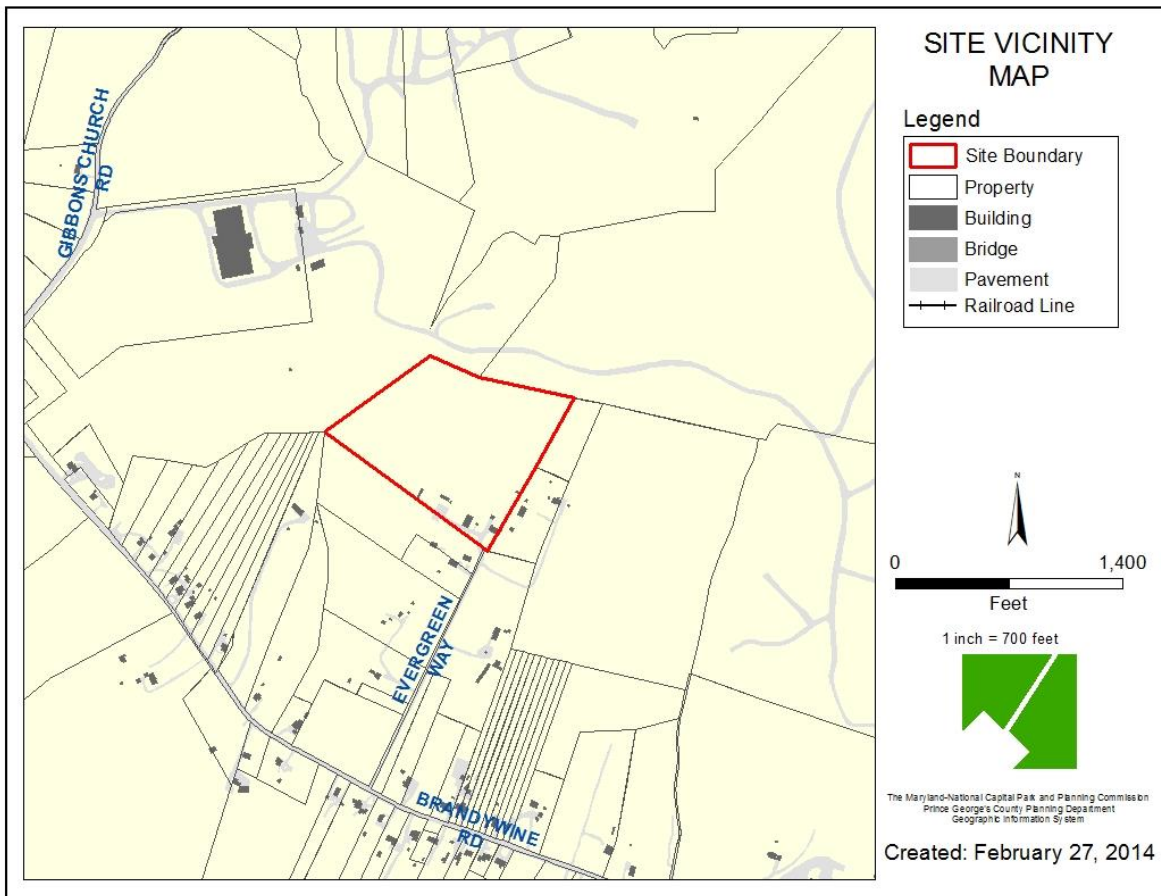
Special Exception

SE-4646

Application	General Data	
Project Name: Anthony George Project Location: North of intersection of Evergreen Way and Brandywine Road (MD 381); approximately 3,748 feet south of intersection of Brandywine Road and Gibbons Church Road Applicant/Address: Rock Hill Sand and Gravel P.O. Box 220112 Chantilly, Virginia 20153 Property Owner: Anthony George 15544 Brandywine Road Brandywine, Maryland 20613	Planning Board Hearing Date:	03/13/14
	Staff Report Date:	02/28/14
	Date Accepted:	07/22/09
	Planning Board Action Limit:	N/A
	Plan Acreage:	23.03
	Zone:	O-S
	Gross Floor Area:	N/A
	Lots:	N/A
	Parcels:	N/A
	Planning Area:	86B
	Tier:	Rural
	Council District:	09
	Election District	11
	Municipality:	N/A
	200-Scale Base Map:	219SE10

Purpose of Application	Notice Dates	
Special Exception for surface mining in the O-S Zone.	Informational Mailing	01/05/09
	Acceptance Mailing:	06/25/09
	Sign Posting Deadline:	N/A

Staff Recommendation		Staff Reviewer: Tom Lockard	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		



THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

TECHNICAL STAFF REPORT:

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

VIA: Jimi Jones, Zoning Supervisor, Development Review Division

FROM: Tom Lockard, Planner Coordinator, Zoning Section, Development Review Division

SUBJECT: **Special Exception Application No. SE-4646
Anthony George Project**

REQUEST: **Surface mining of sand and gravel in the O-S Zone**

RECOMMENDATION: **APPROVAL with conditions**

NOTE:

The Planning Board has scheduled this application to be reviewed on the agenda date of March 13, 2014. 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 addressed to the Prince George's County Office of the Zoning Hearing Examiner, County Administration Building, Room 2184, 14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772. 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 subject property is a large, irregularly-shaped tract of land, approximately 23 acres in area in the Open Space (O-S) Zone. It comprises a single parcel (Parcel 17) on Tax Map 156, Grid D-2. The site is located on the north side of Brandywine Road (MD 381) on Evergreen Way, 3,500 feet east of Gibbons Church Road. The site is partially wooded, although substantial portions of the site were cleared for pastures and agriculture. There is one residence in the southeast corner of the site, accessed from Evergreen Way from the south. There are several other structures (barns, sheds and other outbuildings) scattered across the site. These scattered buildings are shown to be removed, however, a cluster of four buildings (including the residence) in the southeast corner will be retained. The property drains into the Rock Creek watershed, in the Spice Creek drainage basin of the Patuxent River. The property contains two unnamed regulated stream systems including wetlands and 100-year floodplain.
- B. **Development Data Summary:**
- | | EXISTING | PROPOSED |
|---------|---------------------------------|----------------------|
| Zone(s) | O-S | O-S |
| Use(s) | Pasture, Woodlands, Agriculture | Sand and Gravel Mine |
| Acreage | 23.03 | 23.03 |
| Parcels | 1 | 1 |
- C. **History:** The property was retained in the Open Space (O-S) Zone in the 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment* (SMA), which was approved via District Council Resolution CR-83-2013.
- D. **Master Plan Recommendation:** The 2002 *Prince George's County Approved General Plan* places the area of this property to be mined in the Rural Tier. The vision for the Rural Tier is protection of large amounts of land for woodland, wildlife habitat, recreation and agricultural pursuits, and preservation of the rural character and vistas that now exist.

The property is in Planning Area 86B (Baden Area) which was studied as part of the *Approved Subregion 6 Master Plan and Sectional Map Amendment* which was approved on July 24, 2013. The applicant used the 1993 *Subregion VI Study Area Master Plan and* (SMA) (area master plan) in their special exception application. The applicant's statement of justification references policies from the 1993 SMA, several of which have changed. The 2013 *Approved Subregion 6 SMA* continues to recognize the economic importance of the sand and gravel industry to the county.

This subject property was retained in the O-S Zone and the vision for the development of the area around the property has largely not changed since 1993. New policies, which are relevant to the applicant's proposal, are enumerated in the *Approved Subregion 6 area master plan*, along with Prince George's County Planning Board Resolution No 13-70 (PGCPB Resolution No. 13-70) and the Council Resolutions CR-82-2013 and CR-83-2013 DR-2 and should be applied to the application.

In reference to PGCPB Resolution No 13-70 (page 10), Policy 12, Strategy 2 of the 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment* (SMA), states to "involve community members in reviewing new and expanding projects, and in developing requirements for identifying post-reclamation uses as part of an amended special exception process. This work should be done in conjunction with the sand and gravel industry, landowners, government

officials, etc. so that post-reclamation land use activities are established in the PPA (Priority Preservation Area) and all other land where septic systems will be the only means of sewage disposal.”

The applicant indicates on page 4 of their Statement of Justification that “the Reclamation Plan shows that the site will be restored as pasture for horses after the mining operations are completed. This action will restore the site and make it suitable for potential future development, if deemed warranted.”

Reclaiming the site for pasture would be consistent with the future land use envisioned for the site. Similarly, low-density development which would not detract from the character of planned parks and trails, would also be consistent with this vision. Residential development is contingent upon the successful provision of well and septic on site, as the subject property is outside of the public water and sewer envelope.

- E. **Request:** The applicant is proposing a sand and gravel mining operation. They propose operations between the hours of 7:00 a.m. to 5:00 p.m. Monday through Friday, and 7:00 a.m. to 4:00 p.m. on Saturdays, excluding federal holidays. There will be no operations on Sundays. Environmentally sensitive portions of the property including floodplain, tree conservation areas, wetlands, steep slopes, and bufferyards will be preserved. Mining is shown to take place in two phases, beginning in the northern section of the site and progressing in a counter-clockwise direction. The area proposed to be mined is 15.91 acres of the total 23.03 acres. No structures scale or scale house are proposed. The material is proposed to be transported directly to an adjoining wash plant to the northwest without traversing off-site on public roads. From there, the material will be dispersed to job sites throughout the region.

The applicant estimates a five-year timeframe for mining. If the operation does extend beyond the statutory maximum five-year approval, a new special exception will be required for the use to continue.

- F. **Neighborhood and Surrounding Uses:** The neighborhood is generally defined by the following boundaries:

North—	North Keys Road
East—	Rock Creek
South—	Brandywine Road (MD 381)
West—	PEPCO right-of-way

The neighborhood is predominantly undeveloped and wooded. The surrounding properties are also zoned O-S, with the exception of the Guldesky sand and gravel processing facility located to the northwest, which is zoned I-2. A mix of woodlands and cleared areas, undeveloped land and light farming surround the property as well as scattered single-family detached homes and an existing sand and gravel mine (SE-4517) to the northeast.

- G. **Specific Special Exception Requirements for a Sand and Gravel Mine:** Section 27-410(a) of the Zoning Ordinance permits a sand and gravel mine in the Open Space (O-S) Zone, subject to the following:

- (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 subject site is zoned O-S. Heavy machinery will only be utilized for the extraction and removal of sand and gravel from the subject site. A wash plant, also known as “wet-processing,” is not proposed on-site; the materials are to be transported directly to the property located to the northwest for further processing.

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

Air quality issues have been addressed and are discussed in the associated Environmental Impact Report (EIR) and further in the Environmental Review Section below.

- (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;**

A mining plan showing the proposed grading and a reclamation plan showing the final grades have been submitted. None of the proposed grades are greater than 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;**

It is recommended that the special exception be conditioned to be valid for no more than 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;**

It is recommended that the special exception be conditioned to be valid for no more than 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 twenty-four (24) feet for the predominant length of the street;

A traffic report prepared by Lenhart Traffic Consulting, Inc. dated July 25, 2013, was submitted with the application. No off-site hauling is proposed for the subject application because the raw material is proposed to be transported directly to the existing processing facility located on the abutting property to the northwest.

- (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.**

No off-site hauling is proposed as part of the mining operation, therefore, dump trucks are not proposed to enter the surrounding roadways. All traffic associated with the mining operation is proposed to enter the site via the proposed haul road to the north, which goes directly to a wash plant on adjoining property to the northwest.

- (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.**

This information has been provided in the EIR.

- (b) 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.**

The subject site is zoned O-S.

- (c) 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.

The subject site is zoned O-S.

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

Noise issues have been addressed and are discussed in the EIR and in the recommended conditions provided in the Environmental Review section below.

- (e) On land which is located within a Chesapeake Bay Critical Area Overlay Zone, development is subject to Subtitle 5B.**

The subject site is not located in the Chesapeake Bay Critical Area Overlay Zone (CBCA).

- (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 proposed mining site is located in a section of the county which has long been mined for sand and gravel. An updated inventory is attached to this report for the District Council's consideration. The inventory identifies one active mine in direct proximity to the subject property to the west and south, and there are other mining sites within the planning area that contribute truck trips to Robert Crain Highway (US 301). There are several other applications for mining activity currently pending in the neighborhood.

H. **Additional requirements for a surface mining facility:** Section 27-445.02 of the Zoning Ordinance contains the following additional requirements for a surface mining facility:

- (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 will obtain all necessary permits from the State of Maryland for the operation of a surface mine, subsequent to the approval of the special exception. The applicant intends to operate the surface mine in accordance with all permits.

- (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;**

The State of Maryland, through their permitting process, and staff through recommended conditions address truck speed, monitoring, maintenance, and ownership. The conditions of approval will ensure this finding is met.

- (3) **The operator shall avoid depositing any debris upon any existing streets; and**

Proposed conditions require the applicant to use a water truck and sweeper truck as needed on its property, to minimize dust and to keep the public roads clear of debris. These conditions of approval will ensure this finding is met.

- (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.**

The applicant will post the required signage in compliance with the appropriate regulations.

- (d) **On land which is located within a Chesapeake Bay Critical Area Overlay Zone, surface mining, sand and gravel wet-processing, or wash plants, including ponds, spoil sites, and equipment, are prohibited within the Buffer, as defined in the Conservation Manual. In addition, no surface mining or sand and gravel wet processing 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;**
- (3) **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**
- (4) **An area containing highly erodible soils.**

The subject property is not within a Chesapeake Bay Critical Area. No mining operations or equipment are located in any area prohibited by this provision.

- I. **Environmental Impact Report:** In addition to the required findings of the Zoning Ordinance, under Maryland State Law (Article 28 of the Maryland Annotated Code, Maryland-National Capital Park and Planning Commission, Section 8-110), an environmental impact report (EIR) must be prepared by The Maryland-National Capital Park and Planning Commission (M-NCPPC) whenever a request is made for a special exception to the Zoning Ordinance for the mining of sand and gravel in Prince George's County. The law requires that the report evaluate such a zoning request comprehensively by determining the impact of the proposed mining activities on:

1. Noise
2. Watershed and Water Quality
3. Airshed and Air Quality
4. Traffic and Traffic Safety
5. Biological Resources including wetlands, woodlands, and tree conservation
6. Any other environmental factors relating to the health, safety, and welfare of the residents of the affected area

The Environmental Planning Section prepared an EIR for this application (EIR-4646). It is attached to this report and contains a much more detailed analysis of potential impacts from this proposed use.

Background

The EIR was prepared by the Environmental Planning Section and the Transportation Planning Section using information from previous EIRs, PGAtlas, information submitted by the applicant and other in-house references. All of the information submitted for the application can be found in the Planning Department's official file for Special Exception SE-4646.

Natural Resources Inventory

An approved Natural Resource Inventory, NRI-017-10, was submitted with the application. There is a Primary Management Area (PMA) comprised of streams, stream buffers, wetlands, wetland buffers, 100-year floodplain, and steep slopes.

The 100-year floodplain shown on the plans is from a County approved study (FPS#201007). The Forest Stand Delineation (FSD) indicates the presence of two forest stands totaling 10.26 acres. Stand A is a young mixed hardwood stand and Stand B is a mature riparian hardwood stand. There are seven (7) specimen trees shown on the plan; however, trees 3 and 5 are located off-site.

The county issued a violation (NOV 29517-2011) for clearing that was previously done without a permit. Prior to the violation, there were 17.07 acres of existing woodland on-site; 6.81 acres were cleared without a permit, leaving 10.26 acres of existing woodlands on-site. The previous clearing and the proposed clearing is accounted for on the TCP with the subject application.

The TCP2 and the Special Exception Mining Site Plan are in general conformance with the approved NRI. No revisions are required for conformance to the NRI. No revisions are required for conformance to the NRI.

Woodland Conservation

This property is subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance because the gross tract area is greater than 40,000 square feet in size and there are more than 10,000 square feet of existing woodlands. A Type 2 Tree Conservation Plan (TCP2-047-09) was submitted.

The project is not grandfathered with respect to the Woodland and Wildlife Habitat Conservation Ordinance effective September 1, 2010 because there are no previous approvals for the site. The property is subject to woodland conservation violation notice (NOV 29517-2011) for clearing that was done without a permit prior to the submission of the current mining application. Prior to the violation, there were 17.07 acres of existing woodland on-site; 6.81 acres were cleared without a permit, leaving 10.26 acres of existing woodlands on-site. The previous clearing and the proposed clearing is accounted for on the TCP with the subject application.

The Woodland Conservation Threshold (WCT) for this 23.03-acre property in the O-S zone is 50 percent of the net tract area, or 10.96 acres. The total woodland conservation requirement based on the amount of existing woodlands prior to the violation, the amount of clearing done under the violation, and the clearing proposed with the current mining application is 15.86 acres. The requirement is based on staff's calculations.

This woodland conservation requirement is proposed to be met with 6.44 acres of preservation, 5.15 acres of reforestation, and 0.48 acres of off-site credits; however, the proposal would only meet 12.07 acres of the 15.86 acre requirement. Additional woodland conservation must be provided to meet the entire requirement.

The plan indicates that there were 17.07 acres of net tract woodland on the site prior to the violation. Under the violation, 6.81 acres were cleared, leaving 10.26 acres of woodland. The current application proposes to clear an additional 2.68 acres, leaving 7.58 acres of undisturbed woodland on-site. Of the 7.58 acres of woodland that is proposed to remain undisturbed, only 6.44 acres is proposed to be preserved. It is not clear on the plan where the additional 1.14 acres of woodland preserved, but not counted toward the requirement, is located. It appears that the areas used for calculation purposes may have been based on gross tract areas, instead of the required net tract areas.

The worksheet shown on the TCP as submitted is not the standard Prince George's County worksheet and does not appear to account for the required reduction of wooded floodplain from the gross tract for net tract calculation purposes. The worksheet shall be revised to reflect the standard worksheet found in the Environmental Technical Manual (ETM). The calculations shall be revised to reflect the reduction of wooded floodplain from the gross tract woodland for the site. The entire woodland conservation requirement shall be met on site to the extent practicable and, at a minimum, the site's woodland conservation threshold of 10.96 acres shall be met on-site. A copy of staff's calculations using the standard format is attached. Prior to certification of the TCP, the worksheet on the plan shall be revised to reflect the standard format and to reflect the correct areas of woodland conservation as shown on the plan. The plan shows two phases of mining; the standard phased worksheet must be used to reflect the woodland conservation requirements for each phase of mining and to reflect the requirements of the violation.

The plan requires technical revisions to be in conformance with the Woodland and Wildlife Habitat Conservation Ordinance. The TCP2 plan set consists of four (4) sheets labeled as follows: cover sheet, existing conditions sheet, on-site reforestation sheet, and on-site reforestation detail sheet. The approved NRI established all existing and environmental features located on the property. A sheet depicting only these features is not necessary for the TCP. The existing conditions plan sheet shall be removed from the TCP2 plan set. The plan sheet labeled as the on-site reforestation sheet shall be revised as the TCP2 plan sheet. This sheet must show all existing regulated environmental features as approved on the NRI (wetlands, wetland buffers, streams, stream buffers, 100-year floodplain, and primary management area) as well as the existing treeline and all proposed features per the TCP2 checklist. These features must be shown with the standard symbols per the ETM. All erroneous hatching shall be removed from the plan for clarity. The floodplain cannot be counted toward the woodland conservation requirement and must be removed from the graphic hatch pattern used to reflect the preservation area and all area labels shall be updated accordingly.

The plan notes and details conform to the standards of the ETM; however, several minor revisions are needed. Standard TCP2 note number 1 needs to be revised to refer to the purpose of the plan as not only meeting the requirements of the Special Exception, but also to meet the requirements of NOV 29517-2011. Note 1 also needs to be revised to remove the second sentence

in its entirety. The management plan notes need to be revised to reflect the standard 4-year management notes per the ETM. Because split rail fence is not required, the detail should be removed. The standard details for combined silt fence and tree protection fence (ETM detail 8) and the detail for combined earth dike and tree protection fence (ETM detail 7) must be added to the plan. Planting details must be added to the plan, including the standard detail for handling seedlings in the field (ETM detail 15) and/ or for larger caliper/ tublings as proposed. The reclamation note indicates that post mining planting will be determined by a landscape architect in conjunction with the property owner. This note must be revised to reflect the proposed planting information that is required to be shown on the plan. The proposed reforestation areas have been shown on the plan as required and planting charts have been provided; however, the charts need to be revised reflect the planting areas and requirements in acres, rounded to the nearest 1/100th of an acre, and must match the reforestation acreage shown on the plan and in the worksheet. The reforestation tables also reflect the use of several shrub species. While the planting of shrubs is acceptable for reforestation purposes, the credits given for shrubs are less than for trees. The reforestation tables must be revised to account for credits associated with the proposed planting. Because mining sites remove topsoil, planting conditions on reclaimed sites are often poor. Soil amendments are likely to be necessary prior to planting. The standard notes regarding soil testing and soil amendments for mining sites are attached and must be added to the plan.

A woodland conservation summary table has been provided on more than one sheet in the plan set and the areas reflected in these tables are not consistent across the sheets. The plan needs to be revised to provide a single woodland conservation summary table that is consistent with the woodland conservation area labels on the plan and with the areas used for calculation purposes in the woodland conservation worksheet.

There are several symbols shown on the plan that are not reflected in the legend, making it difficult to determine if all required information has been provided. The legend labels several existing features as proposed, such as the stream buffer and wetland buffer. These are existing features that should be labeled as such. Other required features are shown in the legend but not on the plan, such as the PMA. Other required features are shown on the plan but not in the legend, such as the reforestation areas and the phase line. Because the TCP is for a mining site, additional information is required to be shown on the TCP beyond the standard TCP information. This includes the grading and location of the noise mitigation berms. The plan must be revised to ensure that all required information is shown on the plan and accurately reflected in the legend using the standard symbols found in the ETM.

After all revisions have been made, the qualified professional who prepared the plan needs to sign and date it and update the revision box with a summary of the revisions made.

Additionally, it should be noted that woodland conservation areas are required to be protected via a conservation easement per Section 25-122(d)(1)(B) of the County Code. A condition is recommended below to address the recordation of a conservation easement for areas of woodland conservation.

Specimen Trees

Effective October 1, 2009, the State Forest Conservation Act was amended to include a requirement for a variance if a specimen, champion, or historic tree is proposed to be removed. This state requirement was incorporated in the adopted County Code effective on September 1, 2010.

There are seven (7) specimen trees shown on the plan; however, trees 3 and 5 are located off-site. No specimen trees are proposed to be removed as part of the current mining application, thus, no

variance is necessary.

Tree Canopy Coverage

The project is exempt from the minimum tree canopy coverage requirements of Subtitle 25, Division 3, the Tree Canopy Coverage Ordinance, because the site is zoned O-S.

Stormwater Management and Sediment Control

All grading, erosion and sediment control plans are reviewed by the Prince George's County Soil Conservation District for conformance with the current Maryland Standards and Specifications for Soil Erosion and Sediment Control as well as the current Prince George's Soil Conservation District Soil Erosion and Sediment Control-Pond Safety Manual. Sediment and erosion control devices must function for both existing and proposed drainage areas and elevations. All outfalls must be designed to ensure non-erosive conditions.

A Water Quality Certification (COMAR 26.08.02.10) is required for any activity which may result in any discharge to navigable waters unless the applicant provides a certification from the state that the activity does not violate state water quality standards or limitations. Discharges permitted by the state under the National Pollutant Discharge Elimination System (NPDES) are certified by MDE.

An unapproved Sediment and Erosion Control Plan was submitted with the subject application; however, the plan only addresses basic control methods with labels on the plan pointing to the general location of where sediment control devices are to be installed.

A copy of the conceptual, site development, or final sediment erosion control plan is needed for review purposes prior to certification of the special exception to verify that the limits of disturbance shown on the TCP2 are in general conformance with the technical sediment erosion control plan and that sediment control methods and tree protection methods are coordinated.

Need for Grading Permit

The Maryland Department of the Environment (MDE) issues a mining permit for sand and gravel mines in Maryland. Through this permit, MDE only has control over the actual mining operation itself and does not enforce the conditions of the special exception or the requirements for landscaping or woodland conservation. The issuance of a county permit in conformance with Subtitle 32 will allow the county inspectors to inspect and enforce the site development elements that are controlled at the county level and the proposed conditions of the special exception application.

The Zoning Ordinance provides the opportunity to address issues raised during the review of a special exception through the imposition of conditions of approval:

Section 27-318. Conditional approval.

When a Special Exception is approved, any requirements or conditions deemed necessary to protect adjacent properties and the general neighborhood may be added to those of this Subtitle.

Because oversight of the proper implementation of the special exception conditions, landscaping, and woodland conservation requirements at the county level is not possible without the issuance of a local permit, a special permit should be a requirement of approval of the special exception for mining.

The issuance of a county permit will also allow the posting of a bond for reforestation as part of the proposed TCP2. Without a permit, there is no method at the local level to post this bond or inspect and approve the proposed reforestation areas.

Groundwater and Hydrologic Impacts

A Hydrologic Evaluation report prepared by Environmental Resources Management (ERM) dated February 24, 2009, stamped as received July 23, 2009, a supplemental report dated January 12, 2010, stamped as received by the Environmental Planning Section (EPS) on January 19, 2010, and a final supplemental report dated July 24, 2013, stamped as received August 30, 2013, have been reviewed. The reports include a domestic well search area plan and an evaluation of the potential for groundwater disturbance including a conceptual cross section that show the groundwater depth in relation to the proposed depth of mining.

The report states that based on test pits, the depth to groundwater ranges from approximately 170 to 185 feet above mean sea level, or about 25 feet below the surface in the upland area of the site. The water table slopes northwest on the western portion of the site and east on the eastern portion of the site as a subdued reflection of topography. The cross section provided in the report illustrates a 'worst case' scenario because it is close to the creek and the test pit data showed that the product thickness was greatest in this area. The cross section indicates that the depth of mining ranges in elevation from approximately 195 feet to about 185 feet. The interception, pumping, and storage of groundwater, or dewatering, is not proposed; therefore, the water table should not be negatively impacted.

The domestic well search area plan included in the report shows the location of all identified wells within a quarter (1/4) mile radius of the boundary of the site. Wells located at 15204, 15300, and 15526 Brandywine Road have been identified within the quarter mile radius. The MDE well permit database indicates that these wells are at a depth greater than 408 feet, within deep aquifers, and well below the proposed depth of mining. The MDE records further indicate that the majority of residential wells in the area are at depths in deeper aquifers. These deeper aquifers occur at depths over 370 feet. The hydrogeologic conditions that underlie the site vicinity include a confining layer that acts as a hydraulic barrier between the surficial water table aquifer in the upland deposits, and the deeper aquifers that supply groundwater to wells in the area.

Residences along Evergreen Way are also located within the quarter mile radius, including 15510 and 15512 Brandywine Road (properties along Evergreen Way have addresses along Brandywine Road). The properties located along Evergreen Way have wells that predate the MDE well permit database, so their depth is unknown.

It is understood that the property owner, Mr. Anthony George, plans to continue to occupy the on-site residence during the proposed mining operation, and will continue to use the on-site residential well. MDE has no data available for the on-site well; however, the ERM report states that Mr. George believes the well to be at a depth over 300 feet. The on-site well, and the wells located on Evergreen Way, are located in the hydraulically upgradient direction of the proposed mining and are not anticipated to be negatively affected, even if mining were to occur below the water table.

The report summarizes that the mining operation will not have a negative impact on the quantity and quality of groundwater flowing into residential wells because (1) the mining is not proposed to occur below the water table (2) the groundwater flows northwest and northeast, away from the surrounding residences (3) the identified wells are all located to the south, and (4) most wells are in deeper aquifers. The structures located within a quarter mile of the subject site that do not have

available well data are all located to the south of the subject site and in the hydraulically upgradient direction of the proposed mining.

Although no impacts to surrounding wells are anticipated, the applicant may need to provide new wells for any property owner within a quarter mile whose well is negatively affected by the mining operation. A condition is recommended to address this situation should it arise.

Impacts to Regulated Environmental Features

This site contains regulated environmental features that are required to be preserved and/or restored to the fullest extent possible under Section 27-317(a)(7) of the Zoning Ordinance. The on-site regulated environmental features include streams, stream buffers, wetlands, wetland buffers, 100-year floodplain, and steep slopes.

Section 27-296(c)(1)(L) of the Zoning Ordinance requires the submittal of: “A statement of justification describing how the proposed design preserves and restores the regulated environmental features to the fullest extent possible.”

Impacts to the regulated environmental features should be limited to those that are necessary for the development of the property. Necessary impacts are those that are directly attributable to infrastructure required for the reasonable use and orderly and efficient development of the subject property or are those that are required by County Code for reasons of health, safety, or welfare. Necessary impacts include, but are not limited to, adequate sanitary sewerage lines and water lines, road crossings for required street connections, and outfalls for stormwater management facilities. Road crossings of streams and/or wetlands may be appropriate if placed at the location of an existing crossing or at the point of least impact to the regulated environmental features. Stormwater management outfalls may also be considered necessary impacts if the site has been designed to place the outfall at a point of least impact. The types of impacts that can be avoided include those for site grading, building placement, parking, stormwater management facilities (not including outfalls), and road crossings where reasonable alternatives exist. The cumulative impacts for the development of a property should be the fewest necessary and sufficient to reasonably develop the site in conformance with County Code.

A statement of justification was stamped as received by the Environmental Planning Section on August 30, 2013. The special exception proposes a single impact to the primary management area (PMA) for the installation of a sediment control outfall. This impact totals 561 square feet.

Staff supports the request for installation of the sediment control outfall because it has been located in an area with minimal impacts to the PMA and woodlands.

Areas of PMA that are not currently forested are shown to be afforested on the Type 2 tree conservation plan (TCP2).

Noise

A noise study prepared by Scantek, Inc., dated February 25, 2009, and a revised report dated April 12, 2010, was reviewed by the Environmental Planning Section. A final report dated August 26, 2013, was prepared by the same author as the previous reports; however, as of the writing of the final report, the individual who prepared it was employed with Engineers for Change, Inc. As each subsequent study was submitted comments were provided. The final report was stamped as received August 30, 2013.

Noise impacts are evaluated with respect to how the predicted noise levels compare with state noise standards and regulations (COMAR 26.02.03). The state noise standards apply to noise

receptors and are established based on the adjacent land use categories (industrial, commercial, and residential). The maximum allowable noise levels for receiving residential uses is 65 dBA during the daytime. It should be noted that the mining operation will have only daytime hours of operation and that the noise generated from mining operations is instantaneous noise, not the 24-hour day/night average (Ldn) standard used in Prince George's County with respect to traffic noise. Instantaneous noise levels are more restrictive, defined by COMAR, and used for the evaluation of noise emanating from mining sites. Traffic generated noise is regulated using the average 24-hour level or Ldn because traffic noise occurs both day and night. The hours of operation proposed for the mining operation do not include nighttime hours.

The noise environment in the project area will be affected by noise from two types of sources: point and non-point. Point source noise emanates from the various excavation equipment used on-site. Non-point source noise emanates from the flow of vehicular traffic along a roadway or haul road. The main source of vehicular related noise in relation to mining operations comes from the dump trucks moving around on the site, entering the empty site, and full trucks hauling material away. However, the current application does not propose to haul material off-site, rather the proposal includes a direct connection to the property to the north/ northeast where an existing processing facility is located.

The noise analysis was performed using the hauler and the excavator, assumed working simultaneously at maximum capacity, for a conservative/ worst case scenario. The analysis was done using ISO 9613-2 compliant software. The software is based on stationary noise source propagation of point, line, and area sources. The propagation is based on wave divergence, ground absorption, moderate wind conditions, and berms reducing the noise. The berms are described in the report. Berm 1 is to be a minimum of 4.5 meters (14 feet) in height, and Berm 2 is to be a minimum of four meters (13 feet) in height.

The report prepared by Scantek, Inc. and the supplemental/ final report prepared by Engineers for Change, Inc. indicates that with the installation of berms, sound levels will be at or below 65 dBA at the property line, and that no adjacent residences will be affected by noise above the 65 dBA state standard for residences.

There is one residential building located on-site in which the property owner, Mr. Anthony George, intends to continue to reside during the proposed mining operations. It is understood that Mr. George intends to execute an easement agreement with the applicant to waive his right to any buffering from noise levels exceeding 65 dBA. Additional typical restrictions are recommended to further reduce noise impacts in the surrounding area.

Visual Impacts

The property is located at the terminus of Evergreen Way, which runs approximately 1,600 feet in length from Brandywine Road (MD 381) north to the subject site, and is the main access point onto the property.

Brandywine Road is a Master Plan designated collector and is a scenic and historic road which requires evaluation of the visual aesthetics as part of the special exception review; however, the materials are proposed to be transported directly to the abutting wash plant to the north and no traffic associated with the mining operation is anticipated to access the site from Evergreen Way.

The significant distance of the site from Brandywine Road, and the berms proposed along portions of the site boundary will provide adequate visual mitigation to the scenic and historic road and to the adjacent properties.

Additional Issues Addressed in the Environmental Impact Report (EIR)

Additional environmental issues were discussed in the EIR for the subject property including air quality, transportation, and archeology. While transportation and archeological issues were discussed in the EIR, they have been evaluated in separate referral memos provided by the Transportation Planning Section and the Historic Preservation Section, respectively.

The Transportation Planning Section agrees that because the traffic will not be leaving the site via public streets, the proposed surface mining application would have a “de minimus” impact upon roadways in the area of the site. It is noted for the record that the term “de minimus” is not defined within the County Code, but a project having that characteristic is defined as “a development that generates five or fewer peak-hour trips” within the Prince George’s County Planning Board’s “Transportation Review Guidelines, Part 1.”

The Historic Preservation Section has concluded that the proposal will have no effect on identified historic sites, resources, or districts. However, the staff archeologist is recommending a Phase I archeological investigation for the site. Based on the examination of historic maps and aerial photographs, the project area has high probability of containing historic archeological sites. Staff acknowledges that no local law requires archeological investigations as part of approval of a special exception. However, such investigations are important and, therefore, staff recommends it be done.

The EIR notes that all of the air quality standards are currently met in the vicinity of the proposed mine except the ozone standard for which the Metropolitan Washington, D.C. area is in a nonattainment status. Adding the predicted increases in air pollutants from the mining operation showed that the operation will not raise pollutant levels above the established standards; however, measures are recommended to reduce the amount of particulate matter that is present during the mining operation. A condition is recommended to address the minimization of particulate matter entering the air and the reduction of sulfur pollution through the use of low sulfur fuels.

- J. **Prince George’s County Landscape Manual Requirements:** The application is exempt from the landscaping, buffering and screening requirements of the 2010 *Prince George’s County Landscape Manual* in accordance with Section 27-328.02 of the Zoning Ordinance. Substantial buffers, in the way of berms and the retention of trees along the periphery will serve to screen this temporary use from adjacent properties.
- K. **Sign Regulations:** Other than the required sign identifying the mine operator, no signage is shown on the site plan, and the statement of justification indicates no signs are proposed with this application.
- L. **Zone Standards:** This proposal is in compliance with the standards set forth in the County Code for the O-S Zone.
- M. **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.

The proposed use and site plan are in harmony with the purposes of the Zoning Ordinance. The purposes of the Zoning Ordinance, as provided in Section 27-102(a), seek generally to protect and promote the health, safety, and welfare of county inhabitants and promote compatible land use relationships. The operations are required to be conducted in conformance with applicable state

and county standards meant to protect adjacent property owners and the surrounding area from adverse impacts. Staff is recommending conditions which will ensure any impacts are minimized and, if necessary, ameliorated.

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

With the conditions of approval contained at the end of this application in place, the proposed use is in conformance with the requirements and regulations of the Zoning Ordinance. No other departures or waivers are required to implement the special exception.

- (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 Master Plan, the General Plan;**

The proposed use will not substantially impair the integrity of the Subregion 6 Master Plan. The proposed special exception is in conformance with the recommendations and environmental provisions of the General Plan, the area master plan, and the 2005 *Approved Countywide Green Infrastructure Plan* as noted herein. The proposed use is in conformance with the master plan because the proposed mining operation is in keeping with the sand and gravel section of the Subregion 6 Master Plan.

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

The proposed use is subject to county and state regulations related to environmental management and safety that will protect the health, safety, and welfare of residents nearby and workers on-site. A detailed analysis of the potential impacts is provided in the Environmental Impact Report (EIR-4646). Recommended conditions are proposed herein to address potential impacts and will ensure that such impacts are minimal.

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

The potential effects of the proposed use have been identified in the EIR and are addressed in more detail in the Environmental Review Section above. With the recommended conditions in place, the proposed use will not be detrimental to adjacent properties or the neighborhood.

- (6) The proposed site plan is in conformance with an approved Type 2 Tree Conservation Plan; and**

A Type 2 Tree Conservation Plan (TCP2-047-09) was submitted for review concurrently with the special exception site plan. Minor revisions to the TCP2 are required for conformance with the Woodland Conservation Ordinance, as described in the Environmental Review Section above.

(7) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible.

The regulated environmental features on the subject property have been preserved and/or restored to the fullest extent possible based on the limits of disturbance shown on the tree conservation plan submitted for review. The impacts approved are for the installation of a single sediment control outfall.

CONCLUSION

Based on the preceding analysis and findings, staff is recommending that Special Exception Application No. SE-4647 be APPROVED, subject to the following conditions:

1. A conservation easement shall be recorded in the land records in accordance with Section 25-122(d)(1)(B). The easement shall describe, by bearings and distances, the areas of woodland conservation shown on the Type 2 tree conservation plan (TCP2) as approved. The easement shall be reviewed by the Environmental Planning Section prior to recordation.
2. The applicant shall notify the Maryland National Capital Park and Planning Commission (M-NCPPC), Environmental Planning Section, prior to the start of reforestation for each phase of this mining operation and schedule a meeting to address reforestation and woodland conservation issues.
3. Prior to the start of work, the limits of disturbance shall be marked in the field. The applicant or their representative shall walk the limits of disturbance (LOD) with a representative of the MDE Minerals, Oil and Gas Division, prior to the installation of sediment/ erosion control measures and tree protective devices. The applicant or their representative shall notify the M-NCPPC, Environmental Planning Section, as to the date and time this walk will occur, and they will be afforded the opportunity to participate.
4. Prior to certification of the Special Exception, the Type 2 Tree Conservation Plan shall be revised as follows:
 - a. Provide a phased woodland conservation worksheet in accordance with the Environmental Technical Manual (ETM). A column shall be provided to account for the violation and a column for each proposed phase of mining.
 - b. Account for the required reduction of wooded floodplain from the gross tract woodland for calculation purposes.
 - c. Provide the entire woodland conservation requirement on-site to the extent practicable. At a minimum, the site's woodland conservation threshold shall be met on-site.
 - d. Revise the plan set to remove the plan sheet currently labeled as "Existing Conditions."
 - e. Revise the plan to show all existing environmental features, the treeline, and all existing conditions as shown on the approved NRI. The plan shall also be revised to show all proposed information including but not limited to grading, noise berms, and all tree conservation measures per the TCP2 checklist. All symbols shall be in accordance with the ETM to extent practicable. All erroneous hatching shall be removed.
 - f. Revise the plan to remove the hatching from the wooded floodplain and update the

preservation label.

- g. Revise the notes and details as follows:
 - (1) Revise the standard TCP2 Note 1 to refer to the purpose of the TCP as not only meeting the requirements of the Special Exception, but also to meet the requirements of NOV 29517-2011. Note 1 shall also be revised to remove the entire second sentence.
 - (2) Revise the management plan notes to reflect the standard four-year management notes.
 - (3) Remove the split-rail fence detail.
 - (4) Add the standard details for combined silt fence and tree protection (ETM detail 8), the standard detail for combined earth dike and tree protection (ETM detail 7), and all applicable planting details such as the standard seedling detail (ETM detail 15).
 - (5) Revise the reclamation notes to reflect the proposed planting information shown on the plan and to remove any reference to determination of planting at a later date.
 - (6) Revise the reforestation planting tables to reflect the planting areas in acreage, rounded to the nearest 1/100th of an acre and to match the areas shown on the plan. The reforestation tables shall also be revised to account for the correct credit ratio for the proposed shrub planting.
 - (7) Provide the standard soil testing and amendment notes.
 - h. Provide a single-woodland conservation summary table consistent with the areas shown on the plan and in the worksheet.
 - i. Ensure that all required information is shown on the plan and accurately reflected in the legend using the standard symbols found in the ETM, or equivalent.
 - j. Have the qualified professional who prepared the plan sign and date it and update the revision box with a summary of the revisions made.
- 5. Prior to certification of the special exception, a copy of the approved sediment and erosion control plan shall be submitted to M-NCPPC.
 - 6. Prior to commencement of the mining operation, a special permit shall be obtained from the appropriate agency of Prince George's County Government to ensure compliance with the grading plan, the TCP2, and the Landscape plan approved with this Special Exception. The permit shall require the applicant to post a bond acceptable to the County Attorney to secure its obligations pertaining to reforestation and landscaping as required by this Special Exception.
 - 7. The area to be mined shall be reclaimed in accordance with the Reclamation Plan by filling with acceptable materials as described in Prince George's County Building Code.

8. A conservation easement shall be recorded in the land records that describes the primary management area (PMA) by bearings and distances. The conservation easement shall contain the entirety of the PMA as shown on the approved natural resource inventory except for the areas of approved impacts as shown on the approved TCP2. The conservation easement shall be reviewed by the Environmental Planning Section prior to recordation. The recorded easement document shall include the following text:

“These conservation easements are areas where the installation of structures and roads 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.”

9. Noise mitigation shall be provided on-site by implementation of the following:
 - a. Mining operations on the site are restricted to the hours of 7:00 a.m. to 5:00 p.m. Monday through Friday, and 7:00 a.m. to 4:00 p.m. on Saturdays, excluding federal holidays. There will be no operations on Sundays. Trucks are not permitted to arrive at the site prior to 7:00 a.m.
 - b. The noise mitigation berms shall be located as shown on the plans submitted to protect nearby residential buildings and properties. Berm 1 shall be a minimum of 4.5 meters (14 feet) in height, and Berm 2 shall be a minimum of four meters (13 feet) in height.
 - c. Trucks shall not use compression or “Jake” brakes both on-site and on the haul road.
 - d. Speeds on-site shall be restricted to 15 mph for all heavy vehicles.
 - e. All machinery shall be kept in good working order, especially mufflers to insure quiet operation.
 - f. The volume of backup warning devices shall be minimized while still meeting OSHA (Occupational Safety and Health Administration) standards.
 - g. The property will be mined at a maximum rate of 200 truck trips per day.
10. Mitigation of particulate matter emissions shall be accomplished by implementation of the following:
 - a. The haul road shall be maintained with a water truck or other approved dust control methods.
 - b. The application of asphalt, oil, water, or suitable chemicals on dirt roads, materials stockpiles, and other surfaces which can create airborne dusts.
 - c. Open-bodied vehicles transporting materials shall be covered at all times when in motion, in accordance with COMAR regulations.
 - d. The site shall have a 15 mph speed limit to reduce dust generation from travel on the unpaved haul road.
 - e. All mobile equipment to be used on-site shall use ultra-low sulfur diesel fuel. The fuel

supplier certification of the sulfur content of each fuel delivery shall be kept on-site for the duration of the special exception approval period.

11. Equipment fueling on-site shall be done in accordance with NFPA 30 (National Fire Protection Association), Flammable and Combustible Liquids Code, Chapters 2 and 3. The mobile fueling trucks shall be operated by trained personnel holding valid oil vehicle operator's certificates as required by COMAR 26.10.01.17. Care shall be taken to minimize spillage. Refueling shall take place as far from streams and wetlands as possible.
12. If the operation of the subject sand and gravel mine negatively impacts the water level in any wells within a quarter-mile radius of the subject mining site as verified by the Maryland Department of the Environment (MDE), or the Prince George's County Department of Environmental Resources (DER), corrective action shall be immediately taken by the applicant, including but not limited to, the drilling of a new well to replace the adversely affected well.
13. The subject property may not be utilized as a Sanitary Landfill, a Rubblefill or a Class III Fill.
14. Prior to approval of this special exception, Phase I (Identification) archeological investigations, according to the Planning Board's *Guidelines for Archeological Review* (May 2005), are recommended on the above-referenced property to determine if any cultural resources are present. Areas of the property that possess a high potential to contain archeological resources should be surveyed for archeological sites. The applicant should submit a Phase I research plan for approval by the staff archeologist prior to commencing Phase I work. Evidence of Maryland-National Capital Park and Planning Commission (M-NCPPC) concurrence with the final Phase I report and recommendations is required prior to approval.
15. Upon receipt of the report by the Prince George's County Planning Department, if it is determined that potentially significant archeological resources exist in the project area, prior to review by the Zoning Hearing Examiner, the applicant shall provide a plan for:
 - a. Evaluating the resource at the Phase II level, or
 - b. Avoiding and preserving the resource in place.
16. If a Phase II and/or Phase III archeological evaluation or mitigation is necessary, the applicant shall provide a final report detailing the Phase II and/or Phase III investigations and ensure that all artifacts are curated in a proper manner, prior to any ground disturbance or the approval of any grading permits.
17. All extracted materials will be transported off-site by means of a private gravel roadway connecting the subject site to the adjacent Gudelsky wash plant site.
18. Traffic to and from the site by employees and visitors will be directed through the Gudelsky wash plant site utilizing the private gravel roadway connecting the subject property to the Gudelsky property.