

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF THE ZONING HEARING EXAMINER**

**SPECIAL EXCEPTION
4651**

DECISION

Application:	Surface Mining
Applicant:	Aggregate Industries, Inc.
Opposition:	None
Hearing Date:	December 15, 2009 and January 13, 2010
Hearing Examiner:	Joyce B. Nichols
Disposition:	Approval with Conditions

NATURE OF PROCEEDINGS

- (1) Special Exception 4651 is a request for permission to use approximately 683.26 acres of land in the R-A (Residential- Agricultural) and R-E (Residential-Estate) Zones, located on the south side of MD 373 (Accokeek Road) and on the west side of McKendree Road northeast of Gardner Road, also identified as 5601 Accokeek Road and 14801 McKendree Road, Brandywine, Maryland, for Surface Mining.
- (2) In 2002, the District Council approved Special Exception 4402 for Surface Mining for all of the instant deed parcels (Parcels 12, 14 & 41) encompassing approximately 683.26 acres of land. The approval did not become final until after the Court of Special Appeal's confirmation of the District Council's approval in 2004. (Exhibit 72) The instant request is to permit completion of the Surface Mining on the subject property.
- (3) The Planning Board did not elect to hold a public hearing and in lieu thereof adopted the recommendation of the Technical Staff. (Exhibit 80) The Technical Staff recommended approval with conditions. (Exhibit 18) The Applicant proffered additional conditions for approval. (Exhibit 55)
- (4) The record of Special Exception 4402 is incorporated into the instant record.
- (5) The Brandywine/TB Southern Region Neighborhood Coalition appeared in support of the instant Application. (Exhibit 77)
- (6) The record was kept open for several documents and upon receipt of which the record was closed on March 8, 2010.

FINDINGS OF FACT

Subject Property

(1) The subject property is materially unchanged from that which was finally approved by Special Exception 4402 in 2004 but a new Application is required as the five (5) year validity period authorized by Special Exception 4402 has expired.

(2) The subject property is an irregular shaped acreage located on the south side of MD 373 (Accokeek Road) and the west side of McKendree Road northeast of its intersection with Gardner Road. The site is currently in use as a sand and gravel mining operation pursuant to Special Exception 4402. Special Exception 4403 is an approved Sand and Gravel Wet-Processing facility located internal to the instant Application boundaries but is excluded from the instant Application. Access to the subject property is via one (1) two-way driveway from MD 373 (Accokeek Road).

Neighborhood and Surrounding Uses

(3) The neighborhood is the same as that utilized in Special Exception 4402 and is bounded on the north by Accokeek Road, on the east by McKendree Road and US 301 (Crain Highway), on the south by Mattawoman Creek (Prince George's /Charles County Line) and on the west by Gardner Road.

(4) The subject property is surrounded by the following uses:

- o North---Across Accokeek Road, undeveloped land and the historic McKendree Church cemetery (85A-020) in the R-A Zone.
- o South---Undeveloped land, scattered single-family homes, and an active sand and gravel mine in the R-A Zone (SE- 4479). To the southeast is the Robin Dale Golf course (SE-2004) in the R-E and R-R Zones.
- o East-----Across McKendree Road, single-family detached homes and farming in the R-A Zone.
- o West---Undeveloped land and single-family homes in the R-A Zone.

(5) The subject property which is zoned R-A and R-E is in a neighborhood typified by properties in the R-A, R-E, R-M (Residential Medium Development), and R-R (Rural Residential) Zones. The area is generally characterized by low to medium density residential development resulting in a rural character in the area. Robin Dale Country Club (now closed) is located to the southeast of the property. Special Exceptions 4479 and 4334 were approved for sand and gravel mining on properties located directly south and further west of the subject property. The Queen property (SE-4479) is being actively mined under a valid Maryland Department of the Environment mining

permit. The Gardner Road Pit (SE-4334) has ceased mining operations although the State permit is still active.

(6) There is an extensive stream system with affiliated 100-year floodplains and wetlands on the property associated with Mattawoman Creek in the Potomac River watershed. In addition, there are several isolated wetlands found throughout the property. There are no adverse impacts from off-site locations which would affect the future development of this property. The western portion of the property is in water and sewer service categories W-5 and S-5 and the eastern portion of the property is on historic roads. There are no rare, threatened, or endangered species found to occur on, or in the immediate vicinity of this property. There are no nearby sources of traffic-generated noise. The proposed use may be a noise generator in limited areas. The Prince George's County Soils Survey indicated that the principal soils on the site are in the Beltsville, Bibb, Chillum, Elkton and Leonardtown series. Marlboro Clay does not occur in this area.

Master Plan and Sectional Map Amendment

(7) The 1993 Approved Master Plan and Sectional Map Amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A and 85B classified the subject property as low-rural land use. The property is recommended to remain in the rural land use designation in the 2009 Approved Subregion V Master Plan. (Exhibit 70, pgs. 160-161) One (1) of the 2009 Master Plans articulated Goals is to capitalize on the extraction of sand and gravel resources prior to the land being preempted by other land uses. (Exhibit 70, p. 160) This Goal also requires the improvement of the public understanding and acceptance of the industry and protection of long-term access to sand and gravel resources. The Policy in furtherance of this Goal states:

- Provide commercially viable access to sand and gravel resources to accommodate current and future demand. Ensure that entrances meet applicable County regulations. (Exhibit 70, p.160)

(8) The 1993 Master Plan recognized sand and gravel as a significant mineral resource in the southern part of the County, which supplies the metropolitan area with construction materials and highway fill. The following Guidelines for Sand and Gravel Resources contained in the 1993 Master Plan continue to apply to the current Application.

- Mining operations should be designed to minimize adverse affects on environmentally sensitive areas.
- Extraction of the area's identified commercially viable sand, gravel and clay deposits should occur in a manner that provides a readily available supply of these basic construction materials and prevents preemption of extraction activities by development.

- Extraction and reclamation activities should be designed to minimize the potential adverse affects on adjacent land uses of dust, noise, vibration, traffic and unsightly storage.
- Mineral storage, processing operation, and equipment storage should be screened from direct view along public rights-of-way and from living areas.
- Noise attenuation techniques such as use of setbacks, earthen berms, the retention of periphery vegetation and woodlands, and the construction of acoustical fencing should be utilized to minimize noise intrusion on adjacent uses. Extraction proposals should demonstrate that their attenuation measures will ensure that the surrounding development will not be subject to noise which exceeds the State's current maximum allowable levels.
- Extraction and reclamation activities should be designed to minimize adverse effects on the public transportation network. Access and haul roads should not traverse living areas, and haul routes should primarily utilize arterials and roadways which are designed to safely accommodate trucks.
- Extraction and reclamation activities should be designed with clear post mining development plans particularly in low-density zoned areas where only sewage disposal systems are septic tanks.
- Reclamation plans should be designed to enhance the environmental features such as ridgelines, drainage areas, steep slopes, woodlands, etc., and to prepare the site for the character and intensity of development as recommended by the Plan.

(9) The 2009 Approved Master Plan and Sectional Map Amendment for Subregion V retained the subject property in the R-A and R-E Zones. (T.p. 65)

(10) The 2002 Prince George's County Approved General Plan places the subject property in the Rural Tier. The vision for the Rural Tier is for the 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. This Application is consistent with the 2002 General Plan Development Pattern policies for the Rural Tier, specifically, that existing natural resources be used wisely. The Applicant is continuing an existing mining operation while preserving over 203 acres of woodland, floodplain, and other sensitive environmental features. The policy further recommends that special studies be prepared to ensure that mining operations are compatible with existing neighborhoods.

Applicant's Proposal

(11) The Applicant is proposing the continuation of a previously approved Surface Mining operation. The Statement of Justification (Exhibit 2) notes that 479.7 acres of the total 683.26 acres is proposed to be actively mined. The balance of the property includes floodplains, tree conservation, wetlands, steep slopes, and bufferyards which will be preserved (203.56 acres). Mining in Phases 1 through 3 is completed. Phase I (110.5 acres) is currently under reclamation; Phase 2 (63.1 acres) reclamation is approximately 80% complete; reclamation in Phase 3 (34.2 acres) is essentially completed except for reforestation. The Applicant is currently proposing an extension to mine the remaining phases as follows:

Phase 4	193.7 acres	2.5 years	
Phase 5	78.2 acres	2.5 years	(Exhibit 75(a) & (b))

LAW APPLICABLE

(1) Surface Mining of sand and gravel is permitted in the R-A and the R-E Zones pursuant to §27-441(b) of the Zoning Ordinance by Special Exception in accordance with §27-317, §27-410, and §27-445.02.

(2) Section 27-317 requires:

- (a) A Special Exception may be approved if:
 - (1) The proposed use and site plan are in harmony with the purpose of this Subtitle;
 - (2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;
 - (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;
 - (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; and
 - (6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

(3) Section 27-410 states in pertinent part:

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

(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;

(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;

(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;

(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;

(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.

(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.

* * * * *

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

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(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).

(4) Section 27-445.02 states in pertinent part:

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

* * * * *

Burden of Proof

(5) The burden of proof in any zoning case shall be the Applicant's. (§27-142(a)) Zoning cases are those matters designated to be heard before the Zoning Hearing Examiner by the Zoning Ordinance of Prince George's County. (§27-107.01(a)(266))

Burden of Production and Persuasion

(6) The Applicant has the burden of providing legally sufficient evidence that is accepted into the record from which findings and conclusions can be either made directly or by reasonable inference. However, the Applicant must also persuade the trier of fact that the evidence produced not only permits the approval of the request but also is of sufficient strength or outweighs other evidence to the effect that the request either should or is required to be granted. B.P. Oil Company v. County Board of Appeals of Montgomery County, 42 Md. App. 576, 401 A.2d 1054 (1979).

Standard of Proof

(7) In reviewing the evidence that has been "produced", to determine if the District Council is "persuaded", the District Council must determine whether the answers, findings, or conclusions required or reached are supported by a "preponderance of the evidence" on each issue. While these magic words are not required to be recited, the "preponderance of the evidence" is that evidence, when fairly considered, makes the stronger impression, has the greater weight and is more convincing as to its truth than the evidence in opposition thereto. Williams v. Supt. Clifton T. Perkins Hospital Center, 43 Md. App. 588, 406 A.2d 1302 (1980).

Credibility of Evidence

(8) It is within the sound discretion of the trier of fact, the Office of the Zoning Hearing Examiner or the District Council, to determine certain evidence lacks credibility and to give no weight to that evidence. Md. State Retirement and Pension System v. Martin, 75 Md. App. 240, 540 A.2d 1188, 1192 (1988). In other words, certain evidence may just be ignored. It is given no weight

in the conclusion, hence, found not credible.

Credibility findings of a hearing officer or judge are entitled to considerable deference and should not be reversed, absent an adequate explanation of the grounds for the reviewing body's source of disagreement. Anderson v. Dept. of Pub. Safety and Correctional Services, 330 Md. 187, 623 A.2d 198 (1994).

Adverse Effects

- (9) “T[he] Court . . . (of Appeals of Maryland) . . . has frequently expressed the applicable standards for judicial review of the grant or denial of a special exception use. The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating this presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.

Whereas, the Applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide. But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious, and illegal. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Rockville Fuel & Feed Co. v. Board of Appeals of Gaithersburg, 257 Md. 183, 187-88, 262 A.2d 499, 502 (1970); Montgomery County v. Merlands Club, Inc., 202 Md. 279, 287, 96 A.2d 261, 264 (1953); Anderson v. Sawyer, 23 Md. App. 612, 617, 329 A.2d 716, 720 (1974). These standards dictate that if a requested special exception use is properly determined to have an adverse effect upon neighboring properties in the general area, it must be denied.” Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1325 (1981). See also Mossberg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995). . . .

[T]he appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed and the particular location proposed would have any adverse effects above and beyond those inherently association with such a special exception

use irrespective of its location within the zone. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Deen v. Baltimore Gas & Electric Co., 240 Md. 317, 330-31; 214 A.2d 146, 153 (1965); Anderson v. Sawyer, 23 Md. App. 612, 617-18, 329 A.2d 716, 720, 724 (1974).” Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1331 (1981). See also Mossberg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995).

CONCLUSIONS

(1) The instant Application is in conformance with the general purposes of the Zoning Ordinance, §27-102, as follows:

- (1) *To protect and promote the health, safety, morals comfort, convenience, and welfare of the present and future inhabitants of the County;*

The proposed use meets or exceeds the State and local requirements for noise and air pollution, protecting the health and safety of residents of the County while providing processed materials for use in local infrastructure projects that would promote the comfort, convenience, and welfare of the inhabitants of the County.

- (2) *To implement the General Plan, Area Master Plans, and Functional Master Plans;*

The proposed use is in harmony with the implementation of the Subregion V Plan by adhering to the strategy of extracting aggregate materials prior to the future land development on the site, providing for ultimate rights-of-way for adjacent roads, utilities, and other public infrastructure; establishing adequate buffers, bufferyards, and locating structures outside of setbacks for future planned roads.

- (3) *To promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;*

The proposed use and ultimate development of the subject property will occur in a comprehensive and staged manner, taking into account the adequacy of public facilities and services and their impacts on adjacent communities.

- (4) *To guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;*

The proposed use satisfies the needs of industry and business by providing a local source of aggregates, while the phased extraction and reclamation of the subject property lends to the orderly growth and development of the site primarily through the establishment of permanent conservation areas and the preparation of non-conservation areas for future development in accordance with Subtitle 27.

(5) *To provide adequate light, air, and privacy;*

Environmental analyses have been presented which show that the proposed use will be in accordance with all applicable State and County standards for noise pollution and air quality. Further, earthen berms have been constructed on the interior of wooded buffer areas that surround the majority of the property. These buffers and berms establish a minimum of 114 feet of setback and screening along the ultimate rights-of-way of adjacent roads, providing privacy to adjacent properties without altering sun and shade patterns.

(6) *To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;*

The scale, intensity, and location of the proposed use mitigates any adverse impacts on adjoining developments.

(7) *To protect the County from fire, flood, panic, and other dangers;*

The existing and proposed mining operation will not introduce hazardous or noxious materials, impound water above existing elevations, or include structures that would represent a special hazard for fire and flood or would otherwise pose a catastrophic threat to adjacent properties or inhabitants of the County.

(8) *To provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents;*

The existing and proposed mining operation does not include the development of housing or other dwellings. The proposed operation is in accordance with restrictions on disturbance to environmentally-sensitive areas and thus provides a platform for future development in a healthy living environment.

(9) *To encourage economic development activities that provide desirable employment and a broad, protected tax base;*

The proposed mining operation will continue to provide opportunities for well-paying and desirable employment and is phased to continue for at least the length of the Special Exception duration.

(10) *To prevent the overcrowding of land;*

As the intensity, scale, and location of the proposed use is in conformance with the bulk regulations of the Prince George's County zoning regulations, they are in harmony with the desire to prevent overcrowding of land. Further, the reclamation strategy requires that a significant portion of the property be established as permanent tree conservation areas, precluding the possibility of future development that may be deemed as overcrowded.

- (11) To lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions;***

The entrance for the existing mining operation at Accokeek Road has been designed in accordance with State Highway Administration guidelines including appropriate acceleration and turning/bypass lanes to lessen the danger and congestion of traffic associated with this operation. The planned functions of the transportation system include the accommodation of equipment for the extraction of aggregates prior to the development of the property. A transportation study has been submitted in accordance with the requirements for the Surface Mining.

- (12) To insure the social and economic stability of all parts of the County;***

The existing and proposed mining operation promotes social and economic stability by providing a local source of aggregates to support construction activities and provide for planned and orderly development of the site once the extraction and reclamation program is completed. Further, Prince George's County is the leading aggregate resource in the State, and the extraction and sale of this resource provides a significant economic benefit to the County.

- (13) To protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features;***

A paved entrance road has been constructed on the property. Earthen berms have been constructed in order to minimize the noise and air pollution at the property boundaries. Stream and wetland features and their associated riparian growth that contribute to the natural beauty of the land will continue to be preserved and protected with fencing, sediment control, and storm water management facilities.

- (14) To provide open space to protect scenic beauty and natural features of the County, as well as to provide recreational space; and***

Major portions of the property would be held, upon reclamation, in permanent easements for tree conservation, providing large tracts of forest and contributing to the scenic beauty of the County.

- (15) To protect and conserve the agricultural industry and natural resources.***

The proposed use is consistent with the goals and objectives of the County's Master Plans and General Plan and protects natural resources by limiting proposed disturbance within environmentally-sensitive areas and installing and maintaining sediment control and stormwater management facilities that reduce degradation of stream channels and limit sedimentation of receiving waters. §27-317(a)(1)

(2) The instant Application is also in conformance with the purposes of the R-A Zone, §27-426(a)(1) as follows:

- (A) *To provide for large-lot one-family detached residential subdivisions, while encouraging the retention of agriculture as a primary land use.”*

Following the conclusion of the mining of this site, and in keeping with the goals and objectives of the Master Plan, the bulk of the property will be held upon reclamation for future development, thereby encouraging the retention of valuable land resources for the future single-family detached residential subdivision lots.

- (B) *To encourage the preservation of trees and open spaces; and*

The proposed uses are consistent with the goals and objectives of Prince George’s County’s Master Plans and General Plan and protect natural resources by limiting proposed disturbance within environmentally sensitive areas and installing and maintaining sediment control and stormwater management facilities that reduce degradation of stream channels and limit sedimentation of receiving waters. This proposal will encourage the preservation of trees and open spaces. Much of the buffer areas will consist of woodland preservation, as will essentially all of the wooded floodplain, wetlands, and associated buffers. Additionally, no mining will occur within the 100-year floodplains, the fifty (50) foot wide stream and floodplain buffers, or the twenty-five (25) foot wide wetlands buffer.

- (C) *To prevent soil erosion and stream valley flooding.*

The Applicant will maintain sediment control and stormwater management facilities that reduce degradation of stream channels and limit sedimentation of receiving waters. The Application encourages the preservation of trees which will help prevent soil erosion. §27-317(a)(1)

(3) The instant Application is also in conformance with the purposes of the R-E Zone, §27-428(a)(1) as follows:

- (A) **To provide for and encourage variation in the size, shape, and width of one-family detached residential subdivision lots, in order to better utilize the natural terrain;**
(B) **To facilitate the planning of one-family residential developments with large lots and dwellings of various sizes and styles;**
(C) **To encourage the preservation of trees and open spaces in order to create an estate-like atmosphere; and**
(D) **To prevent soil erosion and stream valley flooding.**

(A) and (B) are not applicable to the instant Surface Mining Application other than its reclaimed state will be an enhancement for surrounding residential development. The instant Application is designed in accordance with all State and Federal regulations requiring tree

preservation, sediment and erosion control and the prevention of stream valley flooding. §27-317(a)(1)

(4) Special Exception uses such as Surface Mining are presumed compatible with other residential uses provided the established setbacks, lot coverage, landscaping, minimum acreage, traffic, parking improvements, and all other regulations are met. The instant Application is in compliance with the regulations and requirements of the Zoning Ordinance. No variances, waivers or departures are required. §27-317(a)(2)

(5) The Applicant's proposed use is in conformance with the Subregion V Master Plan, and, therefore, will not substantially impair its integrity. The subject property is located within the area covered by the Subregion V Master Plan approved September 9, 2009 (CR-61-2009). The 1993 Master Plan text espouses a philosophy that all natural resources, such as sand and gravel should be fully utilized prior to any development (pgs. 183-186):

GOAL

- *To provide for the efficient and sequential extraction of significant mineral deposits and the reclamation and development of the extraction areas, while minimizing impacts on the environment.*

OBJECTIVES

- *To identify those properties containing significant sand and gravel deposits.*
- *To ensure an adequate supply of sand and gravel for future development of the metropolitan area.*
- *To phase future development in a manner providing for the orderly extraction of sand and gravel resources and discouraging the premature commitment of these areas to permanent development.*
- *To plan development so that the rehabilitation of previously extracted areas may be accomplished in an orderly manner.*
- *To continue to develop and refine guidelines and criteria for evaluating resource extraction proposals that preclude adverse effects on the natural and human environment and reduce conflicts with the surrounding land uses.*

BACKGROUND AND ISSUES

Sand and gravel constitute the principal mineral resources in the southern part of the County and provide the growing metropolitan area with a readily available supply of

construction materials and highway fill. Because of the extent of its resources and its location in the Baltimore-Washington corridor, Prince George's County is the most important source of sand and gravel in Maryland. Between 1979 and 1989, an average of 4,300,000 tons of sand and gravel per year were mined in the County, with an annual average of 2,300,000 tons (1985-1990) or 53 percent of the total coming from Subregion V.

In Subregion V, sand and gravel deposits are found in parts of two (2) geologic units: (1) Upland Gravel of the Brandywine Formation; and (2) Terrace Deposits along major streams, such as Piscataway and Mattawoman Creeks. These deposits lie under most of Subregion V. The Upland Gravel is primary source of sand and gravel for Prince George's County and particularly for Subregion V. This formation comprises 35,429 acres of Subregion V. The Terrace Deposits cover 3,062 acres of Subregion V. Together, both sand and gravel formations cover an area of 38,491 acres, about 68 percent of the total Subregion...

Not all of the unmined sand and gravel resources are readily available. Existing development and environmental regulations may hamper mining. It is estimated that over 10,000 acres of potential sand and gravel resource areas are precluded from mining. About 27 percent of the entire Brandywine Formation and 26 percent of the Terrace Deposits have either been developed or are subject to restrictions for development. Large areas of the Terrace Deposits along the two (2) major streams may also be preempted by existing floodplain management and other ordinances and by the parks and open space owned by the Maryland-National Capital Park and Planning Commission.

There are three (3) basic issues concerning sand and gravel resources in Subregion V:

- 1. The need to protect these valuable resources for future development. It is estimated that the minable resources in Subregion V will last at least 69 years. However, these resources could be lost or substantially reduced if development occurs prior to extraction.*
- 2. The need to minimize impacts on the natural environment and neighboring properties. Surface mining has the potential to significantly affect such natural features as nearby streams, air quality, and plant and animal life. In addition, a mining operation can cause traffic and noise impacts on the surrounding area.*
- 3. The need to provide for future use of reclaimed, mined land. After mining, land is required to be restored for future use. Of particular interest is the potential for future development of mine lands in areas where sewer is not available and individual systems (usually septic tanks) must be relied upon. State and County laws require that drainage areas for septic sewage disposal systems be undisturbed. Therefore, mined areas will have limited development potential where public sewerage is not available. In many cases, agriculture, forestry and related low-*

intensity activities will be the only suitable uses. Alternatively, portions of a mined site can be left undisturbed in order to preserve a septic field for specific planned buildings or installation of shared sewage facilities, as an innovative technology.

CONCEPT

The concept of this chapter is to recognize sand and gravel as a resource; direct development away from commercially viable sand and gravel deposits until these minerals are extracted; assure that sand and gravel is mined in an environmentally sound manner; and provide for usable restoration of mined sites....

RECOMMENDATIONS

Sand and gravel resources are both economically important to the County and finite. In addition, the County is the leading resource area in the State. Therefore, this Plan encourages extraction prior to permanent development. Before development occurs on sites containing sand and gravel, reclaimed sites should be developed and abandoned sites should be reclaimed and developed....

GUIDELINES

The following guidelines apply to this Plan's Sand and Gravel Recommendations in general or in part:

- 1. Mining operations should be designed to minimize adverse effect on environmentally sensitive areas.***

The mining operations and extraction limits proposed as part of the instant Application have been designed to minimize adverse impacts on environmentally sensitive areas by the following:

- Establishing extraction limits outside of the 100-year floodplain of non-tidal (based on ultimate zoning);
- Proposing no disturbance to soils or vegetation with 25 feet of non-tidal wetlands;
- Installing and maintaining sediment control devices that direct sediments-laden surface runoff to traps and stilling basins, allowing for settling of suspended particles prior to discharge into adjacent receiving waters;
- Limiting clearing and extraction disturbance to 25-acre sections and seeding, planting, and otherwise stabilizing disturbed areas during the mining of each phase and concurrent with the initiation of subsequent phased-extractions; and

- Providing stormwater management (both water quality and quantity attenuation) for proposed impervious areas, minimizing stream channel degradation and sedimentation of downstream receiving waters and habitat spawning areas.
- 2. ***Extraction of the area's identified commercially viable sand, gravel and clay deposits should occur in a manner that provides a readily supply of these basic construction materials and prevents preemption of extraction activities by development.***

The approval of the instant Surface Mining Application will provide for the continued extraction of commercially viable sand and gravel deposits and will occur in a manner that provides a readily available supply of these basic construction materials and prevents preemption of extraction activities by development and will additionally permit the sequential extraction of the deposits in a more cost-effective/economical manner while minimizing any impact on surrounding land use activities.

- 3. ***Extraction and reclamation activities should be designed to minimize the potential adverse effects on adjacent land uses of dust, noise, vibration, traffic, and unsightly storage.***

The use is designed to minimize dust, noise, vibration, traffic, and unsightly storage of materials and equipment by incorporating the following:

- Vegetated buffer areas along all property lines (unless contiguous to other surface mine operations) that provide dust suppression and visual screening; and
- 15-foot tall earthen berms immediately behind the aforementioned vegetated buffers, installed prior to any proposed adjacent disturbance, providing a minimum total buffer zone of 114 feet between any operations and adjacent roads or properties. These berms will attenuate noise and screen mining and reclamation operations and storage areas.
- 4. ***Mineral storage, processing operations and equipment storage should be screened from direct view along public rights-of-way and from living areas.***

Earthen berms have been installed along property lines where mining has occurred. The Applicant will continue to install these berms behind the vegetated buffer areas prior to the mining of the remaining phases. These berms, coupled with the minimum 50-foot vegetative buffer areas, provide screening for the mineral storage, processing operations, and equipment storage areas from view along public rights-of-way and living areas. The aforementioned and expanded buffer and berm zone has been installed along MD Rte 373 (Accokeek Road) to a distance of 314 feet to screen the mining and processing activities along the major thoroughfare. Horizontal profiles from surrounding roadways and inhabited structures are included.

5. ***Noise attenuation techniques such as the use of setbacks and earthen berms, the retention of periphery vegetation and woodlands, and the construction of acoustical fencing should be utilized to minimize noise intrusion on adjacent uses. Furthermore, extraction proposals should factually demonstrate that their attenuation measures will ensure that surrounding development will not be subjected to noise which exceeds the State's current maximum allowable levels.***

Earthen berms are proposed to reduce noise levels to adjacent developments below the State's maximum allowable levels. The Noise Assessment Report, Exhibit 64, establishes compliance with this guideline.

6. ***Extraction and reclamation activities should be designed to minimize adverse effects on the public transportation network. Access and haul roads should not traverse living areas, and haul routes should primarily utilize arterial and roadways which are designed to safely accommodate truck traffic.***

A singular, shared entrance for the Surface Minings area has been installed on MD Rte 373 (Accokeek Road) just west of its intersection with McKendree Road. All trucks would utilize Accokeek Road which is listed in the 2009 Subregion V Approved Master Plan as an Arterial Roadway (ID #A-55), east of Branch Avenue and Rt. 301. Additionally, overburden and other materials not acceptable for processing has been used and will continue to be used in the reclamation of the disturbed areas and will not be hauled offsite, reducing impacts on the adjacent transportation network. Further, all extraction and reclamation activities are contained within contiguous parcels, thereby reducing offsite vehicle trips. No haul roads will traverse living areas.

7. ***Extraction and reclamation activities should be designed with clear post mining development plans particularly in low-density zoned areas where the only sewage disposal systems are individual septic tanks.***

Due to local regulations regarding reforestation and tree conservation, a majority of the site that lies outside of environmentally sensitive areas will be placed in permanent easement for tree conservation upon completion of the extraction and reclamation activities. Those areas not required for tree conservation will be reclaimed in accordance with local ordinances regarding maximum and minimum grades such that post-reclamation development can occur consistent with current zoning designations.

8. ***Reclamation plans should be designed to enhance the environmental features such as ridgelines, drainage areas, steep slopes, woodlands, etc. and to prepare the site for the character and intensity of development as recommended by the Plan.***

The proposed reclamation grading will not significantly alter current drainage patterns and will maintain the relative locations of existing ridgelines (drainage divides). Steep slopes and woodland conservation areas are currently within environmentally sensitive areas and are therefore

not proposed to be disturbed as part of the extraction process. Much of the reclaimed area will be placed in tree conservation easements and other areas will accommodate any recommended development.

The mining of sand and gravel on the subject property is in accordance with the Master Plan's goal, objectives, concept and recommendations as the subject Application proposes the utilization of a valuable natural resource in advance of development with the protections sought by the Master Plan guidelines. The existing operation has been designed to minimize impact on adjacent land, and mineral and equipment storage will be screened from direct view from public roads and living areas by the buffers. Noise attenuation techniques have been incorporated into site operations. The entrance road has been designed and constructed to minimize effects on the public transportation network by utilizing roads which are designed to safely accommodate truck traffic. Reclamation plans have been designed as required by State regulations.

The subject property is recommended for semi-rural land use on the map of the 1993 Master Plan. The Master Plan text describes semi-rural living areas as "area where a mixture of semi-rural, large-lot residential, or rural hamlet lifestyles may evolve with or without use of the public sewer services that already exist around and though the area". The subject property was retained in the R-A and R-E Zones as part of the Sectional Map Amendment for Subregion V. As the mining of sand and gravel is a permitted use in the R-A and R-E Zones (with approval of a Special Exception in accordance with the requirements of Section 27-410) and because of the recommendations of the Subregion V Master Plan, the existing and proposed use of the subject property will not substantially impair the integrity of the Subregion V Master Plan and will uphold its recommendations for removal of the valuable sand and gravel resources in advance of development, leaving the land in a restored state for future development. §27-317(a)(3)

(6) The extension of the existing Surface Mining will not adversely affect the health, safety or welfare of residents or workers in the area. The Environmental Impact Report (Exhibit 37) prepared by the Environmental Planning Section of the Technical Staff recommends the continuation of the previously imposed conditions of SE-4402, along with additional proposed conditions, in order to address issues relating to noise, air quality and watershed protection. No violation of State or Federal regulations occurred during the operation of SE-4402. §27-317(a)(4)

(7) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood. The use has been in existence since 2004 and has operated without any violations. The Environmental Planning Section has updated the EIR-4402 to provide a current evaluation of the potential environmental impacts resulting from the mining activity. In addition, the Transportation Section has indicated that with the recommended trip cap, the current proposal will not result in adverse impacts to the transportation network. (Exhibit 35) §27-317(a)(5)

(8) The proposed Revised Site Plan (Exhibit 59) is in conformance with an approved Type II Tree Conservation Plan, TCPH/009/01, which was approved for this property as part of Special

Exception 4402. The Applicant submitted minor changes to the approved TCP as part of the current Application. The Environmental Planning Section reviewed the revised TCP and found that it satisfies the requirements of the Prince George's County Woodland Conservation Ordinance. EIR-4402-01 (Exhibit 37) notes that the proposed woodland conservation area includes all of the sensitive environmental features on the site, and creates a contiguous woodland area in accordance with the intent of the Woodland Conservation Ordinance. Because the Woodland Conservation Threshold of 258.34 acres for the entire site will be exceeded as a result of clearing in Phases 4 and 5, the total Woodland Conservation requirement has increased from 271.72 acres (for Phases 1–3) to 509.21 acres. This requirement is being satisfied by 75.21 acres of on-site preservation and 434 acres of on-site reforestation. TCPII/009/01 is approved subject to Conditions. (Exhibit 79) §27-317(a)(6)

(9) Heavy machinery will be used for excavation and hauling. No on-site washing, refining or other processing is proposed. A wet-processing facility was previously approved per Special Exception 4403; however, that area is not included in this Application. §27-410(a)(1)

(10) The Environmental Planning Section reviewed the proposed extension of the existing Surface Mining operation and provided an update (Exhibit 37) to the Environmental Impact Report (EIR-4402-01). (Exhibit 56) Air quality and noise impacts were evaluated during the review of Special Exception 4402. According to the Environmental Planning Section memorandum dated September 4, 2009 (Stasz to Fenton) (Exhibit 37) EIR-4402 addressed air quality on pages 23, 41-51 and 90. Three (3) recommended conditions listed on page 91 of the EIR address issues relating to the air shed and air quality. Staff is recommending that the same conditions that relate to air quality be carried forward with the subject Application. §27-410(a)(2)

(11) The Applicant will be required to restore the property so that it is suitable for development. The TCPII (Exhibit 79) 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. §27-410(a)(3)

(12) The subject property is in the R-A and R-E Zones. The Applicant requests that this Special Exception be valid for a period not to exceed five (5) years from the date of its final approval. The original Special Exception (SE-4402) was approved in 2002, however, final approval dates from 2004 when the District Council issued their final decision at the conclusion of the appeals process. Approval of the current Applicant will expire five (5) years from the date of the final decision of the District Council. Any request for additional time will require the approval of a new Special Exception. §27-410(a)(4)

(13) The Revised Site Plan indicates that mining of Phases 1–3 comprising a total of 207.8 acres has been completed; the estimated time required to complete Phases 4 and 5 which contain the remaining 271.9 acres is five (5) years. (Exhibit 59) §27-410(a)(5)

(14) An update to the original traffic study submitted for Special Exception-4402 was submitted by the Applicant (Exhibit 67) and analyzed by the Transportation Section (Exhibit 35). The study includes the anticipated trip generation (560 total daily truck trips) and identifies the roadways

utilized. The Applicant proposes that trucks entering and exiting the site will utilize MD 373 (Accokeek Road) and will proceed to MD 5 (Branch Avenue). This is the same road network utilized by the Applicant under the previous Special Exception 4402. Transportation Staff concluded that “[w]hile the analysis indicates that no physical improvements to the surrounding roadway network are warranted by this use, Special Exception 4402 was approved with a number of transportation-related conditions. Given that site access improvements have been made, signage has been installed, and road club fees associated with the use have been paid, the continuation of related conditions is not necessary. However, Conditions B1 (limiting the truck activity on the site) and Conditions B3 and B4 (effectively establishing the haul route for the site along MD 373 (Accokeek Road) between the site and MD 5) should be continued and imposed on the re-approval of this use.” §27-410(a)(6)

(15) The sole access point utilized for the Surface Mining operation is located at the north end of the subject property at Accokeek Road which is accessed via a 30-foot-wide paved entrance and is significantly longer than 200 feet in length. The Applicant is proposing to utilize the same access point which was previously approved in SE-4402. §27-410(a)(7)

(16) The Environmental Impact Statements prepared by the Technical Staff in SE-4402 (Exhibit 56) and updated in the instant Application (Exhibit 37) 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. These inventories 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. §27-410(a)(8)

(17) The primary contributor to increased noise levels in the area is truck traffic resulting from the subject use, as well as the overall increase in traffic on Accokeek Road from other developments in the area. It is noted that there are no State regulations concerning noise generated by vehicles on public roads. The noise study submitted for Special Exception 4402 found that the overall impacts of noise generated from the subject property were limited, due to the short amount of time work would be conducted along the perimeter of the site. EIR-4402 addresses noise issues on pages 24, 65-76 and 93 of Exhibit 56. The Environmental Planning Section pointed out in that Report that significant noise attenuation could be accomplished within short distances by shielding. Shielding is accomplished by a number of methods, including the provision of berms. The Revised Site Plan for Special Exception 4651 indicates the use of berms as recommended in EIR-4402. It is further noted that the same type of equipment utilized in Phases 1 through 3 is proposed to be used in the remaining phases; therefore, no new noise impacts are anticipated. §27-410(d)

(18) EIR-4402 and EIR-4651 identify two (2) active mining operations which are in close proximity to the subject property. Although the Gardner property has an active State mining permit it has not been in operation since 2004. There is an active Surface Mining operation on the Queen property which is located directly adjacent to the subject property to the southwest and which is

under the sole ownership and control of the instant Applicant. §27-410(f)

(19) The Applicant obtained all necessary permits from the State of Maryland for the operation of a Surface Mine subsequent to the approval of Special Exception 4402. The Applicant intends to continue to operate the Surface Mine in accordance with all permits. No violations from the regulating agency, the Maryland Department of the Environment, have been issued for Special Exception 4402. (Exhibit 37) §27-445.02(c)(1)

(20) The Conditions of Approval for Special Exception 4402 which address truck speed, monitoring, maintenance and ownership of trucks and truck speed are also imposed as conditions of approval for the instant Application. §27-445.02(c)(2)

(21) Condition 35 of Special Exception 4402 requires the Applicant to use a water truck and sweeper truck as needed on its property and nearby roads, to minimize dust and to keep the public roads clear of debris. Condition B12 requires the Applicant to maintain Accokeek Road east of the site entrance free and clear of debris and shall utilize street sweepers and water trucks to maintain this road. These conditions of approval are carried forward to ensure compliance. §27-445.02(c)(3)

(22) The Applicant has posted and is maintaining 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. §27-445.02(c)(3)

Landscape Manual

(23) The proposed development is subject to Sections 4.2 (Commercial and Industrial Landscape Strip) and 4.7 (Buffering Incompatible Uses) of the Prince George's County Landscape Manual. The Applicant is in compliance with Landscape Manual requirements, and indeed exceeds the minimum requirements by increasing the width of required buffer yards. The Applicant is proposing to partially fulfill the planting requirements with existing woodland. (Exhibits 59(d)-(f))

(24) The instant Application is in conformance with all regulations of the R-A and R-E Zones and no waivers, departures or variances are necessitated. (Exhibit 59)

Signage

(25) The Applicant is not proposing any new signage as part of this Application. The Site Plan (Exhibit 59) indicates the location and dimensions of permanent, durable signs located along Accokeek Road and McKendree Road identifying the subject use as a Surface Mining operation in accordance with Sections 27-445.02(c)(4) and 27-629 of the Zoning Ordinance. No commercial business signs are proposed.

Parking and Loading

- (26) No parking or loading spaces are required for a Surface Mining operation.

DISPOSITION

Special Exception 4651 is APPROVED, subject to the following Conditions:

1. The Special Exception shall be valid for a period not to exceed five years from the date of approval by the District Council. No mining shall be performed at the site without a valid special exception.
2. The Applicant shall provide the Environmental Planning Section, M-NCPPC, with copies of all reports submitted to the Maryland Department of the Environment, at the time of submission.
3. The Applicant shall notify the Environmental Planning Section of M-NCPPC prior to the commencement of work on each phase of the mining operation and schedule a meeting to address reforestation and woodland conservation issues. These issues shall include timing for reforestation activities associated with the most recently completed phase, timing for reforestation for the upcoming phase, changes in the species to be planted, decreased in the quantity of trees planted in the event that some natural regeneration has occurred, the need for additional or less site preparation, and other pertinent woodland conservation or reforestation issues.
4. Prior to the commencement of work in any phase or portion thereof, the limits of disturbance (LOD) for that phase shall be staked on the ground. The Applicant or its representative shall walk the limits of disturbance with a representative of the Environmental Planning Section of M-NCPPC prior to the installation of the sediment/erosion control measures and tree protective devices.
5. Limits of disturbance lines and vegetative buffers shown on all the submitted and approved plans shall be maintained at all times during the mining operation.
6. The disturbed area shall not exceed 25 acres at any one time.
7. Prior to woodland clearing in Phases 4 and 5, evidence in the form of signed and dated copies of all appropriate forms shall be provided to the Environmental Planning Section regarding the posting of appropriate reforestation bonds with the Department of Environmental Resources (DER) for Phases 4 and 5. All reforestation required due to the clearing in Phase 4 will be done in earlier phases and shall be completed no later than the first planting season after work has begun on Phase 5. Reforestation for Phase 5 shall be completed no later than one year after work in Phase 5 has been completed.

8. Prior to issuance of a Use and Occupancy Permit, all permits required by Federal, State and local governments for that phase shall be obtained. Such permits shall include, but are not limited to, permits for disturbances to wetlands and wetland buffers and stream crossings.
9. Topsoil shall be stockpiled within the limits of disturbance for Special Exception 4651 for use during the reclamation period for each phase.
10. Stockpiled topsoil and overburden material shall be seeded with quick-growing grasses to minimize the wash-off of silt into streams within the site.
11. All sediment/erosion control basins shall be enclosed with a minimum forty-two inch high safety fence. Safety signs, safety benches and protective berming shall be used in order to increase the level of safety at the site.
12. Close monitoring of the sediment control measures shall be done by the Maryland Department of the Environment to assure that they continue to perform satisfactorily and as designed.
13. Equipment fueling on-site shall be done in accordance with NFPA 30, Flammable and Combustible Liquids Code, Chapters 2 and 3. The mobile fueling trucks shall be operated by trained personnel holding valid Oil 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.
14. If mining-related impacts upon water levels in any of the wells near the site are observed, the Applicant shall take immediate corrective actions, including but not limited to drilling of deep water wells to replace the adversely affected wells.
15. If any well (deep or shallow) within a two-mile radius of the subject property becomes contaminated or dries out, and if the owner of the well can prove to the satisfaction of the Maryland Department of the Environment that the contamination or drying out was the direct result of the Applicant's surface mining operation, then the Applicant shall replace the well at its sole expense within one month after the Applicant has been notified of the MDE determination. This condition shall continue for a period of five years following the closing of the surface mining activity.
16. The Applicant shall utilize the upper sands of the Patapsco, the St. Charles aquifer, for the water source of the proposed deep well if feasible, based on the results of a production well drilling and hydraulic testing program and based upon future decisions by the Maryland Department of the Environment with respect to the Applicant's water appropriation permit. In no event shall the source of the Applicant's deep well be the lower Patapsco, which is the aquifer utilized by residences in the Moyaone/Accokeek area.

17. The Applicant shall maintain the berming along the frontage of its property on Accokeek Road, as shown on the site plan.
18. Perimeter berms shall be constructed of clean soils, free of organic materials or construction materials. Immediately upon completion of the construction, the berms shall be stabilized and maintained.
19. The Landscape Plan shall be revised to designate the appropriate adjacent uses as “single-family detached” rather than “residential.” In addition, the width of the required landscape buffer of existing woodlands along McKendree Road (58 feet) shall be clearly indicated on the plan.
20. The Applicant shall clear brush and vegetation on the north side of MD 373 (Accokeek Road) to the west of its intersection with Duckett Road in order to provide 600 feet of sight distance on MD 373 west of Duckett Road. The Applicant shall continue to maintain the area for the duration of the special exception use.
21. The Applicant shall use a water truck and sweeper truck as needed on its property’s interior roads and nearby roads in order to minimize dust generated by its operations and to keep the public roads clear of debris from the mining and hauling operations.
22. The Applicant shall maintain MD 373 (Accokeek Road) east of the site entrance free and clear of dirt, gravel and mud. Street sweepers or water trucks shall be available and utilized on Accokeek Road during all hours of operation of Special Exception 4651.
23. The maximum truck speed on interior haul roads shall be 15 MPH.
24. Trucks shall be monitored for speed and compliance with all posted traffic signs on MD 373 (Accokeek Road) and the adjacent trucking routes. The requirements for Independent Truck Drivers and the Corrective Action Policy shall be enforced for all vehicles employed by the Applicant.
25. All equipment used on the site, including trucks, shall be fitted with working mufflers at all times. Only the equipment listed on the site plans or EIR shall be used on site and they shall all be equipped with a muffler providing at least 30 dBA in sound reduction. Similar heavy equipment may be substituted as replacements as required, so long as the noise generated by those vehicles is not significantly increased.
26. The Applicant and the Applicant’s heirs, successors, and/or assignees shall limit the level of mining and/or wet processing activities on the site to a maximum of 560 truck trips per day.
27. Right turns from MD 373 (Accokeek Road) eastbound to the site or left turns from the site to MD 373 westbound are prohibited for all vehicles over three-quarter tons.

28. Trucks connected to the application are prohibited from using any part of McKendree Road.
29. Eighteen wheel trucks shall not be operated on the subject property.
30. The Traffic Safety Coordinator shall make visual inspections of all trucks every Monday morning, to ensure that the trucks have no defects like broken tail lights, worn or defective tires, worn or damaged or improperly attached covers, and similar deficiencies.
31. Monthly safety meetings shall be conducted by the Traffic Safety Coordinator with all trucker employed by the Applicant to promote safety on public highways, and all such meetings shall be documented.
32. The Applicant shall annually inspect all government records for its trucks and drivers. These records shall include vehicle registrations, commercial driver's licenses (CDL), DOT medical cards, and insurance coverage. The Applicant shall retain copies of all such records on site.
33. The Applicant shall provide to the Development Review Division, M-NCPPC evidence regarding annual truck inspections by the State of Maryland, to show compliance with standards for commercial vehicles.
34. All trucks shall have a sticker or tag indicating ownership or control by Aggregate Industries, to enable the public to identify the Applicant's trucks.
35. No jake brakes may be used on the haul road, MD 373 (Accokeek Road) or MD 5 (Branch Avenue), and there shall be no queuing of trucks on Accokeek Road at the site entrance.
36. Operations on the site are restricted to the hours between 6:00 a.m. and 5:00 p.m., Monday through Friday for hauling of material; 7:00 a.m.–7:00 p.m. Monday through Friday for mining of material; 7:30 a.m.–3:00 p.m. on Saturday for hauling of material and no mining on Saturdays. All uses shall cease on federal holidays and Sundays. Trucks are not permitted to arrive at the site or wait in the vicinity prior to 6:00 a.m.
37. After completion of the mining operation, the site shall be reclaimed to approximate the pre-mining drainage areas and to approximate the topography found in this region of the County.
38. Reclamation and stabilization efforts shall be staged as diligently as possible, and the direction of mining shown on the site plan shall be closely followed. Reclamation shall be substantially completed in each mined phase before the mining of a new phase commences.
39. If the invasive plant *Phragmites* is introduced to this site, *Phragmites* control procedures shall be implemented on an annual basis and a report shall be filed with the Environmental Planning Section, M-NCPPC. Staff of the Environmental Planning Section may inspect the

site for compliance with the control plan.

40. The land shall not be used as a sanitary landfill or rubble fill, as those terms are defined in Section 27-107.01(205) of the Prince George's County Zoning Ordinance.
41. The Applicant shall substantially increase the size of the residential structure on the property at MD 373 (Accokeek Road) and McKendree Road, known as the Crone property, 14801 McKendree Road, to meet the needs of the Community Citizens Board for a community building.
42. All conditions shall be listed on the Site Plan.
43. The use of sewage sludge and/or river bottom dredge spoils for reclamation purposes are prohibited on the site.
44. All electronic backup alarms utilized in conjunction with the mining operation shall conform to the expected noise levels contained in Environmental Noise Assessment prepared by Staiano Engineering and dated January 5, 2001.
45. If a conveyer system is approved in conjunction with Special Exception 4467, the Special Exception Site and Landscape Plans for Special Exception 4561 may be administratively amended by the Office of the Zoning Hearing Examiner to reflect the location and height of that portion of the conveyer structure located on the subject property.

The Approved Revised Site and Landscape Plans are Exhibit 59.

The Approved Revised TCPII is Exhibit 79.