



Tuesday, October 28, 2025
Charles County Board of Appeals Meeting

[Link: Live Streaming \(Day of Meeting\)](#)

[Link: Meetings on Demand \(Previously Recorded Meeting\)](#)

1. Welcome: Chairperson's Announcements

Call to Order

2. Approval of the Minutes

Approval of Meeting Minutes - 09/23/25

3. Public Notices

3.a Docket #1476: Special Exception - Surface Mining Greater than 10 acres

THE BOARD OF APPEALS FOR CHARLES COUNTY, MARYLAND has been petitioned by Edward Gibbs, Jr. of Gibbs and Haller on behalf of Percontee, Inc. requesting Special Exception approval to allow Surface Mining of greater than 10 acres, as provided in Article XIII, § 297-212 Use Code #7.05.110 with associated conditions, and Article XXV § 297-415 of the Charles County Zoning Ordinance. The proposed project site is located at 14935 Poplar Hill Road in Waldorf, Maryland, designated as Tax Map 17, Grid 2, Parcels 3 and 175, consisting of approximately 233 acres of land. The property is located within the Agricultural Conservation (AC) Zone.

[Public Notice](#)

4. Public Hearings

4.a Docket #1476: Special Exception - Surface Mining Greater than 10 acres

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Staff Report
Location Map
Zoning Map
Adjacent Property Owners Map
Adjacent Property Owners List
Aerial Map
Justification Statement
Memo to the Board
Aerial Exhibit
Buffer Exhibit
Environmental Features Exhibit
Mining Exhibit
Reclamation Exhibit

Approval Items

All or a portion of this session may be closed pursuant to Section 3-305 (b)(7) of the General Provision Article of the Annotated Code of Maryland to receive legal advice on the resolution of a Court case.

5. New Business

5.a Appeal of Zoning Officer Determination Decision for Rivers Edge Restaurant

Appellant, George Holmes, owner of River's Edge Restaurant pursuant to Section 297-417 - Appeals, notes an appeal to the Board of Appeals for Charles County from the Zoning Officer Determination entered by the Charles County Department of Planning & Growth Management on February 8, 2023, in Code Case Number RFA 180169.

[23.02.08 Zoning Officer Letter](#)
[Rivers Edge Appeal](#)

6. Adjournment

7. Virtual Meeting Information

Public Content

- Board of Appeals Virtual Meeting Information

The Board of Appeals meetings will be held in an In-Person format only. The live meeting link is listed at the top of the agenda. This link will enable you to listen to the live meeting only. You will not be able to submit comments via this platform. Those unable to view or participate in the live meeting, may view the full recording of the Public Hearing at <https://reflect-charlescountymd.cablecast.tv/CablecastPublicSite/?channel=1> the following business day.

If you would like to submit public comments for inclusion in the record, they can be submitted in the following ways:

- In Person
- Register to speak on this item for inclusion in the meeting record. To register, please fill out the Public Comment Form. This form can be located on the Charles County website here: <https://www.charlescountymd.gov/government/boards-commissions/board-of->

[appeals/board-of-appeals-public-comment-and-speaker-registration-form](#)

- Comments can also be submitted in the form of a voicemail by calling 240-776-6686.
- Written comments can be emailed to BoardofAppeals@CharlesCountyMD.gov.
- Comments should be received by 4:30 pm, the Monday before the scheduled Board of Appeals meeting to ensure that the Board of Appeals members have adequate time to review the comments.

8. Decision and Orders

Request to extend approval of the Decision and Orders for the following:

Docket #1469: Variance - Bowling Farm Solar

Docket #1470: Special Exception - Mission Educate

Docket #1472: Variance - Mission Educate

Item Cover Page

BOARD OF APPEALS AGENDA ITEM REPORT

DATE: October 28, 2025

SUBMITTED BY: Sherri Davis, Department of Planning and Growth Management

ITEM TYPE: Approval Item(s)

AGENDA SECTION: Public Notices

SUBJECT: Docket #1476: Special Exception - Surface Mining Greater than 10 acres

SUGGESTED ACTION:

THE BOARD OF APPEALS FOR CHARLES COUNTY, MARYLAND has been petitioned by Edward Gibbs, Jr. of Gibbs and Haller on behalf of Percontee, Inc. requesting Special Exception approval to allow Surface Mining of greater than 10 acres, as provided in Article XIII, § 297-212 Use Code #7.05.110 with associated conditions, and Article XXV § 297-415 of the Charles County Zoning Ordinance. The proposed project site is located at 14935 Poplar Hill Road in Waldorf, Maryland, designated as Tax Map 17, Grid 2, Parcels 3 and 175, consisting of approximately 233 acres of land. The property is located within the Agricultural Conservation (AC) Zone.

ATTACHMENTS:

[Public Notice](#)

PUBLIC NOTICE

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The Board of Appeals hereby announces that a **public hearing** will be held on **Tuesday, October 28, 2025, at 6:30 p.m.** This hearing will be conducted in an **in-person** format only, no virtual option will be available. **In-person attendees** should report to the **Charles County Government Building Auditorium located at 200 Baltimore Street, La Plata, MD 20646**. The hearing is **open to the public**, and **public testimony is encouraged**.

Speakers will be allotted three (3) minutes. If a registered speaker is not available when called, the County reserves the right to move onto the next speaker. If you are unable to speak in person, you can submit comments at: <https://www.charlescountymd.gov/government/boards-commissions/board-of-appeals/board-of-appeals-public-comment-and-speaker-registration-form>. For questions regarding public participation, please contact the Clerk to the Board of Appeals via email at BoardofAppeals@CharlesCountyMD.gov.

You can **watch the hearing live** on **CCGTV** through the following options: **Comcast Channel 95**, **Verizon FIOS Channel 10**, or **Online livestream**: <https://www.charlescountymd.gov/services/mediaservices/charles-county-government-television/ccgtv-live-stream>. The full recording of the hearing can be viewed the following business day at <https://reflect-charlescountymd.cablecast.tv/CablecastPublicSite/?channel=1>. Citizens with special needs may contact Lisa Cureton, Clerk to the Board of Appeals, at 240-776-6686 or Maryland Relay Service TDD 1-800-735-2258.

The associated documents for Docket #1476, filed on October 29, 2024, will be available for inspection in the **Department of Planning and Growth Management, Planning Division, Charles County Government Building** or online at: <https://charlescountymd.info/Docket1476> on or after **October 13, 2025**. You may review the full agenda at: <https://www.charlescountymd.gov/government/boards-commissions/meeting-agendas-minutes>.

BOARD OF APPEALS FOR CHARLES COUNTY, MARYLAND

All items scheduled to be discussed or heard at the meeting shall be rescheduled if the notified meeting is canceled due to inclement weather or acts of nature beyond the control of the County.

Charles County Government is an Equal Opportunity Employer

*Maryland Independent: Please publish twice – **October 10, 2025, and October 17, 2025**

Item Cover Page

BOARD OF APPEALS AGENDA ITEM REPORT

DATE: October 28, 2025

SUBMITTED BY: Sherri Davis, Department of Planning and Growth Management

ITEM TYPE: Approval Item(s)

AGENDA SECTION: Public Hearings

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ATTACHMENTS:

[Staff Report](#)
[Location Map](#)
[Zoning Map](#)
[Adjacent Property Owners Map](#)
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[Aerial Map](#)
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[Enviromental Features Exhibit](#)
[Mining Exhibit](#)
[Reclamation Exhibit](#)



Charles County Board of Appeals Meeting of August 26, 2025

Department of Planning and Growth Management Staff Report

**Project Name & Number: Malcolm Mining 1 & 2, SPEX-240005
BOA Docket #1476 – Special Exception Application**

**Type of Project: Special Exception – Use #7.05.110 – Surface Mining of
greater than 10 acres**

Prepared by:

**Kyle Redden, Planner III, Planning Division
For questions, contact the Planning Division at 301-645-0540**

<u>ITEM</u>	<u>PAGE NUMBER</u>
I. Background	2
II. Summary of Applicant's Request	2
III. Standard of Review	2-3
IV. Analysis	3-10
V. Recommendation & Proposed Conditions of Approval	11-12
VI. Appendices:	Attached

I. BACKGROUND

The applicant, Gibbs and Haller has submitted the Special Exception on behalf of the owner Percontee Inc. The Property is located within the Agricultural Conservation (AC) zoning district and is further designated as Parcels 3 & 175 within Grid 2, on Tax Map 17, consisting of approximately 233 acres of land.

The Property is located at 14935 Poplar Hill Road in Waldorf, Maryland and is located on both the north and south sides of Poplar Hill Road near Malcolm Elementary School. The southern parcel has an existing driveway off of Poplar Hill Road.

The adjoining properties are zoned Agricultural Conservation (AC) and are most used agriculturally or residentially. Additionally, Malcolm Elementary school borders the northern parcel on the southwest side and is across Poplar Hill Rd from the southern parcel.

II. SUMMARY OF APPLICANT'S REQUEST

The Applicant is petitioning for a Special Exception, pursuant to Articles XXV, and Use #7.05.110 of the Charles County Zoning Ordinance to allow Surface Mining of greater than 10 acres. Appendix 'A' of the Special Exception application contains a Mining Exhibit which depicts the requested use.

Use #7.05.110 is permissible within the Agricultural Conservation (AC) zone Special Exception approval from the Board of Appeals.

III. STANDARD OF REVIEW

As established in the Zoning Ordinance, specifically § 297-415 H.1-9, the Board of Appeals shall grant a special exception when, from a preponderance of evidence of record, the proposed use: (1) Will not be detrimental to or endanger the public health, safety and general welfare; (2) Is a permissible special exception in the zone; (3) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood; (4) Complies with the standards and requirements set forth in Article XIII; (5) Will cause no objectionable impact from traffic, noise, type of physical activity, fumes, odors, dust or glare; (6) Will provide adequate utilities, water, sewer or septic system, access roads, storm drainage and/or other necessary public facilities and improvements. If a use requires an adequate public facilities review by the Planning Commission, such a review shall be made a condition of the granting of the special exception by the Board; (7) Will provide adequate ingress and egress and be so designed as to minimize traffic congestion in the public streets; (8) Is in accordance with the objectives of the Charles County Comprehensive Plan; and (9) Conforms to the applicable regulations of the zone in which it is located and to the special requirements established for the specific use.

In addition to the test outlined above, the Board of Appeals must also determine whether the application meets the criteria set forth in in §297-212, which are discussed in greater detail in

the pages that follow. As established by § 297-415. Q., the burden of persuasion remains with the applicant, who must demonstrate that the criteria of both §297-212 Use #6.02.310 and §297-415. H. are met.

IV. ANALYSIS

Pertinent Text of Zoning Ordinance

As stated above, the applicant requests a special exception for the following provisions of the Zoning Ordinance:

1. §297-212, Use #7.05.110 of the Zoning Ordinance: Surface Mining of more than 10 acres. The request for Special Exception was evaluated based upon the standards set forth in § 297-212 associated with use #7.05.110 Zoning Ordinance. This is fact specific and is composed of thirteen (13) elements listed with staff findings below.
2. § 297-415. H. The proposed use is subject to the nine criteria outlined above in the Standard of Review Section and listed with staff findings below.

Per Article XIII, §297-212, the minimum standards for the use, 7.05.110, Surface Mining of more than 10 acres are as follows:

This use is permitted by special exception in the AC, RC, WCD, RR, RL, RM, RH, CN, CC, CV, BP, IG, IH, PEP, MX, PMH and TOD Zones, subject to the following standards:

A. Compliance with all applicable local, state or federal laws, regulations or permitting requirements.

Staff Finding: *The proposed mining activity shall be in compliance with all applicable local, State, or Federal laws, regulations, and permitted requirements. Granting of Zoning Approval by Special Exception is a requirement of the Maryland Department of the Environment for issuance of a permit to surface mine.*

B. The approved portion of the tract shall have a buffer to be retained in its natural topographic condition, undisturbed by excavation of mining for a minimum of 100 feet in width. The setback area shall not be used for any purpose except planting, fencing and roads for ingress and egress to the tract. This setback shall be increased to 250 feet if adjoining homes are within 250 feet of the approved portion of the tract. The Board of Appeals may establish wider setbacks as warranted to protect the surrounding community.

Staff Finding: *The applicant has provided a minimum 100 ft setback and a 250 ft setback has been provided in areas where a residential dwelling is within 250 feet of the mine site to comply with the Charles County Zoning Ordinance.*

A 300 ft setback has been provided from Malcolm Elementary school in which mining will only

occur during summer months, within that setback.

C. The height of structures below the maximum allowed and any man-made landform may be limited by the Board.

Staff Finding: *There are no structures proposed as part of this request.*

D. Equipment for washing, sorting, crushing, grinding, loading, unloading, spreading, weighing, screening, sizing or similar operations shall not be located within 750 feet of an existing home. Any such use shall be at least 300 feet from any property line, except that the Board may permit sedimentation ponds to be closer than 300 feet but not closer than 100 feet to such property line if the applicant demonstrates the topographic necessity of such a location and that sufficient safeguards will be provided for the protection of neighboring residents and uses.

Staff Finding: *No washing or processing is proposed on-site, therefore this criterion is not applicable.*

E. All operations shall be conducted in a safe manner to prevent hazards to persons, physical or environmental damage to lands and improvements or damage to any street, bridge or public right-of-way. All operations must conform to the performance standards contained in Article II, §297-32 and 297-33, established for the IG Zone.

Staff Finding: *The applicant is required to obtain all applicable permits from state agencies, including MDE, the agency that enforces the State Air Pollution Control Law. As required, the site will be inspected by the U.S. Department of Labor, Mine Safety Health Administration (MSHA). MDE will also periodically inspect for compliance with State and Federal permit requirements.*

F. Existing trees and ground cover along public road frontage and lot lines shall be preserved, maintained and supplemented by selective cutting, transplanting and addition of new trees, shrubs and ground cover.

Staff Finding: *The applicant's Mining Exhibit indicates that they will adhere to the buffers required by MDE. Staff finds the proposed Mining Exhibit to meet the requirements of this criterion.*

G. Buffer areas around environmental features shall be consistent with the standards established by the Resource Protection Overlay Zone. No disturbance or grading shall occur within these buffer areas.

Staff Finding: *The applicant depicted a 100 ft Wetland Buffer and Resource Protection Zone (RPZ) on the Buffer and Setback exhibit. The Wetland Buffer is consistent and, in some areas, greater than the RPZ, as required by the Charles County Zoning Regulations. Per the applicant, environmental features within the 100 ft Wetland Buffer will remain undisturbed. The overall disturbance will be reviewed and permitted by MDE during their review process.*

H. Excavated area shall be maintained thoroughly drained, except for draining and ponding areas which are used for production.

Staff Finding: *The proposed sediment traps are shown on the Mining Exhibit. The mining site will also be required to submit a sediment and erosion control plan to the Charles County Soil Conservation District prior to final approvals and Development Services Permits.*

I. Roads in the permit area for ingress and egress from excavation areas to public roads shall not be less than 20 feet wide and shall be hard-surfaced and maintained for a distance of 150 feet from the public road into the excavation area. All other roads shall be treated as needed with a preventative to control dust. For any roads which cross a utility right-of-way, the applicant shall obtain a permit for the crossing from the utility company and shall submit copies of the permit with the special exception application.

Staff Finding: *All haul roads within the site must be at least twenty (20) feet wide and must also be routinely treated with a preventative to help with dust control.*

The Transportation Planner of the Codes Permits, and Inspections Services (CPIS) Division within the Charles County Department of Planning and Growth Management (PGM) did not object to the application. Final engineering will be reviewed when a Development Services application is submitted by the applicant to the Charles County Department of Planning and Growth Management, CPIS Division.

J. The Board of Appeals shall limit the permit to operate such quarry to a specific expiration date.

Staff Finding: *Per the relevant portions of East Star, LLC et al. v. The County Commissioners of Queen Anne's County, Special Exception time limits are enforced by MDE for surface mining. Changes to a mining permit from MDE may require the Applicants to revise its Special Exception.*

Staff has recommended a Condition of Approval stating the special exception shall be effective and run concurrently with MDE's permit if the Board decides to approve the application. The condition will stand as such so long as the relevant portions of East Star, LLC et al. v. The County Commissioners of Queen Anne's County remain good law.

K. Operation hours for excavation processing and filling operations will be established by the Board and shall be restricted to no more than nine hours daily between 6:00 a.m. and 4:00 p.m., except that Saturday operations may be permitted between 7:00 a.m. and 3:00 p.m. No blasting shall be permitted between the hours of 6:00 a.m. and 7:30 a.m. No operation shall be permitted on Sundays except for repairs to equipment. The Board may further limit hours of operation based on the impact of traffic and operations on the surrounding community.

Staff Finding: *The Applicants are requesting approval of operating hours that are consistent with the criteria in Section 297-212 of the Zoning Ordinance. The mining operation will be active*

during the hours of 7:00 a.m. to 3:30 p.m. on weekdays. Additionally, the applicant has noted that there will not be any mining on Saturdays instead there will be truck repairs and similar activities conducted on Saturdays between 7:00 a.m. to 3:30 p.m. No Sunday operations are permitted. The operation will not utilize blasting.

L. Truckloads.

- (1) The maximum number of truckloads hauled from a site shall not exceed the following:

Site Loads Per Day	
Mining site of more than 100 acres	20 to 200 loads per day
Mining site of 51 to 100 acres	20 to 150 loads per day
Mining site less than 51 acres	100 or less loads per day

- (2) The Board may reduce the maximum loads per day after weighing factors such as haul roads, routes, traffic patterns, number of trucks, nature of the community and proximity to schools, churches, businesses and inhabited dwellings.

Staff Finding: The request before the Board is to allow a maximum of 200 truckloads per day which is consistent with other mining operations in the County. The traffic study provided by the Applicants demonstrates the intersections will operate successfully inclusive of the proposed truck trips.

M. A site plan shall be submitted for approval to the Board at the time when the application is filed, showing the following:

- (1) Setback area, including screening and fencing. The Board shall consider fencing for protection of pond areas, particularly when adjacent to residential communities.

Staff Finding: The Mining Exhibit shows setback areas consistent with State law. The Applicants have indicated that the required COMAR buffer will be provided around the perimeter of the mining site.

- (2) The portion of tract, if any, actually being excavated and proposed excavation areas.

Staff Finding: The proposed mining envelope is shown on the plans.

- (3) Existing and proposed structures and major mechanical equipment.

Staff Finding: Per the Site Plan provided by the Applicants, no structures are proposed. The location of the currently existing structures on the site are proposed to be within the mining envelope, therefore the buildings are proposed for removal.

(4) Existing and proposed access roads.

Staff Finding: *The existing driveway and the proposed haul roads have been shown on the site plan provided by the Applicants.*

(5) Water supply and sewage disposal.

Staff Finding: *No water or sewer is proposed.*

(6) All necessary pollution control measures.

Staff Finding: *The pollution control measures, and stockpile areas are shown on the plan. The Applicants will be required to obtain approval of a sediment and erosion control plan from the Charles County Soil Conservation District.*

(7) The stockpile area.

Staff Finding: *Stockpile areas are shown on the plan.*

(8) Points of access to the site and provisions to control unauthorized entry to the site along the entire perimeter.

Staff Finding: *Each parcel (north and south) have a singular access point and haul road, the locations are shown on the Mining Exhibit.*

(9) A traffic and road condition study to determine the adequacy of the road network and the structural elements serving the site for truck traffic to be generated by the quarry.

Staff Finding: *A review of these documents by the Charles County Department of Planning and Growth Management Transportation Engineer determined the surrounding road systems impacted by the typical haul route can accommodate the modification to the existing mining operation.*

(10) Environmental features, including topography, steep slopes, hydric and erodible soils, wetlands, one-hundred-year floodplain and forested areas.

Staff Finding: *The Site Plan provided by the Applicants includes topography, soils, wetlands, forested areas, streams, and stream buffer areas that meet the requirements of the Zoning Regulations and/or applicable state regulations. All applicable features are shown on the Mining Exhibit.*

(11) Historic resources, including sites not previously cataloged, shall be identified and a description provided of how these resources will be protected.

Staff Finding: *The applicant submitted a Phase IA Archaeological Identification Survey of the subject property, and a Condition of approval is indicated in this staff report indicating a Phase 1B is to be submitted and reviewed by the County Archeologist to determine if any further study is necessary.*

- (12) The Board may request that an environmental impact analysis of an application be conducted by the applicant and submitted to the County staff for review and comment.

Staff Finding: *An environmental impact analysis is typically conducted to assess the potential impact a proposed development project will have on the natural and social environment. This may include short- and long-term effects on the physical environment such as air, water, and/or noise pollution, as well as on local services, living and health standards, and aesthetics.*

The Applicants will be required to provide a reclamation plan to MDE as part of their review process. The Board may request an environmental impact analysis for review; however, the County is limited in its ability to enforce the provisions that may arise from such an analysis. Environmental impacts for surface mining projects are largely regulated, approved, and monitored by MDE.

Per Article XXV, §297-415, H, the Board of Appeals shall grant a special exception when, from a preponderance of the evidence of record, the proposed use:

Please note that only staff's findings are provided for the criteria below. The Applicant's responses to these criteria are provided within the associated *Amended Justification Statement*, which is attached for your review and consideration.

1. Will not be detrimental to or endanger the public health, safety and general welfare.

Staff Finding: *The Applicants have provided a detailed analysis of the Property and surrounding neighborhood in order to demonstrate the proposed use will not be detrimental to public health, safety, and general welfare. The subject parcel is located in a low density, rural area, and buffers, if required by MDE, will be used to mitigate potential impacts from noise. The Applicant is required to obtain permits from the Maryland Department of the Environment (MDE), the regulatory agency for potential impacts to air and water health. The request before the Board is for approval of a new mining operation. The new haul road will be at least twenty feet wide to accommodate truck access and to allow for a controlled ingress and egress area. Staff has recommended conditions pertaining to overall operations. These conditions coupled with the requirement for the use to meet all applicable federal, state, and local regulatory requirements, will ensure the use will not be detrimental or endanger the public health, safety and general welfare.*

2. Is a permissible special exception in the zone.

Staff Finding: *The subject property is zoned Agricultural Conservation (AC). Surface mining of more than 10 acres is permitted in the AC Zone by Special Exception.*

3. Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood.

Staff Finding: *Evidence does not appear to exist that the mining operation would be detrimental to the use, peaceful enjoyment, economic value or development of the surrounding properties or neighborhood. The surrounding area is rural with low density residential and agricultural uses.*

Additionally, the vegetated buffers and 300ft setback while school is in session will be used to address potential noise impacts and ensure peaceful enjoyment of neighboring properties is sustained. Most properties are already developed with low density residential or agricultural uses. Buffers provide screening to protect the economic value and potential development of neighboring properties. Upon completion of surface mining, the mined areas will be stabilized and seeded. The project area is required to be fully reclaimed, thereby preventing loss of economic value to surrounding properties.

4. Complies with the standards and requirements set forth in Article XIII.

Staff Finding: *Staff findings addressing the Special Exception compliance with Article XIII are addressed above.*

5. Will cause no objectionable impact from traffic, noise, type of physical activity, fumes, odors, dust or glare.

Staff Finding: *As stated by the Applicants, a Noise Study was conducted, and the applicant has confirmed that under no circumstances will the noise level exceed the Decibel level (90dBA) during mining operations.*

Odors, fumes, and glare are not typically associated with mining activities. Dust generated during dry weather conditions associated with truck movement will be mitigated for using the water truck, as required.

This proposal for Surface Mining includes a Traffic Impact Study, which analyzes the surrounding road system, e.g. intersections, which are impacted by the typical haul routes. A Traffic Impact Study (TIS) was conducted, and it was found that the use will not adversely affect the adequacy of the public road system.

6. Will provide adequate utilities, water, sewer or septic system, access roads, storm drainage and/or other necessary public facilities and improvements. If a use requires adequate public facilities review by the Planning Commission, such review shall be made a condition of the granting of the special exception by the Board.

Staff Finding: *The mining operation does not require use of groundwater, septic, public water, public sewer or other public utilities.*

Additionally, A Traffic Impact Study (TIS) was conducted and it was found that the use will not adversely affect the adequacy of the public road system.

7. Will provide adequate ingress and egress and be so designed as to minimize traffic congestion in the public streets.

Staff Finding: *The point of public road access to the Subject Parcels from Poplar Hill Rd and the design of the site entrance will be established in accordance with the access permit requirements reviewed by the County Engineer.*

8. Is in accordance with the objectives of the Charles County Comprehensive Plan.

Staff Finding: *The proposed use is in accordance with chapter 13 “Mineral Resources” of the Charles County Comprehensive Plan 2016 as it helps meet Goal 13.1: “supports the extraction and procession of mineral resources and related operations while safeguarding the public health and welfare and the environment by minimizing possible negative impacts resulting from extracting and transportation to the maximum extent practicable”. The applicant also meets the polices and actions for mineral resources as stated in the 2016 comprehensive plan.*

The Special Exception also meets chapter 7 “Economic Development” of the Charles County Comprehensive Plan, as it meets goal 7.2: “strengthen the county economic base through growth and expansion and existing businesses and industry”

In conclusion, staff finds the special exception to be in accordance with the Comprehensive Plan as required under §297-415 (H) (8) of the County Zoning Ordinance.

9. Conforms to the applicable regulations of the zone in which it is located and to the special requirements established for the specific use.

Staff Finding: *Per the findings above regarding the requirements of Article XIII and the AC Zone, the applicable regulations appear to be satisfied. The mining operation appears to comply with all requirements applicable to industrial uses as defined in Figure VI-6 of the Zoning Regulations.*

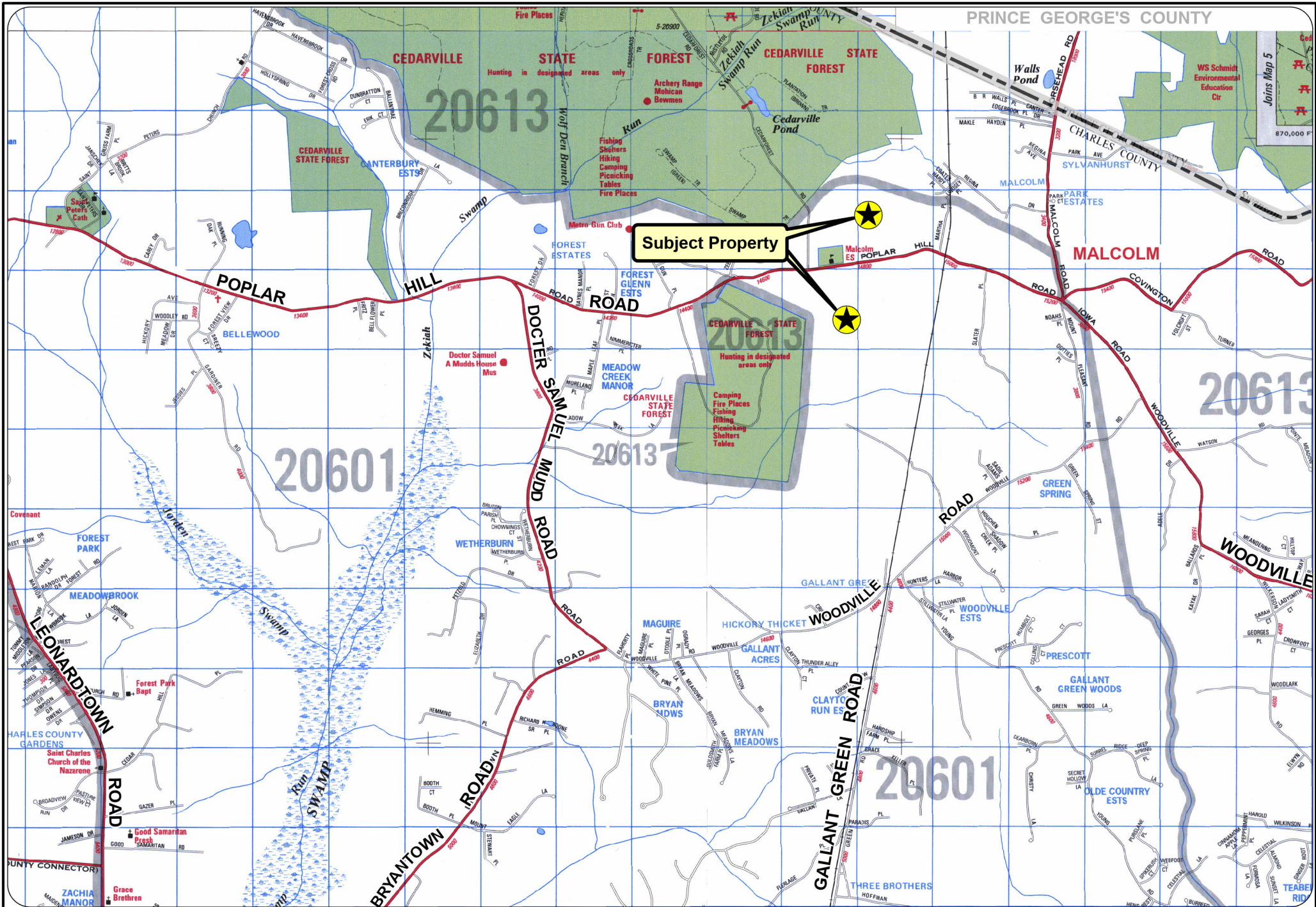
V. Recommendation & Proposed Conditions of Approval:

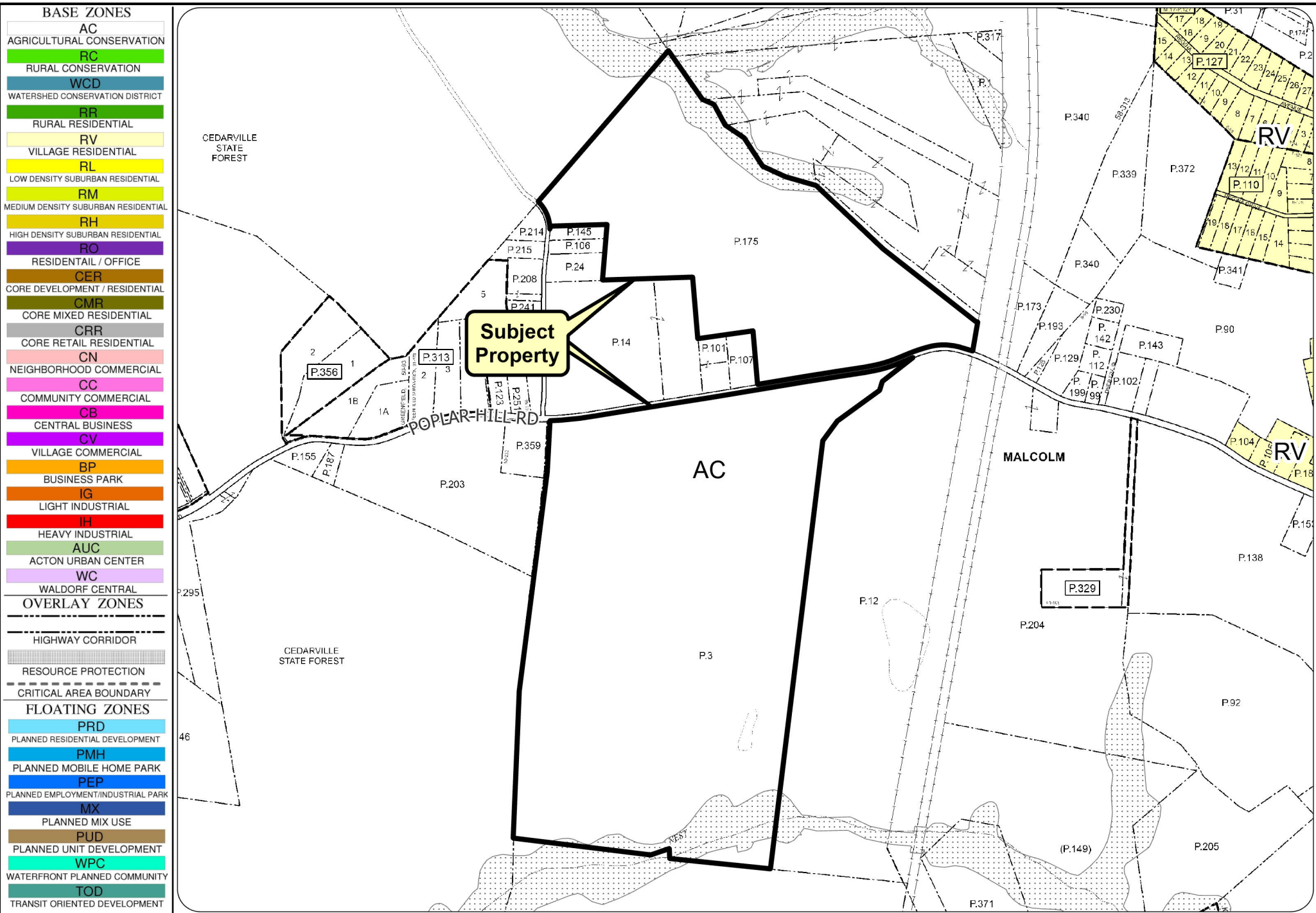
As documented within the staff report, staff finds that the Special Exception application for Use #7.05.110 of the Zoning Ordinance: Surface Mining of more than 10 acres, complies with the criteria as outlined and therefore we recommend approval with the following **Conditions of Approval** for the purposes of adequately and completely addressing requirements of the Zoning Ordinance:

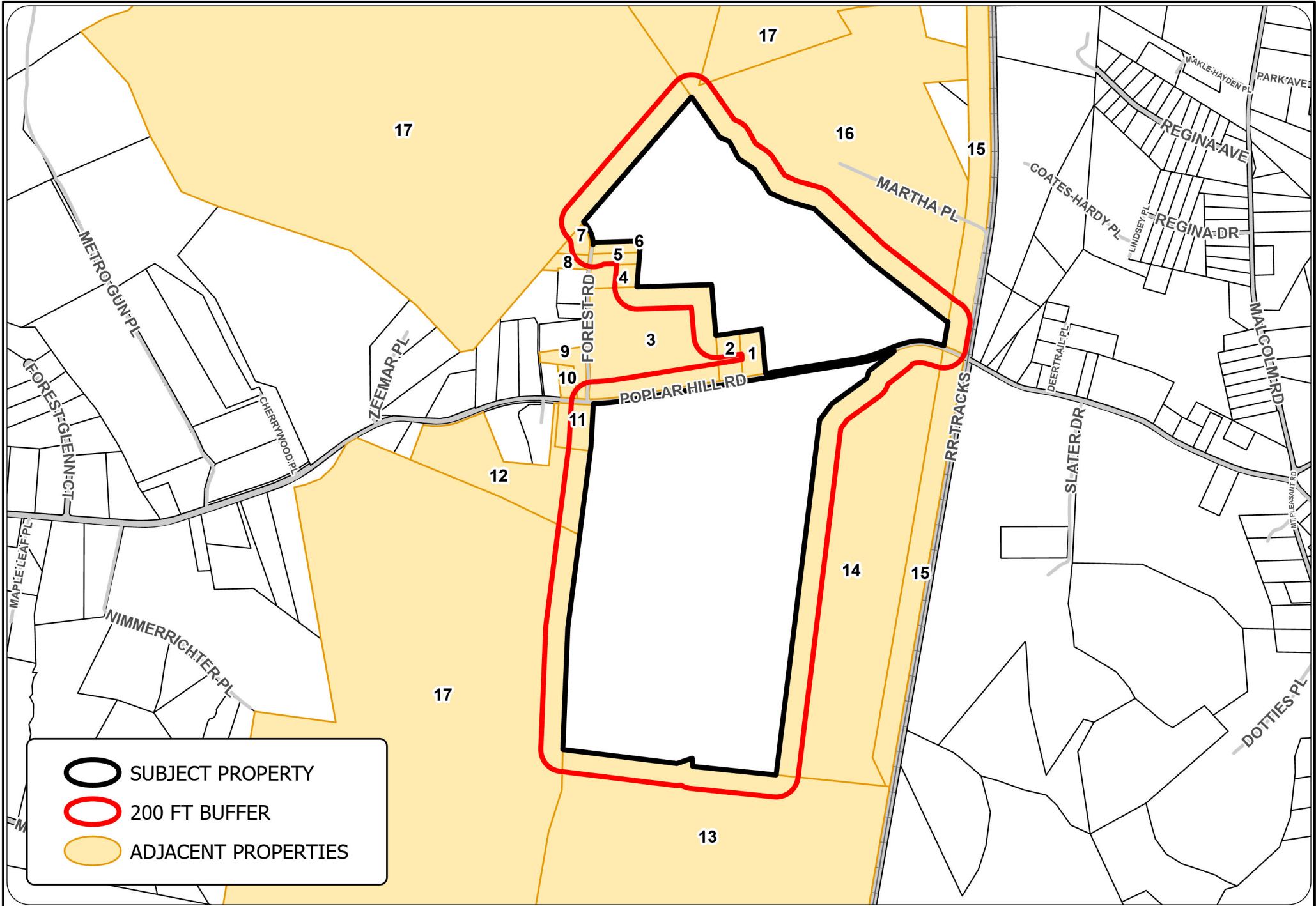
1. Per Article XVIII, Section 297-298 and Article XXXI, Section 297-512 of the Charles County Zoning Ordinance, cultural resource investigation, including archaeology, is recommended for the property. No development services permits shall be issued until a Phase IB study of the property has been completed and reviewed by the County Archaeologist, who will determine if additional work beyond a Phase IB study is warranted.
2. The approval and continued effect 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 Ordinance, Noise Ordinance, Grading and Sediment Control Ordinance, Road Ordinance, Storm Water Management Ordinance, Forest Conservation Ordinance, and Floodplain Ordinance.
3. The requested Special Exception, Docket #1414, for surface mining is granted from the date of the Board's Order and shall be effective during and run concurrently with the Maryland Department of Environment's (MDE) license and/or permit. If the Applicants renew or seek to modify their license and/or permit from MDE, the Applicants shall notify the Charles County Planning Division immediately. Changes to a mining license and/or permit from MDE will require the Applicants to renew their special exception with the Board of Appeals for Charles County. Should the relevant portions of *East Star, LLC, et al. v. The 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 Applicants may apply for renewal as necessary.
4. The Applicants must obtain and maintain Sediment and Erosion Control Permit(s) from the Charles County Soil Conservation District prior to the commencement of work or construction.
5. The Applicants must obtain any/all required permits from MDE for any disturbances to streams or nontidal wetlands prior to County issuance of a Development Services Permit for disturbances to streams and/or nontidal wetlands that occur within the scope of the work performed pursuant to a Development Services Permit.
6. The maximum number of truckloads per day shall not exceed the 200 truckloads per day.
7. The Board of Appeals for Charles County, Maryland, after proper notice and hearing, may suspend and/or revoke this Special Exception, provided findings by the Board of Appeals that any of the above-stated conditions have not been subject to full compliance by the Applicants, its agents, assignees, or successors in interest.

8. The Applicants shall treat interior haul roads for dust control as needed with a water truck.
9. The Applicants shall obtain a Development Services Permit and follow the Charles County 3-step stormwater management permitting process for construction of the new haul road(s).
10. No blasting of mining material shall be permitted on site.
11. Special Exception approval is limited to the proposed mining area, as delineated on the Mining exhibit as attached in the Appendices of this Staff Report.

VI. Appendices- Attached







-  SUBJECT PROPERTY
-  200 FT BUFFER
-  ADJACENT PROPERTIES

0 500 1,000 2,000 Feet



SCALE

DRAWN BY:

CHECKED BY:

CHARLES COUNTY GOVERNMENT

Department of Planning and Growth Management

200 Baltimore St
La Plata, MD 20646
(301)645-0627



DATE

AUG 2025

Malcolm 1 & 2 Mining
SPEX 240005 / DOCKET 1476
ADJACENT PROPERTY MAP
CHARLES COUNTY, MD

PROP NUM	ACCTID	PREMISE ADDRESS	CITY	STATE	ZIP
1	0908010757	14860 POPLAR HILL RD	WALDORF	MD	20601
2	0908016097	14850 POPLAR HILL RD	WALDORF	MD	20601
3	0908032882	14760 POPLAR HILL RD	WALDORF	MD	20601
4	0908018979	3380 FOREST RD	WALDORF	MD	20601
5	0908007608	3360 FOREST RD	WALDORF	MD	20601
6	0908023506	3350 FOREST RD	WALDORF	MD	20601
7	0908023557	3355 FOREST RD	WALDORF	MD	20601
8	0908026033	3365 FOREST RD	WALDORF	MD	20601
9	0908013578	3455 FOREST RD	WALDORF	MD	20601
10	0908011753	14700 POPLAR HILL RD	WALDORF	MD	20601
11	0908066612	14665 POPLAR HILL RD	WALDORF	MD	20601
12	0908013616		WALDORF	MD	20601
13	0908025983		WALDORF	MD	20601
14	0908007624	14991 POPLAR HILL RD	WALDORF	MD	20601
15	0909006931	POPLAR HILL RD	WALDORF	MD	20601
16	0908023247	3325 MARTHA PL	WALDORF	MD	20601
17	0908032831		BRANDYWINE	MD	20613

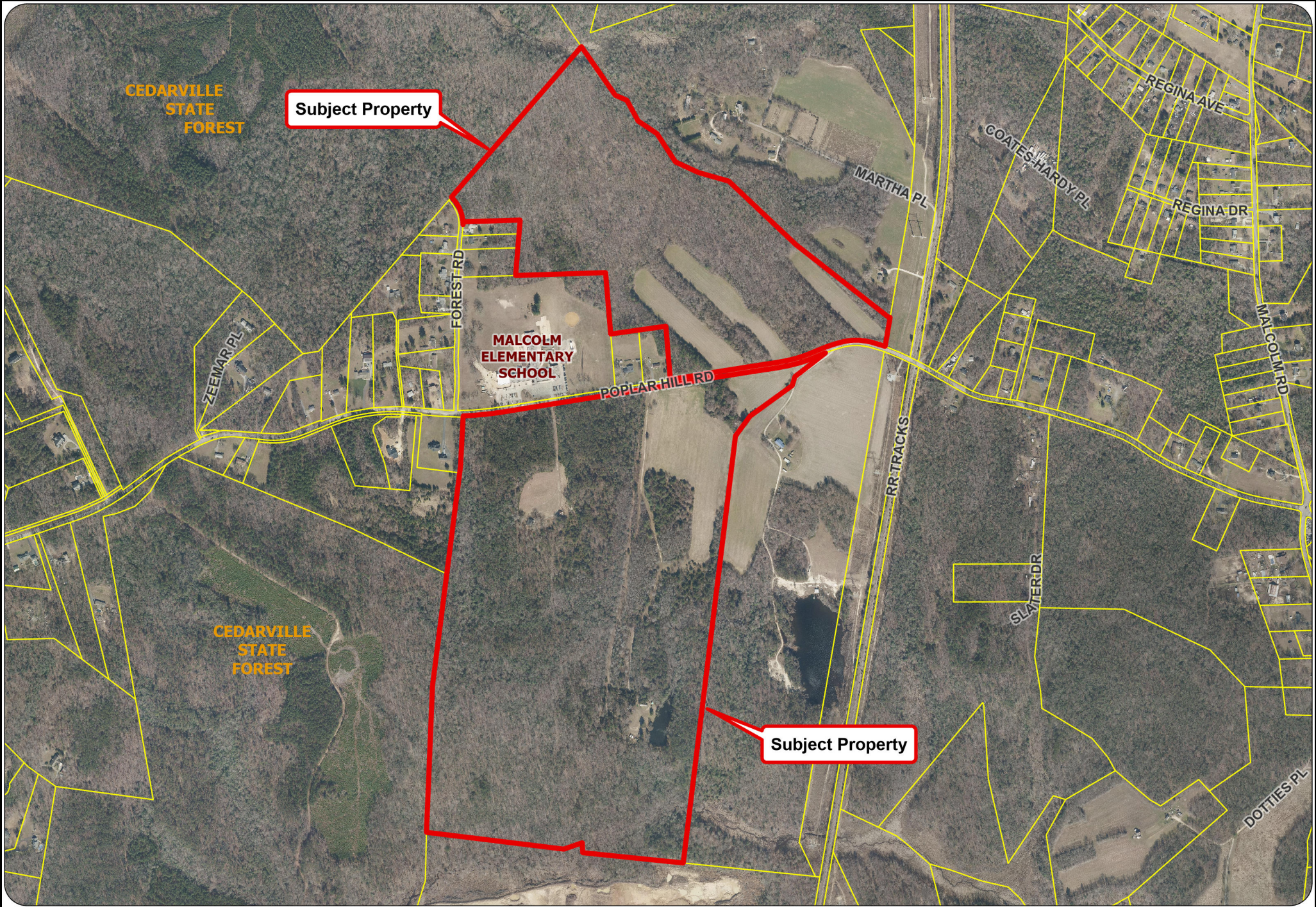
Owner data current as of May 2025

OWNNAME1	OWNER MAILING ADDRESS	OWNCITY
MCLEAN DRUSILLA L	14860 POPLAR HILL RD	WALDORF
HAWKINS CATHERINE M & SWYNICE M	14850 POPLAR HILL RD	WALDORF
BRD OF EDUCATION OF CHARLES CO MD	PO BOX 2770	LA PLATA
HARLEY MILDRED A & LESTER M	3380 FOREST RD	WALDORF
ADAMS JOHN S & GLADYS	C/O FAYE JOHNSON, 15701 ALHAMBRA C	ACCOKEEK
BROWN KAILA M	3350 FOREST RD	WALDORF
BROWN ANGELO & CYNTHIA	3355 FOREST RD	WALDORF
SMITH GEORGE A & DOROTHEA H	3365 FOREST RD	WALDORF
CHAPMAN CHARLES H & KEITH M GRAY	PO BOX 1323	WALDORF
DRIVER HELEN L	14700 POPLAR HILL RD	WALDORF
BROOKS RENEE	14665 POPLAR HILL RD	WALDORF
MATTHEWS AGNES LORRAINE	3405 FOREST RD	WALDORF
RF PROPERTIES LLC	PO BOX 2000	GAMBRILLS
NIMMERRICHTER BETTY & M NEVITT ETA	14991 POPLAR HILL RD	WALDORF
PEPCO	701 NINTH STREET NW	WASHINGTON
THE SHEEN INSTITUTE INC	289 SOUTH CULVER ST	LAWRENCEVILLE
DEPT OF FORESTS & PARKS, CEDARVILLE	TAWES STATE OFFICE BUILDING	ANNAPOLIS

OWNSTATE	OWNERZIP	RESIDENT AGENT	RESIDENT ADDRESS	PRINCIPAL OFFICE
MD	20601			
MD	20601			
MD	20646			
MD	20601			
MD	20607			
MD	20601			
MD	20601			
MD	20601			
MD	20604			
MD	20601			
MD	20601			
MD	20601			
MD	21054			
MD	20601			
DC	20068			
GA	30046			
MD	21401			

LEGAL1	LEGAL2	LEGAL3	DR1LIBER
IMPS 2 AC	RT 382 NR MALCOLM		10479
IMPS 2 AC	N SI RT 382		01306
IMPS 26.42 AC	N SI OF RT 382	MALCOLM ELEM SCHOOL	00113
IMPS 2 AC	ROAD TO STATE FOREST		01066
IMPS 1 AC	E/S RD TO STATE FOREST		00166
IMPS 1 AC	E SI FOREST RD		08970
IMPS 1.205 AC	RT 382 W CEDARVL FRST RD		12237
IMPS 1.205 AC	RT 382 W CEDARVILLE RD		00191
IMPS 1.96 AC	RT 382 W SI FOREST RD		06004
IMPS PARCEL B = 1.00 AC	N SI RT 382		10013
IMPS LOT A 3.000 AC	RT 382 W OF MALCOLM		08097
19.07 AC	RT 382 W OF MALCOLM		10889
152.9651 AC.	OFF N SI AQUASCO RD		07499
IMPS 42.204 AC	S SI RT 382		07769
ROW CROSSES POPLAR HILL ROAD	ADJACENT TO RR TRACKS		
IMPS 108.9754 AC	N SI OF RT 382		13214
1500 AC	N SI OF RT 382		

DR1FOLIO	LOT	MAP	GRID	PARCEL
0451		17	2	107
0430		17	2	101
0314		17	2	14
0545		17	2	24
0271		17	2	106
0223		17	2	145
0175		17	1	214
0476		17	1	215
0104		17	1	136
0311		17	1	251
0397	A	17	7	359
0268		17	7	203
0412		17	14	97
0078		17	8	12
		0	0	0
0098		10	20	29
		9	24	0



0 500 1,000 2,000 Feet



SCALE

DRAWN BY:

CHECKED BY:

CHARLES COUNTY GOVERNMENT

Department of Planning and
Growth Management

200 Baltimore St
La Plata, MD 20646
(301)645-0627



DATE

AUG 2025

Malcolm 1 & 2 Mining
SPEX 240005 / DOCKET 1476

AERIAL MAP
CHARLES COUNTY, MD

AMENDED
STATEMENT OF JUSTIFICATION
IN SUPPORT OF SPECIAL EXCEPTION
FOR SURFACE MINING MORE THAN TEN ACRES
MALCOLM 1 AND 2

The Owner of the property forming the subject matter of this application is Percontee Inc. The Applicant is Rock Hill Sand and Gravel Corporation ("Rock Hill"). Rock Hill is a subsidiary of Percontee Inc. Both Percontee Inc. and Rock Hill have substantial experience in the mining of sand and gravel in southern Maryland and in particular in both Charles County and Prince George's County.

The property forming the subject matter of this Special Exception consists of two individual parcels. The first parcel, Parcel 3, consists of approximately 152.21 acres which is located on the south side of Poplar Hill Road, just west of its intersection with Malcolm Road. Parcel 3 is shown depicted on Tax Map 17, Grid 2. It is also, for purposes of this application, designated as "Malcolm 1". The second parcel is known as Parcel 175 which consists of approximately 80.96 acres which is located on the north side of Poplar Hill Road also immediately west of its intersection with Malcolm Road. Parcel 175 may also be found depicted on Tax Map 17, Grid 2. For purposes of this application, Parcel 175 is designated "Malcolm 2". Together, the properties

comprise a total of approximately 243.17 acres (the "Property"). Percontee acquired the Property in July of 2012 pursuant to a deed recorded among the Land Records of Charles County in Book 7866, Page 45 (Parcel 3) and a deed also dated July 19, 2012 and recorded among the Land Records of Charles County in Book 7866, Page 54 (Parcel 175). The Property is presently unimproved and is wooded. It also includes open areas and environmentally sensitive areas, including wetlands. The Property is shown outlined in red on an aerial photograph, a copy of which is marked Exhibit "A" and attached to this application.

The Property is located in the AC (Agricultural Conservation) Zone. A copy of the Zoning Map is attached hereto as Exhibit "B". Again, the Property is shown outlined on Exhibit "B" in red.

SURROUNDING NEIGHBORHOOD

As discussed above, the Property consists of two parcels which are located on the north and south sides of Poplar Hill Road immediately west of its intersection with Malcolm Road. Just west of Malcolm Road is a railroad line which runs generally in a north and south direction. Poplar Hill Road runs generally in an east-west direction. Immediately southwest of Parcel 175 is the Malcolm Elementary School. The school consists of a building for the instruction of students and recreational fields surrounding the building. Immediately west of the Malcolm Elementary School is an

unpaved road running in a north-south direction immediately north of Poplar Hill Road. This road is known as Forest Road. Scattered single family residences are located primarily on the west side of Forest Road. As Poplar Hill Road proceeds in a westerly direction, there are scattered single family detached homes. Farther west on the north side of Poplar Hill Road is the Forest Glen Estates single family detached subdivision. Ultimately, Poplar Hill Road intersects with Samuel Mudd Road. The Dr. Samuel A. Mudd historical home and museum is located south of Poplar Hill Road on Samuel Mudd Road. The Cedarville State Forest and Campground is located both north and south of Poplar Hill Road west and northwest of Parcels 3 and 175. Immediately north of Cedarville State Forest is the Prince George's County boundary line with Charles County. The general neighborhood may be characterized as substantially undeveloped in close proximity to the Property. Progressing west from the Property are scattered single family detached homes and neighborhoods. An Aerial Plan has been filed with this application which also shows the Property outlined in red. This Aerial Plan depicts the uses immediately surrounding the Property.

DEVELOPMENT/MINING PROPOSAL

Rock Hill proposes to surface mine the Property to extract sand and gravel. A Mining Plan has been filed with this application. While Malcolm 1 (Parcel 3) consists of 162.21± acres, only 84.36± acres are proposed to be mined. Similarly, while Malcolm 2 (Parcel 175) consists of 80.96± acres, only 44.63± acres are proposed to be mined. Therefore, out of a total of 243.17± acres, only approximately 128.99± acres are proposed to be mined. As can be seen from a review of the Mining Plan, the areas proposed to be mined are divided into cells. Malcolm 1 has two mining cells designated Cell A and Cell B. Malcolm 2 also has two cells which are designated Cell C and Cell D. Both Malcolm 1 and Malcolm 2 will be accessed from Poplar Hill Road via an onsite haul road. The Applicant proposes to mine a maximum of 200 truckloads of sand and gravel per day. Rock Hill currently operates a wash plant, known as the Duley plant, located off of Brandywine Road in Prince George's County. The proposed haul route will send trucks from each of the two mining sites east on Poplar Hill Road. Trucks accessing Malcolm 1 will enter the mining site proceeding west on Poplar Hill Road and will take a left turn into the mining site. Exiting the site, trucks will turn right and proceed east on Poplar Hill Road. The haul route will require trucks to turn left on Malcolm Road and proceed north where they will cross into Prince George's County. At that point, Malcolm Road becomes Horsehead

Road. Trucks will continue in a northerly direction until they intersect with Brandywine Road. From there, trucks will continue north and turn right into the wash plant on Gibbons Church Road. The reverse direction will be used when returning to the mining site. Similarly, trucks entering the Malcolm 1 mining site will enter by proceeding west on Poplar Hill Road and turning right into the mining site. Once loaded, trucks will exit Malcolm 2 and turn left onto Poplar Hill Road. From that point, trucks will utilize the same haul route as trucks exiting the Malcolm 1 mining site. Utilizing these access points and turning movements to proceed to the wash plant, insures that trucks will not be passing the Malcolm Elementary School.

Rock Hill proposes that to the extent reasonably possible, it will not mine in close proximity to the Malcolm Elementary School while school is in session. Rather, those areas in close proximity to the school will be mined during summer months when school is not in session. The mining operation itself will generally involve areas comprising approximately 30 acres. During mining operations, ten acres will be cleared while ten other acres will be mined. As mining progresses, the ten acres which have just been mined will be in the reclamation process. This is known as the 10-10-10 approach. The mining cells as shown on the mining plan are dictated by preserving buffers around the perimeter of the Property and by preserving environmentally sensitive features

within the Property. These sensitive environmental features are shown on the Environmental Features Plan which has been filed with this application. This exhibit is color coded and shows forested areas, open space and resource protection zones.

The Special Exception application also includes a Reclamation Plan. This plan shows existing tree lines which will be preserved, wetlands areas and zoning buffers for resource protection areas including wetlands and existing forests. Areas which have been mined will be planted in such a manner as to result in permanent open meadows.

CONFORMANCE WITH STATUTORY CRITERIA

Pursuant to the Charles County Zoning Ordinance, mineral extraction pursuant to surface mining is permitted in the AC Zone by grant of a Special Exception. Pursuant to Article XXV of the Zoning Ordinance, Section 297-409, the Charles County Board of Appeals is charged with hearing and deciding applications for Special Exceptions (Section 297-409(A)(2)). The Board of Appeals convenes a formal hearing open to the public (Section 297-412). At this hearing, the Applicant has the burden of producing evidence establishing that the requested special exception meets all applicable criteria as set forth in the Zoning Ordinance.

ARTICLE XXV, SECTION 297-415(H)

Any Special Exception Application must conform to and meet the General Requirements for the grant of a special exception as

set forth in Section 297-415(H) of the Charles County Zoning Ordinance. That section has a number of subsections. Each subsection shall be analyzed sequentially.

H. The Board of Appeals shall grant a special exception when, from a preponderance of the evidence of record, the proposed use:

(1) Will not be detrimental to or endanger the public health, safety and general welfare.

RESPONSE: This application has been prepared only after completing a detailed review of the Property and cataloging its characteristics, including natural and sensitive environmental features. Further, all required provisions of the Zoning Ordinance have been analyzed and will be complied with in obtaining approval of this special exception and in executing on said approval by actually surface mining the Property pursuant to a Mining Permit issued by MDE. Conformance with these provisions will insure that the public health, safety and general welfare will be preserved. Specifically, certain aspects of the Applicant's deliberative analysis must be detailed.

The property forming the subject matter of this application is located in a rural low density area of Charles County. As noted above, there are scattered single family detached residences which are primarily located to the west of the proposed mining operation. To the north is the Cedarville State Forest and a forested area is also actually located to the south. A major PEPCO transmission

line is located east of the Property and runs generally in a north-south direction. Also located to the east is a railroad line which runs generally in a north-south direction. As mentioned earlier, the Malcolm Elementary School abuts Parcel 175 on the north side of Poplar Hill Road. As explained above, and as will be discussed in greater detail *infra*, substantial commitments will be made to insure no adverse impacts on the school or any of the students who attend the school.

Care will be taken and the Applicant will certify that no trucks will approach the mining area from the west along Poplar Hill Road. Instead, as detailed above, trucks will enter the site from Malcolm Road by turning on to Poplar Hill Road and then turning either left or right into Parcel 175 or Parcel 3 respectively. Once loaded, trucks will exit the site by entering onto Poplar Hill Road and proceeding east to Malcolm Road and thereafter proceeding north. In this manner, truck traffic will be minimized on Poplar Hill Road and no trucks will be traversing Poplar Hill Road in front of the Malcolm Elementary School. This truck route will also serve to minimize impacts to the single family residential homes located along Poplar Hill Road west of the mining site.

The haul route has also been specially designed to minimize impacts on residential property in the area. As discussed earlier, the trucks carrying materials will proceed to the wash plant owned

and operated by the Applicant and which is located in Prince George's County. Therefore, the haul route will include proceeding east on Poplar Hill Road and then turning left, to go north on Malcolm Road. Malcolm Road transitions into Horsehead Road at the Prince George's County line. From there, trucks will continue north to intersect with Brandywine Road. The Duly Wash Plant, owned and operated by the Applicant and Owner, will receive mined materials. At that location, the material will be sorted and washed. Trucks will then return to the mining site by utilizing the same haul route. A map illustrating the haul route has been filed with this application.

As also indicated earlier, only small areas within the Property will be open for mining and extraction of sand and gravel at any given time. Utilizing a 10-10-10 formula which puts approximately 30 acres of the site in an active status at any given time, the Applicant will insure that impacts from mining are minimized. Utilizing this formula, 30 acres will always be involved in the process. This will include clearing ten acres, mining ten acres, and at the same time, reclaiming ten acres. Thus, as mining progresses through the site there will always be a new area being cleared and there will always be an area where mining has already occurred and which is being filled and reclaimed.

It is the Applicant's plan and proposal to limit mining to five days a week (Monday through Friday) between the hours of 7:00 a.m. and 3:30 p.m. While the Zoning Ordinance allows mining operations to occur on Saturday, the Applicant has decided not to mine on weekends and to restrict any Saturday operations to truck repair and similar activities between 7:00 a.m. and 3:30 p.m.

The area proposed to be mined has been substantially limited. On Parcel 175 (located north of Poplar Hill Road) there are proposed to be two mining areas which are designated Cell C and Cell D. On the south side of Poplar Hill Road there are proposed to be two mining areas designated as Cell A and Cell B. The Applicant proposes the following sequence of mining which will involve commencing the mining operation in Cell B. Once that area is completed, the mining operation will proceed northward into Cell A. After all mining on the south side of Poplar Road has been completed, the Applicant will move into Cell D and when that cell has been mined, mining will commence in Cell C. It should be noted that the Applicant is taking particular care to insure that mining of the Property causes only minimal impact to Malcolm Elementary School. There is a required buffer which must be maintained along the perimeter of the Property pursuant to the Zoning Ordinance. In this instance, there will also be noise berms which will be further explained *infra*. The noise berms are themselves approximately 12 feet in height and 100 feet wide at

their base. The Applicant has determined that it will provide an additional setback area of 100 feet beyond the foot of any noise berms in order to insure that no mining activity will occur within 300 feet of the Property boundary nearest the Malcolm Elementary School. This setback area is depicted with a dark black line on the Mining Plan filed with this application. Whenever possible, during times when school is in session, no mining will occur closer to the school than 300 feet from the Property boundary. The Applicant also will maintain close contact with the school and will provide cell numbers and e-mail addresses where the Applicant can be contacted in the event of any potential complaints. The Applicant takes pride in working with the community and intends to support activities at the school.

(2) Is a permissible special exception in the zone.

RESPONSE: As noted above, surface mining of a site greater than ten acres is expressly permitted in the AC Zone pursuant to the grant of a Special Exception.

(3) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood.

RESPONSE: The Applicant believes that the information it has provided above in this Statement of Justification also addresses this criterion. Rock Hill has a long history of mining sand and

gravel in the State of Maryland and in particular in Charles County and Prince George's County. It draws upon this vast body of experience in tailoring its mining operation so as to insure that it will not adversely impact residents or workers in the area or impair peaceful enjoyment, economic value or development of surrounding properties. As evidence of this fact, the Applicant would note that it does not intend to mine the site on all days which would be permissible under the Zoning Ordinance. Further, the Applicant intends to limit commencement of its operation until 7:00 a.m. each morning Monday through Friday and does not intend to commence operations at 6:00 a.m. Further, Rock Hill will curtail its mining operation at 3:30 Monday through Friday, once again limiting its impact to be less than what the Ordinance would otherwise allow.

Rock Hill and Percontee also have a long history of supporting the community. In this regard, Rock Hill and Percontee propose to provide support for Malcolm Elementary School. This will include sponsoring activities, school events and community picnics. In short, both Rock Hill and Percontee intend to implement its mining operation in a manner so as to have no adverse impacts on residents or workers in the area or to impair the value or use of properties. It should also be noted that the rural nature of the area surrounding the Property in conjunction with the setbacks, buffers and berming which will be installed, will also help insure that

the use, peaceful enjoyment, economic value or development of surrounding properties and the general neighborhood will not be adversely impacted.

(4) Complies with the standards and requirements set forth in Article XIII.

RESPONSE: The proposed Special Exception complies with the standards and requirements of Article XIII of the Zoning Ordinance. An analysis of conformance with Article XIII is included in this Statement of Justification.

(5) Will cause no objectionable impact from traffic, noise, type of physical activity, fumes, odors dust or glare.

RESPONSE: As has been discussed previously, the orientation of the haul route so as to insure that trucks proceed in an easterly direction from the mining site and then head north to exit Charles County insures that the elementary school and single family detached dwellings located to the west of the mining site along both sides of Poplar Hill Road will not be adversely impacted by truck operations. In addition, the Applicant's transportation engineer, Lenhart Traffic Consulting Inc., developed a scope for a Traffic Impact Analysis as a result of meeting with the County Department of Public Works. Lenhart Traffic Consulting strictly complied with all elements of the approved Scoping Agreement in preparing its Traffic Impact Analysis which is dated August 2, 2024, a copy of which is filed with this application. As a result

of that Scoping Agreement, Lenhart Traffic was tasked with analyzing five different intersections in close proximity to the Property. These are as follows:

Poplar Hill Road and Dr. Samuel Mudd Road

Poplar Hill Road and Site Access One

Poplar Hill Road and Site Access Two

Malcolm Road and Covington Road

Mount Pleasant Road and Poplar Hill Road

Lenhart took traffic counts to determine existing levels of service. Next, an annual growth rate of 3 percent was assigned for two years. Next, background development was also added in to the analysis. Finally, trips that will be generated from the mining operation on the Property were factored into the Study. The result was that all five intersections continued to operate at Level of Service A during the morning peak hours. During the evening peak hours three of the intersections continued to operate at Level of Service A while two of the intersections will operate at Level of Service B. It was the conclusion of Lenhart Traffic that approval of the mining special exception would in no way adversely impact the health, safety and welfare of motorists from a transportation perspective.

Similarly, the Applicant retained the services of Pheonix Noise and Vibration ("Phoenix") to study the impact of any noise generated by the surface mining operation. Noise control is

addressed in Chapter 260 of Charles County Code. Section 260-1(B) sets forth the objectives of noise control. Included is the stated directive to abate excessive noise conditions in order to promote "health, safety and welfare of the residents of Charles County, and to promote the maximum use and enjoyment of property" (Section 260-1(D)(1) and (2)). Further, Section 260-3(C) and (D) set forth the maximum allowable noise levels as measured at receiving land uses. Section 260-3(C) specifically states that noise generated by construction or demolition site activity may not exceed 90 dBA from 7 a.m. to 10 p.m. on weekdays and the levels specified in Table 260-1 for nighttime hours at any other time. Under no event will the mining operation approach 90 dBA during operations.

The impact of noise generation as a result of the mining operation was analyzed based upon Section 260-1(B) which sets forth maximum decibel levels at receiving properties. For residential properties which abut a mining operation, the maximum allowable noise level at the property boundary is 60 dBA during daytime hours and 50 dBA during nighttime hours. Daytime hours of operation begin at 7 a.m. and run until 3:30 p.m. With these parameters in mind, Phoenix conducted a Noise Impact Analysis. At the outset, Phoenix visited a current mining site operated by the Applicant. They measured noise generated from four pieces of equipment. These are:

1. Caterpillar 349 Hydraulic Excavator

2. Caterpillar 725 Articulated Haul Truck
3. Caterpillar D6R: Bulldozer
4. Caterpillar 336 (Hydraulic excavator)¹

Actual noise measurements were taken of these pieces of machinery operating at another mining site run by the Applicant. These noise generating characteristics were then projected onto the mining operation which is planned to occur on the Property. Some noise measurements at the Property line exceeded 60 dBA. Accordingly, Phoenix has recommended the installation of 12 foot high earthen berms along and proximate to certain boundary areas of the Property.² A copy of an exhibit showing these earthen berms has been included in a revised Noise Analysis prepared by Phoenix. A copy of the Analysis has been filed with this application. It was the conclusion of Phoenix that with the installation of these berms noise at the boundary of the Property will not exceed 60 dBA.

While a mining operation will inevitably generate some noise and physical activity, installation of the berms will insure that noise regulations applicable in Charles County are met and satisfied.

The mining operation is not expected to generate any fumes or odors. However, dust may be generated as sand and gravel is loaded

¹ These are the same pieces of machinery the Applicant will use to mine the Property.

² All noise berms will be installed behind the buffer setback (100 feet or 250 feet) as mandated by the Ordinance.

into the backs of dump trucks. The Applicant will maintain a water truck on site and whenever necessary, both trucks and loads of sand and gravel will be sprayed to minimize any dust.

Based on the above, the Applicant believes that sufficient safeguards are being provided which will protect the neighborhood from noise, fumes, odors, dust or glare which could in any way emanate from the mining operation.

- (6) Will provide adequate utilities, water, sewer or septic system, access roads, storm drainage and/or other necessary public facilities and improvements. If a use requires an adequate public facilities review by the Planning Commission, such review shall be made a condition of the granting of the special exception by the Board.**

RESPONSE: The proposed surface mining operation will not require the use of groundwater, septic, public water, public sewer or other public utilities. The entire site access road/entrance will be constructed to meet specified standards contained in the Charles County Zoning Ordinance. Further, stormwater management, erosion/sediment control and grading are addressed on the Mining Plan and will comply with all regulatory requirements of Charles County and the State of Maryland

- (7) Will provide adequate ingress and egress and be so designed as to minimize traffic congestion in the public streets.**

RESPONSE: Adequate ingress and egress along Poplar Hill Road will be provided and all requirements of the Zoning Ordinance will be

met and satisfied. The Traffic Impact Analysis prepared by Lenhart Traffic Consulting Inc. demonstrates that there is sufficient capacity within the road network to serve all traffic generated by the proposed special exception. The Lenhart Traffic Impact Analysis also confirms that adequate and safe access will be provided, including adequate sight lines to access both mining areas from Poplar Hill Road. Access points will be constructed to Charles County standards and hard surface asphalt paving will be applied for a distance of 150 feet from the public road on both internal access roads.

(8) Is in accordance with the objectives of the Charles County Comprehensive Plan.

RESPONSE: The Charles County Comprehensive Plan at Chapter 13 sets forth the County's goals for mineral extraction as follows:

"Support the extraction of mineral resources while safeguarding the public. The Comprehensive Plan also recognizes that sand and gravel deposits are "by far the most important mineral resource in Charles County."

The County therefore supports the extraction of sand and gravel located in deposits within the County prior to development of those areas. The Comprehensive Plan notes the positive economic impacts to the County which result from surface mining operations. The Comprehensive Plan also recognizes that the Charles County Zoning Ordinance contains stringent regulatory requirements intended to prevent or minimize any potential adverse impacts. The Mining Plan for this proposed special exception is in

conformance with all Charles County and State of Maryland regulatory requirements. As such, this proposed mining operation will meet all requirements of the Charles County Zoning Ordinance while at the same time implementing the objectives of the Comprehensive Plan to mine important sand and gravel deposits before any development occurs above those deposits.

The first objective of the Comprehensive Plan for mineral extraction is to:

Require that appropriate post-excavation uses for this land be consistent with the County's land planning process.

RESPONSE: A Reclamation Plan has been submitted along with this application. The proposed plan will insure that the Property will be reclaimed for appropriate lower intensity use. In addition, this Reclamation Plan must also be approved as part of the Maryland State permitting process. The Mining Plan also insures that the important environmental features of the Property will be protected during the mining and reclamation activities.

The next objective articulated in the Plan is:

Protect existing neighborhoods from the impacts of adjacent extraction operations and the transportation of extracted mineral resources.

RESPONSE: As previously stated, the surrounding neighborhood is primarily undeveloped, with the exception of the Sylvanhurst community to the north of the Property. The residential uses in the vicinity are separated from the proposed mining activities

through appropriate buffering, major roadways and natural features. Furthermore, the Traffic Analysis indicates that the road network is sufficient to support the proposed mining use without creating detrimental impacts to the surrounding neighborhood.

The Final object stated in the Plan is to:

Protect the natural environment from all sources of pollution resulting from mineral extraction.

RESPONSE: The Mining Plan and Reclamation Plan have been designed not only to minimize environmental impacts, but also to protect the quality of the surrounding natural resources. The proposed uses will fully comply with all Charles County and State of Maryland ordinances, statutes and regulations in order to insure that pollution of natural resources does not occur as a result of the proposed mining activity. No groundwater will be utilized, groundwater recharge will be provided, and sensitive environmental resources will be protected. The Applicant has repeatedly demonstrated its commitment to the protection of important natural resources at its existing operations.

I. Section 415H(9):

Conforms to the applicable regulations of the zone in which it is located and to the special requirements established for the specific use.

The applicable regulations of the AC Zone and the specific requirements of Article XIII will be satisfied as described in Section IV of this Statement of Justification as follows.

IV. ARTICLE XIII, SECTION 212, 7.05.110 (Surface mining of more than 10 acres.

RESPONSE: The proposed Special Exception for surface mining meets the specific requirements of Article XIII, Section 212, 7.05.110 of the Charles County Zoning Ordinance as set forth below.

A. Section 212.7.05.110 A:

Compliance with all applicable local, State and Federal laws, regulations or permitted requirements.

RESPONSE: The Mining Plan and Reclamation Plan submitted with this application are in compliance with all Charles County and State of Maryland ordinances, statutes and regulations. In addition to the County's Special Exception requirements, a State mining permit and County grading and sediment control/erosion control permit must be approved before mining can begin. The State mining permit will limit the amount of mining that can occur at any time. In accordance with this application, the Applicant proposes to have no more than 30± acres active at a time. The typical mining process will be that 10± acres will be in the process of clearing and grading, with 10± being mined and 10± acres under restoration. Both County and State officials will conduct periodic inspections of the operation during the mining and reclamation processes. The

State requires that a bond be posted to cover reclamation. This bond will not be released until reclamation in accordance with the approved reclamation plan has been completed and inspected to the State's satisfaction. All local, State and federal laws regarding wetlands and natural and historic resources will be fully complied with.

B. Section 212, 7.05.110 B:

The approved portion of the tract shall have buffer to be retained in its natural topographic condition, undisturbed by excavation of mining for a minimum of 100 feet in width. The setback area shall not be used for any purpose except planting, fencing and roads for ingress and egress to the tract. This setback shall be increased to 250 feet if adjoining homes are within 250 feet of the approved portion of the tract. The Board of Appeals may establish wider setbacks as warranted to protect the surrounding community.

RESPONSE: The Mining Plan submitted with this application depicts natural buffers, supplemented by berms where appropriate to provide additional buffering, with a minimum width of 100 feet between the mining area and adjacent properties. In those portions of the site, where homes are closer than 250 feet to the Property boundary, the buffer has been expanded to the requisite 250 feet.

C. Section 212, 7.05.110 C:

The height of structures below the maximum allowed and any man made land form may be limited by the Board.

RESPONSE: No buildings or structures are proposed as part of this Special Exception for surface mining.

D. Section 212,7.05.110 D:

Equipment for washing, sorting, crushing, grinding, loading, unloading, spreading, weighing, screening, sizing or similar operations, shall not be located within 750 feet of an existing home. Any such use shall be at least 300 feet from the property line, except that the Board may permit sedimentation ponds to be closer than 300 feet but not closer than 100 feet to such property line if the Applicant demonstrates the topographic necessity of such a location and that sufficient safeguards will be provided for the protection of neighboring residents and uses.

RESPONSE: No washing or processing of the mined material will occur on the mining site. The mined product will be processed at the existing Rock Hill plant facility in Prince George's County. No mining activity or sediment traps will be located within 100 feet of the Property line.

E. Section 212,7.05.110 E:

All operations shall be conducted in a safe manner to prevent hazards to persons, physical or environmental damage to lands, and improvements, or damage to any street, bridge, or public right-of-way. All operations must conform to the performance standards contained in Article II, Section 297-32 and 297-33, established for the IG Zone.

RESPONSE: The Applicant is licensed by the Maryland Department of the Environment as a sand and gravel operator with an outstanding record for safety and environmental protection. The proposed mining activities will be conducted in accordance with all applicable Charles County, State of Maryland and Federal requirements for both safety and environmental protection. The environmental features are identified on the Environmental Features Plan and appropriate protection is provided through the

use of buffering, erosion and sediment control, and other design techniques incorporated into the Plan. The standards set forth in Sections 297-32 and 297-33 of the Zoning Ordinance will be complied with. Berms have been incorporated into the buffer areas where deemed appropriate to provide additional protection to adjoining properties. The public roads, (Poplar Hill Road, Malcolm Road and Horsehead Road) proposed for travel by the trucks, will be the subject of a road coring study and analysis that will provide a determination as to the structural adequacy of the subject roads, to support the proposed truck traffic by this request.

F. Section 212,7.05.110 F:

Existing trees and ground over along public road frontage and lot lines shall be preserved, maintained and supplemented by selective cutting, transplanting and the addition of new trees, shrubs and ground cover.

RESPONSE: The Mining Plan provides for the preservation of the natural wooded vegetation within the proposed buffer areas, including streams and non-tidal wetland areas. The standard 100 foot buffer and those portions containing the expanded 250 foot buffer will be augmented with sufficient berms, if necessary, to further protect surrounding properties.

G. Section 212,7.05.110 G:

Buffer areas around environmental features shall be consistent with the standards established by the Resource Protection Overlay Zone. No disturbance or grading shall occur within these buffer areas.

RESPONSE: The Resource Protection Zone ("RPZ") is depicted on the Environmental Features Plan. Appropriate buffering is incorporated into the Mining Plan and no mining, grading or other disturbance is proposed within the RPZ buffer areas.

H. Section 212,7.05.110 H:

Excavated area shall be maintained thoroughly drained, except for draining and ponding areas, which are used for production.

RESPONSE: The proposed excavation areas will be maintained as thoroughly drained, with the exception being the necessary sediment traps and basins required to meet the Charles County and State of Maryland standards for sediment and erosion control.

I. Section 212,7.05.110 I:

Roads in the permit area for ingress and egress from excavation areas to public roads shall not be less than 20 feet wide, and shall be hard surfaced and maintained for a distance of 150 feet from the public road into the excavation area. All other roads shall be treated as needed with a preventive to control dust. For any roads, which cross a utility right-of-way, the Applicant shall obtain a permit for the crossing from the utility company and shall submit copies of the permits with the Special Exception application.

RESPONSE: The proposed site access roads will be designed to be not less than 20 feet in width, and will be hard surfaced and maintained for a distance of 150 feet from the public road. Interior haul roads will be treated as needed for dust control. No roads are proposed to cross a utility right-of-way.

J. Section 212,7.05.110 J:

The Board of Appeals shall limit the permit to operate such quarry to a specific expiration date.

RESPONSE: This provision is no longer enforceable as the Maryland Appellate Court has determined the length of mining operations is preempted by the State and is determined by the Maryland Department of the Environment pursuant to issuance of the mining permit.

K. Section 212,7.05.110 K:

Operation hours for excavation processing and filling operations will be established by the Board and shall be restricted to no more than 9 hours daily between 6:00 a.m. and 4:00 p.m. except that Saturday operations may be permitted between 7:00 a.m. and 3:00 p.m. No blasting shall be permitted between the hours of 6:00 a.m. and 7:30 a.m. No operation shall be permitted on Sundays except for repairs of equipment. The Board may further limit hours of operation based on the impacts of traffic and operation on the surrounding community.

RESPONSE: The Applicant requests that mining be permitted during the hours of 7:00 a.m. to 3:30 p.m., Monday through Friday. Saturday operations will not include mining and will be limited to the hours of 7:00 a.m. to 3:00 p.m. No Sunday operations are proposed. The mining operation will not utilize blasting.

L. Section 212,7.05.110 L:

The maximum number of truckloads hauled from a site shall not exceed the following:

Mining site of more than 100 acres	20-200 loads per day
Mining site of 51-100 acres	20-150 loads per day
Mining site of less than 51 acres	100 loads per day or less

The Board may reduce the maximum loads per day after weighing factors such as haul roads, routes, traffic

patterns, number of trucks, nature of the community, and proximity to schools, churches businesses and inhabited dwellings.

RESPONSE: The Applicant is requesting approval of 200 truckloads per day. This is based on the mining portion of the site exceeding 100 acres in size. The findings of the Traffic Analysis and road Condition Study, proposed haul route, rural nature of the community and the limited surrounding uses all support the Applicant's request to allow up to 200 truckloads per day.

M. Section 212, 7.05.110 M:

A site plan shall be submitted for approval to the Board at the time when the application is filed, showing the following: Please refer to Section 297-12, 7.05.110 M (1) through (12).

RESPONSE: As previously demonstrated, the Mining Plan filed with the application is consistent with the Zoning Ordinance requirements set forth in Section 297-212, 7.05.110 M with regard to setbacks, buffers, mining areas, access roads access point, pollution control measures, stockpile areas, and existing and proposed structures. No water supply or sewage disposal is required. The Environmental Features Plan includes topography, soils, wetlands, forested areas, streams, and stream buffer areas.

A Traffic Impact Study has been submitted indicating the adequate capacity of the road network.

(9) Conforms to applicable regulations of the zone in which it is located.

RESPONSE: The applicable regulations of the AC Zone and the specific requirements of Article XIII will be satisfied as addressed *supra*.

VI. CONCLUSION

As demonstrated herein, and in the accompanying application package incorporated herein, the proposed surface mining Special Exception meets the requirements of the Charles County Zoning Ordinance and is in conformance with the goals and objectives of the Charles County Comprehensive Plan. Furthermore, the Applicant has demonstrated compliance with the legal standard for approval of a Special Exception as established in the State of Maryland. The Applicant submits that no adverse impact above and beyond those inherently associated with a surface mining special exception of more than 10 acres located in the AC Zone will be associated with this request. Therefore, based upon the factual representations contained herein, and the testimony that will be presented at the public hearing, the Applicant respectfully requests approval of

the proposed Special Exception for the surface mining of more than ten (10) acres by the Charles County Board of Appeals.

A handwritten signature in blue ink, appearing to read "E. Gibbs, Jr.", is written over a horizontal line.

Edward C. Gibbs, Jr.
GIBBS AND HALLER
1300 Caraway Court, Suite 102
Largo, Maryland 20774
(301) 306-0033
egibbs@gibbshaller.com
Attorney for the Applicant

Charles County PGM GIS Interactive Map



Exhibit "A"

5/19/2022, 3:05:47 PM

MD_SixinchImagery

- Points of Interest



Charles County Tax Parcel Data

1:18,056

0 0.1 0.2 0.4 mi

0 0.17 0.35 0.7 km

Esri, HERE, Garmin, (c) OpenStreetMap contributors, Sources: Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NIPON, GEBCO, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, (Hong Kong), (c) OpenStreetMap contributors, and the GIS User



204 Washington Avenue
Suite 200
La Plata, MD 20646
PHONE (301) 870-5355
(301) 934-1922
FAX (301) 870-6471

Stephen H. Scott
ATTORNEY AT LAW

SScott@ScottLawLLC.com

MEMORANDUM

SENT VIA E-MAIL

TO: Charles County Board of Appeals C/O Lisa Cureton, Clerk
FROM: Stephen H. Scott
COPIES TO: Michael Mona, Gahr Lessner, Jackie Plolt
DATE: September 30, 2025
RE: Mona Equipment Reclamation and Recycling, Docket #1477, Special Exception

This office represents the applicants under the above referenced Special Exception application, Mona Equipment, Inc and M & D Partners, LLC. This memorandum is intended to follow up on the public hearing held for this application before the Board of Appeals on Tuesday, September 23, 2025.

During the public hearing, the applicants made the following proffers, which the applicants agree shall be incorporated into the Board of Appeals order in this proceeding, in the event that the Board of Appeals approves this application:

1. The applicant agrees that the operation of the wood, soil and concrete recycling facility shall not result in the transportation to and from the subject property of more than eighty (80) loads of material per calendar day.
2. As a noise mitigation effort, the applicants agree to establish and maintain earthen berms, twenty (20') feet in height, along the perimeter of the area of the Property on which grinding and/or crushing equipment is used, as depicted on Exhibit A attached hereto and made a part hereof.
3. The wood, soil and concrete recycling facility shall have no hours of operation on Saturday, Sunday or Federal holidays.

4. The soil and concrete recycling facilities, which were the subject of the Special Exception application, shall be undertaken only at such times as a valid and effective permit or permits is/are in place issued by the Maryland Department of the Environment, as required by applicable laws, regulations and ordinances, and the applicants shall maintain such permit or permits effective at their periodic renewal times, which currently are every five (5) years.

5. The applicants shall pave the entrance road into the soil and concrete recycling facility for a distance of at least four hundred (400') feet from the entrance at Poor House Road, leading into the Property.

6. Stockpiles of soils, concrete material and wood material, whether as raw material or as recycled, shall not exceed seventy (70') feet in height.

7. The private shared roadway or driveway known as "Our Place" shall not be used for the soil and concrete recycling facility.

8. A copy of the proposed private covenant mentioned at the hearing is attached. The applicants will record this document in Land Records if the Special Exception is approved.

Please let us know if you have any questions with respect to the above.



DECLARATION OF RESTRICTIVE COVENANTS

This **DECLARATION** (the “Declaration”), is made and entered into this ____ day of October, 2025, by M & D Partners, LLC, a Maryland limited liability company, and Mona Equipment, Inc, a Maryland corporation, hereinafter collectively referred to as the “**Declarants**”.

WITNESSETH

WHEREAS, the Declarants are the owners in fee simple of those two (2) certain parcels of real property lying and being in the First Election District of Charles County, Maryland, and more particularly described in Exhibit A attached to hereto and made part of hereof (collectively, the “**Property**”); and

WHEREAS, the Declarants are planning to develop, own, and operate a facility on the Property for the recycling and resale of soils and concrete waste (collectively, “Soils and Concrete Recycling”), and have applied to the Charles County Board of Appeals (the “Board of Appeals”) for a Special Exception under Case Number Docket #1477, entitled “Special Exception, Mona Equipment Reclamation and Recycling” (the “Special Exception”), pursuant to Use Category No. 7.01.280, “Asphalt Plants, Concrete Plants, Sand and Gravel Washing, Crushing and Screening”, in the Charles County Zoning Ordinance, Chapter 297 of the Charles County Code (the “Zoning Ordinance”); and

WHEREAS, the Declarants own, operate and manage on the Property a facility for the recycling of natural wood waste (“Wood Recycling”), under existing approvals and permits from applicable governmental entities, including, but not limited to, the Maryland Department of the Environment; and

WHEREAS, the Declarants seek to add on the Property Soil and Concrete Recycling to the Wood Recycling facility, and are making this Declaration in contemplation thereof; and

WHEREAS, a public hearing was held by the Board of Appeals on September 23, 2025, for the consideration of the Special Exception to conduct Soil and Concrete Recycling on the Property; and

WHEREAS, at the Board of Appeals public hearing, members of the public testified that, under the use category for which the Special Exception was applied for, the Declarants could develop, own and operate on the Property an Asphalt Plant (as defined below) and/or a Concrete Plant (as defined below), and the Declarants repeatedly indicated that their intent was to establish the Soils and Concrete Recycling function to be added to the existing Wood Recycling function on the Property, and not to pursue and Asphalt Plant or a Concrete Plant; and

WHEREAS, it was further explained by the Declarants at the public hearing that the Special Exception was applied for under Use No. 7.010.280, “Asphalt Plants, Concrete Plants, Sand and Gravel Washing, Crushing and Screening”, after consulting with the Charles County Planning and Growth Management staff, as there is no use category in the Zoning Ordinance that addresses Soil and Concrete Recycling, and Use No. 7.01.280 was identified as the most appropriate use category within the Zoning Ordinance to accommodate the Declarants’ request for the Special Exception; and

WHEREAS, the Declarants intend to assure interested parties that they will not develop, own and or operate on the Property an Asphalt Plant or a Concrete Plant using the Special Exception; and

WHEREAS, accordingly, the Declarants desire to make the covenants, agreements, and restrictions hereinafter set forth with regard to the Property binding upon the Declarants, their successors and assigns, and any party who may now or hereafter have any right, title or interest in and to any portion of the Property, in accordance with the terms of this instrument.

NOW THEREFORE, the Declarants, for themselves, their successors and assigns, in consideration of the mutual benefits to be derived by them, do hereby publish the covenants, agreements, and restrictions hereinafter set forth on the Property, and hereby declare that the Property, and any part or parts thereof, shall be held, used, enjoyed, maintained, sold and conveyed subject to the covenants, agreements, and restrictions set forth herein, which are for the purposes of restricting the use of the Property, and which shall run with the Property, and all parts thereof, and shall be binding upon all parties having any right, title or interest in or to the Property, or any part thereof, their respective heirs, successors and/or assigns, and shall inure to the benefit of each owner of the Property, and any part thereof, and their respective heirs, successors and assigns;

1. **BINDING EFFECT**: Declarants shall hereafter hold, grant and convey the

Property, and each part or parts thereof, subject to the covenants, conditions, and restrictions herein set forth.

2. **RESTRICTED USES:** For purposes of this Declaration, an “Asphalt Plant” is defined as a plant used for the manufacture of asphalt, macadam, and other forms of coated road stone, sometimes collectively known as blacktop or asphalt. Further, for purposes of this Declaration a “Concrete Plant” is defined as a facility designed to produce concrete by combining various ingredients such as cement, aggregates (sand and gravel), water and other additives in the production of concrete for construction projects. For the benefit of the Board of Appeals, the interested parties within the public, and surrounding in vicennial landowners, the Declarants do hereby agree, declare and certify as follows with respect to the use of Property from and after the date of this Declaration:

A. Under the Special Exception, the Property will not be used, managed and/or developed as an Asphalt Plant.

B. Under the Special Exception, the Property will not be used, managed and/or developed as a Concrete Plant.

C. It is acknowledged for purposes of this Declaration that the use of the Property for Wood Recycling and for Soil and Concrete Recycling, as those words are used in this Declaration and are commonly used in the recycling industry, do not constitute the use and management of the Property as an Asphalt Plant or a Concrete Plant. To further illustrate this point, “soil recycling”, is the process of collecting, processing and reusing soil material that would otherwise be discarded as waste. This practice is essential for conserving natural resources, reducing waste disposal and mitigating environmental impacts associated with soil excavation and disposal. Further, “concrete recycling”, is the process of converting waste concrete from demolished structures and construction jobs into reusable material. This involved breaking down concrete into smaller pieces, removing contaminants, and processing it into aggregates suitable for new construction projects. Further, for purposes of this Declaration, “wood recycling” is the process of transforming waste wood into useable products, which conserves natural resources and reduces environmental impacts. Wood recycling involves collecting wood waste from various sources, such as construction sites and households, sorting it based upon type and quality, and processing it into new materials such as mulch.

3. **ENFORCEMENT**: The Declarants, the Charles County Government, and other interested parties, including, but not limited to, surrounding or vicennial landowner to the Property, shall have the right to enforce, by any proceeding at law or in equity, all restriction, conditions and covenants, imposed by the provisions of this Declaration. Failure by the Declarants or by any other party to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

4. **REMEDIES**: Damages may not be deemed adequate compensation for any breach of violation of any provision hereof, so that any person or entity entitled to enforce any provision hereof shall be entitled to relief by way of injunction as well as any other available relief either at law or in equity.

5. **GENERAL PROVISIONS**:

A. Declarants should have the right to expressly assign in writing all or any part of its rights and remedies as “Declarant” hereunder, including, without limitation, the right to enforce these covenants, conditions, and restrictions, at such time, or from time to time. Upon any such assignment, the assignee shall have and shall succeed to all rights and duties with the same powers as if the grantee had originally been named as Declarants herein.

B. The foregoing covenants, conditions and restrictions shall continue and remain in full force and effect at all times as against the owners of the Property regardless of how title is acquired, for twenty (20) years from the date hereof, at which time these covenants, conditions and restrictions shall terminate and end, and thereafter be of no further legal or equitable effect on the Property or any owner thereof; provided, however, that these covenants, conditions and restrictions shall be automatically extended for a period of ten (10) years, and thereafter in successive ten-year periods.

C. Should an interested party employ counsel to enforce any of the foregoing covenants, conditions or restrictions, all costs incurred in such enforcement, including reasonable fees for counsel, shall be paid by the owner of the Property if a violation of this Declaration is determined to have occurred.

D. The breach of any of the foregoing covenants, conditions or restrictions shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to the Property, but these covenants, conditions, and restrictions shall be binding upon and

effective against any such mortgage or trustee or owner thereof, whose title thereto or whose grantor's title is or was acquired by foreclosure, trustee's sale, or otherwise.

E. No delay or omission on the part of the Declarant or any interested party exercising any right, power, or remedy herein provided, in the event of any breach of the covenants, conditions or restrictions herein contained, shall be construed as a waiver thereof or acquiescence therein.

F. In the event any one or more of the foregoing covenants, conditions or restrictions shall be declared for any reason by a court of competent jurisdiction, to be null and void, such judgement or decree shall not in any manner whatsoever affect modify, change, abrogate, or nullify any of the covenants, conditions and restrictions not so declared to be void, but all of the remaining covenants, conditions and restrictions not so expressly held to be void shall continue unimpaired and in full force and effect.

G. The Property shall be subject to any and all rights and privileges which the County of Charles, Maryland, may have acquired and may hereafter acquire through dedication or the filing or recording of maps or plats of the Property, as authorized by law, and no covenants, conditions or restrictions, or acts performed shall be in conflict with any applicable Zoning Ordinance or law.

H. This Declaration shall be governed and construed in all respects in accordance with the laws of the State of Maryland.

(SIGNATURES ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, have hereunto set their hands and seals as of the date and year first above written.

WITNESS:

DECLARANTS:

M & D Partners, LLC, a Maryland limited liability company

_____ (SEAL)

By: Michael Mona, Member

Mona Equipment, Inc. a Maryland corporation

_____ (SEAL)

By: Michael Mona, President

STATE OF MARYLAND

COUNTY OF _____, to wit:

I HEREBY CERTIFY that on this _____ day of October, 2025, before me, the subscriber, a Notary Public of the State of Maryland, in and for the State and County aforesaid, personally appeared Michael Mona, as the duly authorized member of M & D Partners, LLC, a Maryland limited liability company, the above-named Declarant, known to me to be the person whose name is subscribed to the within instrument and he/she did acknowledge that he executed the same for the purposes therein contained.

AS WITNESS MY HAND AND NOTARY SEAL.

Notary Public

My commission expires: _____

STATE OF MARYLAND**COUNTY OF _____, to wit:**

I HEREBY CERTIFY that on this _____ day of October, 2025, before me, the subscriber, a Notary Public of the State of Maryland, in and for the State and County aforesaid, personally appeared Michael Mona, as the duly authorized president of Mona Equipment, Inc, the above-named Declarant, known to me to be the person whose name is subscribed to the within instrument and he/she did acknowledge that he executed the same for the purposes therein contained.

AS WITNESS MY HAND AND NOTARY SEAL._____
Notary Public

My commission expires:_____

ATTORNEY'S CERIFICATE

I HEREBY CERTIFY that I am an attorney duly admitted to practice before the Supreme Court of Maryland and that this instrument was prepared by me or under my supervision.

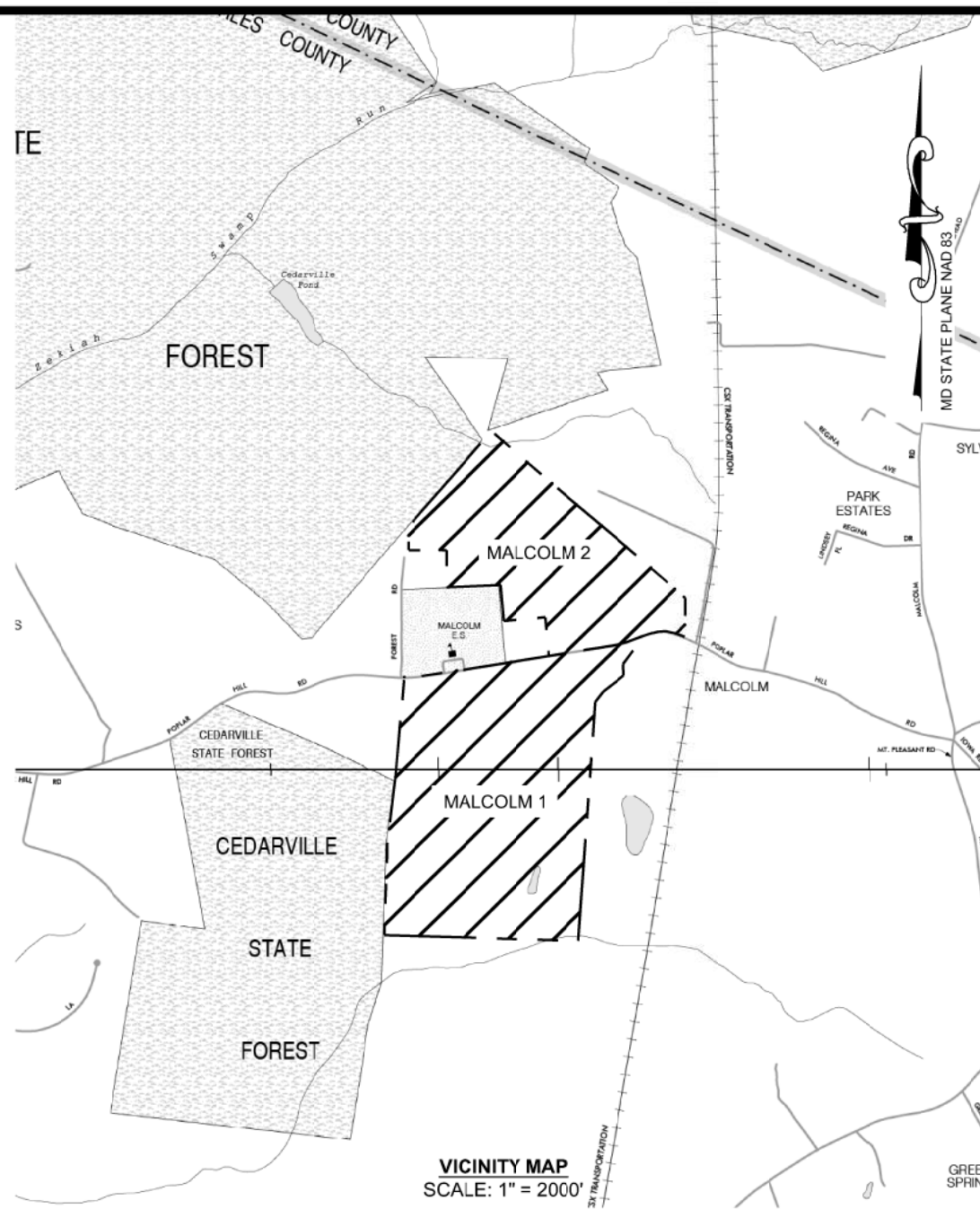
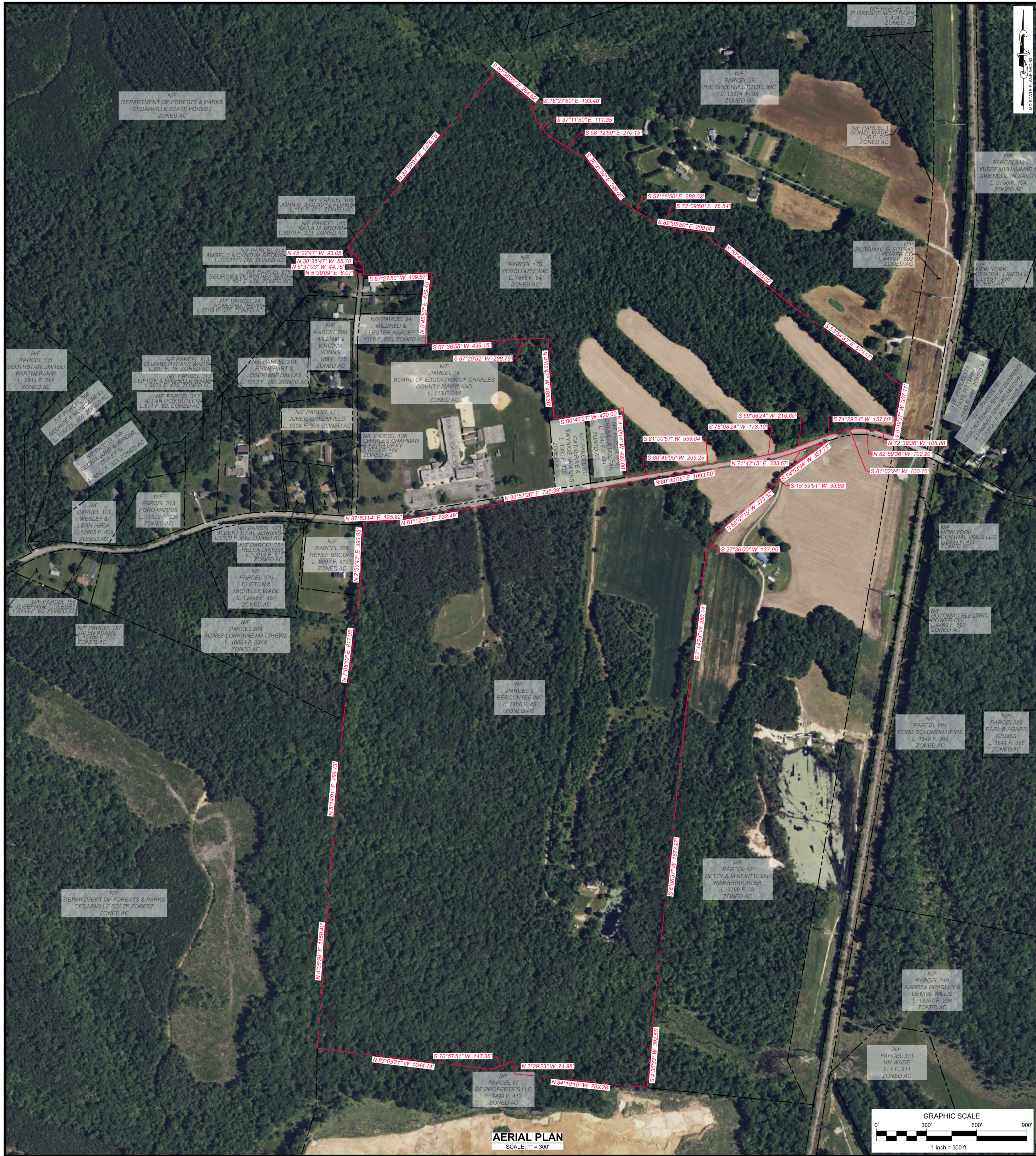
Stephen H. Scott, Attorney**AFTER RECORDING RETURN TO:**

Stephen H. Scott, Esq.
Acott Law Group, LLC.
204 Washington Avenue Suite 200
La Plata, Maryland 20646

**EXHIBIT A
PROPERTY**

96.8 acres, more or less, owned by M & D Partners, LLC, a Maryland limited liability company, as acquired by Deed recorded among the Land Records of Charles County, Maryland, in Liber 12738, at Folio 229, being Parcel 33, at Grid 06, on Charles County Tax Map 42.

74.6163 acres, more or less, owned by Mona Equipment, Inc, a Maryland corporation, as acquired by Deed recorded among the Land Records of Charles County, Maryland, in Liber 3830, at Folio 103, being Parcel 215, at Grid 01, on Charles County Tax Map 43.



DEVELOPER:
ROCKHILL SAND AND GRAVEL
C/O CHANTILLY CRUSHED STONE, INC.
25000 TANNER LANE
CHANTILLY, VA 20152
CONTACT: STEVEN HERZBERG, V.P.
PHONE: 703-471-4461

OWNER:
PERCONTEE, INC.
11900 TECH ROAD
SILVER SPRING, MD 20904

ENGINEER/SURVEYOR:
McCRONE
20 RIDGELY AVENUE
ANNAPOLIS, MD 21401
CONTACT: BILL WARNOCK, P.E.
PHONE: 410-267-8621

PROPERTY INFORMATION
MALCOLM 1
TAX MAP: 17
GRID: 2
PARCEL: 3
TAX ACCOUNT ID#: 08030847
ZONING: AC- AGRICULTURAL CONSERVATION
W & S CATEGORY: W-6/S-6
PLAT/ DEED REFERENCE: 7866/45

MALCOLM 2
TAX MAP: 17
GRID: 2
PARCEL: 175
TAX ACCOUNT ID#: 08030855
ZONING: AC- AGRICULTURAL CONSERVATION
W & S CATEGORY: W-6/S-6
PLAT/DEED REFERENCE: 7866/54

MISS UTILITY

CALL "MISS UTILITY" 1-800-257-7777 FOR UTILITY LOCATIONS AT LEAST 48 HOURS BEFORE BEGINNING CONSTRUCTION. IF CONSTRUCTION DOES NOT BEGIN WITHIN 10 DAYS OF "MISS UTILITY" STAKEOUT, THEN THEY MUST BE CALLED AGAIN BEFORE BEGINNING CONSTRUCTION.

[illegible]

McCRONE
ENGINEERS ■ SURVEYORS ■ PLANNERS
ANNAPOLIS ■ CENTREVILLE ■ ELKTON ■ SALISBURY ■ DELAWARE

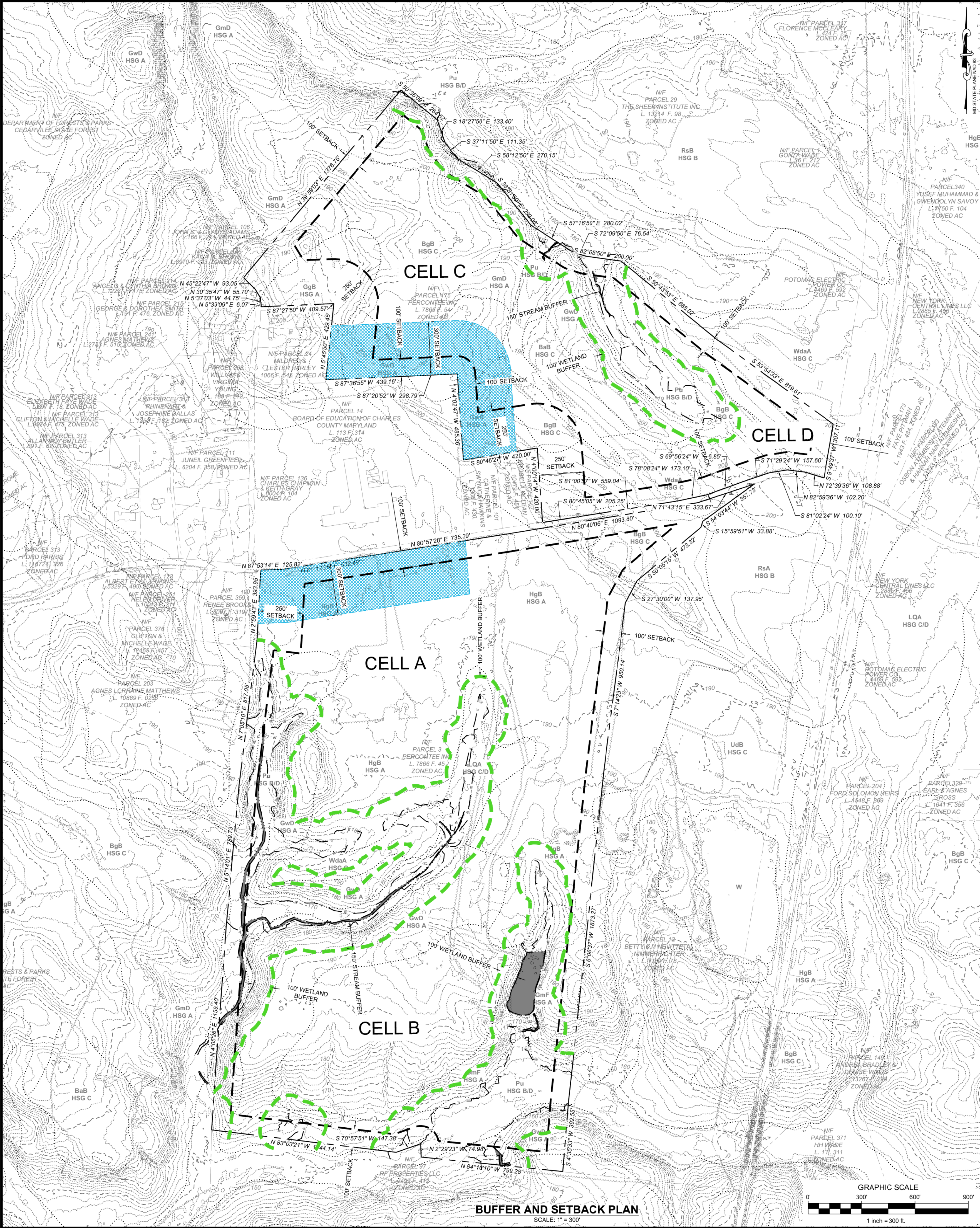
www.mecrone-engineering.com

DATE:	OCTOBER 2024
JOB NUMBER:	C2220030
SCALE:	AS SHOWN
DRAWN BY:	MGG, AML, SMH
DESIGNED BY:	MGG, AML, SMH
APPROVED BY:	MGG

FOR:
MALCOLM 1 & 2
EIGHTH ELECTION DISTRICT, CHARLES COUNTY, MARYLAND

SHEET NO.: 1 OF 1

FILE NO.:
C2220030_AerialExhibit.dwg



DEVELOPER:
ROCKHILL SAND AND GRAVEL
C/O CHANTILLY CRUSHED STONE, INC.
25500 TANNER LANE
CHANTILLY, VA 20152
CONTACT: STEVEN HERZBERG, V.P.
PHONE: 703-471-461

ENGINEER/SURVEYOR:
McCRONE
20 RIDGELY AVENUE
ANNAPOLIS, MD 21401
CONTACT: BILL WARNOCK, P.E.
PHONE: 410-267-8621

MISS UTILITY
CALL "MISS UTILITY" 1-800-257-7777 FOR UTILITY LOCATIONS AT LEAST 48 HOURS BEFORE BEGINNING CONSTRUCTION. IF CONSTRUCTION DOES NOT BEGIN WITHIN 10 DAYS OF "MISS UTILITY" STAKEOUT, THEN THEY MUST BE CALLED AGAIN BEFORE BEGINNING CONSTRUCTION.

OWNER:
PERCONTEE, INC.
11900 TECH ROAD
SILVER SPRING, MD 20904

PROPERTY INFORMATION
MALCOLM 1
TAX MAP 17
GRID: 2
PARCEL: 3
TAX ACCOUNT ID#: 08030847
ZONING: AC- AGRICULTURAL CONSERVATION
W & S CATEGORY: W-6/S-6
PLAT/DEED REFERENCE: 786645
MALCOLM 2
TAX MAP 17
GRID: 2
PARCEL: 175
TAX ACCOUNT ID#: 08030855
ZONING: AC- AGRICULTURAL CONSERVATION
W & S CATEGORY: W-6/S-6
PLAT/DEED REFERENCE: 786654

GENERAL NOTES

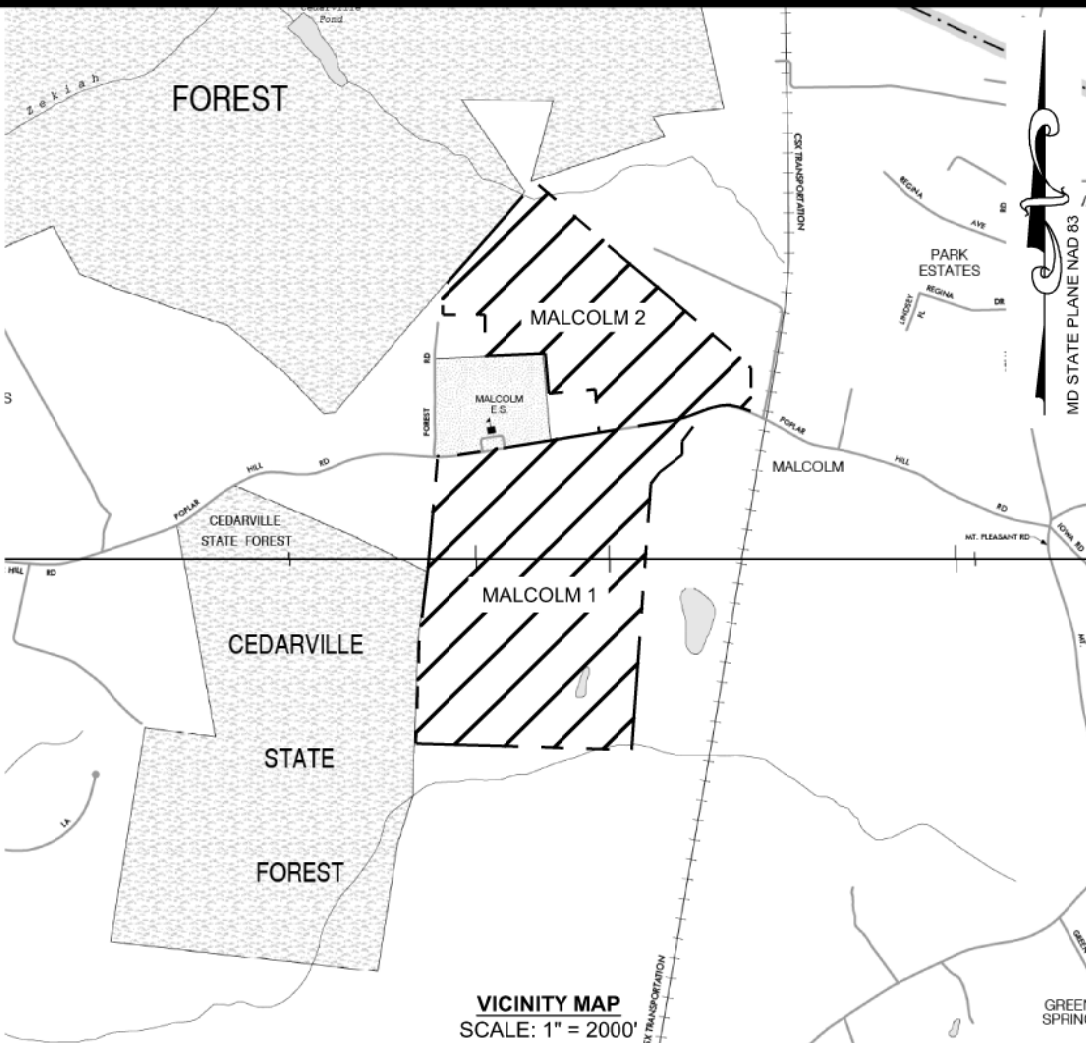
- ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST CHARLES COUNTY DEPARTMENT OF PLANNING AND GROWTH MANAGEMENT SPECIFICATIONS MANUAL, THE LATEST CHARLES COUNTY DETAIL MANUAL AND IN ACCORDANCE WITH CURRENT COUNTY ORDINANCES.
- CONTRACTOR IS RESPONSIBLE FOR CONTACTING "MISS UTILITY" AT 1-800-257-7777, 48 HOURS PRIOR TO ANY EXCAVATION WORK.
- THE DEVELOPER IS RESPONSIBLE TO HOLD A "PRECONSTRUCTION" MEETING TO INCLUDE THE CONTRACTOR, CHARLES COUNTY INSPECTION PERSONNEL, PUBLIC UTILITIES, AND ANY LOCAL, STATE OR FEDERAL AGENCIES AS REQUIRED PRIOR TO THE START OF CONSTRUCTION.
- THE CONTRACTOR IS RESPONSIBLE FOR CONTACTING THE CHARLES COUNTY DEPARTMENT OF PLANNING AND GROWTH MANAGEMENT / DEVELOPMENT SERVICES DIVISION 48 HOURS PRIOR TO THE START OF ALL CONSTRUCTION IN ACCORDANCE TO ALL PERMITS ISSUED @ (301) 645-0615.
- MAXIMUM SLOPES SHALL BE NOT GREATER THAN THREE (3) FEET HORIZONTAL TO ONE (1) FOOT VERTICAL OUTSIDE THE ROAD RIGHT-OF-WAY. SLOPES WITHIN THE ROAD RIGHT-OF-WAY SHALL BE NOT GREATER THAN TWO (2) FEET HORIZONTAL TO ONE (1) FOOT VERTICAL, OR AS SPECIFIED IN THE COUNTY ROAD ORDINANCE AND IN THE CHARLES COUNTY DETAIL MANUAL.
- CERTIFIED COMPACTION TESTS ARE REQUIRED FOR ALL TRENCH/FILL WORK IN ACCORDANCE WITH THE LATEST EDITION OF THE SPECIFICATIONS MANUAL AND GRADING ORDINANCE. FINAL REPORTS AND CERTIFICATIONS SHALL BE PROVIDED PRIOR TO PREFINAL INSPECTIONS.
- TRUCKING AND HAULING OF SOIL AND/OR AGGREGATE MATERIALS FROM THIS SITE SHALL ONLY BE CONDUCTED MONDAY THROUGH FRIDAY ONLY WITH A MAXIMUM OF 200 TRUCK LOADS PER DAY. A SIMILAR CONDITION, OR REQUIREMENT, SHALL BE CONTAINED WITHIN THE APPLICABLE PERMIT(S) OBTAINED FROM THE MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE) AND ANY OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION OVER THIS SURFACE MINING SITE.
- WITH APPROVAL FROM THE MARYLAND DEPARTMENT OF THE ENVIRONMENT ALL EROSION AND SEDIMENT CONTROL STRUCTURES MUST BE REMOVED PRIOR TO THE RELEASE OF BONDS.
- PROPERTY IS SHOWN ON TAX MAP 17, GRID 2, PARCEL 3 & 175.
- SITE ANALYSIS:

MALCOLM 1
TOTAL TRACT AREA IS 162.21 ACRES ±
TOTAL PROPOSED MINING AREA IS 84.36 ACRES ±

MALCOLM 2
TOTAL TRACT AREA IS 80.96 ACRES ±
TOTAL PROPOSED MINING AREA IS 44.63 ACRES ±

TOTAL VOLUMES: CUT - 2,759,371 C.Y. ± / RECLAMATION FILL - 2,759,671 C.Y. ±

- PROPERTY IS OWNED BY PERCONTEE, INC., LIBER 576 / FOLIO 178
- EXISTING ZONING IS AC- AGRICULTURAL CONSERVATION
- STATE WATERSHED CODE 21401 / LOWER POTOMAC RIVER AREA.
- TOPOGRAPHY SHOWN HEREON TAKEN FROM PUBLICLY AVAILABLE GIS DATA. COORDINATES SHOWN ON THESE PLANS ARE BASED ON MARYLAND COORDINATE SYSTEM (NAD 83/1991). PROPERTY OUTLINES AND WETLANDS SHOWN HEREON TAKEN FROM SURVEY PREPARED BY McCRONE, IN OCTOBER 2022.
- MINED AREAS WILL BE RECLAIMED AS SHOWN ON THE RECLAMATION PLAN.
- ALL UNPAVED ROAD R/W AREAS ARE TO BE SEEDED OR SODDED. ALL OTHER DISTURBED AREAS ARE TO BE PERMANENTLY SEEDED UNLESS OTHER METHODS (SODDING, RIPRAP, ETC.) ARE SPECIFIED ON THE PLAN.
- MAXIMUM FINAL RECLAMATION GRADES TO BE 3:1 SLOPE, MINIMUM GRADE TO BE 1%. NO PERMANENT EMBANKMENTS ARE PROPOSED.
- EXISTING WOODS AROUND DISTURBANCE TO ACT AS A NATURAL SIGHT, SOUND, AND DUST BUFFER.
- ALL VEHICULAR TRAFFIC LEAVING THE SITE IS TO BE FREE OF DIRT AND DEBRIS BEFORE TRAVELING ON COUNTY OR STATE ROADS.
- THE APPLICANT SHALL STRICTLY ADHERE TO THE SITE PLAN SPECIFICATIONS AND LOCATIONS.
- OPERATION SHALL BE SCREENED WITH A MINIMUM 100' NATURAL BUFFER ALONG PROPERTY LINE, WITH 250' NATURAL BUFFER WHERE HOMES ARE LOCATED IN CLOSE PROXIMITY.
- THE EXTRACTION OPERATION OF NATURAL MATERIALS OR DEPOSITS SHALL BE CONDUCTED IN ACCORDANCE WITH ALL APPLICABLE STATE AND COUNTY ORDINANCES AND REGULATIONS.
- MAINTENANCE OF SEDIMENT CONTROLS SHALL BE AS FOLLOWS:
EARTH DIKES - INSPECTION AND MAINTENANCE MUST BE PROVIDED PERIODICALLY AND AFTER EACH RAIN EVENT.
SEDIMENT TRAPS - REPAIR ALL DAMAGE CAUSED BY SOIL EROSION AND CONSTRUCTION EQUIPMENT AT OR BEFORE THE END OF EACH WORKING DAY. SEDIMENT SHALL BE REMOVED FROM THE TRAP WHEN IT REACHES THE OUTLET ELEVATION SPECIFIED ON PLANS. THIS SEDIMENT SHALL BE PLACED IN SUCH A MANNER THAT IT WILL NOT ERODE FROM THE SITE.
- TO THE EXTENT FEASIBLE, MINING WILL ONLY OCCUR IN THE AREAS DENOTED ON THE MINING PLAN DURING SUMMER MONTHS WHEN SCHOOL IS OUT OF SESSION (SEE LEGEND).
- THE SETBACKS WERE DETERMINED PER CHARLES COUNTY CODE 7.05.110. B. TO BE 100 FT AT MINIMUM AND 250 FT WHERE ADJOINING HOMES WERE WITHIN 250 FT OF THE PROPOSED PORTION OF THE TRACT.



LEGEND	
PROPERTY LINE	---
SITE ADJACENT PROPERTY LINE	---
EXISTING MAJOR CONTOUR	--- 200 ---
EXISTING MINOR CONTOUR	--- 202 ---
EXISTING BUILDING OUTLINE	---
SOIL BOUNDARY	---
SOIL SYMBOL	HgB HSG A
EXISTING TREE LINE	---
WETLANDS	---
STREAM	---
MINING SETBACKS	---
RESOURCE PROTECTION ZONE BUFFER	---
AREA TO BE MINED ONLY DURING SUMMER MONTHS WHEN SCHOOL IS OUT OF SESSION	---

FOR:
MALCOLM 1 & 2
EIGHTH ELECTION DISTRICT, CHARLES COUNTY, MARYLAND
TAX MAP 17, GRID 2, PARCEL 3 & 175
PREPARED FOR: ROCKHILL SAND AND GRAVEL

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DATE: OCTOBER 2024
JOB NUMBER: C2220030
SCALE: AS SHOWN
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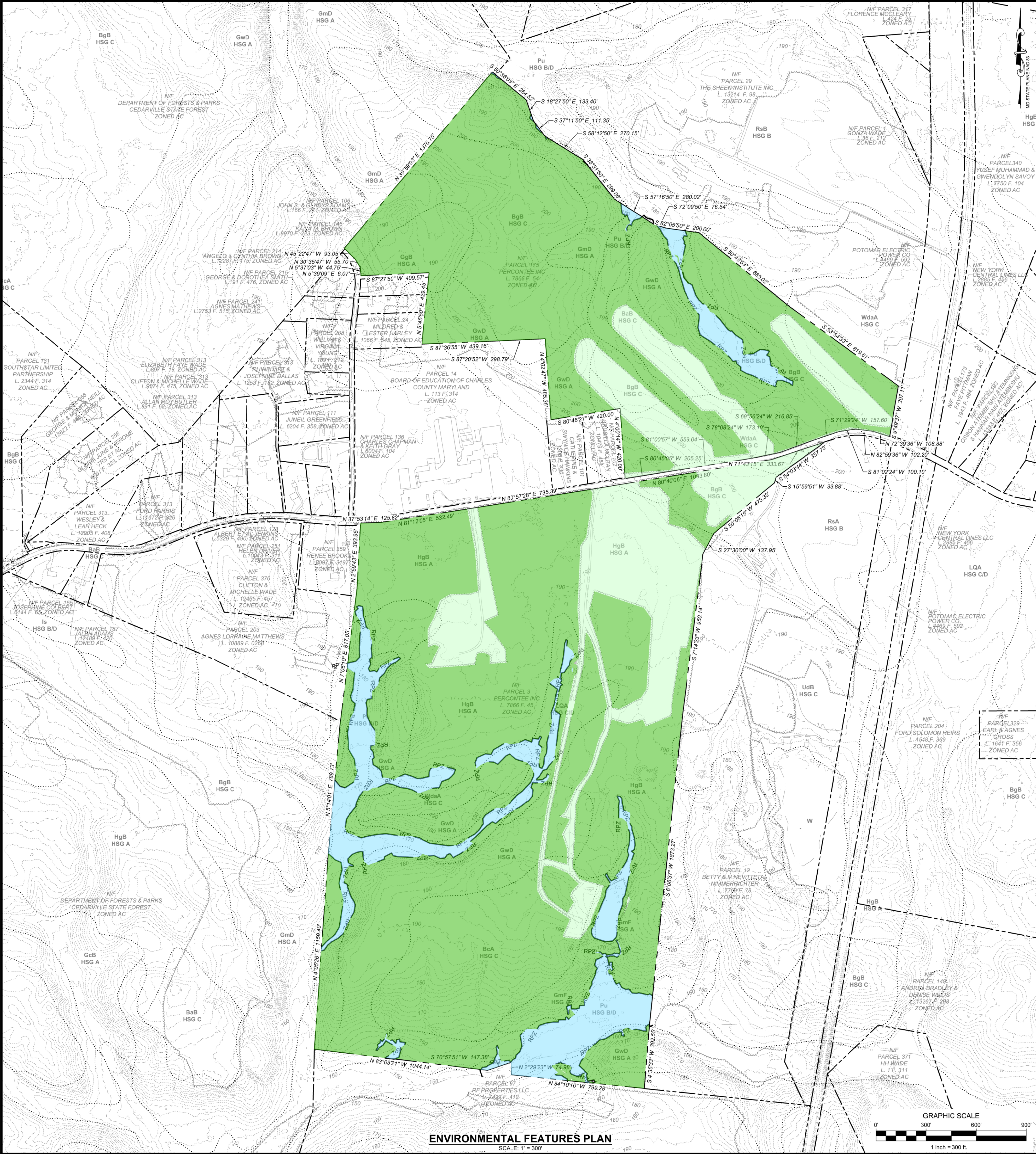
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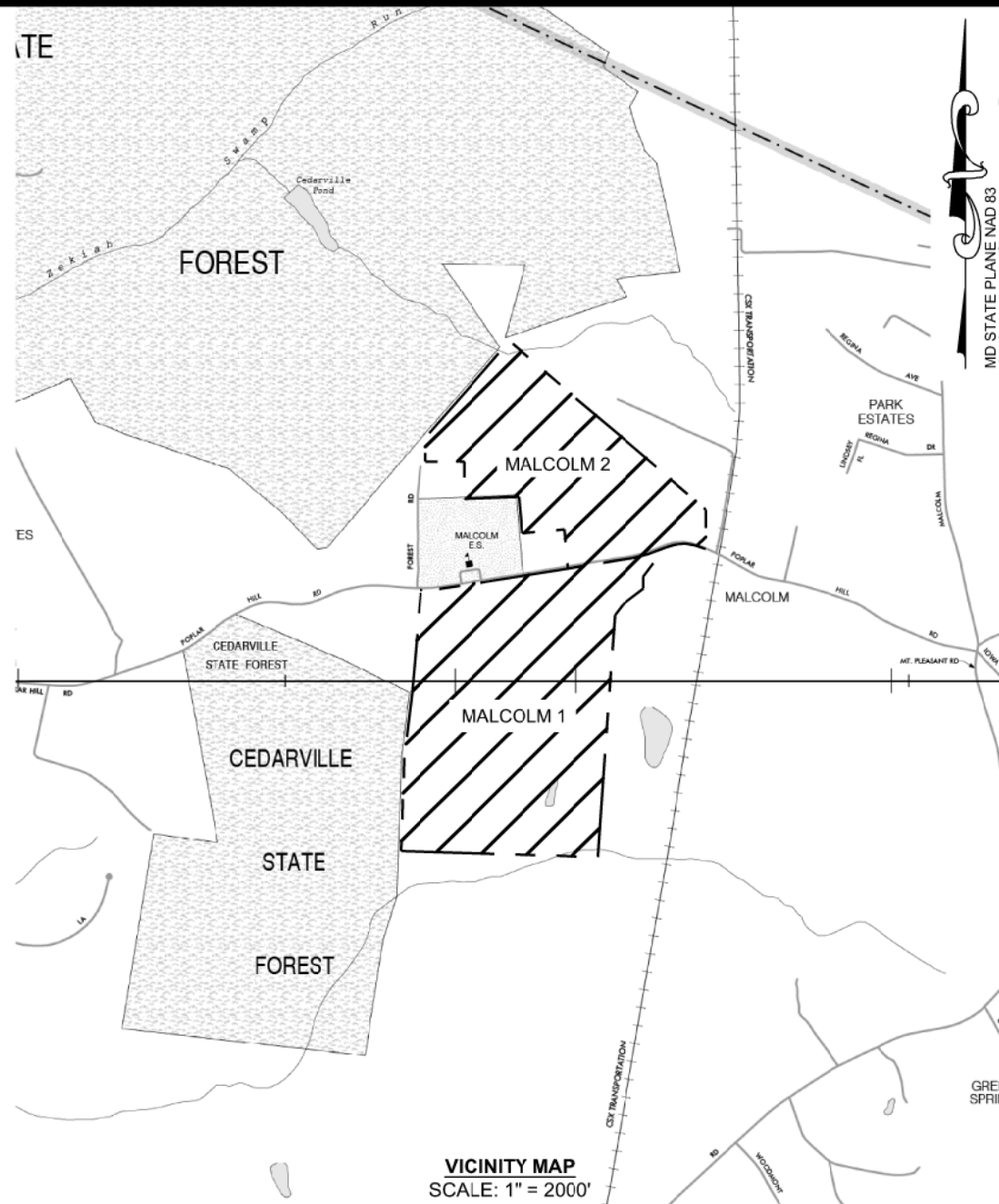
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ENVIRONMENTAL FEATURES PLAN
SCALE: 1" = 300'



DEVELOPER:
ROCKHILL SAND AND GRAVEL
C/O CHANTILLY CRUSHED STONE, INC.
25000 TANNER LANE
CHANTILLY, VA 20152
PHONE: 703-471-4461

OWNER:
PERCOTEE, INC.
11900 TECH ROAD
SILVER SPRING, MD 20904

ENGINEER/SURVEYOR:
McCRONE
20 RIDGELY AVENUE
ANNAPOLIS, MD 21401
CONTACT: BILL WARNOCK, P.E.
PHONE: 410-267-8621

PROPERTY INFORMATION
MALCOLM 1
TAX MAP: 17
GRID: 2
PARCEL: 3
TAX ACCOUNT ID#: 08030847
ZONING: AC- AGRICULTURAL CONSERVATION
W & S CATEGORY: W4S-S-6
PLAT/DEED REFERENCE: 7866/45

MALCOLM 2
TAX MAP: 17
GRID: 2
PARCEL: 175
TAX ACCOUNT ID#: 08030855
ZONING: AC- AGRICULTURAL CONSERVATION
W & S CATEGORY: W4S-S-6
PLAT/DEED REFERENCE: 7866/54

MISS UTILITY
CALL "MISS UTILITY" 1-800-257-7777 FOR UTILITY LOCATIONS AT LEAST 48 HOURS BEFORE BEGINNING CONSTRUCTION. IF CONSTRUCTION DOES NOT BEGIN WITHIN 10 DAYS OF "MISS UTILITY" STAKEOUT, THEN THEY MUST BE CALLED AGAIN BEFORE BEGINNING CONSTRUCTION.

SOIL SUMMARY	
SOIL SERIES	SYMBOL
BELTSVILLE SILT LOAM	BaB
BELTSVILLE SILT LOAM	BaC
BELTSVILLE-AQUASCO COMPLEX	BcA
BELTSVILLE-GROSSTOWN-WOODSTOWN COMPLEX	BgB
GALESTOWN-HAMMONTON COMPLEX	GcB
GROSSTOWN GRAVELLY SILT LOAM	GgB
GROSSTOWN-MARR-HOGHOLE COMPLEX	GmD
GROSSTOWN-MARR-HOGHOLE COMPLEX	GmF
GROSSTOWN-WOODSTOWN-BELTSVILLE COMPLEX	GwD
HOGHOLE-GROSSTOWN COMPLEX	HgB
ISSUE SILT LOAM	Is
LENNI AND QUINDOCQUA SOILS	LQA
POTOBAC-ISSUE COMPLEX	Pu
REYBOLD SILT LOAM	RsA
REYBOLD SILT LOAM	RsB
UDORTHENTS LOAMY	UdB
WATER	W
WOODSTOWN SANDY LOAM	WdaA
WOODSTOWN SANDY LOAM	WdaB

LEGEND	
EXISTING IMPERVIOUS FEATURES	
PROPERTY LINE	
SITE ADJACENT PROPERTY LINE	
EXISTING TREE LINE	
EXISTING STREAMS	
EXISTING BUILDING OUTLINE	
EXISTING MAJOR CONTOUR	
EXISTING MINOR CONTOUR	
SOIL BOUNDARY	
SOIL SYMBOL	
FOREST AREA	
OPEN SPACE	
RESOURCE PROTECTION ZONE	

DATE: OCTOBER 2024
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SCALE: AS SHOWN
DRAWN BY: MEG AHIL SMH
DESIGNED BY: MEG AHIL SMH
APPROVED BY: MEG

FOR:
MALCOLM 1 & 2
EIGHTH ELECTION DISTRICT, CHARLES COUNTY, MARYLAND
TAX MAP 17, GRID 2, PARCEL 3 & 175
PREPARED FOR: ROCKHILL SAND AND GRAVEL

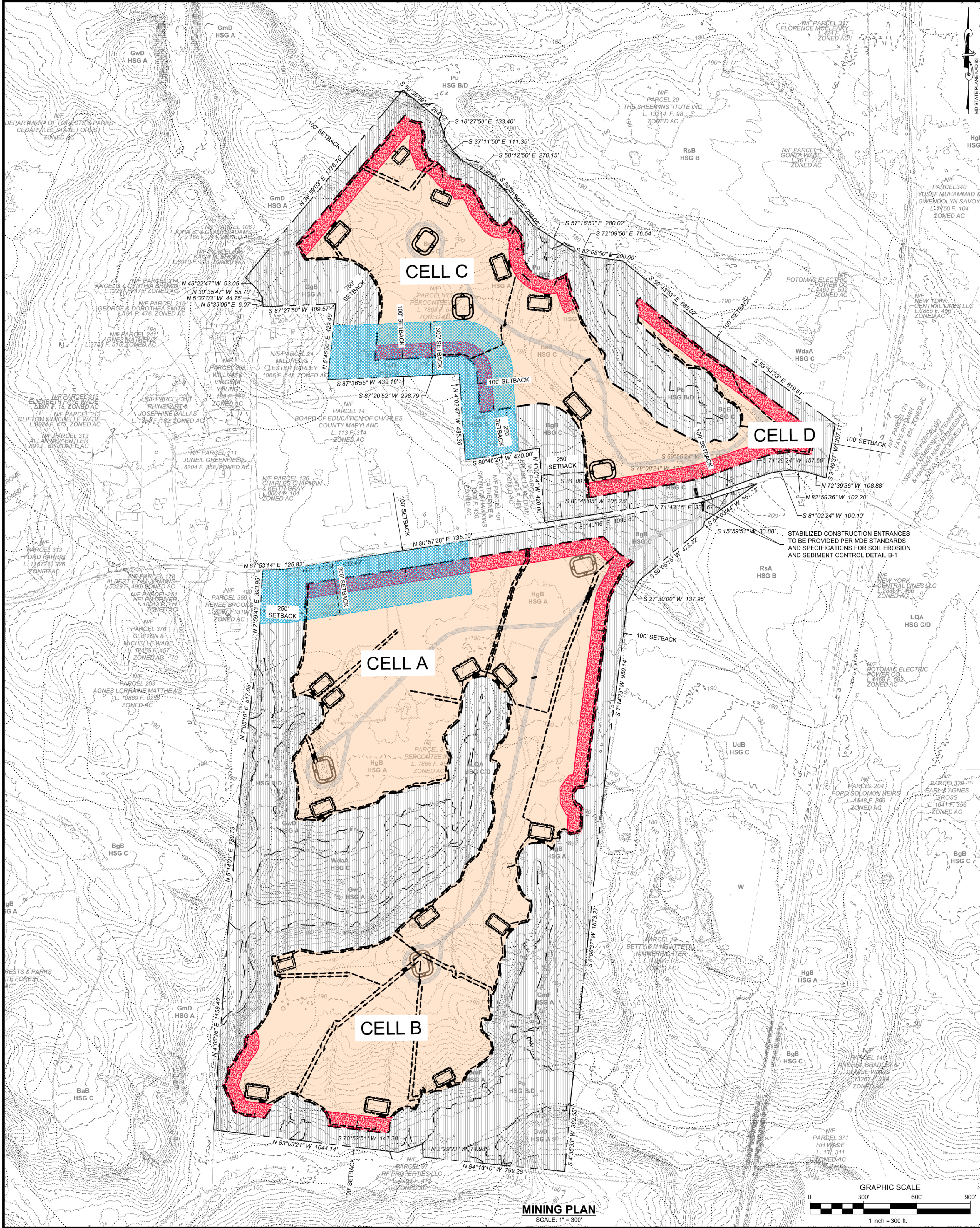
SHEET NO.: 1 OF 1
FILE NO.: C2220030_EnvFeatures.dwg

REVISIONS

REV. #	DATE	DESCRIPTION

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ANNAPOLIS, MARYLAND 21401
(410) 267-8621
www.mccrone-engineers.com



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MISS UTILITY
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OWNER:
PERCOTTEE, INC.
11900 TECH ROAD
SILVER SPRING, MD 20904

PROPERTY INFORMATION
MALCOLM 1
TAX MAP 17
GRID: 2
PARCEL: 3
TAX ACCOUNT ID#: 08030847
ZONING: AC- AGRICULTURAL CONSERVATION
W & S CATEGORY: W-6/S-6
PLAT/DEED REFERENCE: 786645
MALCOLM 2
TAX MAP 17
GRID: 2
PARCEL: 175
TAX ACCOUNT ID#: 08030855
ZONING: AC- AGRICULTURAL CONSERVATION
W & S CATEGORY: W-6/S-6
PLAT/DEED REFERENCE: 786654

GENERAL NOTES

- ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST CHARLES COUNTY DEPARTMENT OF PLANNING AND GROWTH MANAGEMENT SPECIFICATIONS MANUAL, THE LATEST CHARLES COUNTY DETAIL MANUAL AND IN ACCORDANCE WITH CURRENT COUNTY ORDINANCES.
- CONTRACTOR IS RESPONSIBLE FOR CONTACTING "MISS UTILITY" AT 1-800-257-7777, 48 HOURS PRIOR TO ANY EXCAVATION WORK.
- THE DEVELOPER IS RESPONSIBLE TO HOLD A "PRECONSTRUCTION" MEETING TO INCLUDE THE CONTRACTOR, CHARLES COUNTY INSPECTION PERSONNEL, PUBLIC UTILITIES, AND ANY LOCAL, STATE OR FEDERAL AGENCIES AS REQUIRED PRIOR TO THE START OF CONSTRUCTION.
- THE CONTRACTOR IS RESPONSIBLE FOR CONTACTING THE CHARLES COUNTY DEPARTMENT OF PLANNING AND GROWTH MANAGEMENT / DEVELOPMENT SERVICES DIVISION 48 HOURS PRIOR TO THE START OF ALL CONSTRUCTION IN ACCORDANCE TO ALL PERMITS ISSUED @ (301) 645-0618.
- MAXIMUM SLOPES SHALL BE NOT GREATER THAN THREE (3) FEET HORIZONTAL TO ONE (1) FOOT VERTICAL OUTSIDE THE ROAD RIGHT-OF-WAY. SLOPES WITHIN THE ROAD RIGHT-OF-WAY SHALL BE NOT GREATER THAN TWO (2) FEET HORIZONTAL TO ONE (1) FOOT VERTICAL, OR AS SPECIFIED IN THE COUNTY ROAD ORDINANCE AND IN THE CHARLES COUNTY DETAIL MANUAL.
- CERTIFIED COMPACTION TESTS ARE REQUIRED FOR ALL TRENCH/FILL WORK IN ACCORDANCE WITH THE LATEST EDITION OF THE SPECIFICATIONS MANUAL AND GRADING ORDINANCE. FINAL REPORTS AND CERTIFICATIONS SHALL BE PROVIDED PRIOR TO PREPARE INSPECTIONS.
- TRUCKING AND HAULING OF SOIL AND/OR AGGREGATE MATERIALS FROM THIS SITE SHALL ONLY BE CONDUCTED MONDAY THROUGH FRIDAY ONLY WITH A MAXIMUM OF 200 TRUCK LOADS PER DAY. A SIMILAR CONDITION, OR REQUIREMENT, SHALL BE CONTAINED WITHIN THE APPLICABLE PERMIT(S) OBTAINED FROM THE MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE) AND ANY OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION OVER THIS SURFACE MINING SITE.
- WITH APPROVAL FROM THE MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE) AND ANY OTHER SEDIMENT CONTROL STRUCTURES MUST BE REMOVED PRIOR TO THE RELEASE OF BONDS.
- PROPERTY IS SHOWN ON TAX MAP 17, GRID 2, PARCEL 3 & 175.
- SITE ANALYSIS:

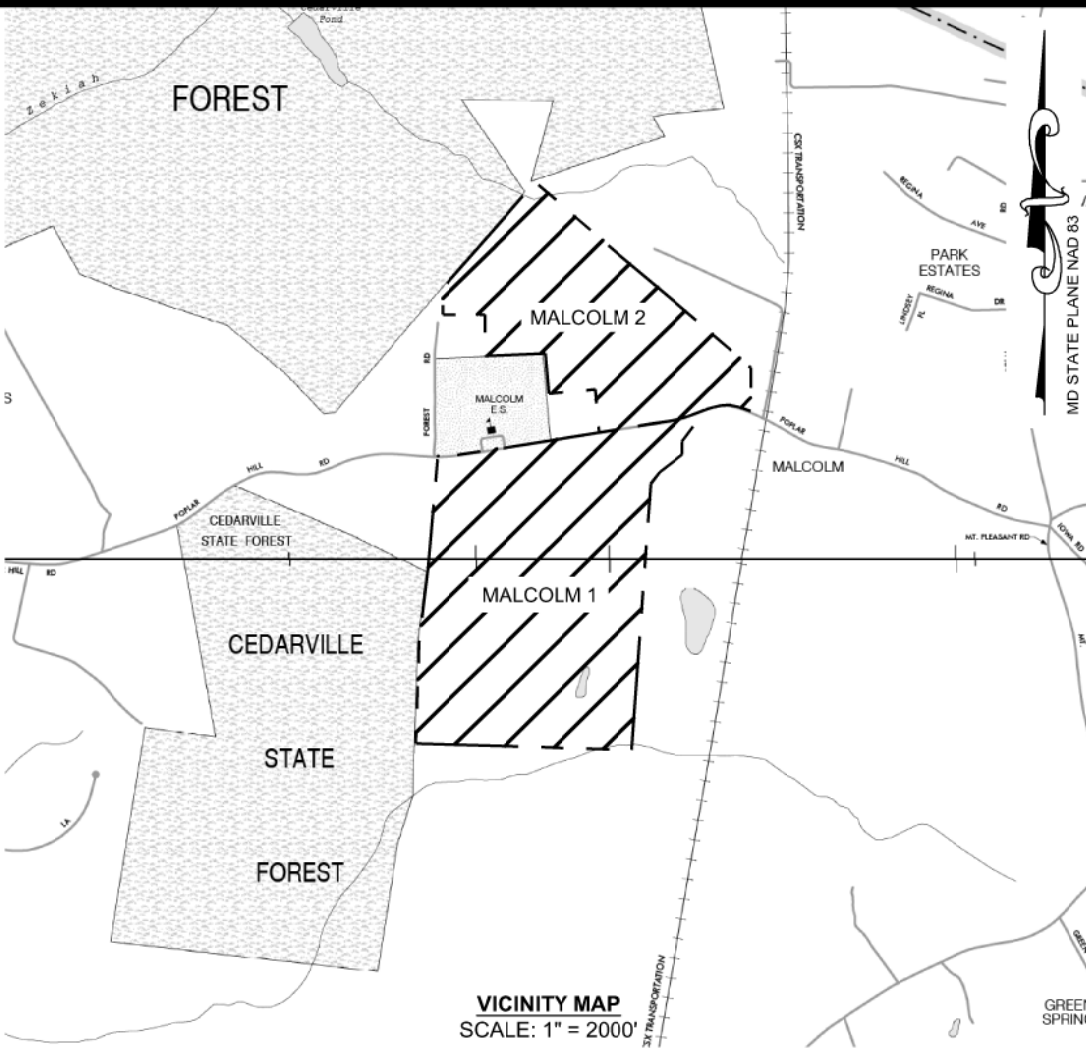
MALCOLM 1
TOTAL TRACT AREA IS 162.21 ACRES ±
TOTAL PROPOSED MINING AREA IS 84.36 ACRES ±

MALCOLM 2
TOTAL TRACT AREA IS 80.96 ACRES ±
TOTAL PROPOSED MINING AREA IS 44.53 ACRES ±

TOTAL VOLUMES: CUT - 2,759,671 C.Y. ± / RECLAMATION FILL - 2,759,671 C.Y. ±

- PROPERTY IS OWNED BY PERCOTTEE, INC., LIBER 576 / FOLIO 178
- EXISTING ZONING IS AC- AGRICULTURAL CONSERVATION
- STATE WATERSHED CODE 21401 / LOWER POTOMAC RIVER AREA.
- TOPOGRAPHY SHOWN HEREON TAKEN FROM PUBLICLY AVAILABLE GIS DATA. COORDINATES SHOWN ON THESE PLANS ARE BASED ON MARYLAND COORDINATE SYSTEM (NAD 83/1991). PROPERTY OUTLINES AND WETLANDS SHOWN HEREON TAKEN FROM SURVEY PREPARED BY McCRONE, IN OCTOBER 2022.
- MINED AREAS WILL BE RECLAIMED AS SHOWN ON THE RECLAMATION PLAN.
- ALL UNPAVED ROAD R/W AREAS ARE TO BE SEEDED OR SODDED. ALL OTHER DISTURBED AREAS ARE TO BE PERMANENTLY SEEDED UNLESS OTHER METHODS (SODDING, RIPRAP, ETC.) ARE SPECIFIED ON THE PLAN.
- MAXIMUM FINAL RECLAMATION GRADES TO BE 3:1 SLOPE, MINIMUM GRADE TO BE 1%. NO PERMANENT EMBANKMENTS ARE PROPOSED.
- EXISTING WOODS AROUND DISTURBANCE TO ACT AS A NATURAL SIGHT, SOUND, AND DUST BUFFER.
- ALL VEHICULAR TRAFFIC LEAVING THE SITE IS TO BE FREE OF DIRT AND DEBRIS BEFORE TRAVELING ON COUNTY OR STATE ROADS.
- THE APPLICANT SHALL STRICTLY ADHERE TO THE SITE PLAN SPECIFICATIONS AND LOCATIONS.
- OPERATION SHALL BE SCREENED WITH A MINIMUM 100' NATURAL BUFFER ALONG PROPERTY LINE, WITH 250' NATURAL BUFFER WHERE HOMES ARE LOCATED IN CLOSE PROXIMITY.
- THE EXTRACTION OPERATION OF NATURAL MATERIALS OR DEPOSITS SHALL BE CONDUCTED IN ACCORDANCE WITH ALL APPLICABLE STATE AND COUNTY ORDINANCES AND REGULATIONS.
- MAINTENANCE OF SEDIMENT CONTROLS SHALL BE AS FOLLOWS:
EARTH DIKES - INSPECTION AND MAINTENANCE MUST BE PROVIDED PERIODICALLY AND AFTER EACH RAIN EVENT.
SEDIMENT TRAPS - REPAIR ALL DAMAGE CAUSED BY SOIL EROSION AND CONSTRUCTION EQUIPMENT AT OR BEFORE THE END OF EACH WORKING DAY. SEDIMENT SHALL BE REMOVED FROM THE TRAP WHEN IT REACHES THE OUTLET ELEVATION SPECIFIED ON PLANS. THIS SEDIMENT SHALL BE PLACED IN SUCH A MANNER THAT IT WILL NOT ERODE FROM THE SITE.
- TO THE EXTENT FEASIBLE, MINING WILL ONLY OCCUR IN THE AREAS DENOTED ON THE MINING PLAN DURING SUMMER MONTHS WHEN SCHOOL IS OUT OF SESSION (SEE LEGEND).
- THE SETBACKS WERE DETERMINED PER CHARLES COUNTY CODE 7.05.110. B. TO BE 100 FT AT MINIMUM AND 250 FT WHERE ADJOINING HOMES WERE WITHIN 250 FT OF THE PROPOSED PORTION OF THE TRACT.

MINING PHASE TABLE			
CELL	PROPOSED MINING AREA	% DISTURBED	% RECLAIMED
A	29.66	0	0
B	54.70	0	0
C	39.75	0	0
D	4.29	0	0



SEQUENCE OF CONSTRUCTION / MINING SCHEDULE

STANDARD STABILIZATION NOTE

FOLLOWING INITIAL SOIL DISTURBANCE OR RE-DISTURBANCE, SEEDING FOR PERMANENT OR TEMPORARY STABILIZATION SHALL BE COMPLETED WITHIN THREE (3) CALENDAR DAYS AS TO THE SURFACE OF ALL PERIMETER CONTROLS, DIKES, SWALES, DITCHES, PERIMETER SLOPES, AND ALL SLOPES GREATER THAN 3 HORIZONTAL TO 1 VERTICAL (3:1) AND SEVEN (7) CALENDAR DAYS AS TO ALL OTHER DISTURBED OR GRADED AREAS ON THE PROJECT SITE NOT UNDER ACTIVE GRADING. ONCE VEGETATION IS ESTABLISHED, THE SITE SHALL HAVE 95% GROUND COVER TO BE CONSIDERED ADEQUATELY STABILIZED.

- CONTRACTOR/DEVELOPER MUST NOTIFY M.D.E. MINING INSPECTIONS (410) 537-3557 5 DAYS PRIOR TO COMMENCING WORK. 1 WEEK
- CONSTRUCT TEMPORARY STABILIZED CONSTRUCTION ENTRANCE; BEGIN CLEARING FOR EQUIPMENT STORAGE AREA. STABILIZE EQUIPMENT STORAGE AREA WITH 12 INCHES OF GRAVEL. 1 MONTH
- CLEAR AND GRUB MINIMAL AREAS NECESSARY TO CONSTRUCT SEDIMENT CONTROL MEASURES FOR EACH CELL AS DESCRIBED IN STEP 5 BELOW TO CONTROL SEDIMENT DURING INITIAL LAND DISTURBANCE. CLEAR MINIMAL AREAS FOR CONSTRUCTION OF PROPOSED GRAVEL HAUL ROAD. SEDIMENT TRAPS AND TEMPORARY GABION OUTLET STRUCTURES SHOULD BE INSTALLED FIRST, THEN THEIR RESPECTIVE CONVEYANCES. 1 MONTH
- THE APPROVAL OF THE SEDIMENT CONTROL INSPECTOR IS REQUIRED UPON INSTALLATION OF PERIMETER EROSION AND SEDIMENT CONTROLS, BUT BEFORE PROCEEDING WITH ANY OTHER EARTH DISTURBANCE OR GRADING. 2 YEARS
- CONSTRUCT SEDIMENT TRAPS AND TEMPORARY GABION OUTLET STRUCTURES FOR EACH MINING CELL.
5.1. CLEAR MINIMAL AREAS FOR THE CONSTRUCTION OF THE SEDIMENT TRAPS B1, B2, B3, AND B4. SEDIMENT TRAP CONSTRUCTION IS TO BE COMPLETED PRIOR TO BEGINNING THE EXCAVATION OPERATIONS IN CELL B. TEMPORARY SEDIMENT TRAPS B1, B2, B3, AND B4 ARE TO REMAIN AND BE MAINTAINED UNTIL RECLAMATION GRADING OF CELL B HAS BEEN PERMANENTLY STABILIZED FOR A MINIMUM OF TWO GROWING SEASONS.
5.2. CLEAR MINIMAL AREAS FOR THE CONSTRUCTION OF THE SEDIMENT TRAPS A1, A2, A3, A4, A5, A6, A7, AND A8. SEDIMENT TRAP CONSTRUCTION IS TO BE COMPLETED PRIOR TO BEGINNING THE EXCAVATION OPERATIONS IN CELL A. TEMPORARY SEDIMENT TRAPS A1, A2, A3, A4, A5, A6, A7, AND A8 ARE TO REMAIN AND BE MAINTAINED UNTIL RECLAMATION GRADING OF CELL A HAS BEEN PERMANENTLY STABILIZED FOR A MINIMUM OF TWO GROWING SEASONS.
5.3. CLEAR MINIMAL AREAS FOR THE CONSTRUCTION OF THE SEDIMENT TRAPS C1, C2, C3, C4, C5, AND C6. SEDIMENT TRAP CONSTRUCTION IS TO BE COMPLETED PRIOR TO BEGINNING THE EXCAVATION OPERATIONS IN CELL C. TEMPORARY SEDIMENT TRAPS C1, C2, C3, C4, C5, AND C6 ARE TO REMAIN AND BE MAINTAINED UNTIL RECLAMATION GRADING OF CELL C HAS BEEN PERMANENTLY STABILIZED FOR A MINIMUM OF TWO GROWING SEASONS.
5.4. CLEAR MINIMAL AREAS FOR THE CONSTRUCTION OF THE SEDIMENT TRAP D1. SEDIMENT TRAP CONSTRUCTION IS TO BE COMPLETED PRIOR TO BEGINNING THE EXCAVATION OPERATIONS IN CELL D. TEMPORARY SEDIMENT TRAP D1 IS TO REMAIN AND BE MAINTAINED UNTIL RECLAMATION GRADING OF CELL D HAS BEEN PERMANENTLY STABILIZED FOR A MINIMUM OF TWO GROWING SEASONS. 1 MONTH
- EXISTING TOPSOIL AND SPOIL MATERIAL TO BE STOCKPILED ON A DAILY BASIS WITHIN DESIGNATED STOCKPILE AREAS.
- CLEAN-UP AND MAINTENANCE OF VEGETATION AS NECESSARY TO INSURE ESTABLISHED GROWTH OF ALL SEEDED AREAS.
- ONCE CONSTRUCTION OF SEDIMENT TRAPS AND TEMPORARY GABION OUTLET STRUCTURES HAVE BEEN COMPLETED AND CONVEYANCES INSTALLED PER DETAIL, MINING OPERATIONS MAY BEGIN.
- EROSION AND SEDIMENT PRACTICES, AND SITE IN GENERAL, MUST BE INSPECTED WEEKLY AND AFTER EACH RAIN FALL EVENT, BY THE CONTRACTOR OR OTHER RESPONSIBLE PERSON, AND ANY NEEDED MAINTENANCE PERFORMED IMMEDIATELY.
- AFTER MINING OPERATIONS HAVE COMMENCED, BEGIN RECLAMATION GRADING OF ALL CELLS. AREAS WHERE EROSION AND SEDIMENT CONTROL MEASURES HAVE BEEN REMOVED MUST BE GRADED AND VEGETATIVELY STABILIZED AT THE END OF EACH WORKING DAY. SITE MUST BE GRADED IN SUCH A MANNER THAT THE APPROVED DRAINAGE DIVIDES ARE MAINTAINED THROUGHOUT SITE CONSTRUCTION.
- SEDIMENT AND EROSION CONTROLS CANNOT BE REMOVED UNTIL THE SITE HAS ADEQUATE STABILIZATION (MINIMUM OF TWO GROWING SEASONS), BUT CAN BE REMOVED ON A CELL BY CELL BASIS. ONCE VEGETATION IS ESTABLISHED, THE SITE SHALL HAVE 95% GROUND COVER TO BE CONSIDERED ADEQUATELY STABILIZED AND THE SEDIMENT CONTROL INSPECTOR HAS APPROVED SUCH REMOVAL.

LEGEND

PROPERTY LINE	---
SITE ADJACENT PROPERTY LINE	---
EXISTING MAJOR CONTOUR	200
EXISTING MINOR CONTOUR	202
EXISTING BUILDING OUTLINE	---
SOIL BOUNDARY	---
SOIL SYMBOL	HgB HSG A
EXISTING TREE LINE	---
CELL LINE	---
WETLANDS	---
EARTH DIKE	---
PROPOSED MINING AREA	---
ZONING BUFFER / RESOURCE PROTECTION AREA / WETLANDS / EXISTING FOREST	---
PROPOSED STOCKPILE	---
PROPOSED SEDIMENT TRAP	---
PROPOSED HAUL ROAD	---
PROPOSED MOUNTABLE BERM	---
PROPOSED STABILIZED CONSTRUCTION ENTRANCE	---
PROPOSED 12" TALL SOUND BERM	---
AREA TO BE MINED ONLY DURING SUMMER MONTHS WHEN SCHOOL IS OUT OF SESSION	---

REVISIONS

REV. #	DATE	DESCRIPTION

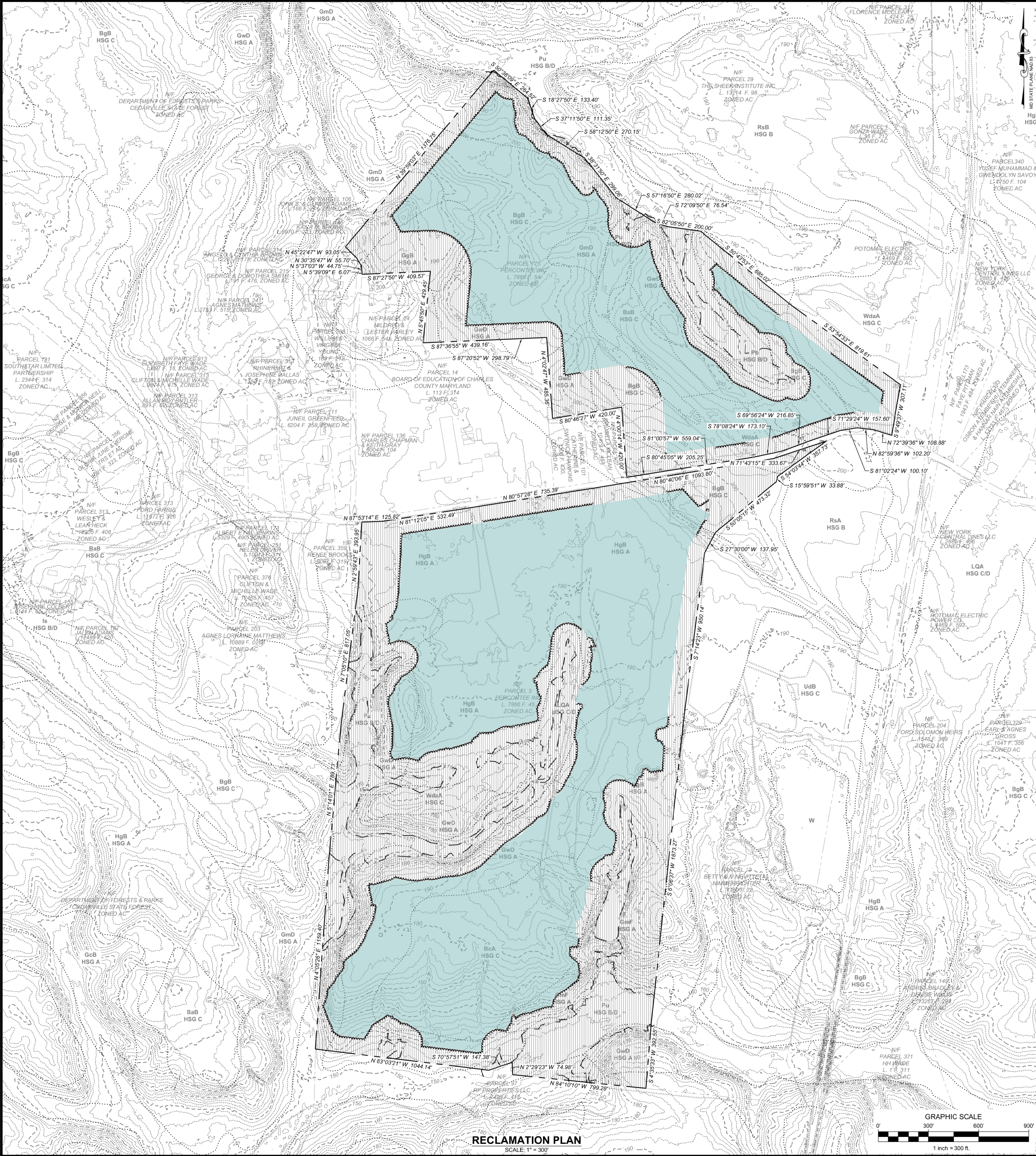
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ENGINEERS • SURVEYORS • PLANNERS
ANNAPOLIS • CENTREVILLE • ELKTON • SALISBURY • DELAWARE

DATE:	OCTOBER 2024
JOB NUMBER:	C2220030
SCALE:	AS SHOWN
DRAWN BY:	NEG. ARL. SMH
DESIGNED BY:	NEG. ARL. SMH
APPROVED BY:	IMGG

MALCOLM 1 & 2
EIGHTH ELECTION DISTRICT, CHARLES COUNTY, MARYLAND
TAX MAP 17, GRID 2, PARCEL 3 & 175
PREPARED FOR: ROCKHILL SAND AND GRAVEL

SHEET NO.: 1 OF 1

FILE NO.: C2220030_Mining.dwg



DEVELOPER:
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C/O CHANTILLY CRUSHED STONE, INC.
2500 TANNER LANE
CHANTILLY, VA 20152
CONTACT: STEVEN HERZBERG, V.P.
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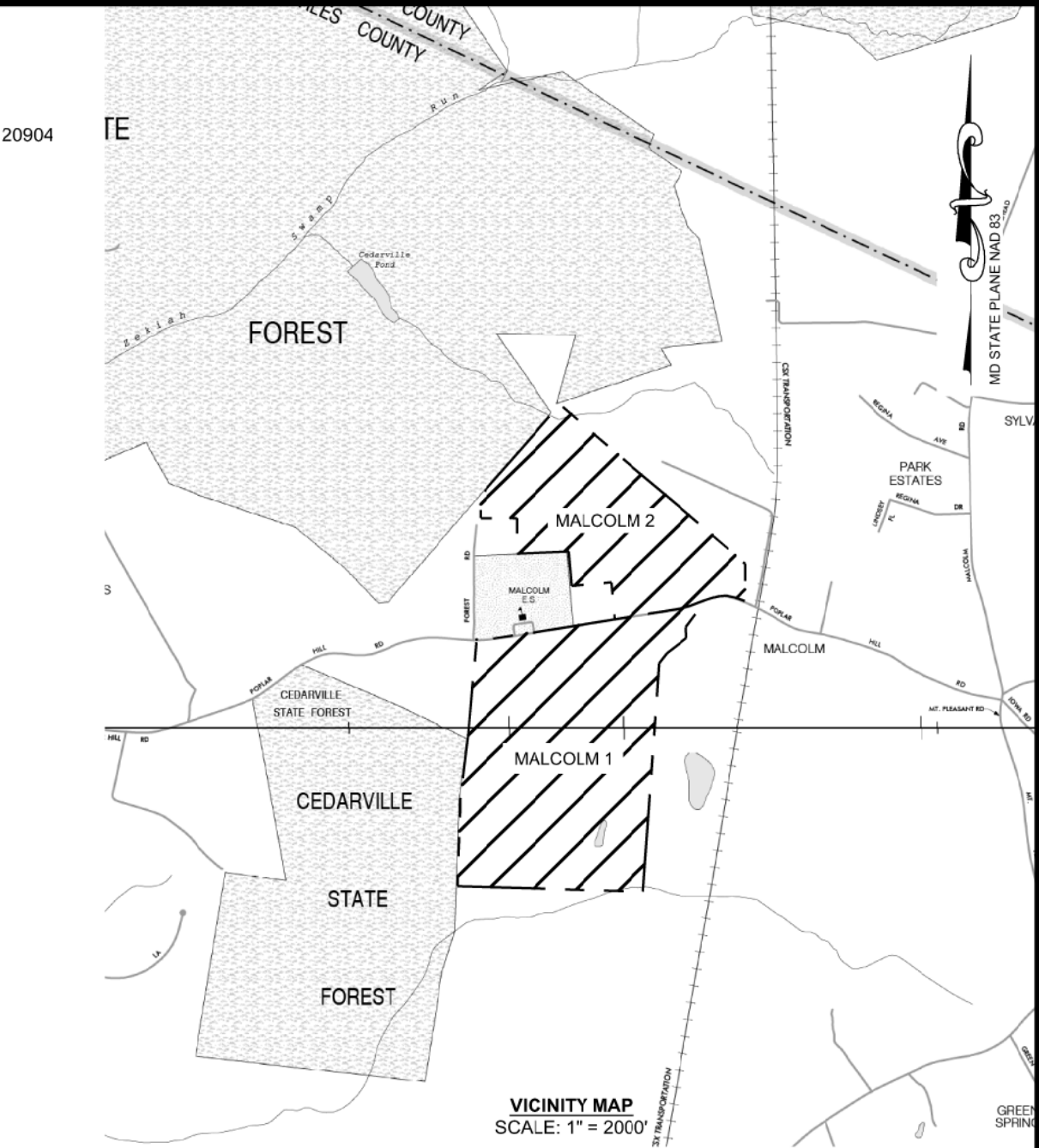
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ENGINEER/SURVEYOR:
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ANNAPOLIS, MD 21401
CONTACT: BILL WARNOCK, P.E.
PHONE: 410-267-8621

PROPERTY INFORMATION
MALCOLM 1
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PARCEL: 3
TAX ACCOUNT ID#: 08030847
ZONING: AC-AGRICULTURAL CONSERVATION
W & S CATEGORY: W-6/S-6
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MALCOLM 2
TAX MAP: 17
GRID: 2
PARCEL: 175
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GENERAL NOTES

- ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST CHARLES COUNTY DEPARTMENT OF PLANNING AND GROWTH MANAGEMENT SPECIFICATIONS MANUAL, THE LATEST CHARLES COUNTY DETAIL MANUAL AND IN ACCORDANCE WITH CURRENT COUNTY ORDINANCES.
 - CONTRACTOR IS RESPONSIBLE FOR CONTACTING "MISS UTILITY" AT 1-800-257-7777, 48 HOURS PRIOR TO ANY EXCAVATION WORK.
 - THE DEVELOPER IS RESPONSIBLE TO HOLD A "PRECONSTRUCTION" MEETING TO INCLUDE THE CONTRACTOR, CHARLES COUNTY INSPECTION PERSONNEL, PUBLIC UTILITIES, AND ANY LOCAL, STATE OR FEDERAL AGENCIES AS REQUIRED PRIOR TO THE START OF CONSTRUCTION.
 - THE CONTRACTOR IS RESPONSIBLE FOR CONTACTING THE CHARLES COUNTY DEPARTMENT OF PLANNING AND GROWTH MANAGEMENT / DEVELOPMENT SERVICES DIVISION 48 HOURS PRIOR TO THE START OF ALL CONSTRUCTION IN ACCORDANCE TO ALL PERMITS ISSUED @ (301) 645-0618.
 - MAXIMUM SLOPES SHALL BE NOT GREATER THAN THREE (3) FEET HORIZONTAL TO ONE (1) FOOT VERTICAL OUTSIDE THE ROAD RIGHT-OF-WAY. SLOPES WITHIN THE ROAD RIGHT-OF-WAY SHALL BE NOT GREATER THAN TWO (2) FEET HORIZONTAL TO ONE (1) FOOT VERTICAL, OR AS SPECIFIED IN THE COUNTY ROAD ORDINANCE AND IN THE CHARLES COUNTY DETAIL MANUAL.
 - CERTIFIED COMPACTION TESTS ARE REQUIRED FOR ALL TRENCH/FILL WORK IN ACCORDANCE WITH THE LATEST EDITION OF THE SPECIFICATIONS MANUAL AND GRADING ORDINANCE. FINAL REPORTS AND CERTIFICATIONS SHALL BE PROVIDED PRIOR TO PRELIMINARY INSPECTIONS.
 - TRUCKING AND HAULING OF SOIL AND/OR AGGREGATE MATERIALS FROM THIS SITE SHALL ONLY BE CONDUCTED MONDAY THROUGH FRIDAY ONLY WITH A MAXIMUM OF 200 TRUCK LOADS PER DAY. A SIMILAR CONDITION, OR REQUIREMENT, SHALL BE CONTAINED WITHIN THE APPLICABLE PERMIT(S) OBTAINED FROM THE MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE) AND ANY OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION OVER THIS SURFACE MINING SITE.
 - WITH APPROVAL FROM THE MARYLAND DEPARTMENT OF THE ENVIRONMENT ALL EROSION AND SEDIMENT CONTROL STRUCTURES MUST BE REMOVED PRIOR TO THE RELEASE OF BONDS.
 - PROPERTY IS SHOWN ON TAX MAP 17, GRID 2, PARCEL 3 & 175.
 - SITE ANALYSIS:
- MALCOLM 1
TOTAL TRACT AREA IS 162.21 ACRES ±
TOTAL PROPOSED MINING AREA IS 84.36 ACRES ±
- MALCOLM 2
TOTAL TRACT AREA IS 80.96 ACRES ±
TOTAL PROPOSED MINING AREA IS 44.63 ACRES ±
- TOTAL VOLUMES: CUT - 2,759,671 C.Y. ± / RECLAMATION FILL - 2,759,671 C.Y. ±
- PROPERTY IS OWNED BY PERCOTTEE, INC., LIBER 576 / FOLIO 178
 - EXISTING ZONING IS AC- AGRICULTURAL CONSERVATION
 - STATE WATERSHED CODE 21401 / LOWER POTOMAC RIVER AREA.
 - TOPOGRAPHY SHOWN HEREON TAKEN FROM PUBLICLY AVAILABLE GIS DATA. COORDINATES SHOWN ON THESE PLANS ARE BASED ON MARYLAND COORDINATE SYSTEM (NAD 83/1991). PROPERTY OUTLINES AND WETLANDS SHOWN HEREON TAKEN FROM SURVEY PREPARED BY McCrone, DATED OCTOBER, 2022.
 - MINED AREAS WILL BE RECLAIMED AS SHOWN ON THE RECLAMATION PLAN.
 - ALL UNPAVED ROAD ROW AREAS ARE TO BE SEEDED OR SODDED. ALL OTHER DISTURBED AREAS ARE TO BE PERMANENTLY SEEDED UNLESS OTHER METHODS (SODDING, RIPRAP, ETC.) ARE SPECIFIED ON THE PLAN
 - MAXIMUM FINAL RECLAMATION GRADES TO BE 3:1 SLOPE, MINIMUM GRADE TO BE 1%. NO PERMANENT EMBANKMENTS ARE PROPOSED.
 - EXISTING WOODS AROUND DISTURBANCE TO ACT AS A NATURAL SIGHT, SOUND, AND DUST BUFFER.
 - ALL VEHICULAR TRAFFIC LEAVING THE SITE IS TO BE FREE OF DIRT AND DEBRIS BEFORE TRAVELING ON COUNTY OR STATE ROADS.
 - THE APPLICANT SHALL STRICTLY ADHERE TO THE SITE PLAN SPECIFICATIONS AND LOCATIONS.
 - OPERATION SHALL BE SCREENED WITH A MINIMUM 100' NATURAL BUFFER ALONG PROPERTY LINE, WITH 250' NATURAL BUFFER WHERE HOMES ARE LOCATED IN CLOSE PROXIMITY.
 - THE EXTRACTION OPERATION OF NATURAL MATERIALS OR DEPOSITS SHALL BE CONDUCTED IN ACCORDANCE WITH ALL APPLICABLE STATE AND COUNTY ORDINANCES AND REGULATIONS.
 - MAINTENANCE OF SEDIMENT CONTROLS SHALL BE AS FOLLOWS:

EARTH DIKES - INSPECTION AND MAINTENANCE MUST BE PROVIDED PERIODICALLY AND AFTER EACH RAIN EVENT.

SEDIMENT TRAPS - REPAIR ALL DAMAGE CAUSED BY SOIL EROSION AND CONSTRUCTION EQUIPMENT AT OR BEFORE THE END OF EACH WORKING DAY. SEDIMENT SHALL BE REMOVED FROM THE TRAP WHEN IT REACHES THE OUTLET ELEVATION SPECIFIED ON PLANS. THIS SEDIMENT SHALL BE PLACED IN SUCH A MANNER THAT IT WILL NOT ERODE FROM THE SITE.
 - TO THE EXTENT FEASIBLE, MINING WILL ONLY OCCUR IN THE AREAS DENOTED ON THE MINING PLAN DURING SUMMER MONTHS WHEN SCHOOL IS OUT OF SESSION (SEE LEGEND).
 - THE SETBACKS WERE DETERMINED PER CHARLES COUNTY CODE 7.05.110. B. TO BE 100 FT AT MINIMUM AND 250 FT WHERE ADJOINING HOMES WERE WITHIN 250 FT OF THE PROPOSED PORTION OF THE TRACT.

LEGEND	
PROPERTY LINE	---
SITE ADJACENT PROPERTY LINE	---
EXISTING MAJOR CONTOUR LINE	 200
EXISTING MINOR CONTOUR LINE	 202
EXISTING BUILDING OUTLINE	---
SOIL BOUNDARY	
SOIL SYMBOL	HgB HSG A
EXISTING TREE LINE	~~~~~
PROPOSED TREE LINE	~~~~~
WETLANDS	---
POST MINING OPEN MEADOW	---
ZONING BUFFER / RESOURCE PROTECTION AREA / WETLANDS / EXISTING FOREST	---

REVISIONS		DESCRIPTION	
REV. #	DATE		

McCRONE

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ANNAPOLIS, MARYLAND 21401
(410) 267-8621
www.mccrone-engineers.com

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DATE:	OCTOBER 2024
JOB NUMBER:	C2220030
SCALE:	AS SHOWN
DRAWN BY:	NEG-AHL-SMH
DESIGNED BY:	NEG-AHL-SMH
APPROVED BY:	MMG

RECLAMATION EXHIBIT

FOR:

MALCOLM 1 & 2

EIGHTH ELECTION DISTRICT, CHARLES COUNTY, MARYLAND

TAX MAP 17, GRID 2, PARCEL 3 & 175

PREPARED FOR: ROCKHILL SAND AND GRAVEL

SHEET NO.:	1 OF 1
FILE NO.:	C2220030_Reclamation.dwg

Item Cover Page

BOARD OF APPEALS AGENDA ITEM REPORT

DATE: October 28, 2025

SUBMITTED BY: Sherri Davis, Department of Planning and Growth Management

ITEM TYPE: Approval Item(s)

AGENDA SECTION: New Business

SUBJECT: Appeal of Zoning Officer Determination Decision for Rivers Edge Restaurant

SUGGESTED ACTION: Appellant, George Holmes, owner of River's Edge Restaurant pursuant to Section 297-417 - Appeals, notes an appeal to the Board of Appeals for Charles County from the Zoning Officer Determination entered by the Charles County Department of Planning & Growth Management on February 8, 2023, in Code Case Number RFA 180169.

ATTACHMENTS:
[23.02.08 Zoning Officer Letter](#)
[Rivers Edge Appeal](#)



CHARLES COUNTY GOVERNMENT
Department of Planning & Growth Management

Deborah A. Carpenter, AICP
 Director

Phone | 301-645-0692
 Email | PGMadmin@CharlesCountyMD.gov

February 8, 2023

Ron Litten
 R.L. Litten & Associates, Architects, LLC
 300 Charles St., Suite 4
 La Plata, MD 20646

Re: River's Edge Restaurant

Dear Mr. Litten,

In a letter dated November 30, 2022, this Department issued you a letter informing you that because your client had not obtained the requisite building permit to reconstruct the restaurant prior to the deadline set in a letter dated November 3, 2021, the legal, non-conforming status had, in essence, been forfeited. Therefore, in order to proceed with the reconstruction, the plans needed to comply with all local, state and federal regulations impacting the property. In a letter dated December 27, 2022, a request for a Zoning Officer Determination was received. Upon review of the request, two questions have been posed: (1) what does it mean to "forfeit" a legal-nonconforming use status; and (2) does your client's attempt to "actively pursue the rehabilitation of the fire-damaged restaurant" affect its legal nonconforming use status.

In Maryland, it is well established that a legal nonconforming use is a vested right. But, local jurisdictions are permitted, through the administration of its Zoning Ordinance, to eliminate nonconforming uses through economic attrition (e.g. going out of business) and physical obsolescence (e.g. destruction). On one hand, § 297-466 of the County's Zoning Ordinance accounts for situations in which minor repairs and/or routine maintenance become desirable; there are also limitations on more major repairs or replacement of a structure located on a lot where a nonconforming situation exists. On the other hand, § 297-468 of the County's Zoning Ordinance is the mechanism to eliminate nonconforming uses. Section 297-468.A. plainly states, "In the event that a nonconforming use ceases for a period of one year or more, the nonconforming use shall be deemed abandoned, and compliance with this chapter shall be required (emphasis added)."

According to the County's records, a fire destroyed nearly all of restaurant on April 19, 2018, and as a result, the restaurant was closed. It was not until February 18, 2020, that the County received the first submittal for a Site Development Plan to rebuild the restaurant. Between February 18, 2020, and April 22, 2021, two revisions to the original plan were received and processed by this department and feedback was provided in the form of a comment letter. Each of the comment letters issued by this department required revised plans to be submitted within six months, which is the standard timeframe in all such letters.

However, this department did not receive the required resubmission due within six months of the then-most recent comment letter (issued on April 22, 2021). Despite the fact that the restaurant had been closed for over three and half years, this department issued a letter that offered your client some additional time to obtain

the approvals required to rebuild. However, the letter also notified your client that if a building permit was not obtained within one year, the restaurant could not be rebuilt at its current location. That final letter was issued on November 3, 2021.

In your request for a Zoning Officer Determination, you indicate that your client has continued to pursue the rehabilitation of the restaurant in accordance with § 297-466.B of the Zoning Ordinance, which states, "If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed 25% of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with the provisions of this section." However, the legal protection afforded to nonconforming uses by virtue of § 297-466 does not apply to a nonconforming use that "ceases for a period of one year or more."

As noted in the letter dated November 30, 2022, your client failed to obtain the necessary permits and Site Plan approvals in order to meet the November 3, 2022, deadline. Notwithstanding the failure to meet the deadline imposed by the November 3, 2021 letter issued by this department, the non-conforming use has ceased for more than one year and therefore, by the plain language of the text, the nonconforming use has been abandoned.

Any applications to repair, renovate or replace the structure located at 7320 Benedict Avenue in Benedict, Maryland will need to meet all relevant local, state, and federal requirements, including all of the regulations found within the Charles County Zoning Ordinance, the Floodplain Management Ordinance, and the Critical Area regulations found within Article IX of the Zoning Ordinance.

You have the right to appeal this determination to the Board of Appeals within thirty (30) days after the date of this decision (see § 297 417.B.).

Sincerely,

Deborah A. Carpenter
Deborah A. Carpenter (Feb 3, 2023 10:01 EST)

Deborah A. Carpenter, AICP
Zoning Officer

Rivers Edge Zoning Officer's Determination

Final Audit Report

2023-02-09

Created:	2023-02-08
By:	Sheri Davis (DavisS@charlescountymd.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAfejFgv1_PEYJVlj_k5bwJ9_UeOmWGx5

"Rivers Edge Zoning Officer's Determination" History

-  Document created by Sheri Davis (DavisS@charlescountymd.gov)
2023-02-08 - 3:19:54 PM GMT
-  Document emailed to Deborah Carpenter (carpentd@charlescountymd.gov) for signature
2023-02-08 - 3:20:31 PM GMT
-  Email viewed by Deborah Carpenter (carpentd@charlescountymd.gov)
2023-02-09 - 9:00:51 PM GMT
-  Signer Deborah Carpenter (carpentd@charlescountymd.gov) entered name at signing as Deborah A. Carpenter
2023-02-09 - 9:01:07 PM GMT
-  Document e-signed by Deborah A. Carpenter (carpentd@charlescountymd.gov)
Signature Date: 2023-02-09 - 9:01:09 PM GMT - Time Source: server
-  Agreement completed.
2023-02-09 - 9:01:09 PM GMT



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ZACHARY S. GILREATH, ASSOCIATE
Direct Dial: 410.862.1119
E-Mail Address: zgilreath@bakerdonelson.com

March 8, 2023

Sherri Davis, Clerk
 Charles County Government
 Charles County Board of Appeals
 200 Baltimore Street
 La Plata, Maryland 20646

Re: Notice of Appeal, Dept. of Planning & Growth Management
River's Edge Restaurant, 7320 Benedict Avenue, Benedict, MD 20612
Case No. RFA 180169

Dear Madam Clerk,

Enclosed please find a Notice of Appeal for the decision rendered by the Charles County Planning & Growth Management Zoning Officer in Case No. RFA 180169. Also enclosed is a copy of the Zoning Officer Determination dated February 8, 2023 being appealed and the filing fee of \$1,471.60.

Please return a date stamped copy of the Notice of Appeal to:

Zachary S. Gilreath, Esq.
 Baker, Donelson, Bearman, Caldwell, Berkowitz, P.C.
 100 Light Street, 19th Floor
 Baltimore, Maryland 21202

Thank you for your prompt attention to this matter.

Very truly yours,

BAKER, DONELSON, BEARMAN,
 CALDWELL & BERKOWITZ, PC


 Zachary S. Gilreath

Enclosures

RECEIVED
 MAR 8 2023
 13
PLANNING

4863-1166-6248v1

Respectfully submitted,

/s/ Charles R. Schaller, Jr.

Charles R. Schaller, Jr. (AIS# 9106200250)

/s/ Zachary S. Gilreath

Zachary S. Gilreath (AIS #1812110148)

BAKER, DONELSON, BEARMAN,
CALDWELL, AND BERKOWITZ, PC

100 Light Street, 19th Floor

Baltimore, Maryland 21202

Phone: (410) 862-1120

cschaller@bakerdonelson.com

zgilreath@bakerdonelson.com

*Counsel for Appellant George Holmes t/a River's
Edge Restaurant*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of March 2023, a copy of the foregoing Notice of Appeal was filed and served on the following via first-class mail, postage prepaid:

Sherri Davis, Clerk
Charles County Government
200 Baltimore Street
La Plata, MD 20646

Deborah A. Carpenter, AICP
Zoning Officer
Charles County Gov't. Dept. of Planning & Growth Management
200 Baltimore Street
La Plata, MD 20646
pgmadmin@charlescountymd.gov

/s/ Zachary S. Gilreath

Zachary S. Gilreath (AIS #1812110148)