

The Maryland-National Capital Park and Planning Commission
 Prince George's County Planning Department
 Development Review Division
 301-952-3530



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

Special Exception

SE-4531

Application	General Data
Project Name: Gardner Road Landfill Location: Northeast side of Gardner Road approximately 660 feet south of Accokeek Road and southwest side of Gardner Road approximately 3,513 feet south of Accokeek Road, known as 16109 Gardner Road. Applicant/Address: Prince George's County Landfill, LLC 300 Ritchie Road Capitol Heights, Maryland 20743	Date Accepted: 5/25/05
	Planning Board Action Limit: N/A
	Plan Acreage: 776.19
	Zone: R-A
	Dwelling Units: N/A
	Square Footage: N/A
	Planning Area: 84, 85A
	Tier: Rural
	Council District: 09
	Municipality: N/A
	200-Scale Base Map: 220SE04

Purpose of Application	Notice Dates
Sanitary Landfill in the R-A Zone	Adjoining Property Owners Previous Parties of Record 3/3/05 Registered Associations: (CB-12-2003)
	Sign(s) Posted on Site and Notice of Hearing Mailed: N/A

Staff Recommendation		Staff Reviewer: Tom Lockard	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		

November 3, 2005

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board
The Prince George's County District Council

VIA: Jimi Jones, Acting Zoning Supervisor

FROM: Tom Lockard, Planner Coordinator

SUBJECT: **Special Exception Application No. 4531**

REQUEST: **Sanitary Landfill**

RECOMMENDATION: **APPROVAL; with conditions**

NOTE:

This application is on the agenda for the Planning Board to decide whether or not to schedule a public hearing. If the Planning Board decides to hear the application, it will be placed on a future agenda.

Any person may request the Planning Board to schedule a public hearing. The request may be made in writing prior to the agenda date or in person on the agenda date. All requests must specify the reasons for the public hearing. All parties will be notified of the Planning Board's decision.

You are encouraged to become a person of record in this application. The request must be made in writing and sent to the Office of the Zoning Hearing Examiner at the address indicated above. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

FINDINGS:

- A. **Location and Field Inspection:** The subject property is located on both the northeast and southwest sides of Gardner Road, south of Accokeek Road, known as 16109 Gardner Road. The site is a former sand and gravel mine that has been partially reclaimed. The area north of Gardner Road appears to presently be under reclamation. A small section of the site (2.81 acres) is located in Charles County.

- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	R-A	R-A
Use(s)	Sand and Gravel Mine Agricultural Use	Sanitary Landfill, Offices, Maintenance Building, Environmental Education Center
Acreage	776.19 acres (2.81 acres in Charles County)	776.19 acres (2.81 acres in Charles County)
Lots	0	0
Parcels	10	10
Square Footage	0	15,266 GFA

- C. **History:** The property contains ten acreage parcels on Tax Maps 153 and 163, known as Parcels 39, 42, 37, 40, 46, 38, 41, 45, 18, 24. There appears to have been two lot line adjustments between properties that are the subject of this application by deed (Parcels 37 and 24, and 58 and 18). The applicant should provide deeds demonstrating that the adjustments were, in fact, in accordance with Section 24-107 of the Subdivision Regulations and not an illegal division of land. Section 24-107(c)(9) of the Subdivision Regulations exempts from the subdivision requirement “[t]he sale or exchange of land between adjoining property owners to adjust common boundary lines, provided that no additional lots are created, for property which is not the subject of a record plat.” In addition, because the applicant is proposing more than 5,000 square feet of gross floor area in three proposed buildings, a preliminary plan of subdivision will be required pursuant to Section 24-107 of the Subdivision Regulations.

Much of the site has been mined for sand and gravel pursuant to numerous grants of special exception going back to 1986 (SE-3651). The area south of Gardner Road was most recently mined subject to SE-4230 (1998) and the area north of Gardner Road was most recently the subject of SE-4334 (1999). A special exception for a time extension for the sand and gravel mining on the north side of Gardner Road is currently pending (SE-4505).

- D. **Master Plan/General Plan Recommendation:** The approved 1993 Master Plan for Subregion V identifies the subject property as a rural land use area. Rural land use areas are recommended for agricultural, woodland, other rural land uses, or residential development densities up to 0.5 dwelling units per acre. The 2002 General Plan places the property in the Rural Tier. The vision for the Rural Tier is the protection of large amounts of land for woodland, wildlife habitat, recreation and agricultural pursuits, and preservation of the rural character and vistas that now exist.

A detailed discussion of this proposal and its impact on the 1993 master plan is found in Section N of this report.

- E. **Request:** The applicant requests approval of this special exception to construct and operate a sanitary landfill covering 160 acres with a daily capacity of 3,000 to 4,000 tons of waste per day.

Based on the estimated total waste disposal capacity of 18,800,000 tons, the expected life of the facility would be from 16 to 20 years. The actual area of fill would be located south of Gardner Road. The section of the site north of Gardner Road is not shown as fill area, but would be used to accommodate a re-location and straightening of Gardner Road, which currently has a sharp bend in this vicinity. The applicant estimates the vast majority of trips to the site will come from the north from major arterials such as MD 5, MD 210, US 301, and MD 223.

F. Neighborhood and Surrounding Uses: The subject property is surrounded by the following uses:

North, East and West—Undeveloped land, agricultural fields and single-family homes on large parcels in the R-A Zone, including two residences that are on the north side of Gardner Road and surrounded by the subject property.

South—Mattawoman Creek, beyond which are single-family residences and agricultural land in Charles County.

The subject property is in a neighborhood with the following boundaries:

North—Accokeek Road

East—McKendree Road and Robert S. Crain Highway (US 301/MD 5)

South—Mattawoman Creek

West—PEPCO right-of-way

This is the same neighborhood as was accepted by the District Council in its approval of SE-4334. The neighborhood is rural in character and predominantly undeveloped. Robin Dale Country Club is located within the neighborhood, along with a small residential community of single-family detached homes in Green Tree Acres along Mattawoman Lane and Valley Drive.

G. Specific Special Exception Requirements: Section 27-406. Sanitary landfill; rubble fill.

(a) A sanitary landfill or rubble fill may be permitted as a temporary Special Exception.

Comment: The applicant is proposing a landfill as a temporary use with an estimated lifespan of 16-20 years.

(b) The District Council shall determine the period of time for which the Special Exception is valid.

Comment: The applicant is requesting a 30-year validity period for this special exception.

(c) 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 property is zoned R-A, thus this section is not applicable.

- (d) **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: The applicant does not propose a rock crusher.

- (e) **The applicant shall provide a traffic study that is prepared in accordance with Planning Board Guidelines for Analysis of Traffic Impact of Development Proposals.**

Comment: The applicant has provided a traffic study prepared in accordance with the prescribed guidelines. The study has been duly referred to the County Department of Public Works and Transportation (DPW&T) and the State Highway Administration (SHA), and the comments of these agencies are attached. The findings and recommendations outlined below are based upon a review of relevant materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the guidelines.

Transportation Staff Review Comments

The applicant has provided a traffic study detailing analyses at following intersections:

- MD 210 and MD 373 (signalized)
- MD 210 and Farmington Road (signalized)
- MD 373 and Bealle Hill Road, north (unsignalized)
- MD 373 and Bealle Hill Road, south (unsignalized)
- MD 5 and MD 373 (signalized)
- Livingston Road and Farmington Road/Berry Road (unsignalized)
- MD 373 and Berry Road (unsignalized)
- MD 373 and Sharperville Road (unsignalized)
- MD 373 and Gardner Road (unsignalized)
- MD 373 and Springfield Road (unsignalized)
- MD 373 and Danville Road (unsignalized)
- MD 373 and McKendree Road (unsignalized)

The study also includes the following links:

- MD 373 between MD 210 and Berry Road
- MD 373 between Berry Road and McKendree Road
- MD 373 between McKendree Road and MD 5

Using actual traffic counts documented in the traffic study, intersection capacity analyses were conducted for the area intersections and links, in accordance with the procedures contained in the Prince George’s County Planning Board’s *Guidelines for the Analysis of the Traffic Impact of Development Proposals*. Based on these analyses, staff made the following determinations regarding levels-of-service (LOS) and critical lane volumes (CLV):

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume		Level of Service (AM & PM)	
	AM	PM		
MD 210 and MD 373	1,462	1,425	E	D
MD 210 and Farmington Road	1,329	1,220	D	C
MD 373 and Bealle Hill Road, north	13.8*	19.8*	--	--
MD 373 and Bealle Hill Road, south	15.3*	28.8*	--	--
MD 5 and MD 373	1,582	1,930	E	F
Livingston Road and Farmington Road/Berry Road	22.6*	28.1*	--	--
MD 373 and Berry Road	11.0*	12.9*	--	--
MD 373 and Sharperville Road	9.9*	10.0*	--	--
MD 373 and Gardner Road (unsignalized)	15.6*	19.8*	--	--
MD 373 and Springfield Road (unsignalized)	13.1*	12.3*	--	--
MD 373 and Danville Road (unsignalized)	10.6*	11.5*	--	--
MD 373 and McKendree Road	16.2*	11.8*	--	--
MD 373 between MD 210 and Berry Road	0.16**	0.22**	A	B
MD 373 between Berry Road and McKendree Road	0.15**	0.12**	A	A
MD 373 between McKendree Road and MD 5	0.18**	0.16**	A	A
<p>* In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are outside of the normal range of the procedure, and should be interpreted as a severe inadequacy.</p> <p>** In analyzing links, service level is measured by computing the ratio of volume to capacity, or V/C, as defined by the <i>Highway Capacity Manual</i>. Levels of service for links follow the same A-F scale as levels of service for signalized intersections.</p>				

The subject property is located in the Rural Tier, as defined in the General Plan for Prince George’s County. As such, the standard that applies to subject property for signalized intersections and for links on the roadway system is level-of-service (LOS) C, with a critical lane volume (CLV) of 1,300 or better.

The *Highway Capacity Manual* procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. According to the guidelines, vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency. A LOS is generally not reported for unsignalized intersections because LOS is not the standard—the length of delay is the standard that triggers the need for a condition.

There are no road construction projects in the vicinity of the subject property that are currently programmed and fully funded for construction in either the County Capital Improvement Program (CIP) or the State Consolidated Transportation Program (CTP). Projects that are fully funded in either the CIP or the CTP may be assumed to be part of the transportation network for purposes of analyzing future conditions. However, it should be noted that both MD 5 and MD 210 are under active study by the State Highway Administration for the improvement of access controls.

The traffic analysis submitted by the applicant includes a review of future, or background, traffic. The study assumes a growth rate of 2.0 percent per year along MD 210; 1.0 percent per year along MD 5; 3.0 percent per year along MD 373; and 1.5 percent per year along Livingston Road/MD 223. The study also considers the impacts of 22 developments, that could add up to 11,000 peak-hour vehicle trips to the area roadway network. However, most of these sites are in the immediate MD 5 and MD 210 corridors, meaning that only limited traffic from many of these approved developments would cross the heart of the study area. Based on this information, the following determinations regarding levels-of-service and critical lane volumes are made for the background situation:

BACKGROUND TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume		Level of Service (AM & PM)	
	AM	PM		
MD 210 and MD 373	1,701	1,648	F	F
MD 210 and Farmington Road	2,081	1,659	F	F
MD 373 and Bealle Hill Road, north	15.0*	23.1*	--	--
MD 373 and Bealle Hill Road, south	15.3*	38.1*	--	--
MD 5 and MD 373	3,286	3,303	F	F
Livingston Road and Farmington Road/Berry Road	118.9*	286.4*	--	--
MD 373 and Berry Road	11.5*	14.0*	--	--
MD 373 and Sharpville Road	10.4*	10.6*	--	--
MD 373 and Gardner Road (unsignalized)	15.6*	23.7*	--	--
MD 373 and Springfield Road (unsignalized)	14.5*	13.7*	--	--
MD 373 and Danville Road (unsignalized)	11.4*	12.6*	--	--
MD 373 and McKendree Road	20.0*	12.2*	--	--
MD 373 between MD 210 and Berry Road	0.17**	0.25**	A	B
MD 373 between Berry Road and McKendree Road	0.16**	0.13**	A	A
MD 373 between McKendree Road and MD 5	0.19**	0.17**	A	A
<p>* In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the guidelines, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are outside of the normal range of the procedure, and should be interpreted as a severe inadequacy.</p> <p>**In analyzing links, service level is measured by computing the ratio of volume to capacity, or V/C,</p>				

as defined by the *Highway Capacity Manual*. Levels of service for links follow the same A-F scale as levels of service for signalized intersections.

The proposed landfill operation involves the processing of up to 4,000 tons per day of waste. The traffic study contains an extensive analysis of the existing Brown Station Road landfill for the purpose of gaining an understanding of the traffic trends. The subject landfill is being proposed to ultimately replace operations at the Brown Station Road landfill when that facility reaches its capacity. Based on current traffic trends, the study estimates that at capacity, the proposal would generate 600 AM (320 in, 280 out) and 400 PM (160 in, 240 out) peak-hour passenger car equivalent trips. It is important to note that the ultimate trip generation is expressed in passenger car equivalents rather than the more typical vehicles. That is because the trip generation, and the resulting impact, is factored upward to take into account the high percentage of trucks that utilize the proposed use.

Likewise, the trip distribution from the site gives consideration that the site will serve the waste processing needs of Prince George's County. The trip distribution has the following trends:

- 65 percent of trips from the north on MD 5
- 15 percent of trips from the north on MD 210
- 12 percent of trips from the north on US 301
- 3 percent of trips from the north on MD 223
- 3 percent of trips from the east on MD 381
- 1 percent of trips from the south on MD 5
- 1 percent of trips from the south on MD 210

With the trip generation and distribution as assumed, the following results are obtained under total traffic:

TOTAL TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume		Level of Service (AM & PM)	
	AM	PM		
MD 210 and MD 373	1,765	1,650	F	F
MD 210 and Farmington Road	2,097	1,668	F	F
MD 373 and Bealle Hill Road, north	17.5*	28.9*	--	--
MD 373 and Bealle Hill Road, south	20.7*	54.2*	--	--
MD 5 and MD 373	3,663	3,486	F	F
Livingston Road and Farmington Road/Berry Road	123.9*	+999*	--	--
MD 373 and Berry Road	12.9*	15.8*	--	--
MD 373 and Sharpsville Road	11.3*	11.0*	--	--
MD 373 and Gardner Road (unsignalized)	+999*	+999*	--	--
MD 373 and Springfield Road (unsignalized)	17.3*	21.0*	--	--
MD 373 and Danville Road (unsignalized)	19.0*	18.5*	--	--
MD 373 and McKendree Road	94.5*	15.8*	--	--

MD 373 between MD 210 and Berry Road	0.27**	0.29**	B	C
MD 373 between Berry Road and McKendree Road	0.40**	0.28**	C	B
MD 373 between McKendree Road and MD 5	0.32**	0.26**	C	B
<p>* In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the <i>Guidelines</i>, an average vehicle delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are outside of the normal range of the procedure, and should be interpreted as a severe inadequacy.</p> <p>**In analyzing links, service level is measured by computing the ratio of volume to capacity, or V/C, as defined by the <i>Highway Capacity Manual</i>. Levels of service for links follow the same A-F scale as levels of service for signalized intersections.</p>				

Under total traffic conditions—future conditions with the proposed use in place—several intersections within the study area would operate unacceptably. Each circumstance is reviewed in greater detail below:

MD 210/MD 373

At the MD 210 and MD 373 intersection, the applicant has proposed the use of mitigation in accordance with Section 24-124(a)(6). The Subdivision Ordinance indicates that “consideration of certain mitigating actions is appropriate...” in accordance with the ‘Guidelines for Mitigation Action’ and the requirements of that portion of Section 24-124. The applicant proposes to employ mitigation by means of criterion (d) in the “Guidelines for Mitigation Action,” which were approved by the District Council as CR-29-1994. Criterion (d) allows mitigation at intersections along MD 210 outside of the Beltway (among other facilities), and was not superseded by the approval of the 2002 Prince George’s County General Plan.

Procedurally, staff recognizes that mitigation is specifically a subdivision process. Staff would note, however, that the required finding for a special exception is not a strict adequacy finding, but rather a finding that a use “will not adversely affect the health, safety, or welfare of residents or workers in the area.” It has been the general practice of the Transportation Planning Section that if a given development can meet the strict transportation adequacy requirements of Subtitle 24, it will consequently not be detrimental, and can be approved as a means of offsetting traffic impacts under a special exception.

At the MD 210 and MD 373 intersection, the applicant recommends several improvements to mitigate the impact of the applicant’s development in accordance with the provisions of Section 24-124(a)(6). These would include the provision of double left-turn lanes, an exclusive through lane, and an exclusive right-turn lane along the westbound approach of MD 373.

The impact of the mitigation actions at this intersection is summarized as follows:

IMPACT OF MITIGATION		
Intersection	LOS and CLV (AM & PM)	CLV Difference (AM & PM)

MD 210/MD 373				
Background Conditions	F/1701	F/1648		
Total Traffic Conditions	F/1765	F/1650	+64	+2
Total Traffic Conditions w/Mitigation	E/1599	E/1554	-166	-96

As the CLV at MD 210/MD 373 is between 1,450 and 1,813 during both peak hours, the proposed mitigation action must mitigate at least 150 percent of the trips generated by the subject property during each peak hour, according to the guidelines. The above table indicates that the proposed mitigation action would mitigate more than 150 percent of site-generated trips during each peak hour. SHA concurred with the proposed improvement, and DPW&T offered no comment. **Therefore, the proposed mitigation at MD 210 and MD 373 meets the requirements of Section 24-124(a)(6)(B)(i) of the Subdivision Ordinance in considering traffic impacts.**

MD 210/Farmington Road

At the MD 210 and Farmington Road intersection, the applicant has proposed the use of mitigation in accordance with Section 24-124(a)(6). The Subdivision Ordinance indicates that “consideration of certain mitigating actions is appropriate...” in accordance with the “Guidelines for Mitigation Action” and the requirements of that portion of Section 24-124. The applicant proposes to employ mitigation by means of criterion (d) in the “Guidelines for Mitigation Action,” which were approved by the District Council as CR-29-1994. Criterion (d) allows mitigation at intersections along MD 210 outside of the Beltway (among other facilities), and was not superseded by the approval of the 2002 Prince George’s County General Plan.

At the MD 210 and Farmington Road intersection, the applicant recommends several improvements to mitigate the impact of the applicant’s development in accordance with the provisions of Section 24-124(a)(6). These would include the provision of an exclusive left-turn lane, an exclusive through lane, and a channelized right-turn lane along the westbound approach of Farmington Road.

The impact of the mitigation actions at this intersection is summarized as follows:

IMPACT OF MITIGATION					
Intersection		LOS and CLV (AM & PM)		CLV Difference (AM & PM)	
MD 210/Farmington Road					
Background Conditions		F/2081	F/1659		
Total Traffic Conditions		F/2097	F/1668	+16	+9
Total Traffic Conditions w/Mitigation		E/1638	E/1451	-429	-217

As the CLV at MD 210/Farmington Road is greater than 1,813 during the AM peak hour, the proposed mitigation action must mitigate at least 100 percent of the trips generated by the subject property during each peak hour and bring the CLV to no greater than 1,813, according to the guidelines. As the CLV at MD 210/Farmington Road is between 1,450 and 1,813 during the PM peak hour, the proposed action must mitigate at least 150 percent of the trips generated by the subject property during each peak hour, according to the guidelines. The above table indicates that the proposed action would mitigate more

than 150 percent of site-generated trips during each peak hour, and would also bring the CLV to less than 1,813 during each peak hour. SHA concurred with the proposed improvement, and DPW&T offered no comment. **Therefore, the proposed mitigation at MD 210 and MD 373 meets the requirements of Section 24-124(a)(6)(B)(i) of the Subdivision Ordinance in considering traffic impacts.**

MD 5/MD 373

At the MD 5 and MD 373 intersection, the applicant has proposed the use of mitigation in accordance with Section 24-124(a)(6). The Subdivision Ordinance indicates that “consideration of certain mitigating actions is appropriate...” in accordance with the “Guidelines for Mitigation Action” and the requirements of that portion of Section 24-124. The applicant proposes to employ mitigation by means of criterion (d) in the “Guidelines for Mitigation Action,” which were approved by the District Council as CR-29-1994. Criterion (d) allows mitigation at intersections along MD 210 outside of the Beltway (among other facilities), and was not superseded by the approval of the 2002 Prince George’s County General Plan.

At the MD 5 and MD 373 intersection, the applicant recommends several improvements to mitigate the impact of the applicant’s development in accordance with the provisions of Sec. 24-124(a)(6). These would include:

- a. Widening eastbound MD 373 to result in dual left-turn lane, a single through lane, and a single right-turn lane.
- b. Widening westbound MD 373 to result in a shared through/right-turn lane and a shared through left-turn lane.
- c. Participation in the Brandywine road club to provide an additional through lane in each direction along MD 5.

The impact of the mitigation actions at this intersection is summarized as follows:

IMPACT OF MITIGATION					
Intersection		LOS and CLV (AM & PM)		CLV Difference (AM & PM)	
MD 5/MD 373					
Background Conditions		F/3286	F/3303		
Total Traffic Conditions		F/3663	F/3486	+377	+183
Total Traffic Conditions w/Mitigation		E/2356	E/2328	-1307	-1158

As the CLV at MD 5/MD 373 is greater than 1,813 during both peak hours, the proposed action must mitigate at least 100 percent of the trips generated by the subject property during each peak hour and bring the CLV to no greater than 1,813, according to the guidelines. The above table indicates that the proposed action would mitigate more than 100 percent of site-generated trips during each peak hour, but would not bring the CLV to less than 1,813 during either peak hour.

It is noted that the above improvements do not achieve adequacy as required in Section 24-124 in the Subdivision Ordinance. It is further noted, however, that adequacy as defined by Section 24-124 is not required for special exception approval. Regarding the situation, several observations would be offered:

- a. It is well recognized that the use of the Brandywine road club in approving developments generally poses an issue of concurrency. In other words, Section 24-124 of the Subdivision Ordinance, the section that governs findings of adequate transportation facilities is intended to ensure that needed transportation facilities occur concurrently with development or within a reasonable time thereafter. Transportation inadequacies in the area have been documented since 1989. Many properties have been approved with a condition to pay funds toward a Brandywine road club, beginning in 1990. But since those initial approvals, no improvements have been constructed. Furthermore, there is nothing in either the current county's Capital Improvement Program or the state's Consolidated Transportation Program that suggests that needed improvements are funded for construction. The subject property has, however, proffered improvements that will mitigate the impact of the site at critical signalized intersections. Therefore, the proffer helps to address the concurrency issue.
- b. Council Resolution CR-60-1993 approved the master plan and the sectional map amendment for the Subregion V Master Plan. As a part of that resolution, A-9878 for Brandywine Village was approved with conditions that allow that particular property to participate in the Brandywine road club as a means of determining transportation adequacy. The same condition allows such road club participation by "any properties along US 301/MD 5 between T.B. (the intersection of US 301 and MD 5 in Prince George's County) and Mattawoman Creek." The site is not really "along" US 301 or MD 5, leaving staff to reason that it does not meet the stated geographic criteria for inclusion in the road club. Nonetheless, the same condition in CR-60-1993 allows Brandywine road club participation for properties "for which participation is deemed necessary by the Planning Board." This language clearly suggests that the Planning Board can and should determine circumstances where Brandywine road club participation is appropriate.
- c. The improvements needed to address the adequacy issues noted above would include an interchange at the MD 5/Brandywine Road intersection (the master plan does in fact propose an interchange near that location at the point where the proposed A-63 facility would cross MD 5). There is recognition that the scope and cost of improvements needed in the vicinity of this site far exceed the ability of most applicants to fund them.

For these reasons, it is determined that adequate transportation facilities can only be found if the proffered improvements at the MD 5/MD 373 intersection are constructed and there is participation in the Brandywine road club. SHA has concurred with this. Although DPW&T suggests that traffic would not justify the level of improvement suggested, there is no direct opposition to the improvements.

MD 373/Bealle Hill Road, South

The applicant proposes the possible signalization at this intersection. The analysis indicates that this intersection operates unacceptably as an unsignalized intersection. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal if it is deemed warranted by the appropriate operating agency. The warrant study is, in itself, a more detailed study of the adequacy of the existing unsignalized intersection. DPW&T comments that geometric modifications, not signalization, should be undertaken to improve operations at this location. However, SHA concurred with the recommendation of the signalization study and the installation of the signal at this location if warranted.

MD 373/Gardner Road

The applicant proposes the possible signalization at this intersection along with widening each approach to two lanes. The analysis indicates that this intersection operates unacceptably as an unsignalized intersection. DPW&T offered no comments; SHA concurred with the recommendation.

MD 373/McKendree Road

The applicant proposes the possible signalization at this intersection. The analysis indicates that this intersection operates unacceptably as an unsignalized intersection. DPW&T offered no comments; SHA concurred with the recommendation.

Livingston Road/Farmington Road/Berry Road

The applicant proposes the possible signalization at this intersection along with widening three of the four intersection approaches. The analysis indicates that this intersection operates unacceptably as an unsignalized intersection. DPW&T offered no comments; SHA concurred with the recommendation.

Gardner Road is a master plan rural collector with a future right-of-way width of 80 feet. The plan must preserve a right-of-way along existing Gardner Road consistent with this recommendation.

While the proposed F-10 facility shown on the Subregion V Master Plan (also termed the Waldorf Bypass) passes near the site, the planned right-of-way is south and east of the subject property. The crossing of the Mattawoman Creek is approximately 800 feet west of the existing Gardner Road bridge. Therefore, the use has no potential impact on that master plan proposal.

Brandywine Road Club

The Brandywine road club ratables for the subject property should be identical to those for Lakeview at Brandywine, Preliminary Plan of Subdivision 4-04072, which were computed at \$1,080 per dwelling unit. Using trips to estimate a road club fee, each dwelling unit for Lakeview at Brandywine pays (\$1,080/[average of 0.75 and 0.90]), or \$1,309 per average peak-hour trip generated. This site adds an average of 405 peak-hour trips to the MD 5/MD 373 intersection. Therefore, a fair Brandywine road club payment for this use would be \$530,145, expressed in 1993 dollars.

Conclusion

The applicable standard for the approval of a special exception is not a strict adequacy standard but an assessment of health, safety, and welfare of citizens and workers in the area. The information provided by the applicant in support of a transportation finding attempts to demonstrate a standard of adequacy consistent with Subtitle 24, and while the analysis comports well with that standard in most cases, it falls short in one instance. Nonetheless, the applicant attempts to meet a standard for approval by proffering improvements—helping to assure concurrency—and by proffering a financial contribution toward the long-term solutions—a step toward funding the ultimate needs in that area. Therefore, it is determined that there are no anticipated adverse impacts anticipated from the proposed mining operation. In consideration of this finding, it is the transportation staff's opinion that the proposed mining activity, in and of itself, will not have any adverse impact on the area roadways. This finding is based, however, upon maintaining the level of activity proposed, and by implementing several transportation improvements. Assurances to this effect should be obtained by implementation of the conditions listed at the end of this report.

- (f) **The applicant shall provide a visual analysis of any proposed mounds and should include cross sections and results from balloon tests.**

Comment: The applicant has provided the required visual analysis with cross sections showing that the combination of woodland preservation, landscaping and berming will effectively screen the use from the surrounding residences.

- (g) **The applicant shall address how odors emanating from fill materials will be mitigated.**

Comment: The applicant proposes a gas extraction system to remove landfill gas and control odors. The applicant should provide specific information showing conclusively that odors will be mitigated through the use of the latest and best industry practices.

- (h) **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.**

- (i) **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, a copy of which is attached to this staff report. The inventory lists 67 sites comprising 54 sand and gravel mines, 9 wash plants, 2 rubblefills (one a flyash fill) and 2 sanitary landfills (including the subject property). In addition, the inventory shows the 14 active Class III fills and 6 recycling businesses operating in the county.

- (j) **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 fifteen-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.**

Comment: Because this application is not for a rubble fill, this does not apply. It should be noted that this project is not currently a designated project in the Prince George's County Comprehensive Ten-Year Solid Waste Management Plan; however, this is not a required finding of a special exception application. Prior to application being made to the state, the 10-year plan will have to be revised and approved to add this project.

- (k) **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, by applicant proof that without the proposed use the County's projected growth will be adversely affected. Proof of a future deficit in or absence of County-wide fill capacity does not by itself constitute proof that a proposed fill is necessary to serve the projected growth in the County.**

Comment: This application is for a sanitary landfill and not a rubble fill.

- H. **Parking Regulations:** The proposed use requires 22 parking spaces and one loading space. The site plan shows 39 spaces in accordance with the design standards in Part 11 of the Zoning Ordinance.
- I. **Landscape Manual Requirements:** The *Landscape Manual* classifies a landfill as a low-intensity use. The proposal must comply with the requirements of Sections 4.2 (Commercial and Industrial Landscape Strip Requirements) and 4.7 (Buffering Incompatible Uses) of the *Landscape Manual*. These requirements are met by the wide undisturbed forest buffers along the periphery and the proposed 6- to 15-foot-high reforested berms along Gardner Road.
- J. **Zone Standards:** The proposed site plan shows conformance with all setback and lot coverage requirements of the R-A Zone. The R-A Zone requires a 50-foot front setback from the street line and 35-foot side and rear setbacks. The buildings shown on the site plan are located at least 100 feet from the street line or property lines.

The R-A Zone allows for 60 percent lot coverage for "other allowed uses." The site plan does not specifically note the lot coverage, but it is certainly well less than the 60 percent permitted.

- K. **Sign Regulations:** No signs are indicated on the site plan.
- L. **Environmental Issues:** The Environmental Planning Section, in a memo dated January 11, 2006, submits the following comments:

Background

The Environmental Planning Section previously reviewed applications SE-4000, SE-4230, SE-4334 and SE-4505 for portions of the subject property. Each of these applications was for the mining

of sand and gravel resources and each has been approved. A Type II Tree Conservation Plan, TCPII/186/91, was approved with SE-4230 and TCPII/2/99 was approved with SE-4334. The current application is for a sanitary landfill in the R-A Zone.

Site Description

The 776.19-acre property in the R-A Zone is located on the north side of Mattawoman Creek and on both sides of Gardner Road. There are streams, wetlands and 100-year floodplains and associated areas of steep slopes with highly erodible soils and areas of severe slopes on the property. There are no nearby existing sources of traffic-generated noise. The proposed development is a potential noise generator. According to information obtained from the Maryland Department of Natural Resources, Natural Heritage Program publication entitled "Ecologically Significant Areas in Anne Arundel and Prince George's Counties," December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. No designated historic or scenic roads abut the proposed development. This property is located in the Mattawoman watershed in the Potomac River basin. The site is in the Rural Tier according to the approved General Plan.

Soils

According to the "Prince George's County Soil Survey," the principal soils on the site are in the Aura, Beltsville, Bibb, Butlertown, Chillum, Croom, Galestown, Howell, Iuka, Keyport, Marr, Matapeake, Ochlockonee, Sassafra and Sunnyside soils series; however, portions of the site were mined for sand and gravel after the publication of the "Prince George's County Soil Survey." Marlboro clay does not occur in this area.

Portions of the site have been, or are currently being mined for sand and gravel resources as indicated in applications SE-4000, SE-4230, SE-4334 and SE-4505. An extensive geology and hydrology report, dated October 4, 2005, has been submitted as part of this application for a sanitary landfill. The report describes the locations and findings from 10 water monitoring wells, 27 test pits, 4 piezometers, 1 geotechnical boring, and monthly groundwater level measurements.

The location of the water table and aquifers is required by COMAR 26.04.07. A full liner and leachate collection system are required to ensure that there will be no contamination of shallow or deep groundwater.

Comment: This information is provided for the benefit of future reviews. The local geology and groundwater will be reviewed in detail by the Maryland Department of the Environment as part of the Maryland refuse disposal permit as required by COMAR 26.04.07. Staff at the local level does not have the expertise to evaluate these reports. Because this application cannot be implemented without the approval of the Maryland Department of the Environment, it is appropriate that its staff review this information.

Impact to Natural Features

This site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. The Subregion V Master Plan indicates that there are substantial areas designated as natural reserve on the site. As noted on page 136 of the Subregion V Master Plan:

“The Natural Reserve Area is composed of areas having physical features which exhibit severe constraints to development or which are important to sensitive ecological systems. Natural Reserve Areas must be preserved in their natural state.”

The Subregion V Master Plan elaborates on page 139:

“The Natural Reserve Areas, containing floodplain and other areas unsuitable for development should be restricted from development except for agricultural, recreational and other similar uses. Land grading should be discouraged. When disturbance is permitted, all necessary conditions should be imposed.”

For the purposes of this review, the natural reserve includes all expanded stream buffers and isolated wetlands and their buffers. All streams shown as perennial or intermittent on the plans will require minimum 50-foot stream buffers that shall be expanded in accordance with Section 24-130(b)(6) of the Subdivision Regulations.

The *Green Infrastructure Plan* indicates the presence of regulated areas and evaluation areas on the site. The regulated areas contain the same features as the natural reserve as defined in the Subregion V Master Plan and those regulated by Section 24-130 of the Subdivision Regulations. The evaluation areas are the forested areas contiguous with the regulated areas. The proposed impacts to these features are discussed below.

Impacts to significant environmental features are proposed. The design should avoid any impacts to streams, wetlands or their associated buffers unless the impacts are essential for the development as a whole. Staff will generally not support impacts to sensitive environmental features that are not associated with essential development activities. Essential development includes such features as public utility lines (including sewer and stormwater outfalls), street crossings, and so forth, which are mandated for public health and safety; nonessential activities are those, such as grading for lots, stormwater management ponds, parking areas, and so forth, which can be designed to avoid the impacts.

Both federal and state regulations require that if an impact can be avoided, it must be. All impacts must be justified and minimized to the fullest extent possible if they cannot be avoided. Staff have examined the TCPI in detail and determined that 11 impacts are proposed.

Impacts 1 and 2 are for the reconstruction of a portion of Gardner Road to provide a road curvature that meets current safety standards of the Prince George’s County Department of Public Works and Transportation. Even without the proposed special exception, it is probable that there would arise a need to improve travel safety along this roadway. The existing geometry of Gardner Road dictates these impacts as the best alternative alignment. All designs of these types of facilities are reviewed by the appropriate agency to ensure compliance with the regulations. These regulations require that the designs are not injurious to other property.

Impacts 3, 8, and 9 are for the construction of stormwater management pond outfalls. The installation of the stormwater management outfalls are required by the Prince George’s County Stormwater Management Ordinance to provide for public safety, health and welfare. The stormwater management ponds will be created in areas that have no impacts to any sensitive environmental features; however, each pond will require an outfall that terminates in a location where the flow will not create erosion. Each outfall has been positioned to create the minimum necessary impact. All designs of these types of facilities are reviewed by the appropriate agency

to ensure compliance with the regulations. These regulations require that the designs are not injurious to other property.

Impacts 4 and 5 are for the construction of the landfill. In most instances, staff would not support these types of impacts. A landfill is an engineered structure and it is possible to change the design to avoid all impacts. Staff lacks the expertise to determine the consequences of denying these impacts. Because these proposed impacts are subject to additional review by both federal and state agencies and those reviews will require detailed alternative analyses and the reviewers will have the expertise required to evaluate the consequences, the plans as submitted can be approved with an appropriate condition relating to the review of other agencies. If, after further review by federal and state agencies, changes are required, then the application will have to be amended prior to the issuance of any permit by Prince George's County.

Impact 6 is for the construction of a stormwater outfall associated with a drainage system associated with improvements to Gardner Road. Even without this special exception, future improvements to Gardner Road to meet current county standards would require the installation of this drainage system. All designs of these types of facilities are reviewed by the appropriate agency to ensure compliance with the regulations. These regulations require that the designs are not injurious to other property.

Impact 7 is for the construction of an internal access road to connect the landfill with a required borrow area. As part of the operation of a landfill, cover fill is required to be placed on all days of operation. The use of an on-site borrow site that does not require any traffic along or across public roads is preferable. In similar borrow operations, federal and state wetlands permits have approved such haul roads with the provision that they be removed and the site restored when operations are no longer needed. Staff supports an impact for an interior haul road with the understanding that it will be approved as a temporary impact.

Impact 10 is for incidental grading of the proposed borrow area and must be eliminated.

Impact 11 is for incidental grading for the landfill and must be eliminated.

The Type I tree conservation plan shows a large area that is currently in agricultural use as an area that could be used to create an on-site wetland mitigation area. Because no existing woodland would be cleared to modify this area into a wetland, any forest areas created as part of the wetland area may be used to satisfy the requirements of the Woodland Conservation Ordinance.

Woodland Conservation

The property is subject to the requirements of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because the site is more than 40,000 square feet in size and contains more 10,000 square feet of existing woodland. Additionally, portions of the property have previously approved Type II tree conservation plan. A Type II Tree Conservation Plan, TCPII/186/91, was approved with SE-4230 and TCPII/2/99 was approved with SE-4334. A Type I tree conservation plan is required by the Woodland Conservation Ordinance and Section 27-317(a)(6) of the Zoning Ordinance to be submitted with the subject application.

A Type I Tree Conservation Plan, TCPI/21/05, was submitted with this application and has been reviewed. The plan fails to account for the previously approved Type II tree conservation plans. TCPII/186/91 was for a sand and gravel mining operation, SE-4230 has been completed. That

project covered 250.66 acres of the land that is the subject of the current application. During the implementation of mining, 14.4 acres of woodland were cleared and 17.10 acres of woodland were to be planted on site; however, none of the planting was completed. TCPH/2/99 was for a sand and gravel mining operation, SE-4334, that has been partially completed. That project covered 108.60 acres of the land that is the subject of the current application. During the implementation of mining, 27.93 acres of woodland were to be cleared and 55.86 acres of woodland were to be planted on site; however, none of the planting has been completed. As added complications, not all of the proposed clearing has been completed and all of the area of TCPH/2/99 is the subject of SE-4505 that is currently in review.

The plan proposes clearing 48.26 acres of the existing 459.86 acres of woodland and the clearing of 1.53 acres of the existing 196.29 acres of woodland within the 100-year floodplain; however, the area of existing woodland is only 262.96 acres when the floodplain acreage is subtracted as required. The woodland conservation threshold for this site is 275.53 acres. Based upon the proposed clearing, the woodland conservation requirement is 312.75 acres and not 289.12 acres as indicated in the worksheet. The plan proposes to meet this requirement by providing 210.53 acres of on-site woodland conservation and 80.21 acres of on-site planting, for a total of 290.74 acres. This falls short of the requirement by 22.01 acres; however, staff have examined the plans and determined that there are unwooded portions of the site that could be afforested and that there are some existing woodlands on site that could be used to contribute toward meeting the requirement.

Even with the problems noted, it is clear that the project can provide all required woodland conservation on site with a combination of preservation, reforestation and afforestation. The layout of the proposed woodland conservation is in conformance with the goals of the Woodland Conservation Ordinance and the *Green Infrastructure Plan*, with the minor modifications noted above. In addition to preserving sensitive environmental features and the expanded stream buffers, the addition of upland woodland abutting these areas creates large contiguous woodlands and woodland corridors.

Noise

The proposed use has the potential to be a noise generator. A noise study, dated February 15, 2005, was submitted with the application. The study utilized conservative assumptions and standard noise models to predict noise levels that will be generated by equipment on the site and the potential impacts on nearby properties. Because the structure of the landfill will change in shape and elevation over time, the analysis considered several different stages of completion. The report correctly cited COMAR 26.02.03.03A(1) Table 2 as the standard to meet. This regulation requires that receiving residential properties not be impacted by noise that exceeds 65 dBA daytime or 55 dBA nighttime.

The report concludes that the design will be able to meet the sound level requirements of COMAR 26.02.03 with three minor exceptions as noted on page 15 of the report. These exceptions will require only minor changes to the site plan.

- M. **Historic Preservation:** Phase I (Identification) archeological investigations are recommended on the above-referenced property. This project area is along Mattawoman Creek and branches of that creek are within the property. Prehistoric archeological sites have been found in similar environmental settings. Six prehistoric archeological sites are located just to the east of the parcel (18PR600, 18PR604, 18PR616, 18PR617, 18PR618, and 18PR619), and three historic residences were identified on the 1861 Martenet map: R. Latimore, N. Gardner, and J.J. Lambert (all no

longer standing).

Phase I archeological investigations should be conducted according to Maryland Historical Trust (MHT) guidelines, *Standards and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole 1994), and report preparation should follow MHT guidelines and the *American Antiquity* or *Society of Historical Archaeology* style guide. Archeological excavations shall be spaced along a regular 15-meter or 50-foot grid and excavations should be clearly identified on a map to be submitted as part of the report. The archeological consultant should be aware of the residences shown on the Martenet map and of the six prehistoric archeological sites. Because portions of this site have been extensively mined, filled and graded, those sections will not be required to be investigated.

N. **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.

The primary purposes of the Zoning Ordinance are to protect the public health, safety and welfare; to promote the most beneficial relationship between the uses of land and buildings; and to protect landowners from adverse impacts of adjoining development. The purposes of the Zoning Ordinance are contained in Section 27-102. They are many and varied, but all are predicated on protecting and promoting the health, safety, morals, comfort, convenience and welfare of the present and future inhabitants of the county. The applicant's proposal can be found to generally be in harmony with these purposes, and in particular, the request furthers:

[2] To implement the General Plans, Area Master Plans and Functional Master Plans.

The 1993 Master Plan for Subregion V recommends this property as a rural living area. The proposed use, once filling is completed, will be placed in some type of permanent open space. By virtue of the fact that a sanitary landfill is permitted in the R-A Zone, it is presumed compatible with the zone in which this property was placed by the 1993 SMA.

[4] To guide the orderly growth and development of the county, while recognizing the needs of agriculture, housing, industry and business.

Growth and development in Prince George's County bring with it a need for waste management. Existing landfills have a finite ability to respond to that need. This facility would be available to meet future needs, if deemed appropriate by the county.

[9] To encourage economic development activities that provide desirable employment in a broad, protected tax base.

The construction industry is a leading employer in Prince George's County. Development drives the need for additional fill capacity that, in turn, encourages economic development.

[10] To prevent the overcrowding of land.

After its completion, the subject property will remain in permanent open space.

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

With the recommended conditions this application meets or exceeds all applicable requirements of the Zoning Ordinance.

(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.

The 2002 General Plan does not make recommendations regarding solid waste management facilities. Instead, the county formally addresses waste management needs and facilities in the Comprehensive Ten-Year Solid Waste Management Plan. It is unknown whether the County's Comprehensive Ten-Year Solid Waste Management Plan has been updated to address this countywide issue on a comprehensive basis, whether such an initiative is in progress, or whether this proposal conforms to existing (or future) recommendations.

Regardless, the 1993 Subregion V Master Plan reflects the recommendations of the Comprehensive Ten-Year Solid Waste Management Plan that existed in 1993. That waste management plan "contains a comprehensive and multicomponent strategy that emphasizes recycling to increase the life expectancy of existing land fills.... Of the key components of the county's recycling plans and overall solid waste management strategy, only a rural drop-off center is to be located within Subregion V, on the north side of Dyson Road and Missouri Avenue. However, the subregion also contains one existing private rubblefill site off Cross Trail Road in Brandywine.... There are also two sludge disposal sites...." (plan text, p. 157) The need for other or additional solid waste capacities, strategies or locations are not identified or recommended in the 1993 Subregion V Master Plan. As such, this sanitary landfill application does not conform to the recommendations of this master plan for solid waste management facilities in the Subregion V area. However, as a proposed temporary use resulting in permanent open space after completion, the use would not substantially impair the integrity of the plans for this area.

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

The sanitary landfill will not adversely affect the health, safety or welfare of residents and workers in the area. The location of the landfill activity meets or exceeds the setback criteria found in the Comprehensive Ten-Year Solid Waste Management Plan for FY 2002-2011. The proposed bufferyard landscaping along with woodland retention and berming will result in effective screening of the facility from the surrounding area. The traffic impacts of this use have been found to be within acceptable limits for development in the Rural Tier.

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

The proposed setbacks and buffering of the landfill will reduce the adverse spillover effects of dust, noise and appearance, which are inherent to such an operation. The State of Maryland's regulation of landfills has become much stricter through the years. Today's fills are subject to regulations including liners, leachate recovery systems, covering every day, and capping upon completion. These regulations, in concert with the conditions proposed in this report, ensure that the proposed use will not adversely impact residents or workers in the surrounding neighborhood, nor will it be detrimental to the development of adjacent properties. Upon completion, the site will revert to permanent open space. In addition, the Transportation Planning Section (M-NCPPC) has concluded that there will be no significant transportation impacts as a result of this proposed special exception, so long as landfill activity is restricted to the processing of 4,000 tons of waste per day. Staff recommends a condition limiting activity at this level.

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

The property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the gross tract area is in excess of 40,000 square feet and there are more than 10,000 square feet of existing woodland on site. A Type I Tree Conservation Plan (TCPI/21/05) was submitted for review and was found to require additional information and revisions to meet the requirements of the Woodland Conservation Ordinance. The detailed discussion of the tree conservation plan is found in the Environmental Planning Section's comments in Part L of this report.

CONCLUSION:

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 showing that the use would have adverse impacts above and beyond those inherently associated with such a special exception use, irrespective of its location within the zone.

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 07C, 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.

This application has been reviewed by numerous county and state agencies. The comments received from these reviews suggest that with certain conditions imposed, and if the landfill is operated in conformance with county, state and federal regulations, the use would not have any adverse impacts above and beyond those inherently associated with landfills in general. Therefore, staff recommends **APPROVAL** of Special Exception SE-4531, subject to the following conditions:

1. Prior to the issuance of any permits within the subject property, the following road improvements shall (a) have full financial assurances or (b) have been permitted for construction through the operating agency's access permit process and (c) have an agreed-upon timetable for construction with the appropriate operating agency:

- a. **MD 210/MD 373:** Reconstruct the westbound MD 373 approach to provide double left-turn lanes, an exclusive through lane, and an exclusive right-turn lane. Modify traffic signal, signage, and pavement markings as needed.
 - b. **MD 210/Farmington Road:** Reconstruct the westbound Farmington Road approach to provide an exclusive left-turn lane, an exclusive through lane, and a channelized right-turn lane. Modify traffic signal, signage, and pavement markings as needed.
 - c. **MD 5/MD 373:** Reconstruct the intersection to provide dual left-turn lane, a single through lane, and a single right-turn lane on the eastbound MD 373 approach; and provide a shared through/right-turn lane and a shared through left-turn lane on the westbound MD 373 approach. Modify signals, signage, and pavement markings as needed.
 - d. **MD 373/Gardner Road:** Reconstruct the intersection to provide a shared through/left-turn lane and an exclusive right-turn lane on the eastbound MD 373 approach; a shared through/right-turn lane and an exclusive left-turn lane on the westbound MD 373 approach; and a shared through/left-turn lane and an exclusive right-turn lane on the Gardner Road approach. Modify signage and pavement markings as needed.
 - e. **MD 373/Gardner Road:** Reconstruct the intersection to provide exclusive right-turn and left-turn lanes along the southbound Livingston Road approach; an exclusive left-turn lane along the northbound Livingston Road approach; and an exclusive left-turn lane along the eastbound Farmington Road approach. Modify signage and pavement markings as needed.
2. Prior to the issuance of any permits within the subject property, the applicant shall submit an acceptable traffic signal warrant study to SHA and/or DPW&T for signalization at the intersection of MD 373 and Bealle Hill Road (south intersection). The applicant should utilize a new 12-hour count and should analyze signal warrants under total future traffic, as well as existing traffic, at the direction of the operating agencies. If a signal is deemed warranted at that time, the applicant shall bond the signal with the appropriate agency and install it at a time when directed by that agency.
 3. Prior to the issuance of any permits within the subject property, the applicant shall submit an acceptable traffic signal warrant study to SHA and/or DPW&T for signalization at the intersection of MD 373 and McKendree Road. The applicant should utilize a new 12-hour count and should analyze signal warrants under total future traffic, as well as existing traffic, at the direction of the operating agencies. If a signal is deemed warranted at that time, the applicant shall bond the signal with the appropriate agency and install it at a time when directed by that agency.
 4. Prior to the issuance of any permits within the subject property, the applicant shall submit an acceptable traffic signal warrant study to SHA and/or DPW&T for signalization at the intersection of MD 373 and Gardner Road. The applicant should utilize a new 12-hour count and should analyze signal warrants under total future traffic, as well as existing traffic, at the direction of the operating agencies. If a signal is deemed warranted at that time, the applicant shall bond the signal with the appropriate agency and install it at a time when directed by that agency.
 5. Prior to the issuance of any permits within the subject property, the applicant shall submit an acceptable traffic signal warrant study to SHA and/or DPW&T for signalization at the

intersection of Livingston Road and Farmington Road/Berry Road. The applicant should utilize a new 12-hour count and should analyze signal warrants under total future traffic, as well as existing traffic, at the direction of the operating agencies. If a signal is deemed warranted at that time, the applicant shall bond the signal with the appropriate agency and install it at a time when directed by that agency.

6. The applicant and/or the applicant's heirs, successors, or assignees shall contribute toward and participate in the construction of certain additional off-site transportation improvements as identified hereinafter. These improvements shall be funded and constructed through the formation of a road club, which will include the applicant, the Montgomery Wards Brandywine Distribution Center, the Brandywine Commerce Center, the Mattawoman-Brandywine Commerce Center, the Brandywine Business Park, the Brandywine/301 Industrial Park, the Hampton CDZ, and other property owners in the area designated as Employment Area "C" in the Subregion V Master Plan, as well as any properties along US 301/MD 5 between T.B. (the intersection of US 301 and MD 5 in Prince George's County) and Mattawoman Creek, and any other properties for which participation is deemed necessary by the Planning Board. For operation of the landfill use as described by the applicant, the applicant's sole funding responsibility toward the construction of these off-site transportation improvements shall be the payment of the following:

A fee calculated as $\$530,145 \times (\text{Engineering News-Record Highway Construction Cost index at time of payment}) / (\text{Engineering News-Record Highway Construction Cost Index for first quarter, 1993})$;

Payment is to be made in trust to the road club escrow agent and shall be due at the time of issuance of the needed permits. Prior to issuance of any permit(s), the applicant shall provide written evidence to M-NCPPC that the required payment has been made.

The off-site transportation improvements to be constructed are set forth below. Construction of these improvements shall occur in the numerical sequence in which they appear. Each improvement shall be constructed if and only if sufficient funds for engineering, full design, and construction have been deposited into the road club escrow account by road club members or said funds have been provided by public agencies. The off-site transportation improvements shall include:

- a. Widen US 301/MD 5 from a four-lane road to a six-lane road beginning at Timothy Branch (north of Cedarville Road) and extending northerly to the US 301/MD 5 interchange (at T.B.). The construction shall be in accordance with presently approved SHA plans.
- b. Install a traffic signal at the A-63/Cedarville Road intersection, provided said signal is deemed warranted by DPW&T.
- c. Make minor widening/stripping improvements to the US 301/MD 5 interchange ramps.
- d. Widen US 301 from a four-lane road to a six-lane road beginning at the T.B. interchange (US 301/MD 5) and extending northerly to a point approximately 2,500 feet north of MD 381.
- e. Reconstruct the traffic signal at US 301/MD 381.
- f. Install a traffic signal at the MD 381/A-63 intersection, provided said signal is deemed warranted by DPW&T and SHA.

- g. Provide a grade separation at the point the spine road crosses US 301 northeast of T.B.
 - h. Reconstruct the traffic signal at MD 5/Brandywine Road.
 - i. Construction of an interchange in the area of US 301/MD 5 and Cedarville/ McKendree Roads.
 - j. Construction of an interchange in the area of MD 5 and A-63 north of T.B.
 - k. Construction of A-63 as a six-lane arterial roadway (where off-site) between the US 301/MD 5/Cedarville Rd./McKendree Rd. intersection and MD 5 north of T.B.
 - l. Widen US 301/MD 5 from a six-lane road to an eight-lane road beginning at the T.B. interchange (US 301/MD 5) and extending southerly to Mattawoman Creek.
 - m. Widen MD 5 from a four-lane road to a six-lane road beginning at the T.B. interchange (US 301/MD 5) and extending northerly to a point approximately 2,500 feet north of the planned intersection with A-63.
7. Landfill activity shall be restricted to the processing of 4,000 tons per day of waste, resulting in 600 AM (320 in, 280 out) and 400 PM (160 in, 240 out) peak-hour passenger car equivalent trips.
 8. Prior to the issuance any permit from the Prince George's County Department of Environmental Resources, a conservation easement to be filed in Land Records shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffers and isolated sensitive areas and their buffers, excluding those areas where impacts have been approved by the Maryland Department of the Environment, and shall be reviewed by the Environmental Planning Section prior to recordation. The following restriction shall be placed:

“Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.”
 9. Prior to the issuance of any permit, the applicant shall submit copies of all federal and state wetland permits. If the impacts approved by the wetland permits are significantly different from those shown on the special exception site plan and Type I tree conservation plan, the special exception application will have to be amended prior to the issuance of any permit by Prince George's County.
 10. The Type I tree conservation plan shall be revised to eliminate Impacts 10 and 11 as identified on staff Exhibit 1. The following note shall be placed on the TCPI:

“The impacts shown to locally regulated environmental features are limited to those approved by the Maryland Department of the Environment during the permitting process. The haul road to the borrow area shall be shown on the TCPII as an area to be restored at the end of operations.”
 11. Prior to signature approval, the Type I tree conservation plan shall be revised to:

- a. Have the areas of existing woodlands account for conditions before the approval of TCPII/186/91 and TCPII/2/99;
 - b. Correct the area of existing upland woodland to exclude woodlands within the 100-year floodplain;
 - c. Correct the area of woodlands cleared to include all areas cleared as part of TCPII/186/91 and TCPII/2/99;
 - d. Recalculate the woodland conservation requirement;
 - e. Provide additional on-site preservation, reforestation and afforestation to ensure that the entire woodland conservation requirement is met on site; and
 - f. Have the revised plan signed and dated by the qualified professional who prepared the plan
12. Prior to signature of the tree conservation plan, TCPI/21/05 shall be revised to extend the height and length of the berm separating the scales from the property line as needed to ensure that receiving residential properties are not impacted by noise that exceeds 65 dBA daytime or 55 dBA nighttime.
 13. Prior to the final disposition of the case, the applicant shall provide specific information to show odors will be mitigated through the use of the latest and best industry practices.
 14. The applicant shall provide deeds demonstrating that the apparent lot line adjustments were in accordance with Section 24-107 of the Subdivision Regulations and not an illegal division of land.
 15. Prior to permits being granted for the site, the applicant shall submit a Phase I archeological investigation and Phase II and Phase III investigations, as determined appropriate by Planning Department staff. If necessary, the final plat shall provide for the avoidance and preservation of the resources in place or shall include plat notes to provide for mitigating the adverse effect upon these resources. All investigations must be conducted by a qualified archaeologist and must follow *The Standards and Guidelines for Archeological Investigations in Maryland* (Schaffer and Cole: 1994) and must be presented in a report the same guidelines.

For portions of the site that have been mined, filled and graded, a Phase I archeological investigation will not be necessary. In order to demonstrate this to have occurred, the applicant shall submit to the staff data (to include a map) to indicate the areas that have been mined, filled and graded within the site. If staff review this data and concurs that the site has been filled and graded, then no Phase I investigation shall be required.