

IN THE MATTER OF	*	BEFORE THE CECIL COUNTY
THE APPLICATION OF	*	BOARD OF APPEALS
HAINES & KIBBLEHOUSE, INC.	*	CASE NO.: 3709
	*	
(Special Exception – NAR)	*	

* * * * *

OPINION

The Cecil County Board of Zoning Appeals (the “Board”) is now asked to consider the application of Haines & Kibblehouse, Inc. (the “Applicant”). Applicant seeks a special exception to operate a quarry on property owned by Applicant located at Rock Springs Road designated as Parcel 113, Block 14 on Tax Map 2 in the Eighth Election District of Cecil County (the “Property”), in an area zoned Northern Agricultural Residential (“NAR”) in accordance with Article V, Part II, Section 67.2 of the Cecil County Zoning Ordinance (the “Ordinance”).

Section 67.2 of the Ordinance provides:

- 2. Mineral Extraction may be permitted as a special exception in any zoning district in the MEB overlay zone provided:
 - a. Excavation shall not take place within 100 feet from any right of way line of any road or 300 feet from any lawfully permitted residential or institutional building.
 - b. Excavation shall not take place, nor the slope of the natural land surface be altered as a result of such excavation, nor shall the storage of materials take place nearer than 100 feet to any property line.
 - c. Operation structures shall not be erected nor storage of materials take place within 200 feet of any property line or 100 feet to the right of way line of any road.
 - d. All Environmental Performance Standards, except the regulations pertaining to steep slopes, are met.
 - e. A buffer yard meeting the D standard shall be required between any operation structures and the right of way of any road.
 - f. The use of heavy machinery for refining or processing other than for extracting, crushing, moving, washing, and screening shall be permitted only with a Heavy Industrial (M2) base zone.
 - g. New wash plants shall not be located within the Buffer of the Chesapeake Bay Critical Area.

- h.** No mineral extraction activity shall take place within the Buffer of the Chesapeake Bay Critical Area.
- i.** The mineral extraction activity is consistent with the Habitat Protection Program Element of the Cecil County Critical Area Program.
- j.** The mineral extraction activity is consistent with the Mineral Resources Program Element of the Cecil County Critical Area Program.
- k.** The requirements of the applicable Critical Area land use management area are met.

In determining whether to grant an application for a Special Exception the Board must consider Section 311 of the Ordinance, which states:

No special exception shall be approved by the Board of Appeals after considering all facts in the case unless such Board shall find:

1. Such use or any operations thereto will not be detrimental to or endanger the public health, safety, or general welfare.
2. The use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor substantially diminish or impair property values in the neighborhood.
3. The establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zone.
4. The use will not, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements.
5. The use shall not adversely affect critical natural areas or areas of ecological importance.
6. The use shall, in all other respects, conform to the applicable regulations of the zone in which it is located.
7. That the particular use proposed at the particular location proposed, would not have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. *Schultz v. Pritts*, 291 Md.1 (1981).
8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

9. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the County.

Article XVII, Part II, Section 311, Cecil County Zoning Ordinance.

Applicant submitted prior to the hearing a detailed Special Exceptions Application that contained, in section 2.0 pages 2 -5, an outline of the proposed use's conformance with Section 67.2 of the Ordinance, a copy of which is appended hereto as Exhibit A and incorporated in its entirety as if set forth completely herein.

Applicant's representatives Scott S. Grumbauer and Thomas G. Sprague appeared on its behalf. Applicant presented testimony that they are seeking a special exception to operate a quarry on two separate parcels. The first parcel, which is the subject of Case No. 3708, is approximately 53.4 acres and is owned by Applicant. This Parcel is bounded to the north by the Mason-Dixon Line and to the west by Route 222. The second parcel, which is the subject of Case No. 3709, is approximately 100.44 acres and is owned by Red Hill, Ltd. Applicant currently operates an active quarry in Pennsylvania. The land directly to the north of the Property is actively being mined by Applicant. Applicant testified that it seeks to expand its current Pennsylvania mining operation into the Maryland Property. Applicant testified that it will extract materials in Maryland then transport the materials to Pennsylvania for processing. The processing plant and storm water management will be in Pennsylvania. Applicant testified regarding a Pennsylvania study that reflected the effect of the mining operation on the wells of nearby properties and that this study would be applied to the Maryland sites. Upon further questioning, Applicant testified that in the event that a well on a neighboring property failed and that failure could be traced to Applicant's mining operations, that Applicant would move swiftly to make the necessary corrections to the failing well. Further, Applicant submitted as part of its Application a Proposed Sequence of Mining Activities, section

4.0 pages 7 – 8, which is appended hereto as Exhibit B and incorporated in its entirety as if set forth completely herein.

Mary Anne Riding, of 732 Fawn Road, Newark, Delaware, spoke in opposition to the rezoning. Ms. Riding is the Director of External Affairs for Essential Power, which operates a nearby electrical plant. Ms. Riding testified regarding concerns about the consequences of Applicant's mining activities in proximity to Essential Power's existing facilities. Ms. Riding testified regarding concerns about damage to Essential Power's sensitive machinery housed at the facility. Ms. Riding testified that the aftershocks from the detonations used in the mining operation in Pennsylvania can be felt at the facility and that there are concerns that the effects of the mining operation in Maryland would be more pronounced. When questioned, Ms. Riding testified that no machinery had been damaged as a result of the effects of the mining operations. Ms. Riding further testified regarding concerns of asbestos in the mined material.

Applicant responded when questioned that there may exist strains of naturally occurring asbestos in the mined materials; however, Applicant tests for such materials and none of the testing has yet indicated levels of any naturally occurring asbestos in the product.

Clifford Houston of the Cecil County Department of Planning and Zoning testified that the Planning Commission recommended approval of the special exception.

Pursuant to Section 67.2 of the Ordinance, the Board finds as follows:

1. The Board finds that no excavation shall take place within 100 feet of any right of way line of any road or 300 feet from any lawfully permitted residential or institutional building. According to Applicant's submitted Site Plan and accompanying documents, the area of the Property that will be mined is not within 100 feet of any right of way or road, nor is the area of the Property that will be mined within 300 feet of any residential or institutional building.

2. The Board finds that no excavation shall take place nor will the slope of the natural land surface be altered as a result of such excavation, nor shall the storage of materials take place nearer than 100 feet from any property line. According to Applicant's submitted Site Plan and accompanying documents no excavation is proposed nor is storage of materials proposed within 100 feet of any property line.

3. The Board finds that no operation structures shall be erected nor shall storage of materials take place within 200 feet of any property line or within 100 feet of the right of way line of any road. According to Applicant's submitted Site Plan and accompanying documents, all operational structures including the processing plant, maintenance shop, and scale house shall remain within the State of Pennsylvania.

4. The Board finds that all required Environmental Performance Standards are met.

- a. According to Applicant's Site Plan and accompanying documents, there exists a 110 foot natural buffer from all perennial streams and no permanent or temporary stormwater and/or sediment control devices shall exist within the buffer.
- b. According to Applicant's Site Plan and accompanying documents, the area is not located within the Critical Area District, is not within the Growth Corridor, proposes no road crossings over any perennial streams, and proposes no public or community facilities.
- c. According to Applicant's Site Plan and accompanying documents, the site is not located within the Cecil County Greenways Plan.
- d. The Board finds that according to Applicant's Site Plan and accompanying documents, there shall be a 25 foot buffer between all development and all

non-perennial streams. Further, there are no proposed road crossings over non-perennial streams and no proposed public or community facilities.

- e. The Board finds that according to Applicant's Site Plan and accompanying documents the sensitive soil no-disturbance buffer is satisfied and that the plans demonstrate that where contiguous hydric soils, partially hydric soils, highly erodible soils, and soils on slopes greater than 15% are present the 110 foot perennial stream buffer has been increased to a 160 foot buffer.
- f. The Board finds that according to Applicant's Site Plan and accompanying documents a 25 foot buffer has been established around all delineated wetlands and that no disturbance is proposed within these wetlands areas.
- g. That Board finds that according to Applicant's Site Plan and accompanying documents there shall be development that threatens the habitats of any rare, threatened or endangered species.

5. The Board finds that according to Applicant's Site Plan and accompanying documents, there are no proposed operating structures within Cecil County that would require the application of buffer yard meeting the requirements of Section 67.2(d) of the Ordinance.

6. The Board finds that heavy machinery shall be used only for extracting, crushing, moving, washing, and screening material within the NAR zone.

Pursuant to Section 311 of the Ordinance, the Board finds as follows:

1. The special exception is not detrimental or an endangerment to the public health, safety, or general welfare. Applicant proposes to operate a quarry on Property suitable to the proposed use. The area surrounding the Property is sparsely populated and Applicant has presented evidence sufficient to convince the Board that operation of a mine in the manner and

location proposed by Applicant, that is to say – in conformance with all applicable rules and regulations, safety and otherwise, shall not create a danger to the public health, safety, or general welfare. Further, the stringent controls and oversight placed upon the proposed use shall serve to protect the health, safety, and welfare of the surrounding areas.

2. The use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, or substantially diminish or impair property values in the neighborhood. Due to the size of the Property and the distance between the structures and proposed structures and adjacent residential areas, the proposed use will not be injurious to the peaceful use and enjoyment of neighboring properties. Further, no testimony was presented to the Board to establish that the proposed use will have a negative impact on the value of surrounding properties.

3. The use will not impede the normal and orderly development and improvement of the surrounding properties for uses permitted in the zone. No evidence was presented to the Board indicating that the proposed use would impede the normal and orderly development and improvement of the surrounding properties.

4. The proposed use will not overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements. No evidence was presented indicating that the proposed use would contribute to an increased burden upon public facilities or municipal services. Applicant's operating facilities shall continue to be housed in the State of Pennsylvania and any strain upon municipal facilities would necessarily be felt in that jurisdiction.

5. The proposed use will not adversely affect critical natural areas or areas of ecological importance. The Property is not located within the Critical Area District. Further,

Applicant has taken steps to ensure that no habitats for rare, threatened, or endangered species shall be damaged and that necessary buffers to streams and wetlands shall be established and maintained.

6. The proposed use will, in all other respects, conform to the applicable regulations of the zone in which it is located. The Board finds that this portion of the NAR is primarily a mix of agricultural and residential uses with limited commercial and industrial uses. Further, the Property falls within a Mineral Extraction – B (“MEB”) overlay, which establishes that mining is a contemplated use within the zone. Based upon the evidence presented, the Board finds that the proposed use is not inconsistent with these neighboring uses.

7. The particular use proposed at the particular location proposed will not have any adverse effects above those inherently associated with such special exception use irrespective of its location in the zone. *Schultz v. Pritz*, 291 Md. 1 (1981). The Board finds that, because of the residential density of the zone and the nature of the activities undertaken in the area, the impact of Applicant’s proposed use in this particular area of the NAR zone is no different than the impact of the operation of a facility of this nature in other areas of the NAR zone. Rather, the Property falls within a designated MEB overlay and is therefore better suited for this use than other areas of the NAR zone.

8. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets. Traffic will be limited to those vehicles engaged in the extraction of mining materials. Access will be limited to the existing Quarry Line in Pennsylvania.

9. The use is not contrary to the objectives of the Comprehensive Plan for the County. The special exception is presumptively valid and the Board finds nothing in the record

to indicate that the proposed use is contrary to the objectives of the Comprehensive Plan.

For the reasons stated above, by unanimous vote, the Board is satisfied that the requirements of Article XVII, Part II, Section 311, of the Ordinance have been met and the application for special exception under Section 67.2 is therefore **APPROVED**.

2/26/2015
Date

David Willis, Chairperson
David Willis, Chairperson

2.0 Conformance to Current Zoning Regulations

Per Article V, Part II, Section 67.2 of the Cecil County Zoning Ordinance, dated 2011, as amended:

"Mineral Extraction may be permitted as a Special Exception in any zoning district in the MEB overlay zone provided:

- a. *Excavation shall not take place with 100 feet from any right of way line of any road or 300 feet from any lawfully permitted residential or institutional building."*

The site is bounded on the west by U.S. 222 and there exists two (2) inhabited dwellings near the property line to the north and two (2) inhabited dwellings near the property line to the south. As shown on the attached Site Plan, no excavation or mining activity shall take place within one hundred (100) feet from any road right-of-way or three hundred (300) feet from any lawfully permitted residential or institutional building as indicated by the blue "limit of mining." The limit of mining represents the extent to which mineral extraction will occur within the site. The required setbacks per §67.2.a have also been depicted and dimensioned on the attached Site Plan.

- b. *"Excavation shall not take place, nor the slope of the natural land surface be altered as a result of such excavation, nor shall the storage of materials take place nearer than 100 feet from any property line."*

As shown on the attached Site Plan no excavation is proposed nor is the storage of materials proposed within 100 feet of any property line. The one hundred (100) foot set back from all property lines has been delineated, as it applies by the "limit of mining" line shown on the attached Site Plan.

- c. *"Operation structures shall not be erected nor storage of materials take place within 200 feet of any property line or 100 feet to the right of way line of any road."*

As shown on the attached Site Plan, all operational structures inclusive of the processing plant, maintenance shop, and scale house shall remain within the State of Pennsylvania, and as such, be subject to the rules and regulations of Fulton Township and the State of Pennsylvania. Operational demands in the future may require the need to setup and operate a portable processing plant within in the State of Maryland, in which case the applicable state and local permits shall be obtained. In the event that a portable plant is operated in the State of Maryland, it shall be located no closer than 200 feet from any property line and 100 feet to the right-of-way line of any road. Product stockpiles shall also be subject to the same setback criteria.

- d. *"All Environmental Performance Standards, except the regulations pertaining to steep slopes, are met."*

The Environmental Standards per Article IX, Section 174 Environmental Standards for all Subdivisions and Development Requiring Site Plan Approval are as follows:

1. Perennial Stream no-disturbance buffer

- a. *"A one hundred ten (110) foot natural buffer from all perennial streams, as described on the most recent U.S.G.S. 7.5 Minute Quadrangle maps shall be required for all development. Permanent or temporary stormwater and/or sediment control devices shall not be permitted in this buffer."*

A one hundred ten (110) foot natural buffer from all perennial streams as described on the most recent U.S.G.S. 7.5 Minute Quadrangle Map, a portion of which is shown in the upper right-hand corner of the attached Site Plan, has been shown and dimensioned where it exists within the subject properties. Permanent or temporary stormwater and/or sediment control devices are not proposed within this established buffer area.

b. "If the property is located outside of the Cecil County Critical Area District this buffer requirement may be waived by the Cecil County Planning Commission and/or the Office of Planning and Zoning for the following:"

1) "If the development occurs within the "Growth Corridor" described within the Comprehensive Plan provided:"

a) "If evidence is provided that the design, construction and use of the site will provide the same or better protection of water quality as the 110' buffer, and;"

b) "If evidence is provided that said development will meet all other applicable requirements, as required."

The subject properties under consideration for the proposed Special Exception are **NOT** located within the "Growth Corridor" described in Section 3.4 of the 2010 Cecil County Comprehensive Plan. A one hundred ten (110) foot buffer is provided.

2) "Road crossings, if disturbance is minimized."

This item is not applicable to this application due to the fact that there are **NO** proposed road crossings over any perennial streams within the site.

3) "Other public or community facilities provided disturbance is minimized in so far as possible."

This item is not applicable to this application due to the fact that **NO** public or community facilities are proposed.

c. "This buffer shall be transferred to the Cecil County Commissioners if designated on the Cecil County Greenways Plan."

This item is not applicable to this application due to the fact the site is **NOT** located within area designated on the Cecil County Greenways Plan.

2. "Non-Perennial stream no-disturbance buffer"

a. "A twenty-five (25) foot buffer from all non-perennial streams shall be required for all development. Permanent or temporary stormwater management and sediment control devices shall not be permitted in this buffer."

The required twenty five (25) foot buffer for all non-perennial streams present within the site has been shown and dimensioned on the attached Site Plan.

b. "If the property is located outside of the Cecil County Critical Area District this buffer requirement may be waived by the Cecil County Planning Commission and/or the Office of Planning and Zoning for the following:"

1) "Road crossings, if disturbance is minimized."

This item is not applicable to this application due to the fact that there are **NO** proposed road crossings over any non-perennial streams within the site.

2) "Other public or community facilities provided disturbance is minimized in so far as possible."

This item is not applicable to this application due to the fact that **NO** public or community facilities are proposed.

3. "Sensitive Soil no-disturbance buffer. The one hundred ten (110) foot perennial stream buffer shall be expanded to include contiguous hydric soils, partially hydric soils, highly erodible

soils and soils on slopes greater than fifteen percent (15%) to a maximum distance of one hundred sixty (160) feet."

The soils types present within site meeting the above criteria according to the Cecil County Soil Survey obtained from the USDA's NRCS Website (websoilsurvey.nrcs.usda.gov) on 11/08/2011 are as follows: Chrome Silt Loam (3 to 8 percent slopes), Chrome Silt Loam (15 to 25 percent slopes), Chrome Silt Loam (25 to 45 percent slopes), Conowingo Silt Loam (3 to 8 percent slopes), Conowingo-Watchung Silt Loam (0 to 8 percent slopes, very stony), and Legore Silt Loam (15 to 45 slopes). All soil boundaries and designations present within the site have been shown and labeled on the attached Site Plan. Please refer to the "Soil Types and Characteristics" Table on the Site Plan for a more detailed description and listing of soil properties. The required one hundred ten (110) foot buffer from a perennial stream has been increased to the maximum one hundred sixty (160) foot buffer, where the criterion of this section applies to perennial streams present within this site.

4. *"Non-tidal Wetland buffer. A twenty-five (25) foot setback from all non-tidal wetlands shall be required for all development around the extent of the delineated non-tidal wetland except as permitted by the U.S. Army Corp of Engineers and the State of Maryland, Department of Natural Resources, Non-tidal Wetland Division."*

In anticipation of this application, H&K contracted independent consultant Thomas Cordrey, Ph.D. of DelVal Soil and Environmental Consultants, Inc., to conduct a survey of any existing wetlands present within the subject properties. The results of the wetland delineation are contained in the Appendix E – Wetland Delineation. As shown on the attached Site Plan, a twenty five (25) foot buffer has been shown around all delineated wetlands, and NO disturbance is proposed within these wetland areas.

5. *"Steep Slopes"*

The Environmental Standards pertaining to steep slopes do NOT apply to this application per Article V, Part II; Section 67.2 This application is hereby exempt from meeting these standards.

6. *"Habitats of Rare, Threatened and Endangered Species. Development shall avoid these areas as described by the Maryland DNR, Natural Heritage Program."*

In order to determine the potential for impacts to habitats of rare, threatened, and endangered species, a correspondence letter containing the proposed project location, scope, and size was sent to the Maryland DNR, Wildlife and Heritage Service. Refer to Appendix F – Maryland DNR Letter. The letter indicated that "the Wildlife and Heritage Service has determined that there are NO State or Federal records for rare, threatened or endangered species within the boundaries of the project site as delineated." The correspondence does go on to say that the project is in "close proximity" of a plant species, goldenseal (*hydrastis canadensis*) and a Non-tidal Wetland of Special State Concern (NTWSSC). However, since the project footprint will NOT encroach on any stream/wetland buffers and will occur within areas previously disturbed by agricultural activities, it is not anticipated that the proposed mining operation will adversely impact the noted species of concern or the NTWSSC wetland feature.

7. *"Forest Conservation. All regulated activities defined by the Cecil County Forest Conservation Regulations shall meet all requirements as prescribed herein."*

Per Article III, Section 3.2, Subsection J, of the Cecil County Forest Conservation Regulations, these regulations do NOT apply to non-coal surface mining activities.

- e. *"A buffer yard meeting the D standard shall be required between any operation structures and the right of way of any road."*

This section does NOT apply to this application due to the fact that no operation structures are proposed in the State of Maryland. However, H&K does propose to construct a site screening berm around the entire boundary of the proposed mining operation. This berm will serve to screen the extraction area from the immediate areas surrounding the mineral extraction activity as well as prohibit

access to the site from unauthorized personnel. The construction of the berm shall be staged as shown to coordinate with the proposed mining phases. The Phase I berm shall be constructed prior to the commencement of the Phase I mineral extraction activities. A temporary berm shall be constructed along the phase line boundary between Phase I and II until Phase II is initiated. The Phase II berm shall be constructed prior to the commencement of the Phase II mineral extraction activities.

- f. *"The use of heavy machinery for refining or processing other than for extracting, crushing, moving, washing, and screening shall be permitted only within a Heavy Industrial (M2) base zone."*

As mentioned previously, the site is located within the County's NAR district and as such the use of heavy machinery shall be limited to the extracting, crushing, moving, washing, and screening of material. Please note that the crushing, washing, and screening shall occur within the Pennsylvania permit unless the use of a portable plant is permitted to be used within the State of Maryland.

- g. *"New wash plants shall not be located within the Buffer of the Chesapeake Bay Critical Area."*

This section is not applicable to this site due to the fact that the site is **NOT** located within the Buffer of the Chesapeake Bay Critical Area.

- h. *"No mineral extraction activity shall take place within the Buffer of the Chesapeake Bay Critical Area."*

This section is not applicable to this site due to the fact that the site is **NOT** located within the Buffer of the Chesapeake Bay Critical Area.

- i. *"The mineral extraction activity is consistent with the Habitat Protection Program Element of the Cecil County Critical Area Program."*

This section is not applicable to this site due to the fact that the site is **NOT** located within the Buffer of the Chesapeake Bay Critical Area.

- j. *"The mineral extraction activity is consistent with the Mineral Resources Program Element of the Cecil County Critical Area Program."*

This section is not applicable to this site due to the fact that the site is **NOT** located within the Buffer of the Chesapeake Bay Critical Area.

- k. *"The requirements of the applicable Critical Area land use management area are met."*

This section is not applicable to this site due to the fact that the site is **NOT** located within the Buffer of the Chesapeake Bay Critical Area.

4.0 Proposed Sequence of Mining Activities

Following approval of the Special Exception, assuming favorable approval by the Cecil County Board of Appeals, H&K shall proceed ahead in applying for the applicable state and local permits/approvals, including but not limited to: Mine License, Surface Mine Permit, Water Appropriations Permit, and Erosion and Sediment Control Plan Approval. Once all necessary permits/approvals have been obtained, H&K shall commence mining activities within Phase I, as designated on the attached Site Plan.

Mining within Phase I shall begin by first installing the proper erosion and sediment controls, then constructing the perimeter screening berm around the Phase I area. As shown on the attached Site Plan, a temporary berm between Phase I and Phase II shall be constructed, which shall preclude H&K from constructing the berm around Phase II until Phase II is ready to be initiated. At this same time, the existing berm along the Mason-Dixon Line that separates the existing Pennsylvania operation from the Phase I area shall be removed. Excess overburden material(s) not utilized for berm construction shall be stockpiled and placed within the "Phase I Overburden Storage Area."

Mineral extraction shall then proceed from the southern highwall of the PA operation in a southerly direction toward the proposed limit of mining. The direction of mining has been depicted on the attached Site Plan. Mineral extraction will be achieved on a series of multiple benches (or levels) developed at fifty (50) foot vertical increments, working from the highest to lowest level. All benches above the anticipated post-mining water surface shall be seventy (70) feet wide to allow for the process of highwall reduction by blasting in preparation for reclamation activities. All other benches situated greater than fifty (50) feet below the anticipated post-mining water surface, shall be maintained at a minimum width of twenty five (25) feet.

H&K utilizes the power haulage method for mineral extraction at its facilities. This method utilizes front-end loaders to excavate shot rock from the active mining face. The loaders fill haul trucks which transport the shot rock to the primary crusher and conveyor system. In instances where the linear distance from the active working face to the primary crusher is minimal, the haul trucks may not be required to transport the shot rock, but rather the front-end loader would transport the rock to the primary crusher directly. From the primary crusher the mineral is further processed by a series of conveyors, screens, and crushers segregating varying sizes of products that are marketed at the facility. H&K intends to continue crushing and processing solely in the State of Pennsylvania, where the plant will be regulated under the applicable local and state laws of the Commonwealth of Pennsylvania. H&K proposes only the extraction of the mineral within in the State of Maryland. To reiterate, all shot rock shall be hauled over the state line to be processed in the State of Pennsylvania.

H&K would however, like to reserve the right to setup and operate a portable crusher within the State of Maryland for periods of time to meet certain market and customer demands as they arise. Should future demand require the operation of a portable plant in the State of Maryland, H&K shall obtain the applicable local and state permits/approvals. The location of the portable crusher within the properties shall be in compliance with the regulations set forth in Article V, Part II, Section 67 of the Cecil County Zoning Ordinance, dated 2011, as amended.

Blasting at the site shall be regulated at the state level and conducted by a third-party licensed blasting contractor. Prior to the blasting at the site, H&K shall hire an outside consultant to perform a Pre-Blast Survey of all occupied structures within 1,000 feet of the proposed limit of mining. The survey shall be limited to only those property owners that agree to participate. Also, prior to blasting at the site, H&K will be required to submit a blast plan for approval by the Maryland Department of the Environment (MDE) Mining Program as part of the mine permit application. A copy of the blasting schedule in the form of a public notice shall be published annually to alert the public of ongoing blasting operations at the site. Explosives will not be stored on site.

Access to the site shall be limited to the existing entrance located off of Quarry Line in Pennsylvania. The entrance to the site is already properly signed, containing the name of the facility and permit number. The new Maryland permit number will be added, once it has been issued. H&K does not propose constructing a site entrance in the State of Maryland. The area between the limit of mining and the right-of-way line of U.S. 222 in the State of Maryland will eventually be closed off when the proposed Phase II berm is

constructed as shown on the attached Site Plan. This will serve to restrict access from vehicles and unauthorized personnel entering the site.

Discharge from the pit shall continue to be managed from the State of Pennsylvania under NPDES Permit #PA0594784 by sloping the pit floor to the north and allowing the pit floor runoff to be collected in the existing pit sump located within Pennsylvania. Currently within the existing operation, runoff from the pit area is collected in a pit sump located at the lowest elevation of the quarry floor. Once collected in the pit sump, sediment suspended in the runoff is permitted to settle out prior to pumping from quarry floor to the "Wetland Mitigation Area" shown on the attached Site Plan. The discharge point is sampled on a monthly basis, with results submitted to the PADEP on a quarterly basis. From the mitigation area, the discharge enters an unnamed tributary which ultimately feeds into the Octoraro Creek.

Mineral extraction shall continue in Phase I until all reserves have been exhausted, or until it is necessary to enter Phase II based upon operational needs and/or market needs. Prior to entering Phase II, the proper erosion and sediment control shall be implemented. H&K shall then construct the Phase II screening berm around the entire perimeter of the Phase II mining area. The temporary screening berm between Phase I and Phase II will be removed at this time. All excess overburden material(s) stripped from Phase II shall be stockpiled within the "Phase II Overburden Storage Area," as shown on the attached Site Plan. Mineral extraction within Phase II shall continue to utilize the mining methods specified for Phase I. Runoff collected in the Phase II pit shall be pumped into the combined Phase I pit where it will be treated in the pit sump and discharged from Pennsylvania under NPDES Permit #PA0594784.

Bench elevations within Phase I and Phase II shall match the elevations of the benches that currently exist within the Pennsylvania operation. H&K proposes to continue mining at the same elevation of the existing operation, making a seamless transition in to the State of Maryland. This transition will be critical in achieving the final reclamation slope discussed in Section 5.0.

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: 11/2015
FILE NO. 3709

Received
DEC 17 2014

DATE FILED: 12/17/14
AMOUNT PD: 8250.02
ACCEPTED BY: JB

THIS REQUEST IS FOR:

- SPECIAL EXCEPTION RENEWAL ()
- SPECIAL EXCEPTION (X)
- VARIANCE ()
- APPEAL ()

A. APPLICANT INFORMATION

Cecil County Office of Planning & Zoning

Haines & Kibblehouse, Inc.

APPLICANT NAME - PLEASE PRINT CLEARLY

2052 Lucon Road P.O. Box 196
ADDRESS

Skippack
CITY

PA
STATE

19474-0196
ZIP CODE

APPLICANT SIGNATURE

(610) 584-8500
PHONE NUMBER

B. PROPERTY OWNER INFORMATION

Haines & Kibblehouse, Inc.

PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

2052 Lucon Road P.O. Box 196
ADDRESS

Skippack
CITY

PA
STATE

19474-0196
ZIP CODE

PROPERTY OWNER SIGNATURE

(610) 584-8500
PHONE NUMBER

C. PROPERTY INFORMATION

Rock Springs Road (U.S. 222)
PROPERTY ADDRESS

8
ELECTION DIST. ACCT. NUMBER

2
TAX MAP #

14
BLOCK

113
PARCEL

LOT #

53.40
#ACRES

NAR
ZONE

D. PURPOSE OF APPLICATION - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

See Attached

E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.

F. LAND USE DESIGNATION

- Is property in the Critical Area? _____ YES _____ X NO
- If yes, Pertinent provision of the Chesapeake Bay Critical Area Program: _____
- Is property in the 100 year Floodplain? _____ YES _____ X NO
- Is property an Agricultural Preservation District? _____ YES _____ X NO

If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

G. PROVISION OF ZONING ORDINANCE: Article XI, Section 219

H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: N/A

I. SPECIAL EXCEPTION FOR A MANUFACTURED HOME - Please fill out the following information:

- Will unit be visible from the road? _____ If yes, distance: _____
- Will unit be visible from adjoining properties? _____ If yes, distance: _____
- Distance to nearest manufactured home: _____ Size/Model/Year of Unit: _____
- Number of units on property at present time: _____



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November 26, 2014

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Cecil County
Office of Planning and Zoning
200 Chesapeake Boulevard
County Administration Building
Suite 2300
Elkton, MD 21921

Attn: Mr. Eric S. Sennstrom
Director of Planning and Zoning

Re: Cecil County Board of Appeals
Special Exception Application
Penn/MD Materials – Rock Springs Quarry
A Division of Haines & Kibblehouse, Inc.
Cecil County, Maryland

Dear Mr. Sennstrom:

On the behalf of Haines & Kibblehouse, Inc., please find enclosed check #120000740 in the amount of \$500.00 made payable to the Cecil County Government, along with one (1) original and two (2) copies of an application for a special exception for two (2) properties located within the MEB District of Cecil County. The properties are bounded by U.S. 222 on the west and the Mason-Dixon Line to the north. The purpose of this application is to permit mineral extraction on both properties, which as you are already aware, is permitted through the granting of a special exception. The proposed mineral extraction activities will operate in conjunction with the existing quarry located immediately to the north of the subject properties in the state of Pennsylvania.

If you have any questions, please don't hesitate to contact me at (610) 222-3052. Thank you in advance for your attention to this matter.

Sincerely,

The H&K Group®

Evan D. Sowers, P.E.
Senior Engineer
Engineering & Environmental Services Division

Received

DEC 17 2014

Cecil County Office
of Planning & Zoning

EDS/lr
ENCLOSURES

cc: George Perdikakis, Sr., KCI Technologies, Inc
File: B-014E

