



*Note: Staff reports can be accessed at [www.mncppc.org/pgco/planning/plan.htm](http://www.mncppc.org/pgco/planning/plan.htm).*

## Special Exception

## SE-4651

Application	General Data	
<p><b>Project Name:</b> Accokeek Road Surface Mining</p> <p><b>Location:</b> On the south side of MD 373 (Accokeek Road), west of McKendree Road and northeast of Gardner Road</p> <p><b>Applicant/Address:</b> Aggregate Industries, Inc. 6401 Golden Triangle Drive, Ste. 400 Greenbelt, MD 20770</p> <p><b>Property Owner:</b> Bardon, Inc. (c/o Aggregate Industries, Inc.) 6401 Golden Triangle Drive, Ste. 400 Greenbelt, MD 20770</p>	Staff Report Date:	09/30/09
	Date Accepted:	03/30/09
	Planning Board Action Limit:	N/A
	Plan Acreage:	683.26 acres
	Zone:	R-A & R-E
	Gross Floor Area:	N/A
	Lots:	N/A
	Parcels:	3
	Planning Area:	85A
	Tier:	Rural
	Council District:	09
	Election District:	11
	Municipality:	N/A
200-Scale Base Map:	219SE05 220SE05	

Purpose of Application	Notice Dates	
A continuation of a previously approved sand and gravel mining operation.	Informational Mailing	12/09/08
	Acceptance Mailing:	03/19/09
	Sign Posting Deadline:	N/A

Staff Recommendation		Staff Reviewer: Cynthia Fenton	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

September 30, 2009

**TECHNICAL STAFF REPORT**

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

VIA: Jimi Jones, Zoning Supervisor

FROM: Cynthia Fenton, Planner Coordinator

SUBJECT: **Special Exception Application No. 4651**

REQUEST: **Sand and Gravel Operation**

RECOMMENDATION: **Approval with conditions**

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NOTE:

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

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

You are encouraged to become a person of record in this application. The request must be made in writing and sent to the Office of the Zoning Hearing Examiner at the address indicated above. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

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**FINDINGS:**

A. **Location and Field Inspection:** The subject property is an irregular-shaped lot located on the south side of MD 373 (Accokeek Road), and the west side of McKendree Road northeast of Gardner Road. The site currently operates as a sand and gravel mining operation. A wash facility, Special Exception SE-4403, operates within the special exception boundaries, but that area it is not included in the current application. Access to the site is via a one two-way driveway from MD 373 (Accokeek Road).

B. **Development Data Summary:**

	<b>EXISTING</b>	<b>PROPOSED</b>
Zone(s)	R-A and R-E	R-A and R-E
Use(s)	Sand and Gravel Mine	Sand and gravel Mine
Acreage	683.26	683.26
Lots	Parcels 12,14, 41	Parcels 12, 14, 41
Gross Floor Area (sq. ft.)	N/A	N/A

C. **History:** The site has an existing sand and gravel mine operating pursuant to Special Exception SE-4402. Although the special exception was approved in 2002, the District Council’s decision did not become final until 2004 at the conclusion of the final appeal period. Because Section 27-410(a)(4) provides that a special exception for this use shall be valid for only five years, the applicant is requesting approval for the continuation of the mining operation for Phases 4 and 5.

D. **Master Plan Recommendation:**

The 2002 *Prince George’s County Approved General Plan* places this 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.

The 1993 *Approved Master Plan and Sectional Map Amendment for Subregion V, Planning Areas 81A, 81B, 83, 84, 85A and 85B* classifies the subject property as low-rural land use. It is worth noting that this property is recommended to remain in the rural land use designation in the 2009 *Preliminary Subregion 5 Master Plan and Proposed Sectional Map Amendment (SMA)* currently underway. The 1993 master plan recognizes 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 found in the 1993 master plan 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 setback, 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 the 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.**

E. **Request:** The applicant is proposing a continuation of a previously approved sand and gravel mining operation. The Statement of Justification notes that 479.7 acres of the total 683.26 acres is proposed to be actively mined. The balance of the property includes floodplain, tree conservation, wetlands, steep slopes, and bufferyards which will be preserved. Mining in Phases 1 through 3 is completed. Phase 1 is currently under reclamation; Phase 2 reclamation is approximately 80% complete; reclamation in Phase 3 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

Should mining not be completed within the proposed five-year timeframe, a new special exception will be required for the continuation of the mining operation.

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

- **North**—Accokeek Road
- **South**—Mattawoman Creek (Prince George's/Charles County line)
- **East**—McKendree Road and US 301 (Crain Highway)
- **West**—Garner Road

The subject property is surrounded by the following uses:

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

The neighborhood is generally characterized by low-to-medium density residential development which is rural in character. Robin Dale Country Club (now closed) is located to the southeast of the property. Special Exceptions SE-4479 and SE-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. Garner Road Pit (SE-4334) has ceased mining operations although the state permit is still active.

G. **Specific Special Exception Requirements**

**Sec. 27-410. Surface mining.**

- (a) **The surface mining of natural materials or deposits (including sand, gravel, or clay pits; rock or stone quarries; and the removal of earth or topsoil) may be permitted, subject to the following:**

- (1) **Heavy machinery may be used for the extraction of natural material or deposits from the site. Except in the I-2 Zone, heavy machinery may not be used for washing, refining, or other processing, unless a Special Exception is granted for sand and gravel wet-processing under the provisions of Section 27-405;**

**Comment:** 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 SE-4403; however, that area is not included in this application.

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

**Comment:** The Environmental Planning Section reviewed the proposed extension of the existing mining operation and provided an update (attached) to the Environmental Impact Report (EIR-4402-01). Air quality and noise impacts were evaluated during the review of Special Exception SE-4402. According to the Environmental Planning Section memorandum dated September 4, 2009 (Stasz to Fenton) EIR-4402 addressed air quality on pages 23, 41-51 and 90. Three 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.

- (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;**

**Comment:** The applicant will be required to restore the property so that it is suitable for development. The TCPII shows the existing and proposed ground elevations of the site, adjacent land, all abutting streets and that the final grades do not exceed 3:1.

- (4) **The Special Exception shall be valid for not longer than five 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;**

**Comment:** The 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 years from the date of the approval.

The original special exception 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 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.

- (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;**

**Comment:** The 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 years.

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

**Comment:** An update to the original traffic study submitted for SE-4402 was submitted by the applicant and an analysis by the Transportation Section is attached to this report. 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 SE-4402. In a memorandum dated July 21, 2009 (Masog to Fenton), Transportation staff concluded that “[w]hile the analysis indicates that no physical improvements to the surrounding roadway network are warranted by this use, SE-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.”

The Transportation Planning Section finds that the proposed surface mining use would meet the requirements of Subtitle 27 for the approval of a special exception from the standpoint of transportation subject to the following conditions:

1. **The applicant, his heirs, successors, or assigns shall limit the level of mining activities on the site to a maximum of 560 truck trips per day.**
2. **Right turns from MD 373 eastbound to the site or left turns from the site to MD 373 westbound are prohibited for all vehicles over three-quarter tons.**

3. **Trucks associated with the use are prohibited from using any part of McKendree Road.**
  
- (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 (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.**

**Comment:** The site demonstrates compliance with this requirement. The only access point utilized for this mining operation is at the north end of the site at Accokeek Road, via a 30-foot-wide paved entrance significantly longer than 200 feet in length. This access point was previously approved for the mining of this property under SE-4402.

- (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.**

**Comment:** The original inventory is contained in Appendix A of EIR-4402 which is a matter of record in the case of SE-4402. A revised inventory is attached to this report as required.

- (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.**

**Comment:** The property is in the R-A and R-E Zones; therefore, this subsection does not apply.

- (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.**

**Comment:** The property is in the R-A and R-E Zones; therefore, this subsection does not apply.

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

**Comment:** 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 SE-4402 found that the overall impacts of noise generated from the subject property were limited, due to the short amount of time worked would be conducted along the perimeter of the site. EIR-4402 addresses noise issues on pages 24, 65-76 and 93. 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 site plan for Special Exception SE-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.

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

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

**Comment:** The property is not within the Chesapeake Bay Critical Area (CBCA); therefore, this subsection does not apply.

- (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). (CB-16-1984; CB-72-1987; CB-1-1989; CB-3-1990; CB-93-1992)**

**Comment:** An updated inventory is attached to this memorandum for the District Council's consideration. The inventory identifies two active mines that are in proximity to the subject property. While the Gardner property has an active state permit, actual mining operations have ceased since 2004. The active mine located on the Queen property is directly adjacent to the subject property to the southwest.

#### H. **Additional requirements for a surface mining facility**

Section 27-445.02 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;**

**Comment:** The applicant has obtained all necessary permits from the State of Maryland for the operation of a surface mine subsequent to the approval of SE-4402. The applicant intends to continue to operate the surface mine in accordance with all permits. According to the Environmental Planning Section memorandum (Stasz to Fenton), no violations from the regulating agency, the Maryland Department of the Environment, have been issued.

- (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;**

**Comment:** Conditions 16, 20, and 26 through 31 of SE 4402 address truck speed, monitoring, maintenance and ownership. These conditions of approval are carried forward with the current application to ensure this finding is met.

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

**Comment:** Condition 35 of SE-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 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.**

**Comment:** The applicant has posted 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.  
(CB-17-1984; CB-72-1987)**

**Comment:** 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 Regulations 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 Plan
6. Any other environmental factors relating to the health, safety and welfare of the residents of the affected area

The Environmental Planning Section (EPS) previously prepared a complete Environmental Impact Report (EIR) during the review and approval of SE-4402. The current application is essentially identical to the proposal of SE-4402. The revised EIR for this application is referred to as EIR-4402-01. The Environmental Planning Section provided the following comments and recommended conditions in their September 4, 2009 memorandum:

### 1. Noise

EIR-4402 addresses noise issues on pages 24, 65-76 and 93. The same equipment is proposed to be used in the remaining phases. The site plans show the use of berms as recommended in EIR-4402. The following condition was imposed as part of the approval of SE-4402 and should be carried forward with this application.

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

### 2. Watershed and Water Quality

EIR-4402 addresses water quality issues on pages 23-41, 61, 71-76, 94, 102 and 104. To date, there have not been any violations issued by the Maryland Department of the Environment for water quality-related issues.

In addition, this site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. In most circumstances, the expanded stream buffer is placed into a conservation easement on a final plat. Because this proposal will not require a final plat, the special exception site plan shall be the means for protection this sensitive area. The preservation of this stream will fulfill the requirements of Section 27-102(a)(13) of the Zoning Ordinance.

The following conditions are recommended for the reasons stated in EIR-4402. All recommended conditions are those that were approved with SE-4402.

**Recommended Condition:** Stockpiled topsoil and overburden material shall be seeded with quick-growing grasses to minimize the wash-off of silt into streams within the site.

**Recommended Condition:** Reclamation and stabilization efforts shall be staged as diligently as possible and the direction of mining shown on the special exception plan shall be closely followed. Reclamation shall be substantially completed in each mined phase before the mining of a new phase shall commence.

**Recommended Condition:** All sediment/erosion control basins shall be enclosed with a minimum forty-two inch high-safety fence. Safety signs, described in the Official Surface Mining Workbook (April, 1990) of the State Safety Committee, and safety benches and protective berming shall be used in order to increase the level of safety at the site.

**Recommended Condition:** Close monitoring of the sediment control measures shall be done by the Maryland Department of Environment to assure that they continue to perform satisfactorily and as designed.

### 3. Airshed and Air Quality

EIR-4402 addresses air quality on pages 23, 41-51 and 90. Three recommended conditions listed on page 91 of the EIR address issues related to airshed and air quality. Staff is recommending that the same conditions that relate to air quality be carried forward to the subject application. All recommended conditions are those that were approved with SE-4402.

**Recommended Condition:** Water should be sprayed onto interior haul roads as necessary to control dust.

**Recommended Condition:** Truck speed on interior haul roads should be controlled to 15 miles per hour or less.

**Recommended Condition:** Articulated 18-wheel trucks should not be permitted to haul mined material whether within the site or from the site.

**Recommended Condition:** Public roads should inspected daily and be kept free of dirt, gravel, and mud.

### 4. Traffic and Traffic Safety

EIR-4402 addresses traffic issues on pages 24, 84-87 and 94-95. The Transportation Planning Section has evaluated SE-4651 and presented recommendations in a memorandum from (Masog to Fenton), dated July 21, 2009 that is incorporated herein by reference.

### 5. Biological Resources including wetlands, woodlands and Tree Conservation Plan

EIR-4402 addresses these environmental issues on pages 23, 52-60, 91 and 92. This site is subject to the provisions of the Woodland Conservation and Tree Preservation Ordinance because the entire site is more than 40,000 square feet in area and contains more than 10,000 square feet of woodland. A forest stand delineation (FSD) was prepared as part of the Environmental Impact Report for SE-4402 and a discussion is included in Section 6.4 of EIR-4402. A tree conservation plan is required by Section 27-317(a)(6) of the Zoning Ordinance for the approval of any special exception. A Type II Tree Conservation Plan, TCPII/009/01, was reviewed and approved for this property as part of SE-4402. The current application proposes minor changes to the previously approved TCP.

The proposed woodland conservation areas include all of the sensitive environmental features on the property and create a contiguous woodland area, meeting the intent of the Woodland Conservation Ordinance. Staff is recommending that the same conditions that relate to biological resources be carried forward to the subject application. All recommended conditions are those that were approved with SE-4402 with the exception of the previously approved revisions to the TCPII.

**Recommended Action:** The Environmental Planning Section recommends approval of TCPII/009/01-01.

**Recommended Condition:** The applicant shall notify M-NCPPC Environmental Planning Section prior to the start of work on each phase of this mining operation and schedule a meeting to address reforestation and woodland conservation issues including: 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, decreases in the quantity of trees planted in the event that some natural regeneration has occurred, the need for additional or less site preparation, and other pertinent woodland conservation or reforestation issues.

**Recommended Condition:** 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 Public Works and Transportation (DPW&T) 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.

**Recommended Condition:** Prior to issuance of a Use and Occupancy Permit, all permits that are required by federal, state, and local governments, shall be obtained. Such permits shall include but are not limited to permits for disturbances to wetlands and wetland buffers and stream crossings.

**6. Other environmental factors relating to the health, safety and welfare of the residents of the affected area**

**Comment:** Staff is recommending that the same conditions that relate to these factors be carried forward to the subject application. All recommended conditions are those that were approved with SE-4402.

**Recommended Condition:** Topsoil shall be stockpiled within the limits of disturbance for SE-4651 for use during the reclamation period for each phase.

**Recommended Condition:** Operations on the site are restricted to the hours of 7:00 a.m.–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; 7:00 a.m.–3:00 p.m. on Saturday for hauling of material and no mining on Saturdays. There is no mining or hauling on federal holidays and Sundays. Trucks are not permitted to arrive at the site or wait in the vicinity prior to 7:00 a.m.

**Recommended Condition:** Equipment fueling on-site shall be done in accordance with National Fire Protection Agency (NFPA) 30, 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.

**Recommended Condition:** All the above conditions shall be listed on the site plan.

**Comment:** The Environmental Planning Section recommends approval of Special Exception SE-4651 and Type II Tree Conservation Plan TCPII/009/01-01 subject to the following conditions. The following conditions are recommended for the reasons stated in EIR-4402. All recommended conditions are those that were approved with SE-4402, with some minor exceptions. It should be noted that the Transportation Planning Section memorandum from (Masog to Fenton), dated July 21, 2009, also contains recommended conditions.

## **Summary of Recommendations**

### **General**

1. This Special Exception shall be valid for a period not to exceed five years from the date of approval by the Prince George's County District Council. No mining shall be performed at the site without a valid Special Exception.
2. The applicant shall provide the Environmental Planning Section with copies of all reports submitted to the Maryland Department of the Environment, at the time of their submission.
3. All conditions shall be listed on the site plan.

### **Operations**

1. Prior to the commencement of work in any phase or portion thereof, the limits of disturbance (LOD) for that phase or portion thereof, shall be staked on the ground. The applicants or their 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.
2. 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.
3. Topsoil shall be stockpiled within the limits of disturbance for SE-4651 for use during the reclamation period for each phase.
4. Stockpiled topsoil and overburden material shall be seeded with quick-growing grasses to minimize the wash-off of silt into streams within the site.
5. The disturbed area shall not exceed 25 acres at any one time.
6. Close monitoring of the sediment control measures shall be done by the Maryland Department of Environment to assure that they continue to perform satisfactorily and as designed.

7. The applicant shall notify the Environmental Planning Section of M-NCPPC prior to the commencement of work on each phase of this mining operation and schedule a meeting to address reforestation and woodland conservation issues including: 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, decreases in the quantity of trees planted in the event that some natural regeneration has occurred, the need for additional or less site preparation, and other pertinent woodland conservation or reforestation issues.
8. Operations on the site are restricted to the hours of 7:00 a.m.–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; 7:00 a.m.–3:00 p.m. on Saturday for hauling of material and no mining on Saturdays. There is no mining or hauling on federal holidays and Sundays. Trucks are not permitted to arrive at the site or wait in the vicinity prior to 7:00 a.m.
9. 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 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.
10. All sediment/erosion control basins shall be enclosed with a minimum forty-two inch high safety fence. Safety signs, described in the Official Surface Mining Workbook (April, 1990) of the State Safety Committee, and safety benches and protective berming shall be used in order to increase the level of safety at the site.
11. If mining-related impacts upon water levels in any of the wells near the site are observed, corrective actions shall be immediately taken by the applicant to include but not be limited to drilling of deep water wells to replace the adversely affected wells.
12. 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.
13. The 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.

### **Air Quality**

1. Truck speed on interior haul roads shall be controlled to 15 MPH or less.
2. Interior roads shall be watered or otherwise treated as necessary to minimize dust.

## Biological Resource

1. 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 Public Works and Transportation (DPW&T) 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.
2. 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. Staff of the Environmental Planning Section may inspect the site for compliance with the control plan.

## Noise

1. All equipment used on the site, including trucks, shall be fitted with working mufflers at all times.

## Reclamation

1. Reclamation and stabilization efforts shall be staged as diligently as possible and the direction of mining shown on the special exception plan shall be closely followed. Reclamation shall be substantially completed in each mined phase before the mining of a new phase shall commence.
  2. Following 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.
- J. **Prince George's County Landscape Manual Requirements:** 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 in several cases 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. It is noted that the Landscape Manual does not recognize "residential" as a land use; therefore, the appropriate adjacent uses should be designated as "single-family detached." In addition, the width of the required landscape buffer of existing woodlands along McKendree Road (58 feet) should be clearly indicated on the landscape plan as previously approved under SE-4402.
- K. **Zoning Standards:** There are no permanent structures on the site; therefore, there are no setback or other requirements for the zone.

- L. **Sign Regulations:** The applicant is not proposing any new signage as part of this application. The site plan 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 Section 27-445.02 (c) (4) and 27-629 of the Zoning Ordinance. No commercial business signs are proposed.
- M. **Parking and Loading Requirements:** No parking or loading spaces are required for a mining operation.
- N. **Referral Comments:** None of the referral replies received by staff had any objection to the application. Previous conditions for SE-4402 that are still considered germane to the continued mining operation have generally been recommended to be carried forward. Previous conditions not addressed by either the Transportation Section or the Environmental Planning Section but which are still applicable have been included by staff. In an e-mail dated April 13, 2009, from the Maryland Department of the Environment (MDE) (Edsall to Fenton), it was noted that the agency had no objection to the renewal of the special exception.
- O. **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 purpose of this Subtitle;**

**Comment:** The purposes of Subtitle 27, as set forth in Section 27-102 of the Zoning Ordinance, are generally to protect the health, safety, and welfare of the public and promote compatible relationships between various land uses. The applicant is proposing to continue the existing sand and gravel mining operation. The applicant has submitted and/or updated all required studies and analyses which indicate the mining operation will continue to operate in accordance with local and state requirements. The mining use will continue to operate in a safe manner while providing aggregate materials necessary to serve the growth of the county and surrounding jurisdictions. Staff therefore finds the proposed use and accompanying site plan are in harmony with the purposes of this subtitle.

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

**Comment:** The proposed use is in compliance with all setback requirements for the R-R Zone, Landscape Manual requirements, and specific requirements for sand and gravel mining. With the recommended conditions, the proposal will be in conformance with all applicable requirements and regulations of the 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;**

**Comment:** The applicant is proposing to continue the existing sand and gravel mining operation. The application is consistent with the 2002 *Prince George's County Approved General Plan* natural resources policies in the Environmental Infrastructure Section that pertain to using existing natural resources wisely. The property is located in the following planning areas: Piscataway (PA 84) and Danville (PA 85A)) which is currently under study as part of the Preliminary 2009 Subregion 5 Master Plan and proposed SMA which will update the 1993 Master Plan and SMA.

The Community Planning South Division, in a memorandum dated April 29, 2009 (Izzo to Fenton), did not identify any conflicts between the proposed use with either the master plan or General Plan. Thus, it can be concluded 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. It is noted that the applicant prepared a point-by-point response to the master plan guidelines for sand and gravel resources which is attached to this report.

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

**Comment:** None of the responses from any referring agencies received by staff indicate that the proposed continuation of the sand and gravel mining use, subject to specific conditions, will 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**

**Comment:** 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 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.

**(6) The proposed site plan is in conformance with an approved Tree Conservation Plan. (CB-75-1989)**

**Comment:** The proposed site plan is in conformance with an approved Type II Tree Conservation Plan, TCP/009/01, which was approved for this property as part of SE-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 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.

## CONCLUSION

Based on the preceding analysis and findings, staff recommends that Special Exception SE-4651 be APPROVED, based on 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 SE-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/Accoceek area.
17. The applicant shall maintain the berming along the frontage of its property on Accoceek 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 SE-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.