

Case No.: S.E. 4408

Applicant: Ritchie Land
Reclamation, L.P.

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND,
SITTING AS THE DISTRICT COUNCIL

ZONING ORDINANCE NO. 5 - 2003

AN ORDINANCE to approve a special exception, with conditions.

WHEREAS, an application has been filed for property described as approximately 288.4 acres of land, in the R-A (258± acres) and O-S (30± acres) Zones, located on the southwest side of Ritchie-Marlboro Road, approximately 3000 feet south of the White House Road/Ritchie-Marlboro Road intersection, identified as 2001 Ritchie-Marlboro Road, Upper Marlboro, for approval of a special exception for a rubble fill; and

WHEREAS, the application was advertised and the property posted prior to public hearing, in accordance with all requirements of law; and

WHEREAS, the application was reviewed by the Technical Staff, which filed recommendations with the District Council; and

WHEREAS, a public hearing on the application was held before the Zoning Hearing Examiner; and

WHEREAS, the Zoning Hearing Examiner's recommendations were duly filed with and considered by the District Council; and

WHEREAS, having reviewed the record, the District Council has determined that the application should be approved; and

WHEREAS, to protect adjacent properties and the surrounding neighborhood, this special exception is granted subject to conditions; and

WHEREAS, as the basis for this action, the District Council adopts the decision and recommendations of the Zoning Hearing Examiner as its findings of fact and conclusions of law in this case, with the following additions:

A. The chief issue on remand concerned the Zoning Ordinance requirement that the applicant prove that the proposed rubble fill is “necessary to serve the projected growth in Prince George’s County.” § 27-406(h). This issue was partially addressed by staff, under § 27-406(g), and this applicant submitted proofs on the issue different from other rubble fill applicants.

B. This applicant’s expert witness, Mr. John Walker, gave extensive testimony about the Council’s remand order and about projected County growth, generation of rubble as part of construction activities, and the necessity for a rubble fill in this vicinity of the County.

T. (10/09/02) at 76-116; T. (11/21/02) at 3-13. Mr. Walker – in contrast to applicant testimony in the initial record for this case, and in contrast to the testimony and evidence in other recent rubble fill special exception cases, including S.E. 4355 and S.E. 4347 – explained in his testimony that reasonable assumptions about County growth indicated that a rubble fill at the subject location was necessary to serve that growth. That is, Mr. Walker did not simply rely on staff’s reports; his independent analysis shows that this applicant meets the “necessary to serve the projected growth” requirement in § 27-406(h).

C. The District Council agrees with the applicant, for the reasons shown in the record

after the remand, that the proposed rubble fill meets the necessity standard in § 27-406(h).

D. The Council further agrees with applicant, staff, and Examiner that the proposed rubble fill, with the conditions below, will not be detrimental to adjacent properties or the neighborhood, and will otherwise satisfy the requirements in § 27-406 and in § 27-317.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED:

Section 1. The Zoning Map of the Maryland-Washington Regional District in Prince George's County, Maryland, is hereby amended to show an approved special exception for a rubble fill on the property which is the subject of Application No. S.E. 4408. All development and use of the subject property under this special exception shall conform to the revised site plan to be filed in accordance with this decision.

Section 2. The special exception approval is subject to the following conditions:

1. The operation shall be limited to approximately 20± acres remaining in Phase I of the fill and 76± acres shown as Phase II as depicted on the Site Plan.
2. The operation shall be restricted to the placing in a controlled manner of fill consisting of construction or building demolition rubble, including both irreducible materials (e.g., concrete, rock, brick) and those subject to decay (e.g., lumber and root material, brush, tree limbs and stumps). Collection of recyclable materials is permitted as an accessory use as allowed by County and State refuse disposal permits and licenses, provided that the materials originate only at a construction site, and further provided that no single load shall include more than 50 percent by volume of paper and cardboard. This restriction is not intended to affect State permit restrictions on what materials can be placed in the fill. These recyclable materials shall be deposited, separated and stockpiled in the area designated on the Site Plan. The structure within this accessory use shall not exceed 12,000 square feet.
3. No wallboard or plasterboard material may be placed in the rubble fill if the material, when exposed to water, produces odorous or toxic gas. No asbestos, fiberglass, or hazardous substance may be placed in the fill. For purposes of this condition, "asbestos" means friable asbestos (whose fibers may become airborne) and any other form of harmful asbestos capable of transport and organism invasion by air, water, or

contact.

4. A six-foot-high chain-link security fence between the schoolyard and the subject premises, topped by approximately two feet of barbed wire strands slanted at a 45-degree angle, shall be maintained in good condition.
5. The white pine screen buffer between the rubble fill and Arrowhead Elementary School shall be widened from 70 feet to 150 feet.
6. The one and only entrance to the rubble fill shall be the existing road located on Ritchie-Marlboro.
7. The applicant shall continue to distribute an informational flyer, whose directions shall only bring traffic to the subject property via Central Avenue to Ritchie Road to Ritchie-Marlboro Road, and after the opening of the Ritchie Marlboro interchange, from Ritchie Marlboro Road via I-95, to general contractors and construction-oriented companies in need of a rubble fill. The informational flyer shall also state clearly that under no circumstances should D'Arcy Road or Sansbury Road be used to enter the rubble fill site.
8. The Special Exception shall terminate on January 1, 2025, unless previously terminated after public hearing for noncompliance with operational requirements and conditions of approval.
9. The rubble fill shall be limited to a height of 312 feet above sea level.
10. All trucks leaving the rubble fill site shall have their wheels and undercarriage washed free of debris.
11. The hours of operation shall be limited to 7:00 a.m. to 5:00 p.m., Monday through Friday. The fill shall be closed on Saturdays, Sundays and County holidays. Outside the approved hours of operation, trucks shall not be operated on or near the subject property. During times when the operation is to be closed, trucks are not to arrive at, exit, or be operated on the property. The applicant shall instruct all customers about this requirement.
12. The gate at the entrance to the subject property shall be maintained in a locked condition at all times that the rubble fill is not open for business.
13. The applicant shall meet, at least quarterly, with the liaisons designated by the Largo Civic Association, Arrowhead PTA, Little Washington Civic Association, and Westphalia Civic Association.

14. This Special Exception is subject to review by the District Council at its own election every four years. In the year 2016, the applicant shall report to the Council on the land areas filled and remaining to be filled, and the Council shall then review the application. Council review may result in a modification of the conditions.
15. Copies of the biannual reports to the Maryland Department of the Environment prepared for the applicant regarding regulatory compliance on site shall be made available to the Council Member representing the area which includes the subject property and the Largo Civic Association, Arrowhead PTA, Little Washington Civic Association, and Westphalia Civic Association. As other civic or homeowners associations with member properties in the Largo, Little Washington, or Westphalia areas are formed, those associations shall be included in the meetings required in condition 13 and the reports distribution required in this condition.
16. Prior to the issuance of any permits, a Type II Tree Conservation Plan shall be approved by the Environmental Planning Section. The Type II TCP shall provide detailed information on the location of all off-site mitigation, if necessary, planting schedules, planting plans, reforestation management plans, phasing of the plan implementation, and other pertinent information, as determined necessary by the Environmental Planning Section. To the extent feasible, berms and reforestation shall be placed on the Westphalia Woods and Westphalia Estates side of the property.
17. All appropriate reforestation bonds shall be posted with the Department of Environmental Resources in accordance with the phasing of the activities for this Application.
18. Development of the site shall conform to the mitigation measures indicated in a report titled "Environmental Noise Assessment, Ritchie Rubblefill Special Exception" prepared by Staiano Engineering, Inc., dated March 12, 2001, and/or any subsequent report approved by the Environmental Planning Section.
19. The construction of berms and all landscaping for screening of the site along Ritchie Marlboro Road, as shown on the applicant's landscape plan, shall be included in the first Prince George's County permit.
20. In the event that any portion of the subject site is dedicated to public use following completion of fill activities, the following shall apply:
 - a. The main access road shall be clearly identified as 30 feet wide with a minimum grade of 5 percent.

- b. If Area Basins 2, 3, 4, 5, 6, 7 and Lagoon 1 are to be maintained after the rubble fill closes, a minimum 12-foot-wide vehicular access road to each shall be provided. If they are to be discontinued after closure, this must be noted on the plan.
 - c. Upon completion of the placement of rubble at the site, the Department of Parks and Recreation (M-NCPPC) will be contacted in writing. At that time, and prior to the placement of the “cap,” a rough grading plan to accommodate the recreational uses shall be approved by the Planning Board or its designee.
 - d. The plateau, access roads and maintenance roads shall be free of any obstructions above finished grade.
 - e. All existing structures, temporary or otherwise, shall be removed from the site unless they are to be retained by mutual agreement.
 - f. A uniform, thick stand of grass on topsoil shall be established over the site.
 - g. All conditions regarding future development of the site are subject to modification due to State closure requirements.
21. The Site Plan shall be amended to show 11 off-street parking spaces, or a Departure from Parking and Loading Standards obtained. In the event that the recycling shed is enlarged to 12,000 square feet, an additional 18 parking spaces must be shown, or an additional Departure from Parking and Loading Standards obtained.
22. The maximum daily number of truck loads received at this facility shall be 280, resulting in a maximum of 560 daily truck trips.
23. Within 90 days of this approval, the M-NCPPC Technical Staff shall forward to the Examiner, for placement in the administrative record, revised projections of usage of the different Phase I and Phase II areas on the subject property. Staff projections now in the record must be broken down into five-year increments, to show how and when the Phase I and Phase II areas will be filled in, over the useful life of the facility.

Section 3. This Ordinance shall take effect on the date of its enactment.

Enacted this 13th day of May, 2003, by the following vote:

In Favor: Council Members Shapiro, Dean, Dernoga, Exum, Harrington, Hendershot, Knotts and Peters

Opposed:

Abstained:

Absent: Council Member Bland

Vote: 8-0

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF THE
MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

By: _____
Peter A. Shapiro, Chair

ATTEST:

Redis C. Floyd, Clerk