



*Note: Staff reports can be accessed at [www.mncppc.org/pgco/planning/plan.htm](http://www.mncppc.org/pgco/planning/plan.htm).*

## Special Exception

## SE-4684

Application	General Data	
<b>Project Name:</b> Dower, LLC., Concrete Recycling Facility  <b>Location:</b> On the northeast side of Dower House Road, approximately 579 feet west of the intersection of Foxley Road.  <b>Applicant/Address:</b> Dower, LLC. 12150 Tac Court Manassas, VA 20109  <b>Property Owner:</b> Same as applicant	Planning Board Hearing Date:	10/20/11
	Staff Report Date:	10/11/11
	Date Accepted:	08/17/10
	Planning Board Action Limit:	N/A
	Plan Acreage:	26.19 acres
	Zone:	I-2
	Gross Floor Area:	224 sq. ft.
	Lots:	N/A
	Parcels:	1
	Planning Area:	256E
	Tier:	Developing
	Council District:	09
	Election District	15
	Municipality:	N/A
	200-Scale Base Map:	208SE08

Purpose of Application	Notice Dates	
Special Exception for a concrete recycling facility with a rock crusher.	Informational Mailing	04/05/10
	Acceptance Mailing:	08/02/10
	Sign Posting Deadline:	N/A

<b>Staff Recommendation</b>		<b>Staff Reviewer:</b> Taslima Alam <b>Phone Number:</b> 301-952-4976 <b>E-mail:</b> Taslima.Alam@ppd.mncppc.org	
<b>APPROVAL</b>	<b>APPROVAL WITH CONDITIONS</b>	<b>DISAPPROVAL</b>	<b>DISCUSSION</b>
	X		

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

**TECHNICAL STAFF REPORT**

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

VIA: Jimi Jones, Zoning Supervisor

FROM: Taslima Alam, Senior Planner, Zoning Section

SUBJECT: **Special Exception Application No. SE-4684  
Dower, LLC., Concrete Recycling Facility**

REQUEST: Concrete recycling facility with a rock crusher

RECOMMENDATION: **Approval with Conditions**

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The Planning Board has scheduled this application to be reviewed on the agenda date of October 20, 2011. 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 addressed to the Prince George's County Office of the Zoning Hearing Examiner, County Administration Building, Room 2184, 14741 Governor Oden Bowie Drive, Upper Marlboro, MD 20772. 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.

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## FINDINGS

- A. **Location and Field Inspection:** The subject property is located at 6250 Dower House Road and is zoned I-2 (Heavy Industrial). It is a large, irregularly-shaped area located on the northeast side of Dower House Road, approximately 579 feet west of the intersection of Foxley Road. The subject property is approximately 26.19 acres in area. The site currently contains an existing Class III Fill. The site is currently improved with two trailers, one of which is a construction trailer, indicated to be razed (TBR) on the site plan. The other trailer functions as an office and is indicated to remain on the site. It is however, has not been the subject of any permit or other approval. A building permit will be required for the existing office trailer located at the entrance of the site. The site is naturally wooded along Dower house Road frontage and along eastern property line adjacent to the area where the single family houses are located. There is an existing eight-foot high chain-link fence located along southern property line and along northwestern property line, along Dower House Road. During the site visit, it was noted that the eight-foot fence high along Dower House Road entrance is in poor condition and needs to be replaced. The site also has an existing identification sign attached to the chain-link fence at the entrance of Dower House Road which is not shown on the plan. Applicant should show the sign on the site plan and obtain a sign permit or remove the sign from the fence. The access to the site is provided via a 30-foot-wide driveway from Dower House Road.
- B. **Development Data Summary:**

	EXISTING	PROPOSED
Zone(s)	I-2	I-2
Use(s)	Class III Fill	Class III Fill (Pursuant to Section 27-473, footnote No. 46) and Concrete recycling with a rock crusher
Acreage	26.19	26.19
Parcels	1	1
Square Footage/GFA	216	216

- C. **History:**

**1970 to 2003**—The subject property has been owned by Jack and Ralph Baker and was used as a concrete recycling facility in the I-2 Zone, with a portable rock crusher to assist in the concrete recycling activities (Exhibit 3 and 4), affidavits from the former owners of the facility.

**January 1972**—First Use and Occupancy Permit (687284-U) was issued to the Hutchinson Brothers Excavating Co. Inc. to allow use of Parcel 75 to “operate storage of rock, sand, gravel and dirt (non-ore) the operation of a rock crusher and storage of crushed rock” in the I-2 Zone (Exhibit 8).

**August 1993**—The Department of Environmental Resources (DER) certified a new Use and Occupancy permit to Baker Inc. (6261-93-U) to operate “Rock crushing on Parcels 75 and 157 per prior Use and Occupancy Permit 687284-U.

**April 2001**—Baker company first obtained permission to use the site for Class III Fill operation (Permit 35439-2001G) for the site for a five year validity period.

**September 2003**—James Openshaw Jr. purchased the property from Bakers with the intent to continue a rock/asphalt crushing operation including storage of excavated materials under the name Dower, LLC. In order to begin Class III Fill and concrete crushing operation, a \$1 million storm water management (SWM) pond along with storm drains and concrete water channels was constructed on-site. The construction for the pond started on March 2004 and was completed in January 2005. During the ten month period according to Mr. Openshaws affidavit dated August 23, 2007 (Exhibit 5), concrete and asphalt from demolition project were continually being accepted and stored on the property for future crushing.

**November 2003**—Permit (35439-2001-01) was issued with a notation to “revise to change owner and contractor for a Class III Fill, Grading/Rough, open lands” to Dower, LLC, the retained name Mr. Openshaw operated under.

**December 31, 2004**—County Council Bill CB-78-2004 came into effect and rendered the existing concrete recycling use nonconforming. A concrete recycling facility is now only permitted by Special Exception in the I-2 Zone.

**January 5, 2006**—A revised grading permit was issued for another five years (35439-2001-03, Exhibit 6) with notation to “revise to change owner and contractor for a Class III Fill. Grading/Rough, open lands,” to Dower LLC. The Anderson Company, LLC then purchased the property from Dower LLC and began the permitting process to continue operating a Class III Fill and concrete recycling facility.

**July 2006**—The applicant submitted information to obtain a Use and Occupancy Permit (29641-2006-U) to operate a Class III Fill and Concrete Recycling operation with a rock crusher with The Maryland-National Capital Park and Planning Commission (M-NCPPC), Prince George’s County Planning Department, Permit Review Section. The M-NCPPC Permit Review staff informed the applicant of the need for certification of nonconforming use for the concrete recycling operation before a permit can be issued.

**August 2006**—The Department of Environment Resources (DER) inspected the subject property and issued a citation (Case No. Z-42-9-07) for alleged violation of Section 253(a) (1) and 4-118(c) for “use of a building, structure and land without a valid use and occupancy permit. In September 18, 2006, the DER re-inspected the property and requested that a valid use and occupancy permit be obtained by October 3, 2006.

**September 2006**—The applicant filed an application to certify the concrete recycling use as a non-conforming use and the revised comments were submitted back to the applicant on November 16, 2006. Since that time, the applicant had worked with the DER and obtained a temporary operating permit for rock crusher while pursuing certification for the non-conforming use.

**November 2006**—Anderson Company obtained a temporary permit to crush the existing on-site stockpile of material, which expired on April 2010. At that time, the applicant then decided to forego the non-conforming use certification process and requested this special exception to officially legalize the concrete recycling operations with a rock crusher that had been operating on-site since 1970.

**May 18, 2011**—Grading Permit 34539-2001-06, for Class III Fill operation was issued by DER for another five years. This permit will expire on May 18, 2016. It is important to note that this permit may not be renewed without approval of a new special exception.

D. **Master Plan Recommendation**

**Master Plan:** The development proposal conforms to the 2009 *Approved Subregion 6 Master Plan and Sectional Map Amendment* recommendations for industrial land use. However it does not conform to the economic development recommendations for an employment area at this location.

**The 2002 Prince George's County Approved General Plan:** The 2002 *Prince Georges County Approved General Plan* places the property in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low-to moderate density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. This application is not consistent with the 2002 General Plan Economic Development goal for the County's planned employment areas.

- E. **Request:** The applicant seeks approval of a special exception for a concrete recycling facility with a rock crusher. The purpose of the crusher is to process large chunks of used concrete to allow reinforcing material to be removed and recycled, and to reduce the size of the concrete materials to a commercially usable size. The site currently contains an existing Class III Fill operation, pursuant to section 27-473, footnote No. 46.

- F. **Neighborhood and Surrounding Uses:** The neighborhood is generally defined by the following boundaries:

**North**—Marlboro Pike

**West**—Dower House Road

**South**—Dower House Road

**East**—Woodyard Road

The neighborhood is primarily surrounded by a mix of industrial uses, including former concrete recycling facility, and vehicle salvage yard with wooded land, and Andrews Air Force Base facilities located on the west of Dower House Road. Residential uses, including single-family development to the south and trailer park housing are located in the southwest of Dower House Road. The neighborhood is surrounded by following uses:

**North**—Immediately abutting subject property is a former concrete recycling facility, in the I-2 (Heavy Industrial) Zone.

**Northeast**—Largely undeveloped vacant land, in the I-4 (Limited Intensity Industrial) Zone. Southeast of that is two undeveloped lots with Dower Employment Center, in the I-1 (light Industrial) Zone.

**South**—Is developed with five residential lots, in the R-R (Rural Residential) zone and southeast of that is one storage yard in the I-1 Zone.

**West**—Across Dower House Road, opposite to the subject property is a small vehicle salvage yard and wooded land in the I-1 Zone, with trailer park housing in the R-M-H Zone further to the south.

- G. **Specific Special Exception Requirements:** Section 27-343.03 of the Zoning Ordinance permits a concrete recycling facility I-2 Zone, subject to the following:

(a) A concrete recycling facility may be permitted, subject to the criteria below.

- (1) Concrete recycling facility components and other parts of the operation having the potential for generating adverse noise, dust, or vibration impacts shall be located at least three hundred (300) feet from the boundary lines of the subject property adjoining any land in any Residential or Commercial Zone (or land proposed to be used for residential or commercial purposes in a Comprehensive Design, Mixed Use, or Planned Community Zone), and one hundred (100) feet from the boundaries of the subject property adjoining any land in any Industrial Zone (or land proposed to be used for industrial purposes in a Comprehensive Design, Mixed Use, or Planned Community Zone). Other fixed installations (including automobile parking, settling ponds, and office uses) shall be located at least one hundred (100) feet from the boundaries of the subject property adjoining any land in any Residential Zone (or land proposed to be used for residential purposes in a Comprehensive Design, Mixed Use, or Planned Community Zone).

**Comment:** The site plan indicates that the concrete recycling facility components are located 100 feet from the adjacent industrial-zoned property and 300 feet from the boundary lines of the subject adjoining residential zone.

- (2) The site plan and information accompanying the application for Special Exception shall be reproducible, or twelve (12) copies shall be submitted. In addition to the requirements of Section 27-296 (c), the site plan and accompanying information shall show:

- (A) The components of the concrete recycling facility;
- (B) The daily capacity of the facility;
- (C) The location of all material stockpiles;
- (D) The settling ponds, if any;
- (E) The source of water to be used in the operation;
- (F) Truck wash-out facilities, if any;
- (G) The methods of disposing of waste materials;
- (H) The internal traffic circulation system;
- (I) The parking and storage areas for all vehicles and equipment; and
- (J) The identification of the trucks and heavy equipment to be used in the facility operation.

**Comment:** The applicant's site plan shows the components of the concrete recycling facility, including the area of the rock crusher; material stockpiles; parking; storage areas for vehicle and equipment; and internal traffic circulation for Phase I and Phase II access. Public water is provided by lines in Dower House Road. The site plan and the statement of justification indicate that the facility does not contain a settling pond. However, a storm water measurement (SWM) pond is located in the north of special exception boundaries. In future if the SWM pond is needed to service the proposed special exception use, then the boundaries of the special exception should be expanded to include the SWM pond. The site plan indicates that the site will include an outdoor truck station and the trucks will be cleaned by an on-site flush truck and sweeper. The concrete loading, crushing and screening operation will occur internal to the bermed areas shown on the site plan. The components used on the site consists of the following pieces of equipment (or equivalent):

- Extec C12 portable crusher powered by a 350-HP diesel engine
- Extec S-5 portable screen powered by a 101-HO diesel engine or comparable machines
- IT 38 rubber tire loader or comparable machine
- 963 Track loader or comparable
- Hitachi 200 or 350 sized backhoe excavators
- Single axle to 5 axle dump trucks and demo trailers maybe used as well
- D-6 tracked dozers
- Schwartz A7000 street sweeper truck
- One large flusher truck, one onsite to keep down the dust which is on the back of the tandem truck and one used to flush the road (Kenworth T800 machine).

The maximum daily capacity of the facility, exclusively for the concrete recycling component (independent of the Class III) is 2,000 tons per day. The statement of justification also explains the disposal of waste material. Applicant states that the only waste that will be generated is incidental steel occasionally mixed in with the concrete which will be loaded into recycling containers and hauled to other recycling facility that accommodates construction and demolition waste. The dumpsters will also be located within the bermed crushing areas.

- (3) Driveways for ingress and egress shall be identified on the site plan, and shall be located so as to not endanger pedestrians or create traffic hazards. The applicant shall identify the dust-control measures to be used on the driveways and the interior traffic circulation system. Any ingress or egress driveway shall have a minimum width of twenty-two (22) feet, and shall be paved for a distance of at least two hundred (200) feet from the boundary line of the Special Exception.**

**Comment:** The applicant is proposing a 30-foot-wide driveway access located in the southeast corner of the subject property, at a point furthest east of the curve from Dower House Road. Although the statement of justification states that the proposed driveway is designed to provide maximum safety, the applicant did not provide any sight distance study to support this finding. The Department of Public Works and Transportation (DPW&T) memo dated May 9, 2011 states that applicant needs to provide adequate sight distance in accordance with the American Association of State Highway Transportation Officials (AASHTO) standards for all intersection within the site. An access study shall also be conducted by the applicant, and reviewed by DPW&T to determine the adequacy of access points. The proposed asphalt driveway will extend 200 feet into the subject property from Dower House Road. Dust will be controlled by a street sweeper and on-site flush for both asphalt driveway and gravel roads.

- (4) In addition to the requirements of Section 27-296 ©, all applications shall be accompanied by the following:**
- (A) A stormwater concept plan approved pursuant to Section 4-322 of this Code;**
  - (B) A preliminary noise assessment;**
  - (C) A horizontal profile illustrating all structures and stockpiles; and**
  - (D) A grading plan that illustrates existing and proposed topography.**

- (E) A traffic analysis which includes the volume of traffic expected to be generated by the operation and identifies the streets to be used between the site and the nearest other street (to be used) that has a minimum paved width of twenty-four (24) feet for its predominant length.

**Comment:** The Applicant has submitted the information required above.

- (b) All information required as part of the Special Exception application shall be referred to the Prince George's County Department of Public Works and Transportation, Prince George's County Soil Conservation District, Washington Suburban Sanitary Commission, Prince George's County Department of Environmental Resources, Maryland State Highway Administration, Maryland State Department of Health and shall be given forty-five (45) calendar days to reply. A copy of the same information shall also be submitted to the Prince George's County Sand and Gravel Advisory Committee.

**Comment:** Staff of the Application Section has sent referrals to the appropriate agencies for comment. Referral comments are discussed in Section L below.

- (c) On land which is located within a Chesapeake Bay Critical Area Overlay Zone, wash plants, including ponds, spoil sites, and equipment are prohibited within the Buffer, as defined in Subtitle 5B. No new concrete recycling facility shall be approved, and no such operation presently in existence or previously approved shall be permitted to continue or commence where any of the following circumstances are present:
- (1) Habitat protection areas have been or may be designated on the subject property, in accordance with criteria set forth in Subtitle 5B;
  - (2) The use is located within the Buffer, as defined in Subtitle 5B;
  - (3) The use would result in the substantial loss of long-range (twenty-five (25) years or more) productivity of forest and agriculture, or would result in a degrading of water quality; or
  - (4) The subject property contains highly erodible soils.

**Comment:** The site is not located within a Chesapeake Bay Critical Area Overlay Zone.

- H. **Parking Regulations:** Section 27-568 of the Zoning Ordinance requires one parking space for every 200 square feet of gross floor area (GFA) of office space. According to the applicant's parking schedule, the 216 square feet office trailer requires a total of two parking spaces. The applicants parking schedule is consistent with this requirement. The parking schedule on the site plan shows 224 square feet of GFA for the office trailer. The note on the parking schedule should be corrected to read 216 square feet office trailer.
- I. **Prince George's County Landscape Manual Requirements:** The application is subject to the 2010 *Prince George's County Landscape Manual* because the project involves an increase in gross floor area (GFA) of 224 square feet due to the legitimization of an office trailer, currently existing on the site without proper permits/approvals. Sections 2.1, Preparation of Landscape Plans; 4.2, Requirements for Landscape Strips along Streets; 4.7, Buffering Incompatible Uses; and 4.9, Sustainable Landscape Requirements, of the *Prince George's County Landscape Manual* apply. The following comments are offered regarding conformance of the submitted plans to these requirements:



1. **Section 4.2**—The subject site fronts on both Dower House Road and Fallard Drive. Fallard Drive is a partially constructed master-planned industrial road envisioned to eventually extend though the subject site and intersect with Dower House Road. Section 4.2, Requirements for Landscaped Strips along Streets, specifies that for all nonresidential uses in any zone and for all parking lots, a landscape strip shall be provided on the property abutting all public and private streets. The submitted landscape plan indicates conformance to Section 4.2 along the site’s 1,765-foot frontage on Dower House Road.

Fallard Drive currently dead-ends at the north east corner of the subject site. The site plan indicates a planned extension of Fallard Drive through the subject property for a distance of approximately 1,045 linear feet where it would intersect Dower House Road, as indicated in the Master Plan of Transportation. Fallard Drive is not dedicated, nor is it required to be dedicated at this time. For this reason, the Urban Design Section does not recommend that conformance to Section 4.2 be required along the planned Fallard Drive extension at this time.

2. **Section 4.7**—A Type “D” bufferyard, including a 50-foot building setback and a 40-foot-wide landscaped yard of existing woodland is indicated correctly along the eastern property line where subject site is adjacent to single-family detached dwellings.
3. **Section 4.9**—The site is subject to Section 4.9 of the 2010 *Prince George’s County Landscape Manual*, which requires that a percentage of the proposed plant materials be native plants. The required charts have been included on the landscape plan and correctly demonstrate conformance with the requirements of Section 4.9.

Landscape design should include a diversity of native plants that provide visual interest and mirror nature, as described in Section 4.9 (c) (1), (2), and (4) of the Landscape Manual. The application proposes the use of only one type of shade tree and two types of shrubs along the site’s entire Dower House Road frontage, which is approximately one-third mile in length. Urban Design staff recommends that some of the proposed Pin Oaks be substituted by at least one other native tree variety, such as Willow Oak, and that at least one native ornamental tree be incorporated into the landscaping along the site’s frontage, such as Serviceberry or Dogwood. The inclusion of an additional shrub variety would also benefit the landscape design.

4. **Section 2.1**—There are a few technical revisions needed to the submitted landscape plan prior to signature approval, as follows:
  - a. 4.2 Landscape Schedules “#1” and “#2” indicate that option 3 has been selected to fulfill the Landscape Strips along Streets requirement. The site plan labels for Landscape Strips 1 and 2 should be corrected to indicate that option 3 is selected, not option 2.
  - b. The landscape plans are required to be signed by a licensed landscape architect pursuant to Section 2.1 of the 2010 *Prince George’s County Landscape Manual*. The submitted landscape plan has not been signed by a registered landscape architect. The applicant should submit a revised landscape plan that has been prepared and signed by a registered landscape architect in the State of MD.

Based on the above analyses, the Urban Design Section recommends approval of landscape plan

subject to the condition listed at the end of this technical staff report

- J. **Sign Regulations:** No signage is shown on the site plan and no signs are proposed for the subject use. However, a field visit revealed that the applicant has attached a sign to the chain-link fence at the entrance of the facility on Dower House Road. Any sign that will be placed on the property must be shown on the plan and shall meet all area, height and setback standards.
- K. **Zone Standards:** The proposed use complies with the standards of the I-2 Zone.
- L. **Referral Comments:**

1. **Transportation Planning Section**—In a memorandum dated August 22, 2011, provided the following comments concerning the special exception application:

The application is supported by a traffic study dated March 2010 provided by the applicant. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the “Guidelines for the Analysis of the Traffic Impact of Development Proposals (*Guidelines*).”

The subject property is located within the Developing Tier, as defined in the 2002 *Prince George's County Approved General Plan*. As such, the subject property is evaluated according to the following standards:

- **Links and signalized intersections:** Level of Service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Ordinance, is permitted at signalized intersections within any tier subject to meeting the geographical criteria in the Guidelines.
- **Unsignalized intersections:** *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. 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.

#### **Description and Trip Generation of the Use**

In analyzing the use, a number of operating parameters have been considered. The site currently contains an existing Class III Fill operation. The special exception would add a rock crusher to the site. The purpose of the crusher is to process larger chunks of used concrete to allow reinforcing material to be removed and recycled, and to provide material of a size to be commercially usable. It is noted that the *Trip Generation Manual* (Institute of Transportation Engineers) does not provide trip rates for a concrete recycling facility or a rock crusher. As such, the following has been provided as statements of fact regarding the operation of the crusher:

- a. The use of the crusher would not entail extended hours of operation beyond those required for the Class III Fill operation.
- b. The facility houses between 5 and 7 employees now, and that number would not change with the addition of the crusher.
- c. The site processes an average of 27,000 loads of Class III Fill annually, and is approved for a maximum of 50,000 loads annually. The site has housed a rock crusher under a legal temporary permit, and that crusher has generated an average of 1,500 loads annually.
- d. Over 90 percent of materials that are sold on the site are hauled away on backhauls (i.e., the material is hauled out on trucks that have come to the site to dump Class III Fill material).
- e. Trips are distributed evenly throughout the day.

It is estimated that the level of activity is a maximum of 194 loads per day, or 25 loads per hour. The addition of concrete recycling would add approximately 6 loads (6 truck trips in and 6 truck trips out) per day, or less than one load per hour. The addition of the occasional sale of recycled material not on backhaul (less than 10 percent of total sales) would add less than one truck trip in and out per day. The study estimates the peak hour trip impacts to be 2 trips (1 in and 1 out) in the AM peak hour and 2 trips (1 in and 1 out) in the PM peak hour.

The computations of trip generation provided by the applicant are reasonable given the facts presented.

### **Existing Conditions**

The following roadway facilities were identified in the traffic study as the network on which the proposed development would have the greatest impact, in consideration of the requirements of Section 27-343.03 of the Zoning Ordinance:

- Dower House Road between Foxley Road and Marlboro Pike

Access to the subject site is provided a driveway to Dower House Road.

The applicant has provided a field study along Dower House Road. This study has confirmed that Dower House Road is a two-lane roadway with a pavement width of 24 feet over its length, and is augmented by paved shoulders averaging one foot to six feet in each direction. This was field-checked and confirmed by staff of the Transportation Planning Section.

### **Evaluation of Projected Impacts**

As noted earlier, the special exception use is estimated to generate 2 AM and 2 PM peak-hour vehicle trips. As such, the special exception use is determined to be *de minimus*. A *de minimus* development is one which generates five or fewer peak-hour trips.

The applicant has not provided any sort of traffic analysis of links or intersections because the special exception is indicated to be *de minimus*. Rather, the traffic study is strictly limited to the items required in Section 27-343.03 of the Zoning Ordinance. In response, it is noted that the Planning Board has typically not required traffic analyses for developments which it

deems to be *de minimus*. While there is typically a desire to review traffic data and analyses as a finding of fact, it is not required by a strict reading of Section 27-343.03 of the Zoning Ordinance or the general requirements for special exception approval.

Dower House Road is a master plan arterial facility. The plan makes adequate provision for future dedication of 60 feet from the master plan centerline. The ultimate right-of-way is shown correctly on the plan. Also, Fallard Road is a master plan industrial facility. The plan makes adequate provision for future dedication of 70 feet right-of-way total across the subject site. The ultimate right-of-way is shown correctly on the plan.

**Comment:** The Transportation Planning Section analysis above overlooked the need for additional future dedication of 10 feet right-of-way for bike lanes per the Approved Countywide Master Plan of Transportation (MPOT). The site plan makes inadequate provision for future dedication of 60 feet from the master plan centerline. The ultimate right-of-way dedication on the plan should be corrected to be 65 feet from the centerline for Dower House Road.

2. **Transportation Planning Section (Trails)**—In a memorandum dated March 15, 2011, stated that the proposal met the requirements of Subtitle 27 for the approval of a special exception from the standpoint of non-vehicular circulation and transportation provided that the plan show an ultimate right-of-way of 130 feet for Dower House Road for the future road, sidewalk and bike-lane construction by the County.
3. **Department of the Air Force**—In a memorandum dated January 26, 2011, staff provided the following comments concerning the special exception application:
  - a. This property is located within the DNL 70-74 dB Noise Contour, as documented in the 2007 Andrews AFB Air Installation Compatible Use Zone (AICUZ) study. Per Table 4.3 resources production is a compatible land use in this Noise Contour.
  - b. This property is not located within any Accident Potential Zone (APZ), as documented in the 2007 Andrews AFB Air Installation Compatible Use Zone (AICUZ) Study.
  - c. This property is located underneath the Inner Horizontal Imaginary Surface for Andrews AFB, with a control elevation of 150 feet above the surface of runway 01R/19L. The runway surface immediately west of this location is 267 feet MSL, therefore the Inner Horizontal control elevation over the subject site is 417 MSL. Building and other structures should not be allowed to penetrate this 417 MSL threshold.
4. **Department of Public Works and Transportation (DPW&T):** In a memorandum dated May 9, 2011, DPW&T offered many comments all of which will be addressed during the permit process.
5. **Prince Georges County Health Department, Division of Environmental Health**—During the permit process, in a memorandum dated September 30, 2010, staff stated that the applicants statement of justification appears to address all concerns regarding dust, noise, and truck traffic associated with concrete recycling operations.

6. **Community Planning South Division**—In a memorandum dated September 30, 2011, stated that the siting of this concrete recycling operation is not consistent with policies of either the 2002 *Prince George's County Approved General Plan* or the 2009 *Approved Subregion 6 Master Plan and Sectional Map Amendment* for this specific location. Such an operation is not compatible with master plan or General Plan recommendations to capitalize on employment growth and promote compatible infill development that will create employment opportunities and increase the jobs-to-population ratio within the County.

**Soil Conservation**—referral dated September 27, 2011, comment that the site has an approved soil conservation plan for this site (SC No. 208-02).

7. **Environmental Planning Section**—In an e-mail dated September 30, 2011, staff offers the following comments:
- a. The current application proposes the addition of a rock crusher to an existing Class III Fill concrete recycling facility. The proposed special exception application will not require a grading permit.
  - b. In a noise study prepared by Staiano Engineering, Inc., dated April 2010, it was determined that the upper-bound (unshielded) expected receptor sound levels were 35-59 dBA at the evaluation locations and that no mitigation features were found necessary to meet the State 65-dBA daytime noise limit.
  - c. The property has an approved Tree Conservation Plan, TCPII/168/92. The current application has been found to be in conformance with the approved TCPII because no additional clearing is proposed and will not require a grading permit.
  - d. Because no grading permit is required, per Section 4-273(a)(6)(A) of the County Code, the application is not subject to compliance with Division 3 of Subtitle 25, The Tree Canopy Coverage Ordinance.
  - e. Due to previous development activity, there are no regulated environmental features existing on the site.
8. **Maryland State Highway Administration, Permit Review Section, Special Project Section, and Historic Preservation Section**—No comments were received at the time of the writing of this technical staff report.

- M. **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;**

**Comment:** The fundamental purposes of the Zoning Ordinance, as found in Section 27-102, are to protect the health, safety and welfare of the public and promote compatible relationships between the various types of land uses. Review of the applicant's site plan and the statement of justification for conformance with the requirements of the Zoning Ordinance suggest that the proposed uses are the same uses that have long existed on the site for many years. The applicant affirms that the concrete recycling use and rock crusher has operated at the subject property since 1970 under various permits until the use became non-conforming on December 31, 2004 per County Council Bill CB-78-2004.

The only reason the use of rock crusher became non-conforming for the subject site is because it was not in continuous operation for a period of 180 days because space was required to install a storm water management (SWM) pond in order to begin Class III Fill and concrete crushing operation during 2004–2005. Although the crushing was temporarily abated, the site continued accepting and storing new raw materials on site to be processed on a later date. The site continued its existing Class III landfill operation without crushing new materials. A Class III Fill is defined in the Zoning Ordinance as a “temporary use of land for the spreading or depositing...soils difficult to compact...rock and similar irreducible materials...and topsoil.” Class III Fill materials must be free of pollutants which may constitute a potential health hazard, particularly to groundwater and/or drainage systems. Concrete recycling facility is defined in the Zoning Ordinance as “a facility that processes concrete demolition material by crushing to remove reinforcing metals, if any, and to reduce the size of concrete material to a commercially usable size.” One of the obvious differences between the uses are their overall lifespan. While a permit for a Class III landfill has a limited lifespan, there is no such limitation on a concrete recycling facility. It is allowed to continue indefinitely.

In order to determine the remaining life span of the Class III Fill operation for the subject site, at the request of the staff, a fill capacity review was done by Mr. Paul Woodburn, P.E. of Ben Dyer Associate, Inc., an engineer for the Dower LLC. In Mr. Woodburn's opinion, the analysis is as follows:

“the site has a remaining fill capacity of approximately 2,600,000 cubic yards. This capacity was determined by calculating the volume of material that could be placed between the current land topography and the maximum fill capacity elevations. The maximum fill will have 3:1 side slope over the 37 acre permitted disturbed area as shown on the associated approved Sediment and Erosion Control Plan. The current fill elevations reach a height of approximate elevation 300 feet over a disturbed area of 23 acres +/-, where as the ultimate permitted fill elevations will reach an elevation of 400 feet over the 37 acre disturbed area. Based on the last 12 months of activity, as provided by the operator, the site is currently averaging approximately 200,000 cubic yards of material per year. Based on this information, I believe that the site will not reach full capacity until 2024 or 13 more years.”

The site is currently operating as Class III Fill operations Permit 35439-2001-G. On May 18, 2011, the Department of Environmental Resources (DER) had renewed this grading permit for the subject site for the second time, for a period of five years. The second renewal of this permit will expire on May 18, 2016. Mr. Woodburn's analysis above clearly states that the site will reach its fill capacity in 13 years. A new Class III Fill permit will be required. It should be noted that Section 27-473, footnote No. 46 of the Zoning Ordinance states:

**“A Class 3 fill in existence as of October 7, 2003 that is operating pursuant to any validly issued grading permit, and is not in violation, shall be permitted to continue in operation as a matter of right, but is limited to the fill area established by any previously issued grading permit, not to exceed two (2) renewals of the permit. Those fill operations that are in violation on October 7, 2003 have until December 31, 2003 to comply, or their permit is void.”**  
**(CB-8-2003; CB-87-2003)**

Therefore, upon the expiration date of the Class III Fill permit, applicant shall request a new special exception approval to operate Class III Fill on the site.

The subject property is surrounded by various industrial zones from all sides except the five residential lots located to the southeast in the R-R (Rural Residential) Zone. All concrete recycling facility components and the crushing operation will be set back far from the Residential Zone. The operation will be setback approximately 300 feet from the adjoining Residential Zone and 100 feet from all land in any Industrial Zone. In addition, an earth berm of approximately 10 feet in height will surround the concrete recycling use to help screen the use from surrounding properties and mitigate noise associated with the use. The applicant seeks to continue this long standing use on the property in a clean, sensitive and responsible manner that promotes all of the object/purposes of the Zoning Ordinance. Staff opines that adding the concrete recycling with rock crusher back to with Class III Fill operation will have no appreciable impact on the adjoining property.

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

**Comment:** The subject property is located in the I-2 ((Heavy Industrial) Zone, which permits the proposed concrete recycling facility with a rock crusher by a special exception provided that certain specific requirements are met. The Urban Design Section memorandum dated May 2, 2011, states that the site is subject to the requirements of the 2010 *Prince George's County Landscape Manual* because the project involves an increase in gross floor area of 216 square feet due to the legitimization of an office trailer, currently existing on the site without proper permits/approvals. Sections 2.1, Preparation of Landscape Plans; 4.2, Requirements for Landscape Strips along Streets; 4.7, Buffering Incompatible Uses; and 4.9, Sustainable Landscape Requirements, of the Landscape Manual apply. Applicant meets some of the requirements. With regards to Section 4.2 (Requirements for Landscape Strips Along Streets), the submitted landscape plan indicates conformance to Section 4.2 along the site's 1,765-foot frontage on Dower House Road but does not conform to Section 4.2 along Fallard Drive. Fallard Drive currently dead-ends at the north east corner of the subject site. The site plan indicates a planned extension of Fallard Drive through the subject property for a distance of approximately 1,045 linear feet where it would intersect Dower House Road, as indicated in the MPOT. Fallard Drive is not dedicated, nor is it required to be dedicated at this time. For this reason, the Urban Design Section does not recommend that conformance to Section 4.2 of the 2010 *Prince George's County Landscape Manual* be required along the planned Fallard Drive extension at this time.

There are a few technical revisions needed to be addressed on the landscape plan prior to signature approval. With the recommended conditions, the use will conform to all applicable requirements and regulations of this Subtitle.

**(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 Master Plan, the General Plan;**

**Comment:** This application is subject to the 2009 *Approved Subregion 6 Master Plan and Sectional Map Amendment* recommendations for industrial land use. It is also subject to The 2002 *Prince Georges County Approved General Plan's* economic development goal. The Community Planning South Division in a memo dated October 5, 2011, states that the siting of this concrete recycling operation is not consistent with policies of either the 2002 *Prince Georges County Approved General Plan* or the 2009 *Approved Subregion 6 Master Plan and Sectional Map Amendment* for this specific location. Such an operation is not compatible with master plan or General Plan recommendations to capitalize on employment growth and promote compatible infill development that will create employment opportunities and increase the jobs-to-population ratio within Prince George's County.

The Community Plan South Division further submits that in the Economic Development Section, the 2009 *Approved Subregion 6 Master Plan and Sectional Map Amendment* recommends an intensification of economic growth: “Capitalize on employment growth at [Joint Base] Andrews...to promote compatible infill development that will attract an appropriate mix of private employment” (P. 145). While recycling concrete may reflect the need to reuse a non-renewable resource, it is not compatible with the community character of its immediate neighbors such as Pearl Harbor gate of Joint Base Andrews. This major employer would benefit from complementary operations that strengthen this predominantly light industrial employment area.

In the Economic Development Section, the goal of The 2002 *Prince Georges County Approved General Plan* is to “Encourage quality economic development at appropriate locations to increase employment opportunities, income, and the tax base within Prince George’s County” (P.75). This area is a well defined employment center just outside the Pearl Harbor gate of Joint Base Andrews and the county is working collaboratively with the military to build on this economic generator. A concrete recycling facility at this location is not compatible with these efforts and it would not significantly contribute to employment growth, the tax base or the redevelopment of this portion of Prince George’s County. In fact this type of use at this location may actually hinder the transformation of this area into a major employment area. A concrete recycling operation would not provide a significant number of jobs. The trucking and construction jobs referred to by the applicant will be created through other sectors that do not rely on this specific recycling proposal. Hence, it is the opinion of the Community Planning staff that the few jobs created by this operation do not conform to the general plan policy objectives or recommendation to increase the number of high value-added jobs in the County or increase the jobs-to-population ratio.

Contrary to the Community Planning staff’s analysis above, the applicant contends that it is important to note that the General Plan and master plan also addresses other significant planning goals and policies relates to economic development in both master plan and General Plan. The proposed use is a permitted use by a special exception approval in a heavy Industrial Zone. The master plan did not recommend any alternative land use for the subject property that has been used as a concrete recycling facility since 1970 in conjunction with the approved Class III Fill from 2006. The potential for quality economic development for the property is extremely limited by the approved Class III Fill reclamation operation. Unlike other Class III Fill sites that sit idle until their capacity is reached and generate no employment opportunities, the applicant is leveraging the subject property’s employment potentials by operating a concrete recycling operation on this otherwise undevelopable site. Moreover, there is no dispute that the few employment opportunities provided by the concrete recycling operation, though limited are supportive of the economic development activities that provide desirable employment and a broad protected tax base. Finally, the few construction jobs generated by the concrete recycling operation contributes to the livelihood for a segment of the population and provide some value added benefits to the Class III Fill operation.

Technical staff supports the applicant’s analysis as mentioned above. The facts pointed out by the applicant clearly presents that the proposed use would not substantially impair the integrity of the master plan or the 2002 General Plan. The subject property has been operating as concrete recycling facility with a rock crusher for over 30 years. It has been reclaimed via use as Class III Fill and such filled areas are ordinarily not suitable for building structures. In the future, when the reclamation for the Class III Fill is complete or at the time when the property requires a new special exception for Class III Fill permit, the property may be reassessed for more intense employment base development. At this time given the current status of the land, the sites location within a heavy industrial area and limitations to construction, its continued use in this location remains compatible with master plan policies and the use would not substantially impair the integrity of the master plan or the General Plan.



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

**Comment:** The proposed use will not adversely affect the health, safety or welfare of the residents or workers in the area by continuing to provide a valuable recycling activity. Accesses, adequate sight distance, truck traffic, dust, noise, air and water pollution are primary concerns that are associated with the proposed use. The Transportation Planning Section had reviewed the traffic analysis provided by the applicant, and pointed out a few facts regarding the operation of the crusher. The use of a crusher would not involve extended hours of operation or increase the number of employees beyond those required for the concrete recycling and Class III Fill operation. The site has housed a rock crusher under a legal temporary permit, and that crusher has generated an average of 1,500 loads annually. Over 90 percent of materials that are sold on the site are hauled away on back hauls. With these facts it is estimated that the level of activity is a maximum 194 loads per day or 25 loads per hour-and concluded that an addition of concrete recycling would add approximately 6 loads (6 truck trips in and 6 truck trips out) per day, or less than one load per hour. The addition of the occasional sale of recycled material not on backhaul (less than 10 percent of total sales) would add less than one truck trip in and out per day. The study estimates the peak hour trip impacts to be 2 trips (1 in and 1 out) in the AM peak-hour and 2 trips (1 in and 1 out) in the PM peak-hour. As such, the special exception use is determined to be *de minimus*. A *de minimus* development is one which generated five or fewer peak-hour trips. Therefore, staff concludes that the computations of trip generation provided by the applicant are reasonable given the facts presented in the traffic analysis.

The applicant has provided a field study along Dower House Road which serves as an access road to the site. This study has confirmed that Dower House Road is a two-lane roadway with a pavement width of 24 feet over its length, and is augmented by paved shoulders averaging one foot to six feet in each direction. In addition this road is a master plan arterial facility. The site plan does not make adequate provision for future dedication of 65 feet from the master plan centerline. The ultimate right-of-way should be shown correctly on the site plan.

With regards to the dust control, and air pollution, the applicant will be required to address dust control measures as part of the air quality permit process from Maryland Department of The Environment (MDE). However, the statement of justification at this time did not provide detail as to what dust control measures will be taken to reduce dust, both on-site (stockpiling and internal circulation) and along public rights of way. However, a memo from MDE, dated April 25, 2011, from Mr. Holdefer stated "it appears that the company will be able to control dust from the property, but without having an application from the company for our permit, I cannot comment further." Additionally, an e-mail exchange from Mr. Holdefer, dated September 16, 2010, further stated that if the special exception is granted, then the MDE can accept an application for a concrete recycling (crushing and screening) operation. The review of the proposed sources(s) of air pollution would then commence.

Furthermore, a noise study prepared by Staiano Engineering, Inc., dated April 2010, was evaluated by the Environmental Planning Section and was determined that the upper-bound (unshielded) expected receptor sound levels were 35-59 dBA at the evaluation locations and that no mitigation features were found necessary to meet the State 65-dBA daytime noise limit.

The special exception use is considered compatible with uses permitted by right within the I-2 zone, as long as specific criteria are met. Staff finds no significant adverse impact for the proposed use as it has existed on the site for over three decades. Furthermore, the noise and truck traffic are typical impacts for this type of use and would occur on any concrete recycling facility located on any other I-2 Zone properties within the County.

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

**Comment:** The site had housed a concrete recycling with a rock crusher for many years under a legal permit. Adding concrete recycling facility with the crusher back on the site will essentially provide the same services as before. It would neither entail extended hours of operation beyond those required for the Class III Fill operation, nor will it require any more employees to operate the site. It will be operated in a manner that will not be detrimental to the use or development of the adjacent properties or general neighborhood. All crushing operation is adequately setback from every adjacent industrial and residential neighborhood in accordance of the Zoning Ordinance requirements. The facility is effectively screened by significant earth berm, buffered and fenced to ensure privacy and noise from adjacent properties. With the recommended conditions, the proposed use will not adversely affect the health, safety or welfare of residents or workers in the area, and there is no indication that it would be detrimental to the use or development of adjacent properties or the general neighborhood.

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

**Comment:** The property has an approved Tree Conservation Plan, TCPII/168/92. The current application has been found to be in conformance with the approved TCPII because no additional clearing is proposed and will not require a grading permit.

Because the subject application will not require a grading permit per Section 4-273(a)(6)(A) of the County Code, the application is not subject to compliance with Division 3 of Subtitle 25, The Tree Canopy Coverage Ordinance.

**(7) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible.**

**Comment:** Due to previous development activity, there are no regulated environmental features existing on the site.

**CONCLUSION:**

Based on the preceding analysis and findings, staff is recommending that Special Exception SE-4684 (Dower Concrete Recycling Facility) application be APPROVED, subject to the following conditions:

1. Prior to certification of the site plan, the applicant shall revise to the site plan as follows:
  - a. Clearly state the existing use of the property: Class III Fill operation.
  - b. Proposed use of the property: Class III Fill pursuant to Section 27-437 of the Zoning Ordinance, Footnote No. 46) and Concrete recycling facility with a rock crusher.

- c. Clearly delineate the designated boundary of the Class III Fill as approved on the most recent grading permit.
  - d. Show an ultimate right-of-way of 130 feet (65 feet from the centerline) for Dower House Road near Foxley Road for future road, sidewalk and bike-lane construction by the County, unless modified by DPW&T.
  - e. Correct the gross floor area (GFA) of the existing office trailer in the parking schedule to 216 square feet.
  - f. Show ten-foot public utility easement (PUE) along public right-of-way as stated in general note.
  - g. General Note 24 shall state clearly if there is a truck washing facility on-site or truck washing area.
  - h. The landscape plan shall be revised to incorporate a greater diversity of native plant material. At least one additional native shade tree, ornamental, and shrub variety should be included in the landscape plan. Some of the proposed Pin Oaks shall be substituted for by at least one other native tree variety, such as Willow Oak, and at least one native ornamental tree shall be incorporated into the landscaping along the site's frontage, such as Serviceberry or Dogwood, or other similar variety.
  - i. The site plan labels for Landscape Strips 1 and 2 shall be corrected to indicate that Option 3 is selected, not Option 2.
  - j. The applicant shall submit a revised landscape plan that has been prepared and signed by a registered landscape architect in the State of Maryland.
  - k. The permit expiration date for Class III Fill in general Note 8 shall be corrected to read "May 18, 2016."
2. The May 18, 2016, expiration date for Class III Fill shall also apply to the subject concrete recycling facility with a rock crusher. These uses may be renewed at that time in accordance with applicable requirements for those uses.
  3. The number of truckloads annually shall be limited to 1,500 truckloads in accordance with the assumption in the traffic impact study.
  4. Prior to the installation and operation of any concrete processing equipment crusher(s), screen(s), conveyor(s) and any diesel engine(s) that power(s) such equipment, a permit to construct and a permit to operate shall be obtained from the Maryland Department of the Environment (MDE), Air and Radiation Management Administration (ARMA).
  5. A building permit shall be obtained for the existing office trailer located at the entrance of the site.