

Prince George's County Special Exception Application No. 4347

Applicant: James A. Openshaw, Jr., Owner

Location: Located on the east side of Brown Station Road, approximately 2,700 feet south of White House Road.

Request: Special Exception for a Rubble Fill.

R E S O L U T I O N

WHEREAS, the applicant has requested a special exception to convert an approved active, nonconformance surface mining operation and landfill to a rubble fill, in accordance with Section 27-406 of the Prince George's County Zoning Ordinance; and

WHEREAS, the Technical Staff Report released on February 25, 2000, recommended APPROVAL, with conditions; and

WHEREAS, after consideration of the Technical Staff Report and testimony at its regular meeting on July 20, 2000, the Prince George's County Planning Board agreed with the staff recommendation and adopts the staff analysis and recommendation as its own in this case.

WHEREAS, the Planning Board recommendation is based on the findings and conclusions found in the Technical Staff Report and the following DETERMINATIONS:

- A. Location and Field Inspection: The subject property is generally located on the east side of Brown Station Road approximately 2,700 feet south of White House Road. This large, irregularly shaped parcel comprises 131.5324 acres and is developed with a sand and gravel mining operation and rubble fill. It is bounded by the Oak Grove Electric Substation, Brown Station Road Landfill (both the landfill and parcels used for access to the landfill), permanent open space belonging to the Village of Oak Grove and Ramblewood Subdivisions, agricultural land, White House Road and single-family residences across Brown Station Road. The site can also be broken down into three separate areas: the controlled access road, which includes land owned by Potomac Electric Power Company (PEPCO) and Prince George's County, the proposed fill area east of the access road and the proposed fill area west of the access road. As a result, the portion of the site to be used for fill is divided by a PEPCO overhead transmission line right-of-way and a portion of the landfill containing the access road easement, with the majority of the fill area located west of the PEPCO right-of-way and access easement.

Presently, the site is being surface mined under Prince George's County Use and Occupancy Permit No. 2671-96-U and Maryland Department of the Environment (MDE) permit no. 80-SP-0496. The majority of the fill portion of the site east of the PEPCO right-of-way has already been mined and is currently being restored by the applicant under the control of MDE. The topography of the site is generally moderately rolling with areas of steep slope adjacent to the flood plain. Access to the site is

via the main entrance on Brown Station Road or a County-owned access road that connects to White House Road.

- B. History: The subject property has been mined for sand and gravel since the 1960s. The Maryland Department of the Environment also notes (letter dated June 9, 1999) that the site was formerly used as a rubble fill for the disposal of construction and demolition debris in the early 1980's. This use was certified as a nonconforming use in 1974 (CNU-26-74U) and recertified in 1996 (CNU-2671U). A grading permit (1407-98G) was issued in March 1998 to permit a Class III landfill.
- C. Master Plan Recommendation: The 1993 Subregion VI Study Area Master Plan indicates this property, with the exception of the 2.59-acre residential parcel, for Low Suburban Residential Use, equivalent to R-R zoning. The small parcel containing the existing residence is proposed for continuing Estate Residential use, equivalent to R-E zoning. All adjoining areas east of Brown Station Road, except for the Rural Residential area to the immediate north, are indicated for continuing Public/Quasi Public use. West of Brown Station Road, in the adjoining Westphalia Planning Area, frontage areas opposite the subject property are planned for Suburban Estate use (northern half) and Low Suburban use (southern half).

The Master Plan indicates Natural Reserve Areas (i.e., significant wetlands) in the northern and eastern parts of the property, coincident with two minor stream valleys containing tributaries of Western Branch. The latter flows to the south-east in a major stream valley, approximately 1,500 feet east of the subject property.

The Plan proposes that Brown Station Road (C-602) be upgraded to a two-lane Collector from White House Road to Brooke Lane, and widened to a four-lane highway from that point south to Old Marlboro Pike. This is a later need facility associated with the final stage of development in the Upper Marlboro and Westphalia areas.

The 1993 SMA subsequent to the Master Plan, rezoned the entire subject property from R-E to the existing R-R Zone. All adjoining areas east of Brown Station Road remained in the R-E Zone. West of Brown Station Road the 1994 SMA for Melwood Westphalia retained frontage areas opposite the northern half of the subject property in the R-E Zone, and residential areas opposite the southern half of the subject property remained R-R.

While the Master Plan is silent on the issue of rubble fills, the Environment Envelope and Sand and Gravel Resources chapters contain considerable discussion and guidelines that relate to associated concerns. These include the County's solid waste management strategy, subdivision control of floodplain/wetland areas, attaching conditions to the approval of Special Exceptions and other regulatory techniques, etc.

- D. Request: The applicant seeks to convert an approved active nonconforming surface mining operation (ongoing since the mid 1950s) and landfill operation to a rubble fill.

E. Neighborhood and Surrounding Uses:

The property is surrounded by the following uses:

North: Large parcels in agricultural use, PEPCO overhead transmission lines, and a portion of the Brown Station Road Landfill in the R-E Zone. A church and single-family detached home lie northwest of the subject property also in the R-E Zone.

East: Across Western Branch, open space parcels associated with the Village of Oak Grove and Ramblewood subdivisions in the R-R Zone.

South: PEPCO's Oak Grove Substation in the R-E Zone, the County's Brown Station Road Landfill in the O-S Zone.

West: Across Brown Station Road, single-family detached dwellings within the Norris Pyles-Robert Pyles and Robshire Acres subdivisions, on ½ to ¼ acre lots in the R-E and R-R Zones, and PEPCO overhead transmission lines.

The neighborhood boundaries are as follows:

North: White House Road

West: Ritchie Marlboro Road

South: Brooke Lane, an unnamed tributary of Western Branch, and Western Branch

East: Largo Road (MD 202)

The neighborhood includes such diverse land uses as a sanitary landfill, an electric substation, a surface mining operation, an auto salvage yard, farms and residential subdivisions. According to the applicant, much of the neighborhood (37½ percent) is publicly owned and another 4½ percent is owned by a public utility, with the result that approximately 41 percent of the neighborhood is owned by public/quasi-public entities. Approximately 20½ percent of the neighborhood is used residentially, including the permanent open space parcels associated with residential subdivisions, some of which is owned by The Maryland-National Capital Park and Planning Commission. North, south, east and dividing portions of the site is the County's Brown Station Road Landfill, and to the southeast is the University of Maryland Experimental Farm.

Brown Station Road is the major route through the neighborhood. The general visual character of Brown Station Road is largely influenced by the abundance of County facilities, public utilities, and other similar uses, as well as a large auto salvage yard.

F. Specific Special Exception Requirements:

Staff points out that a sanitary landfill is defined in Section 27-107.01(a)(205) as follows:

■A planned, systematic method of refuse disposal where waste material is placed in the earth in layers, compacted, and covered with earth or other approved covering material at the end of each day's operation, or any method of in-ground disposal of sludge other than for fertilization of crops, horticultural products, or floricultural products in connection with an active agricultural operation or home gardening. A "Sanitary Landfill" includes a "Rubble Fill" for construction and demolition materials.●

Sec. 27-406. Sanitary landfill; rubble fill

- (1) A sanitary landfill or rubble fill may be permitted as a temporary Special Exception.
- (2) The District Council shall determine the period of time for which the Special Exception is valid.

Comment: The applicant acknowledges this requirement and requests that the District Council approve the proposed fill for 20 years.

- (3) In the R-E Zone, the landfill is only allowed if the neighborhood is substantially undeveloped and the landfill is an extension of an existing sanitary landfill on abutting land for which the approved Special Exception has not expired. This is not an amendment to an approved Special Exception under Subdivision 10 of Division 1, above.

Comment: The subject application area is not located within the R-E Zone.

- (4) An application for a sanitary landfill or rubble fill that includes a "rock crusher" on the site must show the location of the proposed "rock crusher" on the site plan.

Comment: This proposal does not include a rock crusher.

- (5) The Technical Staff Report prepared in response to the application shall include a current, Countywide inventory of the locations, dates of approval, and conditions of approval concerning haul routes and estimated loads per day for all approved and pending Special Exceptions for sand and gravel wet-processing, sanitary landfills and rubble fills, and surface mining, as indicated by the record in the case. The inventory shall also include the locations of all nonconforming sand and gravel wet-processing, sanitary landfills and rubble fills, and surface mining operations throughout the County that were certified after September 6, 1974.

- (6) In reviewing the application for compliance with the required findings set forth in Sections 27-317(a)(4) and 27-317(a)(5), the District Council shall consider the inventory required in Section 27-406(e).

Comment: The Environmental Planning Section (M-NCPPC) prepared the required inventory, identified as Appendix 8 in the report entitled *Analysis of Rubble Landfills Capacity in Prince George's County, MD (1999-2014)* for SE-4347. A copy of the inventory is attached to this staff report. The inventory lists 57 sites comprised of 47 sand and gravel mines, 5 wash plants, 3 rubble fills and 2 sanitary landfills.

- (7) The Technical Staff Report prepared in response to an application for a rubble fill shall include an analysis of need based on the most current available projections of residential and employment growth in Prince George's County over a 15-year period. The District Council shall consider this analysis when determining compliance with the finding required in Subsection (h), below, and when determining the period of time for which the Special Exception is valid.
- (8) When approving a Special Exception for a rubble fill, the District Council shall find that the proposed use is necessary to serve the projected growth in Prince George's County.

Comment: The Landfills Capacity Report addresses the need for another rubble fill in the County. It indicates that there are currently five active landfill operations which are accepting rubble materials. Four of them are located in Prince George's County and the fifth, known as PST is located in Anne Arundel County. By January 1, 2002 three of the existing operations, PST, Sandy Hill Landfill and Brandywine will cease operations leaving only Brown Station Landfill and Ritchie Rubble Fill.

The Landfills Capacity Report evaluates several scenarios with respect to allocation of materials between various sites, growth in demand and the amount of recycling. The report also takes into account the new recycling facility located on Dowerhouse Road. The scenarios make it possible to evaluate the expected remaining life of the existing and proposed facilities:

Scenario A - herein also named Existing Facilities (Worse case for existing rubble landfill capacity)

1. Increase of 1% per year for out-of-County demand
2. Recycling remains constant at 25% at Brandywine and 15% at Ritchie
3. Dynamics/Interaction of existing landfills:
 - Sandy Hill to Ritchie in mid 2000
 - PST Reclamation to Ritchie in mid 2001
 - Brandywine to Ritchie upon exhausting the capacity, 2001
 - Ritchie remains unallocated

Note: Brown Station landfill is treated as a separate entity until the end of 2009 when it closes. Upon closure, the rubble demand of 27,522 cubic yards, needed between 2010 and 2014, is considered a part of the overall Countywide demand.

The following remaining capacity was available at the end of 1998 at individual existing facilities:

■ Sandy Hill	66,876 cubic yards
■ PST Reclamation	171,473 cubic yards
■ Brandywine	347,779 cubic yards
■ Brown Station	56,975 cubic yards
■ <u>Ritchie</u>	<u>1,450,588 cubic yards</u>
Total Countywide	2,093,691 cubic yards

Scenario B (this is best case for existing rubble landfill capacity)

This is identical to Scenario A, except that Sandy Hill materials go to Brown Station until the end of 2009.

Note: The demand capacity at Brown Station and Sandy Hill until the end of 2014 is estimated at 581,839 cubic yards. At the end of 2009 when Brown Station closes, 319,265 cubic yards of rubble materials need to be taken somewhere until the end of 2014.

Scenario C (Scenario A & Proposed MD Reclamation LLC Property Rubble Landfill)

- Scenario A, except that Ritchie and Brown Station are allocated to MD Reclamation L.L.C.
- MD Reclamation LLC Property Rubble fill (SE-4347) with a capacity of 5,814,316 cubic yards and starting when the Brandywine closes.

Scenario D (Scenario A & Proposed Processing Facility)

- Scenario A, except that Ritchie is allocated to MD Reclamation L.L.C.
- Proposed processing facility starts when the Brandywine closes.
- The facility processes 250,000 tons of rubble per year.
- Recycling about 50% or 125,000 tons/year
- Dispose 125,000 tons/year against the remaining capacity, most likely at Ritchie
- At Ritchie the conversion coefficient is: 1 ton = 0.61 in place cubic yards (125,000 tons = 76,250 in place cubic yards).

Scenario E (Scenario A & Proposed MD Reclamation LLC Property Rubble Landfill & Proposed Processing Facility)

- Scenario A, except that Ritchie and Brown Station are allocated to MD Reclamation L.L.C.
- MD Reclamation LLC Property Rubble fill
- Proposed Processing Facility

The main findings are briefly listed below:

1. Nine Counties in the State of Maryland have rubble landfills and two Counties have land clearing debris landfills.
2. During 1997, the State of Maryland accepted 2,048,695 tons of rubble and land clearing debris.
3. Harford County has three rubble landfills and Prince George's County has two rubble landfills.
4. PST Reclamation rubble landfill, which is located in Anne Arundel County, accepted 828,123 tons in 1997, representing 40 percent of the total materials in the State of Maryland. However, this will close in mid 2001.
5. According to a 1998 Maryland Environmental Service report, in 1995 Maryland imported about one million tons of rubble; in 1997, Maryland imported about half a million tons of out-of-State rubble.
6. According to the Maryland Department of the Environment 596,601 tons of rubble were disposed at the two major rubble fills in Prince George's County during 1997, the second highest amount in the State or about 29 percent.
7. During 1998, a total of 499,837 tons of rubble materials were disposed in five solid waste management facilities (four in Prince George's County and one in Anne Arundel County) as follows: Brandywine, 37.1 percent; Ritchie Land Reclamation, 51.9 percent; PST Reclamation (Anne Arundel County), 4.7 percent; Brown Station, 0.5 percent; and Sandy Hill, 5.8 percent.
8. About 271,181 tons, representing 54 percent of the total, were generated in Prince George's County during 1998. The Prince George's County 1998 Solid Waste Management Plan estimated 264,800 tons of rubble for the same year.
9. If operated independently and the out-of-County amounts of materials remain constant, then:
 - Sandy Hill will close in mid 2000
 - PST Reclamation will close in mid 2001
 - Brown Station will close in 2018
 - Brandywine will close in 2001

■ Ritchie Land Reclamation will close in 2009

10. If operated under the conditions specified in Scenario A, the Countywide deficit for the demand of in-County generated rubble materials will occur in 2010, while for the total rubble materials (which include the out-of-County component), the deficit will occur in 2005.
11. Under Scenario B, the Countywide deficit for the demand of in-County material will occur in 2011 while the deficit for total rubble materials will occur in 2006.
12. The proposed rubble landfill (SE-4347) (Scenario C) will add about 5,814,316 cubic yards of capacity, and will provide sufficient capacity during the 15-year planning period for the in-County rubble and for total demand (in- and out-of-County).
13. The processing facility located on Dower House Road (Scenario D) will increase the capacity for in-County material by two years (2012) and by one year (2006) for total materials when compared to Scenario A.
14. Scenario E which includes the existing facilities and the proposed MD Reclamation LLC property landfill and the Processing Facility, shows sufficient Countywide capacity for in-County demand and sufficient capacity for total demand beyond 2014.

Conclusions

1. Countywide capacity at the existing solid waste facilities (Scenarios A and B) will not be sufficient to meet the in-County demand as well as the total (in- and out-of-County) demand. The in-County demand will be sufficient until 2010-2011, while the total demand will be sufficient to 2005-2006.
2. The in-County as well as the total demand (in- and out-of-County) for a 15-year period can be satisfied by the Countywide rubble fill capacities under Scenarios C (Existing plus MD Reclamation LLC Property landfill) and Scenario E (Existing plus MD Reclamation LLC Property landfill and Processing Facility).
3. Scenario E also shows that the capacity for in-County rubble will be sufficient for about 18 years past the 15-year period, to about 2032; the capacity for total demand (in-County and out-of-County) will be sufficient for about 6 years past the 15-year period, to about 2020.

G. Parking Regulations: Parking spaces are not required since no structures are proposed.

H. Landscape Manual Requirements: The Urban Design Section, in a memo dated February 16, 2000, provides the following comments:

- The subject application is to convert an existing surface mining operation to a rubble fill. The *Landscape Manual* classifies surface mining as a high intensity use and rubble fill as a

low intensity use. The rubble fill is considered a new use on the property and therefore, the proposal must comply with the requirements of Sections 4.2 (Commercial and Industrial Landscaped Strip Requirements) and 4.7 (Buffering Incompatible Uses) of the *Landscape Manual*.

■For the 88.59-acre property

■Determination of Compliance with Section 4.2

■Along Brown Station Road

Frontage:	2,800 linear feet (excluding driveways)
Required per Section 4.2:	a minimum 10-foot-wide landscaped strip to be planted with a minimum of one (1) shade tree and 10 shrubs per 35 linear feet of frontage, excluding driveway openings
Required:	Landscaped strip: 10' wide 80 shade trees 800 shrubs
Proposed:	138 eastern pine trees

■Since two evergreen trees can be substituted for one shade tree, only 11 additional shade trees are required.

A 10-foot-wide landscaped strip planted with 11 additional shade trees and 800 shrubs is required along Brown Station Road.

■Determination of Compliance with Section 4.7

■North Property Line along the Walker property and the Landfill property

Subject use:	Rubble fill - Low Impact
Adjacent use to the north	Along the western 800 feet (Walker property) - agricultural - low impact use Along the eastern 1,100 feet - landfill - high impact use
Type of Bufferyard required:	Along the Walker property - none Along the landfill - ■C•
Required:	Minimum building setback - 40' Minimum width of landscape buffer - 30'

Linear feet of landscape buffer - 1,100'
Number of Planting units - 120 planting units per 100 linear feet
Planting units required for this proposal - $1,100 \times 120 / 100 = 1,320$

Proposed: Building setback: N/A
Landscape strip - None
Planting Units - None
A 30'-wide landscape strip planted with 1,320 planting units is required along 1,100 feet of this property line along the landfill.

■ East Property Line along the landfill

Subject use: Rubble fill - Low Impact

Adjacent use to the east Landfill ■ high impact use

Type of Bufferyard required: ■ C.

Required: Minimum building setback - 40'
Minimum width of landscape buffer - 30'
Linear feet of landscape buffer - 2,000'
Number of Planting units - 120 planting units per 100 linear feet
Planting units required for this proposal - $2,000 \times 120 / 100 = 2,400$

Proposed: Building setback: N/A
Landscape strip - None
Planting Units - None
A 30'-wide landscape strip planted with 2,400 planting units is required along 2,000 feet of this property line

■ South property line along the substation property

Subject use: Rubble fill - Low Impact

Adjacent use to the south Substation (public utility use)

Type of Bufferyard required: ■ A.

Required: Minimum building setback - 20'
Minimum width of landscape buffer - 10'
Linear feet of landscape buffer - 1,400
Number of Planting units - 40 planting units per 100 linear feet

Planting units required for this proposal - $1,400 \times 40 / 100 = 560$

Proposed: Building setback: N/A
Landscaped strip - None
Planting Units - None
A 10'-wide landscape strip planted with 560 planting units is required along 1,400 feet of this property line

■ Staff recommends the following for compliance with the requirements of *Landscape Manual*:

- a. A 10-foot-wide landscaped strip planted with 80 shade trees and 800 shrubs is required along Brown Station Road.
- b. A 30-foot-wide landscape strip planted with 1,320 planting units is required along 1,100 feet of the north property line along the landfill.
- c. A 30-foot-wide landscape strip planted with 2,400 planting units is required along 2,000 feet of the east property line.
- d. A 10-foot-wide landscape strip planted with 560 planting units is required along 1,400 feet of the south property line.

■ For the 17.87 acre property

■ East Property Line along the landfill

Subject use: Rubble fill - Low Impact

Adjacent use to the east Landfill ■ high impact use

Type of Bufferyard required ■ C.

Required: Minimum building setback - 40'
Minimum width of landscape buffer - 30'
Linear feet of landscape buffer - 2,000'
Number of Planting units - 120 planting units per 100 linear feet
Planting units required for this proposal - $750 \times 120 / 100 = 900$

Proposed: Building setback: N/A
Landscaped strip - None
Planting Units - None
A 30'-wide landscape strip planted with 900 planting units is required along 750 feet of this property line

■West Property Line along the landfill

Subject use: Rubble fill - Low Impact

Adjacent use to the west Landfill ■ high impact use

Type of Bufferyard required: ■C•

Required: Minimum building setback - 40'
Minimum width of landscape buffer - 30'
Linear feet of landscape buffer - 2,000'
Number of Planting units - 120 planting units per 100 linear feet
Planting units required for this proposal - $2,000 \times 120 / 100 = 2,400$

Proposed: Building setback: N/A
Landscaped strip - None
Planting Units - None
A 30-foot-wide landscape strip planted with 2,400 planting units is required along 2,000 feet of this property line

■South property line along the substation property

Subject use: Rubble fill - Low Impact

Adjacent use to the south Substation (public utility use)

Type of Bufferyard required: ■A•

Required: Minimum building setback - 20'
Minimum width of landscape buffer - 10'
Linear feet of landscape buffer - 1,400
Number of Planting units - 40 planting units per 100 linear feet
Planting units required for this proposal - $1,038 \times 40 / 100 = 4152$

Proposed: Building setback: N/A
Landscaped strip - None
Planting Units - None
A 10'-wide landscape strip planted with 4152 planting units is required along 1,038 feet of this property line

■North property line along the park with no active recreational facilities

Subject use: Rubble fill - Low Impact

Adjacent use to the South Park with no active recreational facilities

Type of Bufferyard required: no buffer required

■ Staff recommends the following for compliance with the requirements of *Landscape Manual*:

- e. A 30-foot-wide landscape strip planted with 900 planting units is required along 750 feet of the east property line along the landfill.
- f. A 30-foot-wide landscape strip planted with 2,400 planting units is required along 2,000 feet of the west property line along the landfill.
- g. A 10-foot-wide landscape strip planted with 4,152 planting units is required along 1,038 feet of the south property line along the substation property.

The applicant should consider submitting an application for Alternative Compliance. The *Landscape Manual* allows Alternative Compliance for project conditions where normal compliance is impractical or impossible. In this case, because of existing conditions, a request for Alternative Compliance may be justified.

- I. Zone Standards: The proposed use meets the setback requirements for the R-R Zone.
- J. Sign Regulations: No signs are proposed with this application. If one is desired, it must be added to the site plan.
- K. Competitive Interest: It should be noted that another rubble fill application (SE-4355) is currently pending review and final decision by the District Council. That application is competing with the subject application for a finite demand in rubble fill capacity. Therefore, it is possible that the approval of either application could capture a significant portion or all of the capacity for the 15-year planning period mandated by the Zoning Ordinance.
- L. Required Findings:

Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

- (1) The proposed use and site plan are in harmony with the purposes of this Subtitle.

Finding: The proposed use and site plan are generally in conformance with the 15 purposes listed in Section 27-102(a) of the Zoning Ordinance. These purposes generally seek to protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of

the County. Rubble fills are a necessary part of the construction industry, and the orderly growth of housing, industry and business cannot be accomplished without adequate rubble fill capacity. The location of the proposed use is to be adjacent to and near other similar type uses (such as an electric substation and a sanitary landfill), minimizing the impact that the rubble fill will have on the surrounding area. Locating a rubble fill at this location, in which the proposed use will be partially encircled by the County's landfill, directly diminishes the potential for negative impact on properties in other areas of the County. Therefore, the proposal will guide the orderly growth and development of the County by not introducing the proposed use into an area not improved with similar type uses.

The proposed use also promotes the most beneficial relationship between the uses of land and buildings and protects landowners from adverse impacts of adjoining development. This application will provide for the separation of truck traffic from the everyday traffic on the surrounding streets. Access to the proposed rubble fill site will be via the existing controlled access road that is used for the County's Brown Station Landfill. The ability to provide access from an existing controlled entrance and not from Brown Station Road is unique to this application. This aspect of the proposed use lessens the danger and congestion of traffic on streets, and it ensures the continued usefulness of all elements of the transportation system for their planned functions.

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

Finding: The proposed use is generally in conformance with all the applicable requirements and regulations of the Zoning Ordinance. Conditions of approval are recommended to ensure that certain environmental impacts identified by the Natural Resources Division are addressed.

- (3) **The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or in the absence of a Master Plan or Functional Map Plan, the General Plan.**

Finding: The proposed use will not substantially impair the integrity of the 1993 Master Plan for Subregion VI. The Community Planning Division, in a memo dated February 16, 2000, notes that the Plan recommends Public/Quasi-Public land use for the two tracts that make up the subject property. These tracts are classified in the R-R Zone. Public/Quasi-Public land use is indicated for the Landfill access road and PEPCO properties on the west and south of the added tracts; they are classified in the R-E Zone. Along the northeast side of the added properties there is a narrow strip of M-NCPPC stream valley park associated with Western Branch; this part of the stream valley is classified in the R-R Zone. A pedestrian, hiker, biker, equestrian trail is proposed in the stream valley park area. On the other side of the stream is a small lot, suburban residential subdivision (Ramblewood) classified in the R-R Zone.

The Master Plan Map also indicates that both tracts contain substantial areas designated as:

- Natural Reserve (P.M.A., Critical Area, severe slope or Marlboro Clay), and
- Conditional Reserve (Critical Areas beyond buffer, P.M.A. evaluation areas, upland wetlands, or Marlboro Clay).

The Master Plan recognizes that *as of 1991, undeveloped and low intensity uses including agriculture, public parks, private parks, private open space, utilities, sand and gravel sites, vacant land and designated rights-of-way make up 91.0 percent of the Subregion VI Study Area*, with the result being that the proposed use is compatible with other uses within the Planning Area. The landscape plan shows that the proposed use will be buffered from the residences located across Brown Station Road with landscaping, berms, and a wood rail fence in conformance with a guideline of the Living Areas section of the Master Plan that states, *buffering in the form of landscaping, open space, attractive fencing, and/or other creative site planning techniques should be utilized to protect residential areas from commercial, industrial and other incompatible uses.*

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

Finding: With the recommended conditions, the proposed use will not adversely affect the health, safety or welfare of residents or workers in the area. The Natural Resources Division points out, in a memo dated February 17, 2000 that certain environmental impacts are associated with a rubble fill. These impacts are discussed below:

During 1998 this site was permitted by the Prince George's County Department of Environmental Resources as a Class 3 fill. The footprint of the permitted Class 3 fill is the same as the footprint for the rubble fill proposed by this application. The general appearance to the Class 3 fill and the proposed rubble fill will be similar although the materials placed in each of these operations would be different. The Grading Ordinance states:

Sec. 4-271. Definitions.

- (11.) Class 3 fill. Common fills proposed for landscaping or other nonload bearing usage.

Sec. 4-303. Fill - Materials.

- (b) Class 3 fills may include the more difficult to compact soils, at other than optimum moisture content; rock and similar irreducible materials without limit as to size provided no detectable voids are formed, into which overlying soils may later be washed; and top soil, intermittently layered with nonorganic soil. In other than rock gardens, at least twelve (12) inches of soil must cover all rock, or irreducible materials with a maximum dimension greater than eight (8) inches.
- (d) The material must be free of contamination levels of any pollutant which is or may be considered to represent a possible health hazard to the public or may be detrimental

to surface or ground water quality or which may cause damage to property or the drainage system. (Gen. Res. No. 19-1970; CB-87-1979; CB-46-1993)

Whereas a Class 3 fill is limited with respect to the types of material that may be disposed of, the rubble fill, which is a component of a Sanitary landfill is used for the disposal of *Construction and Demolition Debris (C&D)*. According to ■A Report on Maryland's Interstate Movement of Solid Waste■, April 1998, Maryland Environment Service, ■C&D includes materials commonly found in a home or office, such as drywall, glass, carpet, chunks of mortar and concrete, shingles, empty paint cans, tree stumps and other leftover materials.■ Some of these materials are organic and will decompose producing methane gas or giving off other polluting compounds. Therefore, beginning in July of 2001 all operating rubble fills shall be designed, permitted, constructed, and operated in accordance with the State of Maryland, Department of the Environment, Title 26, Subtitle 04 Regulation of Water Supply, Sewage Disposal and Solid Waste Regulation, Chapter 07 - Solid Waste Management. Note 27 of the amended Special Exception site plan indicates that this proposed rubble fill will satisfy these requirements. The minimum requirements for the State of Maryland review shall include a Phase II report which addresses such items as the geology of the site, hydrology, location of floodplains, streams, wetlands, forests, locations of structures and property lines. In addition, there are specific requirements with respect to rubble fill liners, rubble fill cap, the leachate collection system and the leachate removal system. Although this is not a complete listing of the requirements it gives a general overview of some of the information that the State of Maryland addresses during the review of an application.

Streams, wetlands and floodplain areas have been found to occur on this property. The streams and floodplain along with their respective buffers have been reflected on the amended site plan for SE-4347. The amended plans received by this office on February 3, 2000 do not reflect any impacts to the stream, stream buffer, 100-year floodplain or 100-year floodplain buffer. Although, it is not typical for the wetlands on a property with this type of topography to extend beyond the limits of the 50-foot floodplain buffer, there is that possibility and therefore, the limits of the wetlands must be addressed. This is particularly important since wetlands are to be protected to the greatest extent possible during the review of plans. The May 24, 1999 memo from this office requested that a Wetland Delineation Report including the field data sheets, a narrative, a plan showing the limits of the wetlands and the wetland buffers should be submitted to the Environmental Planning Section for review at least 30 days prior to the first scheduled hearing for this application. As of this date the requested information has not been received. However, the applicant did add a note to the plan which states ■All Non-Tidal wetlands on site are contained within the 100-year floodplain easement.■

Operations of this type, Class 3 fills, Sanitary landfill, Rubble fills, construction sites, etc. often generate noise levels that adversely impact adjacent residential areas.

In order to evaluate potential noise impacts associated with this application the applicant has provided the M-NCPPC Environmental Planning Section with a list of the types of equipment that will be used on this site along with documentation of noise ratings for that equipment, the hours of operation and the time frame for the hours of the most intense operations. This information has been evaluated to determine what impacts may occur as a result of SE-4347. The Alban Tractor Co., Inc. on February 15, 2000 provided this office with documentation on the noise levels generated by the equipment to be used on this site during the proposed rubble fill operation. That information has been evaluated and an approximate noise level of 89.8 dBA will exist at a distance of 15 meters from the moving equipment. The intensity of the noise decreases as the distance from the source of the noise increases. The noise levels are directly affected by distance, wind direction, time of day and physical barriers and minimally affected by vegetation.

This site is located along a section of Brown Station Road opposite a subdivision known as Robshire Acres. Twelve of the residences in the Robshire Acres neighborhood front on Brown Station Road and are located within 200 feet of the top of the berm, approximately 20 feet high, constructed by the applicant along Brown Station Road. Based on the size of the berm, height and footprint, the distance from the residences to the fill site where the elevations are equal to or greater than the top of the berm will be approximately 300 feet. The berm will act as a noise attenuation measure and should effectively reduce the noise levels at the property lines of the residences in Robshire Acres to approximately 65 dBA.

In a February 7, 2000 letter from J. Michael Warring, Project Manager for Maryland Reclamation, L.L.C. this office was provided information addressing the proposed hours of operation. That letter states *■we would suggest that the normal hours of operation will be from 6:30 a.m. to 6:00 p.m., Monday through Saturday. Under normal conditions, the operation will be closed on Sundays and national holidays. We would suggest that the peak hours of ■most intense• operations would typically occur when loads of construction and demolition debris have to be spread by the dozer and the compactor throughout the day, however, one could assume that peak operational levels would probably occur from 8:00 a.m. through 5:00 p.m. •* Based on this information, the conclusion that noise will be adequately attenuated remains valid for the time frame from 7:00 a.m. to 6:00 p.m.. However, that period of operation before 7:00 a.m. will potentially result in adverse noise impacts to the neighborhood since the nighttime noise levels for residential areas should not exceed 55 dBA, and this proposed operation will possibly exceed that limit for at least part of each operational day. There are two (2) options that may be considered to resolve this potential adverse impact to the surrounding neighborhood. First, limit the hours of operation to after 7:00 a.m. or second, provide a detailed Noise Study addressing the nighttime noise impacts and the proposed noise attenuation measures which will be implemented to mitigate the noise impacts.

No Marlboro clays have been identified on this site. No Scenic or Historic Roads have been identified on or adjacent to this site. The property is located in Sewer and Water Service categories 3 and 3 respectively.

This rubble fill will be in close proximity to an existing stream and residences which may be adversely impacted from methane gas migration into the nearby residential neighborhood and/or leaching of hazardous materials into the ground water. The applicant shall be required to design, construct and operate this proposed rubble fill in accordance with the State of Maryland, Department of the Environment, Title 26, Subtitle 04 Regulation of Water Supply, Sewage Disposal and Solid Waste Regulation, Chapter 07 - Solid Waste Management which must address ground water contamination issues, leachate issues and pollution issues.

An issue that has been increasingly evident in the last several years is the impact a project may have on the viewshed of adjacent properties and the neighborhood in general. This has been an issue for monopolies, industrial sites and even a proposed rubble fill in a much less densely populated portion of southern Prince George's County. In order to evaluate the potential impacts that this application will have on the viewshed, the applicant arranged for a balloon to be raised to the ultimate elevation of the larger mound. On February 10, 2000 the applicants representative and staff drove through several of the nearby neighborhoods to determine if the proposed rubble fill would be visible from the neighborhoods or roads in the area. Based on the information gathered on that date, it was determined that most of the residences in Robshire Acres and some residences on several streets in the Oak Grove subdivision would have a direct line of sight of the rubble fill.

The amount of the ultimate rubble fill that will be visible from the various areas will range from an outline as viewed through the trees to a clear view of as much as 120' feet of the rubble fill from some areas of Robshire Acres. Since this analysis was done from a vehicle on public roads there may be other locations which will have a direct line of sight, especially when considering viewing from the height of a vehicle as compared to viewing from a second floor window of a residence. Below is a list of the streets which will have some view of the proposed rubble fill as evaluated from the public road at ground level:

Brown Station Road	Brown Road
Pyles Drive	Norris Place
Kaine Place	Dorkin Run
Ronald Beall Road	Robert Bowie Drive
Cicily Court	Trotter Terrace
Markby Court	Robert Lewis Avenue

In each situation where there was a direct unobstructed view of the proposed rubble fill there was little or no potential for the applicant to provide mitigation. This is

generally due to the distance of the viewing locations from the site and the angle of the line of sight. The only potential mitigation for reducing the viewshed impacts would be to lower the height of the proposed mound or the planting of additional vegetation near the viewing location. This could require extensive plantings on many properties located on the roadways noted above.

- (5) **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

Finding: The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood. The proposed use will have impacts such as noise, odor, appearance, etc. However, conditions can be placed on this application to address these impacts. With respect to traffic issues, the Transportation Planning Section, in a memo submits the following comments:

- . . In an effort to demonstrate the traffic impact of the proposed facility, the applicant has prepared and submitted a traffic study, for staff's review.

Traffic Study Overview

The study identified the following intersections as the ones on which the proposed development will have the most impact:

Intersection	Existing	
	(LOS/CLV) AM	(LOS/CLV) PM
White House Road/MD 202	B/1103	A/791
White House Road / Landfill Access Road*	7.0	3.9

In order to determine the subject property's potential for traffic generation, a study involving data from other functioning rubble fills in the County was obtained through the Maryland Department of the Environment (MDE). The analysis of these data project that the subject site could generate 350 truck loads of material per day during the average month. This would be the approximate equivalent of 700 vehicles per day. This projection is predicated on the assumption that two other rubble fills are closed and the subsequent traffic would be transferred to the subject property. For the purpose of determining the most conservative estimate, the traffic study identified the peak loads during the busiest month of the year and then applying such assumption across the board.

Based on those conservative estimates, the study concluded that a maximum of 635 vehicles per day would enter the site, with a similar number leaving. The total of 1,270 vehicles

formed the basis of the traffic analyses for the two referenced intersections. Again, using historical records, it was determined that approximately 14% of the daily traffic is generated during the morning peak hour, while 5% is generated during the evening peak hour. The total future traffic volumes were then distributed accordingly and analyzed. The analysis yielded the following levels-of-service:

Intersection	Future	
	(LOS/CLV) AM	(LOS/CLV) PM
White House Road/MD 202	C/1166	A/823
White House Road / Landfill Access Road*	7.0	4.1

On the basis of the above analyses, the traffic study concluded that both intersections operated at acceptable levels-of-service, and the additional trips to be generated by the proposed operation will not adversely affect the levels-of-service in either of the peak periods.

In addition, one of the unique aspects of this particular site is that it is served by a County maintained access road. This access road lessens the need for trucks to travel through residential neighborhoods to access the site.

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

Finding: This application is exempt from the Woodland Conservation and Tree Preservation Ordinance as no woodlands are to be removed beyond those already slated for removal by the active mining operation.

M. ADDITIONAL FINDINGS:

- 1 Special exceptions are required for specific land uses. To minimize the impact of such uses, certain conditions must be met before such uses are permitted. The appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location would have any adverse impacts above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.
2. The subject special exception, if approved is governed by substantial regulation in the Prince George's County Zoning Ordinance (Sections 27-317, 27-406) and the State of Maryland, Department of the Environment, Title 26, Subtitle 04 Regulation of Water Supply, Sewage Disposal and Solid Waste Regulation, Chapter 07 - Solid Waste Management. Failure to

operate in accordance with these regulations carries penalties as severe as revocation of the special exception and other licenses to operate.

3. This application has been reviewed by numerous County and State agencies. The comments received from this review suggest that with certain additional conditions imposed, the proposed use would not have any adverse impacts above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.
4. Groundwater and wetland issues have been studied and the Planning Board finds that these issues have been adequately addressed.

NOW, THEREFORE, BE IT RESOLVED, that the Prince George's County Planning Board recommends that Special Exception No. SE-4347 be approved with conditions subject to the following conditions:

1. Prior to the issuance of any permits which impact wetlands the applicant shall provide the Environmental Planning Section with a copy of the appropriate Federal and State Wetland Permits.
2. Prior to the Decision of Finality for this Special Exception the applicant shall provide the Environmental Planning Section, the Zoning Section and the Zoning Hearing Examiner with a copy of the Wetland Delineation Report for this property to ensure that wetland disturbances and wetland buffer disturbances are proposed.
3. Any changes to the site plan which will result in a change to the limits of disturbance (LOD) shall be referred to the Environmental Planning Section for review and updating of the Letter of Exemption for Woodland Conservation. Changes to the LOD which result in the clearing of 5,000 square feet of woodland or more will require the approval of a Type II Tree Conservation.
4. The hours of operation for this proposed rubble fill shall be restricted to 7:00 a.m. through 6:00 p.m. on Monday through Friday and from 8:00 a.m. through 6:00 p.m. on Saturdays and holidays. Nighttime operations shall be permitted provided that such activities do not exceed two months at any given time and shall not occur more than three times within a 15 year period.
5. The landscape plan shall be revised as follows or the applicant shall obtain approval of Alternative Compliance with the *Landscape Manual*:
 - a. A 10-foot-wide landscaped strip planted with 80 shade trees and 800 shrubs is required along Brown Station Road.

- b. A 30-foot-wide landscape strip planted with 1,320 planting units is required along 1,100 feet of the north property line along the landfill.
 - c. A 30-foot-wide landscape strip planted with 2,400 planting units is required along 2,000 feet of the east property line.
 - d. A 10-foot-wide landscape strip planted with 560 planting units is required along 1,400 feet of the south property line.
 - e. A 30-foot-wide landscape strip planted with 900 planting units is required along 750 feet of the east property line along the landfill.
 - f. A 30-foot-wide landscape strip planted with 2,400 planting units is required along 2,000 feet of the west property line along the landfill.
 - g. A 10-foot-wide landscape strip planted with 4,152 planting units is required along 1,038 feet of the south property line along the substation property.
6. The applicant shall use moving noise attenuation berm techniques to lessen noise impacts on adjacent properties. The berm must at all times be immediately seeded to maintain an attractive appearance.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Brown, seconded by Commissioner Hewlett, with Commissioners Brown and Hewlett voting in favor of the motion and Commissioner Boone opposing, at its regular meeting held on Thursday, July 20, 2000, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 7th day of September 2000.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

TMJ:FJG:jj:leb