

Hearing Date: July 22, 2014

Report to the Board of Appeals

Request for a Special Exception Renewal Surface Mining of More Than 10 Acres Edward Stinnett

Docket #935

SUMMARY OF REQUEST

Project Name: Edward Stinnett Surface Mine

Mine Site Area: Original 1997 application: 10.75 acres of a 166+/- acre parcel
2004 Modification: Additional 15.4 acres, total mine area of 26.2 acres.
2008 Modification: Additional 7.46 acres, total mine area of 33.7 acres
Current Application: Renewal for 33.7 acres total mine area

Location of Site: 166.25 acres located at Orphan's Loss Place, 10.5 miles west of La Plata, north of MD Route 6; Tax Map 41, Parcel 30

Zoning: Agricultural Conservation (AC)

Proposed Activity: Surface mining of more than 10 acres, Use #7.05.110

Background

The Applicant, Edward Stinnett, requests approval to renew an existing approved surface mining operation. The current sand and gravel mining operation was originally approved by the Board of Appeals on November 18, 1997, and renewed by the Board's order of May 8, 2001, renewed and modified by the Board's order of April 20, 2004, and renewed and modified by the Board's order of October 28, 2008.

The current application, filed under Docket #935, is a request by Mr. Stinnett to renew the existing mine site of 33.7 acres. Information submitted includes a mine site plan for the overall mine site proposed for renewal.

Requirement for Special Exception

The project parcel, approximately 166.25 acres in area, is zoned AC, Agricultural Conservation. According to the Zoning Regulations, a Special Exception is required for surface mining in the AC zoning district (see Figure IV-1 Table of Permissible Uses, Use #7.05.110).

By granting the proposed Special Exception modification, the Board would permit the Applicant to continue an existing sand and gravel mining operation within an area zoned for rural uses, subject to any current and added Conditions of Approval, per Section 415 (l) of the Zoning Regulations.

Criteria for Approval and Findings

Compliance with the Zoning Regulations requires the proposed activity to comply with all local regulations affecting the Agricultural Conservation (AC) Zoning District (Section 297-87), standards set forth in Article XXV, Section 297-415 regarding Special Exceptions, the minimum standards specific to the proposed use in Article XIII, Section 297-212, as well as any Conditions of Approval imposed by the Board.

Consistency with the Comprehensive Plan

Chapter 12 of the 2006 *Charles County Comprehensive Plan* describes the County's goal and objectives concerning mineral extraction, and discusses the management of mineral extraction in terms of predetermined implementation strategies. The County's goal for mineral extraction is to "Support the extraction of mineral resources and related operations including processing, while safeguarding the public by providing reduction of the negative impacts resulting from extraction and transportation to the maximum extent practicable".

The Comprehensive Plan states five specific objectives regarding mineral extraction: 1- require that appropriate post-excavation uses for this land be consistent with the County's land planning process, 2- protect existing neighborhoods from the impacts of adjacent extraction operations and associated transportation of mined materials, 3- protect the natural environment from all sources of pollution resulting from mineral extraction, 4- provide adequate regulation and monitoring to all mining operations, and 5- recognize and consider the property owners' right to extract mineral resources.

The proposed surface mine expansion will be consistent with the Comprehensive Plan, provided that compliance is achieved with the Zoning Regulations and any conditions imposed by the Board, and applicable site plan approvals and permits are obtained or already approved. Based on the submitted information, upon completion of the proposed mining and reclamation, use of the project site would be consistent with the Comprehensive Plan. The reclamation plan is bonded, to be released upon State inspection and approval. The design and location of mining activities have incorporated methods for protection of adjacent properties, including the required protection of surrounding natural resources.

Impact On Surrounding Uses and Environment

The mine site is located within the AC Zone, centrally isolated on the project property, and separated from surrounding sparsely located residences on large lots. All adjacent properties are zoned AC. According to previously submitted information, the nearest dwelling inhabited by other than a family member is located approximately 1,000 feet from the mine site.

The existing haul road entrance improvements to Orphan's Loss Place, required per the Board's Orders of November 1997 and March 2000, were approved by the State Highway Administration (SHA). SHA's approval was based on the hauling of 50 loads per day. The Applicant proposes to continue hauling no more than 50 loads per day, consistent with the previous approvals by the Board.

The requested renewal of surface mining would not be detrimental to the use, peaceful enjoyment, economic value or development of the surrounding properties or neighborhood, based on the stated compliance with all local and state regulations and the review of all current and previously submitted information. The mine site is surrounded by woodland and farm land, and therefore causes no significant effect to surrounding land uses. Uses in the project area that are dependent on the quality of surface-water, such as the natural biological production and nutrient absorption within potentially affected streams and wetlands, are not likely to be significantly affected by the mining operation. As of the Renewal in 2008, sediment and erosion control measures were in place and maintained to protect the quality of water discharging from the site, and reclamation activities were ongoing.

Any complaints that may have occurred, regarding the operation of the approved mine site, have not been brought to the attention of the Planning Division.

Compliance with County, State, and Federal Regulations

Based on the submitted information, the project site is in compliance with all applicable local, state and federal laws and regulations, and permitting requirements and conditions of the Board's Orders of November 1997, May 2001, April 2004, and October 2008. Any information with respect to noncompliance has not been provided to the Planning Division.

PLANNING DIVISION FINDINGS

The request for the renewal of Special Exception #935 was evaluated based upon the standards set forth in Article XXV Section 297-415; and Article XIII, Section 297-212, Use #7.05.110, of the Charles County Zoning Ordinance. The following Findings of Fact are presented for consideration by the Board:

1. The Applicant, Edward E. Stinnett, owns the project property, located on Tax Map #41, Parcel 30, in the 2nd Election District, in the AC Zoning District. The project parcel is approximately 166.25 acres in area. An approved mine site of 33.7 acres is proposed to renewed.
2. The requested use is permissible in the AC - Agricultural Conservation Zoning District, by Special Exception.
3. Evidence does not exist, based on the submitted information, to indicate that the continued mining use would result in detriment to the use, peaceful enjoyment, economic

value or development of the surrounding properties and affected neighborhood. The existing use in the surrounding neighborhood consists of agricultural and low density residential development. Existing and proposed buffers as required by the Zoning Ordinance will continue to mitigate potential adverse effects to the surrounding neighborhood, and the proposed plan protects environmentally sensitive areas.

4. The mining operation, based on the submitted information, is expected not to endanger the public health, safety and general welfare, provided the Applicant complies with the conditions contained herein, and performs in accordance with the testimony and exhibits presented.
5. The submitted application and proposed activity complies with the minimum standards in Article XIII, Section 297-212, for use #7.05.110, of the Charles County Zoning Ordinance, as follows:
 - a. According to the submitted information, the proposed use will comply with all local, state and federal regulations, consistent with the necessary approvals from the Maryland Department of the Environment (MDE), the Charles Soil Conservation District and the Charles County Department of Planning and Growth Management.
 - b. A 100 foot wide natural buffer, or setback, is proposed to be preserved along the perimeter of the property, as shown on the Site Plan. The 100 foot wide buffer at the perimeter would be increased to 250 feet, wherever adjoining homes are located within 250 feet of the portion of the tract subject to the application for mining. According to the submitted information, the nearest building is located more than 1,000 feet from the mine site. The current application is a renewal and the applicant is not proposing to change the previously approved Site Plan's setbacks.
 - c. Structures significant in height, potentially subject to limitation by the Board, are not proposed.
 - d. Regarding the minimum standard on the placement of processing equipment, such as a wash plant, such an operation does not exist and is not proposed.
 - e. The absence of any record of noncompliance, and all other information known to the Planning Division, all aspects of the operation are believed to be conducted in a safe manner to prevent hazards to persons, physical or environmental damage to lands and improvements, and damage to any street, bridge or public right-of-way, and the operation is believed to conform to the performance standards contained in Article II, Sections 31, 32 and 33, of the Zoning Ordinance, regarding noise and air quality.
 - f. Potential is unlikely for any adverse effects to existing vegetative cover along public road frontage and lot lines, based on the interior location of the mine site within the project property. The nearest distance of mining activity to Maryland Route 6 is greater than 750 feet.

- g. The Resource Protection Overlay Zone (RPZ) in association with Wards Run is delineated, and the mine limits are located to protect against disturbance of the RPZ.
- h. According to the submitted information, the site area shall be maintained and thoroughly drained in accordance with the mining plans and associated permits.
- i. The haul road satisfies the requirement for width, at not less than 20 feet, and is hard-surfaced and maintained for at least a distance of 150 feet from MD Route 6. The existing road conditions on MD Route 6 were approved by the State Highway Administration in the 2003 Decision and Order for the hauling of no more than 50 loads per day.
- j. The Board's approval in 2008 established the hours of operation as weekdays between 7:00 am and 4:00 pm, and on Saturdays to between 7:00 am and 3:00 pm. The Applicant is requesting the hours of operation to remain as approved.
- k. The Applicant requests approval of the current maximum of 50 loads per day as per the currently effective Order.
- l. The submitted mine site plan is complete as indicated below:
 - 1. The setback area is shown
 - 2. The limit of disturbance is delineated on the site plan.
 - 3. Existing access roads are shown. The haul road remains unchanged from the previous approvals.
 - 4. Facilities for water supply and sewage disposal are not necessary for the operation, and are not proposed.
 - 5. The locations of proposed erosion and sediment control measures are identified.
 - 6. Two stockpiles are identified for topsoil and overburden.
 - 7. Traffic and road condition studies have not been submitted and are not required, as the proposed hauling from the mine site is unchanged from that previously approved.
 - 8. Environmental features such as streams and wetlands are identified. A topographic contour interval of 2 feet illustrates the topography, and the edge of forest is delineated.
 - 9. No historic resources are known to exist on the site.
- 6. Based on the submitted information, and any other information known to the Planning Division, the proposed use will not cause significant objectionable impacts from traffic, noise, type of physical activity, fumes, odors, dust or glare.
- 7. Given the submitted information, public facilities and improvements, such as power utilities, facilities for water and sewerage, access roads, and storm drainage facilities, are adequately provided by the proposed project, as reasonably necessary for the proposed land use. The proposed project does not require an Adequate Public Facilities review by the Planning Commission.

8. The site provides adequate ingress and egress through the existing constructed entrance, approved by State and County agencies, and does not significantly increase traffic impacts from this site onto Maryland Route 6.
9. The proposal is consistent with the Comprehensive Plan.

PLANNING DIVISION RECOMMENDATIONS

The Planning Division recommends that should the Board of Appeals choose to approve the Renewal/Extension of Special Exception to operate a surface mine of more than ten acres on a previously approved surface mine site, the following conditions be implemented:

1. The requested Special Exception, a renewal of a currently effective Special Exception for surface mining, Docket #935, is Granted from the date of this order and shall be effective during and run concurrently with the Maryland Department of Environment's (MDE) permit. If the Applicant seeks and obtains a renewal of, or any change to, their permit from MDE, the Charles County Planning Division shall be notified immediately. Changes to a mining permit from MDE may require the applicant to renew their special exception with the Board of Appeals for Charles County. Should the relevant portions of *East Star, LLC v. County Commissioners of Queen Anne's County*, 203 Md.App. 477, be overturned or otherwise overruled at some future date, the special exception is valid for five years from the date of approval as specified in the Charles County Zoning Regulations, and the applicant may apply for a renewal as necessary.
2. The hours of operation shall be between 7:00 a.m. and 4:00 p.m. Monday through Friday, and between 7:00 a.m. and 3:00 p.m. on Saturdays.
3. The proposed operation shall be in compliance with all previous Conditions of Approval of Docket #935, except as specifically cited herein.
4. The removal of sediment from sediment control devices, traps, basins or ponds, and other related maintenance activities, shall be adjusted to compensate for any conditions, induced by nature or the operator that may increase the rate of sedimentation within such devices. Elements of storm-water management and sediment control, including but not limited to sediment traps and basins, may be subject to inspection by the Planning Division randomly. Any non-compliance with the conditions of the Special Exception, or County, State and Federal laws and regulations affecting water quality, shall be reported by the Applicant, to the Board of Appeals. The provisions of this condition do not apply inside the mining pit itself, where the mining operation shall comply with all applicable state and federal laws and regulations. The aforementioned provisions of this condition shall not apply inside the pit so long as the relevant aspects of *East Star, LLC v. County Commissioners of Queen Anne's County*, 203 MD.App. 477, remain good law.
5. The Applicant shall comply with all minimum standards established in Article XIII of the current Zoning Ordinance.

6. There shall be no blasting or use of explosives during mining operations.
7. The continued operation of this Special Exception is contingent upon compliance with all applicable county, state, and federal regulations, including, but not limited to, the following local regulations: Charles County Zoning Regulations, Grading and Sediment Control Ordinance, Road Ordinance, Storm Water Management Ordinance, Forest Conservation Ordinance, and Floodplain Ordinance.
8. The Board of Appeals for Charles County, Maryland, may, after proper notice and hearing, suspend and/or revoke this Special Exception, provided that the Board of Appeals finds any non-compliance with the above-stated conditions, by the Applicant, its agents, assignees, or successors in interest.

Prepared by the Planning Division, Department of Planning and Growth Management.

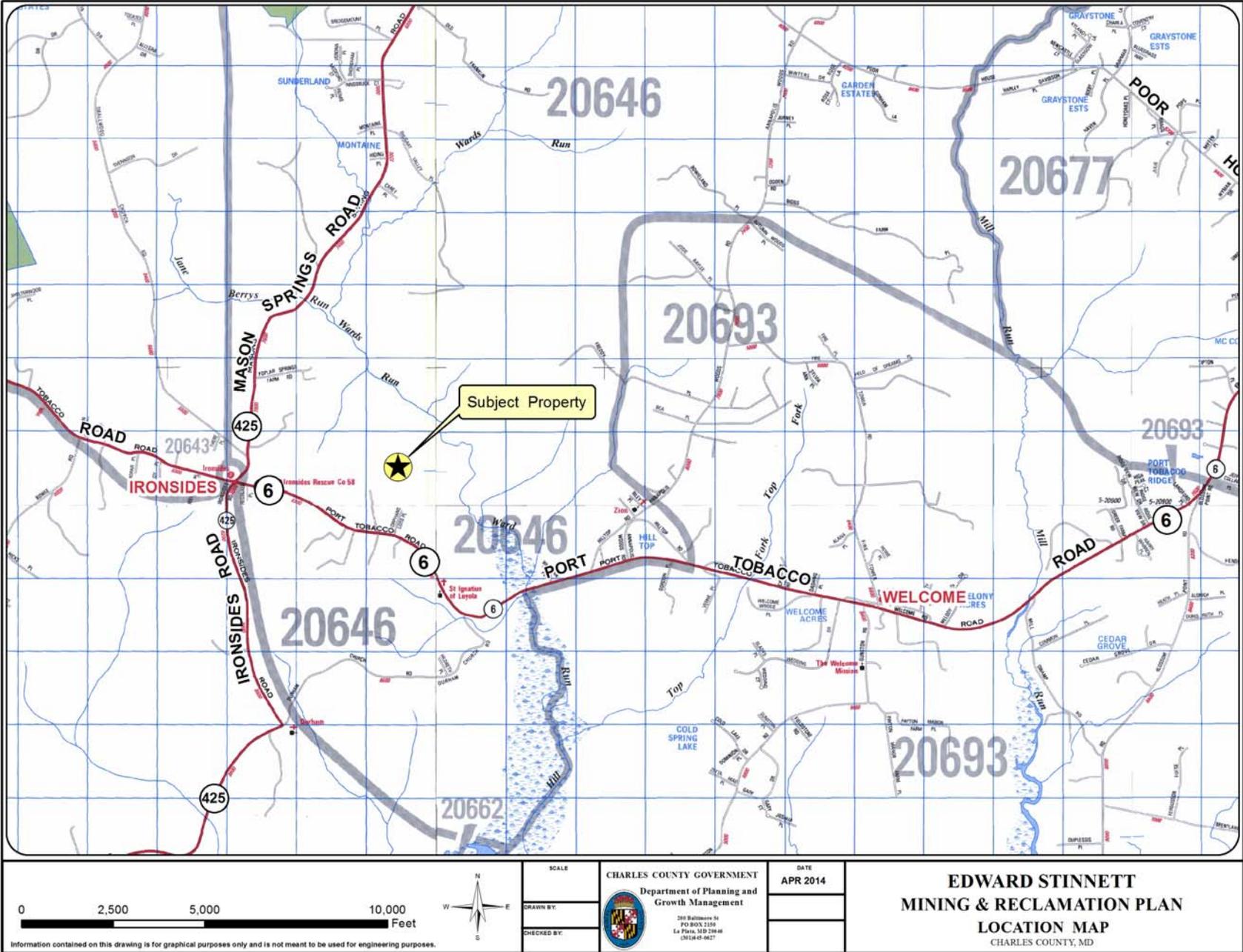
Planner I: Erica Hahn
Erica Hahn

Date: 7/10/14

Environmental Planning Program Manager: Charles Rice
Charles Rice

Date: 7-10-14

Appendix A: Location Map



Appendix C: Aerial Map



<p>0 500 1,000 2,000 Feet</p>		SCALE	DATE	<p>EDWARD STINNETT MINING & RECLAMATION PLAN AERIAL MAP (2013) CHARLES COUNTY, MD</p>
		<p>CHARLES COUNTY GOVERNMENT Department of Planning and Growth Management 288 Baltimore St P.O. BOX 72169 La Plata, MD 20646 (301) 445-9427</p>	<p>APR 2014</p>	
<p>Information contained on this drawing is for graphical purposes only and is not meant to be used for engineering purposes.</p>		<p>DRAWN BY:</p>		
		<p>CHECKED BY:</p>		